

BY-LAWS

OF

NIAGARA COUNTY DEVELOPMENT CORPORATION

Amended: January 21, 1996

Amended: June 18, 1998

Amended May 12, 2005

Amended September 14, 2006

ARTICLE 1 -- OFFICES

The principal office of the corporation shall be in the Town of Wheatfield, County of Niagara, State of New York. The Corporation may also have offices at such other places within or outside this State as the Board of Directors may from time to time determine or the business of the corporation may require.

ARTICLE II – PURPOSES AND POWERS

1. The Corporation is incorporated and shall be operated for the exclusive charitable or public purposes of promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, instructing or training individuals to improve or develop their capabilities for such jobs, carrying on scientific research for the purpose of aiding a community or geographical area by attracting new industry in the community or area, and lessening the burdens of government and acting in the public interest.

2. In furtherance of its purposes set forth in paragraph (1) but not for any other purpose, the Corporation shall have, in addition to all other powers (including all powers in furtherance of its corporate purposes mentioned in Section 202 of the Not-for-Profit Corporation Law) the following powers: To construct, acquire, rehabilitate and improve for use by other industrial or manufacturing plants in the territory in which its operations are principally to be conducted; to assist financially in such construction, acquisition, rehabilitation and improvement; to main such plants for others in such territory; to disseminate information and furnish advice, technical assistance and liaison federal, state and local authorities with respect thereto; to acquire by purchase, lease gift, bequest, devise or otherwise, real or personal property or interests therein; to borrow money and to issue negotiable bonds, notes and other obligation therefor; and notwithstanding Section 510 of the Not-For-Profit Corporation Law (Disposition of all or substantially all assets), without leave of the Court, to sell, lease, mortgage or otherwise dispose of or encumber any such plants or any of its real or personal property or any interest therein upon such terms as it may determine; and in connection with loans from the New York Job Development authority, to enter into covenants and agreements and to comply with all the terms, conditions and provisions thereof and otherwise to carry out its corporate purposes; and to foster and encourage the location or expansion of industrial or manufacturing plants in

the territory in which the operations of such corporation are principally to be conducted; provided, however, that the corporation shall not attempt to influence legislation, by propaganda or otherwise, or participate or intervene, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office.

ARTICLE III – MEMBERSHIP

1. MEMBERSHIP. The membership of the corporation shall consist of the following persons:

- (a) The nine (9) members of the Niagara County Industrial Development Agency (NCIDA);
- (b) The Chairperson of the Legislator, or his/her designee;
- (c) The Board of Directors may, in its discretion, appoint as many as three (3) additional members for a two-year term, from date of appointment.

Any member of the NCIDA may terminate his membership by notice in writing to the Chairperson of the NCIDA. Unless otherwise specified in the notice, the resignation shall take effect upon delivery to the chairperson of the NCIDA or its agent, and acceptance of the resignation shall not be necessary to make it effective. Termination of service as a member of the Niagara County Industrial Development Agency shall automatically terminate membership in the Corporation

2. ANNUAL REPORT AND POLICY STATEMENT. At each annual membership meeting the Chairperson of the Board shall present:

- (a) An Annual Report adopted by the Board, which shall describe in detail the operations of the Corporation during its prior fiscal year; and
- (b) A Proposed Annual Policy Statement for the new year.

The Annual Report and Proposed Annual Policy Statement shall be transmitted to the members with the notice of the annual meeting. After discussion of the annual Report, the membership shall adopt an Annual Policy Statement setting forth general objectives and guidelines for the Corporation for its new fiscal year.

3. MEMBERSHIP MEETINGS. The Annual membership meeting of the Corporation shall be held on or about the First Day of July, after the completion of the Annual Audit of the Niagara County Industrial Development Agency and

its Component unit, the Niagara County Development Corporation as approved by the Agency Membership. The Secretary shall cause to be mailed, not less than seven (7) calendar days before the annual meeting, to every member in good standing, at his/her address as it appears on the membership roll book of the corporation, notice stating the time and place of the meeting.

The presence at any membership meeting of not less than a majority of the members shall constitute a quorum and shall be necessary to conduct the business of the Corporation; however, a lesser number may adjourn the meeting for a period of not more than four (4) weeks from the date scheduled by the By-Laws and the Secretary shall cause a notice to be sent to those members who were not present at the meeting originally called. A quorum as herein before set forth shall be required at any adjourned meeting.

