

## Chapter 42 OPEN SPACE AND PARKLAND PRESERVATION<sup>1</sup>

### 3:60. Title.

This chapter shall be known as the "Open Space and Parkland Preservation Ordinance" of the City of Ann Arbor.

(Ord. No. 17-04, § 1, 5-3-04)

### 3:61. Purpose and findings

The purpose of this chapter is to implement the OSPP Millage, as set forth in Section 8.23 of the City Charter, and to preserve and protect open space, natural habitats, parkland and the City's source waters inside and outside the City limits for benefit of residents of the City of Ann Arbor and in cooperation with the greater Ann Arbor community.

The City Council finds:

- (1) The City of Ann Arbor is a desirable place to live, work and visit in large part due to the presence of farmland and other open space lands within the City and without in the surrounding communities.
- (2) The surrounding communities continue to experience substantial residential development pressure because of the social, cultural and education benefits of their proximity to the City of Ann Arbor and other urbanized areas of southeast Michigan.
- (3) Uncoordinated development in the areas around Ann Arbor has affected and may continue to adversely affect the quality of life in Ann Arbor leading to fragmented open space and wildlife habitat; loss of productive farmland and forestland; destruction of rural beauty which is part of the natural historic character of the Ann Arbor community; decline in water quality and the loss of wetlands; increased auto dependency, fuel consumption, traffic congestion and air pollution; relocation of jobs to peripheral areas; excessive public costs for-to build or extend roads and utility infrastructure, ~~new and extensions,~~ to dispersed development.
- (4) The conversion of farmland, open space and wetlands to residential or other more developed uses, whether because of its greater market value as residential development property or for other business reasons, is made at the expense of a critical community resource being permanently lost to community residents.
- (5) The City of Ann Arbor adoption of Ordinance No. 37-94, Natural Features Open Space, and Ordinance No. 49-94, Wetlands Preservation Ordinance, and related zoning and planning ordinances for the protection and preservation of open space and wetlands are not sufficient safeguards against the continuing growth and development of residential and commercial uses within and surrounding the City of Ann Arbor.
- (6) The permanent acquisition by the City of Ann Arbor of voluntarily offered interests in farmland, open space, wetlands and other property outside the City, as provided in this chapter and as authorized by

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<sup>1</sup>Editor's note(s)—Ord. No. 17-04, adopted May 3, 2004, added Ch. 42 to read as herein set out. See also the Code Comparative Table.

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the statutes of the State of Michigan will permit these lands to remain as farmland or otherwise in their current natural state near developing urban areas and provide long-term protection for the public interest in preservation and management of the land.

- (7) The continuation of the permanent acquisition of parkland within the City of Ann Arbor and its acquisition of farmland, open space, wetlands and other property in the surrounding communities enhances the Ann Arbor community.
- (8) Michigan Public Act 262 of 2000 created an agricultural preservation fund with the State Treasury. Money in this fund may be used to provide grants to local units of government to assist in acquiring agricultural conservation easements provided that the local unit has adopted an ordinance for the purchase of development rights and that the local unit has a comprehensive land use plan that includes a plan for agricultural preservation. Acceptable plans for agricultural preservation can include provisions for uses that allow agriculture and open space designations that allow agriculture.
- (9) The voters of the City of Ann Arbor have approved a charter amendment to authorize a ½ mill tax for 30 years to provide funds for preservation and protection of parkland, open space, natural habitats and [City](#) sourcewaters for the acquisition and management of land and land rights both within and outside the City of Ann Arbor.
- (10) It is the policy of the City of Ann Arbor to protect, preserve and enhance farmland and open space lands through its ordinances, the authority granted it by the Farmland and Open Space Preservation Act (MCL 324.36101 et seq.), the Conservation and Historic Preservation Easement Act (MCL 324.2140 et seq.) and other state and [City](#) ordinances and the use of grants, donations and other available fund sources.
- (11) The acquisition of land and land rights as provided in this chapter is a public purpose of the City of Ann Arbor.

(Ord. No. 17-04, § 1, 5-3-04)

### 3:62. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings described in this section, unless the context in which they are used specifically indicates otherwise:

- (1) ~~\_\_\_\_\_ Agricultural rights means an interest in and the right to use and possess land for the purposes and activities related to open space, natural habitat, horticultural and other or open space character.~~
- (2) ~~\_\_\_\_\_ Agricultural use means substantially undeveloped land devoted to the production of plants and animals useful to humans, including fruits, nuts, vegetables, greenhouse plants, berries, herbs, flowers, seeds, nursery stock, grasses, Christmas trees and lumber, forages and sod crops, grains and feed crops, dairy and dairy products, livestock (including breeding and grazing), poultry and poultry products and other similar uses and activities.~~
- (3) ~~\_\_\_\_\_ Application means the documentation and information submitted to the by a landowner on the approved application form offering to sell, donate or otherwise grant to the a conservation easement, development rights or title to greenbelt district land.~~
- (4) ~~\_\_\_\_\_ City means the City of Ann Arbor.~~
- (5) ~~\_\_\_\_\_ Code means the Ann Arbor City Code.~~
- (4)(6) ~~Conservation eEasement means "conservation easement" as defined in MCL 324.2140(a), as amended a non-possessory interest in real property, which is acquired in accordance with MCL 324.2140 et seq. for the purpose of retaining and enhancing agriculture, preserving natural, scenic or open space values~~

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~~of real property; restricting or preventing the development or improvement of the land for purposes other than agricultural production; or other like or similar purposes, i.e. an interest in land that provides limitation on the use of land or a body of water or requires or prohibits certain acts on or with respect to the land or body of water, whether or not the interest is stated in the form of a restriction, easement, covenant, or condition in a deed, will, or other instrument executed by or on behalf of the owner of the land or body of water or in an order of taking, which interest is appropriate to retaining or maintaining the land or body of water, including improvements on the land or body of water, predominantly in its natural, scenic, or open condition, or in an agricultural, farming, open space, or forest use, or similar use or condition.~~

