

SPONSORS:

Mayor Clark

Commissioner Powell

Date Second Reading: Sept 12, 2016

Publication Date: Sept 22, 2016

**CITY OF FRANKLIN, KENTUCKY  
ORDINANCE NO. 2016-010**

**ORDINANCE CREATING A NEW SECTION UNDER THE FRANKLIN-SIMPSON CODE  
ENFORCEMENT BOARD ORDINANCE TITLED "ACQUIRING CERTAIN CITY-OWNED  
PROPERTY" THAT PROVIDES THE GUIDELINES AND PROCEDURES FOR SUCH PROCESS**

**WHEREAS**, the Board of Commissioners of the City of Franklin desires to increase the population and/or improve the overall appearance, health and welfare of the City and City residents by the redevelopment of blighted areas and elimination of nuisances through code enforcement and property development; and

**WHEREAS**, the Board of Commissioners of the City of Franklin desires to protect and/or increase the existing housing inventory in the City through the adoption of ordinances, which promote and protect residential neighborhoods and reduce and/or abate nuisance properties that tend to diminish neighboring property values and contribute to an increase in crime and loss of aesthetic value; and

**WHEREAS**, the Board of Commissioners of the City of Franklin desires to offer certain City-owned properties to the public which were acquired through code enforcement actions, donations, condemnations, etc., which are deemed blighted, but can be rehabilitated and reused for proper and lawful uses; and

**WHEREAS**, the Board of Commissioners of the City of Franklin, Kentucky deems it reasonable and necessary to establish a new section under the City of Franklin Property Maintenance Code to provide the guidelines and procedures by which City-owned properties may be acquired.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF FRANKLIN, KENTUCKY, AS FOLLOWS:**

**SECTION 1. Purpose.**

The purpose of this Ordinance is to establish a predictable and functional uniform policy and procedure governing the disposition of certain real property that is surplus to the needs of the City of Franklin, Kentucky that has been acquired by the City by and through certain code enforcement procedures, condemnations, or donations, which were blighted or deteriorated properties which can be redeveloped, rehabilitated or reused for higher and better proper and lawful uses. Nothing in this Ordinance shall be read to limit the legislative discretion of the Board of City Commissioners to control City-owned real property or to require the City to dispose of City-owned real property or limit the power of the City to dispose of City-owned real property as interests of the City may require.

**SECTION 2. Definitions.**

- a. **"Blight," "Blighted," or "Deteriorated" property** means any vacant structure or vacant or unimproved lot or parcel of ground in a predominantly built-up neighborhood:

- (i) Which because of physical condition or use is regarded as a public nuisance at common law or has been declared a public nuisance in accordance with the housing, building, plumbing, fire, nuisance, or related codes;
  - (ii) Which because of physical condition, use, or occupancy is considered an attractive nuisance to children, including but not limited to abandoned wells, shafts, basements, excavations, and unsafe fences or structures;
  - (iii) Which, because it is dilapidated, unsanitary, unsafe, vermin-infested, or lacking in the facilities and equipment required by the housing or nuisance code of the local government in which it is located, has been designated by the department responsible for enforcement of the housing or nuisance code as unfit for human habitation;
  - (iv) Which is a fire hazard, or is otherwise dangerous to the safety of persons or property;
  - (v) From which the utilities, plumbing, heating, sewerage, or other facilities have been disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use;
  - (vi) Which by reason of neglect or lack of maintenance has become a place for accumulation of trash and debris, or a haven for rodents or other vermin;
  - (vii) Which has been tax delinquent for a period of at least three (3) years; or
  - (viii) Which has not been brought into compliance with the housing, building, plumbing, electrical, fire, or nuisance code of the local government within which it is located within the time constraints placed upon the owner by the appropriate code enforcement agency;
- b. **“City”** shall mean the City of Franklin, Kentucky.
  - c. **“Code Enforcement Board”** shall mean the Franklin-Simpson Code Enforcement Board.
  - d. **“Commission”** shall mean the Board of Commissioners of the City of Franklin, Kentucky.
  - e. **“Person”** shall mean shall mean any individual, firm, business, partnership, association, corporation, company or organization of any kind.
  - f. **“Property Maintenance Code”** or **“Property Maintenance Code Enforcement Ordinance”** shall mean an ordinance or ordinances adopted by the City pursuant to KRS 65.8801 to 65.8839 or a similar ordinance or ordinances adopted by the City pursuant to any other authority; and
  - g. **“Redevelopment or Redeveloped”** shall mean the planning or re-planning, design or redesign, acquisition, clearance, development, and disposal or any combination of these, of a property in the preparation of such property for residential, commercial, public, or related uses, as may be appropriate or necessary.

