

A stylized, light blue map of the City of Niles is overlaid on a dark blue background. The map shows a grid of streets and a winding river or canal. The text is centered over the map.

THE CITY OF NILES

Zoning Ordinance

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Article I:

Title Purpose & Scope

The City Council of the City of Niles Hereby Ordains:

An Ordinance to establish zoning districts and regulations in accordance with the provisions of the Michigan Zoning Enabling Act (Act 110 of 2006, as amended), to prescribe powers and duties to certain officials; to define certain terms used herein; to provide for regulations governing nonconforming uses and structures; to establish a Zoning Board of Appeals and define its duties and powers; to provide for the administration and enforcement of this Ordinance and to provide penalties for the violation of this Ordinance.

Section 100 – Short Title

This Ordinance shall be known as the “City of Niles Zoning Ordinance” and will be referred to herein as “this Ordinance.”

Section 101 – Purpose

The fundamental purpose of this Ordinance is to promote public health, safety, morals, and general welfare; to encourage the use of lands and natural resources in accordance with their character and adaptability; to limit the improper use of land; to provide for the orderly development of the City; to reduce the hazard to life and property; to establish the location and size of, and the specific uses for which structures may hereafter be erected or altered, and the minimum open spaces, sanitary, safety and protective measures that shall be required for such structures; to lessen congestion on the public roads and streets; to provide safety in traffic and vehicular parking; to facilitate the development of an adequate water supply and other public requirements; to conserve life, property and natural resources, and the expenditure of funds for public improvements and services; to conform with the most advantageous uses of land, resources, and properties.

Section 103 – City of Niles Master Plan

This ordinance is adopted to implement the City’s Master Plan and to achieve the following general objectives:

- A. To promote and protect the public health, safety, morals, comfort, and general welfare of the people of the City of Niles, Berrien County, Michigan;
- B. To divide the City of Niles into zones or districts, restricting therein the location, erection, construction, reconstruction, alteration, and use of buildings, structures, and land for residence, business, manufacturing, and other specified uses;
- C. To protect the character and stability of the residential, business, and manufacturing areas within the City of Niles and to promote the orderly and beneficial development of such areas;

- D. To provide adequate light, air, privacy, and convenience of access to property;
- E. To regulate the intensity of use of lot areas and to determine the area of open spaces surrounding buildings, necessary to provide adequate light and air, and to protect public health;
- F. To establish building lines and the locations of buildings designed for residential, business and manufacturing, or other uses within such areas;
- G. To fix reasonable standards to which buildings or structures shall conform therein;
- H. To prohibit uses, buildings, or structures incompatible with the character of development or intended uses within specified zoning districts;
- I. To prevent additions to or alterations of existing buildings or structures in such a way as to avoid the requirements established herein;
- J. To limit congestion in the public streets and protect the public health, safety, convenience, and general welfare by providing for the off-street parking of motor vehicles and the loading and unloading of commercial vehicles;
- K. To facilitate adequate provision for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements;
- L. To protect against fire, explosion, noxious fumes, and other hazards in the interest of public health, safety, comfort, and general welfare;
- M. To prevent the overcrowding of land and undue concentration of structures, so far as is possible and appropriate in each district, by regulating the use and bulk of buildings in relation to the land surrounding them;
- N. To conserve the taxable value of land and buildings throughout the City of Niles;
- O. To conserve the natural resources and character of land throughout the City of Niles;
- P. To provide for the gradual elimination of non-conforming uses of land, buildings, and structures that are adversely affecting the character and value of desirable development in each district;
- Q. To define and limit the powers and duties of the administrative officers and bodies as provided herein;
- R. And to prescribe the penalties for the violation of the provisions of this Ordinance or any amendments thereto.

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Article 2:

Definitions & Interpretation

Section 200 – Rules of Interpretation

In the construction of this Ordinance, the rules and definitions contained in this section shall be observed and applied, except when the context clearly indicates otherwise.

- A. Words used in the present tense shall include future;
- B. Words in the singular number include the plural number and words in the plural number include the singular number;
- C. The phrase “used for” shall include the phrases “arranged for”, “designed for”, “intended for”, “maintained for”, and “occupied for”;
- D. The word “shall” is mandatory;
- E. The word “may” is permissive;
- F. All personal pronouns shall be interpreted to be gender-neutral unless the context clearly indicates otherwise.

Section 201 – Definitions beginning with A

ABANDONMENT: Any action or inaction indicating an intent to give up one’s right or interest in property, structure, or use, or intention to give up a particular use of such property, structure, or use. Such actions and inactions include, but are not limited to, the discontinuation of a use for a period of time exceeding one (1) year, leaving a building unoccupied for a period of five (5) years or greater, change of use, neglecting to maintain utilities, infrastructure, or permits for said use, allowing a building or sign to fall into disrepair causing the cessation of said use without significant rehabilitation.

ACADEMIC INSTITUTION: Academic institutions include primary and secondary public, private, parochial, and charter schools (kindergarten through twelfth (12th) grade), and public and private post-secondary educational institutions such as colleges and universities. This definition shall not include *vocational schools*, as defined herein.

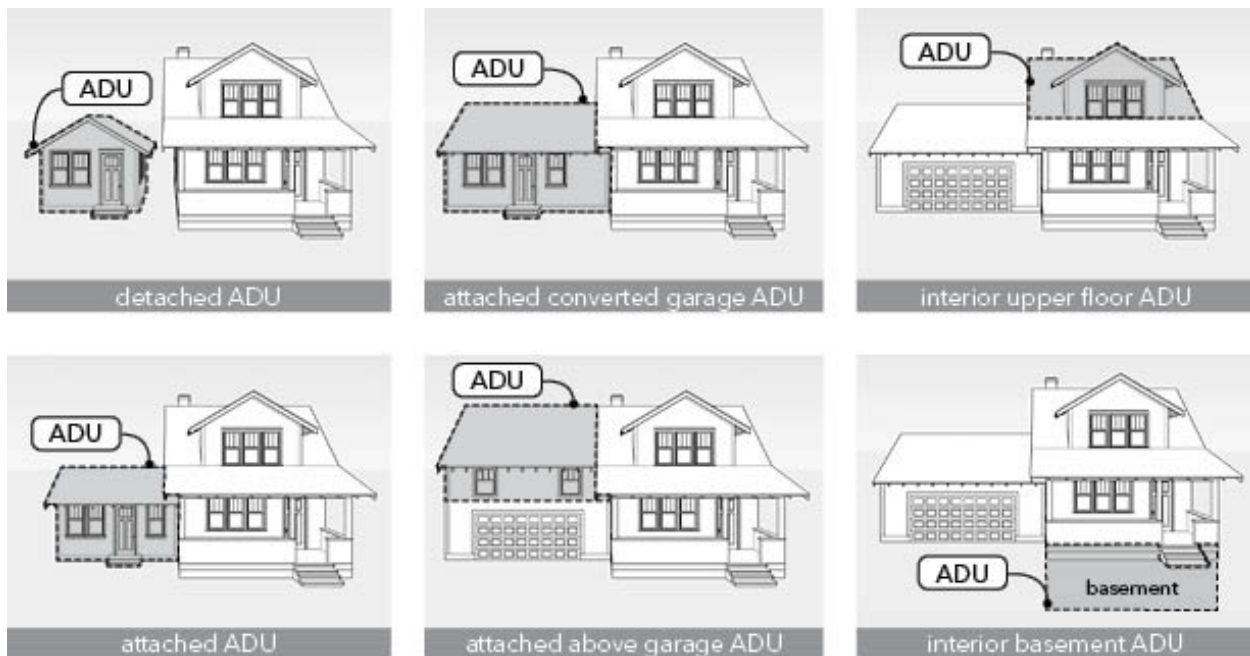
ACCESS: A way or means of approach to provide vehicular or pedestrian physical entrance to a property.

ACCESSORY BUILDING: A subordinate detached building located on the same lot as the principal building, the use of which is customarily and normally incidental to the main use of the premises. This definition shall not include a *private garage* as defined herein.

ACCESSORY BUILDING, MINOR: An Accessory Building as defined herein with a gross floor area of no more than one hundred-twenty (120) square feet and a height not to exceed twelve (12) feet.

ACCESSORY DWELLING UNIT (ADU): A dwelling unit that is incidental and subordinate to the principal dwelling unit, as separate, complete housekeeping unit with a separate entrance, kitchen, sleeping area, and full bathroom facilities from the principal dwelling, and located on the same parcels as the principal dwelling. This definition shall not include the term *DUPLEX* as defined herein. An ADU may take the form of the following (see Figure 2-0):

- A. An attached expansion of an existing single-family principal dwelling.
- B. A new or retrofitted space within a portion of an existing accessory building. A new or retrofitted space within an existing attached private garage.
- C. A new or retrofitted space within the existing single-family principal dwelling in a basement, upper floor.
- D. A detached structure on the same lot as the primary dwelling, either as a new building or an existing accessory building converted to an ADU.



note: these images are examples used to show the type of accessory dwelling unit (ADU) only. Building style, orientation, and size are not dependent on ADU type but will need to conform to the standards of this ordinance.

ACCESSORY DWELLING UNIT TYPES. FIGURE 2-0

ACCESSORY USE: A use of land, which may or may not be separately listed as a principal use, conducted in conjunction with another principal use and which constitutes: (1) only an incidental or insubstantial part of the total activity that takes place on a lot, or (2) is commonly associated with the principal use and integrally related to it.

ADULT FOSTER CARE FAMILY HOME: A private residence with the approved capacity to receive at least three (3) but not more than six (6) adults to be provided with foster care. The adult foster care family home licensee must be a member of the household and an occupant of the residence.

ADULT FOSTER CARE LARGE GROUP HOME: An adult foster care facility with the approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided with foster care.

ADULT FOSTER CARE SMALL GROUP HOME: An adult foster care facility with the approved capacity to receive at least three (3) but not more than twelve (12) adults to be provided with foster care.

ADULT USE: An establishment engaged in providing services or entertainment characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

SPECIFIED ANATOMICAL AREAS: Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and human male genitals in a discernible turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES:

- A. Human genitals in a state of sexual stimulation or arousal.
- B. Acts of human masturbation, sexual intercourse or sodomy.
- C. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

AIRPORT, PUBLIC: A location which is used for the landing or taking off of aircraft, which provides facilities for the shelter, supply or care of aircraft, or for receiving or discharging passengers or cargo, and all appurtenant areas used or acquired for airport buildings or other airport facilities, and all appurtenant rights-of-way, either heretofore or hereafter established. An airport is deemed public if the portion thereof used for the landing and taking off of aircraft is owned, operated, controlled, leased to or leased by the United States, any agency or department thereof, this state or any municipality or other political subdivision of this state, or any other governing body, public agency, or other public corporation, as defined in the Airport Zoning Act (Act 23 of 1950, as amended).

AIRPORT, PRIVATE: Any location used for the landing and taking off of aircraft which is NOT owned, operated, controlled, leased to or leased by the United States, any agency or department thereof, this state or any municipality or other political subdivision of this state, or any other governing body, public agency, or other public corporation.

ALLEY: A public way that provides a secondary means of access to abutting property.

ALTERATION, STRUCTURAL: Any change which would tend to prolong the life of or change or remove the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

ANTENNA: Any system of wires, poles, rods, reflecting discs or similar devices used for the non- commercial transmission or reception of electromagnetic waves, which system is external, tower- mounted or attached to the exterior of any building or structure.

APARTMENT: A dwelling as defined herein consisting of a room or suite of rooms in a multiple family structure which is arranged, designed, used or intended to be used as a single housekeeping unit with complete cooking and sanitary facilities.

APARTMENT, HOTEL: See *HOTEL APARTMENT*.

AUTOMOBILE: Any self-propelled vehicle designed primarily for the transportation of persons or goods along public or private streets or alleys, or other public ways.

AUTOMOBILE, HOBBY: An automobile that is owned as a collector's item and for participation in club activities, exhibitions, tours, parades, or similar uses, and is being restored, maintained, repaired, or parked, and not used for general transportation purposes.

AUTOMOBILE SERVICE STATION: Building and premises where gasoline, oil, grease, batteries, tires and automobile accessories and convenience goods may be supplied. Other incidental services including automobile repair and automobile washing (one (1) bay only) may be provided. Automobile service stations shall not include sale or storage or rental of automobiles or trailers.

AUTOMOBILE AND TRAILER SALES AREA: An open area other than a street used for the display or sale of new or used automobiles or trailers, and where no repair work is done except for minor incidental repair of automobiles or trailers to be displayed and sold on the premises.

AUTOMOBILE WRECKING YARD: Any place where one (1) or more motor vehicles, not in running condition or parts thereof, are stored in the open and are not being restored to operation or any land, building or structure used for wrecking or storing of such motor vehicles or parts thereof and including the commercial salvaging of any other goods, articles or merchandise.

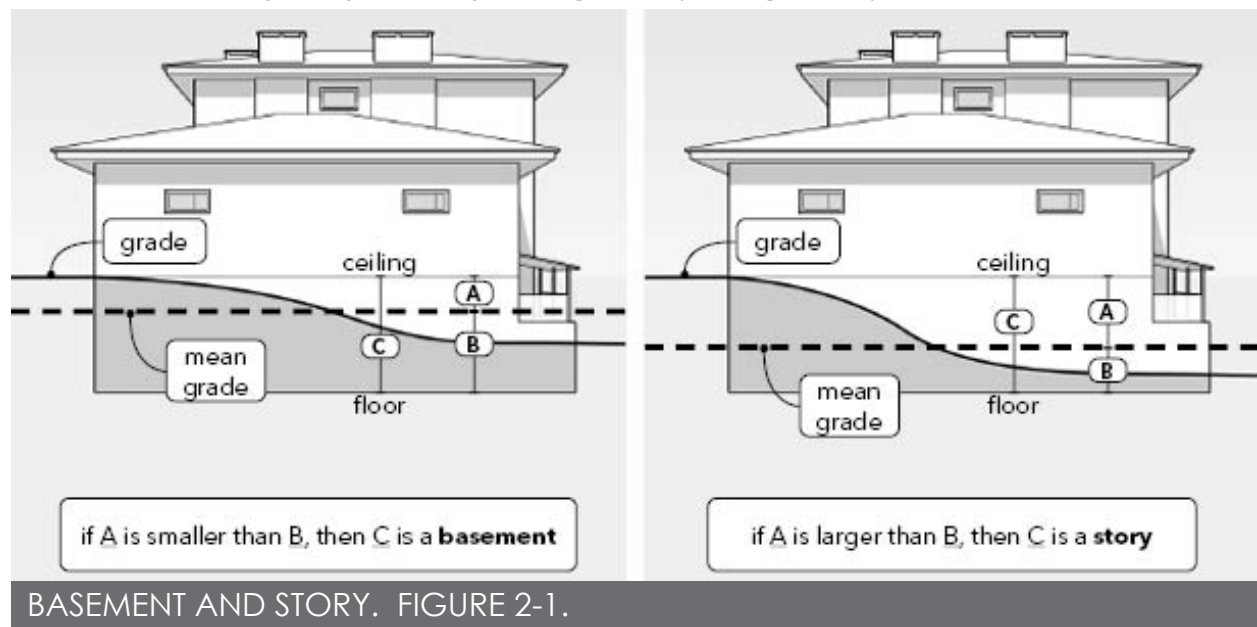
AWNING: A retractable or fixed shelter constructed of materials on a supporting framework that projects from the exterior wall of a building.