~~(7) ———Development means an activity that materially alters or affects the existing conditions or use of any land in a manner that is inconsistent with or —~~

~~(5)(8) Development Rights means the rights to develop real property, including an interest in and the right to build structures and to use, divide, or subdivide the land for any and all residential, office, commercial, research, industrial, extractive, or other use, purposes or activities including intensive animal husbandry operations, not incident to or —. This definition includes the meaning of development rights contemplated by the Michigan Natural Resources and Environmental Protection Act, Part 361 Farmland and Open Sapce Preservation (MCL 324.36101 et. seq.) and the Michigan Zoning Enabling Act’s provisions on the purchase of development rights (MCL 125.3507-3509), as amended.~~

~~(9) ———Other eligible land means land that has a common property line with agricultural land from which development rights have been purchased and that is not divided from that agricultural land by a state or federal limited access highway~~

~~(10) Fair market value purchase means transfer of full ownership to the city based on a qualified appraisal.~~

~~(11) Full ownership means fee simple title.~~

~~(6)(12) Greenbelt aAdvisory eCommission (“GAC”) means the commission formed pursuant to this chapter to advise the City Council in the selection of gGreenbelt dDistrict lLands.~~

~~(7)(13) Greenbelt Ddistrict is the land area surrounding the City of Ann Arbor in which the Greenbelt Advisory Commission shall exercise its powers as provided by this chapter; the boundaries of which are hereby established and traverse the following townships as followsmeans the following area:~~

~~Land in the County of Washtenaw, State of Michigan, consisting of:~~

- ~~(a.) Lodi Township. That portion of land located within Sections 1—4, and 9—16, and 21—24, R5E, and lying East AND WEST of Zeeb Road and North of W. Textile Road.~~
- ~~(b.) Pittsfield Township. That portion of land located within To the extent not located within the City, Sections 1-24, 12—24, and to the extent not incorporated within the city, Sections 6—8, R63, and lying North of Textile Road.~~
- ~~(c.) Scio Township. To the extent not located within the City, That portion of land located within Sections 1—4, 9—16, 21—28, and 33—36, R5E, and lying west of Zeeb Road.~~
- ~~(d.) Ann Arbor Township. To the extent not located within the City, All that portion of land within Sections 1—368, 12—13, and to the extent not incorporated within the city, Sections 9—11, 14, 23—25, and 36, R6E, being all the land within the known and designated boundaries of the township.~~
- ~~(e.) Superior Township. That portion of land located within Sections 3—10, 15—22, and 27—34, R7E, and lying east of Prospect Road.~~
- ~~(f.) Webster Township. That portion of land located within Sections 21—28 and 33—36, R5E, and lying South of 5 Mile Road and west of Zeeb Road.~~

~~(g.) Northfield Township. That portion of land located within Sections 19—36, R6E, and lying South of 5 Mile Road.~~

~~(h.) Salem Township. That portion of land located within Sections 19—22, and 27—34, R7E, and lying South of 5 Mile Road and west of Curtis Road.~~

~~(i.) Ypsilanti Township. To the extent not located within the City of Ypsilanti, Sections 3-10 and 15-22.~~

~~(j.) All land that affects the City's sourcewaters or drinking water supply, as determined by the City Administrator consistent with applicable City, state, and federal laws. Within the City of Ann Arbor source water protection area, containing the Huron River or its tributaries, to the extent not located within a city or village, including HUCs #s....~~

~~and as shown on the district map which accompanies this chapter, and which, with all notations, references, and other information show thereon, shall be as much a part of this chapter as if fully described herein; and from which, applications for purchases of land and conservation easements will be considered.~~

~~(8)(14) Greenbelt District Land means: (a) Any parcel of land outside the incorporated boundaries of the City of Ann Arbor that is wholly or partly within the Greenbelt District; and~~

~~(b) Any parcel of land outside the Greenbelt District that touches and has a common ownership interest with a parcel of land on which land rights have been or are in the process of being acquired under this chapter. governmental agency means the United States or any agency thereof, the State of Michigan or any agency thereof or any municipal corporation.~~

~~(9) OSPP Millage means the millage authorized by Section 8.23 of the City Charter. Open-space character or open space use means substantially undeveloped land devoted to (a) the maintenance or enhancement of natural processes (e.g. water quality, plant and wildlife habitat, groundwater recharge), (b) scenic enjoyment of the public or (c) otherwise satisfying the standards of sections 5:51 of the Code.~~

~~(10)(16) Owner means the person, entity, or group individual, or individuals, organization or entity having fee simple title to the eligible land.~~

~~(17) Parcel means all property under a single ownership that is included in an application.~~

~~(18) Parkland means all property undeveloped and developed dedicated for the use of the public as a park.~~

~~(11)(19) Parks & Advisory Commission ("PAC") means the commission established by resolution of City Council to, among other things, advise the City Council in the planning, selection, and management of parkland within and outside the City.~~

~~(20) Permitted use means any use contained within a conservation easement essential to the or which does not alter the or natural features of the land.~~

~~(21) Qualified appraisal means an appraisal done in conformance with the standards in section 1:220 of the Code.~~

~~(22) Residential development rights means the right to sell a portion of a parcel, or to construct a residence and related accessory buildings such as a garage or shed on a parcel, for residential uses not related to the, or natural features of the parcel.~~

~~(23) Substantially undeveloped land means land on which there is no more than 1 residential dwelling unit and related accessory buildings such as a garage or shed for each 1040 acres of land. For parcels less than 1040 acres in existence prior to the date of this chapter, and which cannot be joined to a larger contiguous parcel, substantially undeveloped land means land on which there is no more than 1 residential dwelling unit and related accessory buildings for the parcel.~~

