

ORDINANCE NO. 15-86  
CITY OF CENTERVILLE, OHIO

Sponsored by Councilman Brooks Compton on the  
17th day of November, 1986.

AN ORDINANCE WHICH ESTABLISHES PARKLAND  
DEDICATION OR FEES-IN-LIEU REQUIREMENTS FOR  
NEW RESIDENTIAL SUBDIVISIONS OR DEVELOPMENTS

WHEREAS, it is anticipated that the City of Centerville, and surrounding areas will sustain continued growth in the form of new residential subdivisions and developments; and

WHEREAS, the residents of such subdivisions and developments will need additional parkland; and

WHEREAS, parkland is equally as vital to the public health, safety, convenience, comfort, prosperity, or general welfare as are streets and sidewalks, water and sanitary sewer systems, and other required public improvements and physical facilities; and

WHEREAS, the acquisition of parkland necessary to meet the needs created by the future residents of such subdivisions and developments should be provided, in substantial part, by such future residents; and

WHEREAS, under the Ohio Revised Code, and in particular Sections 711.09 and 711.101 thereof, provision for such acquisition of parkland may be required by law;

THE MUNICIPALITY OF CENTERVILLE HEREBY ORDAINS:

Section 1. Findings and Statement of Policy: Parkland Standard

- A. Parkland Standard. It is found and determined that the public health, safety, convenience, comfort, prosperity, and general welfare require that at least seventeen (17) acres of property for each 1,000 persons residing within the planning jurisdiction, as defined in this ordinance, be devoted to parkland, and the same is hereby established as the parkland standard for all purposes of this ordinance. The parkland standard utilized in this ordinance was determined by computing the approximate existing ratio of parkland to population within the Centerville-Washington Park District.

- B. Statement of Policy. With respect to subdivisions and developments to which this ordinance applies, at least eight and one-half (8.5) acres of property for each 1,000 persons (.0085 acres per person) should be reserved for parkland by or at the expense of the subdivider or developer of the dwellings in which such persons shall reside, and the remainder of the 17-acre standard established in this ordinance be acquired for such purposes by the Park District or the City. All parkland reserved or acquired under this ordinance shall be developed and maintained by the Park District or the City.

Section 2. Definitions

- A. "City" shall mean the City of Centerville, Ohio.
- B. "Developer" shall mean any person, corporation, association, partnership or other entity that creates or proposes to create a development, all or a portion of which will be located within the planning jurisdiction, as that term is defined in this ordinance.
- C. "Development" shall mean a subdivision (as defined in this ordinance) or any plan reviewed by the City Planning Commission which proposes to establish a dwelling(s) on a lot(s).
- D. "Development Plan" shall mean a plan required to be filed with the City as a requirement of the City Zoning Ordinance.
- E. "Dwelling" shall mean any building used for human habitation. For the purpose of this ordinance, dwellings shall be of three types, namely single-family dwellings, two-family dwellings and multi-family dwellings.
- F. "Final Plat" shall mean a plan required to be filed with the City as a requirement of the City Subdivision Regulations.

Commentary: Final plat shall not refer to the plat of the last section of an approved preliminary plat, but shall refer to any final map of all or a portion of a subdivision which is submitted to the City for final approval before recording at the office of the county recorder.

- G. "Park District" shall mean the Centerville-Washington Park District.
- H. "Parkland" shall mean a tract of land designated and used by the public for active or passive recreation.

- I. "Planning Commission" shall mean the Planning Commission of the City of Centerville, Ohio.
- J. "Planning jurisdiction" shall mean the geographic area over which the Planning Commission has, or from time to time shall have, jurisdiction for planning purposes.
- K. "Preliminary Plat" shall mean a plan required to be filed with the City as a requirement of the City Subdivision Regulations.
- L. "Subdivider" shall mean any person, partnership, association, corporation or other entity that creates or proposes to create a subdivision (as defined in this ordinance), all or a portion of which will be located within the planning jurisdiction.
- M. "Subdivision" shall have the meaning set forth in the Subdivision Regulations of the City of Centerville.

