

ORDINANCE NO.: 128

AN ORDINANCE providing procedures and standards for Washtenaw County's purchase of fee simple or easement interests in land within Washtenaw County.

BE IT ORDAINED BY THE WASHTENAW COUNTY BOARD OF COMMISSIONERS:

SECTION 1: Declaration of Purpose

The Washtenaw County Board of Commissioners declares that Washtenaw County is a desirable place to live, work and visit in large part because of the existence of natural areas within the County. Natural areas have aesthetic as well as practical benefits for County citizens. In addition, the purchase of natural areas can be used to protect fragile lands and environmentally threatened lands. The purchase of natural areas within the County will further these public benefits. Passive recreation would be appropriate use of this land.

SECTION 2: Definitions

- 1) "County Board" means the Washtenaw County Board of Commissioners.
- 2) "Full Ownership" means fee simple ownership.
- 3) "Governmental Agency" means the United States or any agency of the United States, the State of Michigan or any agency of the State of Michigan, any Township, City or Municipal Corporation.
- 4) "Natural Areas Land" means any land, **including that used for agricultural purposes**, which provides the function of conserving natural resources, including the promotion of the conservation of soils, wetlands and waterways, habitat, and special plants, animals, and plant communities.
- 5) "Parks and Recreation Commission" means the Washtenaw County Parks and Recreation Commission.
- 6) "Passive Recreation" means walking, jogging, bird watching, nature studies, quiet picnicking and other quiet inactive pastimes.
- 7) ~~"Planning Advisory Board" means the Washtenaw County Planning Advisory Board.~~
- 8) "Property Owner" means the party or parties having the fee simple ownership interest in land.

SECTION 3: Authorization

Pursuant to MCLA 46.358, the Parks and Recreation Commission has the right to purchase and hold real estate in the name of the County.

SECTION 4: Advisory Committees

- A. Natural Areas Technical Advisory Committee
- 1) The County Board shall create and appoint, upon recommendation of the Parks and Recreation Commission, a seven-member body under this Ordinance to be named the Natural Areas Technical Advisory Committee

("NATAC"). NATAC shall function as an advisory body to assist the Parks and Recreation Commission in determining whether it should purchase a particular natural areas parcel offered for sale to the County. Policies and Operating Procedures of NATAC shall be established by the Parks and Recreation Commission.

- 2) NATAC members must be County residents. At least one member shall be appointed who has demonstrable level of expertise in each of the following professions: (a) fisheries biology/aquatic ecology; (b) botany/forestry; (c) wildlife management; (d) professional land use planning; (e) environmental education; (f) professional real estate or development practice; and (g) land trust/conservation. In addition, the County Board may appoint ex-officio members.
- 3) NATAC members shall serve two-year terms, except that the initial terms of four of the members shall be for a three-year period. The County Board may reappoint members to successive terms. The County Board shall have the discretion to remove NATAC members for good cause. NATAC members shall not be compensated for their services but shall be reimbursed for attending meetings and for mileage as provided under the Rules of the County Board.
- 4) The County Board may terminate NATAC upon approval of 2/3 of the County Board elected and serving.
- 5) Individual NATAC members shall disclose any potential conflict of interest and abstain from any discussion or voting on the matter in which he/she has a conflict.

B. Agricultural Lands Preservation Advisory Committee

1) . The Agricultural Lands Preservation Advisory Committee (ALPAC), as established by the Washtenaw County Purchase of Development Rights Ordinance as adopted by the County Board on September 5, 2007, shall assist the Parks and Recreation Commission in determining whether it should purchase the Development Rights on a particular parcel as well as how much the County should pay for those rights.

SECTION 5: Application Process

Either the Parks and Recreation Commission or a property owner may initiate discussion pertaining to the sale of natural areas property to the County. A property owner interested in selling natural areas land to the County shall complete an application on a form provided by the Parks and Recreation Commission. Completed applications shall be forwarded to the Parks and Recreation Commission.

- 1) The Parks and Recreation Commission shall forward all completed applications to the following groups for advisory opinions: (1) the local unit where the property is located; ~~(2) the Planning Advisory Board; and (2)~~ NATAC **or ALPAC as appropriate.** ~~The Planning Advisory Board and~~

NATAC **and ALPAC** shall co-operate with each other and the Parks and Recreation Commission as necessary to fulfill their respective duties under the Ordinance.

