



Mayor – Sandy Sanders

City Administrator – Ray Gosack

City Clerk – Sherri Gard

Board of Directors

Ward 1 – Keith D. Lau

Ward 2 – Andre' Good

Ward 3 – Mike Lorenz

Ward 4 – George Catsavis

At Large Position 5 – Pam Weber

At Large Position 6 – Kevin Settle

At Large Position 7 – Philip H. Merry Jr.

AGENDA
Fort Smith Board of Directors
Study Session
August 13, 2013 ~ 12:00 Noon
Fort Smith Public Library Community Room
3201 Rogers Avenue

1. Discuss proposed changes to the residential parking ordinances
2. Discussion regarding residential sanitation service (*container location*)
~Weber/Lorenz placed on agenda at the July 9, 2013 regular meeting ~
3. Review preliminary agenda for the August 20, 2013 regular meeting

MEMORANDUM

To: Ray Gosack, City Administrator
From: Wally Bailey, Director of Development Services
Date: August 7, 2013
Subject: Residential Parking Regulations

At the June 11, 2013, study session, we discussed issues related to Neighborhood Services and enforcement of many different issues. During the discussion the Board asked that we revisit the residential parking regulations. Some concerns expressed were that the ordinance may have too many exceptions, may be too difficult to understand or too difficult to enforce.

I have reviewed the matter with the Neighborhood Services staff, Planning staff and the Property Owners Appeals Board for their input on the parking regulations. Attached is a list of suggestions and comments for each of the four (4) respective parking regulations. I have also attached a copy of the existing regulations for reference.

With regard to the exceptions, there are a number of exceptions and many of them are reasonable and attempted to address existing situations. However, we have suggested some changes in the attached notes. The bigger problem is investigation of parking complaints that involve exceptions. When the parking ordinances were adopted, we tried to be clear that it would be difficult to identify violations without assistance of citizens giving us complaints. It is difficult to drive by a property one time and determine if there is a violation. It can take multiple days to investigate and determine if a violation is occurring. Many citizens believe we are not doing anything when they see what could be a violation, but if staff is not made aware then it is nearly impossible to confirm if a violation is occurring simply by driving by a property one time.

With exception of the commercial vehicle and recreational vehicle regulations, these regulations only apply to vehicles parked on private property. We often receive complaints about cars parked in the right of way between the curb and sidewalk. Many citizens believe these regulations apply to these parking situations but they do not. These areas are approved for parking unless parking is restricted by no parking signs.

If changes are made to the regulations, there is potential that many previously approved existing situations would be in violation with any new regulations. I think that this needs to be considered as we progress with discussions about possible amendments.

We will have a power point to show some photographic examples of some situations described by the existing ordinance and our suggestions.

Please let me know if you have any questions.

Sec. 14-52 Parking, screening vehicles on residentially zoned property.

1. Consider reducing the number of vehicles that can be on the front and exterior side yards from 6 to some lesser number.
2. Section 14-52 has language that implies it is acceptable to keep a trailer in the front and exterior side yard. However, section 14-55 only allows a trailer in the front and side yards as long as the trailer is out of the front and exterior side yard setbacks. This can get confusing navigating back and forth between the two sections and especially confusing for a citizen reading the ordinances. Our suggestion is to better correlate these two sections of the code with a single standard for trailers. Regulations concerning the proper parking of trailers should be consolidated in section 14-55. Also, see our discussion below on section 14-55.
3. Paragraph (c) has language that says it is unlawful to park or store vehicles on an unimproved surface of one or two family dwelling or any portion of an adjacent or contiguous undeveloped property. The words adjacent or contiguous should be deleted. As written the ordinance would not be applicable to undeveloped property that was not adjacent to a one or two family dwelling.
4. Paragraph (c) (1) allows one exempt parking space as long as it is contiguous to the property's driveway. The section does not say the space has to be parallel to the driveway. A vehicle that is parked perpendicular to the driveway can be contiguous but could be considerably less attractive than one parked parallel to the driveway. We would like some further discussion and possible direction on this.

Another suggestion received is to eliminate this exception altogether.

Sec. 14-53 Vehicle sale at residential properties.

1. This section only applies to the sale of vehicles at residentially occupied properties. We see a potential loophole that would allow vehicles sales to occur on or from a vacant residential property. We think an amendment to include any residential property is warranted.

Sec. 14-54 Parking of Commercial vehicles on residential streets and properties.

1. Paragraph (a) mentions commercial vehicles being restricted on residential and residential collector streets as classified by the master street plan. We have several different street classifications that pass through residential areas. Streets such as Dodson Ave., Park Ave., Albert Pike, and Spradling Ave., are examples of streets that are major collectors. We think an amendment to this section is warranted.

Sec. 14-55 Parking of recreational and utility vehicles on residential streets and properties.