Section 3. Park Plan

The Planning Commission shall adopt a plan for the parks and other public open grounds of the City, which may constitute a part of a comprehensive land development plan and which shall provide a guide for the orderly acquisition of parkland within the planning jurisdiction, in accordance with the parkland standard set forth in this ordinance, the criteria set forth in this ordinance and such other criteria as the Planning Commission may deem appropriate to accomplish the purposes of this ordinance. In adopting the plan for the parks, the Planning Commission shall take into consideration the Master Plan of the Centerville-Washington Park District.

Section 4. Provision for Parkland

Every subdivider or developer who files with the Planning Commission any proposal, plan or plat for the subdivision or development of land within the planning jurisdiction after a date which shall be the later of (1) a date thirty (30) days after the effective date of this ordinance, or (2) the date of the adoption of the plan for the parks referred in this ordinance, and who has not theretofore so filed any preliminary plat in respect of such subdivision or development or a development plan, shall either dedicate a portion of such land, pay a fee-in-lieu of land dedication, or dedicate land and pay a fee-in-lieu of land dedication, all as provided in this ordinance, for the purpose of providing parkland to serve future residents of each such subdivision or development.

Section 5. Determination of Total Population

- A. Population Factor. For the purposes of this ordinance, a population factor for each dwelling unit planned for a subdivision or development shall be determined as follows:

<u>Residential Dwelling Type</u>	<u>Population Factor per Dwelling Unit</u>
Single Family	3.25
Two Family	2.50
Multi-Family	
Unit (restricted to a maximum family size of one person)	1.00
All Other Units	1.75

- B. Total Population. Total population for any subdivision or development shall equal the sum of the population factors of all dwelling units to be included in the subdivision or development. For the purposes of this ordinance, the Planning Commission shall determine the number and types of dwellings to be included in any subdivision or development on the basis of such relevant information as it may have or be able to obtain tending to show the same including, without limitation, any plans, estimates, or statements of intention furnished by the subdivider or developer concerned relating to the proposed improvement of the subdivision or development, the nature, topography of the land involved, and the nature and kind of improvements actually planned or probable thereon.

Section 6. Choice of Land or Fee

- A. Determination by Planning Commission. The Planning Commission shall determine whether a subdivider shall dedicate land, pay a fee-in-lieu of land dedication, or provide a combination of land dedication and fee payment.
- B. Procedure. In making the determination referred to in the subsection above, the following procedure shall apply:
1. Filings. At the time of filing a preliminary plat, final plat or development plan for approval, each subdivider or developer shall, as a part of such filing, submit a calculation of the total population of the plat or development in accordance with the

"Determination of Total Population" Section of this Ordinance, indicate whether he plans to dedicate land parkland, to pay a fee-in-lieu of dedication, or to meet the requirements of this ordinance by a combination of parkland dedication and fee payment. If such subdivider or developer plans to dedicate land, he shall indicate the area he desires to dedicate on the preliminary plat, final plat or development plan.

2. Planning Commission Determination. After the City Planning Commission has reviewed such preliminary plat, final plat or development plan, and after review with the Park District it shall determine whether the plans of the subdivider or developer to dedicate land, pay a fee-in-lieu of dedication or provide a combination of dedication and fee payment are acceptable; provided that the Planning Commission shall make the determination so required within sixty (60) days of the submission, unless the developer or his representative agrees to an extended period for such determination. If the Planning Commission fails to make a determination within said time period, or within any agreed extension period, such submission shall be deemed to be approved. Insofar as practicable, the determination of the Planning Commission shall be compatible with the plan for the parks.
3. Adverse Effects of Development: Reclamation. If, in the opinion of the Planning Commission, any portion of land proposed for dedication has been, or will be, adversely affected by the operations of a subdivider or developer and such land or portion thereof will require reclamation in order to render it suitable as parkland, the Planning Commission may require the subdivider or developer to furnish a plan for such reclamation. The Planning Commission shall seek the advice of the City Engineer and the Park District with respect to any such plan, and shall determine, on the basis of such advice, whether such plan is acceptable in view of the purpose of this ordinance. In the event such plan is acceptable, the subdivider or developer concerned shall implement such plan in accordance with a timetable approved by the Planning Commission.