Section 202 – Definitions beginning with B

BALCONY: An exterior platform attached to a principal building and accessed from the building's interior.

BANKS AND FINANCIAL INSTITUTIONS: Commercial banks, currency exchanges, savings and loan associations, stock brokerage offices and other similar financial institutions.

BASEMENT: A story partly or wholly underground (see Figure 2-1).



BASEMENT AND STORY. FIGURE 2-1.

BEACH: Beach is that portion of the shore line of the rivers known as “St. Joseph” or “Dowagiac” or any man-made watercourse, both above and below the water line which is sanded, pebbled or graveled and used for activities normally associated with shorefront properties.

BED & BREAKFAST ESTABLISHMENT: A private residence that offers sleeping accommodations to tourists, is the innkeeper’s residence in which the innkeeper resides while renting the rooms to tourists and other transient guests. This definition shall not include *Short-Term Rental* or *Boarding House*, as defined herein.

BEDROOM: Any room whose primary use is for sleeping purposes other than a living room, family room, dining room, kitchen, bathroom, utility room, or home office for the purpose of this Ordinance, shall be considered a bedroom.

BILLBOARD: A Billboard is an outdoor sign advertising services or products, activities, persons, or events which are not made, produced, assembled, stored, distributed, leased, sold, or conducted upon the premises upon which the billboard is located.

BLOCK: A tract of land bounded by streets, or in lieu of a street or streets, by public parks, cemeteries, railroad or utility rights-of-way, shorelines or waterways, or corporate boundary lines of municipalities.

BOARD OF APPEALS: The Zoning Board of Appeals of the City of Niles.

BOARDING HOUSE: A building other than a hotel or restaurant where lodging and meals are provided on a less than month-to-month basis for compensation to not more than twelve (12) persons, who are not members of the keeper’s family. This definition shall not include a Bed & Breakfast or a Short-term Rental, as defined herein.

BOATHOUSE: An Accessory Building designed for the purpose of protecting or storing of boats in conjunction with and on the same lot as a residence or other principal building.

BORROW PIT: Any place or premises where dirt, soil, gravel or other material is removed by excavation or otherwise below the existing grade of surrounding land for any purpose other than the necessary and incidental to grading or building construction or operation on the premises.

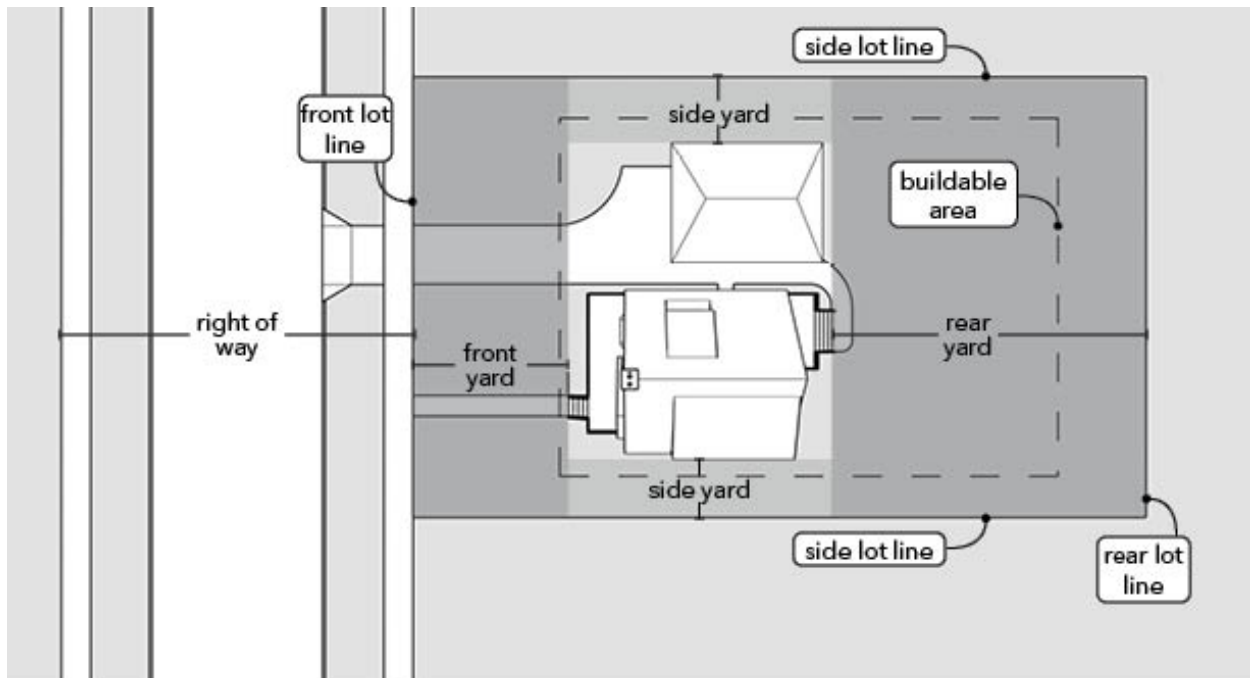
BUFFER: Natural, landscaped and open space areas or any combination thereof used to physically separate or screen one (1) use, property or feature from another in order to visually shield or block views, noise, lights or other impacts or to filter stormwater runoff .

BUILDABLE AREA: The space remaining on a lot after the minimum setback requirements are met and into which buildings may be placed (see Figure 2-2).

BUILDING: An independent structure, temporary or permanent, having a roof supported by columns, walls, or any other support and used for the enclosure of persons, animals, possessions, or the conduct of business activities or other uses.

BUILDING COVERAGE: The ratio of the horizontal area measured from the exterior surface of the exterior walls of the ground floor of all principal and accessory buildings on a lot to the total lot area.

BUILDING ENVELOPE: See *BUILDABLE AREA*.



REQUIRED YARDS AND BUILDABLE AREA. FIGURE 2-2.

BUILDING HEIGHT: See *HEIGHT*.

BUILDING OFFICIAL: The Official of the City of Niles designated to interpret and enforce the provisions of the Michigan Building Code, International Building Code, Michigan Residential Code, and International Property Maintenance Code.

BUILDING LINE: The line nearest the front of and across a zoning lot, establishing the front line of a building or structure

BUILDING, NON-CONFORMING: Any building which does not conform to terms of this Ordinance.

BUILDING PERMIT: A permit issued by the Building Official of the City of Niles for the construction, alteration, removal or demolition of a building or structure within the City of Niles.

BUILDING, PRINCIPAL: A building in which contains the primary or principal use of the lot on which it is located.

BUILDING SETBACK LINE: See *SETBACK*.

BUILDING, TEMPORARY: Any building which is not designed to be, and is not in fact, permanently located or established.

BULK: See *DIMENSIONAL STANDARDS*.

BUS LOTS: Any lot or land area used for the storage or layover of passenger buses, school buses, or motor coaches.

BUSINESS, PRINCIPAL: The main business carried out on a parcel determined in terms of any combination of gross revenues, gross square footage, primary business identity or other means, as distinguished from an accessory or complimentary, but secondary, business.

BUSINESS AND PROFESSIONAL OFFICE: Professional offices including, but not limited to the office of an engineer, doctor, dentist, attorney, real estate broker, insurance broker, architect, or other similar professional person and any office used primarily for accounting correspondence, research, editing or administration.

Section 203 – Definitions beginning with C

CAMPS AND CAMPGROUNDS: An establishment to accommodate an organized, supervised recreational program of outdoor activities for children or families, normally housed in tents or cabins, usually operated during the summer, and complying will all requirements of the Berrien County Department of Public Health, and other state and local regulatory agencies.

CARPORT: A roofed-over area attached or detached to the principal building and used for vehicle storage, which may be partially or fully open on one (1) or more sides.

CAR WASH: A building and equipment used for the commercial washing, waxing, and detailed cleaning of the interior and exterior of automobiles and trucks for the general public. Such facilities shall include self-wash, automated and manual wash facilities, as well as any combination thereof, and may include the incidental retail of products, such as air fresheners, cleaning products, etc.

CEMETERY: A public or private facility for the internment of human remains or customary household pets in graves, crypts, mausoleums and related grounds and facilities.

CHILD CARE FAMILY HOME: A private home in which minor children are cared for, including the following situations:

- A. One (1) but fewer than six (6) minor children are received for care and supervision for compensation for periods of less than twenty four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the household.
- B. Family child care home includes a home in which care is given to an unrelated minor child for more than four (4) weeks during a calendar year.
- C. A family child care home does not include an individual providing babysitting services for another individual. As used in this subparagraph, “providing babysitting services” means caring for a child on behalf of the child’s parent or guardian if the annual compensation for providing those services does not equal or exceed six hundred dollars (\$600.00) or an amount that would according to the Internal Revenue Code of 1986 obligate the child’s parent or guardian to provide a form 1099-MISC to the individual for compensation paid during the calendar year for those services.
- D. A family child care home includes a private home with increased capacity.

CHILD CARE GROUP HOME: A private home in which:

- A. Seven (7) or more minor children, but not more than twelve (12) minor children are given care and supervision for periods of less than twenty four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the household.
- B. A Child Care Group Home includes a home in which care is given to an unrelated minor child for more than four (4) weeks during a calendar year.
- C. A Child Care Group Home includes a private home with increased capacity.

CITY: The City of Niles, Michigan.

CLINIC OR MEDICAL HEALTH CENTER: An establishment in which licensed health care professionals engage in the practice of medicine, dentistry, osteopathy, chiropractic or related services for humans and including customary support and accessory services.

CLUB OR LODGE, PRIVATE: A non-profit association of persons who are bona fide members paying dues, which owns, hires or leases a building or portion thereof, the use of such premises being restricted to members and their guests.

CLUSTER SUBDIVISION: A subdivision of land that contains clusters of homes on smaller lots to allow for open space and preservation of natural features (see Figure 2-3).



CLUSTER SUBDIVISION. FIGURE 2-3

COLOCATION: To place or install wireless communications equipment on an existing wireless communications support structure or tower, as defined herein, or in an existing equipment compound.

COLOR RENDERING INDEX (CRI): A quantitative measure of how accurately a light source illuminates objects' true colors compared to a natural light source, such as sunlight, and ensures accurate color representation for aesthetics, safety, and visual comfort.

CONDOMINIUM: That portion of the condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational used as a time-share unit, or any other type of use.

CONDOMINIUM PROJECT: A plan or project consisting of not less than two (2) condominium units established in conformance with the Condominium Act (Act 59 of 1978, as amended).

CONSTRUCTION EQUIPMENT SALES AND SUPPLIES: A parcel of land, building, structure, or portion thereof used to store tools, trucks, equipment, supplies, resources and materials used by building construction professionals, contractors and subcontractors. Any activity involving the sale or leasing of construction related supplies, resources, and equipment shall be considered construction equipment sales and supplies.

CONTRACTOR'S FACILITY: A parcel of land, building or structure or portion thereof used to store tools, trucks, equipment, supplies and materials used by building, electrical mechanical and plumbing contractors and subcontractors

CONTRACTOR'S YARD: The grounds used by a building contractor or tradesman for the outdoor storage of building material, aggregate, scrap, vehicles, equipment and related items.

COUNTRY CLUB: See *GOLF COURSE*. A Club or Lodge as defined herein which provides grounds and facilities for recreation and entertainment exclusively for members and guests.

COURT: An open unoccupied space opening onto a street, alley or yard.

Section 204 – Definitions beginning with D

DAYCARE CENTER or CHILD CARE CENTER: A facility, other than a private residence, receiving one (1) or more children under thirteen (13) years of age for care for periods of less than twenty four (24) hours a day, where the parents or guardians are not immediately available to the child. Child care center includes a facility that provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, daycare center, day nursery, nursery school, parent cooperative preschool, playgroup, before- or after-school program, or drop-in center. Child care center does not include any of the following:

- A. A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are attending for not more than three (3) hours per day for an indefinite period or for not more than eight (8) hours per day for a period not to exceed four (4) weeks during a twelve (12) month period.
- B. A facility operated by a religious organization where children are in the religious organization's care for not more than three (3) hours while persons responsible for the children are attending religious services.
- C. A program that is primarily supervised, school-age-child-focused training in a specific subject, including, but not limited to, dancing, drama, music, or religion. This exclusion applies only to the time a child is involved in supervised, school-age-child-focused training.
- D. A program that is primarily an incident of group athletic or social activities for school-age children sponsored by or under the supervision of an organized club or hobby group, including, but not limited to, youth clubs, scouting, and school-age recreational or supplementary education programs. This exclusion applies only to the time the school-age child is engaged in the group athletic or social activities and if the school-age child can come and go at will.
- E. A program that primarily provides therapeutic services to a child.

DENSITY, GROSS: The number of housing units per gross acre of land.

DENSITY, NET: The number of housing units per developable acre of land. Developable land shall not include roads, easements, rights of way, stormwater detention facilities, or submerged lands.

DIMENSIONAL STANDARDS: The term used to indicate the size and setbacks of buildings or structures and the location of same with respect to one another and includes the following:

- A. Size and height of buildings;
- B. Location of exterior walls at all levels in relation to lot lines, streets, or other buildings;
- C. All open spaces allocated to the building;
- D. Amount of lot area per dwelling unit;
- E. Required parking areas.

DISTRICTS: The area into which the City of Niles has been divided for which uniform regulations governing the use, size and intensity of land and buildings and open space about buildings are established.

DRIVE-THROUGH ESTABLISHMENT: An establishment that by design, physical facilities, service or packaging procedures encourages or permits customers to receive services or obtain goods while remaining in their motor vehicles.

DRIVEWAYS: A private access or drive connecting a house, garage or other building with a street.

DRY CLEANING / DRY CLEANING ESTABLISHMENT: The process of removing dirt, grease, paint, and other stains from wearing apparel, textiles, fabrics, rugs, and similar items, by the use of flammable or nonflammable nonaqueous liquid solvents. The dry cleaning establishment includes that above use and any structure, store, building or other place offering the service of dry cleaning, dyeing, spotting, and/or finishing any fabric.

DUPLEX: A structure which is designed to contain two (2) dwelling units which each serve as a principal dwelling. This definition shall not include the conversion of homes designed as a single family dwelling, and shall not include the combination of a principal dwelling and an accessory dwelling unit.

DWELLING (also Dwelling Unit): A building or portion thereof designed or used exclusively for permanent residential occupancy by one (1) family, physically separated from any other dwelling which may be in the same structure, and containing independent cooking, bathroom and sleeping facilities, but not including hotels, motels, boarding or lodging houses.

DWELLING, ACCESSORY: See *ACCESSORY DWELLING UNIT*.

DWELLING, ATTACHED: A dwelling sharing a common or party wall with any other dwelling in the same building.

DWELLING, DETACHED: A dwelling which is entirely surrounded by open space and is not connected to any other dwelling unit or structure by roof, walls or porches on the same lot.

DWELLING, MOBILE/MANUFACTURED: A residential structure, transportable in one (1) or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities.

