

AN ORDINANCE TO CREATE THE FAYETTE COUNTY LAND REUSE AGENCY

WHEREAS, strong communities are important to the social and economic vitality of the County and the interests of the citizens of the County are served by having additional tools to cope with vacant, abandoned and tax-delinquent properties;

WHEREAS, the County's citizens are affected adversely by vacant, abandoned and tax-delinquent properties, including properties which have been vacated or abandoned due to mortgage foreclosure;

WHEREAS, vacant, abandoned and tax-delinquent properties impose significant costs on neighborhoods, communities, and the County as a whole by lowering property values, increasing fire and police protection costs, decreasing tax revenues and undermining community cohesion;

WHEREAS, vacant, abandoned and tax-delinquent properties contribute to blight, invite crime and pests, are a nuisance, and provide unsafe play spaces;

WHEREAS, there is an overriding public need to confront the problems caused by vacant, abandoned and tax-delinquent properties through the creation of new tools to enable the County to turn vacant, abandoned and tax-delinquent spaces into vibrant places; and

WHEREAS, land reuse agencies, often called land banks in other jurisdictions, are one of the tools that counties may use to facilitate the return of vacant, abandoned, and tax-delinquent properties to productive use, and are authorized by the West Virginia Land Reuse Agency Authorization Act, *West Virginia Code* § 31-18E-1, *et seq.*

Be it hereby ORDAINED by the Fayette County Commission that the following be enacted and added to the Codified Ordinance of Fayette County.

Section 1. Establishment.

There is hereby established, pursuant to *West Virginia Code* § 31-18E-1, *et seq.*, the "Fayette County Land Reuse Agency," hereinafter also referred to as the "Fayette County LRA" or "LRA."

Section 2. Purpose.

The Fayette County LRA shall promote the productive use of property by identifying available properties suitable for public space, conservation, housing, and commercial use and pursuing the acquisition, management, inventory, and disposition of those properties according to the priorities set forth in this Ordinance. The LRA may exercise all powers granted by *West Virginia Code* § 31-18E-1, *et seq.*

Section 3. Board.

The Fayette County LRA shall operate under the control of a board of directors composed of five members.

Board members shall be selected by the Fayette County Commission.

Membership on the Fayette County LRA Board shall include at least one voting member who from the general public who:

- (a) Is a resident of Fayette County;
- (b) Is not a public official or municipal employee; and
- (c) Maintains membership with a recognized civic organization within Fayette County.

The remaining members of the Fayette County LRA shall consist of the following:

- A member of the Fayette County Commission;
- A representative of the New River Gorge Regional Development Authority or like entity involved in development of Fayette County;
- A representative of the Fayette County Commission's Beautification Committee or like entity involved in the re-development/beautification of Fayette County;
- A County or Municipal elected official, County or Municipal manager or a County or Municipal employee who has a role in economic development or similar type position.

Pursuant to *West Virginia Code* § 31-18E-5(b)(1), a public official is eligible to serve as a board member, and the acceptance of the appointment neither terminates nor impairs that public office. Further, pursuant to *West Virginia Code* § 31-18E-5(b)(2), a municipal employee is eligible to serve as a board member.

The initial Board members of the LRA are:

- Terry Sizemore – “Public Member” pursuant to *West Virginia Code* § 31-18E-5(b)(3)
- Tom Louisos – Fayette County Commission member
- Jina Belcher – New River Gorge Regional Development Authority member
- Shannon Estep – Fayette County Commission's Beautification Committee member
- Eddie Young, Fayette County Assessor – County elected official member

With respect to terms of service, each member will serve a one year term.

Each member shall continue in office until a successor is duly appointed, except in the event of a member's removal, death, or delivery of written resignation. In the case of such a vacancy, a new member shall be appointed by the Fayette County Commission to serve the remainder of the term.

Members of the Board shall serve without compensation.

The Board may request assistance from any County department or employee, as necessary and as approved by the County Administrator.

Section 4. Officers of the Board.

