

ORDINANCE NO. 31-21**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, is it 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 March 9, 2021, that changes be made; and,

WHEREAS, three (3) copies of April 2021 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 April 2021 Amendments to the Unified Development Ordinance include an amendment to add the Form Based Code zoning district to the Outdoor Mobile Food Vending sections of the Unified Development Ordinance and an amendment to add a provision to Section 27-504-3 allowing private access easements for residential single family and duplex developments when certain criteria are met;

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

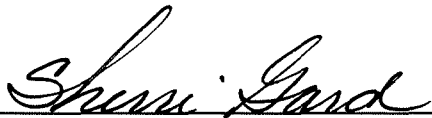
SECTION 1: The April 2021 Amendments to the Unified Development are hereby adopted.

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

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.

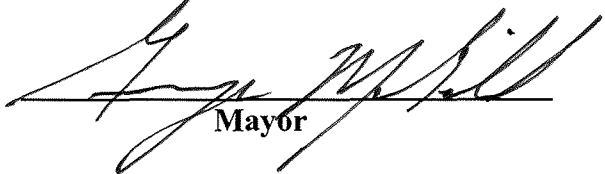
PASSED AND APPROVED THIS 6 DAY OF April, 2021.

ATTEST:



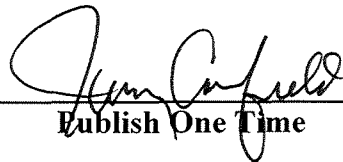
City Clerk

APPROVED:



Mayor

Approved as to form:



Publish One Time

- B. All water and sewer easements shall be of such dimensions as to provide access for the construction, and maintenance of the facilities within the easements and according to the applicable design standard.

27-504-2 Drainage easements

All drainage easements shall be of the dimensions necessary to provide access for equipment appropriate for construction, cleaning, and maintaining of the drainage way, consistent with Section 27-506.

27-504-3 Private Access Easements

The Planning Commission may approve Private vehicular access easements as ingress and egress, for lots are permitted provided all of the following conditions are met:

- A. ~~A private vehicular access easement shall only be approved in~~ Multifamily, commercial and industrial subdivisions or developments:
- B. ~~1.~~ 1. The easement shall be at least twenty-four (24) feet wide and not more than five hundred (500) feet in length. The easement shall comply with all the standards for public streets and utilities as provided in this Section. This includes the design standards in this Section and guarantees and warranties required by Sections 27-513 and 27-514.
- C. ~~2.~~ 2. The easement shall be covered with an approved all weather surface such as concrete, asphalt, brick, graded and compacted gravel, or similar comparable materials treated to prevent dust and overgrowth.
- D. ~~3.~~ 3. The private vehicular access easement may be used for emergency vehicle access and public service vehicle access. The proposed provision of access by an easement shall be reviewed by all utility companies and public service departments including fire, sanitation and police.
- E. ~~4.~~ 4. The easement shall not be maintained by the City. It is the applicant's responsibility to provide a maintenance plan that identifies the entities or parties who are responsible for maintaining the easement and that complies with Section 27-515.

F. Residential single family and duplex subdivisions or developments:

1. The lot shall have public or private street frontage on one side.
2. The easement shall be from a public or private street and a minimum of sixteen (16) feet wide.
3. The easement shall be paved and maintained by the property owner or homeowners association.
4. If applicable, the easement shall comply with all standards for public streets and utilities as provided in this chapter. This includes the design

standards in this Section and guarantees and warranties required by Sections 27-513 and 27-514.

F. **C.** If the private easement is gated:

1. Master Key Security System. A master key security system shall be provided on all gates. The security system shall include the following:
 - a. a gate override in case of power failure; and
 - b. a master key shall be provided for emergency access and public service providers.
2. Queuing. At gated entrances where traffic can queue into public streets, the gates and entrances design must provide for sufficient storage capacity so that no queuing vehicles will queue into the public street.

- (c) **Concession trailers:** A vending unit which is pulled by a motorized unit and has no power to move on its own.

Parallel Parking Space shall mean a parking space that is adjacent to the curb the full length of the parking space.

Sell shall mean the act of exchanging a food for a profit or in return for a donation.

Stationary location shall mean the position of the mobile food vendor when not in motion and addressing the public for the purpose of sales.

Temporary building shall mean a structure not exceeding 160 s.f. used to vend edible foods and that is not permanently affixed to the ground, or on blocks, etc.

Tow Vehicle – A motorized land vehicle.

B. Exemptions

1. An approved Farmers Market;
2. Temporary sales for non-profit entities that operate for less than five (5) consecutive days as part of a festival or special event shall be exempt from this Section.
3. Children's lemonade stands.

C. Outdoor Mobile Food Vendors Located on Private Property

The purpose of this section is to facilitate and control the ability of mobile food vendors and mobile food courts to operate on private property while ensuring such uses are compatible with nearby properties, fosters an aesthetically appealing streetscape, and does not create a dangerous traffic condition.

