

ORDINANCE NO. 01-2023

AN ORDINANCE ESTABLISHING A LAND BANK IN THE CITY OF PEABODY, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF PEABODY, KANSAS:

SECTION 1. Purpose.

The purpose of creating the Land Bank is to implement the authority granted to the Governing Body, by KAN. STAT. ANN. § 12-5901 *et seq.* to establish or dissolve a Land Bank by Ordinance. The Land Bank will be a quasi-governmental entity with the primary responsibility and authority for acquiring, maintaining, and selling abandoned property in order to address the problems and issues created by these distressed properties. The Land Bank shall also be responsible for the acquisition of title to real estate, eliminate liabilities for said real estate, and provide proper disposition of acquired property.

SECTION 2. Definitions.

- a. "City" means the City of Peabody, Kansas.
- b. "County" means the County of Marion, Kansas.
- c. "Board" means the board of trustees of the Land Bank established pursuant to this Ordinance.
- d. "Bank" means the Land Bank established pursuant to this Ordinance.
- e. "Governing Body" means the Governing Body of the City of Peabody, Kansas.
- f. "Municipality" means any city, county or other political or taxing subdivision which as the power to levy special assessments.

SECTION 3. Land Bank Board of Trustees; Appointment, Terms and Dissolution.

Section 3.1. There is hereby established a Land Bank Board of Trustees ("Board"). The Board shall be composed of Five (5) voting members: Position 1, Position 2, Position 3, Position 4, and Position 5.

Section 3.2. The Governing Body may appoint the Board. Vacancies on the Board shall be filled by appointment for the unexpired term.

Section 3.3. The term of office for the Board members shall be for a period of Three (3) years.

- a. Upon the establishment of the Land Bank, the initial term for Position 1 on the Board will be Five (5) years, Position 2 and Position 4 will be Four (4) years, and Position 3 and Position 5 will be for Three (3) years. All successive and subsequent terms will be for the Three (3) years.

- b. A board member may serve a maximum of five (5) consecutive terms.
- c. No fewer than three (3) Board members must live within the city limits of the City of Peabody.
- d. When selecting Board members, the Governing Body will give preference for selecting members who, collectively, will represent a diverse portion of the community, and the Governing Body will attempt to avoid, if possible, selecting multiple Board members who share roles on other boards or organizations.

Section 3.4. Before assuming office, all Board members must sign an acknowledgement of the provisions of this Ordinance, stating that they understand the roles and duties thereof. All Board members must also sign an agreement indemnifying the City to the broadest extent possible in the event of a breach of their duties under Section 6.5 of this Ordinance.

Section 3.5. The Bank may be dissolved by Ordinance of the Governing Body. In such case, all property of the Bank shall be transferred to and held by the City and may be disposed of as otherwise provided by law.

SECTION 4. Land Bank Board of Trustees; Powers and Duties.

Section 4.1. The Land Bank Board of Trustees shall have the following powers and duties:

- a. To sue and be sued;
- b. To enter into contracts;
- c. To appoint and remove staff and provide for the compensation thereof;
- d. To acquire, by purchase, gift or devise, and convey any real property, including easements and reversionary interests, and personal property subject to the provisions of this Ordinance and state law;
- e. To rebate all, or any portion thereof, the taxes on any property sold or conveyed by the Bank;
- f. To exercise any other power which may be delegated to the Bank by the Governing Body; and
- g. To exercise any other incidental power which is necessary to carry out the purposes of the Land Bank, this Ordinance, and state law.

Section 4.2. Any property acquired by the City of Peabody, the County of Marion, or any other taxing subdivision of said City or County may be transferred to the Bank. The Board may accept or refuse to accept any property authorized to be transferred pursuant to this Ordinance or state

law. The transfer of any property pursuant to this subsection shall not be subject to any bidding requirement and shall be exempt from any provision of law requiring a public sale.

Section 4.3. The fee simple title to any real estate which is sold in the County in accordance with the provisions of KAN. STAT. ANN. § 79-2803 and 79-2804, and amendments thereto, and upon acceptance by the Board may be transferred to the Bank by a good and sufficient deed by the county clerk upon a written order from the Board of County Commissioners.

Section 4.4. The Board shall assume possession and control of any property acquired by it under this Ordinance or state law, and shall hold and administer such property. In the administration of property, the Board shall:

- a. Manage, maintain and protect or temporarily use for a public purpose such property in the manner the Board deems appropriate;
- b. Compile and maintain a written inventory of all such property. The inventory shall be available for public inspection and distribution at all times;
- c. Study, analyze and evaluate potential, present and future uses for such property which would provide for the effective reutilization of such property;
- d. Plan for and use the Board's best efforts to consummate the sale or other disposition of such property at such times and upon such terms and conditions deemed appropriate;
- e. Establish and maintain records and accounts reflecting all transactions, expenditures and revenues relating to the Bank's activities, including separate itemizations of all transactions, expenditures and revenues concerning each individual parcel of property acquired; and
- f. Thirty days prior to the sale of any property owned by the Bank, publish a notice in the official City newspaper announcing such sale.

SECTION 5. Land Bank; Operational Requirements.

Section 5.1. The Bank shall be subject to the provisions of the cash-basis law, KAN. STAT. ANN. § 10-1101 *et seq.*, and amendments thereto.