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(Ord. No. 17-04, § 1, 5-3-04; Ord. No. 42-05, § 1, 10-17-05; Ord. No. 26-07, § 1, 8-20-07; Ord. No. 11-25, § 1, 12-5-11)

### 3:63. City Council authority.

The City Council is authorized under state law and this chapter to:

- (1) Expend OSPP Millage revenue to acquire ~~Greenbelt District~~ land and land rights in accordance with the criteria and procedures established in under this chapter. The interest acquired may either be fee title, ~~d~~Development r~~Rights, e~~Conservation e~~Easements,~~ or any lesser other real property interest, easement, covenant, or other contractual right pertaining to ~~such a real property interests~~rights. Acquisition of land and land rights may be achieved through donation, in whole or in part; or by Millage revenue may only be expended up to, but not exceeding, the value of the land or land rights as determined by an purchase, grant, covenant or contract but only at a price that is equal to or less than the qualified appraisal. In particular, the city can acquire development rights to agricultural land and other eligible land. The OSPP Millage revenue shall be used to acquire Greenbelt District ~~l~~and only upon submission of an aApplication of ~~the an~~ owner and as authorized by this chapter.
- (2) Enter into cash purchase ~~contracts~~agreements, installment purchase ~~agreements~~contracts, cash purchase/non-cash donation agreements, bargain sale agreements, or similar agreements establishing the rights and responsibilities of the City and the owner in the transfer of land or land rights, purchase of development rights, or the granting of a conservation easement or other easement or covenant consistent with applicable law and this chapter.
- (3) Enter into contracts with nonprofit land trusts, legally established and in good standing, or other similarly qualified nonprofit groups to participate jointly in the acquisition, retention, ~~and or~~ management of Greenbelt District Land ~~and development rights, conservation easements or other easements in Greenbelt District Land~~land or land rights.
- (4) Enter into contracts with qualified licensed professionals, nonprofit land trusts, legally established and in good standing, or other similarly qualified nonprofit groups to provide appraisal, environmental analysis and testing, acquisition evaluation and negotiation support, maintenance, or other services necessary or appropriate to accomplish the purpose of this chapter.
- (5) Enter into agreements for joint acquisition, retention, ~~and or~~ management of land or land rights, and development rights, conservation easements, or other easements ~~in the Greenbelt District~~ with another one or more governmental agency~~s~~ entities to the extent permitted by law and in accordance with this chapter.
- (6) Issue bonds for the borrowing of money for any purpose within the scope of this chapter and the general powers of the City.
- ~~(7) 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.~~

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(Ord. No. 17-04, § 1, 5-3-04; Ord. No. 9-05, § 1, 4-4-05; Ord. No. 23-06, § 1, 5-15-06)

### 3:64. Greenbelt Advisory Commission; established, membership.

- (1) The Greenbelt Advisory Commission (GAC) shall consist of 9 members nominated and approved by the City Council. In making appointments of members to GAC, the City Council shall appoint persons who have expertise or affiliation as follows:
  - a. Two members chosen by City Council to serve as representatives of environmental ~~and/or~~ conservation groups.
  - b. One member who is an agricultural landowner or operates an agricultural business.
  - c. One member who is a real estate development professional.
  - d. One member who is a plant or animal biologist.
  - e. Three members from the public-at-large.
  - f. One member of Ann Arbor City Council.
- (2) ~~Each member of GAC shall be appointed to a 3-year term and the terms shall be staggered so that approximately one third expire each year, except the terms of office of the first GAC appointed hereunder shall be fixed by the City Council so that the terms of 3 members will be for 1 year, 3 members for 2 years, and 3 for 3 years. After the initial GAC is formed, all members, except the City Council member, thereafter will be appointed for 3 years. The~~ the City Council member shall be appointed annually as determined by the City Council for a 1-year term. A City Council member shall cease to be a member of GAC if ~~she/he/they~~ ceases to be a member of the City Council. ~~All members of GAC shall serve without compensation.~~ A minimum of 6 members shall be ~~residents-registered electors~~ residents-registered electors of the City of Ann Arbor. Appointment of ~~nonresident~~ nonresident members who are not registered electors of the City shall be in conformance with section 12.2 of the Ann Arbor City Charter.
- (3) The City ~~Clerk-Administrator~~ shall notify City Council at least ~~45-30~~ 45-30 days prior to the expiration date of the term of office of any person serving on GAC. The City Council shall place on the table the name of all reappointments no later than 60 days after the expiration date of the term of office.
- ~~(4) No member shall be allowed to hold over for more than 60 days beyond the term of office fixed by ordinance whether or not a successor has been appointed, except that City Council may extend the term for a period of 60 days upon the vote of at least 6 members of City Council.~~
- ~~(4)(5) No land in which a member of GAC the commission has an ownership or other financial interest will be considered during the tenure of that member or for a period of 1 year from the end of the member's tenure.~~
- ~~(5)(6) No member may serve more than 2 consecutive full terms after his or her initial term, for a total of three-3 consecutive terms, including partial terms.~~
- ~~(7) A member of GAC may be removed by a majority vote of City Council for cause.~~

(Ord. No. 17-04, § 1, 5-3-04)

### 3:65. Greenbelt Advisory Commission; organization, powers and duties.

- (1) *Organization.* ~~The Commission~~ GAC shall annually elect a chair. ~~The Commission~~ GAC shall meet at a as often as necessary to carry on their work ~~of the Commission~~ minimum on a quarterly basis at a date, place and time to be determined by the Commission.

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~~A majority of members appointed to the Commission, that is 5~~ Five members of GAC, shall constitute a quorum. An affirmative vote of a majority of the members present shall be necessary to authorize any action by ~~the Commission~~GAC.

Consistent with this chapter and subject to City Council approval, GAC may develop by-laws ~~and standing rules~~ that further define the functional and procedural aspects of GAC's duties and provide for keeping a record of its proceedings.

