

ORDINANCE NO. 92-23**AN ORDINANCE AMENDING THE 2019 UNIFIED DEVELOPMENT
ORDINANCE OF THE CITY OF FORT SMITH**

WHEREAS, the Board of Directors passed and approved Ordinance No. 87-19 which adopted the Unified Development Ordinance on October 15, 2019, and,

WHEREAS, it is necessary to amend certain sections of the Unified Development Ordinance to provide clarity and remove conflict with other provisions of the municipal code; and,

WHEREAS, the Planning Commission held a public hearing regarding the amendment and recommended on October 10, 2023, that changes be made; and,

WHEREAS, three (3) copies of October 2023 Amendments to the Unified Development Ordinance have been on file in the Office of the City Clerk of the City of Fort Smith for inspection and review by the public prior to the passage of this Ordinance; and,

WHEREAS, the October 2023 Amendments to the Unified Development Ordinance include amendments to perimeter landscaping tree location and home occupation definition.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS THAT:


SECTION 1: The October 2023 Amendments to the Unified Development Ordinance are hereby adopted.

SECTION 2: The codifier shall codify the adopted amendments by amending existing sections and by adding new sections of the UDO.

SECTION 3: It is hereby found and determined that the adoption of the amendments to the Unified Development Ordinance are necessary to alleviate an emergency created by the lack of regulation of uses of property within the City of Fort Smith so that the protection of the health, safety and welfare of the inhabitants of the City requires that the amendments be effective, and the amendments are hereby made effective, as of date of approval of the Ordinance.

PASSED AND APPROVED THIS 7th DAY OF November, 2023.

ATTEST:



City Clerk

APPROVED:



Mayor

Approved as to form:



Publish One Time

**NOVEMBER 2023 AMENDMENTS TO THE UNIFIED
DEVELOPMENT ORDINANCES**

3. Rehabilitation projects shall conform to the guidelines to the greatest extent possible.
4. Industrial, storage, and distribution buildings when constructed along major arterial or boulevard streets as classified by the master street plan, or adjacent to residential zoning districts or single family development, and/or those buildings at the perimeter of an industrial subdivision shall provide perimeter landscaping only.
5. Parking lots used solely for the display of vehicles at an approved auto and vehicle dealer are required to provide perimeter landscaping only.
6. Development or properties in compliance with these regulations shall not be renovated, remodeled, altered, or repaired so that the site will be in noncompliance with these regulations.
7. Landscaping and Screening requirements shall not apply to a new structure on an existing development when: (1) the new structure does not increase the gross square footage of the existing structures by 15% and (2) shall not include any new structures that cumulatively amount to a 15% or greater increase in square footage of the existing development over a five year period.

B. Perimeter Landscaping Perimeter landscaping requirements along public rights-of-way are as follows:

1. A ten-foot wide landscaped area is required and shall be located on the property parallel and adjacent to the public street right-of-way line. ~~Provided public utilities are immediately adjacent to the right-of-way line, the ten-foot landscape buffer may commence adjacent to the utility easement.~~
2. The minimum requirement for a planting strip will be one (1) tree and ten (10) shrubs for every fifty (50) linear feet of right-of-way frontage.
3. If public utilities are adjacent to the right-of-way line and prohibit trees from being installed within the ten-foot wide area, the following planting methods may be utilized:
 - a. Ten-foot landscape buffer may commence adjacent to the utility easement; or
 - b. The required minimum number of trees may be installed interior to the site provided they are visible from the right-of-way.
 - c. All required shrubbery shall be located within the ten-foot-wide area adjacent to the right-of-way or utility easement as noted in (a) above.

Height of luminaire

shall mean the height of a luminaire shall be the vertical distance from the ground directly below the centerline of the luminaire to the lowest direct-light-emitting part of the luminaire.

Heliport

shall mean a landing facility for rotary winged aircraft.

Historical or archaeological institution

shall mean research repository for historic or archaeological resource inventory documents and related historic and materials.

