ATTACHMENT 1

2019 Open Space Plan Direction on Revisions
Open Space Plan: POTENTIAL REVISIONS TO LAND BANK FUND (67-68):

Change the name of the “Land Bank” fund.
The name “Land Bank” does not clearly or simply describe the use of the funds. The public and City Council should have an accurate understanding of the fund’s purpose.

☒ Recommendation: the fund should be renamed “Open Space Preservation and Acquisition Fund.”

Eliminate or adjust the one million dollar ($1,000,000) funding cap.
There is currently a $1,000,000 account balance cap limiting annual contributions to the fund. Under the current regulations, when the Land Bank fund reaches $1,000,000, the annual contribution ends. This is a static number from a 2008 Ordinance revision.

☒ Recommendation: The $1,000,000 cap should be revised based on current land assessments and include a provision that this cap of the account’s balance be reviewed every seven years and/or in conjunction with the Comprehensive Plan revisions.

The ordinance would benefit from a list of Definitions specific to the fund.
There is currently no definition section. Terms that would benefit from a definition include: unimproved land; improved land; open space, etc.

☒ Recommendation: Develop a Definitions section specific to the language governing the fund.

Improve guidance for the use of funds.
There is a lack of stated criteria on how to release or use funds from the Land Bank. It is currently managed on a case-by-case basis that tends to be reactive to the particular situation. There should be clear rules to follow in determining how to use the funds.

☐ Recommendation: Establish specific criteria and system to guide use of funds. Use Chapter 4 and Chapter 5 of this Open Space Plan as guidance in the criteria. City councilors may use an evaluation form similar to the form provided in Appendix B to discuss and debate the merits to approve the usage of the funds.

Review the funding structure of municipal property sale profits.
Currently, a portion of municipal land sale profits go to the Land Bank fund. When a developed property is sold, 30% of the sale price goes to the fund. When an undeveloped property is sold, 60% of the sale price goes to the fund.

☒ Recommendation: This funding structure should be reviewed in the ordinance revision process. Reviewers should consider whether it would be beneficial to increase the amount of funding from undeveloped land, since it is essentially open space that is sold in these cases.
ATTACHMENT 2
Land Bank Ordinance ORIGINAL
ARTICLE VII: ESTABLISHMENT OF SOUTH PORTLAND LAND BANK

Sec. 18-72. Purpose.
The City of South Portland recognizes that open space, parks, recreation areas and natural resources are desirable and beneficial to its citizens and provide South Portland residents and visitors with an unparalleled diversity of recreation and other outdoor opportunities during all seasons of the year and a quality of life unmatched in this State; that the continued availability of public access to these recreation and other outdoor opportunities and the protection of the scenic and natural environment are essential for preserving the City’s high quality of life; that sensitive lands and resources may be threatened by the pace of development; and that public interest in the future quality and availability for all South Portland residents and visitors of lands for recreation and conservation is best served by additions of lands to the public domain. To further the acquisition and creation of such land and land uses, the City hereby establishes the City of South Portland Land Bank, which shall consist of voluntary donations of funds and/or property interests and the acquisition of property interests through voluntary negotiations to be used in accordance with this Article. Property and funds held by the Land Bank are not intended to supplant budgetary appropriations to the Parks and Recreation Department.

(Ord. 13-91/92, 3-16-92; Ord. No. 17-09/10, 7/19/10 [Fiscal Note: Less than $1000])

Sec. 18-73. Management of the Land Bank.
In managing the Land Bank, the City may:

a. Purchase and acquire fee simple interests and any lesser interests, including conservation restrictions, development rights or easements, in any real property situated within the borders of the municipality, of the types set forth in Sec. 18-74, including any improvements on that real property, provided that all purchases or acquisitions are consistent with the purpose of this Article;
b. Accept gifts, including real or personal property interests or funds, to further the purposes of this Article;

c. Dispose of all or any portion of the real property interests held by it, subject to the Constitution and laws of the State of Maine, this Article, and other applicable provisions of the Code of Ordinances.

d. Maintain, manage and improve land and interests in land held by it in a manner which allows public use and enjoyment consistent with the natural, historic and scenic resources of the land, including planting, pruning and cutting of trees and shrubs to manage and enhance natural systems and constructing nature trails, bird nest boxes and nature identification signs. Annual expenditure of land bank funds for maintenance, management and limited capital improvement of Land Bank conservation lands and improvements thereon shall not exceed 10% of the land bank fund balance at the conclusion of the prior fiscal year, unless this limitation is waived by the City Council to further the purposes of this Article. Any conditional gift or donation specifying a particular use or expenditure shall not be included in this calculation.

