

Articles of Incorporation
Headwaters Recreation Authority

ARTICLE 1.

NAME

The name of the Authority shall be and is the “Headwaters Recreation Authority”, hereinafter referred to as the Authority.

ARTICLE 2.

DEFINITIONS

1. Expressly Defined Terms: The terms “authority,” “board,” “participating municipality,” “park,” “recreational purposes,” “and territory of the Authority” as used in these Articles of Incorporation shall be now or hereafter defined in Section 3 of the Michigan Public Act 321 of 2000, as amended hereafter referred to as “Act 321”, that being MCL 123.1131, *et seq.*
2. Other terms shall have such meaning as may be specified in the various provisions of these Articles of Incorporation, and shall otherwise have the meanings customarily ascribed to them, considering the context and subject matter of these Articles of Incorporation.

ARTICLE 3.

PARTICIPATING MUNICIPALITIES AND TERRITORY

The participating and creating municipalities of the Authority are the City of Hillsdale, a Michigan Municipal Corporation, Village of Jonesville, a Michigan Municipal Corporation, Township of Hillsdale, a Michigan Municipal Corporation, and the Township of Fayette, a Michigan Municipal Corporation, all of which are hereby designated and referred to in these articles as the “participating municipalities.” The territory of the Authority shall include all of the property situated within the corporate boundaries of all of the participating municipalities and any properties situated outside the corporate boundaries, as long as said properties are owned by one of the participating municipalities.

ARTICLE 4.

PURPOSE

The purpose of the Authority shall be to acquire, construct, operate, maintain and/or improve:

1. Non-motorized pathways,
2. Such other facilities as are authorized by Section 5 of Act 321, as determined by the Board following consultation with the legislative bodies of each of the participating municipalities.

ARTICLE 5.

POWERS

The Authority shall possess all the powers specified in Act 321, subject to the limitations of authority as provided by law and/or limitations as specified in these Articles of Incorporation, including the power to:

1. Acquire and hold, by purchase, lease with or without option to purchase, grant, gift, devise, land contract, installment purchase contract, bequest, or other legal means (not eminent domain), 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 the property revenue of the authority.
2. Apply for and accept grants or contributions from individuals, the federal government or any of its agencies, this state, a municipality, or other public or private agencies to be used for any of the purposes of the authority.
3. Hire full-time or part-time employees and retain professional services.
4. Provide for the maintenance of all of the real and personal property of the authority.
5. Assess and collect fees for services provided by and expenses incurred by the authority.
6. Receive revenue as appropriated by the legislature of this state or a participating municipality.
7. Enter into contracts incidental to or necessary for the accomplishment of the purposes of the authority.

ARTICLE 6.

TERM

The Authority shall continue in existence perpetually or until dissolved by the majority vote of each of the then 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 7.

FISCAL YEAR

The fiscal year of the Authority shall commence on the first day of January in each year and shall end on the last day of December of the subsequent year.

ARTICLE 8.

GOVERNING BOARD

The Authority shall be directed and governed by a nine (9) member Board of Trustees, known as the "Greater Hillsdale Area Recreational Authority Board" and hereinafter sometimes referred to as the "Board".

1. Membership of Board: The Board shall be made up of:
 - a. Two members selected by the legislative body of each participating municipality, each of whom shall be a registered voter of said participating municipality; and,
 - b. A member of the County Planning Commission or County Parks Commission selected by the County Commission, who is not an elected or appointed official from either of the participating municipalities of the Authority and is a registered voter in Hillsdale County
 - c. The initial members selected to the board by the legislative body of each participating jurisdiction shall be appointed for staggered terms, with one member appointed for a (1) one-year term and one member appointed to a (2) two-year term. After the initial terms, all appointed members shall serve for terms of two (2) years.
 - d. The term of each board member selected by the County Commission shall be two (2) years.
2. Oath of Office: Each member of the Board shall qualify by taking the constitutional oath of office and filing it with the clerk of his or her respective participating municipality, or in the case of the member selected by the County Commission, with the County Clerk.
3. First Board; Organizational Meeting; Subsequent Board Members: The members of the first Board shall be selected within forty five (45) days after the effective date of the incorporation of this Authority. Within sixty (60) days after the effective date of the incorporation of the Authority, the members of the first Authority Board shall qualify by taking the constitutional oath of office and shall meet for the purpose of organization. At such organizational meeting, the Board shall select a Chairperson, Vice Chairperson (each of whom may be a member of the Board) and Secretary and Treasurer (each of whom may be a member of the Board). All of such officers shall serve until the organizational meeting of the following year, which shall be held each year in January, or until their respective successors shall be selected and qualify.
4. No selection to the Authority and no selection of an officer shall be deemed to be invalid because it was not made within the times or at the time specified in these Articles. Any Board member may be removed at any time for cause or without cause by action of the governing body that selected such member.