Hobby shop

shall mean a facility for the retail sale of hobby supplies such as model kits, art equipment and materials.

Home improvement center

Shall mean a facility of more than 30,000 square feet gross floor area, engaged in the retail sale of various basic hardware lines, such as tools, lumbers, builders hardware, household appliances, garden supplies, etc.

Homeless shelter

shall mean a facility providing temporary housing to indigent, needy, homeless, or transient persons; may also provide ancillary services such as counseling, life-skills classes, and vocational training, etc.

Homeowners association recreational center

shall mean private recreational facilities and/or clubhouses which are designed and constructed as part of a subdivision development and which are intended for the specific use of members of a homeowners association.

Home occupation

shall mean an occupation carried on in a residential dwelling and/or related accessory building as an incidental, subordinate and accessory activity to the primary use of the premises.

Horse track

shall mean a circular, elliptical, rectangular, oblong, or similarly shaped endless accessory structure either enclosed or outside, usually constructed of earth, used for the exercise and/or training of horses and/or driver and riders on a farm.

Hospice residential care facility

a freestanding licensed hospice facility which provides palliative and supportive medical and other health services to meet the physical, psychological, social, spiritual, and special needs of terminally ill patients and their families in a group residential setting.

Hospital

shall mean a building or part thereof, used for medical, psychiatric, obstetrical, or surgical care, on a twenty-four-hour basis, of four (4) or more patients.

- (8) A structure housing a nonconforming use that is destroyed or damaged to the extent that the cost of repair is more than fifty (50) percent of the value of the structure after repair shall not be replaced unless all of the following conditions are met:
- (a) A conditional use application is presented to the planning commission in accordance with section 27-445-12 of this Code;
 - (b) The conditional use is approved by the planning commission;
 - (c) Construction is completed within one (1) year from the date of the loss; the determination of "cost of repair" shall be based on the anticipated cost of a repair performed by a contractor in the ordinary course of the construction industry, and the determination of the "value of the structure after repair" shall not include real property value. Both determinations shall be made by the director of planning.
 - (d) The structure shall be adapted for the same use as the previous structure; and
 - (e) The structure as built shall not exceed the bulk and area characteristics of the previous structure;
 - (f) Provided a maximum time extension not to exceed sixty (60) calendar days may be granted upon written application of the owner to the director of planning, provided substantial progress has been made to repair the structure.

27-445-10 Home Occupation

- (1) The planning commission, in reviewing application for home occupations may consider the performing of a skill, talent, service or profession on a limited basis as a home occupation only if it complies with Section 27-338-4(F), all of the following:
- ~~(a) Requires the use of an area no greater than thirty (30) percent of the living space of the residence.~~
 - ~~(b) Requires no occupational activity on the premises outside the main structure. An existing detached building, utilized in conjunction with a home occupation shall be no larger than three hundred (300) total square feet and may only be utilized for storage of materials.~~
 - ~~(c) Requires no usage of a sign in the operation of the business.~~
 - ~~(d) Requires no outdoor display of any goods or services and requires no outdoor storage of materials or equipment required for the operation of the business.~~
 - ~~(e) Required to be totally operated only by the resident members of the household and shall not have any employees, concessionaires or any other form of operator or helper whether such business is conducted on the premises or off the premises.~~
 - ~~(f) Shall not involve, on the premises, the sale of any retail or wholesale item or items that are not totally considered as an accessory item of the approved business. Items drop shipped or delivered by order may be permissible only after the planning commission has approved such operation.~~
 - ~~(g) Any business conducted on the premises will be by appointment only, such that no more than two (2) persons will be at the business at any one (1) time.~~
 - ~~(h) The planning commission shall have the authority to limit the operating hours of a business where it deems it necessary in order to assure compatibility with the residential neighborhood.~~

is an industrial zone that is primarily for the manufacturing, assembly, and fabrication activities resulting from the processing of raw materials. Industrial uses which generate relatively high levels of noise, vibrations, smoke, dust, odor or an objectionable site condition are limited to this zone. The industrial uses permitted in this zone are generally incompatible with residential uses and therefore they should be located as far away as possible from residential and most commercial uses.