Any proposed acquisition or sale of any real property interest(s) and any proposed use of land pursuant to this article shall be referred to the Planning Board for review and recommendation(s).

(Ord. 13-91/92, 3-16-92; Ord. #9-03/04, 10/6/03 [Fiscal Note: Less than $1000]; Ord. No. 17-09/10, 7/19/10 [Fiscal Note: Less than $1000])

Sec. 18-74. Types of land which may be acquired.

Land, interests in land and other real property interests to be acquired and held as part of the land bank must be situated within the boundaries of the municipality and may consist of any of the following types of land and interest in land:

1. Ocean, harbor, river, stream, lake or pond frontage and adjoining backlands;

2. Fresh or saltwater marshes, estuaries, flood plains and adjoining uplands;

3. Islands;

4. Land for future active or passive public outdoor recreational use, including hiking trails, bicycle paths, green belts and high elevations with a view or other visual corridors, and open space;

5. Aquifers, aquifer recharge areas and other ecologically fragile or significant property;

6. Properties with unique historical or geological characteristics or which are otherwise important to the community's cultural welfare;

7. Farmland or wildlife habitat;

8. Vacant parcels of land, vacant buildings and properties or buildings and properties in significant disrepair which may be reclaimed for the purpose of establishing natural areas for open space or park land.
Sec. 18-75. Maintenance of real property.
The City shall retain any real property interest acquired pursuant to this chapter predominantly in its natural, scenic or open condition, except as otherwise provided in this Article. The City shall not allow:

1. Construction or placing of buildings; roads, other than paths for pedestrian or bicycle use; signs; billboards; or other advertising utilities or other structures on or above the surface, except in furtherance of the purposes of this Article;

2. Dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste or unsightly or offensive material;

3. Removal or destruction of trees, shrubs or other vegetation, except where necessary for management purposes and to enhance natural systems or open-space uses;

4. Excavation, dredging or removal of loam, peat, gravel, soil, rock or other mineral substance in such manner as to affect the surface, except limited grading to enhance the open-space uses of the land;

5. Surface use except for purposes permitting the land or water area to remain predominantly in its natural, scenic or open condition;

6. Activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation; or

7. Use of motorized vehicles, including recreational vehicles (RVs) and all-terrain vehicles (ATVs), except where used for appropriate maintenance purposes; or

8. Other acts or uses detrimental to the natural, scenic or open condition of the land or water areas.

The above restrictions may be waived by the City Council if the otherwise prohibited use is in the interest of conservation.

(Ord. 13-91/92, 3-16-92)

Sec. 18-76. Land Bank Fund.
The City shall meet the financial obligations of the Land Bank by drawing upon a municipal land bank fund to be set up as a separate revolving or sinking account within the City. Deposits into the fund shall include:

1. Any funds appropriated to be deposited into the fund by vote of the City Council;

2. Voluntary contributions of money or other liquid assets to the fund;

3. Interest from deposits and investments of the fund; and

4. Net proceeds from disposal of real property interests pursuant to Code of Ordinances Section 2-171 as follows:
a. Sixty percent (60%) of the net proceeds from the sale of unimproved real property, unless waived by the City Council for good cause shown; and

b. Thirty percent (30%) of the net proceeds from the sale of improved real property, unless waived by the City Council for good cause shown.

5. Any grant funds received on behalf of the Land Bank.

6. Subject to the annual budget process, an annual contribution of $35,000 from the City’s Capital Improvement Plan, provided that any such annual contribution that causes the land bank fund balance to exceed one million dollars ($1,000,000) shall be reduced as necessary so as not to cause the land bank fund balance to exceed one million dollars ($1,000,000).

All expenses lawfully incurred in carrying out this Article must be evidenced by proper vouchers and accounting practices. The City shall prudently invest available assets of the fund and all income from any investment shall accrue to the fund.