(2) *Powers and duties.* ~~The purpose of GAC is to~~ advise and make recommendations to the City Council ~~and City Administrator on land matters, land and land rights acquisition, management, and disposition in the Greenbelt District;~~ and enhancing public awareness, commitment, and active participation in stewardship of open space, natural features, and ~~parkland including growth and development of parks~~public land within the Greenbelt District, ~~land and land rights acquisition, management, and disposition.~~ GAC also has the following powers and duties:

- To review and recommend to City Council applications for the purchase of Greenbelt District Land ~~and land rights~~ in accordance with the provisions of this chapter.
- To advise City Council on monitoring and enforcement of ~~land rights, including~~ the terms and provisions of ~~any~~ development rights ~~and/or~~ conservation easements, acquired by the ~~C~~city in Greenbelt District Land.
- To publish and present an annual report, which shall include a listing of all parcels of land donated or for which ~~land rights, including~~ development rights or conservation easements, ~~or other easements~~ were acquired, and the method of acquisition; a map showing the location of acquired lands ~~and land rights~~ and dates of acquisition; financial cost, and land characteristics; other parcels on which other governmental entities hold development rights or conservation easements; a listing of the number of ~~a~~applications made, ~~and~~ the number of ~~unsuccessful a~~applications ~~which did not result in acquisition, and the categorical reasons they were not accepted.~~
- To prepare and present to City Council and the City Administrator an annual budget for land and land rights acquisition, preservation, and management ~~within the of~~ Greenbelt District Land.
- To review and recommend to City Council and the City Administrator alternate sources of funding, such as grants, gifts, endowments, etc., for land and land rights acquisition, preservation, and management.
- To work collaboratively with other ~~City~~ boards and commissions which have responsibilities for specific issues, including but not limited to: Planning Commission, Environmental Commission, Parks Advisory Commission.
- To hold public forums, separately or with other ~~City~~ boards or commissions, for the purpose of identifying needs in the community on ~~natural lands~~Greenbelt District Land matters.
- To meet with commissions, in other jurisdictions, and other public and private organizations to address regional and state land and land rights preservation matters.

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~~In addition to the~~To take other actions or exercise other powers ~~and/or~~ functions ~~directed or delegated by resolution of~~ herein provided, City Council may delegate to the GAC by resolution other powers and functions permitted by law concerning the acquisition of development rights.

(Ord. No. 17-04, § 1, 5-3-04)

**3:66. ~~Roles of Greenbelt Advisory Commission and Parks Advisory Commission; powers and duties.~~**

~~For purposes of this chapter, GAC shall generally have the role of advising the City on matters relating to the acquisition and management of land and land rights in the Greenbelt District and PAC shall generally have the role of advising the City on matters relating to the acquisition and management of land and land rights within the City. In addition to those powers and duties established by City Council, the Parks Advisory Commission. However, PAC shall have the ability to recommend purchase or lease of Greenbelt District Land, provided that written confirmation has been obtained from GAC that this the land is not under consideration by GAC. PAC shall request this confirmation in writing. If a response is not received from GAC within 9060 days, PAC shall be free to initiate consideration of the parcel in question land for inclusion in the City park system.~~

(Ord. No. 17-04, § 1, 5-3-04; Ord. No. 23-06, § 2, 5-15-06)

**3:67. ~~Acquisition of parkland Greenbelt District land; description of Greenbelt District.~~**

~~OSPP Millage revenue may be used to acquire parkland consistent with City Charter section 8.23. Acquisition of parkland shall be according to City procedures for acquiring parkland directed by the City Administrator and in accordance with applicable law. Land and land rights voluntarily acquired under the provisions of this chapter shall include:~~

- ~~(1) Land outside the incorporated boundaries of the City of Ann Arbor within the Greenbelt District; except that a parcel either intersecting with dissected by the Greenbelt District boundaries, or contiguous to the Greenbelt District boundary and a parcel under the same ownership within the Greenbelt District as defined in section 3:62(13) may be acquired in its entirety in the same manner under the provisions of this chapter as if the parcel was within the Greenbelt District.~~
- ~~(2) Nothing in this section alters or is intended to alter the designation of existing and future areas of the city under section 5:10.1 of the Code as AG agricultural open space district.~~

(Ord. No. 17-04, § 1, 5-3-04; Ord. No. 23-06, § 3, 5-15-06; Ord. No. 11-25, § 2, 12-5-11)

**3:68. ~~Acquisition of Greenbelt District Land; selection criteria and manner of acquisition for selection.~~**

~~The following criteria shall be used in determining whether and according to what priority the order in which Applications will be considered by GAC prioritized for review and recommendation by the appropriate commission to the City Council for acquisition:~~

- ~~(1) General. The philosophy and principles guiding of the land acquisition process for open space by which GAC will conduct its recommendation process of Greenbelt District Land and land rights are outlined stated in the purpose and findings stated in this chapter.~~
- ~~(2) Process. GAC shall publish notice annually in a newspaper of general circulation in the city. The notice shall invite owners that meet the primary criteria outlined below to make application for sale of Greenbelt District Land or Development Rights, Conservation Easements or easements in Greenbelt District Land. Application materials shall be available from the City Clerk City and shall include a summary of the criteria and guidelines for selection and a list of required documentation that must be attached to the application. Applications may be made at any time, and reviewed by GAC as needed but need not be considered until the next regular meeting of GAC. GAC shall have the right to convene extraordinary meetings to consider purchases applications requiring timely action.~~

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~~(2)(3)~~ **Land acquisition criteria.** ~~Sites for consideration~~ **Proposed land acquisitions** shall be evaluated using the criteria listed below together with any other criterion determined ~~adopted~~ by GAC to be appropriate to accomplishing consistent with the purpose of City Charter section 8.23 and this chapter.

a. ~~Agricultural land criteria:~~ Characteristics of the land: type of agricultural land, parcel size, road frontage, wetlands and/or floodplain, groundwater recharge, natural features.

