

ORDINANCE NO. 36-20**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 the 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 April 14, 2020, that changes be made; and,

WHEREAS, three (3) copies of May 2020 Amendment 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 May 2020 Amendment to the Unified Development Ordinance includes amendments to revise definitions relative to family and duplex;

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

SECTION 1: The May 2020 Amendment to the Unified Development Ordinance is 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 the amendment 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 amendment be effective, and the amendment is hereby made effective, as of date of approval of the Ordinance.

PASSED AND APPROVED THIS 5th DAY OF May, 2020.

ATTEST:



City Clerk

APPROVED:



Mayor

Approved as to form:



Publish One Time

UDO AMENDMENTS
DUPLEX AND FAMILY
DEFINITIONS

Dwelling unit

Shall mean a single unit providing complete, independent living facilities for one **or more persons family**, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Easement

shall mean a right-of-way or parcel of land specified or set aside for a specific use, normally used for access, utilities, and other public or private usage, given by the owner of land to another party, and kept free from buildings or structures.

Electric power plant

shall mean establishments that provide electric power generation, transmission, control, and distribution. Establishments include facilities that convert other forms of energy into electrical energy, electric power transmission and control systems (including lines and transformer stations), and distribution systems (i.e., lines, poles, meters, and wiring).

Electrical equipment, appliance, and components manufacturing

shall mean establishments manufacture computers, computer peripherals, communications equipment, audio equipment, lighting equipment, batteries, motors, and other products that generate, distribute and use electrical power. Included are manufactures of components for the above products and manufacturers of small and major household appliances.

Electrical, plumbing, heat & air conditioning

A place of business primarily engaged in selling and/or distributing electrical, plumbing and HVAC products to suppliers and contractors with limited retail to the general consumer.

Electronics and appliances (new)

see furniture and home furnishings (new)

Electronics and appliances (used)

see furniture and home furnishings (used)

Elevation

shall mean a drawing showing the vertical, exterior elements of a building as a direct projection to a vertical plane.

Emergency & Relief Services

shall mean an establishment primarily engaged in providing food, shelter, clothing, medical relief, resettlement, and counseling to victims of domestic or international disasters or conflicts (wars). Emergency relief may be needed following a natural disaster such as an earthquake, fire, drought, tornado, famine, hurricane, flood, mudslide, or a man-made disaster such as hazardous material containment, nuclear or biological threats or acts of terrorism.

Fairground/ rodeo ground

an area wherein buildings, structures, and land are used for agricultural related offices, animal shows and judging, carnivals, circuses, community meetings, recreational uses, concerts, food booths and stands, games, rides, rodeos, sales and auctions, storage, and theaters, excluding racetracks and motorized contests of speed.

Family

for purposes of this chapter, shall mean either:

(1) One (1) or more persons occupying a single dwelling unit provided that all members are related by blood, marriage or adoption and may include domestic employees housed on the premises; or

(2) A group of not more than four (4) persons who are not related by blood, marriage or adoption, living together as a common household in a dwelling unit. Not more than eight (8) handicapped persons living together as an independent housekeeping unit plus necessary supervisory personnel.

This definition of family is established for the purpose of preserving the character of residential neighborhoods by controlling population density, noise disturbance, and traffic congestion, and shall not be applied so as to prevent the city from making reasonable accommodation where the city determines it necessary to afford handicapped persons living together in a household equal access to housing pursuant to the federal Fair Housing Amendments Act of 1988.

Family support services

shall mean hotline centers, suicide crisis centers, or self-help organizations that provide counseling, support, and education.

Farmer=s market

shall mean a temporary or occasional outdoor retail sales of farm produce from vehicles or temporary stands.

Feed store

shall mean a facility for sale of grain, prepared feed and forage for pets, livestock and fowl, but not involving the grinding, mixing or commercial compounding of such items.

Ferry boat facility

shall mean a facility for waterborne transportation (e.g., commuter ferries, water taxis, hovercraft) or short term excursions (e.g., charter boats, mini-cruises, sight-seeing, gambling, dining, and entertainment on the water) including but not limited to : passenger terminals and berthing areas, storage, employee or passenger parking, administrative functions, ship servicing area, layover berths, fueling stations, and other boat or passenger services.

Fine art and performance education (art, drama, speech, dance, music or similar skills)

shall mean a place for the instructing, coaching or counseling of personal skills of the arts.

phrases in the UDO which do not expressly reference the comprehensive plan, including but not limited to "adopted plans," "adopted policies," "area plans," "functional plans," "planning policies," or "policies," shall not be intended to refer to the comprehensive plan.

Conditional use

shall mean uses that can be approved in a zone where they are specifically listed as conditional uses and are subject to special conditions as determined by the planning commission.

Country club (private)

shall mean an area containing a clubhouse and recreation facilities restricted to the use of specific membership and which may contain a golf course, tennis court, swimming pool, dining room, social facilities and similar recreation and service facilities, with a minimum of ten (10) acres.

Duplex

shall mean a building on a single lot that has two attached independent dwelling units.

Dwelling or dwelling unit

shall mean any room or group of rooms located within a structure forming a single habitable unit with facilities which are used and intended to be used for living, sleeping, cooking, eating and sanitation by one (1) family, but not including hotels, motels or boarding homes.

(1) *Single family* shall mean a building containing one (1) dwelling unit designed for occupancy by not more than one (1) family.

(2) *Duplex* shall mean a building designed for and/or occupied exclusively by two (2) families living independently of each other.

Dwelling

shall mean a building that contains one or more dwelling units used, intended, or designed to be rented, leased, let or hired out to be occupied for living purposes.

Dwelling unit

shall mean a single unit providing complete, independent living facilities for one family, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Dwelling, mobile home

shall mean a single detached single-family dwelling unit with all of the following characteristics:

(1) Designed for full time occupancy and containing sleeping accommodations, flush toilet, tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.

(2) Designed to be transported after fabrication on its own wheels or on a flatbed or other trailers of detachable wheels, or by other means.

(3) Designed to arrive at the site where it is to be occupied, complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on and connection to foundation supports, and connection to utilities.

Easement

shall mean a right-of-way or parcel of land specified or set aside for a specific use, normally used for access, utilities, and other public or private usage, given by the owner of land to another party, and kept free from buildings or structures.

Family

for purposes of this chapter, shall mean either:

(1) One (1) or more persons occupying a single dwelling unit provided that all members are related by blood, marriage or adoption and may include domestic employees housed on the premises; or

(2) A group of not more than four (4) persons who are not related by blood, marriage or adoption, living together as a common household in a dwelling unit.

This definition of family is established for the purpose of preserving the character of residential neighborhoods by controlling population density, noise disturbance, and traffic congestion, and shall not be applied so as to prevent the city from making reasonable accommodation where the city determines it necessary to afford handicapped persons living together in a household equal access to housing pursuant to the federal Fair Housing Amendments Act of 1988.

Flood

shall mean a temporary rise in stream level that results in water covering areas not ordinarily covered by water.

Flood hazard boundary map (FHBM)

shall mean an official map of the city or of the county issued by the Federal Insurance Administration, designating the boundaries of special flood hazards.

Floodway

shall mean the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

Golf course (commercial)

shall mean a golf course, privately or publicly owned but opened to the public for a fee and operated as a commercial venture.

Greenhouse or plant nursery

shall mean an area or structure for the growing, display and sale, at retail, of plants, flowers, trees and other plant materials and the supplies for maintaining plant material.

Heavy industrial district

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.