

**TOWNSHIP OF KOCHVILLE
SAGINAW COUNTY, MICHIGAN**

ORDINANCE NO. 89-5 DDA

PURPOSE:

AN ORDINANCE to provide for the establishment of a DOWNTOWN DEVELOPMENT AUTHORITY in the Township of Kochville; to prescribe its powers and duties; to correct and prevent deterioration in the central business district; to encourage historic preservation; to authorize the acquisition and disposal of real and personal property; to authorize the creation and implementation of development plans in the district; to promote the economic growth in the district; to create a board; to prescribe its policies and duties; to authorize, to levy and collection of taxes; to authorize the issuance of bonds and other evidences of indebtedness; and to authorize the use of tax increment financing.

This Ordinance is created pursuant to Public Act 197, 1975 effective August 13, 1975, as amended.

THE TOWNSHIP OF KOCHVILLE ORDAINS:

SECTION 1. DEFINITIONS

Its use in this Ordinance:

- (1) "Authority" means a Downtown Development Authority created pursuant to this Ordinance.
- (2) "Board" means the governing body of the Authority.
- (3) "Business District" means an area of the Township of Kochville zoned and/or used principally for business.
- (4) "The Chief Executive Officer" means the supervisor of the Township of Kochville.
- (5) "Development Area" means that area to which a Development Plan is applicable.
- (6) "Development Plan" means that information and those requirements for development as set forth in Section 8 herein.
- (7) "Development Program" means the implementation of the Development Plan.
- (8) "Downtown District" means an area in a business district which is specifically designated by this Ordinance of the Township of Kochville and outlined herein.
- (9) "Governing Body" means the Township Board of The Township of Kochville.
- (10) "Operations" means office maintenance, including salaries and expenses of employees, office supplies, consultation fees, design costs, and other expenses incurred in the daily management of the Authority and the planning of its activities.
- (11) "Public Facility" means a street, plaza, pedestrian mall, and any improvements thereto including street furniture and beautification, parks, parking facilities, recreational facilities, right-of-way, structure, waterway, bridge, lake, pond, canal, utility line or pipe, building and access routes to any of the foregoing, designed and dedicated to use by the public generally, or used by public agency.

SECTION 2. BOARD, MEMBERSHIP; QUALIFICATION; TERM; VACANCY; COMPENSATION AND EXPENSES; CHAIRPERSON OF DOWNTOWN DEVELOPMENT AUTHORITY.

- (1) The Authority shall be under the supervision and control of a Board consisting of the Chief Executive Officer of the Township of Kochville and not less than eight (8) nor more than twelve (12) members.
- (2) All members shall be appointed by the Chief Executive Officer, subject to approval by the Governing Body.
- (3) A majority of the members appointed shall be persons having an interest in property located in the Downtown District.
- (4) At least one of the members shall be a resident or business operator of the Downtown District.
- (5) Members should be appointed on staggered terms with an equal number appointed for one year, two years, three years and four years. Members shall hold office until the members successor is appointed. Thereafter, each member shall serve for a term of four years.
- (6) A vacancy shall be filled by an appointment made by the Chief Executive Officer for the unexpired term only. All members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses.
- (7) The Chairperson of the Board shall be elected by the Board.
- (8) Before assuming the duties of office a member shall qualify by taking and subscribing to the Constitutional Oath of Office.

SECTION 3. MEETINGS, SPECIAL MEETINGS.

- (1) The Board shall perform and conduct all business public meetings held in compliance with Act 267 of the Public Acts of 1976, being Sections 15.261 to 15.275 of the Michigan Compiled Laws Annotated, which is also known as the Open Meetings Act.
- (2) The Board shall adopt any rules necessary governing its procedure and the holding of regular meetings subject to the approval of the governing body.
- (3) Special Meetings may be held when called in the manner provided for in the Rules of the Board, as long as said meetings comply with the Open Meetings Act.

SECTION 4. FREEDOM OF INFORMATION ACT, EXPENSES AND FINANCIAL RECORDS.

- (1) All writings, items of records prepared, owned or used, in the possession of or retained by the board in the performance of official function shall be made available to the public in compliance with the Freedom of Information Act, Act 442 of the Public Acts of 1976, being Sections 15.231 through 15.246 of Michigan Compiled Laws Annotated.
- (2) All expense items of the Authority shall be publicized monthly and the financial records should always be open to the public.