DWELLING, MULTIPLE-FAMILY: A structure, or grouping of structures, containing three (3) or more dwellings, as defined herein, arranged either as a series of attached dwellings or with dwellings arranged on multiple floors or stories.

DWELLING, PRIMARY: A dwelling unit excluding any attached or detached accessory dwelling units.

DWELLING, SINGLE FAMILY: A structure containing one (1) dwelling unit, as defined in this chapter. This definition shall not include a mobile/manufactured dwelling or mobile home, as defined herein.

Section 205 – Definitions beginning with E

EFFICIENCY UNIT: A dwelling unit consisting of one (1) principal room for living, sleeping, and eating plus facilities for cooking and complete bath and toilet facilities.

ESSENTIAL SERVICES: The erection, construction, alteration, or maintenance by public utilities or municipal departments, commissions, or boards of underground or overhead gas, electrical, land-based communication, steam, water, or sewer transmission, distribution, collection supply or disposal systems including poles, wires, mains, drains, pipes, conduits, cables, fire hydrants, and other similar equipment and appurtenances necessary for such systems to furnish an adequate level of service. Wireless telecommunications facilities and antennas and wind energy conversion systems (WECS) are not included in this definition.

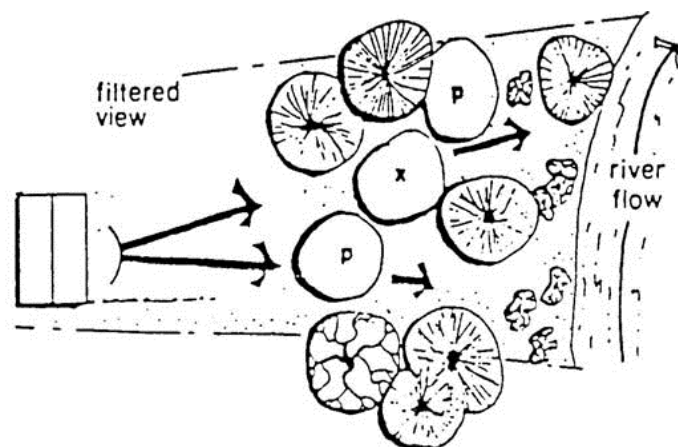
Section 206 – Definitions beginning with F

FABRICATION AND ASSEMBLY: The manufacturing from standardized parts of a distinct object differing from the individual components.

FAMILY: One (1) or more persons occupying a premise and living as a single housekeeping unit, whether or not related to each other by birth or marriage, as distinguished from persons occupying a boarding house, lodging or hotel.

FENCE: A man-made structure forming an enclosure used restrict or control access to and from real property, to protect persons, animals or personal property or for decorative purposes.

FILTERED VIEW OF WATER: The maintenance or establishment of woody vegetation of sufficient density to screen development from a river or stream, to provide for bank stabilization and erosion control, to serve as an aid in filtration of surface runoff, and to provide cover to shade the water. Vegetation need not be so dense as to completely block the view of the water, but shall not include clear cutting (see Figure 2-4).



FILTERED VIEW OF WATER. FIGURE 2-4.

FINANCIAL INSTITUTION: See *Banks and Financial Institutions*.

FINISHED GRADE: A pre-determined line indicating the proposed elevation of the ground surface around a building.

FIREARM: Any weapon from which a dangerous projectile may be propelled by using explosives, gas or air as a means of propulsion.

FLOOD INSURANCE RATE MAP (FIRM): The official map on which the Federal Emergency Management Administration (FEMA) has delineated both the areas of special flood hazards and other areas of flood hazard zones applicable to the City.

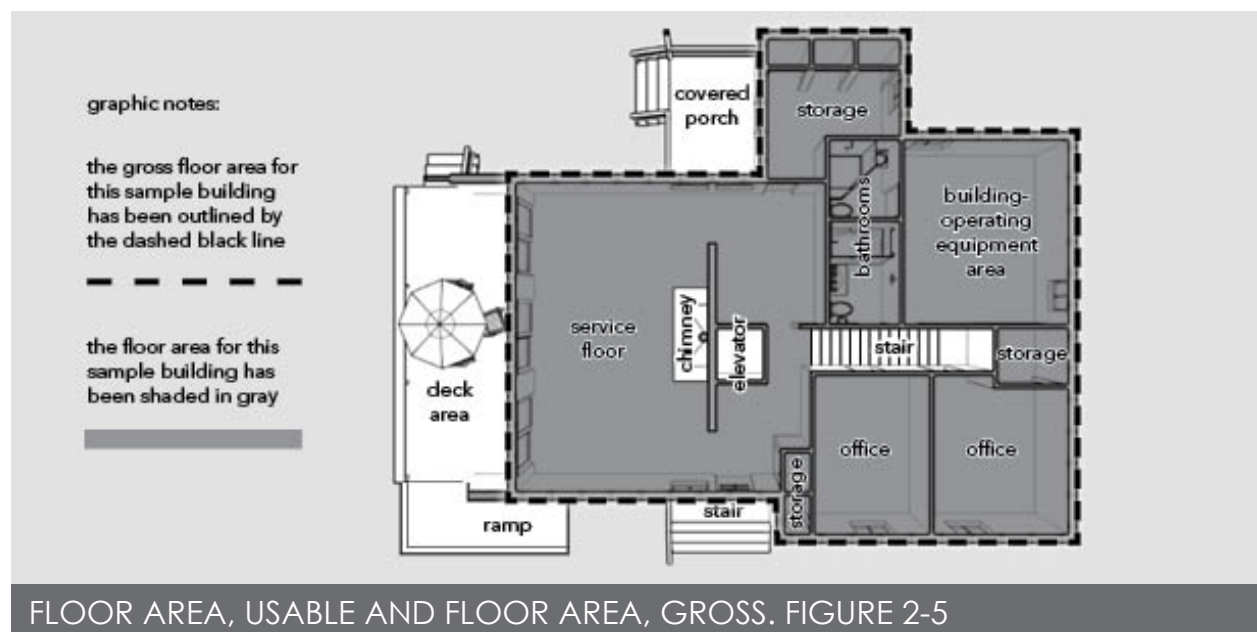
FLOOD INSURANCE STUDY: The official report provided by the Federal Emergency Management Administration (FEMA) that examines flood hazards, contains flood profiles, floodplain boundaries, and base flood elevations (BFE) used to create the Flood Insurance Rate Maps (FIRM).

FLOODPLAIN: Any land area susceptible to being inundated by floodwaters from any source, or the area subject to inundation by the base flood (also called the one percent (1%) annual chance flood or one hundred (100) year flood), as defined by the Federal Emergency Management Administration (FEMA).

FLOODWAY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood (also known as the one percent (1%) annual chance flood) without cumulatively increasing the water surface elevation more than a designated height.

FLOOR AREA, USABLE: The area in square feet confined within the exterior walls of a building, but not including the area of the following: exterior walls, hallways, stairways, shafts, rooms housing mechanical equipment or machinery, and storage areas (see Figure 2-5).

FLOOR AREA, GROSS: The total area of all wholly enclosed floors in a building, above and below grade, measured from the exterior of the main walls at the level of each floor (see Figure 2-5).



FOOTCANDLE: A unit of measurement for illumination, quantifying the amount of light falling onto a surface, and defined as one (1) lumen of light distributed over an area of one (1) square foot. Illumination levels in footcandles (fc) is calculated as follows:

$$\text{Footcandles (fc)} = \frac{\text{Lumens}}{\text{Area in square feet}}$$

FREEWAY: A major highway without intersections at grade and having fully controlled access, hence “free” from conflicts and interruptions.

FRONTAGE: All the property fronting on one (1) side of a street between the nearest intersecting streets or between a street and a right-of-way, waterways or other similar barrier.

FUNERAL HOME: A public or private facility used for the preparation of the deceased for display of the deceased and rituals in connection therewith prior to burial or cremation.

Section 207 – Definitions beginning with G

GALLERIES AND MUSEUMS: Repositories of objects connected with literature, art, history, culture, or science collected and displayed for the edification, amusement, entertainment, or education of patrons and consumers.

GARAGE, BUS: Any building used or intended to be used for the storage of three (3) or more passenger motor busses or motor coaches used in public transportation, including school buses.

GARAGE, PRIVATE: A space that is attached to the principal structure, intended for storage of passenger vehicles and other items customarily stored within a private garage.

GARAGE, PUBLIC: A building, other than a private garage, used for the care, incidental servicing and sale of automobile supplies or where motor vehicles up to one and one-half (1½) ton capacity are parked or stored for lease, hire or sale within the structure.

GASOLINE STATION: Any building, structure, or land, or portion thereof, and any associated appurtenances, intended and used for the retail sale, supply, and dispensing of fuels for motor vehicles, and, in some instances, the retail sale or supply of fuels for motor vehicles and the retail sale of tobacco, snack food and drinks, newspapers, and similar convenience goods. May also include other incidental uses such as a drive-through restaurant, vehicle rental, open air sales of wood, ice, or fluids, and coin operated air compressors and vacuum cleaners.

GOLF COURSE: A facility for the playing of golf at which there may be a clubhouse, including restrooms and locker rooms. A country club or golf course may provide additional services customarily furnished such as swimming, outdoor recreation, retail sales, restaurant, bar/tavern, and may be open only to members or to the public. Public, semi-public, or private grounds over which the game of golf is played, including accessory buildings and land uses incidental thereto.

GRADE, STREET: The elevation of the established street in front of the building measured at the center of such front.

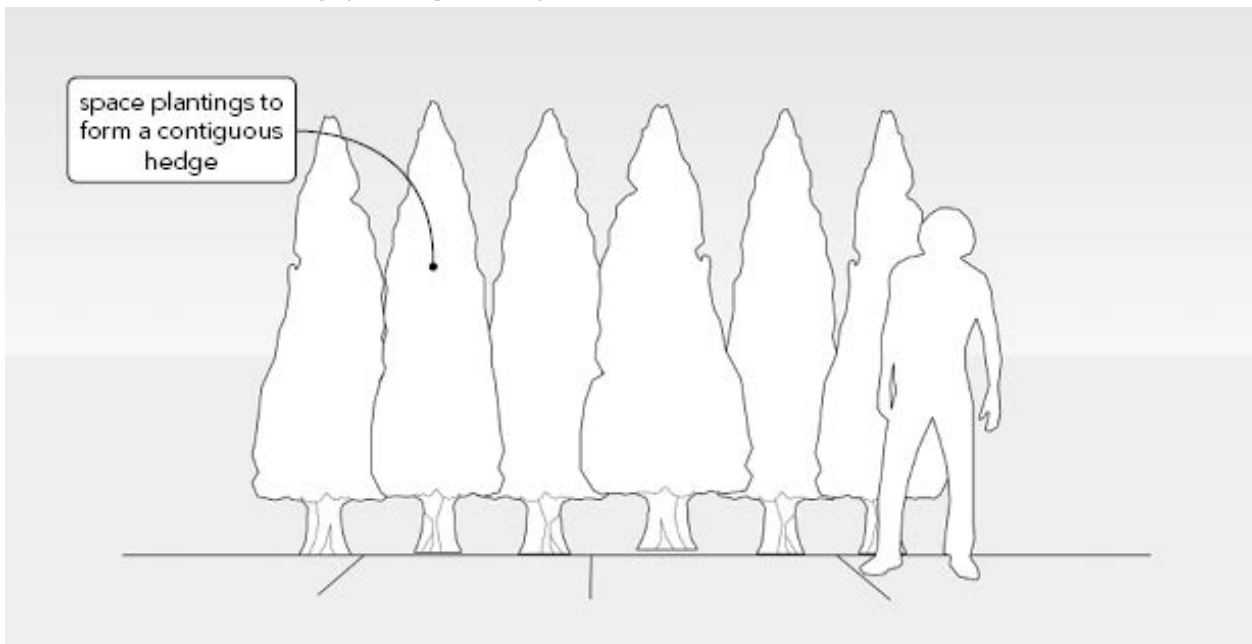
GROUND FLOOR AREA: The total horizontal area of the floor of a building located closest in elevation to the average grade of the lot.

GREENHOUSES & NURSERIES: An establishment or area used for the cultivation, propagation, and sale of plants, including trees, shrubs, flowers, vegetables, and other plant materials, for personal, commercial, or landscaping purposes. The term may also include the sale of related gardening supplies such as fertilizers, pots, soil, and garden tools. Greenhouses refer to enclosed structures made primarily of glass or other transparent materials used to grow plants in a controlled environment. Nurseries may include outdoor areas for growing and displaying plants. Accessory uses may include landscaping services, retail sales, and outdoor storage of plant materials.

Section 208 – Definitions beginning with H

HAZARDOUS WASTE: Waste or a combination of waste and other discarded material including solid, liquid, semisolid, or contained gaseous material that because of its quantity, quality, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible illness or serious incapacitating but reversible illness, or may pose a substantial present or potential hazard to human health or the environment if improperly treated, stored, transported, disposed of, or otherwise managed, as defined in the Natural Resources and Environmental Protection Act of Michigan (Act 451 of 1994, as amended).

HEDGE: A vertical, row-like obstruction consisting of living vegetation, excluding trees, which is cultivated and maintained for pleasing appearance and serves as an enclosure for limited access to and from real property (see Figure 2-6).



HEDGE. FIGURE 2-6.

HEIGHT: The vertical distance measured from the average finished grade of the parcel to the highest point on structure.

HOME-BASED BUSINESS: A home occupation, as defined herein, which involves business activities generally conducted at other locations with limited customer activity.

HOME FOR THE AGED OR CONVALESCENT HOME: Supervised personal care facilities at a single address, other than a hotel, adult foster care facility, hospital, nursing home, or county medical care facility that provides room, board, and supervised personal care to twenty one (21) or more unrelated, non-transient, individuals fifty five (55) years of age or older. This definition includes a supervised personal care facility for twenty (20) or fewer individuals fifty five (55) years of age or older if the facility is operated in conjunction with and as a distinct part of a licensed nursing home.

HOME OCCUPATION: A business, business activity, profession, occupation or trade activity that is conducted by one (1) or more occupants of a dwelling for the economic gain or support of that person or residents of the dwelling and is conducted as a customary, incidental and secondary, accessory use to the residential use of the dwelling. A home occupation includes telecommuting, and other remote working, but does not include a hobby, or uses classified as group living or public accommodations.

HOME OCCUPATION, MAJOR: Occupations carried out within a dwelling unit, by the occupant(s) of the home, in an area not to exceed twenty five percent (25%) of the usable floor area of the home, or within an accessory building, and are clearly incidental to the principal use of the residential dwelling unit.

HOME OCCUPATION, MINOR: Occupations carried out within a dwelling unit, by the occupant(s) of the home, in an area not to exceed twenty five percent (25%) of the usable floor area of the home, and clearly incidental to the principal use of the residential dwelling unit, and are not carried out in an accessory building. The following types of activities include (but are not limited to) shall be considered Minor Home Occupations:

- a. Instruction of a fine art or craft
- b. Tutoring
- c. Counseling or psychologist practice
- d. Telecommuting
- e. Accountant

HOSPITAL: A facility offering inpatient, overnight care, and services for observation, diagnosis, and active treatment of an individual with a medical, surgical, obstetric, chronic, or rehabilitative condition requiring the daily direction or supervision of a physician. Hospital does not include a mental health hospital licensed or operated by the department of health and human services or a hospital operated by the department of corrections.

