

ORDINANCE NO.

FILE OF CITY COUNCIL

BILL NO. _____

FEBRUARY _____, 2020

AN ORDINANCE

An ordinance of the City of Allentown authorizing the designation of the Redevelopment Authority of the City of Allentown as land bank for the City of Allentown.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ALLENTOWN:

1. Creation.

- a) The social and economic vitality of the City of Allentown (the “City”) has been adversely affected by blighted conditions in many neighborhoods, with the City being home to a substantial inventory of vacant, abandoned and tax-delinquent properties.
- b) Vacant, abandoned, and tax-delinquent properties impose significant costs on taxpayers, as well as neighborhoods and communities throughout the City, by lowering property values, decreasing tax revenues, increasing fire and police production costs, undermining community adhesion, and diminishing quality of life.
- c) There is an overriding public need to confront the problems caused by vacant, abandoned, and tax-delinquent properties through the use, creation and utilization of tools to return these types of properties into vibrant, revitalized places, thereby strengthening the City’s tax base.
- d) Land banks are one of the proven tools in Pennsylvania that may be used facilitate the return of vacant, abandoned, and tax-delinquent properties to productive use.
- e) The General Assembly of the Commonwealth of Pennsylvania, pursuant to Act 33 of 2018, P.L. 221 (June 19, 2018), granted land bank jurisdictions located within certain counties the authority to designate an existing redevelopment authority operating under the Urban Redevelopment Law, as a land bank for the jurisdiction.
- f) Designating the Redevelopment Authority of the City of Allentown (the “Authority”) to act as a land bank will confer the powers and duties of a land bank on the Authority and the benefits of a land bank on the City of Allentown without the need to establish a separate entity, thereby saving administrative costs and promoting governmental efficiency.

2. Purpose and Intent.

- a) It is the purpose of this Ordinance to designate the Authority to act as a land bank for the City of Allentown pursuant to the authority granted under Act 33 of 2018, P.L. 221 (June 19, 2018) which amended the Pennsylvania Land Bank Law, 68 Pa.C.S. §§ 2101-2120.
- b) By designating the Authority as Land Bank, the City intends to use available resources to facilitate the return of vacant, blighted, abandoned and tax-delinquent properties to productive use, thereby combating community deterioration, improving the quality of neighborhoods, and creating economic growth by spurring reinvestment and stabilizing the housing and job market.
- c) When acting as a Land Bank, the Authority will acquire, hold and transfer interests in real property throughout the City, as approved by the Board of Directors for the following purposes; to prevent and mitigate blight and to facilitate the redevelopment and reuse of vacant, abandoned and tax delinquent properties in accordance with locally determined goals and priorities and the policies to be adopted by the Board of Directors pursuant to this Ordinance, local government partners and other community stakeholders and applicable law.
- d) The City of Allentown and the Authority shall identify all surplus vacant property owned by these entities and property these entities wish to the Land bank to acquire.

3. Land Bank. This Ordinance is adopted in accordance with Act 33 of 2018, P.L. 221 as an enactment of the Pennsylvania General Assembly signed by the Governor on June 19, 2018, amending the Pennsylvania Land Bank Law, 68 Pa.C.S. § 2101-2120.

4. Definitions. The Following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

- a) “Act 33 of 2018” – The act of June 19, 2018, P.L. 221, No.33, codified at 68 Pa.C.S. § 2104(h).
- b) “Authority” – The Redevelopment Authority of the City of Allentown, a redevelopment authority created for the City of Allentown and operating under the Act of May 24, 1945 (P.L. 991, No. 385), known as the Urban Redevelopment Law.
- c) “Authority as Land Bank” – The Authority when acting as a land bank pursuant to the Land Bank Law and this Ordinance.
- d) “Board” – The Board of Directors of the Redevelopment Authority of the City of Allentown.
- e) “Land Bank Activities” – Any and all activities, operations, actions and functions undertaken by the Authority pursuant to the Land Bank Law and this Ordinance.

