

(ITEM A-3 & F5)

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SALT LAKE CITY ORDINANCE

No. _____ of 2004

(Enacting Chapter 2.88 of the Salt Lake City Code
creating the Open Space Lands Program)

AN ORDINANCE ENACTING CHAPTER 2.88 OF THE SALT LAKE CITY
CODE CREATING THE OPEN SPACE LANDS PROGRAM.

WHEREAS, the City recognizes the need to protect the diminishing open space
lands within Salt Lake City or its environs; and

WHEREAS, the voters of Salt Lake City on November 4, 2003 approved the
allocation of \$5.4 million in bond funds for the purpose of acquiring, and preserving
open space **(Recommended by Administration Budget staff)**, parks and recreation
lands and amenities **(Recommended by Administration Budget staff)** within Salt Lake
City or its environs; and

WHEREAS, supporters of open space lands may donate funds for the purpose of
acquiring, protecting maintaining and managing open space, parks and recreation lands
within Salt Lake City or its environs; and **(Recommended by Administration Budget
staff)**

WHEREAS, the City has adopted an Open Space Master Plan to identify, protect
and manage open space lands; and

WHEREAS, the City's comprehensive plan, zoning ordinance and site
development ordinance recognize the need to protect the unique values offered by
wetlands, foothills and urban trails;

NOW, THEREFORE, be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. Chapter 2.88 of the Salt Lake City Code shall be, and the same
hereby is, enacted to read as follows:

Chapter 2.88-- Open Space Lands Program

2.88.010 Purpose. The Salt Lake City Open Space Lands Program, Fund and Advisory Board are established to facilitate the City's acquisition, management, promotion, preservation, protection and enhancement of open space lands and to encourage public and private gifts of land, money, securities or other property to be used to preserve the natural, scenic, historic and important neighborhood open space lands.

2.88.020 Definitions.

For the purpose of this chapter the following terms, phrases, words, and their derivations shall have the meanings given in this section:

A. "Open Space Land" means a parcel of land in a predominantly open and undeveloped condition that is suitable for any of the following:

1. natural areas;
2. wildlife habitat;
3. important wetlands or watershed lands;
4. greenway or stream corridors;
5. neighborhood parks compatible with low-impact use involving development or redevelopment activities that result in little or no land disturbances such as landscaping, picnic tables, benches and playground equipment; and/or
6. trails for non-motorized recreational activities.

Open Space Lands may be preserved, enhanced and restored in order to maintain or improve the natural, scenic, ecological, cultural, hydrological or geological values of the property. Open Space Lands may be located: (1) within Salt Lake City, or (2) outside Salt Lake City if the Board determines it is in furtherance of the objectives of this Ordinance. As used herein, the term "undeveloped" does not include manmade structures of historical significance.

(Recommended and approved by City Council)

- B. "Board" means the Salt Lake City Open Space Lands Advisory Board.
- C. "Program" means the Salt Lake City Open Space Lands Program created by this chapter.
- D. "Fund" means the Salt Lake City Open Space Lands Fund created by this chapter.

E. "Open space lands inventory" means those real properties or interests in real properties held by the City that are identified in the inventory and map created and established pursuant to this Chapter.

2.88.030 Creation of Open Space Lands Program

In order to provide an administrative structure for the protection, acquisition, management and compatible development of Open Space Lands in Salt Lake City, and to implement the bond measure passed on November 4, 2003, there is hereby established the Salt Lake City Open Space Lands Program (hereinafter referred to as the "Program"). The purposes of the Program shall include, but are not limited to:

- A. The acquisition and protection of Open Space Lands by Salt Lake City, or the City in partnership with other public and private entities, through Fund purchases of land, conservation easements, or other interests that come within the definition of Open Space Land. In addition, the acquisition and protection of Open Space Lands utilizing funding sources other than the Fund, through partnerships, donation, bequest, devise, dedication, or other means available to the Program by law.
- B. The management, maintenance and preservation of Open Space Lands and associated natural, wildlife, conservation or public use and trail values of any lands, conservation easements or other interests in land acquired by Salt Lake City, or by the City in partnership with other public or private entities.
- C. The monitoring of any lands, conservation easements or other interests in land acquired and held by the City, or the City in partnership with other public or private entities, and the enforcement of any terms, conditions, covenants, easements or other provisions pertaining to the protection of any lands, conservation easements or interests in land so acquired and held.

2.88.040 Creation of Fund.

There is created a designated **(Recommended by Administration Budget staff)** account within the accounting fund structure of the City, **(Recommended by Administration Budget staff)** as the "Salt Lake City Open Space Lands Fund" ("Fund"). The **(Recommended by Administration Budget staff)** Fund shall be used exclusively to acquire, preserve, **(Recommended by Administration Budget staff)** protect and

maintain open space lands. No expenditures shall be made from the Fund without prior approval of the City Council.

