

## **ORDINANCE 2016-36**

### **TO BE ENTITLED: "AN ORDINANCE TO AMEND CHAPTER 5 OF THE ZONING ORDINANCE OF THE CITY OF FRANKLIN, TENNESSEE, TO AMEND SUBSECTION 5.5.4 PERTAINING TO THE REQUIREMENTS FOR THE DEDICATION OF LAND FOR PARKS AND GREENWAYS/BLEUEWAYS."**

**WHEREAS**, pursuant to Private Act 1987, Chapter 117, the City of Franklin's intention is that new growth in residential development should pay its proportionate share to maintain the existing resident to parkland ratio so not to impose costs on existing City of Franklin taxpayers; and

**WHEREAS**, the City of Franklin values public parkland as an important community amenity and a central tenet of quality of life for its citizens, thereby requiring a Parkland Impact Fee or, as an alternative, Parkland Dedication for new Residential Development; and

**WHEREAS**, operating and maintenance costs for public parkland of less than five acres is not cost effective for the City; and

**WHEREAS**, private improvements in new Developments are encouraged to provide park-like amenities that are accessible and able to be enjoyed by those residing within the Development and, throughout the City of Franklin; and

**WHEREAS**, removing the Parkland Dedication requirements from Subsection 5.5.4 of the Franklin Zoning Ordinance, and creating a separate Title in the Franklin Municipal Code for Parks will provide the Board of Mayor and Alderman and City Staff with additional opportunities to achieve recreational facilities that meet the intent and purpose of this Ordinance by establishing requirements for Parkland Impact Fees and Parkland Dedication and development, construction of park improvements in lieu of Parkland Impact Fees, and providing criteria for granting off-sets for providing Private Park and recreation amenities and park-like facilities; and

**WHEREAS**, Envision Franklin, the City of Franklin Land Use Plan, supports the provision of park and recreation facilities throughout the City and in new Developments that meet the needs of all citizens of Franklin; and

**WHEREAS**, in 2016, the City of Franklin Board of Mayor and Aldermen approved the Franklin Comprehensive Parks and Recreation Master Plan (the "Plan"), which provides planning policy and guidance for the development of a municipal park and recreation system for the City of Franklin; and

**WHEREAS**, the Plan assessed the need for parkland and park improvements to serve the residents of Franklin; and

**WHEREAS**, the Plan also carefully assessed the level of service provided by the park and recreation system, and the City wishes to retain that level of service by establishing Parkland Impact Fees and Parkland Dedication requirements based on individual Dwelling Units created by each new Development so new Dwelling Units bear their proportionate share of the cost of retaining the current level of service; 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 ALDERMEN OF THE CITY OF FRANKLIN, TENNESSEE, AS FOLLOWS:**

**SECTION I.** That Chapter 5, Section 5.5, Subsection 5.5.4, 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:

**5.5.4 Parkland Impact Fees and Parkland Dedication** ~~Dedication of Public Land for Parks and Greenways/Blueways~~

In addition to the standards for open space set-asides, **the development or redevelopment of land that creates new or additional residential dwelling units shall meet the requirements for Parkland Impact Fees and Parkland Dedication as specified in Title 25, Chapter 4, of the Franklin Municipal Code** ~~residential or mixed-use developments with ten (10) or more dwelling units shall dedicate land to the city for use as public parks or greenways/blueways in accordance with the following standards. For a revision to a PUD approved prior to July 1, 2008, the Public Land Dedication shall only be assessed on any of the new residential dwelling units to be included within the PUD.~~

~~(1) Amount to be Dedicated~~

~~(a) Developments required to dedicate land shall do so in the following amounts:~~

- ~~(i) 1,200 square feet per dwelling unit for the first 35 principal dwelling units; and~~
- ~~(ii) 600 square feet for each additional principal dwelling unit beyond the first 35.~~

~~(b) Accessory dwelling units shall be exempt from these requirements.~~

~~(c) Development proposed in phases shall be considered as a single development for the purposes of applying the land dedication standards. Development shall not be phased to avoid the requirements of this subsection.~~

~~(2) Nature of Park Land to be Dedicated~~

~~All dedications of land shall meet the following criteria:~~

~~(a) Contiguity~~

- ~~(i) The dedicated park land shall form a single contiguous parcel of land, except where the BOMA determines that two or more parcels would be in the best interest of the public, given the type and distribution of open spaces needed to adequately serve the proposed development.~~
- ~~(ii) When dedicated land is composed of two parcels, it shall be connected by a dedicated strip of land at least 30 feet in width unless the BOMA determines that an alternative configuration would be in the best interest of the public.~~

~~(b) Usability~~

- ~~(i) At least 50 percent of the total park land dedicated shall be located outside the HHO, FWO, and FFO Districts, alluvial soils, lakes, or other water bodies, and areas with slopes greater than 14 percent.~~