The City may, without prejudicing any rights the City may have at law or in equity, deny approval of a final plat for non-compliance with a previously approved reclamation plan or timetable involving that plat.

Commentary: Final plat shall not refer to the plat of the last section of an approved preliminary plat, but shall refer to any final map of all or a portion of a subdivision which is submitted to the City for final approval before recording at the office of the county recorder. (See the definitions section of this ordinance and the City Subdivision Regulations)

4. Criteria. In making its determination, the Planning Commission shall utilize the following criteria:
  - a. Unity. Dedicated land must form a single parcel of land of not less than five (5) acres in area except in the event the Planning Commission determines that two or more parcels of not less than five (5) acres each would be in the best public interest or in the event that a parcel of less than five (5) acres adjoins an existing or proposed park to provide a facility of five (5) acres or more.
  - b. Shape and Topography. The shape and topography of the dedicated parcel of land shall be suitable for active and/or passive recreation to serve the public properly as determined by the Planning Commission after review with the Park District.
  - c. Location. Dedicated land must be located in order to serve the recreation and open space needs of the subdivision or development for which the dedication was made.
  - d. Access. Public access and maintenance access to five (5) acres of dedicated parkland shall be provided by adjoining frontage of four hundred (400) or more feet at one location on a public street with street improvements, sidewalk and utilities installed by and at the expense of the developer, and as determined by the Planing Commission by public walkways installed by and at the expense of the developer. Frontage shall be increased by at least forty (40) feet for each additional acre of parkland.

- e. Preservation of Natural Beauty. In all instances, natural features of scenic beauty such as trees, plant life, brooks and other watercourses, topography, historic locations, views, and similar conditions which, if preserved, will add attractiveness and value to the dedicated land, shall be considered and preserved in the dedication of parkland.

Section 7. Amount of Land to be Dedicated

The amount of land to be dedicated by a subdivider or developer pursuant to this ordinance shall be determined in accordance with the following formula:

$$\begin{array}{rcll} \text{Acres of land} & & \text{Total population} & \\ \text{for dedication} & = & \text{as determined in} & \text{X} \quad .0085 \\ & & \text{accordance with} & \\ & & \text{Section 5 of this} & \\ & & \text{ordinance} & \end{array}$$

Section 8. Fee-In-Lieu of Dedication

- A. Amount of Fee-in-Lieu. In the event the Planning Commission determines that a subdivider or developer shall pay a fee-in-lieu of land dedication, the amount of such fee shall be determined by the following formula:

$$\begin{array}{rcll} \text{Fee-in-lieu} & = & \text{Land area} & \text{X} \quad \text{Market} \\ \text{of land dedication} & & \text{that would} & \text{Value} \\ & & \text{otherwise be} & \\ & & \text{required to} & \\ & & \text{be dedicated} & \\ & & \text{pursuant to} & \\ & & \text{Section 7 of} & \\ & & \text{this ordinance} & \end{array}$$

- B. Determination of Market Value. Market value shall be determined in accordance with Section 10 of this ordinance.

Section 9. Park Development and Maintenance

Park development and maintenance shall be provided by the Park District or the City.

Section 10. Determination of Market Value

For the purposes of this ordinance, market value shall be determined as follows:

- A. Time for Determination. Market value shall be determined as of the time of filing the final plat or the final plat of the first section of an approved preliminary plat or at the time of filing of a development plan with the City.

Commentary: Final plat shall not refer to the plat of the last section of an approved preliminary plat, but shall refer to any final map of all or a portion of a subdivision which is submitted to the City for final approval before recording at the office of the county recorder. (See the definitions section of this ordinance and the City Subdivision Regulations)

- B. Method of Value Determination. Market value shall equal the average value per acre of all land in each subdivision or development in its raw, undeveloped state, plus one-half (1/2) the cost of installation of four hundred (400) feet of public street, sidewalk and utility improvements in the subdivision for the first five (5) acres of park area plus forty (40) feet of public street, sidewalk and utility improvements for each additional acre, determined by application of one of the following procedures:

1. By agreement between the subdivider or developer and the Planning Commission, which may include appraisal by a qualified independent appraiser approved by the Planning Commission; or
2. In the event the subdivider or developer objects to the foregoing method or valuation, the value of the land shall be established by a three (3) member board of appraisers, one of whom shall be appointed by the Planning Commission, one of whom shall be appointed by the subdivider or developer, and one of whom shall be selected by the two appraisers so appointed. The decision of a majority of such board shall be final. The Park District or the City shall pay the cost of the board's appraisal.