1. Paragraph (a) (1) has a similar potential problem as I mentioned in section 14-54. It limits the restrictions to residential and residential collector streets. Many neighborhoods have different street classifications. We should address this potential problem.
2. As mentioned before, sections 14-52 and 14-55 have different definitions for the yards. A recreational vehicle and utility vehicle can be parked in the front or exterior side yards of a residence as long as the vehicle is out of the setbacks. Setbacks can vary based on the zoning classification. It may be more consistent and easier to understand if we just say recreational and utility vehicles cannot be parked in the front, or exterior side yard as defined in section 14-52.
3. We have had complaints about recreational vehicles and utility vehicles parked on interior side yards. Often these are large vehicles and appear to be sandwiched between houses. A consideration is to not allow these vehicles on interior side yards.

Note: If the changes mentioned in paragraphs 2 and 3 are made then a recreational or utility vehicle could only be parked in a rear yard.

4. Exemption (1) allows a recreational and utility vehicle to be temporarily parked for no more than four days. The purpose of this exception is to allow an individual to prepare the RV for a trip and when returning to unpack and prepare the RV for storage. We have had complaints that this exception is excessive. We have no specific recommendation at this time but believe a change may be necessary.

Sec. 14-52. - Parking, screening vehicles on residentially zoned property. 

- (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.
 - (5) 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.
 - (6) 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.

- (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 (40) 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 (1) exempt parking space located on the property. The size of the exempt parking space shall not exceed nine (9) feet by nineteen (19) feet 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 (50) 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 (40) percent of the gross front or exterior side yard land area.
 - (3) A vehicle may be parked for twenty-four (24) hours on an unimproved surface in conjunction with a family or social gathering. This exemption shall be used no more than once within a seven-day period.
 - (4) A vehicle may be parked up to seven (7) days on an unimproved surface by visitors in connection with a vacation or other family occasion, i.e., a wedding or funeral.
- (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 dollars (\$30.00).
- (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 subsections 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 relieve 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 decision of the property owners appeal board in granting or denying a variance may appeal the decision to a court of jurisdiction within thirty (30) days of the property owners appeals board's decision.

(f)

Any person found guilty of violating the provisions of this section shall be subject to the penalties set forth in section 1-9 of the Fort Smith Code of Ordinances.

(Ord. No. 28-93, §§ 1, 2, 6-15-93; Ord. No. 34-08, §§ 1, 2, 7-15-08; Ord. No. 47-09, §§ 1—3, 6-23-09)

Sec. 14-53. - Vehicle sale at residential properties.

- (a) *City administrator* as used herein refers to the city administrator or the designated agent of the administrator.
- (b) *Vehicle* as used herein means 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 tracts.
- (c) *Residentially occupied property* as referred to herein means any tract of property, regardless of zoning and platting, on which is located a structure occupied as a residence for one or more persons.
- (d) *Maintain and offer for sale* as used herein means to offer by advertisement, sign or oral statement the sale of a vehicle then maintained or garaged, even temporarily, on a residentially occupied property. A person shall be deemed to maintain and offer for sale a vehicle irrespective of the absence of an ownership interest in the vehicle if the person allows another to maintain and offer for sale a vehicle on the person's residentially occupied property.
- (e) It shall be unlawful for any person to maintain and offer for sale more than one (1) vehicle at any time from a residentially occupied property.
- (f) It shall be unlawful for any person to maintain and offer for sale more than two (2) vehicles in any calendar year from the same residentially occupied property.
- (g) Any person determined to have violated the provisions of this provision shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to punishment as set forth in section 1-9 of this Code of Ordinances.

(Ord. No. 84-07, § 1, 12-4-07)

Sec. 14-54. - Parking of commercial vehicles on residential streets and properties.

- (a) *Restricted parking.* It shall be unlawful to park or leave parked, standing, or unattended any commercial vehicle on any street or right-of-way classified as residential or as a residential collector by the city master street plan or on any property zoned residential or developed or utilized for residential purposes.

- (b) *Commercial vehicles defined.* For the purposes of this section, a commercial vehicle is defined as any of the following:
 - (1) Any solid waste collection vehicle, truck tractor, truck trailer, or tractor truck/trailer combination, any heavy construction equipment, dump truck, concrete mixer truck, garbage truck, pump-out truck, chemical/gasoline truck, fuel or oil truck, or similar vehicle designed to transport waste, hazardous, or noxious materials;
 - (2) Any vehicle with three (3) or more axles;
 - (3) Any commercial vehicle that has a gross vehicle weight rating (GVWR) greater than sixteen thousand (16,000) pounds; or,
 - (4) Any vehicle designed to transport sixteen (16) or more passengers including the driver.
 - (5) Any box or straight truck that has a gross vehicle weight rating (GVWR) greater than ten thousand (10,000) pounds. A box or straight truck is one that has a high cubic feet of storage volume with a box or storage container built onto the chassis typically used for hauling appliances, furniture or other cargo. Familiar terms used to describe box or straight trucks include cargo trucks, container trucks and moving trucks.

- (c)
 - (1) The provisions of this section shall not apply to any commercial vehicle while making normal deliveries, moving household goods or being used to perform the special operations for which it is designed.
 - (2) The provisions of this section shall not apply to any commercial vehicle at a legal non-conforming use as defined by section 27-39 of the Fort Smith Municipal Code.
 - (3) The provision of this section shall not apply to any vehicle designed to transport sixteen (16) or more passengers, including the driver, when associated with a church or school and when located on the church or school property.