ARTICLE 9.

COMPENSATION

Pursuant to the requirements of Act 321, members of the Authority Board shall not be compensated for their service by the Authority. Each member of the Board shall, however, be entitled to reimbursement for all expenditures made by him or her in carrying out official duties as may be approved by the Board and to the extent authorized by the budget for the Authority for each fiscal year.

ARTICLE 10.

VACANCY

In the event of a vacancy on the Board, the governing body selecting such representative shall fill the vacancy as expeditiously as possible.

ARTICLE 11.

MEETINGS

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

Any meeting of the Board shall be held, and any notice therefore shall be given, in accordance with the provisions of Act 267, Public Acts of Michigan, 1976, as amended (the Open Meetings Act). Any member may waive notice of any special meeting either before or after the holding thereof.

A majority of the members of the Board shall constitute a quorum, which shall be required in order to conduct a meeting of the Board. The Board shall 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 the members of the Board.

The Board shall have the right to adopt rules governing its procedures, which are not in conflict with the terms of any statute of the State of Michigan or of these Articles of Incorporation. The Board shall keep a record of its proceedings, which record shall be signed by the Secretary and open to the public. All votes shall be "Yes," "No" or "Abstain," provided where the vote is unanimous, it shall only be necessary to so state.

A writing prepared, owned, or used by an authority in the performance of an official function shall be made available in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

ARTICLE 12.

DUTIES OF BOARD AND OFFICERS

The Chairperson of the Board shall be the presiding officer thereof, and shall be permitted, with the consent of the Board, to appoint committees of the Board as necessary. Except as herein otherwise provided, the Chairperson and Board Members shall not have any executive or administrative functions other than as a member of the Board. In the absence or disability of the Chairperson, the Vice-Chairperson shall perform the duties of the Chairperson.

The Secretary shall be the recording officer for the Board. If a person other than an active member of the board is to serve as Secretary, the board may establish qualifications for such office, such as the capability of carrying out the duties of office, including, without limitation,

compliance with the Freedom of Information Act and other state laws relating to record keeping and management.

The Treasurer shall be the custodian of the funds of the Authority and shall give to it a bond conditioned upon 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 withdrawal there from shall be signed by two (2) persons, which persons shall be the Secretary, the Treasurer or their respective designees, as approved by the Board of Directors. All authorized signatories shall give a bond conditioned upon the faithful performance of the prescribed duties. The Authority shall pay the cost of the bonds. If a person other than an active member of the Board is to serve as Treasurer for the Board, the Board may establish qualification for such office, including the capability of carrying out the duties of office as provided by law and these Articles of Incorporation.

ARTICLE 13.

REVENUE SOURCES, BUDGETING, AND FINANCING THE AUTHORITY

Revenue Sources

The Authority shall have the power to raise revenue in the manner authorized by Act 321.

Financing the Authority

A. Financial Contribution From Each Participating Municipality Until Millage Election

For the period consisting of the remainder of Fiscal Year (“FY”) **10-11** the participating municipalities will equally fund the authority via contributions from each jurisdiction. For FY **11-12** the participating municipalities will equally fund the authority in an amount necessary to carry out the Authority’s operations, as agreed upon by the legislative bodies of the participating municipalities during FY 10-11.

B. Property Tax Levy

As an alternative to the financial contribution formula in subsection A of this section, and in years following FY 10-11, the Authority may levy a tax on all taxable property within the territory of the Authority **if a majority of the electors in each of the participating municipalities voting on the question of a tax approve the proposal**, as authorized by Section 11 of Act 321. For so long as the Authority is funded by a levy as authorized by Section 11 of Act 321, the imposition of such a levy shall preclude the Authority from requiring any further financial contributions from each participating municipality. Nothing in this paragraph shall be construed as preventing a participating municipality, by action of its governing body, from providing additional contributions to the Authority, for either general or a specific use.

Prior to making a final determination to levy a tax, as provided above, the Board shall seek the input of the legislative bodies of the participating municipalities.