- (ii) ~~At least 75 percent of the total land dedicated shall be located outside of wetlands subject to federal or state regulatory jurisdiction. Lakes, ponds, creeks, or other water bodies, and wetlands falling under the jurisdiction of state or federal agencies may be dedicated only if sufficient abutting land is dedicated as a public recreation area or park or if such area constitutes a necessary part of the drainage control system.~~

~~(c) Shape~~

~~The shape of the dedicated park land shall be deemed suitable to accommodate those facilities set forth by the City of Franklin Parks Department. Land dedicated only for greenways need not comply with the requirements of this subsection.~~

~~(d) Location~~

~~The dedicated park land shall be located so as to reasonably serve the recreation and open space needs of nearby residents. The dedicated park land may be located outside of the residential development in order to add property to existing park land or to combine land dedication efforts with those of other developments.~~

~~(e) Access~~

- ~~(i) Public access to the dedicated park land shall be provided either by adjoining public street frontage, dedication of property, or by a dedicated public easement that connects the dedicated land to a public street or right-of-way.~~
- ~~(ii) Gradients adjacent to existing and proposed streets shall allow for reasonable access to the dedicated land.~~
- ~~(iii) Where the dedicated land is located adjacent to a street, the developer shall remain responsible for the installation of utilities, sidewalks, and other improvements required along that street segment.~~

~~(f) Topography~~

~~The average slope of the portion of dedicated land deemed usable for active recreation shall not exceed the average slope of the entire area to be developed. In no case shall a slope on the usable portion of dedicated land exceed 14 percent.~~

~~(g) Dedication of Lakes~~

- ~~(i) The developer may propose to include an existing or proposed body of water as part of a park dedication.~~
- ~~(ii) The land surrounding and adjacent to the water body shall be dedicated to the city, at a minimum width of 100 feet.~~

~~(3) Procedure for Dedication of Park Land~~

- ~~(a) The dedication of such land shall be reviewed and approved as part of a Development Plan or Preliminary Plat, as applicable. The developer shall designate the areas of land to be dedicated on the Preliminary Plat or Development Plan.~~
- ~~(b) Where wetlands falling under the jurisdiction of state or federal agencies have been certified to exist on the property, the Development Plan or Preliminary Plat shall also identify the boundaries of such wetlands.~~

- ~~(c) Upon receipt of the Concept Plan or Preliminary Plat, the parks department shall review the proposal and prepare a recommendation regarding the dedication.~~
- ~~(d) Unless otherwise stipulated in the Concept Plan or Preliminary Plat, an executed general warranty deed in a form acceptable to the city conveying the dedicated land to the city and a reproducible paper boundary survey shall be submitted no later than two years after the recording of the first final subdivision plat for the development.~~

~~(4) Payment In-Lieu of Dedication~~

~~(a) General~~

~~The payment of fees in lieu of the dedication of land may be accepted at the request of the developer, with approval of the city. The payment of fees in lieu of land dedication also may be required by the BOMA at the time of Development Plan approval, or as a condition of the approval of a Preliminary Plat, upon finding that:~~

- ~~(i) All or part of the land required to be dedicated is not suitable for public recreation and open space purposes;~~
- ~~(ii) The recreational needs of the proposed development can be met by other park, greenway, or recreational facilities planned or constructed by the city within reasonable proximity to the development;~~
- ~~(iii) The amount of parkland required to be dedicated is too small to provide adequate recreational opportunities or to be efficiently maintained by the city; or~~
- ~~(iv) Existing park land in the area is adequate to serve the development.~~

~~(b) Procedure for Approval~~

- ~~(i) The payment of such fees in lieu of land dedication shall be reviewed and approved as part of the Development Plan or Preliminary Plat. Any developer desiring to make such payment shall attach a letter to the parks department requesting the payment of fees in lieu of land dedication.~~
- ~~(ii) Upon receipt of the application, the Parks Department shall review the request and submit any and all recommendations concerning the payment of fees in lieu of dedication to the city.~~
- ~~(iii) In the event of a dispute between an applicant who wants to make payment in lieu, and a recommendation by the parks department that facilities should be provided, the BOMA shall make the final determination based on which option would generate the maximum community benefits.~~