- f) “Land Bank Law” – The act of October 24, 2012, P.L. 1239, No 153, codified at 68 Pa.C.S. §§ 2102-2120 and any amendments thereto.
- g) “Land Bank Policies” – The rules, policies and procedures adopted by the Board pursuant to this Ordinance and the Land Bank Law.
- h) “Owner-Occupant” – A natural person with a legal or equitable ownership in the property which was the primary residence of the person for at least three (3) consecutive months at any point in the year preceding the date in the initial delinquency.
- i) “Person” – A corporation, partnership, limited liability company, business trust, other association, governmental entity (other than the Commonwealth of Pennsylvania), estate, trust, or natural person.
- j) “Real Property” – Land and all structures and fixtures thereon and all estates and interests in land, including easements, escrows, covenants, and leaseholders.
- k) “Municipal Tax” – Any real property tax imposed and billed by Municipal, School Districts and County Governments.
- l) “Financial institution” – A bank, savings associations, operating subsidiary of a bank or savings association, credit union, or an association licensed to originate mortgage loans or an assignee of a mortgage or note originated by such an institution.

5. Designation. The Authority is hereby designated as the land bank for the City pursuant to Act 33 of 2018 and § 2104(h)(1) of the Land Bank Law, 68 Pa.C.S. § 2104(h)(1).

6. Powers. The Land Bank shall have the following powers and duties:

- a) To develop stewardship and management plans for each acquired interest not inconsistent with or detrimental to the purpose/rationale which justifies its acquisition; and
- b) To supervise the management of the property interests acquired; and
- c) To develop annual reports of Land Bank activity; and
- d) To conduct real property appraisals; and
- e) To negotiate real property purchases or trades; and
- f) To provide for a system of accounting; and
- g) To adopt, amend and/or repeal policies and procedures for contracting and procurement; and

- h) To borrow money from private lenders, from cities or counties, from the state or from the federal government funds to further or carry out the Land Bank's public purpose by executing leases, trust indentures, trust agreements, agreements for the sale notes, loan agreements, mortgages, deeds to secure debt, trust deeds, security agreements, assignments, and such other agreements or instruments as may be necessary or desirable, in the judgment of the Land Bank, to evidence and to provide security for such borrowing; and
- i) To make application directly or indirectly to any federal, state, county, or municipal government or agency or to any other source, whether public or private, for loans, grants, gifts, guarantees, labor, or other aid or financial assistance in furtherance of the Land Bank's public purpose and to accept and use the same upon such terms and conditions as are prescribed by such federal, state, county or municipal government or agency or other source; and
- j) The County hereby assents to real estate tax payment allocation to the Land Bank for properties returned to the tax rolls after Land Bank ownership with regard to County real estate taxes to the extent allowed by state law and the Land Bank is authorized to seek allocation of real estate taxes on return of land to the tax rolls after Land Bank ownership by agreement with other applicable taxing authorities; and
- k) All other powers and duties provided for, authorized or allocated under Act 153 of 2012, 68 Pa.C.S.A. at Section 2107.

7. Board of Directors; Community Representation and Input. All personnel, the authority as Land Bank, facilities, equipment and supplies within the landbank shall be governed by a board of directors as provided herein. All action taken by the Board must be completed in compliance with § 2105(h) of the Land Bank Law.

- a) Number of Board Members: The land bank shall be governed by a board of Directors comprised of 7 Members. The Board of Directors of the Land Bank shall not have the Authority to modify the size of the board under any provision if the Bylaws of the land bank.
- b) The initial members of the Board of Directors of the Land Bank shall be (5) Members of the Redevelopment Authority of the City of Allentown (hereinafter the "RACA") serving on the date of creation of the Allentown Land Bank and two (2) additional members who shall be appointed by the Members of the Land Bank. Each initial Board Member who is a member of the Board of Directors of the RACA shall serve on the Board of Directors of the Allentown Land Bank for the same term as his or her term on the RACA. The names of the initial Land Bank Board members and length of terms which they will serve are as follows:

Connie Cowen - Chair
 Rebecca Williams - Vice Chair
 Dan Schmidt - Treasurer
 Lauren Golden - Secretary
 George Kinney

- c) Appointments: The members appointed to the Board of Directors of the Redevelopment Authority of the City of Allentown shall serve as five (5) of the members of Board of the Allentown Land Bank. The Members of the Land Bank will appoint the other 2 (2) members of the Board of Directors, of which at least one of whom: (1) shall be a Low to Moderate income resident of the City of Allentown, and (2) shall not be a public official or municipal employee, and (3) shall maintain a membership with a recognized civic organization in the City of Allentown.
- d) Any person may submit recommendations to the City concerning membership of the Board and appointments thereto by the City.
- e) Term of Board Members: The members of the Board of Directors of the RACA shall also serve on the Allentown Land Bank Board for so long as they serve on the Board of Directors of the RACA. Each newly appointed member of Board of Directors of the RACA shall automatically and concurrently become a member of the Board of Directors of the Allentown Land Bank for a term that shall be the same as his or her term on the RACA.
- f) Service After Expiration of Term: Members of the Board of Directors shall continue to serve until their successors have been appointed and qualified.
- g) Compensation and Expenses: Members of the Board of Directors shall serve without compensation and may seek reimbursement for expenses associated with the duties relating to Land Bank activities.
- h) Ethical Standards: Members of the Board of the Land Bank and its employees shall be subject to the Act of July 19, 1957 (P.L. 101), No. 451, known as the State Adverse Interest Act and the ethical standards and disclosure requirements of 65 Pa.C.S. Chapter 11 and any other supplemental rules and guidelines adopted by the Board of the Land Bank.
- i) Officers: The Land Bank Board members shall annually elect officers to serve as Chair, Vice Chair, Secretary and Treasurer, each officer to serve a one (1) year term. Members may be re-elected to serve successive terms. The duties of officers shall be established by the Board according to law.
- j) Vacancies: Any vacancy in the Board of Directors of the Land Bank shall be filled for the balance of the unexpired term by appointment by the Allentown Land Bank. Any vacancy in a membership of the Land Bank Board serving by virtue of appointment to the RACA Board shall be filled by the person appointed by the Allentown Land Bank to fill the corresponding vacancy on the Board of the RACA.
- k) Meetings of the Board: The Land Bank shall hold regular public meetings monthly and shall allow for public comment on matters under deliberation at each such public meeting. The place, date and time of the Land Bank meetings shall be determined at

the discretion of the Board of Directors. All meetings of the Board of Directors shall comply with the Pennsylvania Sunshine Act. The Chair of the Board may call special meetings by written notice delivered at least twenty-four (24) hours in advance to each Board member and advertised in accordance with the Pennsylvania Sunshine Act. Special meetings may also be called upon written notice signed by a majority of the Board members and delivered at least twenty-four (24) hours in advance to each Board member and advertised in accordance with the Pennsylvania Sunshine Act.

- l) Quorum: A quorum shall be necessary for the transaction of any business by the Board of Directors. A majority of the Members of the Board of Directors, excluding vacancies on the Board, shall constitute a quorum. The Board of Directors shall act by a majority vote of the Members at a meeting at which a quorum is present, except as otherwise provided in this Ordinance. No voting by proxy shall be permitted.
- m) Minutes: Minutes of all meetings of the Board of Directors and its Committees shall be made and maintained.
- n) Committees: The Board of Directors may establish such committees as may be needed to assist the Board in conducting the business of the Land Bank. Committee members shall be appointed by the Chair, and each Committee shall include at least one member of the Board of Directors. Any business proposed by a Committee shall require approval by the Board of Directors.
- o) Fiduciary Duty: The Members of Board of Directors of the Land Bank are under a fiduciary duty to conduct the activities and affairs of the Land Bank in the best interests of the residents of the County of Westmoreland, including the safekeeping and use of all Land Bank monies and assets. The Board of Directors shall discharge their duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances.
- p) All action taken by the Board must be completed in compliance with § 2105(h) of the Land Bank Law.