The membership roll showing the list of members as of the record date, certified by the Secretary of the Corporation shall be produced at any meeting of members upon the request therefore of any member who has given written notice to the corporation at least ten (10) days prior to such meeting that such request will be made. All persons appearing on such membership roll shall be entitled to vote at the meeting.

4. SPECIAL MEETINGS. Special meetings of the membership of the Corporation may be called by the Chairperson of the NCIDA or shall be called by the Chairperson of the NCIDA upon the written request of at least three (3) members. The secretary shall cause a notice of such meeting to be mailed to all members at their addresses as they appear in the membership roll book at least ten (10) days but not more than thirty (30) days before the scheduled date of such meeting. Such notice shall state the date, time, place and purpose of the meeting and by whom called.

No other business but that specified in the notice may be transacted at such special meeting without the unanimous consent of all present at such meeting.

5. FIXING RECORD DATE. For the purpose of determining the members entitled to notice of or to vote at any meeting of members or any adjournment thereof, or to express consent to or dissent from any proposal without a meeting, or for the purpose of determining the members entitled to receive any distribution or any allotment of any rights, or for the purpose of any other action, the Board shall fix, in advance, a date as the record date for any such determination of members. Such date shall be not more than thirty (30) nor less than ten (10) days prior to any other action.

6. ACTION BY MEMBERS WITHOUT A MEETING. Whenever members are required or permitted to take any action by vote, such action may be taken without a meeting by written consent, setting forth the action so taken, signed by all the members entitled to vote thereon.
7. ORDER OF BUSINESS. The order of business at all meetings of members shall be as follows:
 - (a) Roll Call
 - (b) Reading of the minutes of the preceding meeting
 - (c) Reports of Committees
 - (d) Reports of Officers
 - (e) Old and Unfinished business
 - (f) New business
 - (g) Good and Welfare
 - (h) Adjournment

8. WAIVERS OF NOTICE.

Notice of meeting, annual, regular or special, need no be given to any member who submits a signed waiver of notice in person whether before or after the meeting. The attendance of any member at a meeting without protesting prior to the conclusion of the meeting the lack of notice of such meeting shall constitute a waiver of notice by him.

ARTICLE IV – DIRECTORS

1. MANAGEMENT OF THE CORPORATION. Subject to the Annual Policy Statement adopted by the members, the Corporation shall be managed by the Officers of the Corporation, overseen by the Board of Directors. Each Officer shall be at least eighteen (18) years of age.
2. NUMBER AND TERM OF DIRECTORS. The Directors shall consist of the members of the NCIDA, all of whom shall serve by virtue of their membership in that Agency. Therefore, their term of office as directors of this Corporation shall be concurrent with their term of office as members of the NCIDA.
3. VACANCIES. Any vacancies in the Board, arising at any time and from any cause, shall remain vacant until the corresponding membership position in the NCIDA is filled.
4. QUORUM OF DIRECTORS. Unless otherwise provided in the Certificate of Incorporation, a majority of the entire Board shall constitute a quorum for the transaction of business or of any specified item of business.

5. ACTION OF THE BOARD

- (a) Unless otherwise required by law, the vote of a majority of the Directors present at the time of the vote, if a quorum is present at such time, shall be the act of the Board. Each Director present shall have one vote.
- (b) Any one or more members of the Board or any Committee thereof may participate in a meeting of such Board or Committee by means of a video conference or similar communication equipment, allowing all persons participating in the meeting to see and hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.
- (c) Any action required or permitted to be taken by the Board of Directors of any Committee hereof may be taken without a meeting if all members of the Board or the Committee consent in writing to the adoption of a resolution authorizing the action. The resolution and the written consent thereto by the members of the Board or Committee shall be filed with the minutes of the proceedings of the Board or Committee.

6. PLACE AND TIME OF BOARD MEETINGS. The Board may hold its meetings at the office of the Corporation or at such other places, either within or without the State, as it may from time to time determine.

7. CHAIRPERSON. At all meetings of the Board, the Chairperson of the NCIDA shall preside. The Chairperson, Treasurer, and/or Assistant Treasurer shall sign all agreements, contracts, deeds and any other instruments on behalf of this Corporation, except as otherwise authorized or directed by resolution of the Agency. The Chairperson shall submit recommendations and such information as deemed pertinent concerning the business, affairs and policies of the Corporation at each meeting. The Chairperson shall have signatory authority as set forth in Section 11 of this Article.