SECTION 5. POWERS OF THE BOARD:

The Board may:

- (1) Prepare an analysis of economic changes taking place in the downtown district.
- (2) Study and analyze the impact of metropolitan growth of the downtown district.
- (3) Plan and propose construction, renovation, repair, remodeling, rehabilitation, restoration, preservation, or reconstruction of public facilities, in existing building(s), or multi-family dwelling unit which may be necessary or appropriate to the execution of a plan which, in the opinion of the Board, aids in economic growth of the downtown district.
- (4) Develop long range plan, in cooperation with the agency which is chiefly responsible for planning in the municipality, design to halt the deterioration of property value of downtown district and to promote the economic growth of the downtown district, take such steps as may be necessary to persuade property owners to implement the plan(s) to the fullest extent possible.
- (5) Implement any plan and/or development of the Downtown District necessary to achieve the purposes of this Ordinance, in accordance with the powers of authority granted by this Ordinance.
- (6) Make and enter into contracts necessary and incidental to the exercise of its powers in performance of its duties.
- (7) Acquire by purchase or otherwise, on terms and conditions and in a manner the Authority deems proper to 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 reasonably necessary to achieve the purposes of this Ordinance, and to grant or acquire, license, easements and options with respect thereto.
- (8) Improve land and construct, reconstruct, rehabilitate, restore and preserve, equip, improve, maintain, repair, and operate any building, including multi-family dwellings, any necessary or desirable appurtenances thereto, within the downtown district for the use, in whole or in part, of any public or private person or corporation, or a combination thereof.
- (9) 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.
- (10) Lease any building or property under its control, or any part thereof.
- (11) Accept grants and/or donations of property, labor or other things of value from a public or private source.
- (12) Acquire and construct public facilities.
- (13) Retain legal counsel to advise the Board in the proper performance of its duties.
- (14) Employ any such other person thereof deemed necessary by the Board, including a Director. Said Director must be approved by the Township of Kochville and shall serve at the pleasure of the Board. No member of the Board or Township Board is eligible to hold the position

of Director. The Director shall take and subscribe to the Constitutional Oath and furnish Bond as required by Act 197 of 1975, as amended.

SECTION 6. CONDEMNATION: TRANSFER OF PROPERTY.

The Township of Kochville may take private property under Act 149 of the Public Acts of 1911, as amended, being Sections 213.21, 213.41 of Michigan Compiled Laws, for the purpose of transferring to the Authority, and may transfer to the Authority for the use an improved development, on terms and conditions it deems appropriate, and the taking, transferring, and use should be considered necessary for public purposes for the benefit of the public.

SECTION 7. FINANCE ACTIVITIES OF AUTHORITY.

- (1) 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 8 of this Ordinance.
 - (c) Moneys borrowed and to be repaid as authorized by Section 9 of this Ordinance.
 - (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 Section 10 to 12 of this Ordinance.
 - (f) Moneys obtained from other sources approved by the Township Board.
- (2) Moneys received by the Authority and not covered under subsection (1) shall immediately be deposited to the credit of the Authority, subject to disbursement pursuant to Act 197 of 1975, as amended. Except as provided by this Ordinance, the Township of Kochville shall not obligate itself, nor shall it ever be obligated to pay any sums from public funds, other than moneys received by the Township of Kochville pursuant to this Section, for or on account of the activities of the Authority.

SECTION 8. AD VALOREM TAX.

- (1) The Authority with the approval of the Governing Body may levy an ad valorem tax on the real and tangible personal property not exempt by law and as finally equalized in the Downtown District. The tax shall be collected by the Township of Kochville. The Township shall collect the tax at the same time and in the same manner as it collects other ad valorem taxes. The tax shall be paid to the Township Treasurer and credited to the general fund of the Authority for purposes of financing only the operations of the Authority.
- (2) The Township of Kochville may at the request of the Authority borrow money and issue its notes therefor pursuant to Act No. 202 of the Public Acts of 1943, as amended, being Sections 131.1 to 138.2 of the Michigan Compiled Laws, in anticipation of collection of the ad valorem tax authorized in this Section.

SECTION 9. REVENUE BONDS.

The Authority may borrow money and issue its negotiable revenue bonds therefor pursuant to Act No. 94 of the Public Acts of 1933, as amended, being Sections 141.01 to 141.139 of the Michigan Compiled Laws. Revenue bonds issued by the Authority shall not except as hereinafter provided, be deemed a debt of the Township of Kochville or of the State of Michigan.

SECTION 10. TAX INCREMENT FINANCING PLAN.