(Ord. 13-91/92, 3-16-92; Ord. No. 9-03/04, 10/6/03 [Fiscal Note: Less than $1000]; Ord. No. 17-09/10, 7/19/10 [Fiscal Note: Less than $1000])

Sec. 18-77. Records; Annual Report.

The City shall keep a full and accurate account of its actions, including a record as to when, from or to whom and on what account money has been paid or received relative to this Article, and as to when, from or to whom and for what consideration real property interests have been acquired, improved or disposed of. The City shall report annually all acquisitions, improvements or dispositions of real property interests during the preceding year and a summary of disbursements from the land bank fund, which document shall be included in the city's annual report.

(Ord. 13-91/92, 3-16-92)
ATTACHMENT 3
Land Bank Ordinance REVISED CLEAN WITH COMMENTS
SOUTH PORTLAND CODE OF ORDINANCES

Chapter 18

PARKS AND RECREATION*

* State law reference(s)--Parks, trees and playgrounds, generally, 30 M.R.S.A. § 3801 et seq.

Art. I. In General, §§ 18-1--18-16
Art. II. Parks and Recreation Department, §§ 18-17--18-28
Art. III. Parks and Recreation Director, §§ 18-29--18-42
Art. IV. Reserved, §§ 18-43--18-62
Art. V. Willard Beach, §§ 18-63--18-69
Art. VI. Hinckley Park, §§ 18-70, 18-71
Art. VII. Tobacco-Free Parks and Recreation Facilities, §§18-81--18-8

ARTICLE VII: OPEN SPACE PRESERVATION AND ACQUISITION FUND

Sec. 18-72. Purpose and Definitions.

A. Purpose. The City of South Portland recognizes that Open Space, parks, recreation areas and natural resources are desirable and beneficial to its citizens, provide South Portland residents and visitors with recreation and other outdoor opportunities throughout the year that continued public access to open space, and the protection of the scenic and natural resources are essential for preserving the city's high quality of life; that sensitive lands and resources may be threatened by development; and that the long-term public interest of residents and visitors is best served by adding open space lands to the public domain in the long term. To further the acquisition and maintenance of open space lands, the City hereby establishes the City of South Portland Open Space Preservation and Acquisition Fund, hereafter referred to as the Open Space Fund, which shall be used to maintain, enhance, conserve, and/or acquire open space lands in the City of South Portland. Property and funds held by the Open Space Fund are not intended to supplant budgetary appropriations to the Parks and Recreation Department.

B. Definitions. Notwithstanding definitions that may be provided in other section of the City's Code of Ordinances, the following definitions shall apply to terms used in this Article:

a. Real Property: Real property includes the land, all permanent improvements to the land including structures; and all of the rights of ownership of the land, including the right to possess, sell, lease, and enjoy the land.

b. Unimproved Real Property: Real Property which contains no permanent improvements, or where permanent improvements are not under construction, or
for land which the City Assessor record has not assigned a valuation for improvements, or which may contain improvements that are solely designed to maintain or manage the natural condition of the site such as seawalls, erosion control measures, improvements associated with habitat or ecological restoration, bank stabilization, and similar improvements to the land.

c. Improved Real Property: Real Property that does not meet the definition of unimproved real property.

d. Open Space: For the purposes of this Section, Open Space shall be as defined by Section 1.3 of the 2019 Open Space Plan, which has been adopted as Appendix Q to the 2012 Comprehensive Plan, as may be amended from time to time.

(Ord. 13-91/92, 3-16-92; Ord. No. 17-09/10, 7/19/10 [Fiscal Note: Less than $1000])

Sec. 18-73. Management of the Open Space Fund.

