

# City of Wichita Land Bank (WLB)

## Administrative Policy Guidelines

Draft

April 20, 2021

City of Wichita Land Bank

Administrative Policy and Procedure Guidelines

As approved and adopted by the Board of Trustees on \_\_\_\_\_;

and the Wichita City Council on \_\_\_\_\_.

**Section 1. Purpose.**

The purpose of the Wichita Land Bank (WLB) is to facilitate, support, implement and serve as a catalyst for the *Wichita: Places for People Plan (2019)*. The WLB has the responsibility and authority, primarily within the Established Central Area (ECA), to efficiently acquire, hold, manage, transform and convey vacant, abandoned tax-foreclosed properties (including those that are otherwise under-utilized, distressed, abandoned, neglected or rejected by the open market or current owners) into productive use and return tax delinquent and distressed property to productive use that benefits the community.

This policy is intended to create a unified and consistent approach to the disposition and acquisition of real property owned by the WLB.

In the interest of providing predictability and transparency regarding the sale and reuse of property, this policy will provide guidance to the WLB in all transactions involving property as well as information to individuals and organizations considering the acquisition of property owned by the WLB.

The WLB, in its sole discretion, reserves the right to deny any request for the acquisition, sale or donation of any real property if it feels said request does not meet the stated goals or policies, or is in the best interest of the WLB. All recommendations for approval for the acquisition, sale or donation of any real property shall go to the Wichita City Council for final authorization.

**Section 2. Pre-Acquisition Considerations.**

- a. The WLB will assess the physical condition, location, marketability, potential holding and maintenance costs, title issues, lien status, environmental issues, location of property within a flood plain, and possible end uses of every property prior to acquisition.
- b. Prior to acquisition, the WLB will ensure that it has available funds to hold and maintain the property for the expected or extended ownership period.

**Section 3. Policies Governing the Acquisition of Properties.**

In determining which, if any, properties shall be acquired, the WLB shall give consideration to the following factors:

- a. Proposals and requests by persons or entities that identify specific properties for ultimate acquisition and redevelopment.
- b. Vacant lots or vacant residential properties that are available for immediate occupancy without need for substantial rehabilitation.
- c. Vacant properties that could be placed into the Side Lot Disposition Program.
- d. Properties that would be in support of strategic neighborhood stabilization and revitalization plans.
- e. Properties that would form a part of a land assemblage development plan.
- f. Properties that will generate operating resources for the functions of the WLB.

**Section 4. Priorities Concerning Disposition of Properties.**

The WLB will at all times attempt to identify an end user at the *start* of the acquisition process, thereby identifying a disposition strategy before a parcel is acquired. Not all properties that are desirable for land banking will immediately have an end user. Cost for the WLB to hold such properties after acquisition will be projected and factored into the acquisition decision.

All applicants must submit its/their proposal to the WLB upon the approved WLB Applicant form. The application must describe in detail the intended use of the subject property, including the timeframe for development.

The disposition of properties shall be based upon a combination of three different factors. The first factor involves the intended or planned use of the property. The second factor considers the nature and identity of the intended transferee of the property. The third factor addresses the impact of the property transfer on the short and long-term neighborhood and community development plans. Within each factor is a ranking of priorities. The disposition of any given parcel will be based upon an assessment of the most efficient and effective way to maximize the aggregate policies and priorities. The Board and Staff of the WLB shall at all times retain flexibility in evaluating the appropriate balancing of the priorities for the use of property, priorities as to the nature of the transferee of properties, and priorities concerning neighborhood and community development.

Priorities for Use of Property.

- 1. Neighborhood revitalization.
- 2. Return of the property to productive, tax-paying status.
- 3. Land assemblage for economic development.
- 4. Long term “banking” of properties for future strategic uses.
- 5. Provision of financial resources for operating functions of the WLB.
- 6. Individuals or other entities seeking to obtain the property for housing or commercial development within the ECA, in concert with the concepts identified in the *Wichita: Places for People Plan (2019)*.

Priorities Concerning Neighborhood and Community Development Within the ECA.

