

ORDINANCE NO. 29-14**AN ORDINANCE AMENDING THE 2009 UNIFIED DEVELOPMENT
ORDINANCE OF THE CITY OF FORT SMITH**

WHEREAS, the Board of Directors passed and approved Ordinance No. 36-09 which adopted the Unified Development Ordinance on May 19, 2009; and,

WHEREAS, it is necessary to amend certain sections of the Unified Development Ordinance to provide clarity and remove conflicts with other provisions of the Municipal Code; and,

WHEREAS, the Planning Commission held a public hearing regarding these amendments and recommended on May 13, 2014, that said changes be made; and,

WHEREAS, three (3) copies of the June 2014 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;

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

SECTION 1: The June 2014 Amendments to the Unified Development Ordinance are hereby adopted.

SECTION 2: The codifier shall codify the new sections and amend the existing sections of the Unified Development Ordinance.

SECTION 3: It is hereby found and determined that the adoption of these amendments to the Unified Development Ordinance is 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 amendment is hereby made effective, as of the date of approval of this Ordinance.


PASSED AND APPROVED THIS 3rd DAY OF June, 2014.

APPROVED:



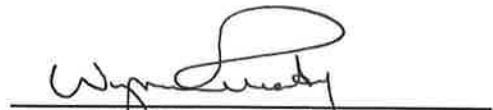
Mayor

ATTEST:



City Clerk

Approved as to form:



Publish One Time

JUNE 2014

**AMENDMENTS TO THE UNIFIED DEVELOPMENT
ORDINANCE**

section. Setbacks must be unobstructed from the ground to the sky except as specified in this section.

2. Along a private street, setback measurement shall start at a point 25 feet from the street centerline.
3. The following structures may encroach no more than three feet into the required setbacks if: (1) they are approved by the city building official, and (2) provided that they do not cross property lines or utility easements:

a. ~~patios, terraces, walks, and driveways, provided they are at grade and not covered;~~

b. porches, decks landings, and stairs, provided they are for single story buildings and are not covered;

c. play equipment;

d. clothesline poles if not located in the setbacks adjacent to street right-of-way;

e. portable yard furniture;

f. ~~fences;~~

g. overhangs, coves, and cornices as defined in the currently adopted building code may be allowed, provided they do not exceed 3 feet. The definition of overhang specifically excludes any exterior wall of any structure regardless of its elevation above ground level.

h. mechanical units;

i. area and security lighting fixtures and supports (poles);

4. Setback Averaging. Regardless of the minimum front or rear setback required by the underlying zoning district, front or rear setbacks may be adjusted to the average of the existing setbacks of the lots that are on both sides of the subject lot according to the following:

a. Only the setbacks on the lots that abut each side of the subject lot on the same side of the street as the subject lot may be used.

b. When one abutting lot is vacant or a corner lot, then the average is of the setback of the non-vacant lot and the zoning district minimum setback.

5. All residential lots on a cul-de-sac street that have frontage on the radius of the cul-de-sac are permitted to have a front yard setback of 20 feet.
6. Except as otherwise provided in individual zone districts and/or overlay districts, signs are to be exempt from setbacks and minimum requirements provided they are erected in compliance with the provisions of the Fort Smith Sign Regulations.
7. Gasoline sales are permitted under the following conditions:
 - a. Pump islands shall be located a minimum of twenty (20) feet from any public right-of-way.
 - b. Island canopy overhangs shall be located at least ten (10) feet from any public right-of-way and must have a height of at least twelve (12) feet. Supportive posts of canopies shall be located at least twenty (20) feet from any public right-of-way.
8. The following structures are exempt from setback regulations as specified below:
 - a. Patios, terraces, walks, and driveways provided they are at grade, and do not have enclosed walls or a roof;
 - b. Ramps for the purpose of meeting accessibility requirements provided they do not have enclosed walls or a roof;
 - c. Fences;