~~Context:~~ distance to city limit, adjacent zoning classification, adjacent land use, proximity to protected land, scenic and/or historical value.

~~Acquisition considerations:~~ matching funds, landowner contribution, urgency for acquisition, recreation potential.

b. ~~Open space land criteria:~~ Characteristics of the land: mature trees or rare species, parcel size, road frontage, wetlands and/or floodplain, groundwater recharge.

~~Context:~~ distance to city limit, adjacent land use, proximity to protected land, proximity to water resource frontage, scenic and/or historical value, number of vehicle trips per day.

~~Acquisition considerations:~~ matching funds, landowner contribution, urgency for acquisition, recreation potential.

~~(3)(4)~~ **Land acquisition mechanisms.**

a. ~~Purchase of development rights (PDR) shall be the preferred method of protecting agricultural land and other eligible land. The conditions and regulations applicable to such land is set forth in section 3-71.~~

b. ~~Open space and agricultural lands~~ Greenbelt District Land may be acquired or protected by conservation easements, or fee simple purchase, lease, purchase of development rights (PDR), or other right or interests in land. PDR shall be subject to section 3-71 (or whatever).

~~(5) Any application which fulfills the criteria set forth in this chapter and in the regulations adopted by the GAC and approved by City Council, but which is not offered a contract to purchase because available funds are not sufficient within the current fiscal year or because GAC declines to proceed with the application after review and deliberation, shall may be considered in the next application cycle, provided that the owner restates their interest in applying and updates the information on the application or states that the information is accurate. These applications shall not be given any preference or priority at that time, but will be considered under the terms and conditions of this chapter along with all other applications submitted at that time.~~

~~(6) Owner shall be and remain subject to all ordinances, rules and regulation of the governmental agency having jurisdiction over the Greenbelt District II land regardless of the transfer to and the acquisition of development rights, conservation easements or other easements in the Greenbelt District II land by the city whether now in effect or which may be subsequently adopted for the regulation of land uses or for the protection of the health, safety and welfare of residents of the jurisdiction.~~

~~(7) The City, its officials, employees and agents shall not be liable for any injury that may occur to any person, or for any damage that may occur to any property, as a result of any act, decision or other consequence or occurrence arising out of the acts or omission of the owner or any person or entity other than the city based on the existence of an application or the acquisition of development rights, conservation easements or other easements in Greenbelt District II land.~~

(Ord. No. 17-04, § 1, 5-3-04; Ord. No. 23-06, § 4, 5-15-06)

**3:69. Acquisition of Greenbelt District Land; Application and approval procedure; approval by City Council.**

(1) Owners who wish to be considered for a purchase of Greenbelt District land under this chapter must apply to the City. Application materials shall be made available by the City and include a summary of the criteria and guidelines for selection and a list of required documentation that must be attached to the application. Applications may be made at any time and reviewed by GAC as needed.

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(2) In order for an application to be considered by GAC for purchase, it must meet the following:

(1)(a) The applicant or applicants/Owner must have good, marketable, fee simple title to the Greenbelt District Land and show that they are able to promptly obtain such title upon request of the City.

(2)(b) The parcel of land proposed for purchase must be eligible Greenbelt District Land located within the Greenbelt District, except as provided in section 3:67.

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(3)(c) If a purchase of Development Rights or Conservation Easement purchase is approved by City Council, the applicant or applicants must agree to maintain the land in accordance with a Development Rights agreement or Conservation Easement upon terms approved by the City Administrator approved by City Council.

(4)(d) A completed application must be submitted on the City approved application form by the deadline established by GAC the City. An owner or a duly authorized representative of the owner may apply. All applications must be signed. The City may require a separate application is required for each parcel of land offered for acquisition. GAC The City shall establish and publish procedures for submission and to assist owners with the application process. These procedures shall be available from the City Clerk and Greenbelt staff.

The following information shall must be included in a completed application:

a.1. Adequate identification information to identify the relevant tax parcels, by deed reference of the parcel of land to be considered for purchase. The description should also include a map showing the location of the parcel with the Greenbelt District.

b.2. A description of the agricultural use carried out on the parcel or other current uses on the parcel land.

c.3. A statement by the owner of any contingencies that the owner wishes to make GAC aware of that may affect the property land in the future (such as death, estate plans, etc.) and intended reserved rights (such as building envelopes, exclusions, etc.).

d.4. A description of the features of the property land, such as presence of water bodies, scenic views, streams, wetlands, rare species, or other desirable features.

e.5. A statement by the owner granting access to the land for the purpose of inspection and appraisal of the parcel by the City, its employees or contractors, and GAC.

f.6. A list of any and all mortgages, liens, and encumbrances on the parcel land.

g.7. Existence A copy of all of any surface or subsurface leases or easements.

h.8. All other information requested on the application.

(2) If the application is complete and meets the minimum criteria established are met for consideration, GAC shall evaluate the Application the application shall be evaluated. A member of GAC, authorized contractor or City staff or contractor assigned to GAC, shall view each Greenbelt District Land Application and make a written report shall be made to GAC prioritizing the applications according to the established selection criteria.

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(3) After consideration of the staff's written report, GAC shall determine the annual list of owners with which applicants to proceed with foApplications should proceed to appraisal. r negotiation for purchase of land or land rights will be initiated. The determination shall be made with the goal of purchasing Greenbelt District Land, development rights and conservation easements from as many owners as possible in order to accumulate a critical mass of land to be retained for preservation and management purposes. Appraisals shall be performed as required by section 1:320 of City Code. The selected appraiser shall not have a property interest, personal interest, or financial interest in the subject lands. Appraisals shall be in writing and shall be furnished to the respective owners for review. Appraisals shall contain an analysis of the highest and best use of the land, the valuation methodology used by the appraiser, and the fair market value of the fee simple title to the land (excluding the buildings thereon, if any). For purchases of Conservation Easements, Development Rights, and other interests less than fee simple, the appraisal shall contain a "before and after" valuation that determines the value of the interest to be purchased by determining the difference in value of the fee simple title to the land before and after the purchase, taking into account all rights to be retained by the Owner.

