

## ORDINANCE 5

### ARTICLES OF INCORPORATION OF THE ECONOMIC DEVELOPMENT CORPORATION OF THE COUNTY OF BERRIEN

These Articles of Incorporation are signed by the incorporators for the purpose of forming a non-profit corporation under the provisions of Act No. 327 of the Public Acts of 1931, as amended, Act 284, Public Acts of 1972, as amended, and Act No. 338 of the Public Acts of 1974, as follows:

#### ARTICLE I

The name of the corporation is THE ECONOMIC DEVELOPMENT CORPORATION OF THE COUNTY OF BERRIEN.

#### ARTICLE II

The purpose of purposes for which the corporation is organized are as follows: To act as an economic development corporation in accordance with Act 338 of the Public Acts of 1974, as such statute may from time to time be amended; including particularly to alleviate and prevent conditions of unemployment, to assist and retain local industries and commercial enterprises to strengthen and revitalize the economy of the state of Michigan and particularly the county of Berrien, to provide the means and methods for the encouragement and assistance of industrial and commercial enterprises in locating and expanding in the state of Michigan and particularly in Berrien County, to encourage the relocating and expansion of commercial enterprises to more conveniently provide needed services and facilities of the commercial enterprises to the county of Berrien and residents thereof. In furtherance of these purposes, the corporation shall have all of the powers which now are or hereafter may be conferred by law on corporations organized under Act 327, Public Acts of 1974, and especially section 7 thereof, to wit:

- (a) Construct, acquire by gift or purchase, reconstruct, improve, maintain or repair projects and acquire the necessary lands for the site therefore.
- (b) Acquire by gift or purchase the necessary machinery, furnishings, and equipment for a project.
- (c) Borrow money and issue its bonds or notes to finance part or all of the cost of the acquisition, purchase, construction, reconstruction, or improvement of a project or any part thereof, the cost of the acquisition and improvement of the necessary sites therefore, and the costs necessary or incidental to the borrowing of money and issuing of bonds or notes for such purpose.
- (d) Enter into leases, lease purchase agreements, or installment sales contracts with any person, firm, or corporation for the use or sale of the project.
- (e) Mortgage the project in favor of any lender of money to the corporation.
- (f) Sell and convey the project or any part thereof for a price and at a time as the corporation determines.

Subject to any amendments to said statute either increasing or diminishing the powers of economic development corporations formed thereunder.

### ARTICLE III

Said corporation is organized upon a non-stock basis.

The amount of the assets which the corporation possesses is:

Real property:	None
Personal property:	None

Said corporation is to be financed under the following general plan: Contributions, gifts, donations, grants, and devises, either solicited or unsolicited, from public authorities, individuals, corporations, partnerships, or other organizations: by earnings from its activities; by borrowings and issuance of revenue bonds; and by other methods which may from time to time be permitted corporations organized under said Act 338, Public Acts of 1974.

### ARTICLE IV

The location of the first registered office is c/o Berrien County Department of Economic Expansion, Chamber of Commerce Building, 777B Riverview Drive, Benton Harbor, Michigan 49022.

The post office address of the first registered office is c/o Berrien County Department of Economic Expansion, Chamber of Commerce Building, 777B Riverview Drive, P.O. Box 1208, Benton Harbor, Michigan 49022.

The name of the first registered agent is Roger H. Curry.

### ARTICLE V

The names and addresses of the incorporators are as follows:

<u>Name</u>	<u>Residence or Business Address</u>
Lemont Renterghem	First National Bank of Southwestern Michigan 210 East Main Street Niles, MI 49120
Lawrence A. Hauch	Whirlpool Corporation Administrative Center Benton Harbor, MI 49022
Roger H. Curry	Twin Cities Area Chamber of Commerce P.O. Box 1208 Benton Harbor, MI 49022

ARTICLE VI

The first board of directors, and subsequent boards of directors, shall be appointed by the chairperson of the County Board of Commissioners of the County of Berrien, State of Michigan, with the advice and consent of said County Board of Commissioners, as provided for by Act 338, Public Acts of 1974, as the same may from time to time be amended.

ARTICLE VII

The term of corporate existence is perpetual.

ARTICLE VIII

No part of the earnings of the corporation shall inure to the benefit of any member, director, officer, or trustee of the corporation, or any private individual, person, firm or corporation (except that reasonable compensation may be paid for services rendered to or for the corporation affecting one or more of its purposes), and no member, trustee, officer or director of the corporation, or any private individual, person, firm or corporation affecting one or more of its purposes), and no member, trustee, officer or director of the corporation, or any private individual, person, firm or corporation shall be the carrying on of propaganda, or otherwise attempting to enforce legislation, and the corporation shall not participate in or intervene in (including the publication or distribution of statements) any political campaign of any candidate for public office.

Upon dissolution of the corporation or winding up of its affairs, all of the property and assets of the corporation remaining after the satisfaction of all obligations of the corporation shall be distributed to the county of Berrien, state of Michigan.

IN WITNESS WHEREOF the undersigned, the incorporators of the above named corporation, have hereunto signed these articles of incorporation this \_\_\_\_\_ day of \_\_\_\_\_, 1975.

\_\_\_\_\_  
Lemont Renterghem

\_\_\_\_\_  
Lawrence A. Hauch

\_\_\_\_\_  
Roger H. Curry

**APPROVED:**        May 15, 1975

AMENDMENT  
TO  
ARTICLES OF INCORPORATION  
THE ECONOMIC DEVELOPMENT CORPORATION  
OF THE COUNTY OF BERRIEN

---

The following Articles and Section of Articles of Incorporation of the Economic Development Corporation of the County of Berrien are amended, supplemented and added in accordance with Section 30 of Act 338, Public Acts of Michigan, 1974, as amended, to provide as follows:

ARTICLE II

The Corporation is organized pursuant to Act 338 of the Public Acts of 1974, as amended ("Act 338") to perform essential public purposes and functions of the County. Its purposes will be to alleviate and prevent conditions of unemployment; to assist and retain local industries and commercial enterprises to strengthen and revitalize the economy of the County and the State of Michigan; to provide means and methods for the encouragement and assistance of industrial and commercial enterprises in locating, purchasing, constructing, reconstructing, modernizing, improving, maintaining, repairing, furnishing, equipping and furnishing, equipping and expanding with the County; to encourage the location and expansion of industrial and commercial enterprises to more conveniently provide needed services and facilities to the County and the residents thereof; to promote economic activity in the forestry and agricultural sectors by providing incentives to combat inflation, to reduce energy consumption, to retain the family farm unit, to reduce the rate at which urban sprawl has been devouring farm lands, and to provide farmers and foresters with a more favorable export market; to encourage the development of facilities designed to produce energy from renewable resources; and to accomplish such other purposes as may be provided from time to time in Act 338, and to accomplish the foregoing, to do the following:

- (a) To construct, acquire by gift or purchase, reconstruct, improve, maintain, and repair the necessary lands, or interests in lands or portions of lands, for "Projects", as that term may be defined from time to time in Act 338.
- (b) To acquire by gift or purchase the necessary machinery, furnishings and equipment for Projects
- (c) To make secured or unsecured loans, participate in the making of secured or unsecured loans, undertake commitments to make secured or unsecured loans and mortgages, sell loans and mortgages at public or private sale, rewrite loans and mortgages, discharge loans and mortgages, foreclose on a mortgage, or commence an action to protect or enforce a right conferred upon it by a law, mortgage, loan contract, or other agreement.
- (d) To borrow money and issue its revenue bonds or revenue notes to finance or refinance part of all of the Project costs and the costs necessary of incidental to the borrowing of money and issuing of bonds or notes for such purpose, and secure those bonds and notes by mortgage, assignment, or pledge of any of its money, revenues, income, and properties. Bonds and notes may be issued pursuant to this act to acquire and install Projects, therefore, and the necessary machinery, furnishings,

and equipment for a Project notwithstanding that the corporation does not own or propose to own such Projects, lands, or machinery, furnishings and equipment. The corporation for a municipality, which has a population of more than 1,000,000 person, may combine part or all of the Project cost of more than 1 Project for pollution control facilities in a single financing arrangement. However, the bonds and notes for each Project for pollution control facilities shall be served by a separate agreement and collateral for each Project.

- (e) To enter into leases, lease purchase agreements, installment sales contracts or loan agreements with any person, firm or corporation for the use or sale of Projects.
- (f) To mortgage or create security interests in the Project, a part of the Project, a lease or loan, or the rents, revenues, or sums to be paid during the term of a lease or loan, in favor of holders of bonds or notes issued by the corporation.
- (g) To sell and convey Projects or any part thereof for a price and at a time as the Corporation determines.
- (h) To lend, grant, transfer or convey funds, described in Section 27 of Act 338, as permitted by law, by subject to applicable restrictions affecting the use of these funds.
- (i) In general, and subject to such limitations and conditions as are or may be prescribed by law, to exercise such other powers which now are or hereafter may be conferred by law upon a corporation organized by the County of Berrien under the above statutes and for the above purposes.

## ARTICLE VII

A. The Board of Directors of the Corporation shall be appointed by the Chairperson of the County Board of Commissioners of the County of Berrien with the advice and consent of the County Board of Commissioners. The Board of Directors shall consist of not less than nine (9) persons, not more than three of whom shall be an officer or employee of the County. Directors shall be public officers. The term of office for directors shall be in accordance with Section 4(2) of Act 338, provided that the Corporation shall notify in writing the Chairperson of the County Board of Commissioners of the Corporation's designation of a project area, and there shall be promptly appointed, in the same manner, to the Corporation's Board of Directors two additional directors representative of neighborhood resident or business interest likely to be affected by each such project proposed by the Corporation, whose term of office shall be consistent with the provisions of Section 4(2) of Act 338.

- B. (1) The Board of Directors shall designate one of its members as President, one of its members as Vice President, one of its members as Secretary, one of its members as Assistant Secretary, and a Treasurer who need not be a member of the Board of Directors, each to be designated for such office for a period of one (1) year.
- (2) The President shall preside at meetings of the Board of Directors and may sign and execute all authorized bonds, contracts, checks and other obligations and execute interest coupons with his manual or facsimile signature in the name of the Corporation as and when authorized by the Board of Directors. He shall do and perform such

other duties as may be fixed by the bylaws and from time to time assigned to him by the Board of Directors.

- (3) The Vice President shall, in the absence of the President or in the event of his inability or refusal to act, perform the duties of the President and, when so acting, shall have the powers of and be subject to all the restrictions upon the President. The Vice President shall perform such other duties as may be assigned to him by the President or by the Board of Directors .
- (4) The Secretary shall keep the minutes of all meetings of the Board of Directors and of all committees thereof, in books provided for that purpose. He shall attend to the giving, serving and receiving of all notices or process of or against the Corporation. He may sign with the President in the name of the Corporation all bonds, contracts and other obligations and execute interest coupons with this manual or facsimile signature in the name of the Corporation as and when so authorized by the Board of Directors, and when so ordered, he shall affix the seal of the Corporation thereto. He shall have charge of all \_\_\_\_\_ records which shall at all reasonable times be open to inspection and examination by the Board of Directors or any member thereof, and the County Board of Commissioners of the County, and, in general, perform all the duties incident to his office. The Secretary shall preside at meetings of the Board of Directors in the absence of the President and Vice President.
- (5) The Assistant Secretary shall, in the absence of the Secretary or in the event of his inability or refusal to act, perform the duties of the Secretary and, when so acting, shall have all the powers and be subject to all the restrictions upon the Secretary. The Assistant Secretary shall perform such other duties as may be assigned to him by the Secretary or by the Board of Directors.
- (6) The treasurer shall have custody of all the funds and securities of the Corporation which may come into his hands or possession. When necessary or proper, he shall endorse o behalf of the Corporation for collection, checks, notes and other obligations, and shall deposit them to the credit of the Corporation in a designated bank or depository. He shall sign all receipts and vouchers for payment made to the Corporation. He shall jointly with such other officer as may be designated by the Board of Directors sign all checks, promissory notes and other obligation of the Corporation when so ordered by the Board of Directors. He shall render a statement of his cash accounts when required by the Board of Directors. He shall enter regularly in the books of the Corporation to be kept by him for the purpose full and accurate accounts of all moneys received and paid by him on account of the Corporation, and shall, at all reasonable times, exhibit his books and accounts to the Board of Directors or any member thereof when so required. He shall perform all acts incidental to the position of Treasurer fixed by the bylaws and as assigned to him from time to time by the

Board of Directors. He shall bond to be of such character, form and in such amount as the Board of Directors may required.

(7) In the absence of any officer of the Corporation or for any other reason that the Board of Directors may deem sufficient, a majority of the Board of Directors may deem sufficient, a majority of the Board of Directors may deem sufficient, a majority of the Board of Directors then in office, may delegate, from time to time and for such time as they may deem appropriate, the powers and duties of any officer elected or appointed, to any other officer or to any director.

C. The members of the Board of Directors or any person executing any revenue bond or revenue note on behalf of a Corporation shall not be liable personally on the revenue bond or revenue note, or be subject to any person liability or accountability by reason of the issuance of the revenue bond or revenue note, by reason of acquisition, construction, ownership, or operation of a Project, or by reason of any other action taken or omitted by the Board of Directors. By resolution the Board of Directors may provide for the purchase of insurance indemnifying the members of the board from and against any and all personal liability or accountability described in the section or any loss or expense related thereto.

#### ARTICLE IX

The regulation of the internal affairs of the Corporation, including the distribution of assets on dissolution or final liquidation is placed entirely with the Board of Directors or their successors, as provided in the bylaws of this Corporation, subject, however, to the provisions of Act 338.

#### ARTICLE X

The Board of Directors shall adopt a Corporate Seal.

#### ARTICLE XI

All meetings of the Board of Directors shall be public and notice of such meetings will be posted in the offices of the County once at least eighteen hours prior to the date of such meeting and the Corporation shall comply with Act 267 of the Public Acts of 1976 relative to its meetings.

#### ARTICLE XII

The Corporation shall act for and on behalf of the County. The books and records of the Corporation and of the Board of Directors, officers and agents thereof shall be public and open to inspection and audit by the County at all reasonable times. The Corporation shall submit an annual report of its activities to the County Board of Commissioners of the County and to the office of economic development of the Michigan Department of Commerce, and shall annually publish in a newspaper of general circulation a report of its revenue and expenditures for the operating year.

### ARTICLE XIII

These Articles shall become effective and the Corporation shall exist upon and after the approval of said Articles by appropriate action of the County Board of Commissioners of the County of Berrien. The Articles of the Corporation may be amended by resolution of the County Board of Commissioners of the County of Berrien, which resolution shall be filed with the Secretary of State.

### ARTICLE XIV

Upon their appointment the Board of Directors shall convene, organize and by resolution adopt bylaws which may set forth the Corporation's rules of procedure and regulation of Projects. The Bylaws may be altered, amended or repealed and new bylaws may be adopted by resolution of a majority of the Directors present at any regular meeting or at any special meeting, if proper notice is given.

\*\*\*

The foregoing amendments to Articles of Incorporation were **approved** by the County Board of Commissioners of the County of Berrien, Michigan at a meeting duly held on the **16<sup>th</sup> day of July, 1981**.

//s// Forrest H. Kesterke  
County Clerk

AMENDMENT  
TO  
ARTICLES OF INCORPORATION  
THE ECONOMIC DEVELOPMENT CORPORATION  
OF THE COUNTY OF BERRIEN

---

The following Article of Articles of Incorporation of the Economic Development Corporation of the County of Berrien is added, effective January 1, 1988, in accordance with Section 30 of Act 338, Public Acts of Michigan, 1974, as amended, to provide as follows:

ARTICLE XV

A volunteer Director shall not be personally liable to The Economic Development Corporation of the County of Berrien or its shareholders or members, for monetary damages from breach of the Director's fiduciary duties, except as otherwise provided in Section 209 of Act 162 of the Public Act of 1982 as amended.

The Economic Development Corporation of the County of Berrien, assumes all liability to any person other than the Economic Development Corporation of the County of Berrien, its shareholders and members, for all acts or omissions of a volunteer Director occurring on or after January 1, 1988.

**APPROVED:**        April 20, 1989