

ORDINANCE NO. 2593

AN ORDINANCE ESTABLISHING A LAND BANK PURSUANT TO K.S.A. 12-5901 ET SEQ. AND APPROVING THE ADDITION OF CHAPTER 2.65 TO THE CODE OF THE CITY OF GARDNER, KANSAS, IN CONNECTION THEREWITH.

WHEREAS, pursuant to K.S.A. 12-5901 *et seq.*, as amended (the “Act”), the governing body of any city may establish a land bank by adoption of an ordinance; and

WHEREAS, the Governing Body of the City of Gardner, Kansas (the “City”), has determined it necessary and desirable to establish a land bank pursuant to the Act and to approve the addition of Chapter 2.65 to the Code of the City in connection therewith;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GARDNER, KANSAS:

Section 1. Pursuant to the Act, and upon the terms and conditions set forth herein, the Code of the City of Gardner, Kansas, is hereby amended by the addition of Chapter 2.65, which reads as follows:

**Chapter 2.65
LAND BANK**

2.65.010. Purpose.

The purpose of creating the City of Gardner, Kansas, Land Bank is to implement the authority granted through K.S.A. 12-5901 *et seq.* to establish or dissolve a city land bank. The City’s Land Bank will be a quasi-governmental entity with the primary responsibility and authority for acquiring, maintaining and selling abandoned, foreclosed, or similarly distressed property to help achieve the elimination of blight, the enhancement of neighborhood viability and stability, the creation of opportunities for affordable and mixed income home ownership and rental, maintenance of property values throughout the City, conformance with the goals of the City’s Comprehensive Plan, and the encouragement of economic development. The Land Bank is intended to assist in the elimination of barriers to returning properties to productive use and to help facilitate the strategic conveyance of property.

2.65.020. Definitions.

As used in this chapter:

- A. “City” means the City of Gardner, Kansas, unless otherwise specifically stated.
- B. “Board” means the Board of Trustees of the Land Bank.

- C. "Bank" or "Land Bank" means the City of Gardner, Kansas, Land Bank.
- D. "Governing Body" means the Governing Body of the City.

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

- A. There is hereby established a Land Bank Board of Trustees. The Board shall be composed of the entire membership of the Governing Body of the City, ex officio, who shall be the voting members, and one additional member appointed by the Mayor who shall be a non-voting member and who shall be a City staff member.
- B. The term of office of each voting member of the Board of Trustees shall be coterminous with that member's term of office on the Governing Body of the City. The non-voting member of the Board of Trustees shall serve at the pleasure of the Governing Body.
- C. The Governing Body may advance operating funds to the Bank to pay expenses of the Board and the Bank. Members of the Board shall receive no compensation, but shall be paid their actual and necessary expenses in attending meetings and in carrying out their duties as members of the Board.
- D. 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.

2.65.040. Land Bank Board of Trustees; 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 any personal property, subject to the provisions of this chapter and state law. The Board may accept or refuse to accept any property authorized to be transferred pursuant to this chapter or state law. The transfer of any property pursuant to this subsection shall not be subject to any bidding requirements and shall be exempt from any provisions of law requiring a public sale.
- E. The fee simple title to any real estate which is sold to Johnson County in accordance with the provisions of K.S.A. 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.
- F. To rebate all, or any portion thereof, the taxes on any property sold or conveyed by the Bank.

- G. The Board shall assume possession and control of any property acquired by it under this chapter or state law and shall hold and administer such property. In the administration of property, the Board shall:
1. Manage, maintain and protect or temporarily use for a public purpose such property in the manner the Board deems appropriate;
 2. Compile and maintain a written inventory of all such property, which inventory shall be available for public inspection and distribution at all times;
 3. Study, analyze and evaluate potential, present and future uses for such property which would provide for the effective reutilization of such property;
 4. 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;
 5. Establish and maintain records and accounts reflecting all transactions, expenditures and revenues in relation to the Bank's activities, including separate itemizations of all transactions, expenditures and revenues concerning each individual parcel of property acquired; and
 6. Thirty days prior to the sale of any property owned by the Bank, publish a notice in the official City newspaper announcing such sale.
- H. To exercise any other power which may be delegated to the Bank by the Governing Body, by ordinance, resolution, or regular motion.
- I. To exercise any other incidental power which is necessary to carry out the purposes of the Land Bank, this chapter, and state law.
- J. The Board may establish separate neighborhood or City advisory committees consisting of persons living or owning property within the City, Johnson County, or such neighborhood, and may determine the boundaries of each neighborhood committee. In the absence of a resolution by the Board providing otherwise, each advisory committee shall consist of not less than five and no more than nine persons, to be appointed by the Board for two-year overlapping terms. The Board shall consult with each advisory committee as needed to review the operations and activities of the Bank and to receive the advice of the members of the advisory committee concerning any matter which comes before the committees.