(1) As used in this Section and Sections 11 and 12:

- (a) "Captured Assessed Value" means the amount in any one year by which the current assessed value of the project area, including the assessed value of property for which Specific Local Taxes are paid in lieu of property taxes as determined in subsection (1) (c), below, exceeds the Initial Assessed Value. The method for calculating Captured Assessed Value shall comply with the method prescribed by the State Tax Commission.
- (b) "Initial Assessed Value" means the assessed value, as equalized, of all the taxable property within the boundaries of the Development Area at the time the Ordinance establishing the tax increment financing plan is approved, as shown by the most recent assessment roll of the Township of Kochville for which equalization has been completed at the time the resolution is adopted. Property exempt from taxation at the time of the determination of the Initial Assessed Value shall be included as zero. For the purpose of determining Initial Assessed Value, property for which a Specific Local Tax is paid in lieu of a property tax shall not be considered to be property which is exempt from taxation. The Initial Assessed Value of property for which a Specific Local Tax was paid in lieu of a property tax shall be determined as provided in subsection (1) (c), below.
- (c) "Specific Local Tax" means a tax levied under Act No. 198 of the Public Acts of 1974, being Sections 207.551 to 207.751 of the Michigan Compiled Laws, the Commercial Redevelopment Act, Act No. 255 of the Public Acts of 1978, being Sections 207.651 to 207.668 of the Michigan Compiled Laws, and Act No. 189 of the Public Acts of 1953, being Sections 211.181 to 211.182 of the Michigan Compiled Laws. The Initial Assessed Value or Current Assessed Value of property subject to a Specific Local Tax shall be the quotient of the Specific Local Tax paid divided by the ad valorem millage rate.

(2) When the Authority determines that it is necessary for the achievement of the purposes of this Ordinance, the Authority shall prepare and submit a Tax Increment Financing Plan to the Governing Body. The Plan shall include a Development Plan as provided in Section 13 of this Ordinance, a detailed explanation of the tax increment procedure, the maximum amount of bonded indebtedness to be incurred, and the duration of the Development Program, and shall be in compliance with Section 11 hereof. The Tax Increment Financing 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 Tax Increment Financing 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. The Authority or Governing Body may exclude from Captured Assessed Value growth in property value resulting solely from inflation. The Tax Increment Financing Plan shall set forth the method for excluding growth in property value resulting solely from inflation. The percentage of taxes levied for school operating purposes that is captured and used by the Tax Increment Financing Plan shall not be greater than the Tax Increment Financing Plan's percentage capture and use of taxes levied by Saginaw County or the Township of Kochville for operating purposes. For purposes of the previous sentence, taxes levied by Saginaw County for operating purposes include only millage for County purposes under the Property Tax Limitation Act, Act No. 62 of the Public Acts of 1933, being sections 211.201 to 211.217a of the Michigan Compiled Laws.

- (3) Approval of the Tax Increment Financing Plan shall be pursuant to the notice, hearing, and disclosure provisions of Section 15 hereof. If the Development Plan is part of the Tax Increment Financing Plan, only 1 hearing and approval procedure is required for the 2 Plans together.
- (4) Before the public hearing on the Tax Increment Financing Plan, the Governing Body shall provide a reasonable opportunity to the members of the Saginaw County Board of Commissioners and to the members of the Kochville School District and to the members of the Saginaw County Intermediate School District and to the members of the Delta College Board of Control to meet with the Governing Body. The Authority shall fully inform members of these boards of the fiscal and economic implications of the proposed Development Area. The members of these boards may present their recommendations at the public hearing on the Tax Increment Financing Plan. The Authority may enter into agreements with any of these boards and the Governing Body to share a portion of the Captured Assessed value of the Downtown District.
- (5) The 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 Development Plan.

SECTION 11. OPERATION UNDER TAX INCREMENT FINANCING PLAN.

- (1) The amount of tax increment to be transmitted to the Authority by the Township 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. For the purpose of this section, that portion of a Specific Local Tax that is attributable to the Captured Assessed Value of the facility shall be included as a part of the tax increment to be transmitted to the Authority.
- (2) The Authority shall expend the tax increments received for the Development Program only pursuant to the Tax Increment Financing Plan. Surplus funds shall revert proportionately to the respective taxing bodies. These revenues shall not be used to circumvent existing property tax limitations. The Governing Body may abolish the Tax Increment Financing Plan when it finds that the purposes for which it was established are accomplished. However, the Tax Increment Financing Plan shall not be abolished until the principal of, and in-

interest on bonds issued pursuant to Section 12 of this Ordinance have been paid or funds sufficient to make the payment have been segregated.

- (3) Annually the Authority shall submit to the Governing Body and the State Tax Commission 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 on 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 Governing Body or State Tax Commission considers necessary. The report shall be published in a newspaper of general circulation in the Township of Kochville.