A. There shall be deposited into the Fund all monies received by the City, regardless of source, together with all interest or other earnings thereon, that are dedicated and restricted to the acquisition, protection and maintenance of open space lands including, but not limited to, the following:

1. Grant, bond proceeds (**Recommended by Administration Budget staff**), loan repayments, bonuses, entitlements, mitigation fees, forfeitures, donations, redevelopment tax increment income, and all other monies dedicated to the acquisition and maintenance of open space lands received by the City from federal, state, or local governments;

(added new section 2.88.050 Creation of Inventory and Map see below.

(Recommended by Administration and approved by City Council)

2. Monies appropriated to the Fund by the City Council;
3. Contributions made specifically for this purpose from other public or private sources;
4. Any amounts in the City's Land-Open Space Matching account or the Open Space Land Trust account; and
5. Subject to any restrictions to the contrary in bond documents, any amounts obtained from the sale or transfer of any open space land.

B. The monies in the Fund shall be invested by the City Treasurer in accordance with the usual procedures for such special accounts. All interest or other earnings derived from Fund monies shall be deposited in the Fund.

C. Expenditures from the Fund shall be used for the sole purpose of acquisition and/or protection of Open Space Lands. The appropriation of any amounts from the Fund for the acquisition of land shall be conditioned upon granting a restrictive covenant or conservation easement in favor of a qualified public or non-profit land conservation entity, in a form sufficient to ensure that any land acquired shall be protected and preserved as open space in perpetuity.

- D. Non-Program Projects: Moneys from the Fund may be used to partner in, or contribute to, open space land protection projects involving lands, conservation easements, or other interests in open space lands where the City will be a funding participant only, or where lands will be held and managed by an entity other than the City. However, in any such case: 1) the open space land interest being protected must meet the definition of Open Space Lands set forth in this Ordinance; and 2) the City shall retain a permanent and non-revocable reversionary or other back-up interest in the land, conservation easement, or other interest in the land that enables the City to manage such interest as part of the Open Space Lands Program in the event the administering entity ceases to exist or fails to properly administer the Open Space Land concerned.
- E. Funding Award Cycle: Disbursements from the Fund for open space lands projects shall be made by the Mayor, after considering the recommendations of the Open Space Lands Advisory Board and the prior approval of a majority vote of the City Council on an annual, semi-annual or other funding cycle as the City Council determines appropriate in consultation with the Open Space Lands Advisory Board.

2.88.050 Creation of Inventory and Map

- A. The Administration shall prepare, and update as appropriate, an inventory and map of all Open Space Lands held by the City.
- B. The inventory and map shall include:
 - 1. All real property located within the City which is currently zoned as open space;
 - 2. All real property located outside the City which is owned by the City and which would constitute Open Space Lands within the meaning of this chapter;
 - 3. All real property acquired by the City pursuant to this Open Space Lands Program; and
 - 4. All real property contributed to or acquired by the City under other ordinances for the purposes of preserving, developing, or restoring Open Space Lands.
- C. Properties may only be removed from the inventory and map pursuant to the procedures set forth herein.

(Recommended by Administration and approved by City Council)

2.88.060 Creation of Board.

A. There is created the Salt Lake City Open Space Lands Advisory Board, which body shall consist of nine appointed and voting citizen members. The members shall be appointed by the Mayor with the advice and consent of the City Council. Each member shall serve for a term of four years and may not serve more than two successive terms. The terms of the initial members shall be for such periods from one to four years so as to provide that two terms expire each year.

B. Citizen members shall be appointed in a manner to provide balanced Citywide geographic distribution and, to the extent possible, members shall be chosen from a broad array of professional and citizen backgrounds and with emphasis on those knowledgeable in land conservation, natural resources, recreation and wildlife management, landscape architecture or planning, real estate, finance, public relations, business and fund raising.

(Recommended by Administration and approved by City Council)

C. Members shall receive no compensation for serving on the Board but may be reimbursed for costs reasonably incurred.

D. The Board will have access to and assistance from City Departments, Divisions and the City Attorney's Office as needed. **(Recommended by Administration and approved by City Council)**

2.88.070 Removal from Office.

Any member may be removed from office by the Mayor for cause, prior to the normal expiration of the term for which such member was appointed. Any member failing to attend three board meetings in one calendar year shall forfeit membership of the board.