HOTEL, APARTMENT: A hotel in which at least ninety percent (90%) of the hotel accommodation are for occupancy by tenants who reside on the property for a duration of longer than thirty (30) days.

HOTEL: An establishment that provides temporary lodging accommodations to the general public for short-term or extended stays for a fee. Structurally, a hotel is a building with a multi-story design and interior hallways that provide access to lodging rooms, and commonly offers amenities and services such as restaurants, conference rooms, fitness centers, and indoor swimming pools. This definition shall not include a motel or short-term rental as defined herein.

HOUSEHOLDER: The occupant or a dwelling unit who is either the owner or lessee thereof.

Section 209 – Definitions beginning with I

INOPERABLE VEHICLE: See *VEHICLE, INOPERABLE*.

IMPROVEMENTS: Any permanent structure that becomes part of, is placed upon or affixed to, real estate.

Section 210 – J - Reserved for Future Use

Section 211 – Definitions beginning with K

KENNELS: Any lot or premises or portion thereof on which more than four (4) dogs, cats or other household domestic animals over four (4) months of age are kept for compensation or kept for sale, or on which more than two (2) such animals are boarded, bred, or trained for compensation or kept for sale on a continuous basis.

Section 212 – Definitions beginning with L

LAUNDROMAT: A business that provides coin-operated, or other means of fee based use of washing machines and dryers which serves the general public for the laundering of garments, clothing, bedclothes, and other household and personal textiles. This definition shall not include uses associated with a drycleaning establishment or a laundry service, as defined in this ordinance.

LAUNDRY SERVICE, COMMERCIAL: A service that provides pick-up of soiled linens, uniforms or other textiles and fabrics from commercial or industrial businesses to be laundered off-site and delivered clean to said businesses. This definition shall include any building with a principal use of laundering the above-described items, as well as the outdoor storage of fleet vehicles that transport these items.

LOADING SPACE: Any off-street space or berth on the same lot with a building or contiguous to a group of buildings, for the temporary parking (less than twenty four (24) hours) or a commercial vehicle while loading or unloading merchandise or materials.

LOT: A parcel of land separated from other parcels of land by description on a recorded plat, condominium subdivision plan or by metes and bounds description that complies with the district requirements for minimum area, road frontage, lot width, width to depth ratio, and setbacks. See also “Lot of Record.” The word lot includes the terms “plot”, “unit”, and “parcel”.

LOT AREA: The total area within the boundaries of the lot, excluding any road rights-of-way or access easements.

LOT COVERAGE: The area of a zoning lot occupied by the principal building or buildings and accessory buildings.

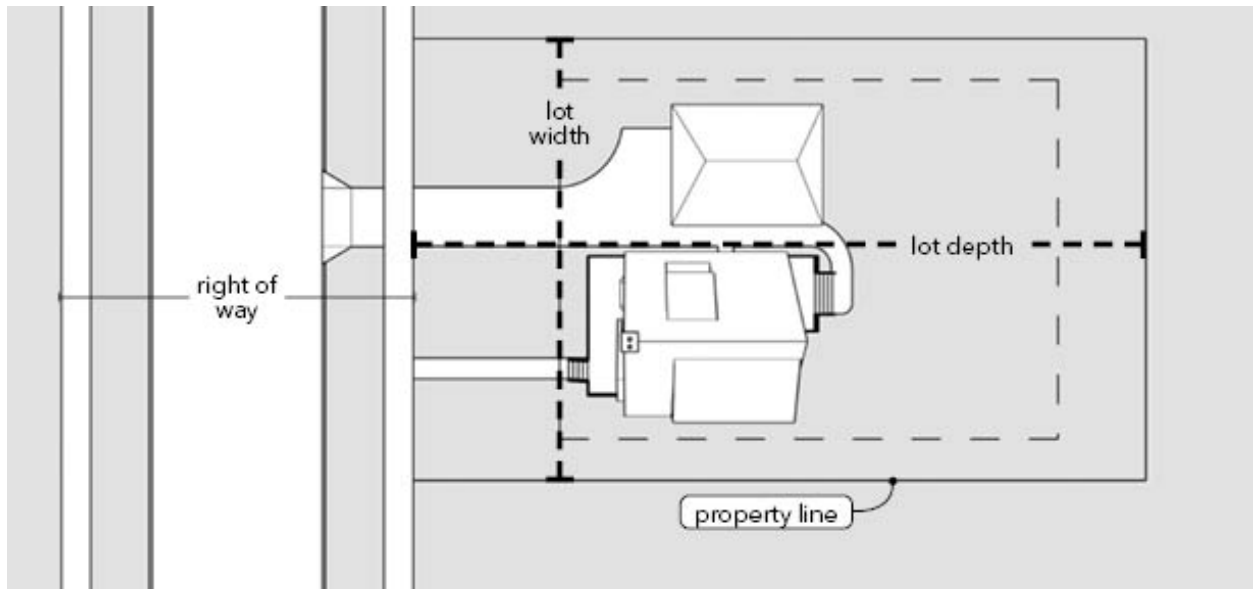
LOT DEPTH: The distance between the mid points of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear (see Figure 2-7).

LOT FRONTAGE: The linear measurement of the portion of a lot that abuts a public street right of way.

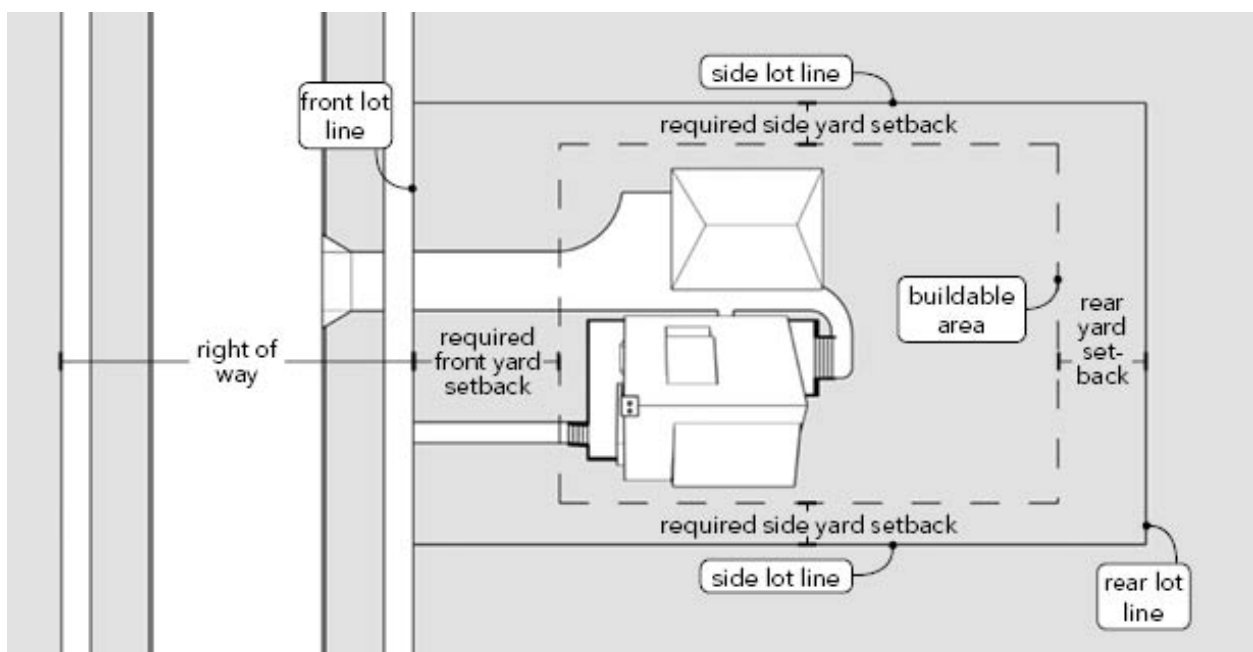
LOT LINE: A property boundary line of any lot held in single or separate ownership except that where any portion of the lot includes the abutting street or alley right-of-way or easement, the lot line shall be deemed to be the edge of said right-of-way or easement (see Figure 2-8).

LOT, NON-CONFORMING: Any lot or parcel which does not conform to the dimensional standards of this Ordinance.

LOT OF RECORD: A lot which is a part of a subdivision recorded in the office of the County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been recorded.



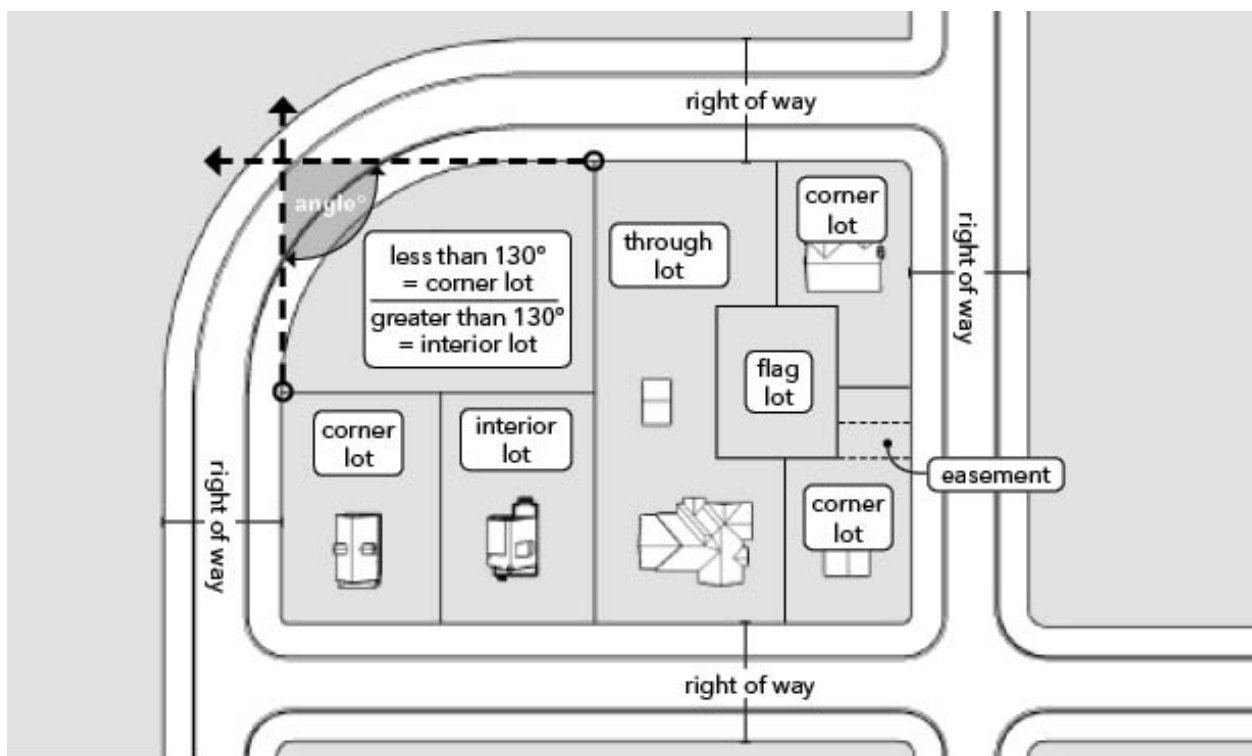
LOT WIDTH, LOT DEPTH. FIGURE 2-7.



LOT LINES AND SETBACKS. FIGURE 2-8.

LOT TYPES: Figure 2-9 illustrates terminology used in this Ordinance with reference to corner lots, interior lots, flag lots and through lots:

- A. Corner Lot: A lot located at the intersection of two (2) or more streets. A lot abutting on curved street or streets shall be considered a corner lot if a straight line drawn from the foremost points of the side lot lines to the foremost point of the lot meets on an interior angle or less than one hundred thirty (130) degrees.
- B. Interior Lot: A lot other than a corner lot with frontage on only one (1) street.
- C. Through Lot: A lot other than a corner lot with frontage on more than one (1) street. Through lots abutting two (2) streets may be referred to as double frontage lots.
- D. Flag Lot: A parcel of land separated from a road right-of-way by another parcel and may be accessed through an easement.



LOT TYPES. FIGURE 2-9.

LOT, WIDTH: The linear measurement of a straight line that intersects the two (2) adjacent side lot lines (see Figure 2-7).

LOT WIDTH, MINIMUM: The minimum lot frontage measured at the front property line as determined by the zoning district’s schedule of dimensional regulations. For irregularly shaped lots, the minimum lot width shall be met at the minimum front yard setback line.

Section 213 – Definitions beginning with M

MANUFACTURE: The commercial production, making, processing, or re-packing of products, subassemblies, components or commodities for general consumption of the public or for sale to specialized institution or organizations.

MARIHUANA ESTABLISHMENT: A marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by the cannabis regulatory agency. Associated marihuana establishment terms are defined as follows, in accordance with the Michigan Regulation and Taxation of Marihuana Act (MRTMA, Initiated Law 1 of 2018):

- A. GROWER ASSOCIATED WITH AN ADULT USE MARIHUANA ESTABLISHMENT:** An individual, corporation, limited liability company, partnership of any type, trust, or other legal entity, licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.
- B. EXCESS GROWER ASSOCIATED WITH AN ADULT USE MARIHUANA ESTABLISHMENT:** An excess marihuana grower license authorizes sale of marihuana, other than seeds, seedlings, tissue cultures, immature plants, and cuttings, to a marihuana processor or marihuana retailer. An excess marihuana grower license may be issued only to a person who holds five (5) stacked class C marihuana grower licenses issued by the agency under the MRTMA and at least two (2) grower class C licenses issued by the agency under the MMFLA.
- C. PROCESSOR ASSOCIATED WITH AN ADULT USE MARIHUANA ESTABLISHMENT:** An individual, corporation, limited liability company, partnership of any type, trust, or other legal entity, licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.
- D. MARIHUANA RETAILER ASSOCIATED WITH AN ADULT USE MARIHUANA ESTABLISHMENT:** An individual, corporation, limited liability company, partnership of any type, trust, or other legal entity, licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are twenty one (21) years of age or older.
- E. SAFETY COMPLIANCE FACILITY ASSOCIATED WITH AN ADULT USE MARIHUANA ESTABLISHMENT:** An individual, corporation, limited liability company, partnership of any type, trust, or other legal entity, licensed to test marihuana, including certification for potency and the presence of contaminants.
- F. SECURE TRANSPORTER ASSOCIATED WITH AN ADULT USE MARIHUANA ESTABLISHMENT:** An individual, corporation, limited liability company, partnership of any type, trust, or other legal entity, licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.
- G. MICROBUSINESS ASSOCIATED WITH AN ADULT USE MARIHUANA ESTABLISHMENT:** An individual, corporation, limited liability company, partnership of any type, trust, or other legal entity, licensed to cultivate not more than one hundred fifty (150) marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are twenty-one (21) years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.
- H. MICROBUSINESS CLASS A ASSOCIATED WITH AN ADULT USE MARIHUANA ESTABLISHMENT:** A facility that is permitted to house and facilitate the following activities:

 - 1. Cultivate not more than three hundred (300) plants; only mature marihuana plants are included in the plant count in this subdivision;

2. Package marihuana;
3. Purchase marihuana concentrate and marihuana-infused products from a licensed marihuana processor;
4. Sell or transfer marihuana and marihuana products to an individual twenty one (21) years of age or older only;
5. Transfer marihuana to a marihuana safety compliance facility for testing; may purchase or accept the transfer of marihuana seeds, tissue cultures, clones, or marihuana plants at any time from another grower; shall not sell or transfer marihuana seeds, tissue cultures, or clones received shall not purchase or receive marihuana from a licensed marihuana processor; may not purchase or accept a mature plant from an individual, registered qualifying patient, or registered primary caregiver; shall not purchase or receive marihuana from a licensed marihuana processor.