C. Rollover Funding During Initial Operations

In addition to the above sources, the Authority may, during its first year of operations and additionally until the approval of a Property Tax Levy, be funded in part or whole via allocation of funds already designated for recreational activities by one or more of the participating municipalities. Any funds allocated directly from any participating municipality under this paragraph shall be credited toward that participating municipality's share under any budgetary computations under paragraph A for the first year or part thereof of operations of the Authority. During the start-up period of the Authority, and until the commencement of the Property Tax Levy, the Authority's funds shall be administered by the Treasurer, which shall account separately for all funds of the Authority. Prior to commencement of the Property Tax Levy, the Authority may determine whether the Authority shall, internally or by contract, make other arrangements for the management and accounting of the Authority's finances.

Budgeting

D. Budget Process During Periods Not Funded by Property Tax Levy

For so long as the Authority is not financed by a Property Tax Levy as provided in Section 11 of Act 321 and Article XIII (B) of these articles, the mandates of this paragraph shall apply to the Authority's budgeting process. The Board shall prepare a proposed annual operating and capital budget reflecting the projected revenues and projected expenditures of the Authority for the next fiscal year beginning January 1. The Board shall adopt the proposed budget by a majority vote of the members of the Board in such a manner as to assure submission of the adopted tentative budget to the participating municipalities no later than December 1 of each year. The proposed budget shall provide for contributions from the member municipalities which are not greater than those which would be arrived at using the formula utilized in subparagraph A. After the approval of the proposed budget by the governing bodies of a **three-fourths** majority of the participating municipalities, the Board shall give final approval to the Authority budget for the next fiscal year. The budget may be amended from time to time upon approval by the governing bodies of a two-thirds majority of the participating municipalities.

E. Budget Process During Periods Funded by Property Tax Levy

During any period in which the Authority is financed by a Property Tax Levy as provided in Section 11 of Act 321 and Article XIII (B) of these Articles, the mandates of this paragraph shall apply to the Authority's budgeting process, and shall supercede the mandates of paragraph (D) of this Article. The Board shall prepare a proposed annual operating and capital budget reflecting the projected revenues and projected expenditures of the Authority for the next fiscal year beginning January 1. The Board shall adopt the proposed budget by a majority vote of the members of the Board in such a manner as to assure that said budget is approved prior to January 1 of the year it is to commence. The Board's approval by majority vote shall be the final approval required for the budget. The budget may be amended from time to time upon approval

of a majority of the Board. Nothing in this subsection shall be construed to require a participating municipality to fund the Authority with any general fund monies without the approval of said funding by that participating municipality's governing body, which shall retain the discretion to approve or deny general fund monies to the Authority during the time periods to which this subsection applies. During any period in which the Authority shall cease to be funded by a Property Tax Levy as provided in Section 11 of Act 321 and Article XIII (B) of these Articles, the budget procedure followed shall be that found in Paragraph (D) of this Article, which shall supercede this Paragraph during all such times.

F. Accounting and Budgeting Practices

The accounting and budgeting practices of the Authority shall conform with standard accounting practices, the Uniform Budgeting and Accounting Act, Act 2, Public Acts of Michigan, 1968, as amended, and all other applicable provisions of law.

ARTICLE 14.

PARTICIPATING MUNICIPALITY WITHDRAWAL

A participating municipality shall not withdraw from the Authority during the period that a tax is authorized to be levied by the electors of the Authority.

A participating municipality may withdraw from the Authority, subject to the limitation in the first paragraph of this Article, by resolution of the participating municipality's legislative body approving the withdrawal. A certified copy of the resolution shall be provided to the Board at least 6 months prior to the beginning of a new fiscal year for the Authority. Such new fiscal year shall serve as the effective date for the withdrawal.

A participating municipality that withdraws from the Authority shall remain liable for a proportion of the debts and liabilities of the Authority incurred while the participating municipality was a part of the Authority. The proportion of the Authority's debts for which a participating municipality remains liable as a result of this withdrawal from the Authority shall be determined by dividing the state equalized value of the real property in the participating municipality by the state equalized value of all real property in the Authority on the effective date of the withdrawal.

Any property owned by the Authority, which is in the possession of the withdrawing municipality or in the possession of personnel who will no longer remain with the Authority as a result of the participating municipality's withdrawal from the Authority, shall be returned to the Authority before the effective date of the withdrawal. The withdrawing municipality shall not be entitled to the return of any credit for any property or money it transferred to or paid to the Authority prior to the withdrawal.