8. Administration and Staff.

- a) Land Bank Activities shall be managed and administered by the management staff of the Authority. The Authority may also arrange for staff in conjunction with the City or other partnering public entities.
- b) The Authority management staff may employ or enter into a contract for an executive director, counsel and legal staff, technical experts and other individuals, and may determine the qualifications and fix the compensation and benefits of those employees. The Land Bank may arrange for any such staff in conjunction with the Redevelopment Authority of the City of Allentown or other partnering public entities.

- c) Unless otherwise prohibited by law, the Authority may enter into a contract or memorandum of understanding or intergovernmental cooperation agreement with a municipality for:
 - i. The municipality to provide staffing services to the Authority; or
 - ii. The Authority to provide staffing services to the municipality.

9. Acquisition of Real Property.

- a) The Authority as Land Bank shall hold title in its own name to all Real Property it acquires.
- b) The Authority as Land Bank may acquire property within the city limits by any legal means, including, without limitation, by donation, gift, purchase, tax sale, or otherwise, on terms and conditions and in a manner the Authority considers proper.
- c) If the Authority as Land Bank acquires a residential property occupied by Owner-Occupants, it shall be the Authority's policy to show a preference for keeping the Owner-Occupants within their homes, whenever feasible.
- d) The Authority as Land Bank shall acquire, hold and dispose of Real Property in accordance with the Land Bank Law.
- e) Any person may submit recommendations to the Board or Authority staff concerning Real Property that could be acquired by the Authority as Land Bank, and the proposed uses for which such Real Property could be redeveloped.

10. Inventory. The Land Bank shall maintain and make publicly accessible on The City of Allentown's website and at its offices during normal business hours the following information:

- a) An up-to-date inventory of property owned or held by the Authority as Land Bank; and
- b) A record of all properties conveyed by the Authority as Land Bank to other parties within the previous and current calendar year.

11. Discharge and Abatement of Real Estate Taxes, Water and Sewer Charges, and Other Municipal Claims.

- a) The Authority as Land Bank is authorized to discharge liens and other municipal claims, charges, or fines of the City, and the Authority as Land Bank may seek to

enter into an agreement for such discharges from the applicable municipal body against the properties it acquires.

- b) For the duration of the time a property is held by the Authority as Land Bank, the Authority as Land Bank is authorized to abate all real estate taxes, water and sewer charges, and other municipal charges by the City and, to the extent necessary, may seek abatement or nontaxable status from other applicable government entities.

12. Disposition of Property.

- a) The Authority as Land Bank is authorized to convey, exchange, sell, transfer, lease, grant or mortgage interests in Real Property acquired by the Authority as Land Bank in the form and by the method determined to be in the best interests of the Authority as Land Bank through any means authorized by the Land Bank Law, except where expressly limited in this Section 12. Requirements which may be applicable to the disposition of Real Property by the City shall not be applicable to the disposition of Real Property by the Authority as Land Bank pursuant to § 2110(d)(2).
- b) The Board shall include in its Land Bank Policies the general terms and conditions for consideration to be received by the Authority as Land Bank for the transfer of Real Property held by the Authority as Land Bank.
- c) The Board may delegate this disposition authority to the staff of the Authority, except in the following circumstances in which the Board itself must review and approve the proposed transfers of Real Property at a public meeting:
 - i. If the proposed terms of the transaction conflict with the Authority as Land Bank's Policies; or
 - ii. When otherwise required by applicable law.
- d) The Authority as Land Bank shall be guided by any hierarchical ranking of priorities for the use of Real Property conveyed by the Authority as Land Bank as the Allentown City Council may establish, including use for:
 - i. Retail, commercial and industrial activities.
 - ii. Affordable housing.
 - iii. Purely public spaces and places.
 - iv. Conservation areas.
 - v. Private uses.

13. Pricing.

- a) Market value shall be determined by up-to-date data, and by using the valuation method that the Authority has determined is most appropriate given the particular conditions of the Real Property and surrounding market.

