

CITY COUNCIL OF ERIE

INTRODUCED BY: Robert E. Merski

COUNCIL FILE NO. 15,967 OFFICIAL ORDINANCE NO. 29-2016

AN ORDINANCE

Amending Part 9 of the Codified Ordinances, Streets  
Utilities and Public Service Code, by adding a new Article  
959 , Land Bank, establishing the Erie Land Bank

WHEREAS, City Council by Resolution of July 20, 2016, authorized the Solicitor to prepare an Ordinance establishing a Land Bank for the City of Erie,

NOW THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY OF ERIE,  
PENNSYLVANIA:

**Section 1.** That Article 959, Land Bank, shall be enacted to read as follows:

**959.1 Intent and Purpose:**

It is the intent and purpose of this article to create the Erie Land Bank, which will use available resources to facilitate the return of vacant, blighted, abandoned and tax-delinquent properties to productive use, thereby combating community deterioration, creating economic growth and stabilizing the housing and job market.

**959.2 Legislative findings.**

- a) The social and economic vitality of the City of Erie has been adversely affected by blighted conditions found in most every neighborhood, with the City being home to an unwieldy inventory of vacant, abandoned and tax-delinquent properties.
- b) These vacant properties continuously impose significant costs on neighborhoods and communities throughout the City, by lowering property values, increasing fire and police protection costs, undermining public health and sanitation efforts, decreasing tax revenues and undermining community cohesion.

- c) There remains a large inventory of vacant properties within the City that must be significantly diminished in order to battle and deter blight.
- d) Municipalities are now empowered to establish land banks as a tool to better combat blight.
- e) The City of Erie has a need for such a land bank to function within the territorial limits of the City.
- f) This article is adopted in accordance with the provisions of Act 153 of 2012, P.L. 1239, an enactment of the Pennsylvania General Assembly signed into law by the Governor on October 24, 2012, and codified at 68 Pa.C.S.A. § 2101 et seq.

### **959.3 General powers.**

The Erie Land Bank shall possess all powers and duties permitted to it under state law, except where expressly limited in this article.

### **959.4 Definitions.**

As used in this article, the following terms shall have the meanings indicated:

#### **BOARD**

The Board of Directors of the Erie Land Bank.

#### **CITY**

The City of Erie.

#### **DEPARTMENT**

The Department of Community and Economic Development of the Commonwealth of Pennsylvania.

#### **EFFECTIVE DATE**

The date upon which this ordinance, after final passage by the Council of the City of Erie and signature by the Mayor of the City of Erie, is effective.

#### **ERIE LAND BANK or LAND BANK**

The separate public body corporate and politic established pursuant to and in accordance with the provisions of this ordinance.

#### **LAND BANK ACT**

Pennsylvania Act 153-2012, 68 Pa.C.S.A. § 2101 et seq., as it exists on the effective date, and as it may be hereafter amended or replaced.

#### **LAND BANK JURISDICTION**

As defined in the Land Bank Act, a county, a city, a borough, a township and an incorporated town with a population of more than 10,000; or two or more municipalities

with populations less than 10,000 that enter into an intergovernmental cooperation agreement to establish and maintain a land bank.

#### **MEMBERS OF THE LAND BANK**

The City, and after the formation of the Erie Land Bank, any land bank jurisdiction or municipality that combines with the Erie Land Bank, and any taxing jurisdiction that participates with the Erie Land Bank for the purpose of discharge of liens and claims provided in Section 2117(a) of the Land Bank Act.

#### **ORDINANCE or ARTICLE**

The ordinance, or this article, creating the Erie Land Bank.

#### **OWNER-OCCUPANT**

As defined in the Land Bank Act, a natural person with a legal or equitable ownership interest in property which was the primary residence of the person for at least three consecutive months at any point in the year preceding the date of initial delinquency.

#### **PERSON**

An individual, authority, limited-liability company, partnership, firm, corporation, organization, association, joint venture, trust, governmental entity or other legal entity.