- I. DESIGNATED CONSUMPTION CENTER ASSOCIATED WITH AN ADULT USE MARIHUANA ESTABLISHMENT:** A commercial space that is licensed by the agency and authorized to permit adults twenty one (21) years of age and older to consume marihuana products at the location indicated on the state license.

MEDICAL MARIHUANA FACILITY: A location at which a licensee is licensed to operate under the Medical Marihuana Facilities Licensing Act (MMFLA, Act 281 of 2016, as amended) and as defined in MCL 333.27102. Associated medical marihuana facility terms are defined as follows, in accordance with the MMFLA in MCL 333.27102:

- A. LARA:** The Michigan Department of Licensing and Regulatory Affairs.
- B. LICENSEE ASSOCIATED WITH A MEDICAL MARIHUANA FACILITY:** An entity that holds a license issued under the Medical Marihuana Facilities Licensing Act (MMFLA, Act 281 of 2016, as amended) that allows the licensee to operate as one (1) of the following, specified in the license: (as defined in MCL 333.27102)
1. A grower
 2. A processor
 3. A secure transporter
 4. A provisioning center
 5. A safety compliance facility
- C. GROWER ASSOCIATED WITH A MEDICAL MARIHUANA FACILITY:** A licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor, provisioning center, or another grower.
- D. PROCESSOR ASSOCIATED WITH A MEDICAL MARIHUANA FACILITY:** A licensee that is a commercial entity located in this state that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center or another processor.

- E. PROVISIONING CENTER ASSOCIATED WITH A MEDICAL MARIHUANA FACILITY:** A licensee that is a commercial entity located in this state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a registered primary caregiver to assist a qualifying patient connected to the caregiver through the department's marihuana registration process in accordance with the Michigan Medical Marihuana Act (MMMA) (Initiated Law 1 of 2008).
- F. REGISTERED PRIMARY CAREGIVER:** A primary caregiver who has been issued a current registry identification card under the Michigan Medical Marihuana Act (MMMA) (Initiated Law 1 of 2008).
- G. MARIHUANA BUSINESS ASSOCIATED WITH A MEDICAL MARIHUANA FACILITY:** A marihuana facility under the Medical Marihuana Facilities Licensing Act (MMFLA), or a marihuana establishment under the Michigan Regulation and Taxation of Marihuana Act (MRTMA), or both.
- H. REGISTERED QUALIFYING PATIENT:** A qualifying patient who has been issued a current registry identification card under the Michigan Medical Marihuana Act (MMMA) or a visiting qualifying patient as that term is defined in Section 3 of the Michigan Medical Marihuana Act, (Initiated Law 1 of 2008) MCL 333.26423.
- I. SAFETY COMPLIANCE FACILITY ASSOCIATED WITH A MEDICAL MARIHUANA FACILITY:** A licensee that is a commercial entity that takes marihuana from a marihuana facility or receives marihuana from a registered primary caregiver, tests the marihuana for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.
- J. SECURE TRANSPORTER ASSOCIATED WITH A MEDICAL MARIHUANA FACILITY:** A licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.

MOBILE HOME A structure, transportable in one (1) or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. This definition also includes the term, Manufactured Home.

MODULAR HOME: Factory-built homes constructed in sections or modules at an off-site location then transported to the home site and assembled on a permanent foundation. Modular Homes are subject to the Michigan Residential Code. This definition shall not include a mobile home as defined in this ordinance.

MOBILE HOME PARK: A parcel or tract of land under the control of a person upon which three (3) or more mobile homes are located on a continual, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home.

MOTEL: An establishment that provides temporary lodging accommodations to the general public for short-term or extended stays for a fee. Structurally, a motel is a building with a one (1) or two (2) story design and exterior corridors providing access to lodging rooms. Motel services and amenities are commonly limited in nature. This definition shall not include hotels or short-term rentals as defined herein.

MARQUEE OR CANOPY: A roof-like structure of a permanent nature which projects from the wall of a building and may overhang the sidewalk and is designed and intended to protect pedestrians from adverse weather conditions.

MASTER DEED: The document recorded as part of a condominium subdivision to which are attached as exhibits and incorporated by the reference the approved bylaws for the condominium subdivision plan.

MASTER PLAN: The adopted Master Plan of the City of Niles.

MINING: A business involved in the excavation, processing, stockpiling and removal of soil, gravel, sand, minerals, and other materials from the earth.

MINI-WAREHOUSE, SELF STORAGE: A building or structure containing separate, individual, and personal storage spaces leased or rented on individual leases to the general public, including residential and commercial establishments, for varying periods of time.

MOTOR FREIGHT TERMINAL: A building in which freight, brought to said building by motor truck is assembled and sorted for routing is either interstate or intrastate shipment by motor truck.

MULTIFAMILY STRUCTURE: A single structure containing three (3) or more dwelling units.

Section 214 – Definitions beginning with N

NAME PLATE: A sign indicated the name and address of a building or the same of an occupant thereof, and the practice of a permitted occupation therein.

NET SITE AREA: The area of a zoning lot, parcel, or tract, excluding boundary rights-of-way, easements, wetlands and other unbuildable areas.

NONCONFORMING BUILDING: see *BUILDING, NONCONFORMING*.

NONCONFORMING LOT: see *LOT, NONCONFORMING*.

NONCONFORMING USE: Any building, structure or land lawfully occupied by a use or lawfully established at the time of the adoption of the Ordinance or amendments thereto, which does not conform with the use regulations or the Ordinance.

NOXIOUS MATTER: Material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the psychological, social or economic wellbeing of human beings.

NUDE MODEL STUDIO: Any place where a person who displays Specified Anatomical Areas (as defined in this article) is provided to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons who pay money or any form of consideration.

NURSING HOME: A nursing care facility, including a county medical care facility, that provides organized nursing care and medical treatment to seven (7) or more unrelated individuals suffering or recovering from illness, injury, or infirmity. As used in this subsection, “medical treatment” includes treatment by an employee or independent contractor of the nursing home who is an individual licensed or otherwise authorized to engage in a health profession under Part 170 or 175 of the Public Health Code (Act 368 of 1978). Nursing home does not include any of the following:

- A. A unit in a state correctional facility.
- B. A hospital.
- C. A veterans facility created under 1885 PA 152, MCL 36.1 to 36.12.
- D. A hospice residence that is licensed under the Public Health Code (Act 368 of 1978).
- E. A hospice that is certified under 42 CFR 418.100.

Section 215 – Definitions beginning with O

OCCUPANCY CERTIFICATE: A certificate issued by the Building Official stating the occupancy and use of land or a building or structure referred to therein complies with the provisions of this Ordinance.

OPEN AIR BUSINESS: A retail establishment that seasonally have outside storage of merchandise, including, but not limited to, nurseries or garden centers, shed sales, tent sales, sale of products associated holidays, located on the same lot as a permanent principal structure. This use shall not include the open storage of vehicles in conjunction with a vehicle sales lot.

OPEN SPACE: Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants, and their guests of land adjoining or neighboring such open space.

OPEN SPACE DEVELOPMENT: A form of residential subdivision pursuant to this ordinance which permits housing units to be grouped on lots with dimensions and setback standards that may be adjusted from conventional patterns, with the overall density of the parcel substantially equivalent to that allowed by the underlying zoning and that the remainder of the site dedicated as permanent common open space.

ORDINANCE: The City of Niles Zoning Ordinance, as amended from time to time.

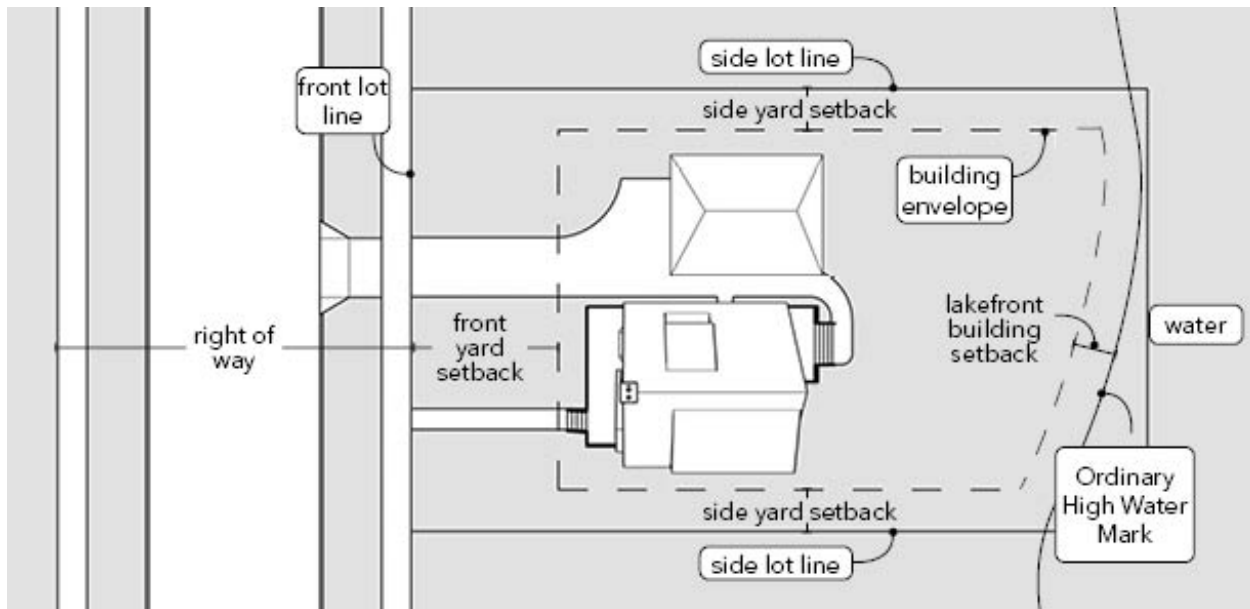
ORDINARY HIGH WATER MARK: The line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation. See Figure 2-10.

OUTDOOR STORAGE: The storage of items outside of a wholly enclosed building or structure.

Section 216 – Definitions beginning with P

PATIO: see *TERRACE*.

PARCEL: see *LOT*.



ORDINARY HIGH WATER MARK. FIGURE 2-10.

PARK: A public or private area of land, typically designed for outdoor recreation, preservation of natural environments, and aesthetic enjoyment. This definition includes the range of uses and amenities customarily associated with a park, such as playgrounds, sports fields or courts, walking or biking paths, picnic areas, gardens, open spaces, and areas for passive or active recreation.

PARK, RECREATIONAL VEHICLE: A designated area or facility specifically designed to accommodate recreational vehicles such as motorhomes, campervans, trailers, and camper vans for temporary stays. These parks provide amenities and services to RV travelers, including spaces with hookups for electricity, water, and sewage disposal, as well as communal facilities like restrooms, showers, and sometimes recreational activities or common areas for socializing. This definition shall not include uses permitted within mobile home parks, which primarily cater to permanent or long-term residents with mobile homes. RV parks are intended for short-term or seasonal visitors seeking a temporary place to park and enjoy their recreational vehicles during vacations or travels.

PARKING AREA, PRIVATE: An open area, other than a street or public way, used or intended to be used for the storage of passenger automobiles and commercial vehicles and available to the public, whether for compensation, fee or as an accommodation to clients or customers.

PARKING FACILITY: An off-street parking strip, driveway, garage, or combination thereof which provides parking spaces, accessory to a principal use.

PARKING SPACE, OFF-STREET: An area off the public road adequate for parking an automobile with room for opening doors on both sides, together with drive aisles and access to a public street or alley.

PARKING, SHORT-TERM: Parking of an automobile in a transient fashion. This definition shall not include long-term storage of automobiles or any other vehicles.

PERSONAL SERVICE ESTABLISHMENT: An establishment engaged primarily in providing services involving the care of a person or their personal goods or apparel. This definition shall include, but is not limited to, the following uses, as defined herein: salons and spas, barber shop, nail salon, tattoo studio, dental offices, fitness center, micro blading establishment, licensed massage therapy establishments, and aesthetician services, dermatology and plastic surgery offices.

PET DAYCARE: A facility where domestic animals, such as dogs and cats, are temporarily cared for during daytime hours. Services may include supervised play, feeding, grooming, and training, but do not include overnight boarding or veterinary care.

PLACE OF PUBLIC ASSEMBLY: Buildings, structures and grounds, including theaters, churches, auditoriums, sports arenas, lecture halls and other similar facilities intended for commercial or non-commercial entertainment, instruction, worship or similar activities involving assembled groups of people.

PLACE OF PUBLIC ASSEMBLY, LARGE: A place of public assembly shall be considered a large facility if it has either five thousand (5,000) square feet or more in gross floor area, total seating capacity of more than three hundred (300) in the largest room intended for public assembly, or the capability to expand to meet these standards in the future.

PLACE OF PUBLIC ASSEMBLY, SMALL: A place of public assembly shall be considered a small facility if it has either less than five thousand (5,000) square feet in gross floor area or total seating capacity of no more than three hundred (300) in the largest room intended for public assembly.

PLANNING COMMISSION: The City of Niles Planning Commission.

PLANNED UNIT DEVELOPMENT: A tract of land which is planned as a whole for development under single ownership or control and which, by virtue of such unified planning and development, provides greater amenities, convenience or other benefits than would otherwise be possible through conventional means.

PRINCIPAL BUSINESS: See *BUSINESS, PRINCIPAL*.

PRINCIPAL USE: See *USE, PRINCIPAL*.

PROFESSIONAL OFFICE: The office of a recognized medical or dental profession maintained for the conduct of that profession as a business. This definition shall include, but is not limited to, the following uses: general or specialty medical office, dental offices and business offices.

PUBLIC OPEN SPACE: Any publicly owned open area including but not limited to the following; parks, playgrounds, forest preserves, benches, waterways, parkways and streets.

PORCH: A roofed-over structure, projecting out from the wall or walls or a main structure and commonly open to the weather in part.

POND: Any naturally occurring or man-made body of water less than five (5) acres in size (excluding retention and detention ponds for stormwater management) that contain standing water throughout the year.

POND, DETENTION: An engineered structure that temporarily stores and gradually releases stormwater runoff to prevent flooding and control downstream discharge rates. Also known as detention *basin*.

POND, RETENTION: An engineered structure that permanently holds stormwater runoff to manage stormwater runoff, improve water quality and provide flood control. Also known as retention *basin*.

PUBLIC UTILITY: Any person, agency, firm or corporation, either public or private, duly authorized to supply, furnish, install, maintain, and regulate to the public, essential public services such as electricity, sanitary sewer, municipal water, telecommunications, and natural gas.

