

VILLAGE OF GALIEN
BERRIEN COUNTY, MICHIGAN
ORDINANCE NUMBER 108

ADOPTED MARCH 9, 2009

EFFECTIVE: IMMEDIATELY UPON PUBLICATION

**AN ORDINANCE CREATING
A DOWNTOWN DEVELOPMENT AUTHORITY
WITHIN THE VILLAGE OF GALIEN**

**THE VILLAGE COUNCIL OF THE VILLAGE OF GALIEN, COUNTY OF
BERRIEN, STATE OF MICHIGAN, DOES ORDAIN AS FOLLOWS:**

Section 1 - DESCRIPTION OF DISTRICT.

A Downtown Development Authority is hereby created, pursuant to P. A.197 of 1975, as amended, for the described district, being in the Village of Galien, County of Berrien, Michigan, having the legal description as set forth in Exhibit "A".

Section 2 - PURPOSE OF THE AUTHORITY.

The Downtown Development Authority is hereby created to promote economic growth, increase property values, and halt deterioration within the above-said district.

Section 3 - ESTABLISHMENT. OF GOVERNING BOARD.

The said Authority shall be under the supervision and control of a Board of Directors, consisting of the Village President and eight members appointed by the said President subject to approval of the Village Council. Not less than a majority of the members shall be persons having an interest in property located in the downtown district. Not less than one of the members shall be a resident of the downtown district, if the district is found to have 100 or more persons residing therein. The present members of the Board shall hold office until the members' successor is appointed. The members of the Board shall serve for a term of four (4) years, members shall serve without compensation but, they shall be reimbursed for actual and necessary expenses. The Chair of the Board shall be elected by the Board.

Section 4 - COMPENSATION OF BOARD.

The Board shall receive no compensation for their services on such Authority.

Section 5 - BOARD RULES AND MEETINGS.

The Board shall adopt rules governing its procedure and the holding of regular and special meetings subject to the approval of the Village Council. All meetings of the Board shall be open to the public, as required by the Michigan Open Meeting Act, P. A. 267 of 1976, as amended.

Section 6 - EMPLOYMENT OF PERSONNEL BY BOARD.**A - Director**

The Board may employ and fix the compensation of a Director, subject to the approval of the Village Council. The Director shall serve at the pleasure of the Board. A member of the Board is not eligible to hold the position of Director. Before entering upon the duties of his office, the Director shall take and subscribe to the constitutional oath, and furnish bond, by posting a bond in an amount determined by the Board payable to the Authority for use and benefit of the Authority, approved by the Board and filed with the Village Clerk. The premium on the bond shall be deemed an operating expense of the Authority payable from funds available to the Authority for expenses of operation. The Director shall be the chief executive officer of the Authority subject to the approval of the Board. The Directors shall supervise, and be responsible for, the preparation of plans and the performance of the functions of the Authority. The Director shall attend the meetings of the Board and shall render to the Board and to the Village Council a regular report covering the activities and financial condition of the Authority. If the Director is absent or disabled, the Board may designate a qualified person as acting Director to perform the duties of the office. Before entering upon the duties of his office, the acting Director shall take and subscribe to the oath, and furnish bond, as required of the Director. The acting Director shall furnish the Board with information or reports governing the operation of the Authority as the Board requires.

B - Treasurer

The Board may employ and fix the compensation of a Treasurer, who shall keep the financial records of the Authority and who, together with the Director, shall approve all vouchers for the expenditure of funds of the Authority. The Treasurer shall perform such other duties as may be delegated by the Board and shall furnish bond which shall be filed with the Village Clerk in an amount as prescribed by the Board.

C - Secretary

The Board may employ and fix the compensation of a Secretary, who shall maintain custody of the official seal and of records, books, documents, or other papers not required to be maintained by the Treasurer. The Secretary shall attend meetings of the Board and keep a record of its proceedings, and shall perform such other duties delegated by the Board.

D - Legal Council

The Board may retain legal counsel to advise the Board in proper performance of its duties. The legal counsel shall represent the Authority in actions brought by or against the Authority.

E - Other Personnel

The Board may employ other personnel deemed necessary by the Board.

Section 7 - DUTIES OF THE BOARD

The Board shall be responsible to:

- a. Prepare an analysis of economic changes taking place in the district.
- b. Study and analyze the impact of metropolitan growth upon the district.
- c. Plan and propose the construction, the renovation, the repair, the remodeling, the rehabilitation, restoration, preservation, or reconstruction of public facilities, and existing buildings, or a multiple-family dwelling unit which may be necessary or appropriate to the execution of a plan which in the opinion of the Board, aids in the economic growth of the district.
- d. Develop long-range plans, in cooperation with the agency which is chiefly responsible for planning in the Village, designed to halt the deterioration of property values in the district and to promote the economic growth of the district, and take such steps as may be necessary to persuade property owners to implement the plans to the fullest extent possible.
- e. Implement a plan of development in the district necessary to achieve the purposes of this Act, in accordance with powers granted to the Authority as granted by the Act.
- f. Make and enter into contracts necessary or incidental to the exercise of its powers and the performance of its duties.
- g. Acquire by purchase or otherwise, on terms and conditions and in a manner the Authority deems proper, or own, convey, or otherwise dispose of, or lease as lessor or lessee, land and other property, real or personal, or rights or interests therein, which, the Authority determines is reasonably necessary to achieve the purposes of this ordinance and, to grant or acquire licenses, easements, and options with respect thereof.
- h. Improve land and construct, reconstruct; rehabilitate, restore and preserve, equip, improve, maintain, repair, and. operate any building, including multiple-family dwellings, and any necessary or desirable appurtenances thereto, within the

district for the use, in whole or in part, of any public or private person or corporation, or a combination thereof.