#### **REAL PROPERTY**

As defined in the Land Bank Act, land and all structures and fixtures thereon and all estates and interests in land, including easements, covenants and leaseholders.

#### **SCHOOL DISTRICT**

As defined in the Land Bank Act, any of the classifications of school districts specified in Section 202 of the Act of March 10, 1949 (P.L. 30, No. 14), known as the "Public School Code of 1949." The term includes, as to any real property acquired, owned or conveyed by a land bank, the school district within whose geographical jurisdiction the real property is located.

#### **STATE**

The Commonwealth of Pennsylvania.

#### **TAXING JURISDICTION**

A county, city, borough, incorporated town, township, school district, or a body politic and corporate created as a municipal authority pursuant to law that may have claims against property that is subject to delinquent tax enforcement procedures.

#### **959.5 Municipal authorization.**

The City of Erie hereby authorizes the creation of a public body corporate and politic, to be named the "Erie Land Bank."

## **959.6 Establishment**

A municipal land bank is hereby established as a separate legal entity and a public body corporate and politic, to be known as the "Erie Land Bank," for the purposes of acting as a land bank under the Land Bank Act and implementing and administering this ordinance.

## **959.7 Mission.**

The mission of the Erie Land Bank is to return vacant and underutilized property to productive use through a unified, predictable, and transparent process, thereby to assist in revitalizing neighborhoods, creating socially and economically diverse communities, and strengthening the City's tax base.

## **959.8 Core functions and cooperative nature.**

- a) The Erie Land Bank will identify and use available resources to facilitate the return of vacant, blighted, abandoned and tax-delinquent properties to productive use, thereby combating community deterioration, creating economic growth and stabilizing the housing and job market.
- b) The Erie Land Bank will acquire, hold, and transfer interest in real property throughout the land bank jurisdiction as approved by the Board of Directors for the following purposes:
  1. To deter the spread of blight;
  2. To promote redevelopment and reuse of vacant, abandoned, and tax-delinquent properties;
  3. To support targeted efforts to stabilize neighborhoods;
  4. To stimulate residential, commercial and industrial development.
- c) In undertaking all of these core functions and in the general course of operations, the Erie Land Bank will act in ways consistent with the stated mission, purposes, goals and priorities set forth in its enabling ordinance and this article.
- d) In undertaking all of these core functions and in the general course of operations, the Erie Land Bank will work in conjunction with local government partners and other community stakeholders.

## **959.9 Title to Land Bank assets.**

Except as otherwise provided in this ordinance, the Erie Land Bank shall have title to all of its real property, and the City shall not have an ownership interest in real property owned by the Land Bank.

#### **959.10 Compliance.**

The Erie Land Bank shall comply with all federal and state laws, rules, regulations and orders applicable to this ordinance.

#### **959.11 Obligations of Land Bank.**

The Erie Land Bank shall not obligate the City, nor shall any obligation of the Land Bank constitute an obligation of the City.

#### **959.12 Third-party beneficiaries.**

Except as otherwise specifically provided, this ordinance does not create in any person, other than the City, and is not intended to create by implication or otherwise, any direct or indirect benefit, obligation, duty, promise, right to be indemnified (such as contractually, legally, equitably or by implication), or right to be subrogated to the City's rights under this ordinance, or any other right or benefit.

#### **959.13 Immunity from liability.**

The City of Erie and any municipality or taxing jurisdiction that combines, or participates in, the Land Bank after the effective date shall not be liable personally on the bonds or other obligations of the Erie Land Bank. Rights of creditors of the Erie Land Bank shall be solely against the Land Bank pursuant to Section 2105(i) of the Land Bank Act.

#### **959.14 Participation by taxing jurisdictions.**

A taxing jurisdiction may participate in the Erie Land Bank pursuant to an intergovernmental cooperation agreement. The agreement must specify the membership, if any, of the taxing jurisdiction on the Board and the actions of the Erie Land Bank which are subject to approval by the taxing jurisdiction.