Section 217 – Q - Reserved for Future Use

Section 218 – Definitions beginning with R

RAILROAD RIGHT-OF-WAY: A strip of land with tracks and auxiliary facilities for track operation, but not including depth loading platforms, stations, train sheds, warehouses, car shops, car yards, locomotive shops, water towers, etc.

RECREATION FACILITIES, INDOOR: Building and premises used or intended to be used for the conduct of sports and/or leisure-time activities including, but not limited to, bowling alleys, racquet sports facilities, trampoline parks, climbing facilities, paint-ball or laser-tag facilities, video arcades, and other similar establishments.

RECREATION FACILITIES, OUTDOOR: Outdoor spaces dedicated to public or private recreation amenities and activities such as playgrounds, picnic shelters, skate parks, swimming pools, sport courts, ball fields, golf courses, disc golf courses, mini-golf courses, splash pads, fishing piers, hiking trails, bike and pedestrian pathways, bicycle motocross (BMX) tracks, go-cart tracks, and similar establishments.

RECREATIONAL VEHICLE: A vehicle designed to be used primarily for recreational purposes, including, but not limited to, travel trailers and campers with sleeping quarters (with or without cooking facilities), fifth-wheel camper, self-propelled motorhomes, pick-up camper, boats, jet-skis, snowmobiles, side-by-sides, dirt bikes, quads, and similar vehicles. This definition shall not include open and enclosed utility trailers used to transport recreational vehicles.

RECREATIONAL VEHICLE PARK: See *PARK, RECREATIONAL VEHICLE*.

REPAIR, SMALL ENGINE: Maintenance and repair of small internal combustion engines, including (but not limited to) lawn mowers, chain saws and gas powered generators.

RETAIL BUSINESS: An establishment engaged in selling goods or merchandise to the general public for personal or household use or consumption and rendering services incidental to the sale of such goods, and conducts business inside of a wholly enclosed building.

RESEARCH LABORATORY: An establishment or facility investigating the natural, physical, or social sciences, which may include engineering and product development, testing, and analysis. This definition shall not include manufacturing and processing, as defined herein.

RESTAURANT: An establishment primarily for the preparation and serving of food, meals and beverages to the general public for consumption on premises or for carry-out.

RIGHT-OF-WAY: The land over which facilities such as highways, roads, railroads, sidewalks or power lines are built.

RIPARIAN RIGHTS: The rights of fee simple owners of property abutting a water body, including:

- A. The right of access to navigable water.
- B. The right to build a pier out to the line of navigability.
- C. The right to accretions.
- D. The right to a reasonable use of the water for such general purposes as boating, swimming and fishing.

ROADSIDE STAND: A structure used or intended to be used solely by the householder, owner or tenant of the parcel on which such structure is located for the sale of the farm products produced on such parcel.

Section 219 – Definitions beginning with S

SALVAGE YARD: see *AUTOMOBILE WRECKING YARD*.

SETBACK LINE: A line parallel to the front, side or rear property line of a lot to define the yard requirements within a district (see Figure 2-8).

SHORT-TERM RENTAL: A residential property or a portion thereof, including but not limited to single-family homes, apartments, condominiums, or townhouses, mobile homes, and accessory dwelling units, that is rented out or offered for rent for a temporary period of time to transient occupants, typically on a nightly or weekly basis, but not exceeding thirty (30) days. Short-term rentals are intended for temporary lodging purposes and do not establish permanent residency for occupants. This definition shall not include hotels, motels, or other commercial lodging establishments as defined herein.

SIGN: Any object or device, or part thereof, not including a flag, situated outdoors or indoors which is used to advertise or identify an object, person, institution, organization, business, product, service, event, or location by any means including words, letters, figures, designs, symbols, fixtures, colors, motion illumination, or projected images.

SITE PLAN: The documents and drawings required by this Zoning Ordinance to ensure that a proposed land use or activity is in compliance with this ordinance.

SPECIAL USE: A land use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare.

SOCIAL CLUB: A facility used to house the activities of a group of people organized for a common purpose or to pursue common goals, interests, or activities and usually characterized by membership qualifications, payment of fees and dues and with an organizing constitution and bylaws. By way of example, club facilities may include, but shall not be limited to, buildings and grounds to house fraternal organizations, sporting clubs, boat clubs, hunting clubs and racing clubs. Club facilities shall not include commercial recreation or entertainment facilities such as tennis or golf clubs or dance clubs nor shall it include churches or clubs organized for religious purposes.

STABLE, PRIVATE: Any building which is located on a lot on which a dwelling is located and which is designed, arranged, used or intended to be used for housing horses for the private use of occupants of the dwelling.

STACKING REQUIREMENTS: For the purposes herein, stacking requirements are the number of cars that must be accommodated in a reservoir space while awaiting ingress or egress to specified business or service establishments.

STORY: That portion of a building included between the surface of any floor and the surface of the floor above it, or if there is no floor above then the space between the floor and the ceiling next to it.

STORY, HALF: That portion of a building under a gable, hip or mansard roof, the wall plates of which on at least two (2) opposite exterior walls are not more than four (4) and on half (1/2) feet above the finished floor of each story.

STREET: A public way other than an alley, which affords a primary means of access to abutting property.

STRUCTURE: Anything constructed or erected, which requires location on the ground or is attached to something having location on the ground including a fence or freestanding wall. A sign or other advertising medium, detached or projected shall be construed to be a structure.

STRUCTURE, TEMPORARY: A structure that is located upon a parcel for a limited duration of time.

STRUCTURAL ALTERATIONS: See *ALTERATIONS, STRUCTURAL*.

SUBDIVISION: The division of land by conventional plat, subdivision as set forth in the Land Division Act (Act 288 of the Public Acts of 1967, as amended); or by condominium subdivision pursuant to the Condominium Act (Act 59 of the Public Acts of 1978, as amended).

SWIMMING CLUB, PRIVATE (COMMERCIAL): A private club maintaining and operating a swimming pool and apparatus and equipment pertaining to the swimming pool with specified limitations upon the number of members for the exclusive use of members and their guests.

SWIMMING POOL, PRIVATE: A swimming pool and the apparatus and equipment pertaining to the swimming pool, maintained by an individual for the sole use of their household and guests, without charge for admission and, located on a lot as an accessory use to a residence.

SWIMMING POOL, PUBLIC: A swimming pool and the apparatus and equipment pertaining to the swimming pool, maintenance and operated by a municipality or other units of government for the general public.

Section 220 – Definitions beginning with T

TAVERN OR BAR: A building where liquors are sold to be consumed on the premises but not including restaurants where the principal business is serving food.

TELEWORK AND TELECOMMUTING: An arrangement between an employer and employee for performing work at a location other than the primary work location, such as in the dwelling of an employee or in a satellite office, and sending and receiving material by phone, email or other electronic means.

TEMPORARY USE: A land use which is established and intended to be limited in nature and duration and/or set to expire within a certain time period, and not intended to be permanent.

TERRACE: An outdoor level, landscaped, and/or surfaced area directly adjacent to a principal building at or within three (3) feet of the natural grade.

TOXIC MATERIAL: Includes chemicals known to cause adverse health effects or environmental harm, such as solvents, heavy metals, and industrial byproducts, as defined by the Environmental Protection Agency (EPA).

TRAILER SALES AREA: An open area, other than a street, used for the display or sale of new or used trailers, and where no repair work is done except for minor incidental repair of trailers to be displayed and sold on the premises.

TRAILER, UTILITY: A utility trailer is a portable, non-motorized apparatus designed to be towed by a motorized vehicle and used primarily for the transport of goods, equipment, or materials, and may include open or enclosed designs, used for personal, recreational, or business purposes and do not include recreational vehicles, as defined herein.

TRUCK PARKING AREA OR YARD: Any land used or intended to be used for the storage, parking of trucks, trailers, tractors and including commercial vehicles, while not loading or unloading which exceeds one and one-half (1.5) tons in capacity.

Section 221 – Definitions beginning with U

UNDERLYING ZONING DISTRICT: The existing zoning district of lands proposed to be rezoned to Planned Unit Development. An approved Planned Unit Development district may include departures from the underlying zoning district, such as setbacks, lot size, lot coverage, height, and other dimensional standards.

USE: The activities carried out on a lot or parcel or within a building and/or the purpose for which land or building is designed, arranged or intended or for which it is occupied or maintained, let or leased.

USE, ACCESSORY: An activity (that may or may not be separately listed as a principal use in this ordinance) which is conducted in conjunction with another principal use and the former use; (1) constitutes only an incidental or insubstantial part of the total activity that takes place on a lot, or (2) is commonly associated with the principal use and integrally related to it.

USE, PRINCIPAL: The main use of land or buildings as distinguished from a subordinate or accessory use.

USE, TEMPORARY: A land use or use of a structure that is permitted only for a limited duration and subject to specific regulations.

Section 222 – Definitions beginning with V

VARIANCE: Official permission to depart from the literal requirements of this Zoning Ordinance.

VEHICLE: Any self-propelled automobile, truck, bus, motor home, motorized camper, motorcycle, motor scooter, tractor, or snowmobile, dune buggy or other off-road vehicle; or any other device which is mechanically powered by gasoline, diesel fuel, electricity or other means except human or animal power. The term “vehicle” shall not include a utility trailer or a mobile home as defined herein.

VEHICLE CHARGING STATION: Commonly known as an electric vehicle (EV) charging station, a vehicle charging station contains specialized electric infrastructure designed to provide electric power to recharge the batteries of electric vehicles, including electric cars, plug-in hybrid vehicles, and electric bikes. Charging stations can be categorized into the following levels, based on the speed of charging they provide:

- A. Level 1: Standard household outlets (one hundred and twenty (120) volts AC) for slow, overnight charging, located in residential zoning districts.
- B. Level 2: Dedicated charging stations (typically two hundred and forty (240) volts AC) for faster charging, and constructed as an accessory use to a home or in parking lots within commercial or industrial zoning districts.
- C. Level 3: (DC fast charging): High-power stations (typically four hundred and eighty (480) volts DC) that provide rapid charging for shorter charging times, constructed as a principal use often located along highways and in commercial and industrial zoning districts.

VEHICLE, COMMERCIAL: Motor vehicles used in conjunction with a commercial business. Such vehicles would include, but are not limited to pick-up trucks, box trucks, trailers (open and enclosed), passenger vehicles, vans. This definition also includes equipment vehicles such as backhoes, dump trucks, bobcats, excavators, and similar equipment.

VEHICLE, INOPERABLE: A vehicle which is incapable of performing the function for which it was manufactured because of damage, missing or malfunctioning parts or equipment, or for any other reason. This term shall include junk vehicles and scrap vehicles or vehicles which are not licensed or registered for use on the highways. A historic motor vehicle (or hobby automobile as defined in this ordinance), duly registered and certified as such as prescribed by the Michigan Vehicle Code (MCL 257.1 et seq.) shall not be deemed an inoperable vehicle.

VEHICLE, PASSENGER: Motor vehicles intended for personal use.

VEHICLE REPAIR, MAJOR: Restoration, reconditioning, repair, and maintenance of vehicles that is extensive and complex in scope, such as overhauls, bodywork, transmission and engine repairs and replacement, electrical system repairs, and painting. Major vehicle repair may include incidental vehicle rental.

VEHICLE REPAIR, MINOR: Minor repairs and routine maintenance of vehicles that is minor in scope, such as oil and filter changes, tire rotation and balancing, battery replacement, brake pad and/or rotor replacement, or replenishment of fluids. This definition also includes activity related to the installation of after market accessories, such as sound and entertainment systems, back-up cameras, remote starting equipment, alarms, window tinting, truck bed application, and other similar modifications. The incidental vehicle rental use may be associated with a facility providing minor vehicle repair. This definition shall not include any type of structural body work or mechanical overhauls.

VEHICLE SALES LOT: A lot on which used or new cars, boats, recreational vehicles, trailers or trucks are displayed in the open for sale, trade, lease, or rent.

VEHICLE RENTAL ESTABLISHMENT: The premises or portion thereof used for the rental of motor vehicles, including but not limited to automobiles, trucks, vans, motorcycles, and recreational vehicles, to customers on a short-term or long-term basis, with or without a driver. Such establishment may include ancillary functions customarily associated with the principal use, including the indoor or outdoor storage of rental vehicles, administrative offices, and limited on-site maintenance, servicing, or cleaning of vehicles, The use shall not include the dismantling or salvaging of vehicles or the sale of vehicles

VETERINARY CLINIC: A facility operated by one or more licensed veterinarians where animals are given medical, surgical, or dental care on an outpatient basis, and where boarding of animals is limited to short-term stays incidental to treatment. This use may include grooming services, minor diagnostic testing, and retail sales of animal-related products, but does not include kennels, animal shelters, or overnight boarding unrelated to medical care unless specifically permitted.

VOCATIONAL SCHOOLS: Trade schools, career and technical education centers, or business schools that administer skills-based education and training for specific careers or trades, such as electrical work, plumbing, cosmetology, automotive repair, culinary arts, and other technical fields. This definition shall not include *academic institutions* as defined herein.

Section 223 – Definitions beginning with W

WELLHEAD PROTECTION AREA: The surface and subsurface surrounding a water well or well field through which contaminants are reasonably likely to move toward and reach such water well or well field.

WETLAND, REGULATED: As defined in Act 451 of the Public Acts of 1994, as amended, a regulated wetland shall mean land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh and which is connected to or located within five hundred (500) feet of an inland lake or pond, or a river or stream.

WIRELESS TELECOMMUNICATION ANTENNA: The device through which wireless telecommunication signals, as authorized by the Federal Communications Commission, are transmitted or received. Not included are AM/FM radio antenna, television antenna, satellite dishes, and licensed amateur radio facilities.

WIRELESS TELECOMMUNICATION EQUIPMENT SHELTER: The structure in which the electronic receiving and transmitting equipment for a wireless telecommunications is housed.

WIRELESS TELECOMMUNICATION FACILITY: A facility consisting of all structures and equipment involved in transmitting and/or receiving telecommunication signals from mobile communication sources and transmitting those signals to a central switching computer which connects the mobile communication sources and transmitting those signals to a central switching computer which connects the mobile unit to the land-based telephone system. These facilities include but are not limited to private and commercial mobile radio service facilities, personal communication towers (PCT), and cellular telephone towers. Not included in this definition are AM/FM radio towers, television towers, satellite dishes, and federally licensed amateur radio facilities.

WIRELESS TELECOMMUNICATION TOWER: A structure intended to support equipment used to transmit and/or receive telecommunication signals including but not limited to monopoles, freestanding lattice structures and guyed lattice structures.

Section 224 – X - Reserved for Future Use

Section 225 – Definitions beginning with Y

YARD: A required open space, between a lot line and a structure or group of structures, other than a court. Yards shall be determined by measuring the space between the wall nearest to the lot line, and the lot line (see Figure 2-2).

YARD, FRONT: A yard located between the side lot lines and situated between the front lot line to the nearest point of the building (see Figure 2-2).

YARD, SIDE: A yard located between the side lot line and a line parallel to the nearest point of a building, and extending from the front yard to the rear yard. In the case of through lots, side yards shall extend between the rear lines of the required front yards (see Figure 2-2).