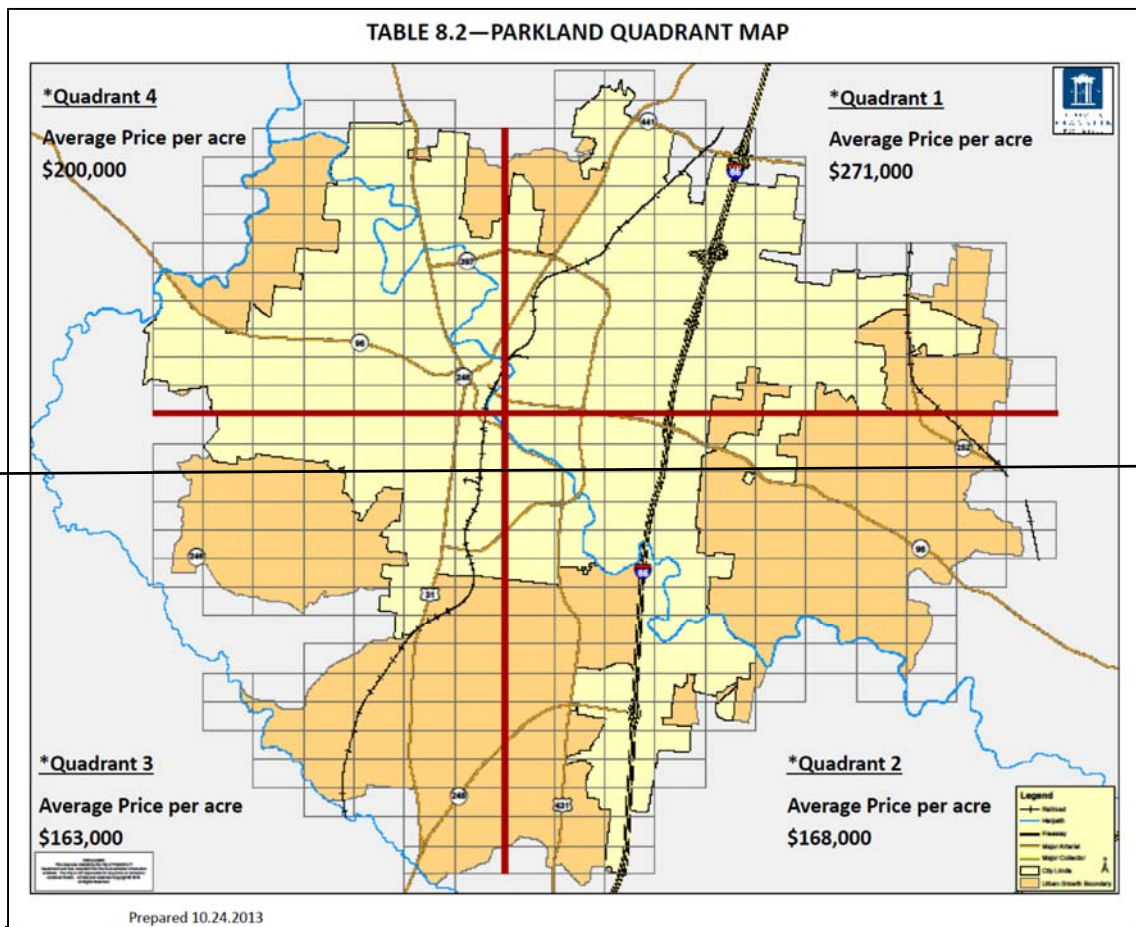
~~(c) Time of Payment~~

~~The fees in lieu of dedication shall be paid prior to recording the first Final Plat for the subdivision to which the fees relate.~~

~~(d) Amount of Payment~~

- ~~(i) Where the payment of fees to the city is to be made in lieu of dedication of land as permitted by this subsection, the developer shall provide to the city, at the developer's cost, a current written appraisal of the fair market value of the land to be developed.~~

- (ii) Each appraisal shall be performed by a Tennessee-licensed real estate appraiser.
- (iii) The Finance Department may waive the requirement of an appraisal where the subdivider or developer provides to the city documentation of the fair market value of the subject property, which in the opinion of the Finance Department reasonably estimates the land's fair market value.
- (iv) The appraisal or documentation of the land's fair market value, along with other evidence that, in the city's opinion, aids in the determination of fair market value, may be used in the determination of the amount of any payment in lieu of land dedication permitted by this subsection.
- (v) Nothing in this subsection shall limit or preclude the BOMA from requiring a written appraisal notwithstanding a waiver of the appraisal requirement granted by the finance department.
- (vi) When the appraisal or documentation of the land's fair market value, as determined by the City, exceeds the average land value for the quadrant where the proposed project is located, the average land value as noted in Table 8.2 — Parkland Quadrant Map shall be the per acre value used for calculating the parkland payment in lieu.



~~(e) Disagreements as to Amount~~

~~In the case of disagreement between the city and the developer regarding the fair market value of the property, 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~~

~~Fees received 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. Severability.** In the event that any section, clause, provision, or part of this ordinance shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable full force and effect. If any part of this ordinance is found to be invalid in any one or more of its several applications, all valid applications that are severable from the invalid applications shall remain in effect.

**SECTION III. Repeal and Savings Clause.** All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided, however, that nothing herein contained shall affect any rights, actions or causes of action which shall have accrued to the City of Franklin prior to the effective date of this ordinance.

**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:**

By: \_\_\_\_\_  
**Eric Stuckey**  
City Administrator/Recorder

**CITY OF FRANKLIN, TENNESSEE:**

By: \_\_\_\_\_  
**Dr. Ken Moore**  
Mayor

Approved as to form by:

\_\_\_\_\_  
Shauna R. Billingsley  
City Attorney

PLANNING COMMISSION RECOMMENDED:

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PASSED FIRST READING:

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PUBLIC HEARING HELD:

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PASSED SECOND READING:

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PASSED THIRD READING:

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