In managing the Open Space Fund, the City may:

a) Purchase and acquire fee simple interests and any lesser interests, including conservation restrictions, development rights or easements, limited term easements for open space or public access, in any real property situated within the borders of the municipality, of the types set forth in Sec. 18-74, including any improvements on that real property, provided that all purchases or acquisitions are consistent with the purpose of this Article;

b) Accept gifts, including real or personal property interests or funds, to further the purposes of this Article;

c) Dispose of all or any portion of the real property interests held by it, subject to the Constitution and laws of the State of Maine, this Article, and other applicable provisions of the Code of Ordinances

d) Maintain, manage and improve land and interests in land held by it in a manner which allows public use and enjoyment consistent with the natural, historic and scenic resources of the land, including but not limited to planting, pruning and cutting of trees and shrubs to manage and enhance natural systems, constructing public-use access trails and pathways, minor ancillary structures and improvements necessary to support the scenic and natural use of the land, community gardens, and signs. Annual expenditure of the Open Space Fund for maintenance, management and limited capital improvement of Open Space and improvements thereon shall not exceed 10% of the Open Space Fund balance at the conclusion of the prior fiscal year, unless this limitation is waived by the City Council to further the purposes of this Article. Any conditional gift or donation specifying a particular use or expenditure shall not be included in this calculation.

Commented [N1]: Are we comfortable with this; this was raised at OSAC.

Commented [N2]: Confirm.
Any proposed acquisition or sale of any real property interest(s) and any proposed use of land pursuant to this article shall be referred to the Planning Board for review and recommendation(s), however the City Council may, at its discretion, waive this requirement for a Planning Board referral if the Council makes a finding that the delay caused by a Planning Board referral would jeopardize the City’s ability to acquire the Open Space.

(Ord. 13-91/92, 3-16-92; Ord. #9-03/04, 10/6/03 [Fiscal Note: Less than $1000]; Ord. No. 17-09/10, 7/19/10 [Fiscal Note: Less than $1000])

Sec. 18-74. Permissible Expenditures from the Open Space Fund.
Land, interests in land, and other real property interests to be acquired and held as part of the Open Space Fund must be situated within the boundaries of the municipality and may consist of any of the following types of land and interest in land:

1. Ocean, harbor, river, stream, lake or pond frontage and adjoining backlands;
2. Fresh or saltwater marshes, estuaries, flood plains and adjoining uplands;
3. Islands;
4. Land for future active or passive public outdoor recreational use, including hiking trails, bicycle paths, green belts and high elevations with a view or other visual corridors, and Open Space;
5. Aquifers, aquifer recharge areas and other ecologically fragile or significant property;
6. Properties with unique historical or geological characteristics or which are otherwise important to the community's cultural welfare;
7. Farmland or wildlife habitat;
8. Vacant parcels of land, vacant buildings and properties or buildings and properties in significant disrepair which may be reclaimed for the purpose of establishing natural areas for Open Space or park land.
9. Brownfields properties for the sole purpose of rehabilitation and reversion wherein a significant amount of Open Space is created or preserved.
10. Improved Real Property wherein a significant amount of Open Space is created or preserved.

(Ord. 13-91/92, 3-16-92)
Sec. 18-75. Prohibited Expenditures from the Open Space Fund.

The City shall retain any real property interest acquired pursuant to this chapter predominantly in its natural, scenic or open condition, except as otherwise provided in this Article. The City shall not allow:

1. Construction or placing of buildings; roads, other than paths for pedestrian or bicycle use; signs or other advertising for commercial purposes except that modest branding on sponsored signage may be permitted; utilities; or other structures on or above the surface, except in furtherance of the purposes of this Article;

2. Dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste or unsightly or offensive material;

3. Removal or destruction of trees, shrubs or other vegetation, except where necessary for management purposes and to enhance natural systems or open-space uses;

4. Excavation, dredging or removal of loam, peat, gravel, soil, rock or other mineral substance in such manner as to affect the surface, except limited grading to enhance the open-space uses of the land;

5. Surface use except for purposes permitting the land or water area to remain predominantly in its natural, scenic or open condition;

6. Activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation; or

7. Use of motorized vehicles, including recreational vehicles (RVs) and all-terrain vehicles (ATVs), except where used for appropriate maintenance purposes; or

8. Other acts or uses detrimental to the natural, scenic or open condition of the land or water areas.

The above restrictions may be waived by the City Council if the otherwise prohibited use is in the interest of conservation.

(Ord. 13-91/92, 3-16-92)

Sec. 18-77. Criteria to Evaluate the Use of Open Space Funds.