- I Fix, charge, and collect fees, rents, and charges for the use of any building or property under its control or any part thereof, or facility therein, and pledge the fees, rents, and charges for the payment of Revenue Bonds issued by the Authority.
- j. Lease any building or property under its control, or any part thereof,
- k. Accept grants and donations of property, things of value from a public or private source.
- l. Acquire and construct public facilities.

Section 8 - AUTHORITY DEFINED

The Authority shall be deemed an instrumentality of a political subdivision for purposes of Act, No. 227 of the Public Acts of 1972.

Section 9 - TRANSFER OF PRIVATE PROPERTY TO AUTHORITY.

The Village may take private property pursuant to the provision of the Acquisition of Property by State Agencies and Public Corporations Act, P.A. Act 149 of 1911, as amended, for the purpose of transfer to the Authority, and may transfer the property to the Authority for use in an approved development, on terms and conditions it deems appropriate, and the taking, transfer, and use shall be considered necessary for public purposes and for the benefit of the public.

Section 10 - FINANCING OF AUTHORITY

The activities of the Authority shall be financed from one or more of the following sources:

- a. Donations to the Authority for the performance of its functions.
- b. Proceeds of a tax imposed pursuant to Section 11.
- c. Moneys borrowed and to be repaid as authorized by Section 12.
- d. Revenues from any property, building, or facility owned, leased, licensed, or operated by the Authority or under its control, subject to the limitations imposed upon the Authority by trusts or other agreements.
- e. Proceeds of a tax increment financing plan, established under Sections 13 to 15.

- f. Moneys obtained from other sources approved by the Village Council of the Village of Galien.

Moneys received by the Authority and not covered under subsection (a-f) shall immediately be deposited to the credit of the Authority subject to disbursement pursuant to this Act. Except as provided in this Act, the Village shall not obligate itself nor shall it ever be obligated to pay any sums from public funds other than moneys received by the Village pursuant to this Section for or on account of the Activities of the Authority.

Section 11 - LEVYING AD VALOREM TAX.

1. An Authority with the approval of the Village Council may levy an Ad Valorem Tax on the real and tangible personal property not exempt by law and as finalized and equalized in this district. The tax shall not be more than two (2) mills. The tax shall be collected by the Village of Galien. The Village shall collect the tax at the same time and in the same manner as it collects its other Ad Valorem Taxes. The tax shall be paid to the Treasurer, of the Authority and credited to the General Fund of the Authority for purposes of financing only the operations of the Authority.
2. The Village may, at the request of the Authority, borrow money and issue its notes therefore pursuant to Act No. 202 of the Public Acts of 1943, as amended, in anticipation of collection of the Ad Valorem Tax authorized in this section.

Section 12 - BORROWING MONEY: ISSUING REVENUE BONDS.

The Authority may borrow money and issued its negotiable Revenue Bonds therefore pursuant to P. A. 94 of 1933, as amended. Revenue Bonds issued by the Authority shall not except as hereinafter provided be deemed a debt of the Village of Galien or the State of Michigan. The Village by majority vote of the members of the Village Council may pledge its full faith and credit to support such Revenue Bonds.

Section 13 - TAX INCREMENT FINANCING PLAN.

1. As used in this Section and Sections 14 and 15:
 - a. "Captured assessed value" means the amount in any one (1) year by which the current assessed value of the Project Area exceeds the initial assessed value.
 - b. "Initial assessed "value" means the most recently assessed value of

all taxable property within the boundaries of the Development Area at the time the ordinance establishing the Tax Increment Financing Plan is approved. Property exempt from taxation at the time of the determination of the initial assessed value shall be included as zero.

