

CITY OF NILES, MICHIGAN
HISTORIC DISTRICT COMMISSION
BYLAWS

DATE:

HDC Approved March 15, 2017

ARTICLE I - NAME

The name of the Commission shall be the City of Niles, Historic District Commission (HDC).

ARTICLE II - PURPOSE

The purpose of the Commission are set forth in Part II of The City of Niles, Code of Ordinances- Chapter 46 - Historic Preservation:

Historic preservation is declared to be a public purpose. The purpose of this chapter shall be to do one or more of the following:

- (1) Safeguard the heritage of the local unit by preserving one or more historic districts in the local unit that reflect elements of the unit's history, architecture, archaeology, engineering, or culture.
- (2) Stabilize and improve property values in each district and the surrounding areas.
- (3) Foster civic beauty.
- (4) Strengthen the local economy.
- (5) Promote the use of historic districts for the education, pleasure, and welfare of the citizens of the city and of the state.

ARTICLE III- AUTHORITY

Section 1

The HDC has been authorized by the City of Niles, City Council and the assigned work has been official codified in the City's Code of Ordinances; Chapter 46 - HISTORIC PRESERVATION

Section 2

The HDC has additional administrative roles under state law (STATE OF MICHIGAN, LOCAL HISTORIC DISTRICTS ACT; ACT 169 OF 1970). This means that they are permitted or required by State law to conduct formal reviews and issue administrative decisions. It is vital that rules established by law are followed by commissioners and that every administrative decision is supported by facts placed on the record.

An administrative decision shall not be based on the number of people who show up to speak for or against, rather, it shall be based on applicable law and presented facts or testimony. In fact, courts will overturn decisions that lack a factual basis and decision makers may even be liable if determinations are not based on what is permissible under the law. In some cases, a decision may be appealed to the City Council; in others, an appeal will be made to Circuit Court.

Selections from the STATE OF MICHIGAN, LOCAL HISTORIC DISTRICTS ACT; ACT 169 OF 1970

399.205 Permit required; completed application; certificate of appropriateness or notice to proceed; issuance; permit fee; appeal to review board and circuit court; plan review standards, guidelines, and considerations; scope of review; preservation plan; approval; conditions; public meeting; availability of writings to public; rules of procedure; approval of minor work; finding of demolition by neglect; restoration or modification of work done without permit.

Sec. 5.

(1) A permit shall be obtained before any work affecting the exterior appearance of a resource is performed within a historic district or, if required under subsection (4), work affecting the interior arrangements of a resource is performed within a historic district. The person, individual, partnership, firm, corporation, organization, institution, or agency of government proposing to do that work shall file an application for a permit with the inspector of buildings, the commission, or other duly delegated authority. If the inspector of buildings or other authority receives the application, the application shall be immediately referred together with all required supporting materials that make the application complete to the commission. A permit shall not be issued and proposed work shall not proceed until the commission has acted on the application by issuing a certificate of appropriateness or a notice to proceed as prescribed in this act. A commission shall not issue a certificate of appropriateness unless the applicant certifies in the application that the property where work will be undertaken has, or will have before the proposed project completion date, a fire alarm system or a smoke alarm complying with the requirements of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531. A local unit may charge a reasonable fee to process a permit application.

(2) An applicant aggrieved by a decision of a commission concerning a permit application may file an appeal with the state historic preservation review board within the department. The appeal shall be filed within 60 days after the decision is furnished to the applicant. The appellant may submit all or part of the appellant's evidence and arguments in written form. The review board shall consider an appeal at its first regularly scheduled meeting after receiving the appeal, but may not charge a fee for considering an appeal. The review board may affirm, modify, or set aside a commission's decision and may order a commission to issue a certificate of appropriateness or a notice to proceed. A permit applicant aggrieved by the decision of the state historic preservation review board may appeal the decision to the circuit court having jurisdiction over the historic district commission whose decision was appealed to the state historic preservation review board.

(3) In reviewing plans, the commission shall follow the United States secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, as set forth in 36 C.F.R. part 67. Design review standards and guidelines that address special design characteristics of historic districts administered by the commission may be followed if they are equivalent in guidance to the secretary of interior's standards and guidelines and are established or approved by the department. The commission shall also consider all of the following:

- a) The historic or architectural value and significance of the resource and its relationship to the historic value of the surrounding area.
- b) The relationship of any architectural features of the resource to the rest of the resource and to the surrounding area.
- c) The general compatibility of the design, arrangement, texture, and materials proposed to be used.
- d) Other factors, such as aesthetic value, that the commission finds relevant.
- e) Whether the applicant has certified in the application that the property where work will be undertaken has, or will have before the proposed project completion date, a fire alarm system or a smoke alarm complying with the requirements of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(4) The commission shall review and act upon only exterior features of a resource and, except for noting compliance with the requirement to install a fire alarm system or a smoke alarm, shall not review and act upon interior arrangements unless specifically authorized to do so by the local legislative body or unless interior work will cause visible change to the exterior of the resource. The commission shall not disapprove an application due to considerations not prescribed in subsection (3).

