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TO: City Council

FROM: Rosie Pahl Donaldson, Land Acquisition Supervisor

CC: Remy Long, Deputy Manager of NAP and Land Acquisition

SUBJECT: Proposed Substitute Amendment to Chapter 42 Open Space and Parkland Preservation Ordinance

DATE: March 15, 2024

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Based on questions and discussion on the proposed ordinance changes to Chapter 42 after first reading on March 4, staff recommends that Council pass the attached substitute ordinance, which contains modifications to Section 3:72 clarifying that if any interest in land purchased with OSPP millage funds is sold, those funds are to be used for OSPP millage purposes; and to Section 3:73, stating that Purchase of Development Rights agreements shall not contain repurchase provisions.

The substitute ordinance must be moved and passed by Council to take effect. Modifications to these sections from the previously proposed ordinance are shown in track changes as follows:

**3:72. Open space and parkland preservation fund established.**

An Open Space and Parkland Preservation Fund (“OSPP Fund”) is hereby created in the City budget, which shall hold OSPP Millage revenue and funds designated for the purpose of acquisition and management of Greenbelt District land, including designated monetary gifts, unrestricted grants, and any investment income earned by OSPP Millage revenue and funds.

The OSPP Fund shall be invested and managed in the same manner as other funds of the City. No part of the OSPP Fund may be transferred to any other fund, nor be encumbered, nor be utilized for any purpose except the purposes specifically set forth in this chapter. Expenditures from the OSPP Fund require authorization of City Council.

When land or land rights that have been purchased entirely or partly with OSPP Millage funds are subsequently sold, any money received by the City for the sale shall be returned to the OSPP Fund and used for OSPP Millage purposes in equal proportion to the amount of OSPP Millage funds used for the purchase.

### **3:73. Purchase of Development Rights.**

- (1) OSPP Millage funds may be used to purchase Development Rights, consistent with the Michigan Zoning Enabling Act sections 507-509 (MCL 125.3507-09), as amended.
- (2) The public benefits that the City may seek through the purchase of Development Rights are those stated in the purpose and findings of this chapter and City Charter section 8.23.
- (3) The procedure for application for a purchase of Development Rights shall be the same as for purchase of Conservation Easements set forth in this chapter.
- (4) The City may purchase all Development Rights authorized by law.
- (5) In approving, modifying, or rejecting an application to purchase Development Rights, City Council shall apply the same standards and follow the same process as for Conservation Easements set forth in this chapter.
- (6) Development Rights agreements shall not provide for repurchase of the Development Rights by Aan Owner of land from which Development Rights have been purchased by the City ~~may request to repurchase the Development Rights from the City. City Council shall have the sole discretion whether to act on the request. If City Council determines to pursue a repurchase of Development Rights, City Council shall have the sole discretion to negotiate all terms of the repurchase, including price and conditions. City Council shall have the sole discretion to determine how to use the proceeds from any repurchase of Development Rights.~~
- (7) The City may finance the purchase of Development Rights by special assessments and the issuance of bonds secured thereby, subject to compliance with procedures for the approval and establishment of special assessment districts and the issuance of special assessment bonds contained in the City Charter, City Code, and other applicable laws. Such special assessment procedures shall further be subject to the requirements that (a) there be filed with the City Council a petition containing all of the following: (i) a description of the Development Rights to be purchased, including a legal description of the land from which the purchase is to be made, (ii) a description of the proposed special assessment district, (iii) the signatures of the Owners of at least 60% of the land area in the proposed special assessment district, and (iv) the amount and duration of the proposed special assessments, and (b) the City Council specifies how the proposed purchase of Development Rights will specially benefit the land in the proposed special assessment district.

- (8) The City may convey Development Rights acquired pursuant to this chapter to another governmental entity or conservation, open space preservation, historic preservation or similar organization under terms ensuring that the public benefits for which the City purchased the Development Rights will be maintained.