(4) After receiving the appraisal, GAC shall determine whether to forward a recommendation for acquisition to City Council. Upon City Council approval of the acquisition, the City shall submit a written offer to acquire the land or land rights to the Owner via a purchase agreement or other method determined by City Council. The offer shall be for a time certain and accompanied by a general description of easement terms where applicable.

(5) Any Application that is not offered to be acquired because available funds are not sufficient within the current fiscal year or because GAC declines to proceed with the Application after review, may be considered again at a time determined by GAC, provided that the owner restates their interest in applying and updates the information on the Application or states that the information remains accurate. Applications shall not be given any preference or priority upon subsequent consideration, but shall be considered in the same manner as other Applications submitted at that time.

(6) Prior to concluding acquisition of the land or land rights initiating formal negotiation, at the City Administrator shall conduct all due diligence that the City Administrator deems appropriate, which may include title searches, environmental site assessments or testing, or surveys. title search shall be completed to determine if the owner has clear, marketable, fee simple title to the Greenbelt District Land. For purchases of development rights or conservation easements, a "before and after" qualified appraisal of the property and the interest offered for purchase shall be conducted. The qualified appraisal shall contain an analysis of the highest and best use of the parcel of land, the valuation methodology used by the appraiser to determine value, the fair market value of the full ownership of the land (excluding the buildings thereon, if any), and the value of the and any residential developments rights to be retained by the owner for development right purchases; or the value of all rights to be retained by the owner for conservation easement purchases. The value of the owner's retained rights or interest in the land shall be listed separately in the qualified appraisal. For purchases of land in fee simple, the qualified appraisal shall contain only the analysis of the highest and best use of the parcel of land, the valuation methodology used by the appraiser to determine value and the fair market value of the full ownership of the land (excluding the buildings thereon, if any). If appropriate, an environmental site assessment, soil analysis, boundary survey or other testing may be conducted. At the conclusion of all testing and completion of the title search, a complete property analysis, including a baseline documentation report of the property, should be prepared by the City and recommendation shall be prepared as to whether negotiation should continue. The owner shall be entitled to a copy of the property analysis.

GAC or another authorized negotiator on behalf of the city shall submit a written offer to purchase to the owner. The offer shall be for a time certain accompanied by a sample proposed deed of easement or title easement deed, in accordance with the offer made in the application.

~~An owner may, at his or her own expense, provide additional information to GAC on the findings and determinations included in the property analysis or withdraw his or her application within 30 days of receipt of the property analysis.~~

~~After receipt of all information relating to an application, GAC shall forward a recommendation for acquisition to City Council for action.~~

~~(7) The City, its officials, employees, and agents shall not be liable for any injury that occurs to any person, or for any damage that occurs to any property, as a result of any act, decision, or other consequence or occurrence arising out of the acts or omission of an Owner or any person or entity other than the City based on the existence of an Application or the acquisition of development rights, conservation easements, or other land rights under this chapter.~~

(Ord. No. 17-04, § 1, 5-3-04; Ord. No. 23-06, § 5, 5-15-06)

### 3:70. Related costs.

The costs of appraisal, title, engineering, surveying, planning, financial, environmental, legal or other services or due diligence lawfully incurred incident to the acquisition of Greenbelt District Land or development rights, conservation easements or other easements or leasehold interest in Greenbelt District Land land or land rights by the City in accordance with this chapter shall be paid as negotiated by the City and Owner paid by the city. The City shall not be responsible for expenses incurred by the owner incident to owner's aApplication to or sale of Greenbelt District Land, nor shall the city be responsible for costs associated with the owner's sale of land or land rights, including but not limited to title insurance and property transfer taxes.

(Ord. No. 17-04, § 1, 5-3-04; Ord. No. 23-06, § 6, 5-15-06)

### 3:71. Conservation Easement requirements; exceptions ~~Retained residential development rights.~~

~~(1) To promote "" of properties on which the city has purchased the development rights, it has been determined that such properties should remain substantially undeveloped.~~

(2) Where appropriate or required by partner entities, for land on which the City proposes to acquire an agricultural Conservation Easement, in order to ensure environmentally responsible agricultural practices on properties which the city has purchased the development rights, such properties the Owner must conform to the USDA's Generally Accepted Agriculture Management Practices (GAAMPs) and develop a Conservation Plan shall be developed by with the local Natural Resource Conservation Service (NRCS) office prior to closing on the sale. The Conservation Plan must should be updated every 10 years and monitored by NRCS and reviewed intermittently as necessary by the City annually. The Conservation Plan shall be written using current the standards and specifications in effect at the time of the Conservation Plan is development.

~~(3)~~

Conservation Easements acquired under this chapter may include permitted uses that:

(a) are essential to agricultural use; or

(b) do not alter the open space character or natural features of the land, which may include the maintenance or enhancement of natural processes (e.g. water quality, plant and wildlife habitat, groundwater recharge); or the scenic enjoyment of the public.