2.65.050. Land Bank Board; Organization.

- A. The Board officers shall consist of: 1) a chairperson who shall be the Mayor; 2) a vice-chairperson who shall be the Council President; and 3) a treasurer who shall be the non-voting appointee. Each officer shall be appointed annually, but may serve in such office for less than one year as the term of office of the chairperson and vice-chairperson

shall be coterminous with that member's term as Mayor or Council President of the City. The treasurer shall be removed from membership of the Land Bank if no longer serving as a member of City Staff. The treasurer shall be bonded in such amounts as the Governing Body may require.

- B. 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.
- C. The Board shall fix the time and place at which its meetings shall be held, which meetings shall be held within the City and shall be subject to the Kansas Open Meeting Act, K.S.A. 75-4317 *et seq.*, and amendments thereto.
- D. 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.
- E. 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 governmental officers and employees, including, but not limited to, K.S.A. 75-4301 *et seq.*, and amendments thereto.
- F. Subject to the provisions of the Kansas Tort Claims Act, K.S.A. 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.

2.65.060. Land Bank; Operational Requirements.

The Land Bank shall be subject to the following requirements:

- A. The Bank shall be subject to the provisions of the Cash-Basis Law, K.S.A.10-1101 *et seq.*, and amendments thereto.
- B. The budget of the Bank shall be prepared, adopted and published as provided by law for other political subdivisions of the State of Kansas. No budget shall be adopted by the Board until it has been submitted to, reviewed and approved by the Governing Body. If the Governing Body elects not to approve the budget, it must reject the plan in its entirety and remand it back to the Board with specific recommendations for reconsideration.
- C. 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.

- D. All records and accounts shall be subject to public inspection pursuant to K.S.A. 45-216 *et seq.*, and amendments thereto.
- E. Any moneys of the Bank which are not immediately required for the purposes of the Bank, such requirements including but not limited to paying debt associated with the acquisition of property, shall be invested in the manner prescribed by K.S.A. 12-1675, and amendments thereto.
- F. 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 shall also be published in the official City newspaper on or before January 31 of each year.
- G. The Bank shall be subject to the statutory requirements for the deposit of public money as provided in K.S.A. 9-1401 *et seq.*, and amendments thereto.
- H. 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.
- I. The sale of any real property by the Board, under the provisions of this chapter or state law, on which there are delinquent special assessments to finance public improvements shall be conditioned upon the approval of the governing body of the municipality which levied such special assessments.
- J. The Board, for the purpose of land disposition, may consolidate, assemble or subdivide individual parcels of property acquired by the Bank.
- K. Until sold or otherwise disposed of by the Bank, and except for special assessments levied by a municipality to finance public improvements, any property acquired by the Bank shall be exempt from the payment of ad valorem taxes levied by the State of Kansas and any other political or taxing subdivision of the state.
- L. Except for special assessments levied by a municipality to finance public improvements, when the Board acquires property pursuant to this chapter and state law, the Johnson County Treasurer shall be notified by the Board to 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.
- M. Property held by the Bank shall remain liable for special assessments levied by a municipality for public improvements, but no payment thereof shall be required until such property is sold or otherwise conveyed by the Bank.
- N. 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 governing body may enter into agreements related thereto. Any special assessments that are abated shall be removed from the tax rolls by the Johnson County Treasurer as of the effective date of the abatement.

- O. The governing body of any municipality which has levied special assessments on property acquired by the Bank may enter into an agreement with the Bank to defer or reamortize part or all of the special assessments. The governing body of the municipality shall provide for such deferral or reamortization by passage of an ordinance, if a city, and by passage of a resolution by any other municipality. Any special assessments that are deferred or reamortized shall be corrected on the tax rolls by the Johnson County Treasurer as of the effective date of the ordinance or resolution providing for such deferral or reamortization.
- P. 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 part of the proceeds from such sale to reimburse the any municipality for delinquent special assessments due on such property, or to pay off any debt associated with the acquisition of the property by either such municipality or the Bank.

Section 2. This Ordinance shall be in full force and effect from and after its passage by the Governing Body and publication in the official City newspaper.

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PASSED by the Governing Body of the City and approved by the Mayor on November 5, 2018.

CITY OF GARDNER, KANSAS

/s/

Mayor

(Seal)

ATTEST:

/s/

City Clerk