#### **959.15 Board of Directors**

All personnel, facilities, equipment and supplies within the Erie Land Bank shall be governed by a Board of Directors as provided herein.

- a) Number of Board members.

The Erie Land Bank shall be governed by a Board of Directors comprised of five (5) members. The Board of Directors shall not have authority to modify the size of the Board under any provision of the bylaws of the Land Bank, except as provided herein.

- b) Appointments.  
The Board of Directors of the Erie Land Bank shall be comprised of five (5) members, as follows:

1. A designee of the Redevelopment Authority of the City of Erie;
2. A designee of the Erie School District;
3. The Director of the Department of Economic and Community Development of the City of Erie;
4. An appointee of the Mayor of the City of Erie; and
5. An appointee of City Council who is (1) a resident of the City of Erie, (2) not a public official or municipal employee, and (3) a member in good standing of a recognized civic organization in the City of Erie.

Within sixty (60) days of the effective date of this Ordinance, the Redevelopment Authority of the City of Erie, the Erie School District, the Mayor, and City Council shall identify and approve their designee or appointee to the City of Erie Land Bank and so notify the City Clerk's office.

- c) Initial terms.  
The Mayoral and City Council appointees shall each serve three (3) year terms. Designees of the Redevelopment Authority and Erie School District shall serve terms as determined by their respective appointing agencies.
- d) Service after expiration of term.  
Members of the Board of Directors shall continue to serve until their successors have been appointed.
- e) Conflict of interest.  
The acts and decisions of members of the Board and of employees of the Erie Land Bank shall be deemed subject to the act of July 19, 1957 (P.L. 1017, No. 451), known as the "State Adverse Interest Act." The Board may adopt supplemental rules addressing potential professional, business or personal conflicts of interest in the course of Land Bank business.
- f) Ethics.  
Board members and Erie Land Bank employees are deemed to be subject to 65 Pa.C.S.A. Ch. 11 (relating to ethics standards and financial disclosure).

### **959.16 Land Bank Powers**

The Erie Land Bank shall have all powers and duties provided for, authorized by, or allocated under Section 2107 of Act 153 of 2012, 68 Pa.C.S.A. 2107.

## **959.17 Administration and Operation**

The Erie Land Bank shall function as stated herein:

- a) Tax limitation.  
The Erie Land Bank shall not levy any type of tax or special assessment.
- b) Limitation on political activities.  
The Erie Land Bank shall not spend any public funds on political activities. Subject to the foregoing, this section is not intended to prohibit Erie Land Bank from engaging in activities authorized by applicable law.
- c) Governmental immunity under other laws.  
No provision of the ordinance or this article is intended, nor shall it be construed, as a waiver by the City of any governmental immunity provided under any applicable law.
- d) Nondiscrimination.  
The Erie Land Bank shall comply with all applicable laws prohibiting discrimination. The Land Bank shall be committed to assure that the public body, its Board members, its staff and those under its direction and control shall provide services in a manner that does not discriminate against an individual because of religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, disability or genetic information. The Land Bank shall not fail or refuse to hire, recruit, promote, demote, discharge or otherwise discriminate against an individual with respect to employment, compensation, or a term, condition or privilege of employment because of religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, disability or genetic information.
- e) Land Bank staff.  
The Erie Land Bank 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 its employees and consultants. The Erie Land Bank may arrange for any such staff in conjunction with the Redevelopment Authority of the City of Erie or other partnering public entities.
- f) Acquisition of property.
  1. General acquisition. The Erie Land Bank is authorized to acquire real property or interests in real property through donation, gift, purchase, or any other legal means, including tax sale or judicial sale or by transfer from the Tax Claim Bureau.