ARTICLE 15.

DISSOLUTION OF AUTHORITY

The Authority may be dissolved by the concurring resolution of the governing body of each then participating municipality of the Authority at the time of such dissolution. Prior to dissolution of the Authority any outstanding indebtedness of the Authority, including any bonds issued under Section 21 and/or Section 23 of Act 321 shall be paid. Any assets of the Authority remaining after the payment of any such outstanding indebtedness shall be distributed to the participating municipalities of the Authority at the time of the dissolution based upon each participating municipality's most recent financial contribution to the Authority. Any land, buildings, and/or facilities that were contributed to the Authority by a participating municipality and is maintained, owned, or operated by the Authority shall revert back to the originating municipality. Any land purchased by the authority or donated shall be sold and the proceeds distributed according to the 1) the formula in Article XIII, paragraph A, if the participating municipalities, at the time of dissolution, are directly funding the Authority's budget or 2) according to the formula arrived at by dividing the state equalized value of the real property in each participating municipality by the state equalized value of all real property in the Authority on the effective date of the dissolution. In all instances, the participating municipality in which said real estate is located shall be given the right of first refusal on the purchase of said real estate. In the event of a dissolution following a period of property tax levy by the Authority, any funds obtained via levy, and/or property purchased by such funds, which are subsequently distributed to the participating municipalities pursuant to this Article shall be assigned by the participating municipalities to public purposes consistent with the purposes approved by the electorate for the original levy.

Notwithstanding the above paragraph, in the event that, at the time of dissolution, the Authority is in possession of lands acquired with, or developed with, in whole or in part, grant funds from the Michigan Natural Resources Trust Fund (hereinafter the "MNRTF"), the following procedure shall control the disposition of said lands. All lands purchased or developed with MNRTF funds, in whole or in part, must be maintained as public outdoor recreation land in perpetuity, unless said lands are replaced with land of equivalent fair market value and recreational usefulness, unless said lands, instead of being purchased, are leased for a period of at least twenty (20) years with the assistance of MNRTF funds. Accordingly, to comply with MNRTF mandates in the event of dissolution, the participating municipality in which the lands acquired or developed with MNRTF funds are located shall assume title and control of said lands, and shall be required to maintain said lands as public outdoor recreation land in perpetuity, or until the expiration of any lease of the lands from any party to the Authority or its successors whose original period was twenty (20) years or longer, whichever is greater, unless said lands are replaced with land of equivalent fair market value and recreational usefulness. Said lands shall be transferred to the participating municipality in which the lands are located, and said transfer shall not be credited, set-off, or computed against any other allocation under this Article's dissolution procedure, nor shall any credit, computation, or set-off be made in recognition of any maintenance costs associated with said lands.

ARTICLE 16.

EMPLOYEES

The Board may employ such personnel and employees as it may consider desirable and may retain from time to time the services of attorneys, accountants, and other consultants, as the Board considers necessary to carry out the purpose of the Authority.

ARTICLE 17.

AUDIT

The Board shall procure an annual audit, consistent with the requirements of Section 27 of Act 321, to be made of the books, records and financial transactions of the Authority by a certified public accountant. Three copies of the audit report prepared by the certified public accountant shall be furnished to each participating municipality. The books and records of the Authority shall be open for inspection by any participating municipality at all reasonable times.

ARTICLE 18.

STATE, FEDERAL AND PRIVATE GRANTS

The Authority shall have the power to apply for and accept grants, loans or contributions from the United States of America or any agency or instrumentality thereof, the State of Michigan or other public or private organizations or foundations; and to do any and all requirements necessary or desirable to secure such financial or other aid or cooperation in carrying out any of the purposes of Act 321. In the event that any grant, loan or contribution shall require a long term obligation as to the use, maintenance, or operation of a specific piece of property, the approval of the governing body of the participating municipality in which such property is located shall be required prior to the acceptance of the grant, loan, or contribution by the Authority.

ARTICLE 19.

INVESTMENT

The Treasurer of the Authority when authorized by a resolution of the Board may invest general funds of the Authority. The board must approve the treasurer's investment policy. Such investment by the Treasurer shall be made in compliance with the laws of the State of Michigan.

ARTICLE 20.

EXEMPTION FROM TAXATION

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

ARTICLE 21.