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~~(3) It may be in the best interest of property owners and of the program to purchase development rights that property owners retain some residential development rights so long as the land remains substantially undeveloped. When property owners retain some development rights their land value remains higher than it would be if they sold all their development rights and the value of the development rights to be purchased is correspondingly reduced.~~

(4) Conservation easements conveying development rights to the city may include a provision for an Owner landowner to retain the right to build additional residential dwellings and accessory agricultural structures. A Conservation Easement shall permit no more than 1 residential dwelling unit and related accessory buildings such as a garage or shed for each 10 acres of land. For parcels less than 10 acres in existence prior to the original date of adoption of this chapter (May 3, 2004), and which cannot be joined to a larger contiguous parcel, no more than 1 residential dwelling unit and related accessory buildings is permitted. Such reserved rights will be reviewed by GAC and recommendations will be made by GAC to City Council on the inclusion of the reserved rights on an individual application and/or parcel basis, on the following schedule:

~~0-40 acres:0~~

~~41-80 acres:1~~

~~81-160 acres:2~~

~~161 and more acres:3~~

~~Initially, these dwellings must be owned or occupied by a direct family member or for a farm laborer with a demonstrable employment record or financial risk in the farming operation.~~

(5) Both residential and non-residential buildings must be identified in the negotiated conservation easement in order to protect other important features of the property land. Building locations and lot sizes must also conform to existing zoning in the municipality where the property land is located. The total impervious surface area for new and existing buildings and roads (such as which includes non-seasonal, permanent rooftops, concrete, and asphalt) must not exceed 2% of the total conservation easement area defined in the conservation easement granted to the city. ~~Waivers for of the 2% impervious surface limitation may be determined by the City Administrator recommended by staff and GAC on a case-by-case an individual application and/or parcel basis, subject to approval by City Council.~~

(6) ~~A n Owner landowner~~ may choose to omit an area of land from a Conservation Easement for maximum of 2 residential building lots from the nominated property of the minimum size allowed by local zoning and a total number of lots recommended by GAC and approved by City Council determined by the City Administrator. GAC and City Council may consider such omission when evaluating on which properties to purchase development rights.

(7) ~~Once action to select properties for the purchase of development rights has been taken by~~ After City Council has approved the acquisition of a Conservation Easement, development rights agreement, or similar restrictive interest in land, a baseline documentation report will shall be prepared describing through photographic, pictorial, and narrative means the condition of the property land at the time of the grant acquisition and a development rights easement. The baseline documentation report shall contain a signature page where the owner and ~~City city staff~~ the supervisor sign to state that the report is an accurate description of the property land at the time of grant.

~~(8) The eConservation eEasements, development rights agreements, and other interests in land shall run with the land and shall be recorded with the County Register of Deeds. shall similarly feature a page where the signatures of the owner and the Mayor are notarized, following which the conservation easement shall be recorded with the county register of deeds so that it is effective on all current and future owners.~~

(Ord. No. 17-04, § 1, 5-3-04; Ord. No. 23-06, § 7, 5-15-06)

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

~~Revenues received for preservation and protection of open space, parkland, natural habitats and city sourcewaters through acquisition and management of Greenbelt District Land and the development rights, conservation easements and other easements on Greenbelt District Land shall be placed in a designated An Open Space and Parkland Preservation Fund (the "OSPP Fund") which is hereby created in the City budget, which shall hold. Revenues for the purpose of this section shall include m OSPP Millage revenue and funds designated for the purpose of acquisition and management of Greenbelt District landillage funds, including designated monetary gifts, unrestricted grants, and any investment income earned in the ffund.~~

The ~~OSPP f~~fund shall be invested and managed in the same manner as existing funds of the ~~City~~. No part of the ~~OSPP f~~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 f~~fund require authorization of City Council.

(Ord. No. 17-04, § 1, 5-3-04; Ord. No. 23-06, § 8, 5-15-06)

### 3:73. ~~Purchase of development rightsDuration of acquired rights; release.~~

- (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) ~~An 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.~~

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Development rights acquired pursuant to section 3.61(9) of this chapter shall be held in trust by the city for the benefit of its citizens in perpetuity. After 50 years have passed, however, the owner may make application to GAC to re-purchase the development rights. GAC shall review such application and determine whether the property has (a) become landlocked with non-s, (b) farming is no longer feasible and (c) the release is for the public good. GAC shall evaluate the feasibility of farming by determining whether the land is no longer and never will be suitable for any kind of agriculture, with wooded land or land left fallow not necessarily to be considered unsuitable. GAC shall hold a public hearing to gain input from citizens on the application and make recommendation to City Council on the request.

- (2) Upon receiving the recommendations of GAC, City Council shall take final action on such recommendations. Council must support the request by an owner to repurchase development rights by a 9 member majority of the total 11 members of Council. For properties 100 acres and greater, Council's 9 member majority support of the request shall result in a referendum to allow the public to decide the matter. If Council or the public supports the request, the owner shall have 1 year to complete the process of re-purchasing the rights and all associated actions. All costs associated with the request shall be borne by the applicant.
- (3) For those properties which City Council approves the return of development rights as specified in subsection (1), GAC shall cause an appraisal of the applicant's property interest to be made at the owner's expense. Payment for this appraisal shall be made by the owner in advance. A "before and after" appraisal shall be made to determine the value of development rights. One appraisal shall determine the fair market value of full ownership of the land (excluding buildings thereon) and one shall determine the fair market value of the plus any specifically retained residential development rights.
- (4) Appraisals shall be performed as required by section 1:320 of Ann Arbor City Code. The selected appraiser shall not have a property interest, personal interest or financial interest in the subject lands. In the event that the low bidder has a conflict of interest associated with a potential easement, the second low bidder will conduct that appraisal. In any event, the same appraiser shall conduct the before and after appraisals.
- (5) Appraisals shall be in writing and shall be furnished to the respective owners for review. Errors of fact in any appraisal may be called to the attention of the appraiser by GAC or by owners of the property appraised, but corrections of the appraisal may be made only by the appraiser.
- (6) At any time in this process, the owner may choose to withdraw the request for the return of development rights without penalty, while still being responsible for the city's appraisal of the property as specified in subsection (2) and any other costs incurred.
- (7) If City Council approves return of development rights as specified in section 3.73(1) of this chapter, the city shall have a right of first refusal to purchase the remaining rights at the fair market value of the plus any retained development rights, as determined by the appraisal required in section 3.73(3) of this chapter, for the purposes of a city park or other publicly-accessible property. Upon receiving the recommendations of GAC, City Council shall take final action on such recommendations. If Council chooses to exercise this right of first refusal, an offer to purchase the remaining rights at the appraised value shall be submitted within 180 days. Acquisition of lands for public purposes shall be made with funds designated for such purchases and not with funds authorized for development rights acquisition pursuant to this chapter. The owner may at that time choose to not sell the remaining rights and instead retain ownership of the property. If Council approves the sale of development rights back to the owner, proceeds from that sale shall be placed in the Greenbelt and Open Space Acquisition Fund as specified in section 3.73 of this chapter.
- (8) if (a) a request to re-purchase development rights is denied by City Council or the public, or (b) the landowner chooses not to ~~not~~ sell the remaining rights when the city chooses to exercise its right of first refusal or (c) more than a year passes from Council's authorization for the re-purchase of rights, the landowner must wait 5 years before re-applying to re-purchase development rights.