(5) If an application is for work that will adversely affect the exterior of a resource the commission considers valuable to the local unit, state, or nation, and the commission determines that the alteration or loss of that resource will adversely affect the public purpose of the local unit, state, or nation, the commission shall attempt to establish with the owner of the resource an economically feasible plan for preservation of the resource.

(6) Work within a historic district shall be permitted through the issuance of a notice to proceed by the commission if any of the following conditions prevail and if the proposed work can be demonstrated by a finding of the commission to be necessary to substantially improve or correct any of the following conditions:

- a) The resource constitutes a hazard to the safety of the public or to the structure's occupants.
- b) The resource is a deterrent to a major improvement program that will be of substantial benefit to the community and the applicant proposing the work has obtained all necessary planning and zoning approvals, financing, and environmental clearances.
- c) Retaining the resource will cause undue financial hardship to the owner when a governmental action, an act of God, or other events beyond the owner's control created the hardship, and all feasible alternatives to eliminate the financial hardship, which may include offering the resource for sale at its fair market value or moving the resource to a vacant site within the historic district, have been attempted and exhausted by the owner.
- d) Retaining the resource is not in the interest of the majority of the community.

(7) The business that the commission may perform shall be conducted at a public meeting of the commission held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A meeting agenda shall be part of the notice and shall include a listing of each permit application to be reviewed or considered by the commission.

(8) The commission shall keep a record of its resolutions, proceedings, and actions. A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(9) The commission shall adopt its own rules of procedure and shall adopt design review standards and guidelines for resource treatment to carry out its duties under this act.

(10) The commission may delegate the issuance of certificates of appropriateness for specified minor classes of work to its staff, to the inspector of buildings, or to another delegated authority. The commission shall provide to the delegated authority specific written standards for issuing certificates of appropriateness under this subsection. On at least a quarterly basis, the commission

shall review the certificates of appropriateness, if any, issued for work by its staff, the inspector, or another authority to determine whether or not the delegated responsibilities should be continued.

(11) Upon a finding by a commission that a historic resource within a historic district or a proposed historic district subject to its review and approval is threatened with demolition by neglect, the commission may do either of the following:

- a) Require the owner of the resource to repair all conditions contributing to demolition by neglect.
- b) If the owner does not make repairs within a reasonable time, the commission or its agents may enter the property and make such repairs as are necessary to prevent demolition by neglect. The costs of the work shall be charged to the owner, and may be levied by the local unit as a special assessment against the property. The commission or its agents may enter the property for purposes of this section upon obtaining an order from the circuit court.

(12) When work has been done upon a resource without a permit, and the commission finds that the work does not qualify for a certificate of appropriateness, the commission may require an owner to restore the resource to the condition the resource was in before the inappropriate work or to modify the work so that it qualifies for a certificate of appropriateness. If the owner does not comply with the restoration or modification requirement within a reasonable time, the commission may seek an order from the circuit court to require the owner to restore the resource to its former condition or to modify the work so that it qualifies for a certificate of appropriateness. If the owner does not comply or cannot comply with the order of the court, the commission or its agents may enter the property and conduct work necessary to restore the resource to its former condition or modify the work so that it qualifies for a certificate of appropriateness in accordance with the court's order. The costs of the work shall be charged to the owner, and may be levied by the local unit as a special assessment against the property. When acting pursuant to an order of the circuit court, a commission or its agents may enter a property for purposes of this section.

Section 3

The City of Niles, HDC shall issue and request approval from the City Council, a Citizen's Guide to Historic Preservation in Niles, MI. The Historic District Commission shall annually review, as part of the regular January meeting, the City Council approved Citizen's Guide to Historic Preservation as a guidebook for historic district property owners on historic preservation, restoration and/or rehabilitation.

Section 4

Every two (2) years, a survey of the district(s) will be performed. Results will be shared with Building Safety, Zoning Administrator, the Downtown Development Authority, and the City Council. Property owners will be notified as appropriate.