2.88.080 Members' Ethics.

Members shall be subject to and bound by the provisions of the City's conflict of interest ordinance, Chapter 2.44 of this Title, or its successor. Any violations of the provisions of said chapter, or its successor, shall be grounds for removal from office. Members shall recuse themselves from voting on any decision to which they are a party or which vote may constitute a violation of the City's conflict of interest ordinance.

2.88.090 Meetings of Board.

A. The Board shall meet on an as needed basis, but not less than six times annually. All meetings shall be subject to the Utah Open and Public Meetings Act, and unless closed pursuant to that Act, such meetings shall be open to the public. Meetings may be convened by the call of the chair of the Board, a majority of the Board or the Mayor.

B. Five members (**Recommended by Administration and approved by City Council**) of the members shall constitute a quorum for the purpose of conducting the business of the Board. The Board may act at any meeting at which a quorum is present, by an affirmative vote of a majority of the members present.

C. The Board shall cause a written record of its proceedings, except for any executive sessions, to be kept which shall be available for public inspection. The Board shall record the ye and nay votes of any action by it. The City shall make available a secretary to the Board when required.

D. The Board shall adopt a system of rules of procedure under which its meetings are to be held. The Board may suspend the rules and procedures by unanimous vote of the members of the Board who are present at the meeting. The Board shall not suspend the rules of procedure beyond the duration of the meeting at which suspension of the rules occurs.

2.88.100 Election of Officers.

Each year the board, at its first regular meeting of each calendar year shall select one of its members as chairperson and another of its members as vice chairperson, who shall perform the duties of the chairperson during the absence or disability of the chairperson. No member shall serve more than two consecutive terms as chairperson.

2.88.110 Powers and Duties of Board.

The Board shall have the following powers and duties:

A. Determine and establish such rules and regulations for the conduct of the Board as the members shall deem advisable; provided, however, that such rules and regulations shall not be in conflict with this Chapter or its successor, or other City, State or Federal law.

B. Advise and make recommendations to the City Administration and the City Council on Open Space Lands preservation issues, projects and plans that may include, but are not limited to the following:

1. Recommend to the Planning Commission and City Council, the adoption of **(Recommended by Administration and approved by City Council)** a plan for the preservation, protection, management and improvement of Open Space Lands and any proposed modifications or amendments to the City's Open Space Master Plan.

2. In order to keep track of the status of Open Space Lands, the Board shall assist the Administration to **(Recommended by Administration and approved by City Council)** prepare, from time to time, an inventory and map of Open Space Lands and interests in real property that are subject to this Chapter.

3. The Board periodically shall provide reports to the Administration and **(Recommended by Administration and approved by City Council)** City Council regarding its activities and goals.

4. Advise and make recommendations to the Administration **(Recommended by Administration and approved by City Council)** and City Council on **(Recommended and approved by City Council)** specific criteria and an objective evaluation process to establish priorities and evaluate projects and proposals for expenditure of Open Space Lands Funds; recommend to the City Council the expenditure of funds for the protection, acquisition, management and development of appropriate facilities on Open Space Lands.

5. Develop recommendations that or ways to **(Recommended by Administration and approved by City Council)** creatively leverage limited public funds with other sources of funding so that Program activities result in cost-effective protection of Open Space Lands and the maximum benefit of Fund expenditures. Utilize creative land protection strategies, public and private sources of funding and available tax advantages to reduce the amount of funds required from the Fund.

6. Identify opportunities to **(Recommended and approved by City Council)** partner with and utilize the services of experienced land trusts, real estate professionals, federal, state, non-profit or private organizations, individuals or

corporations that have a demonstrated capacity to creatively and cost-effectively protect open space lands on behalf of governmental entities.

7. Encourage public and private gifts of land, money, securities or other property to be used for Open Space Lands protection, acquisition, management and improvements. In addition, identify external funding sources and opportunities and explore the creation of a dedicated funding source for Open Space Land protection.

8. Manage lands or interests in land that are acquired through the Program in order to retain the natural, conservation, neighborhood and/or recreational values of these lands. Develop partnership arrangements, joint management agreements, memoranda of understanding and other instruments with other City agencies, or qualified non-profit entities, that manage lands with Open Space Land values in order to protect and maintain public Open Space Land values. Recommend to the City Council **(Recommended and approved by City Council)** the appropriate management structure or entity for Open Space Lands at the time that Open Space Lands are acquired or protected in order to assure that these lands will receive responsible management to retain the open space land values for which they were acquired.

9 Assist the Administration to prepare and recommend to the City Council an annual budget for open space lands and periodically review such budget. **(Recommended by Administration and approved by City Council)**

10 Make recommendations to the Administration and City Council, as to any proposed **(Recommended by Administration and approved by City Council)** construction or enhancements to Open Space Lands acquired with Fund moneys. **(Recommended by Administration and approved by City Council)**

(Recommended and approved by City Council.