In authorizing the use of Open Space Funds for the activities outlined in Section 18-75, the following criteria shall be used by the Planning Board and City Council:

a)
Sec. 18-77. Contributions to the Open Space Fund

A. The City shall meet the financial obligations of the Open Space Fund by drawing upon a separate revolving or sinking account within the City. Deposits into the fund shall include:

1. Any funds appropriated to be deposited into the fund by vote of the City Council;
2. Voluntary contributions of money or other liquid assets to the fund;
3. Interest from deposits and investments of the fund; and
4. Net proceeds from disposal of real property interests pursuant to Code of Ordinances Section 2-171 as follows:
   a. Sixty percent (60%) of the net proceeds from the sale of Unimproved Real Property, unless waived by the City Council for good cause shown; and
   b. No less than thirty percent (30%) of the net proceeds from the sale of Improved Real Property, unless waived by the City Council for good cause shown.
5. Any grant funds received on behalf of the Open Space Fund.
6. Subject to the annual budget process, an annual contribution of $42,000 shall be made to the fund from the City's budget. City obligations to service bond issues associated with open space acquisition, creation, preservation, or site remediation for the same purposes, may be considered toward the City's annual contribution goal. The annual contribution shall be adjusted annually to account for inflation based on the Consumer Price Index - All Urban Consumers as published by the U.S. Bureau of Labor Statistics.

B. All expenses lawfully incurred in carrying out this Article must be evidenced by proper vouchers and accounting practices. The City shall prudently invest available assets of the fund and all income from any investment shall accrue to the fund.

C. The fund shall maintain a minimum balance of XXXXX for maintenance, etc.

(Ord. 13-91/92, 3-16-92; Ord. No. 9-03/04, 10/6/03 [Fiscal Note: Less than $1000]; Ord. No. 17-09/10, 7/19/10 [Fiscal Note: Less than $1000])

Sec. 18-78. Records and Reporting.

The City shall keep a full and accurate account of its actions, including a record as to when, from or to whom, and on what account money has been paid or received relative to this Article, and as to when, from or to whom, and for what consideration real property interests have been acquired, improved or disposed. The City shall regularly report all activities funded through the Open Space Fund and a summary of the balance and activities undertaken from the Open Space Fund shall be provided on the City's website and in the City's annual report.
(Ord. 13-91/92, 3-16-92)
SOUTH PORTLAND CODE OF ORDINANCES

Chapter 18

PARKS AND RECREATION*

* State law reference(s) -- Parks, trees and playgrounds, generally, 30 M.R.S.A. § 3801 et seq.

Art. I. In General, §§ 18-1--18-16
Art. II. Parks and Recreation Department, §§ 18-17--18-28
Art. III. Parks and Recreation Director, §§ 18-29--18-42
Art. IV. Reserved, §§ 18-43--18-62
Art. V. Willard Beach, §§ 18-63--18-69
Art. VI. Hinckley Park, §§ 18-70, 18-71
Art. VII. Establishment of South Portland Land Bank Open Space Preservation and Acquisition Fund, §§18-72--18-77
Art. VIII. Tobacco-Free Parks and Recreation Facilities, §§18-81--18-8

ARTICLE VII: ESTABLISHMENT OF SOUTH PORTLAND LAND BANK OPEN SPACE PRESERVATION AND ACQUISITION FUND

Sec. 18-72. Purpose and Definitions.

A. Purpose. The City of South Portland recognizes that open space, parks, recreation areas and natural resources are desirable and beneficial to its citizens and provide South Portland residents and visitors with an unparalleled diversity of recreation and other outdoor opportunities during all seasons of the year and a quality of life unmatched in the State; that the continued availability of public access to these recreation and other outdoor opportunities and the protection of the scenic and natural environment resources are essential for preserving the City's high quality of life; that sensitive lands and resources may be threatened by the pace of development; and that the long-term public interest in the future quality and availability for all South Portland residents and visitors of lands for recreation and conservation is best served by additions of open space lands to the public domain, in the long term. To further the acquisition and creation of such land and land uses, the City hereby establishes the City of South Portland Land Bank Open Space Preservation and Acquisition Fund, hereafter referred to as the Open Space Fund, which shall consist of voluntary donations of funds be used to maintain, enhance, conserve, and/or property interests and the acquisition of property interests through voluntary negotiations to be used in accordance with this Article, acquire open space lands in the City of South Portland, Property and funds held by the Land Bank Open Space Fund are not intended to supplant budgetary appropriations to the Parks and Recreation Department.
B. Definitions. Notwithstanding definitions that may be provided in other section of the City’s Code of Ordinances, the following definitions shall apply to terms used in this Article:

a. Real Property: Real property includes the land, all permanent improvements to the land including structures; and all of the rights of ownership of the land, including the right to possess, sell, lease, and enjoy the land.