ARTICLE IV - ELECTION OF OFFICERS AND THEIR DUTIES

Section 1

- 1) Officers shall be Chair and Vice Chair.
- 2) The City Administrator will assign a staff liaison to the HDC who shall serve or appropriately delegate the position as Secretary of the Commission.
- 3) The City Administrator will appoint a State of Michigan Qualified Building Official who shall serve as the Building Official for the HDC.

The Vice Chair shall act for the Chair in his/her absence. The Vice Chair shall be responsible for ensuring that all commission business is conducted in accordance with these Bylaws. If the office of Chair becomes vacant, the Vice Chair shall immediately become the Chair. Using regular election procedures, a vacancy in the office of Vice Chair shall be filled during the meeting where it occurs or, if it becomes vacant between meetings, at the next regular or special meeting.

Section 2

- 1) The election of the Chair and Vice Chair shall be held at the first regular meeting of the year.
- 2) Nominations shall be made from the floor at the regular meeting in December.
- 3) A candidate receiving a majority vote of the Commission shall be declared elected and shall serve a term of one year or until a successor shall take office.
- 4) The Chair shall preside over all meetings of the Historic District Commission and shall have duties normally conferred by parliamentary usage.

ARTICLE V - COMMISSION and COMMISSIONER RESPONSIBILITIES

Section 1

- 1) This HDC shall consist of seven commissioners who are appointed by the Mayor, with approval of the Niles City Council.
- 2) Each commissioner of the commission shall reside within the city.
- 3) A majority of the commissioners of the commission shall have a clearly demonstrated interest in or knowledge of historic preservation. The members of the commission shall be appointed by the mayor, subject to the approval of the city council.
- 4) At least one member of the commission shall be appointed from a list of citizens submitted by one or more duly organized local historic preservation organizations.
- 5) The commission shall include as a member, if available, a graduate of an accredited school of architecture who has two years of architectural experience or who is an architect registered in this state.

Section 2

- 1) Attend each meeting or request an excused absence from the Commission, which must be provided in the form of majority approval.
- 2) Members may not have more than two unexcused absence in a 12 month period or they will face recommendation for removal from the Commission.
- 3) Members may be suggested for removal from the HDC by a majority vote of the Members then in office and approval from Mayor with confirmation by the City Council.

Section 3

Members of the Historic District Commission shall be appointed and serve and be removed in accordance with the provisions of The City of Niles Boards and Commissions Manual as approved by the Niles City Council.

In order to maintain a fully staffed Historic District Commission in accordance with State Law, a member of the Commission is encouraged to give 60- days notice to the City of a pending resignation from the Commission.

Section 4

Ex-Officio Members

- 1) This commission shall allow for regular input from Ex-Officio Members of the HDC.
- 2) Ex-Officio Members will not be allowed to vote as part of their role within the HDC.
- 3) Ex-Officio Members of the HDC shall include:
 - a) The Mayor or his/her designee
 - b) The City of Niles Community Development Director or their designee
 - c) The HDC Building Official
 - d) The City of Niles Fire Chief or their designee
 - e) The Director of the City of Niles Main Street/Downtown Development Authority
 - f) The immediate past HDC Chair

ARTICLE VI – MEETINGS

Section 1

Regular meetings shall be held monthly at such time, date and place as the Commission shall establish by resolution at the December meeting. The Commission Chair or City Administrator may cancel and/or reschedule a regular meeting.

Section 2

Special meetings may be called by the Chair, any two (2) members of the Commission, or at the request of the City Manager. The notice of a special meeting shall comply with the Open Meetings Act, specify the purpose of the meeting, and no other business may be considered.

Section 3

The Chair or staff liaison shall give electronic notice of all meetings, both regular and special, to all members of the Commission at least 48 hours in advance of the meeting. A meeting agenda shall be part of the notice and shall include a listing of each Request for Certificate of Appropriateness to be reviewed or considered by the Commission.

Section 4

A majority of the members of the Commission appointed and serving shall constitute a quorum for the transaction of business. Any member who has been granted a leave of absence, or has been removed by the appointing authority or automatically removed for nonattendance, shall not be deemed to be serving for purposes of determining a quorum.

A concurring vote of four members of the Commission shall be necessary to issue a Certificate of Appropriateness or to make recommendations to City Council for the adoption or modification of Preservation Guidelines. Other actions of the Commission shall require a simple majority of members present constituting a quorum.

Section 5

Voting shall be by voice and shall be recorded by “yes” and “no”.