2. Purchase. The Erie Land Bank may acquire real property by purchase contract, lease purchase agreements, installment sales contracts and land contracts.
  3. Transfers. The Erie Land Bank may accept transfers from the City, the Redevelopment Authority of the City of Erie, the school district, the county and the Housing Authority of the City of Erie, other municipalities or any other public or private entity or person upon terms and conditions agreed to by the Land Bank and the transferring entity or person.
  4. Redevelopment Authority transfer of property. Pursuant to Section 2109(d)(3) of the Land Bank Act, the Redevelopment Authority of the City of Erie may, without a redevelopment contract, transfer property which it acquired before the effective date of this ordinance to the Erie Land Bank. A conveyance under this subsection shall be with fee simple title, free of all liens and encumbrances.
  5. Rights or interests. The Erie Land Bank may acquire real property or rights or interests in real property for any purpose the Land Bank considers necessary to carry out the purposes of the Land Bank Act.
  6. Title to be held in its name. The Erie Land Bank shall hold in its own name all real property it acquires.
  7. Eminent domain. The Erie Land Bank shall not have the power of eminent domain.
  8. Prohibition. The Erie Land Bank shall not own or hold real property outside its jurisdictional boundaries.
- g) Discharge and abatement of real estate taxes and other municipal claims.  
The Erie Land Bank is authorized to discharge liens and other municipal claims, charges, or fines of the City of Erie and may seek to enter into an agreement for discharges from the applicable municipal body against the properties it acquires. For the duration of the time a property is held by the Erie Land Bank, the Land Bank is authorized to abate all real estate taxes and other municipal charges by the City of Erie and, to the extent necessary, may seek abatement or nontaxable status from other applicable government entities.
- h) Inventory.  
The Erie Land Bank shall maintain and make publicly accessible on its website, and at its offices during normal business hours, the following:
1. An up-to-date inventory of property owned or held by the Land Bank; and
  2. A record of all properties conveyed by the Erie Land Bank to other parties within the previous and current calendar year.



i) Maintenance and management.

1. The Erie Land Bank shall maintain its real property in accordance with applicable statutes, laws and codes.
2. There shall be a preference for locally sourcing its partnerships, joint ventures, contracts, and other collaborative relationships with private entities for the maintenance, management and rehabilitation of real property of the Erie Land Bank.
3. The Erie Land Bank may:
  - A. Control, hold, manage, maintain, operate, lease as lessor, secure, prevent the waste or deterioration of, demolish, or take all other actions necessary to preserve the value of the real property it holds or owns.
  - B. Fix, charge, and collect rents, fees, and charges for use of Land Bank real property or for services provided by the Erie Land Bank.

j) Environmental contamination.

If the Erie Land Bank has reason to believe that real property held by the Land Bank may be the site of environmental contamination, the Land Bank shall provide the Pennsylvania Department of Environmental Protection (DEP) with any information in the possession of the Land Bank that suggests that the real property may contain such conditions. The Land Bank shall cooperate with the DEP with regard to any request made or action taken by DEP.

k) Civil action to protect Land Bank real property.

The Erie Land Bank may institute a civil action to prevent, restrain or enjoin the waste of or unlawful removal of any real property held by the Land Bank.

l) Disposition of property.

Subject to the policies and procedures of the Board, provisions of this ordinance and this article or the Land Bank Act and other applicable laws, the Land Bank may convey, exchange, sell, transfer, lease, grant, or mortgage interests in real property of the Land Bank to any public or private person on terms and conditions, in the form and by the method determined to be in the best interests of the Land Bank through any means authorized under Section 2110 of the Land Bank Act, and under the following terms and conditions:

1. Consistency with land use plans and planning provisions. All proposed uses of land or buildings on real property disposed of by the Erie Land Bank shall be consistent with the provisions of the City's Comprehensive Plan and any adopted neighborhood plans in the area in which the real property is located. If no such adopted neighborhood plan exists, the Land Bank shall determine that proposed uses are consistent with the goals of the community by

consulting with any community groups in the area in which the real property is located, the City Department of Economic and Community Development, and the Redevelopment Authority of the City of Erie.