SECTION 12. GENERAL OBLIGATION BONDS.

- (1) The Township of Kochville may by resolution of the Governing Body authorize, issue and sell general obligation bonds it deems appropriate and necessary, subject to the limitations set forth in this Section, to finance the Development Program of the Tax Increment Financing 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, being Sections 131.1 to 138.2 of the Michigan Compiled Laws:
 - (a) Before the Township may authorize such borrowing, the Authority shall submit an estimate of the anticipated tax increment revenue to be available for payment of principal and interest on bonds to the Governing Body.
 - (b) This estimate shall be approved by the Governing Body resolution adopted by a majority vote of the members of the Governing Body, and in the resolution authorizing the bonds and when approved by the Michigan Municipal Commission shall be conclusive for purposes of this Section.
 - (c) The Township may not pledge for annual debt service requirements in any one year in excess of 80% of the estimated tax increment revenue to be received from the Development Area for that year, and the total aggregate amount of borrowing shall not exceed an amount which the 80% of the estimated tax increment will service as to annual principal and interest requirements.
 - (d) The bonds issued under this Section shall be considered to be a single series for the purposes of Act No. 202 of the Public Acts of 1943, as amended.

SECTION 13. DEVELOPMENT PLAN PREPARATION CONTENTS.

When the Authority decides to finance a project in the Downtown District by use of revenue bonds as authorized in Section 9 or tax increment financing as authorized in Sections 10, 11 and 12, it shall prepare a Development Plan which shall contain:

- (1) The designation boundaries of the Development Area in relation to highways, streets, streams or otherwise.

- (2) The location and extent of existing streets and other public facilities in 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.
- (3) A description of existing improvements in the Development Area to be demolished, repaired or altered, a description of any repairs or alterations and an estimate of the time required for completion.
- (4) The location, extent and character, and estimated costs of improvements including rehabilitation contemplated for the Development Area and an estimate of the time required for completion.
- (5) A statement of the construction or stages of construction planned, and the estimated time of completion of each stage.
- (6) A description of any parts of the Development Area to be left as open space and the use contemplated for this space.
- (7) A description of any portions of the Development Area which the Authority desires to sell, donate, exchange, or lease to or from the Township of Kochville and the proposed terms.
- (8) A description of desired zoning changes and changes in streets, street levels, intersection and utilities.
- (9) An estimate of the cost of development, a statement of the proposed method of financing of the development and the ability of the Authority to arrange the financing.
- (10) Designation of the person or persons, natural or corporate, to whom all or 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.
- (11) 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 persons, natural or corporate, that all or a portion of the development will be leased, sold, or conveyed in any manner to those persons.
- (12) Estimates of the number of persons residing in the Development Area, and the number of families and individuals to be displaced. If occupied residences are designated for acquisition and clearance by the Authority, a Development Plan should include a survey of the families and individuals to be displaced, including their income and racial composition, a statistical description of the housing supply in the community, including the number of private and public units in existence or under construction, the condition of those in existence, the number of owner-occupied and renter-occupied units, the annual rate of turnover of the various types of housing and the range of rents and sale prices, an estimate of the total demand for housing in the community, and the estimated capacity of private and public housing available to displaced families and individuals.
- (13) A plan for establishing priority for the relocation of persons displaced by the development in any new housing in the Development Area.
- (14) Provision for the costs of relocating persons displaced by the development and financial assistance and reimbursement of expenses, including litigation expenses incident to the transfer of title, in accordance

with the standards and provisions of the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, being Public Law 91-646, 42 U.S.C. Section 4601, et seq.

- (15) A plan for compliance with Act No. 227 of the Public Acts of 1972, being Sections 213.321 to 213.332 of the Michigan Compiled Laws.
- (16) Other material which the Authority, Township Planning Commission or Governing Body deems pertinent.

SECTION 14. DEVELOPMENT AREA CITIZENS COUNCIL.

- (1) If a proposed Development Area has residing within it 100 or more residents, a Development Area citizens council shall be established as required by Section 21 of Act No. 197 of the Public Acts of 1975, as amended, being the Downtown Development Authority Act.
- (2) Where a Development Area citizens council has been established, the Authority and Development Area citizens council shall operate in accordance with the provisions of Sections 21 to 27 of Act No. 197 of the Public Acts of 1975, as amended.

SECTION 15. APPROVAL OF DEVELOPMENT PLAN OR TAX INCREMENT FINANCING PLAN.