**SECTION 3. Requirements for Disposition of Property.**

**a. Disposition for the Elimination of Blight or Other Lawful Purposes.**

The City can only dispose of real property as permitted by law. By and through this Ordinance, real property will be disposed of by the City under the authority of KRS 82.083 which authorizes the sale or disposal of real property, with or without compensation, for economic development purposes, which shall include but not be limited to real property transfers for the elimination of blight.

**b. Determination of Availability of Real Property.**

The Community Development Director or City Manager shall review the list of real property owned by the City, no less than two (2) times per fiscal year, to determine if the City owns or has acquired real property which can be transferred to another person pursuant to this Ordinance. If he/she has determined that the City owns property that can be transferred pursuant to this Ordinance, the Community Development Director or City Manager shall prepare a list of said properties to present to the Commission for a review and determination of whether or not the Commission desires to declare the property as surplus and proceed with the disposition of the property.

**c. Board of Commissioners' Actions Required.**

Before selling or otherwise disposing of any City-owned real property, the Commission shall adopt a Resolution in accordance with KRS 82.083 declaring the property to be surplus property and setting forth and fully describing:

- (1) The real property to be transferred;
- (2) Its intended use at the time of acquisition;
- (3) The reasons why it is in the public interest to dispose of it; and,
- (4) The method of disposition to be used.

**d. Advertising the Availability of Lots.**

After the Commission adopts the enabling Resolution, the Community Development Director or the City Manager shall cause a notice to be published in accordance with KRS 424.130(1)(b) and displayed on the City's website which shall set forth, at a minimum, the following:

- (1) The addresses and/or descriptions of the lots which are to be conveyed;
- (2) That the City is requesting proposals/bids for the lots to be conveyed;
- (3) The contact information of the person with proposal document forms and information packets;

- (4) The location to obtain the information and forms on the City's website; and,
- (5) The location and deadline for accepting proposals.

In addition, a sign shall be placed on the property to be conveyed which designates the property as surplus property and sets forth the name and phone number of the person to contact for information regarding acquiring the property and the website address where information regarding acquiring the property can be obtained.

**e. Requests for Proposals.**

Proposals shall be submitted on forms supplied by the City. The form(s) shall contain a statement that states as follows:

“The City reserves the right to reject any or all proposals received, and to select that proposal which it determines to be in its best interest. The award will be made to the responsible Person whose proposal is determined to be the most advantageous to the City, taking into consideration the evaluation factors set forth in Ordinance 2016-010. The City of Franklin, Kentucky is not responsible for the premature opening of, or the failure to open, a sealed bid not properly addressed or identified.”

All proposals shall contain, at a minimum, the following:

- (1) The name(s) and address(es) of the person(s) submitting the proposal;
- (2) The property address/description for which the person is interested;
- (3) The intended use of the property;
- (4) The offer/proposal including, but not limited to the amount of money, if any, which the person is offering for the property;
- (5) Detailed redevelopment plans for the use of the property including, but not limited to drawings and floor plans to the extent available;
- (6) Estimated timeline to complete the proposal;
- (7) A complete list of all property owned by the person(s) within the City of Franklin;
- (8) Proof of funding availability from a financial institution sufficient to complete the plans proposed that can be independently confirmed by the Community Development Director, the City Manager, or his or her designee; and,
- (9) Any and all other information as is required by the Community Development Director, City Manager or Code Enforcement Board, at his/her/their discretion.