8. FIRST VICE-CHAIRPERSON. The First Vice-Chairperson shall perform the duties of the Chairperson in the absence or incapacity of the Chairperson. In the event of the resignation or death of the Chairperson, the First Vice-Chairperson shall become acting Chairperson and perform the duties of the Chairperson until such time as a new Chairperson is appointed. The First Vice-Chairperson shall have signatory authority as set forth in Section 11 of this Article.

9. SECOND VICE-CHAIRPERSON. The Second Vice-Chairperson shall perform the Duties of the Chairperson in the absence or incapacity of the Chairperson or

First Vice-Chairperson. In event of the resignation or death of the Chairperson and the First Vice-Chairperson, The Second-Vice Chairperson shall become acting Chairperson and perform the Duties of the Chairperson until such time as a new Chairperson is appointed. The Second Vice-Chairperson shall have signatory authority as set forth in Section 11 of this Article.

10. CHAIRPERSON OF THE NCIDA FINANCE COMMITTEE. The Chairperson of the NCIDA Finance Committee shall be a member of the Board. The Chairperson of the NCIDA Finance Committee shall have signatory authority as set forth below in Section 11 of this Article.
11. SIGNATORY AUTHORITY. The Chairperson, or in the absence thereof, the First Vice-Chairperson or Second Vice-Chairperson; the Secretary and/or Assistant Secretary; and the Chairperson of the NCIDA Finance Committee shall have the authority to sign all instruments of indebtedness, orders, bond deposits and checks of the payment and/or deposit of money of the Corporation. Two authorized signatures of the above individuals shall be required for all said transactions.

ARTICLE V – COMMITTEES OF THE CORPORATION

1. LOAN COMMITTEE.
 - (a) Members of the Loan Committee shall be selected from Community leadership and members of the Corporation possessing experience and expertise in business lending. The Loan Committee shall consist of seven (7) members. Members shall be appointed by the Board of Directors and must be Niagara County residents who are at least eighteen (18) years of age. Each appointment shall be for a term of two (2) years.
 - (b) Such Committee shall only function through meetings of its members and a majority of the members shall constitute a quorum thereof. In the event of a vacancy, a successor to fill the unexpired portion of the term may be elected by a majority of the entire Board of Directors at a special meeting called for that purpose.
 - (c) The Loan Committee shall perform the functions assigned to it under Article VI of these By-Laws.
2. SPECIAL COMMITTEES. The Board of Directors at any time and from time to time, by resolution adopted by a majority of the entire Board, may create such special Committees as may be deemed desirable, to serve at the pleasure of the Board, and the members of which shall be appointed from the Board by the

Chairperson of the Board with the consent of the Board. These Committees shall have only the lawful powers specifically delegated to them by the Board, except that no such Committee shall have powers which are not authorized for any standing Committees of the Board under Section (2) hereof and by law.

(a) Microenterprise Loan Fund (MLF) Review Panel

Panel members shall be appointed by the Board of Directors and must be Niagara County residents who are at least 18 years of age. Each appointment shall be for the term of two (2) years. Panel membership shall consist of seven (7) members; one (1) representative from the grant recipient, one (1) NCIDA Board Member, one (1) representative from the business community, one (1) representative from the agricultural/farm Community, and three (3) NCIDA staff members.

ARTICLE VI – LOAN PROCEDURE

1. TYPES OF AVAILABLE FUNDS. Loans, grants and assistance offered by the Corporation may be of several types, depending upon their origin, the applicable statutes and regulations governing the administration of such funds or assistance, and whether they are made available for use on a regional basis (regional funds), such as funds designated for use as defined by the Revolving Loan Fund Management Plan or for use in a particular city, town, village or combination thereof (local funds).

2. ADMINISTRATION OF FUNDS. Application for loans, grants and assistance in whole or in part from available local and regional funds shall be solicited, guided, approved in the first instance, and administered by the Loan Committee, in strict accordance with applicable statutes and regulations governing the use of such funds, including but not limited to:
 - (a) Revolving Loan Fund Management Plan submitted to and approved by the Economic Development Administration of the Federal Government;
 - (b) Community Development Block Grant Act and Regulations;
 - (c) Job Development Authority Act and Regulations

Approval of loans, grants and assistance by the Loan Committee in the first instance shall in all cases be based on applicable standards of credit, need and eligibility.