- (1) The Governing Body shall only adopt any ordinance approving a Development Plan or Tax Increment Financing Plan in accordance with the notification, publication, public hearing, and record requirements specified by Section 18 of Act 197 of the Public Acts of 1975, as amended, the Downtown Development Authority Act.
- (2) After a public hearing on the Development Plan or Tax Increment Financing Plan, the Governing Body shall determine whether the Development Plan or Tax Increment Financing Plan constitutes a public purpose.
- (3) If the Governing Body determines that a Development Plan or Tax Increment Financing Plan constitutes a public purpose, it shall then approve or reject the Plan, or approve it with modification, by ordinance, based on the considerations described in Section 19 of Act 197 of the Public Acts of 1975, as amended, the Downtown Development Authority Act.
- (4) Amendments to an approved Development Plan or Tax Increment Financing Plan must be submitted by the Authority to the Governing Body for approval or rejection.

SECTION 16. PROPOSED BOUNDARY AREA OF THE DOWNTOWN DEVELOPMENT AUTHORITY.

Point of Beginning — Southwest corner of Section 35, Kochville Township, Saginaw County, Michigan, thence Northerly along West line of Section 35, to the West $\frac{1}{4}$ corner of Section 35, thence Easterly along East and West $\frac{1}{4}$ line of Section 35 to the East line of Section 35, thence continue Easterly along the East and West $\frac{1}{4}$ line of Section 36 to the centerline of Highway I-675, thence Southwesterly along the centerline of Highway I-675 to the West line of Section 36, thence continue Southwesterly along the centerline of Highway I-675 to the South line of Section 35, thence Westerly along the South line of Section 35 to the Point of Beginning.

SECTION 17. HISTORICAL FACILITY, BUILDING OR STRUCTURE: PRESERVATION.

- (1) The public facility, building or structure which is determined by the Governing Body to have significant historical interest shall be preserved in a manner as deemed necessary by the Governing Body in accordance with Laws relative to the preservation of historical sites.
- (2) The Authority shall refer all proposed changes to the exterior sites listed on the State Register of Historical Sites in the National Register of Historical Places to the applicable Historic District Commission created under Public Act 169 of the Public Acts of 1970; being Section 399.201 to 399.212 of the Michigan Compiled Laws or the Secretary of State for review.

SECTION 18. BUDGET.

- (1) The Director or Chairperson of the Authority shall prepare and submit for the approval of the Board a budget for the operation of the Authority for the ensuing fiscal year. The Budget shall be prepared in the manner and contain information required of any municipal department.
- (2) Before the Budget may be adopted by the Board, it shall be approved by the Governing Body. Funds of the Township of Kochville shall not be included in the Budget of the authority except those funds authorized by the Governing Body.
- (3) The Governing Body may assess a reasonable pro-rata share of funds for the costs of handling and auditing funds against the funds of the Authority, other than those committed, which costs shall be paid annually by the Board pursuant to an appropriate item in its budget.

SECTION 19. DISSOLUTION OF AUTHORITY UPON COMPLETION OF PURPOSES: TITLE OF PROPERTY.

- (1) The Authority shall be dissolved by Ordinance of the Governing Body after it has completed the purposes for which it was organized.
- (2) The property and assets of Authority remaining after the dissolution of the Authority shall belong to the Township of Kochville.

SECTION 20. SEVERABILITY.

The words, terms, and phrases of this Ordinance shall be severable and if part is adjudged unconstitutional or invalid by a court of competent jurisdiction, said relief or judgment shall not affect the remaining provisions of this Ordinance.

SECTION 21. EFFECTIVE DATE.

This Ordinance will become effective immediately upon its adoption and publication as required by law in a paper of general circulation in the Township of Kochville.

s/Albert Trautner
ALBERT TRAUTNER
Supervisor

s/Thomas Burger
THOMAS BURGER
Clerk

The foregoing Ordinance 89-5DDA was duly adopted at a Regular Meeting of the Kochville Township Board held on the 3rd day of April, 1989.

Vote

ALBERT TRAUTNER, Supervisor — Aye
THOMAS E. BURGER, Clerk — Aye
JANE HAMMERBACHER, Treasurer — Aye
JOHN HOFFMAN, Trustee — Aye
WESLEY BUEKER, Trustee — Aye

I, THOMAS E. BURGER, Clerk of the Township of Kochville, do hereby certify that the above is a true and exact copy of the Ordinance heretofore passed by the Township Board for the Township of Kochville, Saginaw County, Michigan voted.

s/Thomas E. Burger
THOMAS E. BURGER
Clerk of the Township of Kochville

This Ordinance given publication in The Saginaw Press, on the 7th day of April, 1989.

s/Thomas E. Burger
THOMAS E. BURGER
Clerk of the Township of Kochville