Planning

3.

ORDINANCE NO. 34-08

AN ORDINANCE FOR THE PURPOSE OF AMENDING THE PROVISIONS CHAPTER 14, ARTICLE III, SECTION 14-52 OF THE FORT SMITH CODE OF ORDINANCES REGARDING THE PARKING AND SCREENING OF VEHICLES ON RESIDENTIAL PROPERTY

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

SECTION 1: Fort Smith Code Section 14-52(a) is hereby amended to read as follows:

(a) The following definitions shall apply to this section:

(1) Vehicles shall mean any device in, upon or by which any person or property is or may be transported or drawn upon a highway or street, except devices moved by human power or used exclusively upon stationary rails or tracks.

(2) Front yard shall mean the open space extending across the full width of the lot, the depth of which shall be the least distance between the front lot line and the exterior face of any building or structure. The front yard shall not include any portion of the city right-of-way.

(3) Side yard shall mean the area of open space between any building or structure and the side lot line, extending from the front yard to the rear yard, the width of which shall be the least distance between the side lot line and the nearest point of the exterior face of any building or structure.

(4) Exterior side yard shall mean the area of open space between the side wall of the building and side property line abutting a street right-of-way on corner lots.

(4) Rear yard shall mean the area of open space extending across the full width of the lot, the depth of which shall be the least distance between the rear lot line and the nearest point of the exterior face of any building or structure.

(5) Unimproved surface shall mean grass, dirt surfaces, and sidewalks which are not a part of a garage, carport or driveway leading directly from the public right-of-way to a building or structure on the subject property.

(b) It shall be unlawful for the occupants of any one and two-family dwelling structures to keep more than six (6) vehicles in the front and exterior side yard. Each such vehicle exceeding a total of six (6) shall be:

(1) Screened from public view by a permanent opaque screen fence a minimum of six (6) feet in height and constructed of wood or masonry materials;

(2) Capable of being driven if a vehicle or capable of being pulled if a trailer;

(3) Parked on an area constructed of asphalt, concrete or gravel surface; and

(4) Parked in a rear yard.

Approved as to form
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(c) It shall be unlawful for the operator of any vehicle to cause the vehicle to be parked or stored on an unimproved surface on the front yard or exterior side yard of any one or two-family dwelling structure or on any portion of an adjacent or contiguous undeveloped property. The improved surface shall consist of concrete, asphalt, or brick pavers. The improved area for parking vehicles in a front yard shall be limited to forty percent of the gross front or exterior side yard land area. The following exemptions shall apply:

(1) Each one or two-family dwelling structure shall be permitted one exempt parking space located on the property. The size of the exempt parking space shall not exceed 9' x 19' and shall be contiguous to the property's driveway. If the exempt parking is not maintained with adequate grasses, plants, or landscaping materials to prevent the area from becoming rutted or muddy and thereafter is identified as being in violation of this provision, the property owner shall be required to pave the designated parking area in accordance with the provisions of this chapter.

(2) An existing gravel, loose aggregate, rock, or SB2 driveway shall be permitted to remain unless it deteriorates so that more than fifty percent of the surface is composed of dirt, grass and weeds. An existing driveway of the gravel, loose aggregate, rock or SB2 may be expanded with similar material but not to exceed the forty percent of the gross front or exterior side yard land area.

(3) A vehicle may be temporarily parked on an unimproved surface for no more than seven consecutive calendar days.

(d) It shall be unlawful for the owner of any residential property to construct, reconstruct, or alter any hard surface parking area without having obtained a permit. The permit fee shall be thirty (30) dollars.

(e) Variances. In instances where strict enforcement of the requirements of subsections (b), (c), and (d) of this Section would cause undue hardship due to circumstances unique to the individual property under consideration, and the granting of such variance is demonstrated to be within the spirit and intent of the provisions of this ordinance, the Property Owners Appeal Board may grant requests for variances of the requirements of the subjections according to the following guidelines:

(1) Upon the showing required by (2) below, the Property Owners Appeal Board may modify such requirements to the extent deemed just and proper so as to relief such hardship, provided that such relieve may be granted without detriment to the public interest.

(2) When the applicant can show the property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the piece of property, the strict application of such provisions would prohibit or unreasonably restrict the use of the property, and the Property Owners Appeal Board is satisfied that the granting of a variance would alleviate a clear hardship, as distinguished from a special privilege or convenience sought by the applicant, such variance may be granted; provided that all variances shall be in harmony with the intended purpose of this chapter.

(3) Any property owner aggrieved by the Property Owners Appeal Board in granting or denying a variance may appeal the decision to the Fort Smith Board of Directors within fifteen (15) calendar days of the Property Owners Appeal Board's decisions.

SECTION 2: The codifier of the ordinances of the City will renumber Fort Smith Code Section 14-52(b) (penalty clause) as Section 14-52(f).

SECTION 3: The effective date of this ordinance shall be January 1, 2009.

PASSED AND APPROVED THIS 15th DAY OF July, 2008.

APPROVED:

MAYOR

ATTEST:

CITY CLERK