All proposals submitted shall be signed and notarized by the person(s) submitting the proposal, and said person(s) shall swear that all contents of the proposal are true and correct, and the proposal shall remain valid for not less than ninety (90) days.

**f. Evaluation of Proposals.**

Upon receipt of proposals prior to the deadline, the following shall occur:

- (1) Within ten (10) working days following the deadline for receiving proposals, the Community Development Director, the City Manager, or his or her designee shall conduct an initial evaluation in which he/she shall compile, assemble, verify, and evaluate the proposals to determine if each proposal complies with the requirements of Section 3.e. hereinabove. If a proposal is missing documentation or information, the person(s) submitting the documentation shall be given five (5) days to provide the additional required information. If the person(s) fail to timely provide the additional information, his/her/their proposal shall be denied and/or deemed withdrawn. In addition, if any proposal contains information that is factually inaccurate or untrue, said proposal shall be denied and/or deemed withdrawn. All proposals that contain information that is verified and meets or exceeds the minimum requirements set forth herein, shall be referred to the Code Enforcement Board for review and evaluation.
- (2) The Franklin-Simpson Code Enforcement Board shall review and evaluate all proposals based upon specific scoring criteria at its next regularly scheduled meeting following the referral of the proposals or, if determined by the Code Enforcement Board, at a special meeting called for this purpose. The "Scoring Criteria for City-Owned Property" form is attached hereto as Exhibit 1 and incorporated herein by reference as if set forth in full. Provided, however, priority is to be given for proposals containing owner-occupied structures. Further, priority is given for proposals with intended uses which serve the highest and best use of the property in the opinion of the Code Enforcement Board. The Code Enforcement Board shall use these guidelines and criteria to make a recommendation to the Commission as to the proposal which makes the highest and best use of the property sought to be conveyed. In addition, the Board shall make an alternate recommendation to the Commission in the event the initially recommended proposal fails for any reason. The recommendation of the Code Enforcement Board may contain terms and conditions in addition to the terms of the proposal including, but not limited to the right of reversion of title to the property to the City in the event of non-compliance with the Contract or Ordinance. The Code Enforcement Board also has the right to reject any or all proposals and not make a recommendation to the Commission. The Code Enforcement Board, Community Development Director and/or City Manager shall be absolved of any and all liability for recommendations made and/or actions taken by and through this Ordinance.

**g. Further Commission Action.**

If the Commission approves the recommendation of the Code Enforcement Board, the Commission shall adopt a Resolution setting forth the following:

- (1) The description of the real property to be transferred;
- (2) That the Commission accepts the bid/proposal from the person(s) to whom the property will be transferred;
- (3) Authorizing the City Attorney to prepare a contract, deed and any other documents necessary for the transfer of the real property that are consistent with the terms of the proposal, the recommendation of the Code Enforcement Board and any other conditions, covenants or restrictions required by the Commission; and,
- (4) Authorizing the Mayor to sign any and all documents necessary to effectuate the transaction including, but not limited to the contract, deed and other closing documents.

**SECTION 4. Post Disposition/Contract Activities and Sale Procedures and Authority to Promulgate Regulations.**

**a. Post Disposition/Contract Activities:**

- (1) Following the execution of the contract, the Community Development Director, City Manager, or his or her designee shall monitor the progress of the redevelopment activities on the real property to be conveyed to assure compliance with the contract. If the person(s) seeking to acquire title to the real property fail to comply with the terms of the contract, a written notice shall be sent to said person(s) by the Community Development Director, City Manager, or his or her designee, setting forth the reason(s) why the person(s) are in breach of the contract, and requiring the person to appear before the Code Enforcement Board for a hearing regarding the breach. The Code Enforcement Board shall issue a recommendation to the Commission as to whether to allow the person(s) to continue to comply with the proposal or refer the matter to the City Attorney to take legal actions consistent with the contract. The Commission shall take actions consistent with the recommendation unless they find that the decision is clearly erroneous.
- (2) If the person(s) seeking to acquire title to the real property comply with the terms of the contract, the real property shall be transferred in accordance with the terms of the contract.