PUBLICATION

These Articles of Incorporation shall be published not less than once in a newspaper generally circulated within the participating municipalities, before they are adopted. The adoption of these Articles of Incorporation by a participating municipality shall be evidenced by an endorsement on these Articles by the clerk of such participating municipality. Upon adoption of these Articles of Incorporation by each of these participating municipalities, a printed copy thereof shall be filed with the Secretary of State by the Municipal Clerk of the last participating municipality to adopt the Articles.

ARTICLE 22.

EFFECTIVE DATE

The Authority shall become effective upon the filing of certified copies of these Articles with the Secretary of State, as provided in the preceding Article.

ARTICLE 23.

AMENDMENTS

These Articles of Incorporation may be amended at any time so as to permit any county, city, village, township or district to become a participating municipality of the Authority, if such amendment to the Articles of Incorporation are adopted by the legislative body of such county, city, village, township or district proposing to become a member, and if such amendment is adopted by the legislative body of each participating municipality of which the Authority is composed. During any period in which the Authority is financed by a Property Tax Levy as provided in Section 11 of Act 321, a majority of the electors in any county, city, village, township or district who desires to become a participating municipality of the Authority shall approve the tax the Authority has been authorized to levy by a majority vote of the electors of the Authority under section 11. Other amendments may be made to these Articles of Incorporation at any time if adopted by the legislative body of each participating municipality of which the Authority is composed. This requirement shall apply to all amendments to the articles, including those which would otherwise be exempted by paragraph (4) of Section 5 of Act 321. Any such amendment shall be published, endorsed, and certified and printed copies thereof filed in the same manner as the original Articles of Incorporation.

ARTICLE 24.

REVERSION OF LEASES OF EXISTING PARK LAND

In the event that any land leased to the Authority shall, during the Authority's stewardship and lease of said lands, be improved or developed, in whole or in part, with the assistance of Michigan Natural Resources Trust Fund ("MNRTF") and/or Land and Water Conservation Fund ("LWCF") monies, the Authority shall, throughout the Authority's stewardship and lease of the lands, be responsible for maintaining said lands in accordance with all grant requirements attendant to funding under the MNRTF and/or LWCF requirements. In the event of the dissolution of the Authority, or any other termination of the Authority's lease for any reason, the

participating municipality which holds title to the lands shall maintain said lands in accordance with all grant requirements attendant to funding under the MNRTF and/or LWCF requirements, in perpetuity for those obligations occurring pursuant to LWCF requirements, and for the entire period of the grant or original lease of the property, whichever is longer, for those obligations occurring under the MNRTF. The requirements of this paragraph shall not be utilized in any way in determining any calculations, credits, or set-offs in regards to any dissolution arrangements under Article XV of these Articles.

ARTICLE 25.

MISCELLANEOUS

These Articles of Incorporation may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The captions in these Articles of Incorporation are for convenience only and shall not be considered as part of these Articles of Incorporation or in any way limiting or amplifying the terms and provisions hereof.

These Articles have been adopted by the governing bodies of the: City of Hillsdale, the Village of Jonesville, the Township of Hillsdale and the Township of Fayette, as set forth in the following endorsements, and in witness whereof the Mayor and City Clerk of the City of Hillsdale, Village President and Village Clerk of the Village of Jonesville, Supervisor and Township Clerk of the Township of Hillsdale and Supervisor and Township Clerk of the Township of Fayette, have endorsed thereon the statement of such adoption.

Mayor, City of Hillsdale

Clerk, City of Hillsdale

The foregoing Articles of Incorporation were adopted by the City Council of the City of Hillsdale, Hillsdale County, Michigan, at a meeting duly held on the ____ day of _____, 2010.

Village President, Village of Jonesville

Clerk, Village of Jonesville

The foregoing Articles of Incorporation were adopted by the Village Council of the Village of Jonesville, Hillsdale County, Michigan, at a meeting duly held on the ____ day of _____, 2010.

Supervisor, Township of Hillsdale

Clerk, Township of Hillsdale

The foregoing Articles of Incorporation were adopted by the Township Board of the Township of Hillsdale, Hillsdale County, Michigan, at a meeting duly held on the ____ day of _____, 2010.

Supervisor, Township of Fayette

Clerk, Township of Fayette

The foregoing Articles of Incorporation were adopted by the Township Board of the Township of Fayette, Hillsdale County, Michigan, at a meeting duly held on the ____ day of _____, 2010.