1. The preservation of existing stable, viable neighborhoods and community gateways.
2. Neighborhoods and community gateways in which a proposed disposition will assist in halting a slowly occurring decline or deterioration.
3. Neighborhoods and community gateways that have recently experienced or are continuing to experience a rapid decline or deterioration.
4. Geographic areas that are predominantly non-viable for purposes of residential or commercial development.
5. Within and among each of the first four priorities shall be a concurrent priority for targeted geographic areas for which a qualified strategic development plan has been approved.

**Section 5. Residential Land Transfers.**

**A. Residential Land Transfer Policies.**

These policies pertain to transfers whose future use is residential. At time of transfer the property may be vacant, improved or ready to occupy.

These policies pertain to an individual, partnership and its partners, limited liability company and its member(s), society, association, joint stock company, corporation and its shareholders, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, any combination of individuals, and any other form of unincorporated enterprise owned or conducted by two or more persons.

The policies for residential land transfer are:

1. The subject property must not have been used by the transferee or a family member of the transferee as his or her personal residence at any time during the twelve (12) months immediately preceding the submission of application (except in tenant/owner relationships).
2. The transferee must not have been the prior owner of any real property in Sedgwick County that was transferred as a result of tax foreclosure proceedings within the preceding three (3) years.
3. The use of transferred property must give consideration to any Community/Neighborhood Plan (if one is in place) and a letter of comment must be received from the appropriate planning groups.
4. The amount of consideration shall be determined by the WLB in its sole discretion.
5. All development projects must be started and completed within a time frame negotiated with the WLB.
6. A precise narrative description of future use of the property is required.
7. Transactions shall be structured in a manner that permits the WLB to enforce any recorded covenants or conditions upon title pertaining to development and use of the property for a specified period of time.
8. The transferee must agree to pay future property taxes from time of transfer.

9. If code or ordinance violations exist with respect to the property at the time of the transfer, the transfer agreements shall specify a maximum period of time for elimination or correction of such violations, with the period of time to be established as appropriate to the nature of the violation of the anticipated redevelopment or reuse of the property.
10. The proposed use must be consistent with current zoning requirements or the transferee agrees to file for any required adjustment to allow for the property to use as proposed within one (1) year after the transfer.
11. Where rehabilitation of a property by the transferee is a condition of the transfer, the requirement for such rehabilitation shall be in accordance with rehabilitation standards as established by the WLB and adequate completion of such rehabilitation shall be a condition to the release of restrictions or lien securing such performance.
12. Deed Restrictions. The WLB may take into consideration the placement of certain deed restrictions, including but not limited to:
  - A. Adult Book and Video Stores.
  - B. Community Correctional Facilities.
  - C. Half-way Houses.
  - D. Drug or Alcohol Rehabilitation Facilities.
  - E. Multi-game, Casino-style Gambling Facilities.
  - F. Pay-day loan establishments.
  - G. Commercial Billboards.

## **Section 6. Side Lot Disposition Program.**

Individual parcels of property may be acquired by the WLB and transferred to individuals in accordance with the following policies. The transfer of any given parcel of property in the Side Lot Disposition Program is subject to override by higher priorities as established by the WLB.

These policies pertain to an individual, partnership and its partners, limited liability company (LLC) and its member(s), society, association, joint stock company, corporation and its shareholders, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, any combination of individuals, and any other form of unincorporated enterprise owned or conducted by two or more persons.

### **A. Side Lot Disposition Policies.**

1. Qualified Properties. Parcels of property eligible for inclusion in the Side Lot Disposition Program shall meet the following minimum criteria:
  - (a) The property shall be vacant, unimproved real property.
  - (b) The property shall be physically contiguous to adjacent owner-occupied residential property, with not less than a 75% common boundary line at the side.
  - (c) Initial priority shall be given to the disposition of properties of insufficient size to permit independent development.

## **Section 7. Commercial Land Transfers.**

### **A. Commercial Land Transfer Policies.**

These policies pertain to transfers of real property for which the intended future use is non-residential. At time of transfer the property may be vacant, improved or ready to occupy. These policies pertain to an individual, partnership and its partners, limited liability company (LLC) and its member(s), society, association, joint stock company, corporation and its shareholders, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, any combination of individuals, and any other form of unincorporated enterprise owned or conducted by two or more persons.