b. Unimproved Real Property: Real Property which contains no permanent improvements, or where permanent improvements are not under construction, or for land which the City Assessor record has not assigned a valuation for improvements, or which may contain improvements that are solely designed to maintain or manage the natural condition of the site such as seawalls, erosion control measures, improvements associated with habitat or ecological restoration, bank stabilization, and similar improvements to the land.

c. Improved Real Property: Real Property that does not meet the definition of unimproved real property.

d. Open Space: For the purposes of this Section, Open Space shall be as defined by Section 1.3 of the 2019 Open Space Plan, which has been adopted as Appendix Q to the 2012 Comprehensive Plan, as may be amended from time to time.

(Ord. 13-91/92, 3-16-92; Ord. No. 17-09/10, 7/19/10 [Fiscal Note: Less than $1000])

Sec. 18-73. Management of the Land Bank Open Space Fund.

In managing the Land Bank Open Space Fund, the City may:

a) Purchase and acquire fee simple interests and any lesser interests, including conservation restrictions, development rights or easements, and limited term easements for open space or public access, in any real property situated within the borders of the municipality, of the types set forth in Sec. 18-74, including any improvements on that real property, provided that all purchases or acquisitions are consistent with the purpose of this Article;

b) Accept gifts, including real or personal property interests or funds, to further the purposes of this Article;

c) Dispose of all or any portion of the real property interests held by it, subject to the Constitution and laws of the State of Maine, this Article, and other applicable provisions of the Code of Ordinances

d) Maintain, manage and improve land and interests in land held by it in a manner which allows public use and enjoyment consistent with the natural, historic and scenic resources of the land, including but not limited to planting, pruning and cutting of trees and shrubs to manage and enhance natural systems and constructing nature public-use access trails.

Commented [N1]: Are we comfortable with this; this was raised at OSAC.
bird nest boxes and nature identification, and pathways, minor ancillary structures and improvements necessary to support the scenic and natural use of the land, community gardens, and signs. Annual expenditure of land bank funds, the Open Space Fund, for maintenance, management and limited capital improvement of Land Bank, Open Space, and improvements thereon shall not exceed 10% of the land bank fund, Open Space Fund, balance at the conclusion of the prior fiscal year, unless this limitation is waived by the City Council to further the purposes of this Article. Any conditional gift or donation specifying a particular use or expenditure shall not be included in this calculation.

Any proposed acquisition or sale of any real property interest(s) and any proposed use of land pursuant to this article shall be referred to the Planning Board for review and recommendation(s); however the City Council may, at its discretion, waive this requirement for a Planning Board referral if the Council makes a finding that the delay caused by a Planning Board referral would jeopardize the City's ability to acquire the Open Space.

Sec. 18-74. Types of land which may be acquired

Land, interests in land, and other real property interests to be acquired and held as part of the land bank, Open Space Fund, must be situated within the boundaries of the municipality and may consist of any of the following types of land and interest in land:

1. Ocean, harbor, river, stream, lake or pond frontage and adjoining backlands;
2. Fresh or saltwater marshes, estuaries, flood plains and adjoining uplands;
3. Islands;
4. Land for future active or passive public outdoor recreational use, including hiking trails, bicycle paths, green belts and high elevations with a view or other visual corridors, and open space, Open Space;
5. Aquifers, aquifer recharge areas and other ecologically fragile or significant property;
6. Properties with unique historical or geological characteristics or which are otherwise important to the community's cultural welfare;
7. Farmland or wildlife habitat;
8. Vacant parcels of land, vacant buildings and properties or buildings and properties in significant disrepair which may be reclaimed for the purpose of establishing natural areas for open space, Open Space, or park land.