YARD, REAR: A yard located between side lot lines and situated between the rear lot line and a line parallel to the nearest point of the building (see Figure 2-2).

YARD, REQUIRED: That portion of a yard as defined in which no structures shall be permitted (see Figure 2-2).

Section 226 – Definitions beginning with Z

ZONING ADMINISTRATOR: Where the “Zoning Administrator” is used, it shall mean the Zoning Administrator, Administrative Official appointed by the City of Niles, City Council and such deputies or assistants as have been or shall be duly appointed.

ZONING LOT: A single tract of land within a single block which (at the time of filing for building permit) is designated by its owner or developer as a tract to be used, developed or built upon as a unit under single ownership or control.

ZONING MAP: The map incorporated herein as an integral part of the Zoning Ordinance, designating and delineating zoning districts within the City.

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Article 3:

General Provisions

Section 300 – Scope of Regulations

The use of all land and structures and the construction, reconstruction, alteration, repair and moving of all structures within the City of Niles shall conform with all applicable provisions of this Ordinance unless the nonconformance is a matter of record on the effective date of this Ordinance.

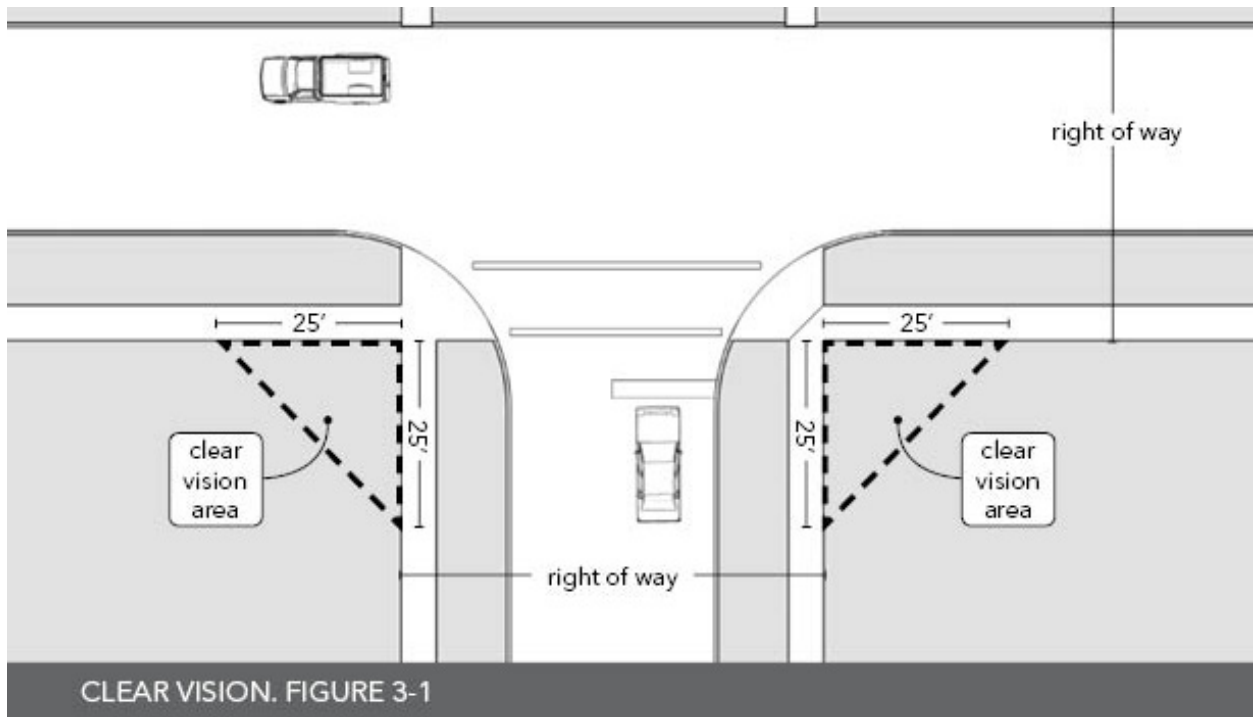
Section 301 – Use Regulations and Dimensional Standards

- A. Use.** No building, structure or land shall be used or occupied and no building or part thereof or other structure shall be erected, razed, moved, reconstructed, extended, enlarged or altered except in conformity with regulations herein specified for the district in which it is located.
- B. Dimensional Standards.** All new buildings and structures shall conform to the dimensional standards for buildings and parcels established herein for the district in which each building is proposed to be located, except such dimensional standards that may only be modified by the general provisions of this Ordinance.
- C. Gross Floor Area.** The total area of all wholly enclosed floors in a building, above and below grade, measured from the exterior of the main walls at the level of each floor (see Figure 2-4).
- D. Usable Floor Area.** The area in square feet confined within the exterior walls of a building, but not including the area of the following: exterior walls, hallways, stairways, shafts, rooms housing mechanical equipment or machinery, and storage areas (see Figure 2-4).

Section 302 – Clear Vision Corners

- A. Vision Clearance.** No building, structure or planting material greater than three (3) feet in height and which may block clear vision shall be located or placed within twenty-five (25) feet of the intersection street right-of-way lines bordering corner lots (see Figure 3-1).

Note: in zoning districts where zero-foot (0) setbacks are permitted, this requirement does not apply.



Section 303 – Lot Coverage

- A. Maintenance of Yards, Courts, and other Open Space.** Required yards (setbacks), courts and other open space shall be maintained as such and shall not be subsequently occupied by structures, except in conformance with this Ordinance. No legally required yards, courts, or other open space or minimum lot area allocated to any building shall by virtue of change of ownership or for any reason be used to satisfy yard, court or other open space or minimum lot area requirements for any other building.
- B. Location of Required Open Space.** All yards, courts and other open spaces allocated to a building or dwelling group shall be located on the same zoning lot as such building or dwelling group.
- C. Required Yards for Existing Buildings.** No yards now or hereafter provided for a building existing on the effective date of the Zoning Ordinance shall subsequently be reduced below the minimum yard requirements of this Ordinance unless specified herein.
- D. Permitted Projections in Required Yards.** The following shall not be considered to be an encroachment into a required yard:
 - 1. In All Yards:
 - a. Open terraces not over three (3) feet above the average grade of the adjoining ground, but not including a permanently roofed-over terrace or porch;
 - b. Awnings and canopies but not projecting more than ten (10) feet and at least seven (7) feet above the average grade of the adjoining ground;
 - c. Steps, four (4) feet or less above grade which are necessary for access to a permitted building or for access to a zoning lot from a street or alley;
 - d. Chimneys projecting twenty (20) inches or less into the yard;

- e. Arbors, trellises, flag poles, fountains, sculptures, plant boxes and other similar ornamental objects;
- f. Fences and walls, pursuant to Section 317;
- g. Access ramps in compliance with the Americans with Disabilities Act (ADA);
- h. Egress window wells

2. In Front Yards:

- a. One-story suspended bay windows projecting three (3) feet or less into the yards
- b. Overhanging eaves and gutters projecting three (3) feet or less into the yard

3. In Rear Yards:

- a. Enclosed, attached or detached off-street parking spaces
- b. Open off-street parking spaces
- c. Balconies, breezeways and open porches
- d. One-story bay windows projecting three (3) feet or less into the yard

- 4. In Side Yards:** Overhanging eaves and gutters projecting into the yard for a distance not exceeding forty percent (40%) of the required yard width, but in no case exceeding four (4) feet.

Section 304 – Access to Public Streets

Except as otherwise provided herein, every building shall be constructed or erected upon a lot or parcel of land which abuts upon a public street, unless a permanent easement of access to a public street was recorded as of the date this Ordinance was adopted.

Section 305 – Principal Use and Principal Building

- A. No lot shall be devoted to more than one (1) principal use and no more than one (1) principal building shall be erected on any individual lot except as herein permitted:
 - 1. As approved as part of a planned unit development pursuant to Article 10.
 - 2. Multiple buildings and/or multiple uses of land on a parcel may be considered a principal building or use collectively if the land and buildings are planned and designed as a single integrated development, including joint parking, compatible architecture, shared driveways, shared signs, and other similar features.

Section 306 – Accessory Buildings

- A. Location.** Accessory buildings shall be located on the same zoning lot with the principal building. Accessory buildings shall not be located in a front yard. No accessory building shall be located nearer than three (3) feet to the side or rear lot lines. In no instance shall any accessory building be located within a dedicated right-of-way or easement.
- B. Time of Construction.** Except for temporary buildings pursuant to Section 308, no accessory building or structure shall be constructed on any lot prior to the start of construction of the principal building to which it is accessory.
- C. Lot Coverage Limitations.** No accessory building and no combination of multiple accessory buildings, including minor accessory buildings, shall occupy more than forty percent (40%) of any rear yard.
- D. Floor Area Limitations.** In districts where residential uses are permitted, the combined floor area of all accessory buildings shall not exceed the ground floor area of the principal building on a zoning lot, unless special land use approval is obtained from the Planning Commission, pursuant to the requirements of Section 803.1 of this Ordinance.
- E. Height Limitations.** In a residential district no accessory building shall exceed eighteen (18) feet in height, however, the Building Official may allow an accessory building's roof pitch to match the roof pitch of the principal dwelling in order to maintain architectural uniformity.
- F. Attached Structures.** Accessory buildings that are structurally attached to the principal building shall be considered to be a part of said principal building.

Section 307 – Accessory Uses

- A. In General.** Whenever an activity (which may or may not be separately listed as a principal use in this ordinance) is conducted in conjunction with another principal use and the former use;
 - 1. Constitutes only an incidental or insubstantial part of the total activity that takes place on a lot, or
 - 2. Is commonly associated with the principal use and integrally related to it, then the former use may be regarded as accessory to the principal use and may be carried underneath the umbrella of the permit issued for the principal use. For example, a swimming pool/tennis court complex is customarily associated with and integrally related to a residential subdivision or multi-family development and would be regarded as accessory to such principal uses, even though such facilities, if developed apart from a residential development, would require an independent approval process.
- B. Interpretation of Accessory Uses.** For purposes of interpreting accessory uses;
 - 1. A use may be regarded as incidental or insubstantial if the viability of the principal use is not dependent in any significant way on the accessory use.

2. To be “commonly associated” with a principal use it is not necessary for an accessory use to be connected with such principal use more times than not, but only that the association of such accessory use with such principal use takes place with sufficient frequency that there is common acceptance of their relatedness.
3. An accessory use shall not generate any effects on neighboring properties, including, but not limited to, noise, parking, traffic, glare, or dust, greater or more burdensome than such impacts from the principal use on the property.

Section 308 – Temporary Structures and Uses

- A. Temporary buildings for construction purposes may be allowed in any district for a period not to exceed the duration of such construction and only if located on the construction site. A temporary construction trailer shall not be used for dwelling purposes.
- B. Recreational vehicles that contain sleeping quarters may be allowed as temporary sleeping accommodations in residential districts, subject to the following conditions:
 1. Temporary sleeping accommodations within a recreational vehicle may only be permitted in residential zoning districts, or on parcels that contain a residential use.
 2. The recreational vehicle may be occupied for a period not to exceed seven (7) days, and no more than three (3) times per year.
 3. While being used for temporary sleeping accommodations, the recreational vehicle shall not be parked in the front yard, with the exception of the driveway, and shall not block any sidewalks.
 4. Recreational vehicles which contain sleeping quarters may be occupied by property owners in the event that the home is damaged and being repaired or in the process of being remodeled. The duration of this type of recreational vehicle occupancy shall cease upon the completion of the construction project. This provision does not permit the occupancy of a recreational vehicle on a parcel during the construction of a new home.

Section 309 – Home Occupations and Home-Based Businesses

- A. **Purpose and Intent.** Home occupations are permitted in the R-1, R-2, CB, and NC zoning districts, subject to the regulations set forth in this Section. The purpose of the provisions of this Section is as follows:
 1. To prevent unreasonable noise, dust, odor, light, glare, ground vibration, or other nuisance impacts that, if not prevented, could undermine the pleasant use and enjoyment of residential districts for dwelling purposes.
 2. To ensure that home occupations always remain an accessory use that is subordinate to the principal residential use of the premises.
 3. To automatically authorize telecommuting and related invisible and no-impact uses without any application, review or permit approval in all dwelling units.

4. To ensure that home occupations are conducted in a manner that maintains the residential character and viability of the dwelling, and that the use does not result in incompatibility with nor undue disturbance to surrounding residential properties, or that the use is a detriment to the character and livability of the surrounding neighborhood as established by this Section or the terms of a permit issued under this Section.
- B. Home Occupations as described in this Section shall not include the following uses, and therefore not subject to regulations included in this Section:
1. Group or Family Daycare
 2. Adult Foster Care Homes
 3. Bed & Breakfast establishments
 4. Short-term rental establishments
 5. Caregiver for medical marihuana growing operations
- C. **Minor Home Occupations.** The Minor Home Occupation category is intended to apply to home occupations that are not anticipated to produce any significant impact on surrounding property. This category of home occupation also recognizes that it is customary for dwelling occupants to perform office and similar work as incidental to the residential use of a dwelling unit. Minor Home Occupations should result in no aspects of the home occupation being visible from the property lines.
1. The following types of activities shall be considered Minor Home Occupations:
 - a. Instruction of a fine art or craft
 - b. Tutoring
 - c. Counseling or psychologist practice
 - d. Other similar home occupation professions, as determined by the Zoning Administrator.
 2. All Minor Home Occupations shall be subject to the following restrictions and regulations:
 - a. A Zoning Compliance Permit shall not be required for a Minor Home Occupation.
 - b. The Minor Home Occupation shall be conducted only by the person or persons occupying the dwelling as their principal residence.
 - c. The occupant(s) conducting the Minor Home Occupation shall not have any employees that would physically report to the subject dwelling for work.
 - d. The Minor Home Occupation shall be operated entirely within a dwelling in the districts listed in Part A of this Section.
 - e. The Minor Home Occupation shall not be conducted within an accessory building.
 - f. One passenger vehicle associated with the Minor Home Occupation may be parked in the driveway or in the street.

- g. The dwelling shall contain no exterior evidence of the home occupation, other than a two (2) square foot sign, to provide way-finding for customers.
- h. The occupation conducted therein must be clearly incidental and subordinate to the principal use of the premises for dwelling purposes and shall not exceed twenty five percent (25%) of the floor area used to conduct the Minor Home Occupation.
- i. No Minor Home Occupation shall be conducted upon, or from, the premises which would constitute a nuisance or annoyance to adjoining residents by reason of noise, smoke, odor, electrical disturbance, night lighting, or the creation of unreasonable traffic to the premises.

D. Major Home Occupations. The Major Home Occupation category is intended to provide regulations for home occupations that may be conducted within an accessory building (either whole or in part). Activities permitted in this category require a Zoning Compliance Permit.