The policies for the WLB consideration for commercial land transfer include, but are not limited to:

1. The transferee must not own any real property that violates any local codes or ordinances.
2. The transferee must not have a history of property being sold at tax foreclosure sales or own any real property that is tax delinquent.
3. The subject property must not have been used by the transferee or a family member of the transferee as his or her personal residence at any time during the twelve (12) months immediately preceding the submission of application (except in rental cases).
4. The transferee must not have been the prior owner of any real property in Sedgwick County that was transferred as a result of tax foreclosure proceedings within three (3) years of the proposed transfer.
5. The use of transferred property must give consideration to any Community/Neighborhood Plan (if one is in place) and a letter of comment must be received from the appropriate planning groups.
6. The amount of consideration shall be determined by the WLB in its sole discretion.
7. All development projects should be started and completed within a time frame negotiated with the WLB.
8. Options are available for 10% of the parcel price for up to a 12-month period. This fee will be credited to the parcel price at closing. If closing does not occur, the fee is forfeited. All option agreements are subject to all policies and procedures of the WLB pertaining to property transfers.
9. A precise narrative description of future use of the property is required.
10. Transactions shall be structured in a manner that permits the WLB to enforce any recorded covenants or conditions upon title pertaining to development and use of the property for a specified period of time.
11. The transferee must agree to pay future property taxes from time of transfer.
12. If code or ordinance violations exist with respect to the property at the time of the transfer, the transfer agreements shall specify a maximum period of time for elimination or correction of such violations, with the period of time to be established as appropriate to the nature of the violation of the anticipated redevelopment or reuse of the property.

13. The proposed use must be consistent with current zoning requirements or the transferee must agree to file any adjustment required to bring the property within the proper zoning for the intended use.
14. Deed Restrictions. The WLB may take into consideration the placement of certain deed restrictions, including but not limited to:
  - A. Adult Book and Video Stores.
  - B. Community Correctional Facilities.
  - C. Half-way Houses.
  - D. Drug or Alcohol Rehabilitation Facilities.
  - E. Multi-game, Casino-style Gambling Facilities.
  - F. Pay-day loan establishments.
  - G. Commercial Billboards.

### **Section 8. Land Assembly Policies.**

The WLB is willing to receive title to properties from community development corporations and other entities, and hold title to such properties pending future use by the transferor of the property, or by other third parties. The receipt by the WLB of any and all conveyances of real property shall at all times be solely within the discretion of the WLB, and nothing in this policy shall be deemed to require the WLB to take title to any properties nor to limit the discretion of the WLB in negotiating the terms of its acquisition of any property, whether donated or otherwise.

All conveyances received by the WLB in the land banking capacity must comply with the requirements set forth below in Part A. If the transfer is approved by the WLB, the WLB shall hold the subject property, and may use or convey the subject property or any interest in the subject project, subject only to the right of reacquisition set forth in Part B.

Following the transfer of any properties to the WLB in accordance with this policy, the WLB shall have the right, but not the obligation, to maintain, repair, demolish, clean, and grade the subject property and perform any and all other tasks and services with respect to the subject property as the WLB may deem necessary and appropriate in its sole discretion, or subject to the terms and conditions of the WLB Land Assembly Program.

#### **A. Requirements for Conveyance to the WLB in its Land Assembly Program.**

1. Property that is intended to be conveyed to the WLB and to be held by the WLB in its land banking capacity shall be clearly designated as such in the Proposal for Transfer, and in the records of the WLB.
2. No property shall be transferred to the WLB pursuant to this Land Assembly Program unless the transferor is either a private nonprofit entity or a governmental entity.
3. The subject property must be located in Wichita city limits.
4. The subject property must not be occupied by any party or parties as of the date of transfer to the WLB.

5. The subject property must, as of the date of the transfer to the WLB, be free of any and all liens for ad valorem taxes, special assessments, and other liens or encumbrances in favor of local, state or federal government entities.
6. The subject property must, as of the date of the transfer to the WLB, be free of all outstanding mortgages and security instruments.