- b) Nominal or reduced-price disposition shall be an option for any Real Property owned by the Authority as Land Bank.
- c) In calculating a reduced sales price, the discount shall take into account the benefit provided by the proposed use, and the amount of discount needed to make the project both initially financially feasible and continually sustainable.
- d) For housing projects serving households at a mix of income levels, the Authority as Land Bank may count the number of low- and moderate-income households served and provide proportionate discounting.
- e) The Authority as Land Bank shall make available an appeal process wherein a potential purchaser may submit evidence relevant to the value of the Real Property.
- f) The Authority as Land Bank shall enforce any provisions agreed upon as conditions of sale between the transferee and the Authority through legally binding mechanisms, including but not limited to deed restrictions, covenants, and mortgages.

14. Policies.

- a) The Authority shall develop Land Bank Policies which are consistent with the Land Bank Law and with this Ordinance.
- b) After the adoption of the Land Bank Policies by the Authority, the Land Bank Policies shall be reviewed at least annually by the Authority with the opportunity for public input and comment. The Land Bank Policies shall be published on the Authority's website.
- c) The Land Bank Policies adopted by the Authority shall include ethical standards, financial disclosure standards and conflict of interest guidelines consistent with Section 2115 of the Land Bank Law and all other applicable state and local laws.
 - a. Any individual or organization may submit recommendations for board membership to the Land Bank for their consideration in making appointments.
 - b. Any individual or organization may submit recommendations to the Land Bank Board at Public Meetings or the Authority or Land Bank Staff for real properties that could be acquired by the land Bank and the purpose for which such properties could be developed.

15. Financial Provisions.

- a) To the extent allowed by law, the Authority shall retain proceeds from the sale of any Real Property to cover or contribute to operating costs, maintenance of inventory, and to support additional strategic property acquisition.
- b) The Authority shall finance Land Bank Activities through any means authorized under the Land Bank Law or any other applicable law.
- c) Finances of the Authority as Land Bank shall be retained and accounted for separately from finances held for other Authority purposes and shall be subject to the annual auditing and reporting requirements of Section 2119 of the Land Bank Law.

16. Dissolution; Distribution of Assets in Case of Dissolution. The Land Bank may be dissolved according to the requirements of the state law upon a finding adopted by two thirds majority of the Board of Directors and 60 days advanced written notice to the City of Allentown and Redevelopment Authority that there is no longer any need for a Land Bank to function within the territorial limits of the City of Allentown. Assets upon dissolution of the land bank, shall become the assets of the municipality in which the property is located. All other assets shall be distributed according to requirements of section 2114.

17. Insurance and Indemnification.

- a) The Authority as Land Bank shall obtain insurance to defend and indemnify the Authority and the Land Bank and its' members of the Board with respect to all claims or judgments arising out of their activities as Board members against all negligence claims and claims or judgments arising out of Land Bank Activities performed on behalf of the Authority or the City. Insurance may be through coverage provided by the City.
- b) To be eligible for defense and indemnification, a land Bank Member shall be obligated to:
 - i. Notify, within five days of receipts, the Board Chair of the Land Bank and the Executive Director of the Redevelopment Authority of the City of Allentown, about any claim made against the Member and deliver all written demands, complaints and other documentation and legal papers received with respect to such claim.
 - ii. Cooperate during the investigation and defense of any claim against the Land Bank or any member of the Land Bank, including, but not limited to, preparing for an attending depositions, hearings and trails otherwise assisting in securing and giving evidence.

- 18. Filing of the Ordinance.** Upon adoption of this Ordinance, the City shall file a copy of the Ordinance with the Pennsylvania Department of State and provide a copy to the Pennsylvania Department of Community and Economic Development.
- 19. Severability.** In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any of the remaining provisions, section, sentences, clauses or parts of this Ordinance; it being the intent of the City that the remainder of the Ordinance shall be and shall remain in full force and effect.
- 20. Effective Date.** This Ordinance shall become effective at the earliest possible date provided by law.

ORDAINED AND ENACTED by on this day of February 2020.