- ~~2) The Planning Advisory Board shall consider how the application affects the following areas: (1) long range planning; (2) existing land use; (3) current zoning; (4) compliance with County and local unit master plans; (5) impact on fragile lands/natural resources; and (6) impact on infrastructure and the community as a whole.~~
- 3) NATAC **or ALPAC as appropriate** shall give the Parks and Recreation Commission an advisory opinion on the following issues: (1) should the Parks and Recreation Commission purchase the natural areas under review; and (2) how much the Parks and Recreation Commission should pay for that property. NATAC **or ALPAC** shall evaluate the applications based on the criteria in this Ordinance **and the Washtenaw County Purchase of Development Rights Ordinance** to determine which properties the Parks and Recreation Commission should appraise for possible purchase.
- 4) State Certified Appraisers, selected by the Parks and Recreation Commission shall complete the appraisals. Any Parks and Recreation Commission selected Appraiser shall immediately disclose any conflict of interest he/she might have in appraising the property. The Parks and Recreation Commission shall choose an alternate Appraiser if a conflict of interest is discovered. Appraisals shall be in writing and will be furnished to the property owner for review. The Parks and Recreation Commission or property owner may point out errors of fact, provided however, that only the Appraiser may correct the appraisal.
- 5) The Parks and Recreation Commission shall review the recommendations from the local unit, ~~Planning Advisory Board~~, and NATAC **or ALPAC** on whether the property should be purchased and at what price.
- 6) The Parks and Recreation Commission at a regularly scheduled or special meeting shall make the final decision on whether to purchase the natural areas property and at what price. Notwithstanding any advisory recommendations, the Parks and Recreation Commission has complete discretion to determine whether to purchase any proposed natural areas property and may decide not to buy any particular property if it finds that such action is in the County's best interest. The opportunity for donation and/or matching funds may be part of the decision to purchase the property. The Parks and Recreation Commission shall direct that a Phase I environmental audit be completed prior to the completion of the purchase.
- 7) After agreeing to purchase a natural area, the Parks and Recreation Commission shall direct the Office of Corporation Counsel to complete the documents necessary to complete the transaction.

SECTION 6: Criteria for Deciding Whether to Purchase Natural Areas Land. The Parks and Recreation Commission and NATAC **or ALPAC** will use the criteria below to evaluate property and the Parks and Recreation Commission shall use such criteria when deciding whether to purchase a particular parcel.

A. Natural Areas

- Public Water Resources: property with water resources frontage; property located in a headwaters area important to protect water quality; property which overlies a groundwater recharge area that supports a public water supply; or, property which includes wetlands.
- Special Plants, Animals and Plant Communities: property which supports wildlife populations or habitat or adds to already protected property/ies which would protect wildlife populations or habitat; property which has plant species listed by the State of Michigan as “Endangered,” “Threatened,” or “Special Concern,” and/or unique vegetative communities.
- Recreation and Scientific Values: property, which provides public access to public waters or trails or protects a trail corridor; or, property, which is a well-documented site of scientific study.
- Proximity to Protected Land: property, which abuts or is otherwise integral to a permanently protected tract of public or private land being held for conservation or recreation purposes.

B. Agricultural Lands

- **Characteristics of the farmland: prime and unique soils, size, percentage of property in agricultural use, scenic historic or architectural features, scenic view.**
- **Potential for development pressure: adjacent land uses, adjacent land use designation, amount of road frontage proximity to public sanitary sewer/water.**
- **Leverage: Percentage of funding from other sources, including willingness of landowner to accept a percentage of the appraised value of the development rights on the property.**
- **Open space value: Proximity to existing private and/or public protected land, regardless of use.**

SECTION 7: Supplemental Funds

Supplemental or matching funds from other Governmental Agencies or private sources may become available to pay a portion of the cost of acquiring natural areas property within the County. The County Board authorizes such funds to be used to purchase natural areas properties within the County.

SECTION 8: ~~Natural Areas~~ Acquisition Fund

Available funding for the purchase of natural areas land shall be deposited in a special fund in the office of the Washtenaw County Treasurer (“Acquisition Fund”). Money in such Acquisition Fund may be temporarily deposited in such institutions or invested in such obligations as may be lawful for the investment of County money.

The revenues from the deposit and/or investment of the Acquisition Fund along with the revenues from the sale of any natural areas property purchased pursuant to this

Ordinance shall be applied and used solely for the purchase of natural areas land **(75%) and agricultural development rights (25%)** under this Ordinance, provided, however, that no more than 7% of increased millage funds used to purchase land under this Ordinance may be used annually to administer a land preservation program or maintain lands purchased under this Ordinance.

SECTION 9: Condemnation

No funds generated from any source that are used to procure natural area lands under this Ordinance shall be used to condemn any public or private property.

SECTION 10: Severability

Any provision of this Ordinance which is found by a court of competent jurisdiction to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision contained in the Ordinance and such other provisions shall remain in full force and effect.

SECTION 11: Amendments

This Ordinance may only be amended by a majority vote of the County Board members elected and serving.

SECTION 12: Repeal of Conflicting Ordinances

All ordinances or parts of ordinances in conflict or inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistencies or conflicts.