2. Board disposition policies. The Erie Land Bank real property shall be conveyed in accordance with the Land Bank Act and according to criteria determined by the discretion of the Board and contained in the policies and procedures adopted by the Board. The Board may adopt policies and procedures that set forth priorities for a transferee's use of real property conveyed by the Land Bank. The priorities established may be for the entire Land Bank jurisdiction or may be set according to the needs of different neighborhoods or other locations within the Land Bank jurisdiction, or according to the nature of the real property.

m) Delegation of authority.

The Board may delegate disposition authority to the staff of the Erie Land Bank, except in the following circumstances where the Land Bank is required to approve/deny the disposition by formal action:

1. The proposed terms of the transaction conflict with the Erie Land Bank's published policies or procedures;
2. The value of the property is in excess of \$50,000; or
3. When otherwise required by state law.

n) Coordination.

The Erie Land Bank shall coordinate with the Redevelopment Authority of the City of Erie where a redevelopment project involves properties acquired by RACE as well as properties acquired and/or owned by the Erie Land Bank, and shall strive to ensure a synchronized disposition process.

o) Consideration.

The Board shall state in the Erie Land Bank policies and procedures the general terms and conditions for consideration to be received by the Land Bank for the transfer of real property and interests in real property. The Board shall determine the amount and form of consideration necessary to convey, exchange, sell, transfer, lease, grant or mortgage interests in real property. Consideration may take the form of monetary payments and secured financial obligations, covenants and conditions related to the present and future use of the property, contractual commitments of the transferee and other forms of consideration as determined by the Board to be in the best interest of the Land Bank.

- p) Municipal disposition requirements not applicable.  
Requirements which may be applicable to the disposition of real property and interests in real property by the City shall not be applicable to the disposition of real property and interests in real property by a Land Bank pursuant to Section 2110(d)(2) of the Land Bank Act.
- q) Transaction.  
Any proceeds from the sale or transfer of real property by the Erie Land Bank shall be retained, expended, or transferred by the Land Bank as determined by the Board in the best interests of the Land Bank and in accordance with the Land Bank Act.
- r) Policies.
1. Policies of the Erie Land Bank shall initially be adopted and thereafter reviewed at least every other year by the Board of Directors of the Land Bank, with opportunity for public input and comment. Policies shall be published on the Erie Land Bank website.
  2. The Erie Land Bank shall establish a policy specifically noting that when the Land Bank acquires any residential properties that are occupied at the time of acquisition, it shall be the policy of the Land Bank to show a preference for keeping the former owner-occupants in their homes, whenever feasible.
  3. City residents shall have the following means of supplying input into the Erie Land Bank decision making process:
    - A. Any individual or organization may submit recommendations for Board membership to the Mayor for consideration in making appointments.
    - B. Any individual or organization may submit recommendations to the Board or staff of the Erie Land Bank for real properties that could be acquired by the Land Bank and the purpose for which such properties could be developed.
- s) Books, records and finances.
1. Land Bank records. The Erie Land Bank shall keep and maintain, at the principal office of the Land Bank, all documents and records of the Land Bank. The records of the Land Bank shall include, but not be limited to, a copy of this ordinance along with any amendments to the ordinance. The records and documents shall be maintained until the termination of this ordinance and shall be delivered to any successor entity.
  2. Financial statements and reports. The Erie Land Bank shall cause to be prepared, at the Land Bank's expense, audited financial statements (balance sheet, statement of revenue and expense, statement of cash flows and changes in fund balance) on an annual basis. Such financial statements shall be prepared in accordance with

generally accepted accounting principles and accompanied by a written opinion of an independent certified public accounting firm.