The members of the Board shall annually select from among their members a chair, vice chair, secretary, treasurer, and any other officers as the Board determines. Annually, the Board shall submit the names of the Officers to the Fayette County Commission.

Section 5. Public input.

The residents of Fayette County shall have an opportunity to provide written or oral input into all decisions of the LRA at regular meetings held by the LRA. Moreover, in addition to all other public access and transparency provisions of this Ordinance and contained in *West Virginia Code* § 31-18E-1, *et seq.*, the LRA shall offer a public portion at each regular meeting during which residents may speak about any item on the meeting agenda.

Section 6. Official filing with State Government.

Upon the effective date of this Ordinance, the Clerk of the Fayette County Commission shall file a copy of the ordinance with the West Virginia Housing Development Fund and the West Virginia Secretary of State.

Section 7. General.

The LRA shall have all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this Ordinance and *West Virginia Code* § 31-18E-1, *et seq.* The powers may be authorized by the Board or delegated to the staff of the LRA pursuant to Board bylaws. The powers include, but are not limited to, the following:

- (1) To adopt, amend and repeal bylaws, policies, and procedures for the regulation of its affairs and the conduct of its business, including duties of officers, attendance and participation of members in regular and special meetings, a procedure to remove a member by a majority vote for failure to comply with a rule, general terms and conditions for consideration to be received for the transfer of real property and interests in real property, and other matters necessary to govern the conduct of the LRA. A copy of all bylaws, policies, and procedures must be filed with the County Clerk to the Fayette County Commission.
- (2) To sue and be sued in its own name and be a party in a civil action, including actions to clear title to property of the LRA;
- (3) To adopt a seal and to alter the same at pleasure;
- (4) To borrow from federal government funds, from the state, from private lenders or from municipalities or counties, as necessary, for the operation and work of the LRA;
- (5) To issue negotiable revenue bonds and notes according to the provisions of *West Virginia Code* § 31-18E-1, *et seq.*

- (6) To procure insurance or guarantees from the federal government or the state of the payment of debt incurred by the LRA and to pay premiums in connection with the insurance or guarantee;
- (7) To enter into contracts and other instruments necessary, incidental or convenient to the performance of its duties and the exercise of its powers. This paragraph includes intergovernmental cooperation agreements for the joint exercise of powers under *West Virginia Code* § 31-18E-1, *et seq.*;
- (8) To enter into contracts and intergovernmental cooperation agreements with municipalities or counties for the performance of functions by municipalities or counties on behalf of the LRA or by the LRA on behalf of municipalities or counties;
- (9) To make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the LRA. Any contract or instrument signed shall be executed by and for the LRA if the contract or instrument is signed by both (A) The chair or vice chair of the LRA; and (B) The secretary or treasurer of the LRA;
- (10) To procure insurance against losses in connection with the real property, assets or activities of the LRA;
- (11) To invest money of the LRA at the discretion of the Board in instruments, obligations, securities or property determined proper by the Board and to name and use depositories for its money;
- (12) To enter into contracts for the management of, the collection of rent from or the sale of real property of the LRA;
- (13) To design, develop, construct, demolish, reconstruct, deconstruct, rehabilitate, renovate, relocate and otherwise improve real property or rights or interests in real property;
- (14) To fix, charge and collect rents, fees and charges for the use of real property of the LRA and for services provided by the LRA;
- (15) To grant or acquire licenses, easements, leases or options with respect to real property of the LRA;
- (16) To enter into partnerships, joint ventures and other collaborative relationships with municipalities, counties and other public and private entities for the ownership, management, development and disposition of real property;
- (17) To organize and reorganize the LRA consistent with this Ordinance or the *West Virginia Code*;

(18) To hold title to property in its own name;

(19) To acquire property in any lawful way, including by acquiring an interest in tax delinquent properties through regular tax sale, right of first refusal, or post-sale where no person bids on a property, as authorized and outlined in *West Virginia Code*;

(20) To coordinate and cooperate with other entities, including, but not limited to, public utilities and any government agency, to improve data sharing in order to help determine vacate and rental properties;

(21) To file liens against property where debts or fines are owed to the LRA or county, and to enter into any agreements deemed beneficial by the Board to waive or modify those liens, debts or fines; and

(22) To do all other things necessary or convenient to achieve the objectives and purposes of the LRA, as further stated in this Ordinance or as otherwise authorized by State law.