Commented [N2]: Confirm.

Commented [N3]: Confirm re-titling. We're not only allowing land acquisition so it may need to be more encompassing. I suggest permissible expenditures.
9. Brownfields properties for the sole purpose of rehabilitation and reversion wherein a significant amount of Open Space is created or preserved.

10. Improved Real Property wherein a significant amount of Open Space is created or preserved.

(Ord. 13-91/92, 3-16-92)

Sec. 18-75. Maintenance of real property

The City shall retain any real property interest acquired pursuant to this chapter predominantly in its natural, scenic or open condition, except as otherwise provided in this Article. The City shall not allow:

1. Construction or placing of buildings; roads, other than paths for pedestrian or bicycle use; signs; billboards; or other advertising for commercial purposes except that modest branding on sponsored signage may be permitted; utilities; or other structures on or above the surface, except in furtherance of the purposes of this Article;

2. Dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste or unsightly or offensive material;

3. Removal or destruction of trees, shrubs or other vegetation, except where necessary for management purposes and to enhance natural systems or open-space uses;

4. Excavation, dredging or removal of loam, peat, gravel, soil, rock or other mineral substance in such manner as to affect the surface, except limited grading to enhance the open-space uses of the land;

5. Surface use except for purposes permitting the land or water area to remain predominantly in its natural, scenic or open condition;

6. Activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation; or

7. Use of motorized vehicles, including recreational vehicles (RVs) and all-terrain vehicles (ATVs), except where used for appropriate maintenance purposes; or

8. Other acts or uses detrimental to the natural, scenic or open condition of the land or water areas.

The above restrictions may be waived by the City Council if the otherwise prohibited use is in the interest of conservation.

(Ord. 13-91/92, 3-16-92)
Sec. 18-77. Criteria to Evaluate the Use of Open Space Funds

In authorizing the use of Open Space Funds for the activities outlined in Section 18-75, the following criteria shall be used by the Planning Board and City Council:

a) 

Sec. 18-767. Land Bank Contributions to the Open Space Fund.

A. The City shall meet the financial obligations of the Land Bank Open Space Fund by drawing upon a municipal land bank fund to be set up as a separate revolving or sinking account within the City. Deposits into the fund shall include:

1. Any funds appropriated to be deposited into the fund by vote of the City Council;
2. Voluntary contributions of money or other liquid assets to the fund;
3. Interest from deposits and investments of the fund; and
4. Net proceeds from disposal of real property interests pursuant to Code of Ordinances Section 2-171 as follows:
   a. Sixty percent (60%) of the net proceeds from the sale of unimproved real property, unless waived by the City Council for good cause shown; and
   b. Thirty percent (30%) of the net proceeds from the sale of improved real property, unless waived by the City Council for good cause shown.

5. Any grant funds received on behalf of the Land Bank Open Space Fund.

6. Subject to the annual budget process, an annual contribution of $354,000 shall be made to the fund from the City's Capital Improvement Plan provided that any such budget City obligations to service bond issues associated with open space acquisition, creation, preservation, or site remediation for the same purposes, may be considered toward the City's annual contribution that causes the land bank fund balance to exceed one million dollars ($1,000,000) shall be reduced. The annual contribution shall be adjusted annually to account for inflation based on the Consumer Price Index - All Urban Consumers as published by the U.S. Bureau of Labor Statistics.

B. All expenses lawfully incurred in carrying out this Article must be evidenced by proper vouchers and accounting practices. The City shall prudently invest available assets of the fund and all income from any investment shall accrue to the fund.

C. The fund shall maintain a minimum balance of $XXXX for maintenance, etc.
Sec. 18-778. Records: Annual Report and Reporting.

The City shall keep a full and accurate account of its actions, including a record as to when, from or to whom, and on what account money has been paid or received relative to this Article, and as to when, from or to whom, and for what consideration real property interests have been acquired, improved or disposed of. The City shall regularly report annually all acquisitions, improvements or dispositions of real property interests activities funded through the Open Space Fund during the preceding year and a summary of the balance and disbursements activities undertaken from the land bank fund, which document shall be included on the City’s Open Space Fund shall be included on the City’s website and in the City’s annual report. (Ord. 13-91/92, 3-16-92)