

Order 204-13/14

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CITY OF PORTLAND
IN THE CITY COUNCIL

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AMENDMENT TO CITY CODE CHAPTER 2
(ADMINISTRATION),
ARTICLE III-A

Re: Land Bank Commission Amendments

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

1. That Chapter 2 (Administration), Article III-A, is amended to read as follows:

Sec. 2-41. Definitions.

As used in this article, unless the context indicates otherwise, the following terms have the following meanings:

Commission means the Portland land bank commission established pursuant to section 2-42.

Land bank means property interests of the types provided in section 2-43(a) which are purchased, acquired or dedicated for the conservation and open space purposes hereunder.

Land bank fund means the fund established hereunder for the purchase of property interests for the conservation and open space purposes hereunder or for making grants or loans for such purposes.

Property interest means any fee simple interest in real property and any lesser interest therein, including without limitation, conservation restrictions and easements.

(Substitute Ord. No. 233, § 1, 4-5-99)

Sec. 2-42. Commission Established.

(a) *Findings.* The City Council hereby finds that:

1. There is a need to balance development within the municipality with conservation of open space important for wildlife, ecological, environmental, scenic or outdoor recreational values;
2. there are insufficient financial resources currently in place to plan for, and acquire significant open space lands or easements which are or may become available within the municipality or in adjoining buffer areas; and
3. there is a need to supplement the city's open space conservation efforts, without duplicating the efforts of other public and private groups including the Portland Planning Board, Portland Trails and the ~~Friends of the Parks~~ Parks Commission.

Therefore, in order to ensure the conservation and preservation of limited open space with important wildlife, ecological, environmental, scenic or outdoor recreational values, there is hereby established a Portland Land Bank Commission, Portland Land Bank and a Portland Land Bank Fund.

(b) *Purposes.* It shall be the purpose of the commission to:

1. work for the acquisition and conservation of open space within the City, as defined in §2-43(a) below;
2. cooperate with other agencies and parties on wetlands mitigation projects;
3. recommend on a priority basis the acquisition of various interests in real estate in order to effectuate the goals of this article;
4. accept gifts and funds from both private and public sources and to disburse such funds in accordance with the commission's approved budget for the purposes hereunder;
5. act as a liaison to other public and private nonprofit agencies involved in planning, acquisition, disposition, and management of

conservation and open space land within the municipality; and

6. recommend an annual budget to the City Manager and City Council to carry out its purposes.

(c) *Appointment of commission.* The Portland Land Bank Commission shall consist of and be administered by nine (9) persons appointed by the City Council for staggered three-year terms. Except as provided below for non-voting members, the members must be legal residents of the municipality and shall serve without compensation. One member of the commission shall be appointed from the City Council. Neither a municipal employee nor member of the Planning Board or Board of Appeals may be a member of the commission. To the extent feasible, representation on the board shall be diversified, including without limitation, members representing environmental or conservation interests, the Parks Commission, economic development, business and financial interests, and the public generally. There shall be a resident from each of the City Council districts on the commission.

(d) *Non-voting members.* In addition to the nine voting members, the Board of Directors of Portland Trails and of Maine Audubon Society shall each appoint one person from each of their memberships to serve as non-voting members of the commission for three (3) year terms. The only eligibility requirement for appointment to the non-voting positions shall be membership in the respective group which they represent. Such non-voting members shall serve at the pleasure of their appointing Board of Directors.

(e) *Vacancies.* In the event of a permanent vacancy in the voting members, the City Council shall, within 120 days of its occurrence, appoint a person to serve for the unexpired term.

(f) *Removal.* Voting members of the commission may be removed by the City Council for cause, after notice and hearing. Without limiting the foregoing, excessive absences from regularly scheduled meetings shall be considered cause for removal.

(g) *Organization of commission.* The commission shall annually elect a chair, a secretary and a treasurer from

among its voting members and shall adopt reasonable rules for the conduct of its meetings, which rules shall include provisions for public comment substantially the same as those provided by City Council rules for standing council committees. The decisions of the commission shall be by majority vote of those present and voting and no business may be transacted without a majority of the voting members present; provided, however, five (5) votes shall always be required to authorize a grant or loan for acquisition of, or to recommend to the council the disposition of, any property interest acquired or disposed of hereunder. The Commission shall keep accurate records of its meetings and actions and shall file an annual report with the City Manager.

(h) *Powers and duties of commission.* The Commission:

1. Shall file annually with the City Council a registry of all open space of the types in section 2-43(a), publicly or privately owned, located within the city or abutting the City as potential buffer areas, for the purpose of providing information pertinent to property utilization, protection, development or use of such open space. The registry must show all property interests then currently held by the city, including a description of the use of those interests and all acquisitions, improvements or dispositions of all property interests held by the city at any time during the year preceding each filing. The commission shall determine and list in the registry the open space lands which meet the criteria in section 2-43(a) and which have significant value for preservation through the land bank, and those which are of lesser or no value for preservation and those which are more appropriate for other uses. The foregoing determinations shall include a prioritized list of any recommended acquisitions for the Land Bank, as well as the commission's rationale for its determinations. The commission shall actively seek comments on the proposed registry from the Planning Board, Friends of the Parks, city departments, and the general public at a public hearing prior to adopting the registry or revision to the registry and forwarding it to the council for review. Said registry or revision

thereto shall be subject to the approval of the City Council;

2. May solicit and recommend to the City Council the acceptance of gifts of any real property interests or of funds to further the conservation and open space goals of this article;
3. May recommend to the City Council the disposition of all or any portion of the property interests listed in the registry and held by the city; shall review any request to use, improve or permanently dispose of a property interest prior to review by a council committee or the city council; and may review any proposed disposition of city tax-acquired property interests and make its own recommendations thereon to the City's tax acquired property committee, council committees and/or the City Council;
4. May obtain such professional services as are necessary in order to perform its duties, including development and updating of the Commission's registry, provided, however, to the extent possible, City staff shall assist the Commission;
5. May act as a liaison for the activities of public and private conservation bodies organized for similar purposes;
6. May make recommendations to, and participate with, the city and other agencies and parties in regard to wetlands mitigation plans and projects;
7. May apply for federal, state and local funds for which it may be eligible, subject to the approval of the City Council;
8. May advertise, prepare, print and distribute books, maps, charts, plans and pamphlets which in its judgment it deems necessary; and
9. Shall submit to the City Manager annually an operating and capital budget for all expenses and projects of the Commission, which shall include a separate budget for expenditures from the Land

Bank fund, which expenditures will be limited to the purposes for which this fund is dedicated. Commission expenditures shall not exceed its annual operating and capital budget, unless otherwise amended by the City Council.

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Sec. 2-43. Establishment of Land Bank.

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(c) *Disposition of property interests.* Any request to use, improve or dispose of any property interest in the Land Bank in a manner otherwise prohibited by this article shall become effective only after review and recommendation thereon by the commission and approval of ~~sevenix~~ (76) members of the City Council; provided, however, such use, improvement or disposition must be legally consistent with the terms of any gift or grant of funds or property which was used for the acquisition of that property interest. Nothing herein is intended, nor shall it be deemed, to prevent or prohibit the sale or development of all or a portion of any property interest purchased with land bank funds to the extent legally consistent with the terms of its acquisition and approved by ~~sevenix~~ (76) members of the City Council; provided, however, that the fund shall be reimbursed all of its costs and expenses for such purchase from such sale or development, including without limitation the purchase price, or pro rata share thereof, of the property interest.

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