Included revised language under 2.88.060.F Creation Of Board)11. Assist the Administration with **(Recommended by Administration and approved by City Council)** educational or other outreach efforts to foster public and City agency awareness and understanding of the Open Space Lands program.

C. **(Recommended by Administration and approved by City Council)**
Board recommendations **(Recommended by Administration and approved by City**

Council) shall be advisory in nature, with the final authority for administration of the Open Space Lands Program and Fund vested in the City Council and Administration.

D. All Open Space Lands preservation projects or proposals, or project funding requests shall, before being presented to the City Council and Administration, first be presented to and considered and evaluated by the Open Space Lands Advisory Board in accordance with project submission, screening and evaluation criteria and procedures to be developed by the Open Space Lands Advisory Board. **(Recommended by Administration and approved by City Council)**

2.88.120 Removal of Lands from the Open Space Lands Program

A. Lands, conservation easements or other interests in land placed in the Open Space Lands Program shall remain in the Program in perpetuity unless: 1) they are transferred to a qualified public or non-profit land conservation entity; or 2) a sale, conversion, exchange, or other transfer of the land, conservation easement or other interest in land is approved by the Mayor, subsequent to the following mandatory procedures:

(a) Any proposal to sell or transfer open space land must be in writing, signed by the Mayor, and must include a description of the land to be sold or transferred, the purpose of the proposed sale or transfer, the proposed purchaser of the land, the amount of the proposed purchase price, the anticipated future use of the land, any anticipated change in zoning that would be required to implement that proposed future use, and a statement by the Mayor explaining why the proposed sale or transfer of the open space land is in the best interest of the City.

(b) Holding a public hearing before the Mayor and the City Council;

(c) Providing notice of the proposed sale or transfer and the public hearing by:

(i) Publication of a notice for two successive weeks, beginning at least 30 days in advance of the hearing, in a newspaper of general circulation in the City, no less than ¼ page in size, with type no smaller than 18 point, surrounded by a ¼ inch border, in a portion of the newspaper other than where the legal notices and classified advertisements appear, containing the information set forth in the form below;

(ii) Posting two signs measuring at least two feet by three feet each, on the land proposed for sale or transfer at least 30 days in advance of the hearing, containing the information set forth in the form below; and

(iii) Mailing notice, at least 30 days in advance of the hearing, to all property owners of record within 1000 feet of the land proposed for sale or transfer, containing the information set forth in the form below.

(iv) Any notice published, posted or mailed pursuant to this section shall state substantially as follows:

**“NOTICE OF PROPOSED SALE OR TRANSFER OF PUBLICLY
OWNED OPEN SPACE LAND**

The Mayor of Salt Lake City is proposing to sell or transfer certain open space land owned by Salt Lake City located at [street location] for \$[proposed amount of sale] to [proposed buyer] for future use as [proposed future use].

A public hearing on this proposal will be held before the Mayor and the City Council on [date of hearing] at the Salt Lake City & County Building, 451 South State Street, room 315, Salt Lake City, Utah, at [time of hearing] p.m.

Any individual wishing to address this proposal is invited to attend and to express their views to the Mayor and the City Council at that hearing.”

(d) Following the public hearing, the City Council may elect to conduct an advisory vote as to the proposed sale or transfer of the open space land.

(e) No sale or transfer of open space land may occur until at least 6 months after the conclusion of the public hearing in order to provide an opportunity to explore other alternatives to the proposed sale or transfer of the open space land.

B. Any lands, conservation easements or other interests in land: 1) acquired by the City in partnership with other entities, units of government, or other parties; or 2) lands, conservation easements or other interests in land received by donation, bequest, devise, or dedication, may only be authorized for sale, conversion, exchange or other transfer if such action is allowed for in the instrument under which the land, conservation easement or other interest in land was conveyed to, or acquired by, the City. Funds

derived from the sale, disposition, exchange or removal of land from the Open Space Lands Program shall be deposited into the Fund for its intended purposes.

SECTION 2. This Ordinance shall take effect immediately upon its first publication.

Passed by the City Council of Salt Lake City, Utah, this _____ day of _____, 2004.

CHAIRPERSON

ATTEST AND COUNTERSIGN:

CHIEF DEPUTY CITY RECORDER

Transmitted to Mayor on _____.

Mayor's Action: _____Approved. _____Vetoed.

ROSS C. ANDERSON
MAYOR

CHIEF DEPUTY CITY RECORDER

(SEAL)

Bill No. _____ of 2004.

Published: _____.

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