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

(Ord. No. 17-04, § 1, 5-3-04)

### 3:74. Enforcement.

~~City staff~~The City Administrator shall administer and enforce ~~and the City Attorney shall prosecute this chapter and development rights and conservation easements agreements~~the land rights acquired hereunder in consultation with the City Attorney. GAC ~~will~~may advise and make recommendations to ~~the City Administrator or City Council~~ concerning monitoring and investigation of complaints of violations ~~of in city~~City-acquired land and land rights outside of the City park system. ~~GAC shall a~~At least once annually, the City Administrator shall conduct monitoring of each parcel subject to a development rights agreement or conservation easement -ascertain whether the owner is complying for compliance with all conditions of the agreement or easement. The City Administrator shall make a written report of the findings of such monitoring or deed. Inspection findings shall be in writing and maintained. Any and report all violation identified shall be referred to the City Attorney.

(Ord. No. 17-04, § 1, 5-3-04)

### 3:75. Administrative costs.

~~(1) Reasonable administrative expenses can~~may be paid from ~~the parks and greenbelt millage~~OSPP Millage revenues ~~for the acquisition, lease, or donation, in whole or in part, of parkland and conservation easements, land and land rights, inside and outside the city. These expenses shall not exceed the amount determined by the following formula:~~

- ~~(A) —\$2,000.00 for each potential acquisition or leasehold parcel approved by either the Park Advisory Commission or the Greenbelt Advisory Commission for negotiation with property owners plus~~
- ~~(B) (1) 6% of the principal amount of each series of bonds issued to finance all or part of the parks and greenbelt program ("Open Space Bonds") plus~~
- ~~(2) —6% of the annual millage revenue in excess of annual debt service requirements on open space bonds; provided, that, projections of property tax valuations and millage collections over the term of the millage, which projections are approved by City Council at the time of issuance of each series of open space bonds, demonstrate that the permitted amount for administrative expenses under part B of such formula will not exceed 6% of the total millage collections over the term of the levy.~~

The ~~following activities~~cost of the following shall be considered administrative~~ve~~on expenses that may be paid for from ~~the millage~~OSPP Millage revenues, provided that they relate to activities permitted under this chapter:

- Staff or consultant time, including benefits, devoted directly to the acquisition process.
- Staff or consultant time, including benefits, devoted directly to program support.
- Travel/vehicle costs incurred.
- Administrative expenses directly attributable to program support or the acquisition process.
- Monitoring of acquired land or land rights, including development rights ~~and~~or conservation easements.
- Enforcement of acquired land rights, including development rights ~~and~~or conservation easements



- Legal expenses directly related to the acquisition of or leasing of ~~land or land rights~~ property or property interests, including staff or outside counsel time.

~~The actual cost of property or property interests, or the actual cost of lease or leasehold interests, plus charges for the items on the list to follow, can be paid from millage revenues, but are not considered administrative expenses and are not subject to the limits on the appropriation of administrative expenses.~~

- Title commitments, ~~and title insurance, and including closing costs.~~
- Payment of property taxes on acquired or leased property.
- Preparation of appraisals ~~of property.~~
- Preparation of surveys ~~of property.~~
- Preparation of Phase 1 Environmental Site Assessments ~~of property and other appropriate environmental testing and documentation, as well as subsequent phases/baseline environmental studies and any related due care plan, if required.~~
- Baseline documentation reports for development rights ~~and/or~~ conservation easements.
- Costs directly related to the sale of bonds supported by ~~this the OSPP m~~ Millage.
  - Due diligence related to acquisition or management of land or land rights.

(2) The ~~cost of the~~ following activities shall not be paid for ~~from OSPP Millage revenues by funds provided by this:~~

- Parkland ~~Operating~~, maintenance, repair, restoration, and development costs for acquired properties, or interests in properties, except as otherwise provided in this section.
- ~~Any overhead charges, such as a~~ An internal municipal service charge.
- Activities of the City Administrator, Mayor, or City Council.
- ~~Activities related to city ordinances or resolutions.~~
- Charges for ~~any~~ staff time not directly related to the purpose of ~~this the OSPP Millage~~ millage.
- Charges for office space or utilities.

(Ord. No. 17-04, § 1, 5-3-04; Ord. No. 9-05, § 2, 4-4-05; Ord. No. 23-06, § 9, 5-15-06)

### 3:76. Reserved.

Editor's note(s)—Ord. No. 23-06, § 10, adopted May 15, 2006, repealed § 3:76, which pertained to donations. See also the Code Comparative Table.

### 3:77. Audit.

The City shall, on an annual basis, provide for public review a financial statement of its activities, including detailed expenditures for program staffing, land and easement acquisition, related costs and all other expenditures for implementing the parks and greenbelt acquisition program. This financial statement will be based on the independent financial audit of the City's finances.

(Ord. No. 17-04, § 1, 5-3-04)

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