To promote the efficient operation of the LRA, all the LRA's funds shall be placed in a special revenue fund in the County treasury hereby established to be known as the LRA Fund, along with any subaccounts deemed necessary by the Board.

Pursuant to *West Virginia Code* § 31-18E-11(c), the Fayette County Commission hereby authorizes the remittance or dedication of a portion of real property taxes collected pursuant to the laws of this state to a land reuse agency on real property conveyed by a land reuse agency.

Allocation of property tax revenues in accordance with above begins with the first taxable year following the date of conveyance and continues for a period of up to five years and may not exceed a maximum of fifty percent of the aggregate property tax revenues generated by the property.

The Fayette County Commission hereby remits 50% of the aggregate property tax revenues generated by real property conveyed by a land reuse agency for a period of five years following the date of conveyance to begin on the first taxable year following the date of conveyance.

Remittance or dedication of real property taxes include the real property taxes of a county board of education only if the county board of education enters into an agreement with the land reuse agency for the remittance or dedication.

Section 8. Priorities and management.

The Fayette County LRA shall act in accordance with the County's comprehensive plan and any other development plans adopted by the LRA or the County Commission in the future.

In order to promote transparency, the LRA shall maintain and make available for public review and inspection an inventory of real property held by the LRA. The LRA shall evaluate each property it owns, uses, disposes of, or studies for its potential as a purely public space, as a location for housing, as a conservation area, and as a location for retail, commercial and industrial activities.

To properly manage the LRA, the Board shall identify financing options and grant opportunities on an ongoing basis, as authorized by *West Virginia Code* § 31-18E-11.

Section 9. Acquiring property through tax sales.

Pursuant to by *West Virginia Code* § 31-18E-9, the LRA may acquire an interest in tax-delinquent properties through the provision of Chapter 11A of the *West Virginia Code*. In so acquiring property through tax sales, the LRA may exercise all powers granted to it by *West Virginia Code* § 31-18E-9(g), which include, but are not limited to, obtaining lists of tax-delinquent properties, purchasing tax liens for unredeemed property, exercising the right of first refusal on eligible properties, and entering into similar arrangements to obtain property.

Pursuant to *West Virginia Code* § 31-18E-9(g)(2), the LRA is authorized and has the right of first refusal to purchase any tax-delinquent property which is within Fayette County, and meets one or more of the following criteria: (A) It has an assessed value of \$50,000 or less; (B) there are county liens on the property that exceed the amount of back taxes owed in the current tax cycle; (C) the property has been on the County's vacant property registry for 24 consecutive months or longer; (D) the property was sold at a tax sale within the previous three years, was not redeemed, and no deed was secured by the previous lien purchaser; *or* (E) has been condemned. A list of properties which meet the criteria of this subdivision shall regularly be compiled by the sheriff of the county, and LRA may purchase any qualifying tax-delinquent property for an amount equal to the taxes owed and any related fees before such property is placed for public auction.

Should the LRA exercise its rights under *West Virginia Code* § 31-18E-9(g)(2), the LRA shall, within 15 days of obtaining a tax deed, provide written notice to all owners of real property that is adjacent to the tax-delinquent property. Any such property owner shall have a period of 120 days from the receipt of notice, actual or constructive, to express an interest in purchasing the tax-delinquent property from the LRA for an amount equal to the amount paid for the property plus expenses incurred by the LRA: *Provided*, That the land reuse agency or municipal land bank may refuse to sell the property to the adjacent property owner that expressed interest in the tax-delinquent property if that property owner or an entity owned by the property owner or its directors is delinquent on any state and local taxes or municipal fees on any of their property.