3. FINAL DECISION. Upon approval by the Loan Committee of an application for a loan, grant or assistance for funds, the application shall be transmitted to the Board of Directors for final decision. If an application is denied the approval of the Loan Committee, the applicant may not reapply for reconsideration by the Loan Committee for at least ninety (90) days from the date of the denial.
4. RESTRICTIONS ON USE OF FUNDS. No expenditures or use of funds shall be made except in strict compliance with all conditions imposed by contract under which the funds in question have been made available to the Corporation.

ARTICLE VII – OFFICERS

1. OFFICERS, ELECTIONS, TERM. Unless otherwise provided for in the Certificate of Incorporation, the officers of the NCIDA shall also hold the same positions as the officers of this Corporation. Each officer shall hold office for the term for which he/she is elected or appointed and until his/her successor has been elected or appointed and qualified.
2. SECRETARY. The Secretary shall keep all records of the Corporation, shall act as Secretary at all meetings, and shall keep a record of all votes thereat. The Secretary shall record the proceedings in a journal of proceedings to be kept for such purpose. The Secretary shall perform all duties incident to this office. The Secretary shall have custody of the corporate seal, and shall have the power to affix such seal to all contracts and other instruments authorized by the Corporation to be executed. The Secretary shall have the signatory authority set forth in Article IV, Section 11.
3. ASSISTANT SECRETARY. The Assistant Secretary shall perform the duties of the Secretary in the absence or incapacity of the Secretary. In the Event of resignation or death of the Secretary, the Assistant Secretary shall perform the Duties of the Secretary until such time as the Corporation shall elect a new Secretary. The Assistant Secretary shall have the signatory authority set forth in Article IV, Section 11.
4. TREASURER. The Treasurer shall have the care and custody of all funds of the Corporation and shall deposit all such funds in the name of the Corporation in such bank as the Corporation may designate. The Treasurer shall be bonded for the faithful performance of duties as the board may determine. A Quarterly Financial Report shall be prepared and distributed to all members.

5. EXECUTIVE DIRECTOR. The Executive Director shall be responsible for the active management of the Corporation's activities, the administration of the business and affairs of the Corporation subject to the general direction of the Corporation; and shall exercise supervision and control of all administrative functions of the Corporation. The Executive Director shall be responsible for the implementation of all resolutions, orders, programs and projects. The Executive Director and the Chairperson shall have the power to sign and execute on behalf of the Corporation all contracts, agreements, deeds, notes, bonds, or other evidence of indebtedness and affix and attest to the seal of the Corporation when it is so authorized by resolution of the Corporation. The Executive Director shall exercise such powers and perform such duties consistent with the office as shall be delegated by the Corporation and in accordance with the terms of the Executive Director's contract with the County of Niagara and the NCIDA.
6. ASSISTANT DIRECTOR. The Assistant Director shall perform the duties of the Executive director in the absence or incapacity of the Executive director. In the event of resignation or death of the Executive Director, the Assistant Director shall perform the duties of the Executive Director until such time as the Corporation shall elect a new Executive Director.
7. SURETIES AND BONDS. In case the Board shall so require, any officer or agent of the Corporation shall execute to the Corporation a bond in such sum and with such surety or sureties as the Board may direct, conditioned upon the faithful performance of this duties to the duties to the Corporation and including responsibility for negligence and for the accounting for all property, funds or securities of the Corporation which may come into his hands.

ARTICLE VIII – SEAL

The seal of the Corporation shall be as follows:

ARTICLE IX – CORPORATION COUNSEL

1. In the event that any member or director of the corporation has a business or other interest in any contract or matter involving the Corporation, and in regard to which such member or director has authority to act on behalf of the Corporation, the member or director shall disclose such interest and abstain from action.

2. Prior to the naming or approval by the Corporation of any loan, grant or assistance to any contract with, and/or employment of any person or private entity, each member, director, officer or employee of the corporation who has received any communication from or in favor of such private entity shall make written disclosure of such communication to the Board of Directors and the fact of such communication shall be noted in the minutes of the next Board meeting.
3. In all other respect, the members and directors of the Corporation shall operate in accordance with ethical standards in enumerated in the Not-For-Profit Corporation Law.

ARTICLE XI – CONSTRUCTION

If there is any conflict between the provisions of the Certificate of Incorporation and these By-Laws, the provisions of the Certificate of Incorporation shall govern.

ARTICLE XII – AMENDMENTS

The By-Laws may be adopted, amended or repealed only by the affirmative vote of at least two-thirds (2/3) of the members at the Annual Meeting or at a special meeting called for that purpose.