Section 11. Credit for Private Open Space

- A. Allowance of Credit. In the event a subdivider or developer provides private open space for park purposes and such space is to be privately owned and maintained by the future residents of the subdivision or development, or by the subdivider or developer, and in the event the Planning Commission determines that such private open space adequately fulfills a portion of the park needs of the proposed subdivision or development, the market value of such areas, as determined by the "Determination of Market Value" section of this ordinance, shall be credited against the land dedication or fee-in-lieu of dedication of land requirements of this ordinance.
- B. Maximum Credit. Such credit, however, shall be allowed only up to a maximum of one-half (1/2) of the total required land dedication or fee-in-lieu requirement. The remaining one-half (1/2) to be provided in accordance with the requirements of this ordinance.
- C. Standards and Limitations. Notwithstanding the preceding subsections (A) and (B), the credit for private open space shall be allowed only if the following standards are met:
1. Yards, court areas, setbacks and other such open areas required to be maintained by the zoning ordinance shall not be included in the computation of such private open space;
  2. Private ownership, development and maintenance of the private open space shall be assured by valid and enforceable undertakings on the part of the subdivider or developer, or otherwise;
  3. The use of the private open space is restricted for park purposes by recorded covenants that run with the land in favor of the future owners of property within the subdivision or development, and which cannot by their terms be defeated or eliminated without the consent of the Planning Commission;
  4. The proposed private open space is reasonably adaptable for park uses, taking into consideration such factors as size, shape, topography, geology, access and location of the private open space land; and
  5. Facilities proposed for the private open space can be reasonably expected to meet the needs of the future residents.

Section 12. Treatment of Land to be Dedicated; Procedure for the Dedication of Land and Payment of Fees

- A. Following approval of a preliminary plat, final plat or development plan which designates land for dedication, the existing vegetation (except growing commercial crops other than growing timber), topography, features of historic value, stream courses, soil, rock strata and other natural features of such dedicated land shall not be altered or their condition adversely affected in any way without the consent of the Planning Commission.
- B. Dedication of land to the Park District or the City shall be by a general warranty deed conveying to the Park District or the City, and its successors and assigns, good and marketable title to the real estate described in such deed, free and clear of all liens and encumbrances.
  1. This deed shall be executed and delivered to the Park District or the City for recording prior to the signing by the City of the final plat, prior to the signing of a final plat of the first section of an approved preliminary plat, or prior to the issuance by the City of any permit allowing implementation of an approved development plan.
  2. In the case where the final plat is the first section of an approved preliminary plat, the City may permit the developer to place the deed to the parkland in escrow for later delivery to the Park District or the City at the time of approval of the final plat of the last section of an approved preliminary plat. However, if any final plat is submitted for approval that includes or has a boundary contiguous with the proposed park, the deed (whether in escrow or not) transferring the parkland to the Park District or the City shall be recorded prior to the signing by the City of that final plat.
  3. Open space covenants for private parks shall be submitted to the City Council prior to approval of the final plat or development plan and shall be recorded at the same time as the final plat or prior to the issuance of any City permit allowing implementation of an approved development plan.

C. If a fee-in-lieu is required, the amount thereof shall be deposited with the Park District or the City prior to the signing by the City of the final plat or prior to the issuance by City of any permit allowing implementation of an approved development plan.

1. In the case where the final plat is a section of an approved preliminary plat, only a proportionate amount of the total fee-in-lieu for the approved preliminary plat shall be paid prior to the signing of each approved final plat which is a section of that preliminary plat.

2. In the case of a permit allowing implementation of a portion of an approved development plan, only a proportionate amount of the total fee-in-lieu for that approved development plan shall be paid.