(Ord. No. 28-08, § 1, 6-17-08; Ord. No. 32-08, § 1, 7-15-08; Ord. No. 47-09, §§ 4—6, 6-23-09)

Sec. 14-55. - Parking of recreational and utility vehicles on residential streets and properties.

(a) *Recreational and utility vehicles.* For the purposes of this section, recreational and utility vehicles are defined as travel trailers, folding tent trailers, motor homes, truck campers removed from a truck or pickup, horse trailers, boat trailers with or without boats, and utility trailers. It shall be unlawful to park or leave unattended a recreational and utility vehicle:

(1) On any street or right-of-way classified as residential or as a residential collector by the city master street plan; or

(2) In a front or exterior side yard setback area as defined in chapter 27 of the Fort Smith Municipal Code on any property zoned residential or utilized for residential purposes.

Any recreational and utility vehicle properly parked pursuant to the preceding sentence shall be maintained in a clean, well-kept state which does not detract from the appearance of the surrounding area. At no time shall a parked or stored recreational and utility vehicle be occupied or used as a dwelling unit.

(b) *Exemptions.* The following exemptions to the provisions of subsection (a) shall apply:

(1) A recreational and utility vehicle may be temporarily parked in the identified building setbacks or in the identified street right-of-way for no more than four (4) days.

(2) A recreational and utility vehicle may be parked under a carport or structure approved by the board of zoning adjustment or that exists as a non-conforming structure as defined in section 27-39(d) of the Fort Smith Municipal Code.

(3) Guests may reside in a recreational and utility vehicle on the host's premises for a period not longer than two (2) weeks in any ninety-day period. The vehicle may be parked in the building setback areas during the two (2) weeks.

(c) *Variations.* In instances where strict enforcement of the requirements of subsection (a) 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 appeals board may grant a variance of the requirements of the section according to the following guidelines:

- (1) Upon the showing required by (2) below, the property owners appeals board may modify the requirements of subsection (a) to the extent deemed just and proper so as to relieve such hardship, provided that such relief 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 the provisions of subsection (a) would prohibit or unreasonably restrict the use of the property, and the property owners appeals board is satisfied that the granting of a variance would alleviate a 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 section.
- (3) Any party owner aggrieved by the property owners appeals board in granting or denying a variance may appeal the decision to the court of jurisdiction within thirty (30) days of the property owners appeals board's decision.

(Ord. No. 33-08, § 1, 7-15-08)



MEMORANDUM

August 9, 2013

To: Ray Gosack, City Administrator

From: T. Baridi Nkokheli, Director

Subject: Residential Storage of Automated Carts

At the July 9, 2013 regular meeting, Directors Weber and Lorenz requested a discussion relating to the storage of city-issued automated carts by residential customers out of view from the street between collections. City of Fort Smith Ordinance 83-12, which was adopted by the voters last fall, requires residents to utilize containers provided by the city for collection of their municipal solid waste.

Currently, the municipal code concerning solid waste storage areas requires owners, occupants, lessees, or tenants to maintain such areas in a “clean, uncluttered condition” and to ensure that all solid waste is contained. It also specifies where and when the containers should be placed out for collection and when they should be removed from the street right-of-way following collection. Aside from the requirement to remove the container from the right-of-way, nowhere in the current code of ordinances are there any other references regarding the storage or screening of residential solid waste containers out of view from the street.

All residents receive automated refuse collection, and for the most part, they don’t want to see containers on non-collection days sitting curbside. The Department of Sanitation works to inform residents of city ordinances pertaining to the set out and removal of containers from the street right-of-way by placing reminder tags on those containers in violation. However, there are still containers left unattended at the curb well after collection. Some residents are concerned that, like tall grass and peeling paint, containers not removed from the curbside and/or sloppily stored carts are an eyesore that hints at neglect and may negatively affect their property value. Additionally, some residents place yard waste and bulk items curbside before the day of collection, which further add to neighborhood appearance issues.

Department of Sanitation staff has been tasked to suggest ways an ordinance could be constructed that would require that containers (and possibly other solid waste items) be stored and/or hidden from view from anyone on a street, sidewalk, or other public right-of-way. Requiring containers to be hidden from view can be challenging for residents who have single-car garages, small yards, no storage space and/or live in multiplexes. If a resident has a single-car garage and stores a car, lawn mower, bike or rents adds to the challenge. An ordinance could be established to require that carts and other solid waste items be stored at the rear or side of the

property, backyard, or garage between days of collection. Requiring residents to build a screening wall or fence to conceal containers and other solid waste from public view may also add to the aesthetic value of neighborhoods.

The Department of Sanitation has looked to other cities for examples ordinances that contain screening provisions or require that solid waste containers be stored out of view on a city-wide basis, but to date we are not aware of any cities that have such an ordinance. Such an ordinance could certainly be created, but it would certainly create significant enforcement issues and, presumably, strong public feedback.

Please contact me should you have any questions or would like additional information regarding this request.

A handwritten signature in black ink, appearing to be the initials 'NK'.