2. When the Authority determines that it is necessary for the achievement of the purposes of this Act, the Authority shall prepare and submit a Tax Increment Financing Plan to the Village Council of the Village of Galien. The Plan shall include a Development Plan as provided in Section 15, a detailed explanation of the tax increment procedure, the amount of bonded indebtedness to be incurred, the duration of the program, and shall be in compliance with Section 14. The Plan shall contain a statement of the estimated impact of Tax Increment Financing on the assessed values of all taxing jurisdictions in which the development area is located. The plan may provide for the use of part or all of the captured assessed value, but the portion intended to be used by the Authority shall be clearly stated in the Tax Increment Financing Plan.
3. Approval of the Tax Increment Financing Plan shall be in accordance with the notice, hearing, and disclosure provisions of Section 17. When the development plan is part of the Tax Increment Financing Plan, only one (1) hearing and approval procedure is required for the two (2) plans together.
4. Before the public hearing on the Tax Increment Financing Plan the Village Council shall provide a reasonable opportunity to the members of the Berrien County Board of Commissioners, Galien Township Board members and the members of the Lake Michigan College Board of Trustees to meet with the Galien Village Council members. The Authority shall fully inform members of the County Board of Commissioners, Galien Township and Lake Michigan College of the fiscal and economic implications of the proposed development area. The members of the County Board of Commissioners and the Board of Lake Michigan College and Board members of Galien Township may present their recommendations at the public hearing on the Tax Increment Financing Plan.
5. A Tax Increment Financing Plan may be modified if the modification is approved by the governing body upon notice and after public hearings and agreements as are required for approval of the original plan.

Section 14 - TAX INCREMENT; DISPOSITION OF

1. The amount of Tax Increment to be transmitted to the Authority by the Village and County Treasurers shall be that portion of the tax levy of all taxing bodies paid each year on real and personal property in the Project Area on the captured assessed value.

2. The Authority shall expend the Tax Increments received for the Development Program only in accordance with the Tax Increment Financing Plan. Surplus funds shall revert proportionately to the respective taxing bodies. These Revenues shall not be used to circumvent existing levy limit laws. The governing body of the Village may abolish the Tax Increment Financing Plan when it finds that the purposes for which It was established are accomplished.
3. Annually the Authority shall submit to the Village Council of the Village of Galien a report on the status of the Tax Increment Financing Account. The report shall include: The amount and source of revenue in the account; the amount and purpose of expenditures from the account; the amount of principal and interest in any outstanding bonded indebtedness; the initial assessed value of the Project Area; the captured assessed value retained by the Authority; the Tax Increments received; and any additional information the Village Council deems necessary.
4. The report shall be published in a newspaper of general circulation in the Village of Galien.

Section 15 - GENERAL OBLIGATION BONDS

The Village of Galien may by resolution of its Village Council authorize, issue, and sell General Obligation Bonds subject to the limitations herein set forth to finance the Development Program of the Tax Increment Plan and shall pledge its full faith and credit for the payment of the Bonds. The Bonds shall mature in not more than 30 years and shall be subject to Act, No. 202 of the Public Acts of 1943, as amended. Before the Village may authorize the borrowing, the Authority shall submit an estimate of the anticipated Tax Increment Revenue to be available for payment of principal and interest on the Bonds, to the Village Council of the Village of Galien This estimate shall be approved by the Village Council of the Village of Galien by resolution adopted by majority vote of the members of the Council in the resolution authorizing the Bonds, and when approved by the Municipal Finance Commission shall be conclusive for purposes of this section. The Village may not pledge for annual debt service requirements in any one (1) year in excess of eighty percent (80%) of the estimated Tax Increment Revenue to be received for a Development Area for that year, and the total aggregate amount of borrowing shall not exceed an amount which the eighty percent (80%) of the estimated Tax Increment will service as to annual principal and interest requirements. The Bonds issued under this Section shall be considered a single series for the purposes of Act, No. 202 of the Public Acts of 1943, as amended.

Section 16 - DEVELOPMENT PLAN; CONTENTS OF.

1. When the Board decides to finance a project in the downtown district by the use of Revenue Bonds as authorized in Section. 13 or Tax Increment Financing as authorized in Sections 13, 14, and 15, it shall prepare a Development Plan.
2. The Development Plan shall contain:

- a. The designation of boundaries of the Development Area in relation to highways, streets, streams, or otherwise.
- b. The location and extent of existing streets and other public facilities within the Development Area and shall designate the location, character, and extent of the categories of public and private land uses then existing and proposed for the Development Area, including residential, recreational, commercial, industrial, educational, and other uses and shall include a legal description of the Development Area.
- c. A description of existing improvements in the Development Area to be demolished, repaired, or altered, a description of any repairs and alterations, and an estimate of the time required for completion.
- d. The location, extent, character, and estimated cost of the improvements including rehabilitation contemplated for the Development Area and an estimated of the time required for completion.
- e. A statement of the construction or stages of construction planned, and the estimated time of completion of each stage.
- f. A description of any parts of the Development Area to be left as open space and the use contemplated for the space.
- g. A description of any portion of the Development Area which the Authority desires to sell, donate, exchange, or lease to or from the Village and the proposed terms.
- h. A description of desired zoning changes and changes in streets, street levels, intersections, and utilities.
- i. An estimate of the cost of the development, a statement of the proposed method of financing the development and the ability of the Authority to arrange the financing.
- j. Designation of the person or persons, natural or corporate, to whom all or a portion of the development is to be leased, sold, or conveyed in any manner and for whose benefit the project is being undertaken if that information is available to the Authority.
- k. The procedures for bidding for the leasing, purchasing, or conveying in any manner of all or a portion of the development upon its completion, if there is no express or implied agreement between the Authority and