High density residential district

shall mean a residential use zone primarily for medium to high population densities. The principal uses of land may range from two-family residential to high density multi family apartment residential use where the multi family apartments do not exceed twenty-four (24) units per acre.

Home occupation

shall mean an occupation carried on in a residential dwelling and/or related accessory building as an incidental, subordinate and accessory activity to the primary use of the premises.

Light commercial/office

This zone is established to provide locations beyond the central area of the city, primarily along arterial or major collector streets which will accommodate offices or laboratories for professional persons and other related uses. This zone should not be established in a "strip" zoning manner along major streets but should be concentrated to provide easy accessibility to the public. The zone is intended to provide availability of professional services conveniently to all neighborhoods in the community. Uses permitted in the LCO zone would typically include offices for doctors, dentists, accountants and other similar professions, medical and dental laboratories and pharmacies. Each single LCO zone shall contain a minimum of one (1) acre and a maximum of twenty (20) acres.

Light industry

This district is intended for light manufacturing, processing, storage, wholesaling and distribution. Commercial and service uses in support of industrial uses are also permitted. Examples of permitted uses are listed below:

(1) Establishments for the manufacture, processing and assembly of goods and uses.

Examples of such establishments include:

- a. Clothing manufacturers.
- b. Metal fabricators.
- c. Industrial laundries.
- d. Furniture and wooden products manufacturers.

(2) General contractors and specialty contractors.

(3) Building materials and supplies.

(4) Retail, service and other commercial establishments intended to serve the needs of the industrial community. Examples of such establishments include:

- a. Industrial machinery dealers.
- b. Packaging materials.
- c. Gasoline service stations.
- d. Petroleum products dealers and wholesalers.
- e. Machine shops.
- f. Warehousing.
- g. Truck terminals.
- h. Self-service storage (mini-warehouses).

- ~~(i) Will not utilize the address of the property in any business advertising. This includes, but is not limited to, paid commercial advertising, telephone directory advertising, flyers, business cards, etc.~~
- ~~(j) Will not produce any fumes, odors, noise or any other offensive effects that are not normal to residential activity~~
- ~~(k) Will not require the construction of any additional off street parking which would detract from the residential character of the neighborhood. The planning commission, in exceptional circumstances may allow the construction of additional off street parking, but under no circumstances more than two (2) spaces in addition to those currently in use for residential purposes. All parking and maneuvering areas must be completely contained on private property. A parking site plan must be approved by the planning commission where a business would require customers coming to the property.~~
- ~~(l) Shall not create diminishment or impairment of established property values to adjoining or surrounding properties.~~

- (2) The planning commission shall review home occupations at its regularly scheduled monthly meeting at which time one (1) of the following actions may be taken:
 - (a) Approve as submitted.
 - (b) Approve with modification.
 - (c) Defer.
 - (d) Table.
 - (e) Deny.
- (3) The planning commission may impose conditions and restriction upon the premises benefitted by the home occupation use as may be necessary to reduce or minimize the injurious effects of the home occupation.
- (4) The planning commission is not required to approve any application for the operation of any home occupation which, in its opinion, is not compatible with the integrity of the neighborhood.
- (5) No license for the conduct of any business will be issued until city inspections show compliance with all conditions set by the planning commission.

27-445-11 Accessory Residential Use

- A. Purpose.** To grant the Planning and Zoning Department the authority to permit citizens in all residential zones to operate an accessory residential use in accordance with the criteria set forth in this section. It is further the intent of this section to regulate the operation of the accessory residential use so that the neighborhood shall be unaware of its existence.
- B. Business License.** An individual with an approved business license from the City shall not be required to obtain an accessory residential use permit in order to conduct the business from his or her residence as long as the practice is within the criteria of 27-324-6 of this section.