1. Single Vendor

- a. **Zoning Districts.** Outdoor mobile food vendors shall be permitted on private property in C-2 through C-6 commercial zoning districts, and I-1 and I-2 industrial zoning districts, and the Form Based Code zoning districts. Outdoor mobile food vendors are prohibited in residential zoning districts.

- b. Number of Vendors.** Only one (1) mobile food vendor shall be permitted per lot. However, if a lot has multiple street frontages, vendors may operate on the lot provided there is only one mobile food vendor proposed per street frontage. Otherwise, all proposed multiple mobile food vendors on a single lot shall be considered a Mobile Food Court and shall comply with the requirements for Mobile Food Courts below.
- c. Permission required.** Outdoor mobile food vendors shall first obtain written permission from the property owner prior to submitting an application.

2. Mobile Food Courts

- a. Zoning Districts.** Mobile food courts shall be permitted as a conditional use in C-2 through C-4 and permitted by right in the C-5, C-6, I-1, I-2 zoning districts. Outdoor mobile food courts are prohibited in residential zoning districts.
- b. Review Criteria.** A property owner, or agent, proposing a mobile food court shall submit an application or a Conditional Use Permit to the Planning Department. The Planning Department or Planning Commission will review the overall compatibility of the planned semi-permanent use with the surrounding property as well as such specific items as screening, parking and landscaping to make sure that no harmful effects occur to nearby property. The property owner, or agent, proposing a mobile food court may also be required to provide any of the following improvements to the property:

Improvements necessary to provide permanent utility connections for each mobile vending unit location in the mobile food court. This may include permanent water, sanitary sewer and electricity connections.

- ii. Improvements necessary to ensure safe pedestrian and vehicular access to the site.
- iii. Off-street parking improvements in compliance with Section 27-601 of the Unified Development Ordinance.

- iv. A minimum of 1 ½ spaces off-street parking spaces provided for each vending unit in the mobile food court. The number of parking spaces shall be rounded to the next higher whole number when the fraction is 0.5 or higher. Mobile food courts in the C-6 zoning district are exempt from the off-street parking requirements.
- v. Provide adequate restrooms facilities on site or through the provision of a shared use agreement with a neighboring business for access to restroom facilities.

c. Permit Requirements. Individual mobile food vendors within a mobile food court shall comply with the permitting requirements in Section E – Mobile Food Vendor Permit Requirements – Private Property. The mobile food court owner/operator shall not pay an annual permit fee, but shall maintain a current business license. The owner/operator shall also provide the following information:

- i. Name, address, and contact information of the individual mobile food vendors operating in the mobile food court.
- ii. Name, address, and contact information of the mobile food court operator and/or owner.

D. Public Street Right-of-Way. Outdoor mobile food vending on public street right-of-way shall be permitted only within the Commercial Downtown (C-6) and Form Based Code zoning districts. Mobile food vendor permits shall be issued to the owner of the mobile food vendor vehicle. All permits shall expire December 31.

1. Permit requirements. Each application for a permit to conduct a mobile food vendor business on a public street right-of-way shall contain the following:

- a. A permit and processing fee of \$150.00. For Permits issued after June 30th the permit and processing fee shall be \$75.00.
- b. The name, address, contact information and signature of the mobile food vendor requesting to locate within a public street right-of-way.
- c. A scaled drawing, photo, or written documentation verifying the dimensions of the mobile food vehicle and/or trailer.
- d. A statement of how and where solid and liquid wastes will be disposed,

- p. In any parallel parking space that is designated as reserved.
4. **Hours of Operation.** Outdoor mobile food vending on public street rights-of-way within the Commercial Downtown (C-6) districts shall be allowed to engage in the business of mobile food vending only between the hours of 9:00 pm and 2:00 a.m. Mobile food vending vehicles shall be removed from the public street right-of-way when not in use.
 5. **Waste Disposal.** The mobile food vendor has the responsibility to dispose of all solid and liquid wastes in accordance with all applicable laws. Mobile food vendors are not permitted to dispose of their trash in public trash receptacles.
 6. **Extended hours vending at limited locations marked by City.** Outdoor mobile food vending on public street right-of-way between the hours of 7:00 a.m. and 9:00 p.m. is permitted in limited locations marked by the City within the Commercial Downtown (C-6) districts. The following criteria shall apply:
 - a. Each vending location shall be limited to a designated and marked parallel parking space in public right-of-way adjacent to a public park.
 - b. Applicants shall be governed by all permit requirements required for vending in a public street right-of-way with the following exceptions:
 - The mobile food truck or concession trailer (self-contained) shall occupy only one Parallel Parking Space; Permitted and required additional hours of operation are as provided in this subsection D 6;
 - iii The requirements of subsection D 3 are not applicable to the limited locations designated by the City.
 - iv. The mobile food truck or concession trailer (self contained) shall be attended at all times.

Otherwise, vending shall comply with all applicable requirements of this Chapter.
 - c. The Mobile Food Truck shall be constructed of quality materials with an attractive, inviting appearance and kept clean and in good repair.
 - d. Lottery. Persons who hold a permit for outdoor mobile food vending on public street right-of-way (“Section 27-327-6D permit”)