- t) Annual budget. The Executive Director, or other individual designated by the Board, shall prepare annually a budget for the Erie Land Bank. The Board shall review and approve a budget for the Land Bank immediately preceding each fiscal year. Each budget approved and adopted by the Board shall be balanced and subject to a mandate that funds will be identified and duly approved before expenses may be incurred.
- u) Deposits and investments. The Erie Land Bank shall deposit and invest funds of the Land Bank, not otherwise employed in carrying out the purposes of the Land Bank, in accordance with an investment policy established by the Board consistent with laws and regulations regarding investment of public funds.
- v) Disbursements. Disbursements of funds shall be in accordance with guidelines established by the Board.
- w) Funding and expenditures.
  1. Funding Land Bank operations. The Erie Land Bank may receive funding through grants and loans from the federal government, the state, the county, the City, members of a Land Bank, and private sources. The Land Bank may receive and retain payments for services rendered, for rents and leasehold payments received, for consideration for disposition of real and personal property, for proceeds of insurance coverage for losses incurred, for income from investments and for an asset and activity lawfully permitted to the Land Bank pursuant to the Land Bank Act.
  2. Allocated real property taxes. The Erie Land Bank may receive funding through remittance or dedication to the Land Bank of a portion of real property taxes collected pursuant to the laws of the state on real property conveyed by the Land Bank pursuant to a taxing jurisdiction's authorization as provided for in Section 2111(c) of the Land Bank Act and pursuant to an agreement between the Land Bank and school district pursuant to Section 2111(c)(3).
  3. City allocation of real property taxes. The City authorizes the remittance or dedication to the Erie Land Bank of 50% of the real estate taxes collected pursuant to the laws of the state on real property conveyed by the Land Bank. Said remittance or dedication shall commence with the first taxable year following the date of conveyance and continue for a period of five years pursuant to Section 2111(c)(2) of the Land Bank Act.

4. Budget contributions. The Erie Land Bank may receive funding through contributions to the annual Land Bank budget from the City, the county, the school district, and members of the Land Bank.
  5. Management of funds. The Erie Land Bank Executive Director, or other individual designated by the Board, shall be designated the fiscal agent of the Land Bank's account established for the management of sales proceeds, monetary contributions made by the parties, and other Land Bank funds. Standard accounting procedures shall be used in the management of the accounts.
  6. Authorized expenditures. The Erie Land Bank shall, in its sole discretion and within its budget, expend such funds as necessary to carry out the powers, duties, functions and responsibilities of a land bank under the Land Bank Act consistent with this ordinance and article.
- x) Dissolution.
- The Erie Land Bank may be dissolved according to the requirements of Section 2114 of the Land Bank Act upon a finding approved by 2/3 of the entire Board pursuant to Section 2105(h)(3) of the Land Bank Act and approved by a majority vote of City Council that confirms there is no longer any need for a land bank to function within the territorial limits of the City.
- y) Insurance and indemnification.
1. The Erie Land Bank shall obtain insurance to defend and indemnify the Land Bank and the members of the Board of Directors with respect to all claims or judgments arising out of their activities as Board members with respect to all negligence claims and claims or judgments arising out of Land Bank activities performed on behalf of the Land Bank or City.
  2. To be eligible for defense and indemnification, a Board member of the Erie Land Bank shall be obligated to:
    - A. Notify, within five days of receipt, the Board Chair of the Erie Land Bank, and the Executive Director of the Redevelopment Authority of the City of Erie, about any claim made against the member and deliver all written demands, complaints and other legal papers received with respect to such claim.
    - B. Cooperate during the investigation and defense of any claim against the City, the Erie Land Bank or any member of the Erie Land Bank, including, but not limited to, preparing for and attending depositions, hearings and trials and otherwise assisting in securing and giving evidence.

**Section 2.** That all ordinances and parts thereof in conflict herewith are hereby repealed.

**Section 3.** That this ordinance shall become effective twenty (20) days after final passage and approval by the Mayor of the City of Erie, Pennsylvania.

We do hereby certify that the within Ordinance was finally passed by the Erie City Council on November 16, 2016.

Attest: *Roseanne Boyer*  
City Clerk

*Robert E. Merski*  
President of Council

THIS ORDINANCE APPROVED THIS 18<sup>TH</sup> DAY OF NOVEMBER, 2016.

*Joseph Sinnott*  
Mayor, City of Erie