D. Height

1. Measurement. Building height is the mean vertical distance from the average ground level at the minimum front setback to the highest permanent part of the building or structure.
2. A structure may not be more than the maximum allowable feet high at the minimum side setback line, but for each addition foot of horizontal setback in excess of the minimum, the height may be increased by one foot. The height of a gabled end of a building shall be measured at the midpoint of the gable instead of the peak of the gable.
3. The following structures may be exempted from the height requirements in the various districts if they are not detrimental to neighboring property and are approved by the city building official:

D. District Standards

1. No property shall be zoned or rezoned to this classification unless the property has been (prior to the rezoning) recommended as an historic district by the Historic District Commission and established as a historic district by the Board of Directors.
2. All properties zoned RH shall be subject to the architectural design review requirements set forth in the ordinance creating such property as a historic district.
3. Parking Requirements.
 - a. The Historic District Commission shall review all parking plans to consider the surface paving material, site screening, access drives, and landscape/streetscape elements of the plan.
 - b. A parking lot shall only be allowed in the historic district to serve a permitted use that is located in the district.
4. Signs. The Historic District Commission shall review each "business sign" application to determine its architectural and aesthetic compatibility with the Historic District. The purpose of their review is to assure the preservation of the authentic historic character of the district as nearly as possible. In addition to the review by the Historic District Commission and their determination of the appropriateness of business signs, the following criteria shall govern all business signs in the district:
 - a. Permitted signs.
 1. Business signs as defined in section 27-~~356~~ 200 shall be permitted in the Historic District. A business sign shall not exceed six (6) square feet in area.
 2. Banners, as follows:
 - a. May not exceed an area of six (6) square feet in total area;
 - b. May be displayed only on the outside walls of buildings and may not obscure windows, doors or any other architectural feature;
 - c. Display time is limited as determined by the Historic District Commission;

1. A dense vegetative planting buffer incorporating approved landscaping materials of a variety that shall be equally effective in winter and summer. Approved landscaping materials shall be adequately spaced to form a solid continuous visual screen. Where shrubs are used they shall be evergreen in nature or approved deciduous material, be at least 24 inches tall at the time of planting, and be spaced closely enough together so as to create a seamless row of screening/buffering and reach the required height within twenty-four (24) months after the initial installation.
2. A solid masonry or vinyl fence or wall that is compatible with the principal structure or development. Where a masonry or vinyl fence or wall is utilized for the parking lot screening, the perimeter landscaping required by section 27-602-3 (c) must be installed on the right-of-way side of the fence but not in the right of way. Where fences or walls are used they shall be no more than 4 feet in height, as measured from the surface of the parking lot, except for those that are constructed as part of a comprehensive security fence.
3. Earth berms shall be gently rolling in nature so as to appear natural and have a maximum slope ratio of 3:1 (horizontal run to vertical rise) and a recommended slope of 4:1. Where a berm does not reach the minimum required screening height, additional screening measures shall be installed to complement the berm. Berms and approved landscaping materials shall be adequately spaced to form a solid continuous visual screen and reach the required height within twenty-four (24) months after the initial installation.

All parking lot screening shall be a minimum of three (3) feet above the finish elevation of the parking lot. All planted materials shall reach the required height within twenty-four (24) months after the initial installation. Screening shall be installed in a manner so that it does not impair the sight lines of driveways or intersections.

D. Height of Screening. The height of a screening buffer, except for parking lot screening required by section 27-602-3(D C), shall comply with the following:

1. Visual screening walls, fences, or berms and fences in combination shall be four (4) to six (6) feet high measured from the natural grade, in order to accomplish the desired screening effect.
2. Vegetation shall be four (4) to six (6) feet high measured from the natural grade, in order to accomplish the desired screening effect. The required height shall be achieved with vegetation capable of growing up to four (4) to six (6) feet in height within twelve (12) months after the initial installation.

E. Interior Landscaping For Vehicular Use Areas.