

ORDINANCE 2015-61

TO BE ENTITLED: “AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF FRANKLIN, TENNESSEE TO REMOVE THE FEE IN-LIEU OF OPTION FOR OPEN SPACE SET ASIDE REQUIREMENTS BY AMENDING CHAPTER 5, SUBSECTIONS 5.5.3 (1), TABLE 5-7 ENTITLED “REQUIRED OPEN SPACE SET-ASIDE” AND SUBSECTION 5.5.3 (3).”

WHEREAS, the City of Franklin, Tennessee encourages unique, innovative, and sustainable neighborhood development; and

WHEREAS, the City of Franklin, Tennessee encourages responsibly placed and appropriately sized open spaces for development projects; and

WHEREAS, a fee-in-lieu system for open space can prove challenging to define a nexus of applicability; and

WHEREAS, the current fee-in-lieu option has been proven ineffective due to lack of application; and

WHEREAS, it is within the best interests of the citizens of the City of Franklin to amend the Franklin Zoning Ordinance to address the concerns identified.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMAN OF THE CITY OF FRANKLIN, TENNESSEE, AS FOLLOWS:

SECTION I. That Chapter 5, Section 5.3, Subsection 5.5.3(3), of the Franklin Zoning Ordinance is hereby amended to delete the following text noted with a ~~strike through~~; to renumber the subsequent Subsections accordingly, and is approved to read as follows:

~~(3) Fee In Lieu of Open Space Set Aside~~

~~(a) General~~

~~The BOMA may accept a fee in lieu of the open space set aside when:~~

- ~~(i) The total size of the common open space set aside is less than one acre;~~
- ~~and~~
- ~~(ii) If in a traditional area or TOD, the provision of amenity features on a lot in a traditional area is impractical or inappropriate.~~

~~(b) Procedure for Approval~~

- ~~(i) Upon receipt of the request to accept a fee in lieu of the open space set aside, the Parks Department shall review the proposal and prepare a recommendation to BOMA regarding the payment.~~
- ~~(ii) BOMA shall consider the request and the recommendation from the Parks Department during the normal meeting convened to review the development application or as a special item of review during a regular meeting in the event the development does not require BOMA review.~~

~~(c) Time of Payment~~

~~The fee in lieu of open space set aside shall be paid prior to the issuance of the first Certificate of Occupancy associated with the development.~~

(d) Amount of Payment

The amount of the fee in lieu will be established by the finance department based on recent property valuations in the general vicinity of the site or on other appropriate factors.

(e) Disagreement as to Amount

In the case of disagreement between the BOMA and the developer regarding the amount of payment, such determination shall be made by a special appraisal committee consisting of one professional appraiser appointed by the City Administrator, one professional appraiser appointed by the applicant, and one professional appraiser appointed by the first two committee appointees. This committee shall view the land and hear the contentions of both the city and the applicant. The findings of the committee shall be by a majority vote and shall be certified to the BOMA in writing within 30 days of the date the third member is appointed to the committee. The costs of the appraiser appointed by the applicant shall be borne entirely by the developer; the city shall bear all other costs associated with the committee.

(f) Use of Funds

All monies received by the city pursuant to this subsection shall be used only for the acquisition or development of public parks, greenways/blueways, open space sites, and related facilities.

SECTION II. That Chapter 5, Section 5.3, Subsection 5.5.3(1), Table 5-7, Required Open Space Set-Aside, of the Franklin Zoning Ordinance is hereby amended to delete the following text noted with a strikethrough; to add the following text noted in **bold**, and is approved to read as follows:

TABLE 5-7: REQUIRED OPEN SPACE SET-ASIDE						
Location of Development	Residential Development			Nonresidential and Mixed-use Development		
	Total Open Space Set-Aside (% of gross development size) [4]	% Formal (% of total set-aside) [2]	% Informal (% of total set-aside) [2] [3]	Total Open Space Set-Aside (% of gross development size)	% Formal (% of total set-aside) [2]	% Informal (% of total set-aside) [2]
Traditional Areas [1]	5%	100%	None	3%	100%	None
Conventional Areas	15%	34 3%	66%	5%	100%	None
NOTES:						
[1] Development within traditional areas and within mixed-use developments may substitute the provision of amenity features for formal open space set-aside area as provided in this subsection.						
[2] In the event that the required percentage figure results in an a formal open space set-aside smaller than one acre the minimum size requirement in Subsection 5.5.3 (6) , then the city may require a fee in lieu as an alternative a formal open space set-aside is not required.						

TABLE 5-7: REQUIRED OPEN SPACE SET-ASIDE						
Location of Development	Residential Development			Nonresidential and Mixed-use Development		
	Total Open Space Set-Aside (% of gross development size) [4]	% Formal (% of total set-aside) [2]	% Informal (% of total set-aside) [2] [3]	Total Open Space Set-Aside (% of gross development size)	% Formal (% of total set-aside) [2]	% Informal (% of total set-aside) [2]
[3]	Because not all sites contain natural features appropriate as informal open space, open space provided in accordance with the formal open space requirements may be credited toward fulfilling the informal open space requirement.					
[4]	Informal open space located within Hamlets or Conservation Subdivisions shall be provided in accordance with the applicable standards in Subsections 5.3.7 and 5.3.8.					

SECTION III. That Chapter 8, Section 8.3, of the Franklin Zoning Ordinance is hereby amended to delete the following text noted with a ~~strike through~~; to add the following text noted in **bold**, and is approved to read as follows:

Open Space, Private

Open Space on each building lot in a development that is for the private use of inhabitants.

SECTION IV. BE IT FINALLY ORDAINED by the Board of Mayor and Aldermen of the City of Franklin, Tennessee, that this Ordinance shall take effect from and after its passage on third and final reading, the health, safety, and welfare of the citizens requiring it.

ATTEST:

CITY OF FRANKLIN, TENNESSEE:

By: _____
Eric Stuckey
City Administrator/Recorder

By: _____
Dr. Ken Moore
Mayor

Approved as to form by:

Shauna R. Billingsley
City Attorney

PLANNING COMMISSION RECOMMENDED:

PASSED FIRST READING:

PUBLIC HEARING HELD:

PASSED SECOND READING:

PASSED THIRD READING:
