

ARTICLES OF INCORPORATION
FOR THE
GREATER BERRIEN SPRINGS
RECREATIONAL AUTHORITY

These Articles of Incorporation are adopted, signed, and acknowledged by the incorporating units for the purpose of forming a recreational authority under the provisions of Michigan's Recreational Authorities Act, MCL 123.1131, *et seq.* (the "Recreational Authorities Act").

ARTICLE 1

NAME

This authority shall be known as the Greater Berrien Springs Recreational Authority, hereafter referred to as the Authority.

ARTICLE 2

PARTICIPATING MUNICIPALITIES

The participating municipalities are hereafter referred to as the participating municipalities (the "participating municipalities"):

- Oronoko Charter Township, a Michigan charter township;
- Berrien Springs Public Schools, a Michigan general powers school district;
- Berrien Township, a Michigan municipal corporation; and
- Village of Berrien Springs, a Michigan municipal corporation.

ARTICLE 3

PURPOSE

The Authority is incorporated for the purpose of the acquisition, construction, operation, maintenance, or improvement of parks for recreational purposes including but not limited to, athletic fields, picnic grounds, pavilions, and paths, as may be acquired by the Authority or as may be transferred or leased to it by a participating municipality. The Authority may, sell, lease, or transfer any such facilities so acquired only to a participating municipality. Other than as limited by these Articles, the Authority is incorporated for all purposes as stated in the Recreational Authorities Act.

The Authority has immediate plans to develop and link the operations of several parks owned by participating municipalities. After the Authority is authorized by the participating municipalities, a plan for the development and operations of the Authority will be developed in consultation with each participating municipality. The Authority will be tasked with the operation and oversight of all acquired or transferred facilities under Article 6, Section 13.

ARTICLE 4

DURATION

The Authority shall continue in existence perpetually or until dissolved by the majority vote of each of the participating municipalities. A participating municipality shall not withdraw from the Authority during the period for which the Authority has been authorized to levy a tax by the electors of the Authority.

ARTICLE 5

TERRITORY

The territory of the Authority shall be the corporate boundaries of the participating municipalities.

ARTICLE 6

POWERS AND DUTIES

Section 1 The Authority shall be an authority under Section 6 of Article IX of the State Constitution of 1963. It shall be a body corporate with power to sue and be sued in any court of the State of Michigan. It shall have the powers and duties as established by the Recreational Authorities Act and incidental thereto. MCL 123.1131, *et seq.*, as amended. Notwithstanding any term contained herein, the Authority's power shall not exceed any of the statutory authority of a participating municipality.

Section 2 The Authority shall have the power to acquire and hold, by purchase, lease, option, grant, gift, devise, land contract, installment purchase contract, bequest, or other legal means, real and personal property inside or outside the territory of the Authority. The property may include franchises, easements, or rights of way on, under, or above any property. The Authority may pay for the property from, or pledge for the payment of property, revenue of the Authority. The Authority must obtain written approval from all of the participating municipalities before acquiring or financing any real property by purchase.

Section 3 The Authority shall have the power to, sell, lease or otherwise transfer its property or any part thereof or interest therein to one or several participating municipalities or to any other person or entity upon approval of all the participating municipalities.

Section 4 The Authority shall have the power to apply for and accept grants and contributions from individuals, the federal government or any of its agencies, the State of Michigan, a municipality, or other public or private agencies to be used for any of the purposes of the Authority. Any grant requiring a commitment greater than five (5) years from the Authority must be approved by each participating municipality.

Section 5 Before adopting by resolution a proposal for a tax authorized by the Recreational Authorities Act, the proposed resolution shall be submitted to the participating municipalities and not less than 45 days be allowed for their consideration and comment. The Authority shall not bring a proposal for a tax or levy unless all participating municipalities approve.

Section 6 The Authority shall operate on a July 1 – June 30 fiscal year and the annual operating budgets shall be submitted to each participating municipalities for review. The Authority will comply with the audit requirements contained in the Recreational Authorities Act and any other audit or recordkeeping requirements as necessary to comply with applicable laws, rules, or grant requirements. The Authority may not expend funds beyond its approved annual budget for the given fiscal year.

Section 7 The Authority shall have the power to hire full-time or part-time employees and retain professional services.

Section 8 The Authority shall have the power to provide for the maintenance of all of the real and personal property of the Authority.

Section 9 The Authority shall have the power to assess and collect fees for services provided by and expenses incurred by the Authority.

Section 10 The Authority shall have the power to receive revenue as appropriated by the Legislature of the State of Michigan or a participating municipality, and to apply for and receive grants and donations to fund buildings and operations. The participating municipalities agree to each provide 25% of the municipal portion of the annual operating budget for the Authority.

Section 11 The Authority shall have the power to enter into contracts incidental to or necessary for the accomplishment of the purposes of the Authority.

Section 12 The Authority will obtain and maintain insurance with such terms, coverages, and amounts as are in the discretion of the Board needed to cover the Authority's property, the operations of the Authority, the staff employed by the Authority, the Authority's indemnification obligations under these Articles and such other items as may, in the Board's discretion may be important to insure.

Section 13 The Authority's operation of public facilities shall be limited to only those public facilities and lands that it has acquired or that have been transferred or leased to the Authority by a participating municipality. The Authority will hold the participating municipality owning any property that the Authority may lease or operate harmless from and indemnify it for all claims, judgements, awards and other losses resulting from the Authority's operation, maintenance or improvement of such property and will also provide for insurance to cover such obligation. Nothing in these Articles shall obligate a participating municipality to transfer any park, recreation center, or

any land or interest therein to the Authority. The Authority Board must by a vote of two-thirds of the total members accept the transferred responsibility of operation of any public facilities.

Section 14 The Authority will hold the participating municipalities harmless from, indemnify them for, defend them (with legal counsel satisfactory to the participating municipalities) against any cause of action, claim, damage, accident, injury, or liability that may arise as a result of ownership, construction, maintenance or operation of the property, facilities, programs or services of the Authority. This indemnification is in addition to the insurance coverage required in these Articles.

ARTICLE 7

GOVERNING BODY – OFFICERS

Section 1 The Authority shall be directed and governed by a board of directors of seven (7) members known as the “Board,” one (1) member, who shall be a resident of the participating municipality, to be appointed by each participating municipality and three (3) at-large members, who shall be a resident within the Authority’s boundaries, to be appointed by a majority vote of the four members who were appointed by the participating municipalities.

Section 2 The terms of the members shall be three (3) years. The initial terms of the members constituting the first Board shall be staggered as follows:

<u>Terms</u>	<u>Vacancy Dates</u>
2	12/31/24
2	12/31/22
3	12/31/23

Section 3 The Board shall designate one of the members as Chairperson, another of the members as Secretary, and another as Treasurer. Officers will be elected annually at the first meeting following July 1 of each year.

Section 4 The Board shall adopt and amend by-laws including rules of procedure consistent with the provisions of the Recreational Authorities Act. The by-laws shall provide for regular meetings of the Board, not less frequent than quarterly.

Section 5 The Chairperson shall preside at meetings of the Board and may sign and execute all Authority-authorized bonds, contracts, and other obligation in the name of the Authority. The Chairperson shall do and perform such other duties as may be fixed by the by-laws and from time-to-time assigned by the Board.

Section 6 The Secretary shall perform all of the duties fixed by the by-laws. The Secretary shall preside at meetings of the Board in the absence of the Chairperson.

Deleted: ¶

Section 7 The Treasurer shall perform all of the duties fixed by the by-laws.. The Treasurer will be the custodian of the funds of the Authority and shall give to it a bond conditioned on the faithful performance of the duties of his or her office. All money shall be deposited in a bank or banks, to be designated by the Board, and all checks or other forms of withdraw therefrom will be signed by two (2), which shall be the Treasurer and the Secretary, or their respective designees as designated in writing and as approved by the Board. All authorized signatories will provide give a bond conditioned upon the faithful performance of the prescribed duties. The Authority will pay the cost of the bonds. Any investment of the Authority’s money will be made in compliance with Michigan law.

Section 8 No member of the Board shall receive compensation for services as a member of the Board but is entitled to reimbursement for reasonable expenses, as authorized by the Board and the Recreational Authorities Act.

Section 9 A vacancy occurs on the happening of any event set forth in MCL 201.3. In the case of an at-large member, ceasing to reside within the Authority’s jurisdictional limits means the entire jurisdictional limits of the Authority. In the case of a member appointed by a participating municipality it means ceasing to reside within the jurisdictional limits of the appointing participating municipality. Vacancies occurring on the Board shall be filled by the participating municipality that appointed the member. In the event the vacancy occurs in a seat held by an “at-large” member the vacancy will be filled as noted above. Vacancies shall be filled within 60 days of the vacancy for the remainder of the unexpired term. No appointment will be deemed invalid if it does not comply with the timeframes in this Article.

Section 10 A member may be removed from office as provided by and in accordance with the Recreational Authorities Act. Further, any member may be removed at any time for good cause after a public hearing by the legislative body of the participating municipality that appointed them. Any at-large member may be removed at any time for good cause with a majority vote of the Authority Board after a public hearing before the Authority Board.

ARTICLE 8

MEETINGS

Meetings of the Authority will be held as required and at least quarterly at such time and place as will be prescribed by resolution of the Board. Each member will have one vote. Special meetings of the Board may be called by the Chairperson or any two (2) member thereof, by written notice at least twenty-four (24) hours prior to the time of the meeting.

A majority of the members constitutes a quorum, which shall be required to conduct a meeting of the Board. The board will act by motion or resolution. A vote of the majority of the

members of the Board who are present at any meeting, at which a quorum is present, shall be sufficient for passage of any motion or resolution. However, any decision regarding the annual budget, capital expenditures, projected revenues, projected expenditures, budget, and budget amendments, must be supported by a vote of the majority of members of the Board. All votes shall be “yes”, “no”, or “abstain”. Board members will have a duty to vote on matters before the Board except to the extent that a member has a direct conflict of interest. Any potential conflict of interest must be disclosed to the Board and the remaining members will vote to determine whether a conflict of interest exists so as to excuse the member from voting.

The Authority is a public body and shall comply with the requirements of the Michigan Open Meetings Act, Act 267 of the Public Acts of 1976, as amended, and the Freedom of Information Act, Act 442 of the Public Acts of 1976, as amended.

ARTICLE 9

PUBLICATION

A copy of these Articles of Incorporation shall be published not less than once in a newspaper generally circulated within the participating municipalities prior to adoption by the participating municipalities. The adoption of these Articles of Incorporation will be evidenced by an endorsement of these Articles by the clerk or secretary of such participating municipality. Upon adoption of these Articles by each participating municipality, a printed copy will be filed with the Secretary of State by the last participating municipality to adopt the Articles.

ARTICLE 10

ADDITION OR WITHDRAWAL OF PARTICIPATING MUNICIPALITIES

Section 1 A municipality may become a participating municipality in the Authority only upon an affirmative vote of each of the legislative bodies of the current participating municipalities and the proposed participating municipality. If the Authority has been authorized to levy a tax, the addition of another participating municipality shall be contingent upon approval by the electors of the proposed municipality of a tax equivalent to that which the Authority has been authorized to levy.

Section 2 A participating municipality may withdraw from the Authority no less than six months after an affirmative vote of the legislative body of the participating municipality. However, in no event shall a participating municipality withdraw from the Authority during the period for which the Authority has been authorized to levy a tax by the electors of the Authority. A participating municipality that is withdrawing is responsible for its share of the operating budget on a pro rata basis with the fiscal year in which they withdrew. A participating municipality may not withdraw if there is any outstanding debt owed by the Authority unless it first makes arrangements acceptable to the remaining members for repayment of its proportional share of that debt.

ARTICLE 11

AMENDMENT

Amendments to these Articles of Incorporation shall be made only as authorized by the Recreational Authorities Act. Amendments shall be published not less than once in the Journal Era before adoption.

ARTICLE 12

EFFECTIVE DATE

These Articles of Incorporation shall become effective and be in full force and effect upon filing with the Secretary of State.

ARTICLE 13

DISSOLUTION

Section 1 Provided there is no outstanding debt or contractual obligations of the Authority, it may be dissolved by approval of dissolving resolutions adopted by the governing bodies of the then participating municipalities. If there is outstanding debt or contractual obligations, dissolutions can occur only upon meeting the terms and conditions of such debt or contracts.

Section 2 Upon the dissolution, property held or used by the Authority shall be allocated and distributed in accordance with the following:

- (a) All property, of any nature, which is titled to or otherwise owned by the or any other party, shall remain the property of that person or entity. To the extent a particular member contributed or conveyed certain real property to the Authority, that member shall have the right of first refusal to regain possession of such real property at the original cost paid by Authority to acquire such real property, plus the value of any improvements made by the Authority. In the event of improvements to such real property by Authority, the costs of such improvements shall be paid by the re-acquiring member, and such payments shall then be distributed pursuant to these Articles.
- (b) All monies and funds, from whatever source, which are the property of the Authority shall be distributed between the then participating municipalities, and any subsequent member in accordance with the most recent completed fiscal year's contribution percentages, after deducting any expenses associated with the dissolution of the board and the Authority.
- (c) All property, other than that otherwise provided for in Article 13, Section 2(b), shall be divided by agreement between the then participating municipalities and any subsequent member in accordance with the formula described in Article 13, Section 2(b). If the parties do not agree on the value attributed to the items of property, the property may

be divided by a legally recognized form of arbitration, as assigned by the Board. If the parties do not choose arbitration, and cannot agree on how to distribute the property between them, then the property shall be disposed of by the Board at public auction. All revenues received as a result of any auction shall be distributed in accordance with the formula set forth in Article 13, Section 2(b) above, except that administrative expenses associated with the auction shall also be deducted prior to any distribution.

ARTICLE 14

EXEMPTION FROM TAXATION

The property of the Authority will be exempt from taxation and assessments and no writ of attachment or writ of execution will be levied upon the property of the Authority.

ARTICLE 15

MISCELLANEOUS

These Articles of Incorporation may be executed in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. The captions in these Articles are for convenience only. Terms used in these Articles will have the same meaning as the defined terms in the Recreational Authorities Act.

IN WITNESS WHEREOF, the participating municipalities have adopted and authorized to be executed these Articles of Incorporation, which will be effective when filed with the Secretary of State.

ORONOKO CHARTER TOWNSHIP
a Michigan charter township

BERRIEN SPRINGS PUBLIC SCHOOLS
a Michigan general powers school district

_____ , _____

_____ , _____

Date:

Date:

BERRIEN TOWNSHIP
a Michigan municipal corporation

VILLAGE OF BERRIEN SPRINGS
a Michigan municipal corporation

_____ , _____

_____ , _____

Date:

Date:

The foregoing Articles of Incorporation were adopted by the Board of Trustees of Oronoko Charter Township, Berrien Springs, Michigan, at a _____ meeting duly held on the ____ day of _____, 2022.

_____, _____

The foregoing Articles of Incorporation were adopted by the Board of Education of Berrien Springs Public Schools, Berrien Springs, Michigan, at a _____ meeting duly held on the ____ day of _____, 2022.

_____, _____

The foregoing Articles of Incorporation were adopted by the Board of Trustees of Berrien Township, Berrien Center, Michigan, at a _____ meeting duly held on the ____ day of _____, 2022.

_____, _____

The foregoing Articles of Incorporation were adopted by the Village Council of the Village of Berrien Springs, Berrien Springs, Michigan, at a _____ meeting duly held on the ____ day of _____, 2022.

_____, _____