**b. Sale Procedures.**

- (1) Sales/transfers of parcels of real property shall be handled through independent escrow, if possible, and all costs including, but not limited to costs of appraisals, examination of title, title insurance, and closing costs, exclusive of costs to prepare

the sales/transfer contract, deed preparation and deed transfer tax (if any), shall be borne by the purchaser/person(s) proposing to acquire the real property, unless otherwise agreed by the City.

(2) All conveyances executed by the City shall be made by quitclaim deed, unless otherwise agreed by the City.

**c. Authority to Promulgate Regulations.**

The Commission hereby specifically authorizes the Code Enforcement Board to adopt further rules and regulations regarding the submission of proposals, contractual obligations of transferees/grantees, and all other matters consistent with this Ordinance, subject to approval by the Commission.

**SECTION 5. Actions to Comply with the Fair Housing Act.**

The Fair Housing Act prohibits "any preference, limitation, or discrimination because of race, color, religion, sex, handicap, familial status, or national origin, or intention to make such preference, limitation or discrimination" in connection with any aspect of a residential real estate transaction. The City encourages and supports the equal housing practices of the Fair Housing Act in the conduct of its business, and the City encourages compliance with both the Federal Housing Act, as well as any applicable state and local regulations. All persons are hereby informed that all properties are available on an equal opportunity basis.

This ordinance shall be effective upon adoption and publication in the manner required by law. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holdings shall not affect the validity of the remaining portions of Ordinance.

All ordinances or parts of ordinances in conflict herewith, are, to the extent of such conflict, hereby repealed.

August 22, 2016 FIRST READING

September 12, 2016 SECOND READING

At a meeting of the Board of Commissioners of the City of Franklin, Kentucky, held on September 12, 2016, on motion made by Commissioner Powell and seconded by Commissioner Stewart the foregoing ordinance was adopted, after full discussion, by the following vote:

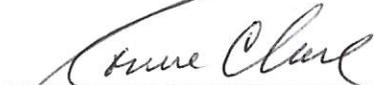
YES RONNIE CLARK, MAYOR

YES JAMIE POWELL

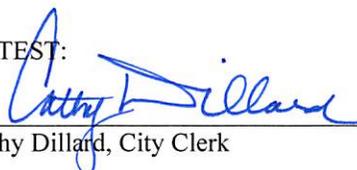
YES MASON BARNES

YES WENDELL STEWART

APPROVED BY:

  
\_\_\_\_\_  
Ronnie Clark, Mayor

ATTEST:

  
\_\_\_\_\_  
Cathy Dillard, City Clerk

**SCORING CRITERIA FOR CITY-OWNED PROPERTY**

Proposal By: \_\_\_\_\_

Property Location: \_\_\_\_\_

Scoring Criteria	Points Possible	Points Awarded
<b>Budget Developed and Included</b> – include cost estimates for construction, materials, etc.	Up to 30	
<b>Fund Availability</b> – include a letter from a financial institution stating approval has been given for funding or that funds are available	30	
<b>Intended Use of the Property (Choose one)</b>		
First Time Property/Home Owner	40	
Owner Occupied	30	
Develop to Sell	20	
Rental	10	
<b>Rehab/Development Plans Completed</b>		
Floor Plans, Elevations and Façade Drawings Included	20	
Letter from Contractor or Builder	10	
<b>Timeline to Complete the Project</b>		
Six months to one year	Up to 40	
One to two years	20	
Two to three years	5	
<b>Owns Other Property with the City of Franklin</b>	10	
<b>Existing Liens on Properties within City of Franklin</b>	-30	
<b>Code Violations on Any Property Within City of Franklin</b>		
Violations in the last 12 months	-20	
Violations more than 12 months ago, but less than 36 months ago	-10	
<b>Current on City Property Tax Payments OR Does Not Have Property Within the City</b>	20	
<b>TOTAL POINTS</b>		

\* 200 Points Maximum Scoring  
 "Violation" is defined as a Notice of Violation and/or a Citation