For purposes of this Ordinance, "adjacent" means that the property acquired shares a boundary with the other property. There is no requirement to make notice to other property holders nearby who do not share a boundary with the property so acquired. If more than one adjacent property owner responds with an interest in purchasing the property within the time period authorized herein and in accordance with *West Virginia Code* § 31-18E-9(g), the LRA shall provide an additional time period within which the owners may submit bids on the property and the property shall be sold to the highest bidder. The LRA may adopt a policy governing this process that conforms with *West Virginia Code* § 31-18E-9(g) and this ordinance.

Effective July 1, 2025, the provisions which give the LRA a right of first refusal on tax-delinquent property shall sunset and have no further force and effect, unless otherwise extended by *West Virginia Code*.

Prior to January 1, 2025, if the LRA exercises the authority granted related to a right of first refusal on tax-delinquent property, the LRA shall submit to the Joint Committee on Government and Finance a report on the entity's activities related to the purchase of tax-delinquent properties and any benefits realized from the authority granted by this provision.

Notwithstanding the provisions above, any property obtained by the LRA through any means other than the right of first refusal on tax sales and any property obtained by right of first refusal where an adjacent land owner does not timely express the desire to purchase the property, the property may still be conveyed to one or more adjacent land owners through the processes adopted by the LRA and without the restrictions contained in *West Virginia Code* § 31-18E-9(g).

Section 10. Public records and Open meetings.

The Board shall keep minutes and a record of its proceedings. The Board is subject to *West Virginia Code* § 6-9A-1, *et seq.*, which relates to open meetings, and *West Virginia Code* § 29B-1-1, *et seq.*, which relates to public records. Board members will be required to be trained on all relevant open meeting and record keeping statutes and procedures.

Section 11. Employees and Staff.

The Board may employ or enter a contract for an executive director, counsel and legal staff, accountant, technical experts and other individuals and may determine the qualifications and fix the compensation and benefits of those employees.

Section 12. Conflicts of Interest.

The acts and decisions of members of the Board and any employees of the LRA are subject to Chapter 6-B of the *West Virginia Code*. The Board may, at its discretion, adopt supplemental rules addressing potential conflicts of interest and ethical guidelines for members of the Board and LRA employees.

Section 13. Dissolution of the LRA.

This dissolution of the LRA is governed by *West Virginia Code* § § 31-18E-14.

Section 14. Annual reports.

The LRA shall submit an audit of income and expenditures, together with a report of its activities for the preceding fiscal year to the West Virginia Housing Development Fund within 120 days after the end of the fiscal year. A copy of the report shall be submitted, at the same time, to the Fayette County Commission and any political subdivision with which the LRA has an intergovernmental agreement.

Section 15. Compliance with *West Virginia Code*.

The Fayette County LRA is created in compliance with *West Virginia Code* § 31-18E-1, *et seq.* It is the intent of this Ordinance to grant the LRA all powers and authority as contained in *West Virginia Code* § 31-18E-1, *et seq.*, even if not expressly stated herein.

Further, it is the intent of this Ordinance that all powers contained herein are and be consistent with *West Virginia Code* § 31-18E-1, *et seq.*

This Ordinance is not a comprehensive statement of all powers, authority and/or restrictions on the LRA that are contained in *West Virginia Code* § 31-18E-1, *et seq.* The LRA, its Board and employees, if any, shall comply with both *West Virginia Code* § 31-18E-1, *et seq.* and this Ordinance. To the extent there is a conflict between *West Virginia Code* § 31-18E-1, *et seq.* and this Ordinance, the LRA shall try to resolve the conflict by giving effect to the intent of both conflicting provisions. If the conflict remains, *West Virginia Code* § 31-18E-1, *et seq.* controls.

Section 16. Severability of provisions.

The provisions of this Ordinance are severable, and if any of its provisions shall be held unconstitutional or out of compliance with *West Virginia Code* by any court of competent jurisdiction, the decision of such court with respect thereto shall not affect or impair any of the remaining provisions hereof.

Section 17. Effective date.

This Ordinance shall be effective upon passage this 23rd day of August, 2023.

FAYETTE COUNTY COMMISSION



Tom Louisos, President



John G. Brenemen, Commissioner



Allison R. Taylor, Commissioner