Commentary: Final plat shall not refer to the plat of the last section of an approved preliminary plat, but shall refer to any final map of all or a portion of a subdivision which is submitted to the City for final approval before recording at the office of the county recorder. (See the definitions section of this ordinance and the City Subdivision Regulations)

Section 13. Amendment of An Approved Plat or Development Plan

Any amendment of an approved plat or development plan which under the provisions of this ordinance increases the requirement for parkland dedication or fee-in-lieu of parkland dedication payment by a developer shall require that increased parkland to be dedicated or a fee-in-lieu of that increased parkland to be paid by the developer in compliance with the requirements of this ordinance.

Any amendment of an approved plat or development plan which under the provisions of this ordinance decreases the requirement for parkland dedication or fee-in-lieu of parkland dedication payment by a developer shall not require the deeding by the Park District or the City of any previously dedicated parkland back to the developer, or the alteration of any deed placed in escrow or any escrow agreement that was a requirement of this ordinance, or the repayment to the developer of any fee-in-lieu of parkland already paid by the developer to the Park District or the City.

Section 14. Limitation on Use of Land and Fees

Any land or fees received by the Park District or the City pursuant to this ordinance shall be used only for the purpose of providing parkland to properly serve the future residents of the subdivision or development concerned. Fees paid pursuant to this ordinance shall be deposited in a Park District or a City fund to be used only for the acquisition of parkland within the City or adjacent to the City. No part of such fees shall be used for the purpose of development or of paying salaries, wages or other general operating expenditures. No deed or fee shall be deposited with the Park District or the City until such time as the Park District or the City certifies that it shall develop and permanently maintain any parkland acquired under the terms of this ordinance and shall use fees only for the acquisition of land under the terms of this ordinance.

Section 15. City Zoning Ordinance Provision for Reduction of Minimum Lot Area and Minimum Lot Frontage Requirements by Dedication of Additional Parkland or Payment of Additional Fee-In-Lieu

Refer to the Supplemental Zoning District Requirements Section of the City Zoning Ordinance for the details of this provision.

Section 16. Adjustment Provision

Notwithstanding any provisions of this ordinance to the contrary, the Planning Commission may in cases of an unusual or exceptional nature, allow for adjustments in the parkland dedication and fees-in-lieu regulations and requirements as established in and required by the provisions of this ordinance. Adjustments may be allowed when, in the opinion of the Planning Commission, it has been determined and satisfactorily shown that the character of the particular subdivision or development and the parkland needs generated by and associated with any subdivision or development sufficiently justify such an adjustment or adjustments.

Section 17. Validity and Separability

It is hereby declared to be the legislative intent that, if any provision or provisions of this ordinance or the application thereof to any lot or tract of land, are declared by a court of competent jurisdiction to be invalid or ineffective in whole or in part, or to be inapplicable to any person or situation, all other provisions of this ordinance shall continue to be separate and fully effective, and the application of any such provision to other persons or situations shall not be affected.

Section 18. Penalties for Violation

- A. It shall be unlawful to violate any provision of this ordinance.
- B. Violation of the provisions of this ordinance or failure to comply with any of its requirements shall constitute a misdemeanor of the fourth (4th) degree. Each day such violation continues shall be considered a separate offense.
  - 1. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.
- C. In addition, the City may withhold the issuance of any building permit, occupancy permit, or other required permit within a plat or development until such time when all violations of this ordinance are remedied.
- D. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.


Section 19. Repeal of Conflicting Ordinances

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent necessary to give this ordinance full force and effect.

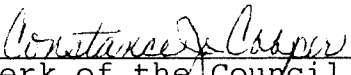
Section 20. Effective Date of Ordinance

This ordinance shall become effective from and after the earliest date allowed by law.

PASSED THIS 17th DAY OF November, 1986.

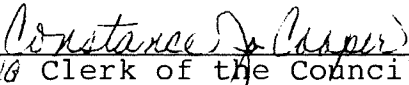
  
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Mayor of the City of Centerville, Ohio

ATTEST:

  
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Clerk of the Council *acting clerk*  
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of the Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Ordinance No. 15-86, passed by the Council of the City of Centerville, Ohio, on the 17th day of November, 1986.

  
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ACTING Clerk of the Council

Approved as to form, consistency with existing ordinance, the charter and consitutional provisions.

Department of Law  
Robert N. Farquhar  
Municipal Attorney