Section 6

Conflict of Interest. A member who has a direct conflict of interest of more than a de minimis nature as defined by MCL 15.322 and 15.323 or the City Code of Ethics, in any matter before the

Commission, shall disclose that interest prior to the Commission taking any action with respect to the matter.

This disclosure shall become part of the record of the Commission's official proceedings. Any member making such disclosure shall, with the approval of the Commission, abstain from participating in the Commission's decision-making process relative to such matter, including all discussions, motions made and votes taken, unless required by law.

Section 7

All meetings of the Commission, including regular meetings, special meetings and all committee and subcommittee meetings, shall be open to the public in accordance with the Michigan Open Meetings Act, being Act 267 of the Public Acts of 1976 of the State of Michigan, as amended. Closed sessions may be called for purposes listed in said Act if approved by a 2/3 vote of the members present and voting.

Section 9

All writing of the Commission shall be maintained and published in compliance with the Freedom of Information Act, being Act 442 of the Public Acts of 1976, as amended. Writings are defined by Section 2(e) of the Freedom of Information Act to mean any means of recording including letters, words, pictures, sounds or symbols on paper, magnetic tape or otherwise.

Section 10

Parliamentary procedure in Commission meetings shall be governed by Robert's Rules of Order, current edition, as amended. A majority vote of the Commission members present may suspend the use of such rules upon motion and second.

- 1) Rules of Order- The rules contained in Robert's Rules of Order, Revised, shall govern the commission in all cases to which they are applicable and in which they are not inconsistent with City policy or practice or the special rules of order of the City of Niles.
- 2) Quorum- A majority of the NPAC members in office immediately before a meeting shall constitute a quorum for the transaction of business at the meeting of the board. No business shall be considered by the NPAC at any meeting at which a quorum is not present.
- 3) Majority Vote- Except as otherwise required by law or by these Bylaws, the act of the majority of the members present at a meeting at which a quorum is present shall be the act of the NPAC.
- 4) Hung Decisions- On the occasion that the members of the NPAC are unable to make a decision based on a tied number of votes, the Community Development Director, their designee or the Mayor or his/her designee shall have the power to swing the vote based on his/her discretion.
- 5) Participation- Members must be present and accounted for to provide input and participate in the voting process as required and in agreement with the State of Michigan Open Meetings Act.
- 6) Electronic Communication (E-Mail) - Using email to communicate with other NPAC members about decisions may violate the Open Meetings Act. The OMA requires that all decisions, no matter how minor in perception, must be made during a public and open meeting.

Section 11

All materials pertinent to Commission action must be submitted to the Commission staff no later than 10

business days prior to the meeting for which action is proposed.

ARTICLE VII- ORDER OF BUSINESS

The order of business at regular meetings shall be as follows:

1. CALL TO ORDER
2. ROLL CALL
3. PUBLIC COMMENT
4. CONSIDERATION OF APPROVING THE MINUTES
5. NEW BUSINESS
6. OLD BUSINESS
7. COMMISSIONER REPORTS
8. ADJOURNMENT

ARTICLE VIII - AMENDMENTS TO THE BYLAWS

The Bylaws may be proposed for amendment during a regular meeting by an affirmative vote of at least 4 members of the Commission. The Bylaws and amendments to the Bylaws must be approved by City Council.

ARTICLE IX- MISCELLANEOUS

Section 1- City of Niles, Michigan, Policies

- 1) This Commission shall abide by City Ordinances, these Bylaws as approved and adopted by the City Council, State, Federal and Local laws and all applicable policies instituted by the City of Niles.
- 2) Correspondence between this commission and the City of Niles will be through the Chair or in their absence the Vice Chair to the Community Development Director or in the Community Development Director's absence the City Administrator.

Section 2- Nondiscrimination Practice

- 1) It is the policy of the City of Niles not to discriminate on the basis of race, religion, national origin, color, sex, marital status, age or handicap.
- 2) The officers, directors, volunteer, affiliate, member, committee member and persons served by this committee shall be selected entirely on a nondiscrimination basis with respect to age, sex, race, religion, national origin, and/or sexual orientation.

Section 3- Freedom of Information Act (FOIA)

- 1) The HDC is required to adhere to the City's Freedom of Information Act (FOIA) policies and procedures.
- 2) Upon receipt of a FOIA request, the Chair or Vice Chair are to notify the City Clerk within eight (8) business hours of the request.
- 3) The City Clerk shall respond to all HDC FOIA requests according to City policy and provide confirmation to the HDC Chair of compliance.