**B. Right of Reacquisition by the Transferor of property in the WLB Land Assembly Program.**

1. The transferor shall have a right to reacquire the subject property from the WLB at any time within a period of three (3) years from the date of transfer to the WLB by giving notice to the WLB.
2. The right of reacquisition may be exercised by the transferor upon payment to the WLB of the Purchase Price. The Purchase Price shall be an amount equal to (i) all expenditures of the WLB (whether made directly by the WLB or through payments to a third party contractor) in connection with the subject property incurred subsequent to the date of conveyance to the WLB, and (ii) an amount determined by the WLB as its average indirect costs, on a per parcel basis, of holding its portfolio of properties.
3. The WLB shall have the right, at any time within the three (3) year period following the date of the original transfer, to require the transferor to exercise its right of repurchase by giving written notice to the transferor of the requirement that it exercise its right of reacquisition and the amount of the Purchase Price. The transferor must exercise its right of reacquisition, and close the reconveyance of the property within sixty (60) days of receipt of such notice. Failure of the transferor to exercise and close upon its right of reacquisition within such period of time shall result in a termination of all rights of reacquisition with respect to the subject property.

**Section 9. Maintenance.**

As a general policy, the WLB will work with qualified end-users, community-minded neighbors, and others to return a property to productive, private ownership as soon as possible. However, the WLB will acquire parcels that may require periodic maintenance while an end-user is solicited.

The WLB's resources are best used to identify an end-user who will take title to the property and return it to productive use. With this in mind, the WLB will attempt to achieve an appropriate balance between necessary maintenance and the efficient use of its resources.

**Maintenance Properties.**

When an inspection determines that a lot or structure has marketable potential and recommends against demolition, the parcel shall be considered a Maintenance Property.

To use resources most efficiently, the WLB will prioritize maintenance partnerships with public-sector or non-profit partners whenever possible. The WLB will seek qualified vendors as needed for all necessary maintenance on properties.

The WLB recognizes that the appropriate level of maintenance may vary property-to-property. Maintenance resources will be coordinated in such a way to most efficiently return the property to a productive use. When partnering with the public sector, the WLB will coordinate its maintenance with the existing maintenance schedule of the municipality.

Any residents, businesses, neighbors, block watches or other organizations interested in caring for vacant WLB properties are eligible to adopt a lot. The Adopt-a-Lot program will be offered at no cost.

### **Section 10. Insurance.**

All properties that the WLB acquires will be covered by general liability insurance for the duration of the WLB's ownership. The WLB may secure property insurance for those parcels with structures present that are not scheduled for blight elimination.

Factors to consider regarding the purchase of property insurance include the proposed length of WLB ownership and the present fair market value of the property.

### **Section 11. Conveyances to the WLB.**

1. Sources of Property Inventory. Sources of real property of the WLB include, but are not limited to the following:

- a. Transfers from local government;
- b. Acquisitions at tax foreclosure sales;
- c. Donations;
- d. Outright purchases.

### **Section 12. Conveyance from the WLB.**

1. Covenants, Conditions and Restrictions. All conveyances by the WLB to third parties shall include such covenants, conditions and restrictions as the WLB deems, in its sole discretion, necessary and appropriate to ensure the use, rehabilitation and redevelopment of the property in a manner consistent with the public purpose of the WLB.

2. Deed. All conveyances by the WLB to third parties shall be by quit claim or appropriate deed.

### **Section 13. Land Banking Donation Program.**

1. Donation to WLB. The WLB will only accept donated property that will advance the goals of the WLB. The WLB will only present requests to the City Council for approval when at least one or more of the following conditions are met:

- a. The property owner does not have the resources to properly care for the property, or to comply with orders to correct code violations that are present, and evidence of a hardship has been presented.
- b. The property is located in an area targeted for redevelopment efforts or in a neighborhood with a large number of existing WLB properties.
- c. There is a written agreement with an owner of an adjoining property to purchase the property from the WLB; this is only in reference to non-buildable vacant lots.
- d. The City of Wichita may agree to fund the demolition of, or removal of undesirable characteristics or features of an improved property within the Established Central Area as defined in the *Wichita: Places for People Plan (2019)*.

2. Exclusions and Exceptions. Property with adverse environmental conditions or maintenance requirements will not be accepted without a satisfactory plan and funding in place for remediation as determined by the WLB.

- a. WLB may require that donated property be conveyed with a marketable title.
- b. Property that is occupied may not be accepted as a donation.
- c. WLB shall not determine donation value for tax purposes.
- d. Any exceptions to the provisions of those listed above must come before the WLB Board of Trustees.

The WLB reserves the right to accept or reject any and all donation requests.

Any property that is conveyed by donation to the WLB will not be available for sale/transfer until the meeting following the approval of the donation by the Board of Trustees.