Section 5.2. The budget of the Bank shall be prepared, adopted and published as provided by law for other political subdivisions of the state. No budget shall be adopted by the Board until it has been submitted to, reviewed and approved by the Governing Body.

Section 5.3. The Board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Board shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Board.

Section 5.4. All records and accounts shall be subject to public inspection pursuant to KAN. STAT. ANN. § 45-216 *et seq.*, and amendments thereto.

Section 5.5. Any moneys of the Bank which are not immediately required for the purposes of the Bank shall be invested in the manner provided by KAN. STAT. ANN. § 12-1675, and amendments thereto.

Section 5.6. The Bank shall make an annual report to the Governing Body on or before January 31 of each year, showing receipts and disbursements from all funds under its control and showing all property transactions occurring in each year. Such report shall include an inventory of all property held by the Bank. A copy of such inventory also shall be published in the official City newspaper on or before January 31 of each year.

Section 5.7. The Bank shall be subject to the statutory requirements for the deposit of public money as provided by KAN. STAT. ANN. § 9-1401 *et seq.* and the amendments thereto.

Section 5.8. The Board, without competitive bidding, may sell any property acquired by the Board at such times, to such persons, and upon such terms and conditions, and subject to such restrictions and covenants deemed necessary or appropriate to assure the property's effective reutilization. The sale of any real property by the Board, under the provisions of this Ordinance or state law, on which there are delinquent special assessments to finance public improvements shall be conditioned upon the approval of the Governing Body.

Section 5.9. The Board, for purposes of land disposition, may consolidate, assemble or subdivide individual parcels of property acquired by the Bank.

Section 5.10. Until sold or otherwise disposed of by the Bank and except for special assessments levied by the City to finance public improvements, any property acquired by the Bank shall be exempt from the payment of ad valorem taxes levied by the state and any other political or taxing subdivision of the state.

Section 5.11. Except for special assessments levied by a municipality to finance public improvements, when the Board acquires property pursuant to this Ordinance and state law, the county treasurer shall remove from the tax rolls all taxes, assessments, charges, penalties and interest that are due and payable on the property at the time of acquisition by the Board.

Section 5.12. Property held by the Bank shall remain liable for special assessments levied by a municipality to finance public improvements, but no payment thereof shall be required until such property is sold or otherwise conveyed by the Bank.

Section 5.13. The Governing Body of any municipality which has levied special assessments on property acquired by the Bank may abate part or all of the special assessments, and the Bank and the Governing Body may enter into agreements related thereto. Any special assessments that are abated shall be removed from the tax rolls by the County Treasurer as of the effective date of the abatement.

Section 5.14. Any moneys derived from the sale of property by the Bank shall be retained by the Bank for the purposes and operations thereof; provided, however, that the Board may use all or any part of the proceeds from the sale to reimburse the City for delinquent special assessments due on such property.

SECTION 6. Land Bank; Organization.

Section 6.1. The Board shall select annually, from its membership, a chairperson, a vice-chairperson and a treasurer. The treasurer shall be bonded in such amounts as the Governing Body may require.

Section 6.2. The Board may appoint such officers, agents and employees as it may require for the performance of its duties, and shall determine the qualifications and duties and fix the compensation of such officers, agents and employees.

Section 6.3. The Board shall fix the time and place at which its meetings shall be held. Meetings shall be held within the City of Peabody and shall be subject to the provision of KAN. STAT. ANN. § 75-4317 *et seq.*, and amendments thereto.

Section 6.4. A majority of the Board shall constitute a quorum for the transaction of business. No action of the Board shall be binding unless taken at a meeting at which at least a quorum is present.

Section 6.5. The members of the Board shall be subject to the provisions of the laws of the state of Kansas which relate to conflicts of interest of county officers and employees, including, but not limited to, KAN. STAT. ANN. § 75-4301 *et seq.*, and amendments thereto.

- a) Prior to the sale, transfer, or other alienation of property held by the Land Bank, every Board Member must certify in writing that no known conflicts-of-interest exist between the Board and the prospective buyer, and further certify compliance with the above statutes.
- b) Prior to the sale, transfer, or other alienation of property held by the Land Bank, any prospective buyer must certify in writing that no known conflicts-of-interest exist between that buyer and any Board member.
- c) A Board member with a potential conflict of interest must recuse themselves in any manner involving the persons or entities forming the conflict. In determining whether a conflict exist, the above statutes are to be interpreted liberally, and a finding of a conflict presumed in the event of uncertainty, all for the purpose of promoting the integrity and trust of the Land Bank.

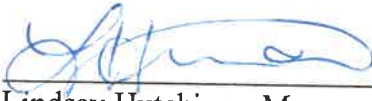
Section 6.6. Subject to the provisions of KAN. STAT. ANN. § 75-6101 *et seq.*, and amendments thereto, if any action at law or equity, or other legal proceeding, shall be brought against any member of the Board for any act or omission arising out of the performance of duties as a

member of the Board, such member shall be indemnified in whole and held harmless by the Board for any judgment or decree entered against such member and, further, shall be defended at the cost and expense of the Bank in any such proceeding.

SECTION 7. Effective Date.


This Ordinance shall take effect and be in force from and after its passage and publication once in the official City newspaper.

APPROVED AND PASSED BY THE GOVERNING BODY OF THE CITY OF PEABODY, KANSAS, this 9th day of January, 2022.



Lindsay Hutchison, Mayor

ATTEST:



Taylor Ensminger, City Clerk