1. The following types of activities shall be considered a Major Home Occupation:
 - a. Carpentry and cabinet making
 - b. Small engine repair
 - c. Snow-plow business
 - d. Cleaning business
 - e. Pet grooming
 - f. Any other similar home occupation, that would be conducted entirely or partially within an accessory building, or as determined by the Zoning Administrator.
2. The following regulations shall apply to Major Home Occupations:
 - a. The occupant(s) engaging in the Major Home Occupation shall obtain a Zoning Compliance Permit in accordance with the requirements and procedures outlined in Section 1102 of this Ordinance. The application shall contain the following supplemental information:
 - i. Site Plan
 - ii. Floor Plan that demonstrates that the floor area of the home dedicated to the Major Home Occupation shall not exceed twenty five percent (25%).
 - iii. Detailed narrative describing the nature of the Major Home Occupation.
 - iv. The Zoning Administrator has the discretion to refer any application for a Major Home Occupation to the Planning Commission. The Planning Commission may impose additional conditions as necessary to preserve the character of the residential area.
 - b. The Major Home Occupation shall be conducted only by the person or persons occupying the dwelling as their principal residence.

- c. The occupant(s) conducting the Major Home Occupation shall not have any employees that would physically report to the subject dwelling for work.
- d. The use of the dwelling unit or accessory building for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and no more than twenty- five percent (25%) of the floor area of the dwelling unit and one (1) accessory building shall be used in association with the home occupation.
- e. The dwelling shall contain no exterior evidence of the Major Home Occupation, other than a two (2) square foot sign, to provide way-finding for customers or clients.
- f. No open storage of equipment, trailers, materials or other items associated with the Major Home Occupation shall be permitted.
- g. No more than one passenger vehicle in connection with the Major Home Occupation may be permitted to be parked on the property. No equipment of any kind shall, under any circumstances, be temporarily parked or stored in the public right of way.
- h. There shall be no material negative impact upon the public health, safety or quality of life in the City of Niles due to the home occupation, including, but not limited to, excessive use of streets and roads, change to the character of the area, blight, excessive noise, odors, or electrical interference. No equipment or process shall be used which creates visual or audible interference in any electronic device, or causes fluctuation in line voltage off the premises.
- i. No traffic shall be generated by such home occupation in greater volume than would be normally expected in a residential area and the zoning district.
- j. Off-street parking for passenger vehicles shall be provided for customers and clients unless off-street parking is not available for the dwelling unit.
- k. No equipment or process shall be used in such home occupation, which creates excessive noise, vibration, glare, fumes, odors or electrical interference detectable at the lot line.
- l. The Major Home Occupation shall not generate sewage or water use in excess of what is normal in the residential district in which it is located.

E. Home-Based Businesses. This category is intended to provide regulations for more intense home occupation activities that may require outdoor storage of materials, equipment, and/or commercial vehicles.

- 1. The following activities may be permitted to be conducted as home occupations, subject to the standards set forth in Article 8, Special Land Uses, Section 803.24 can be met, as determined by the Planning Commission. This is not a comprehensive list of home-based businesses:

- a. Landscaping business
- b. Plant nurseries
- c. Dog kennels
- d. Contractor
- e. Sawmills

Section 310 – Uses Not Expressly Authorized

Where a proposed use of land or use of a building is not expressly authorized, contemplated or named by this Ordinance in any of the zoning districts, or where the Zoning Administrator has a question as to the appropriateness of a use that involves other features which are not expressly authorized, contemplated or specified in this Ordinance, the Zoning Administrator may determine that the use is unclassified. In the case of an unclassified use, an amendment to classify, permit, and regulate the use may be initiated pursuant to Article 11, Administration.

Section 311 – Reserved for Future Use

Section 312 – Structure Height Measurement and Exceptions

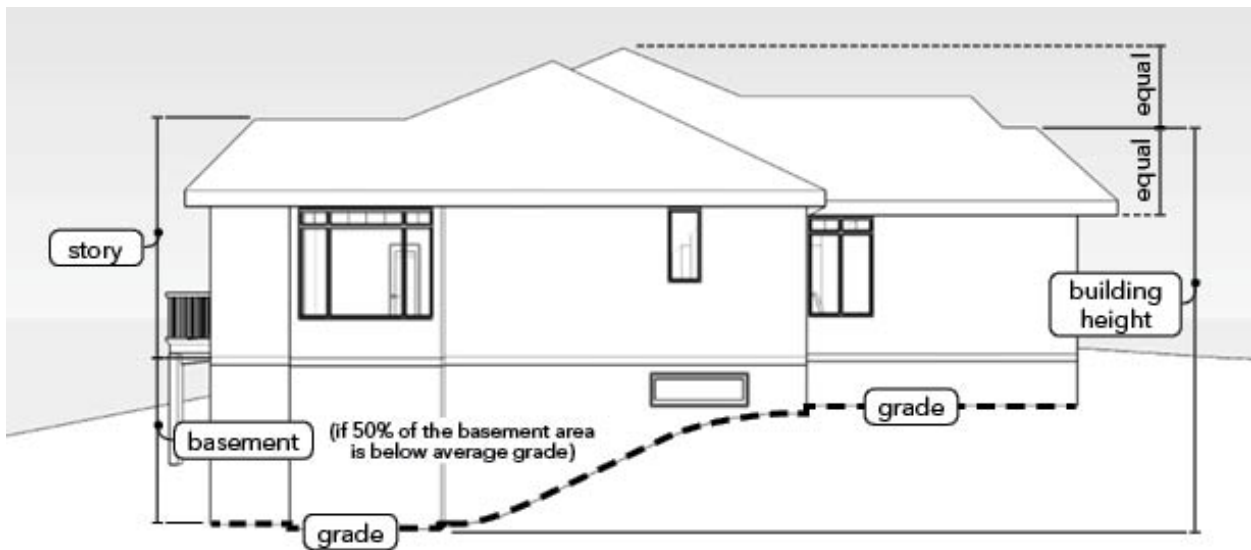
- A. Height Measurement in All Districts.** The height of structures shall be measured from the lowest point of the actual grade of the building site to the mid-way point between the eave and the peak of a gabled roof (see Figure 3-2).
- B. Exceptions.** The height limitations contained in this Ordinance shall not apply to spires, belfries, cupolas, water tanks, silos, ventilators, chimneys, or their appurtenances usually required to be placed above the roof level and not intended for human occupancy. Height requirements for antennas are set forth in Section 803.44 of this Ordinance.
 - 1. Height Measurement and Number of Stories in Residential Districts.
 - a. Basements. Where more than one-half (1/2) of the height of a basement area is above the actual grade of the building site, a basement shall be counted as a story for the purpose of height measurement.
 - b. Any portion of a story exceeding fourteen (14) feet in height shall be considered as an additional story for each fourteen (14) feet, or fraction thereof.
 - c. In the case of one-family dwellings less than three (3) stories in height, a half-story in a sloping room shall not be counted as a story.

Section 313 – Swimming Pools

Swimming pools shall be considered an accessory use and shall meet the following requirements:

- A.** The swimming pool basin shall not be closer than ten (10) feet to any side or rear lot line. No part of any pool shall be constructed or placed within a required front yard.

- B. Swimming pools shall have a separation setback of ten (10) feet from any adjacent building. The separation setback may be reduced to five (5) feet from buildings or structures less than a story. For the purpose of this Section, measurements shall be taken from the water's edge to the closest edge of the building or adjacent structure, unless approved by the Zoning Administrator.
- C. A swimming pool that is designed to be filled to a depth exceeding twenty four (24) inches shall only be permitted if a building permit for the swimming pool has been obtained from the City and if the swimming pool is in compliance with the state construction code and with all applicable township ordinances.
- D. The swimming pool shall be maintained in a clean and healthful condition in accordance with county and township health requirements and shall satisfy all applicable building codes.
- E. A fence enclosing the perimeter of a swimming pool shall comply with the requirements of Section 317, Fences.



BUILDING HEIGHT. FIGURE 3-2

Section 314 – Outdoor Storage in Residential Districts

The outdoor storage or parking of any recreational vehicle, airplane, hobby automobile, and other equipment or vehicles of similar nature shall be permitted in the R-1 and R-2 districts, provided the following minimum conditions are met:

- A. All such vehicles or equipment shall be placed within an enclosed building, unless stored within the side or rear yard, behind the front plane of the home. This provision shall not apply to recreational vehicles being used in the manner permitted in Section 308.
- B. Storage or parking shall be limited to vehicles or equipment types described in this Section owned by the occupant of the parcel and not more than two (2) vehicles or pieces of equipment shall be stored outdoors in the manner permitted in Section 314.1.

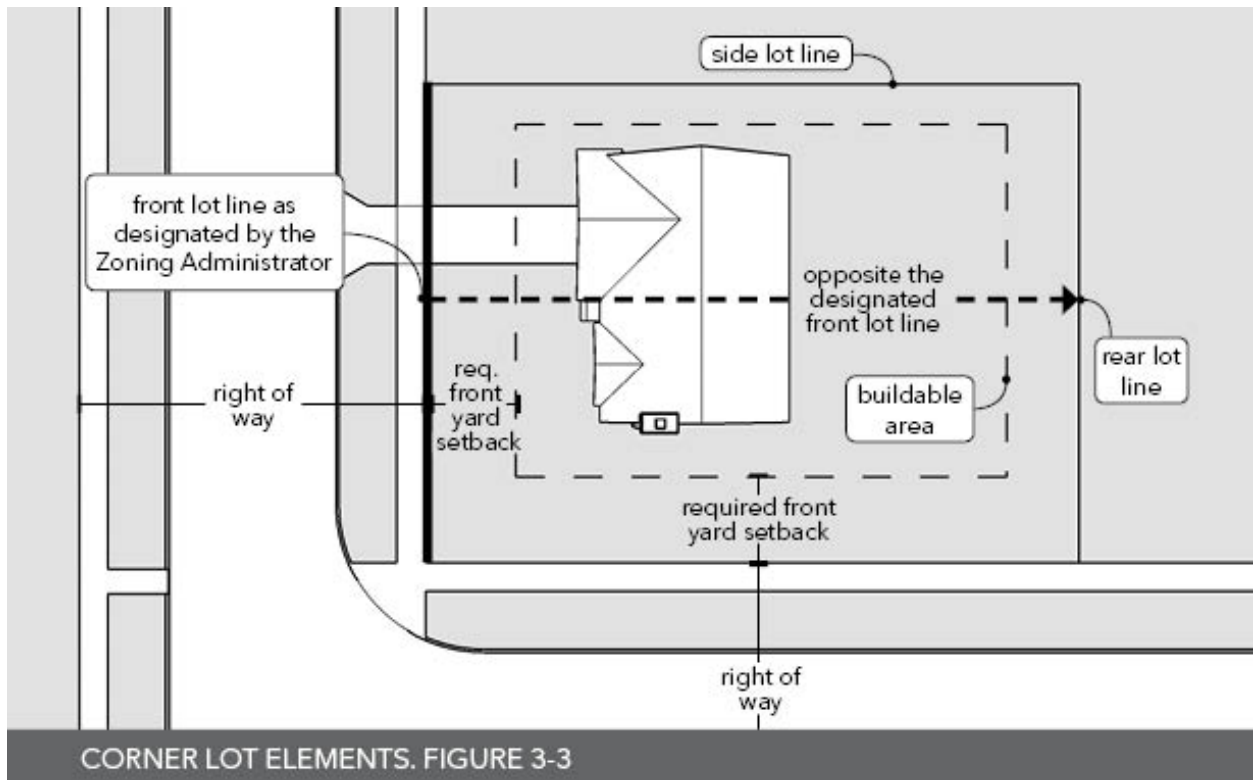
- C. Outdoor storage of hobby automobiles shall be subject to the following:
 1. No restoration or repairs may be made to a hobby automobile unless it is within a wholly enclosed building.
 2. Open storage of inoperable vehicles, junk, and trash is not permitted and shall be subject to the provisions of Article IV of the City of Niles Code of Ordinances.

Section 315 – Corner Lots and Through Lots

A. Corner Lots.

1. Prior to construction on, or improvement to, a corner lot, the Zoning Administrator shall designate which street frontage shall be the front lot line of the lot. The Zoning Administrator shall consider ingress, egress, sight lines, and applicable standards in this ordinance in making the designation (See Figure 3-3).
2. Every corner lot in a residential district having on its side street an abutting interior lot, shall have minimum setbacks from both streets equal to the minimum required front setback of the district in which it is located; provided, however, that this does not reduce the width of the buildable area of any lot of record to less than twenty-five (25) feet.
3. The rear lot line shall be that lot line opposite the designated front lot line.

- B. Through Lots.** Unless, in the judgment of the Zoning Administrator, the prevailing development pattern indicates an alternate configuration, front yards shall be required on portions of a through lot that abut a street; provided, however, that this does not reduce the buildable depth of any lot of record to less than sixty (60) feet.



Section 316 – Reserved for Future Use

Section 317 – Fences

A. General Provisions. The following provisions shall apply to fencing in all zoning districts:

- 1. Acceptable Fencing Materials.** Fencing in all zoning districts shall be comprised of the following materials:
 - a. Wood
 - b. Chain link
 - c. Wrought iron
 - d. Brick or stone
 - e. Vinyl
 - f. Composite
 - g. Other materials as determined by the Zoning Administrator to be acceptable
- 2. Fence Types Prohibited.**
 - a. Fences incorporating spikes, barbed wire, razor wire, sharp pointed cresting or other features capable of injuring anyone coming in contact therewith, shall be prohibited in all districts except for properties located in the industrial district which do not abut lands zoned or used for residential purposes.
 - b. No person shall erect an electric fence containing uninsulated electric conductors that may be exposed to human contact.
 - c. Temporary fencing materials, such as construction fencing, wire fencing and corrugated metal or netting shall be prohibited for use as a permanent fence.
- 3. Construction.** Construction of fences shall be completed within sixty (60) days from the start of construction.
- 4. Supports.** All fences shall be constructed with any and all supporting structures or devices located on the inside of the fence.
- 5. Location.** Except as herein provided, fences may be located adjacent to a lot line, but shall be constructed and located entirely on the lot of the person(s) responsible for the construction, erection and maintenance of the fence. Fences requiring maintenance shall be located so they may be maintained entirely from the property of the owner. Fences shall be located in accordance with Section 302 pertaining to clear vision areas. No fence shall be located within a road or private street right of way easement or in any drainage easements.
- 6. Maintenance.** Fences, walls and hedges constructed or erected in the City shall have a pleasing aesthetic appearance, shall be maintained in a safe and acceptable manner, and shall not be in a state of disrepair.

7. Swimming Pools.

- a. All pools requiring a fenced enclosure as described in parts b and c below shall be enclosed by a fence that is at least four (4) feet and not more than six (6) feet in height. The fence enclosure shall include a self-closing and self-latching gate which secures the enclosure from the exterior at all times, and shall comply with all applicable building codes.
- b. In-ground private swimming pools having a water depth of two (2) or more feet shall be located within a fenced enclosure in accordance with Section 317.A.7.a.
- c. Above-ground private swimming pools having side walls less than four (4) feet in height shall be fenced in accordance with Section 317.A.7.a.
- d. Above-ground private swimming pools having sidewalls of four (4) feet in height or higher shall have a removable access point, such as a removable ladder, and shall also comply with applicable building codes.

8. Terraces and Soil Retaining Walls. Only solid wall construction shall be permitted for the purpose of forming a terrace or soil retaining wall along property lines. When such walls are constructed proper drainage must be provided so as to not damage neighboring property.

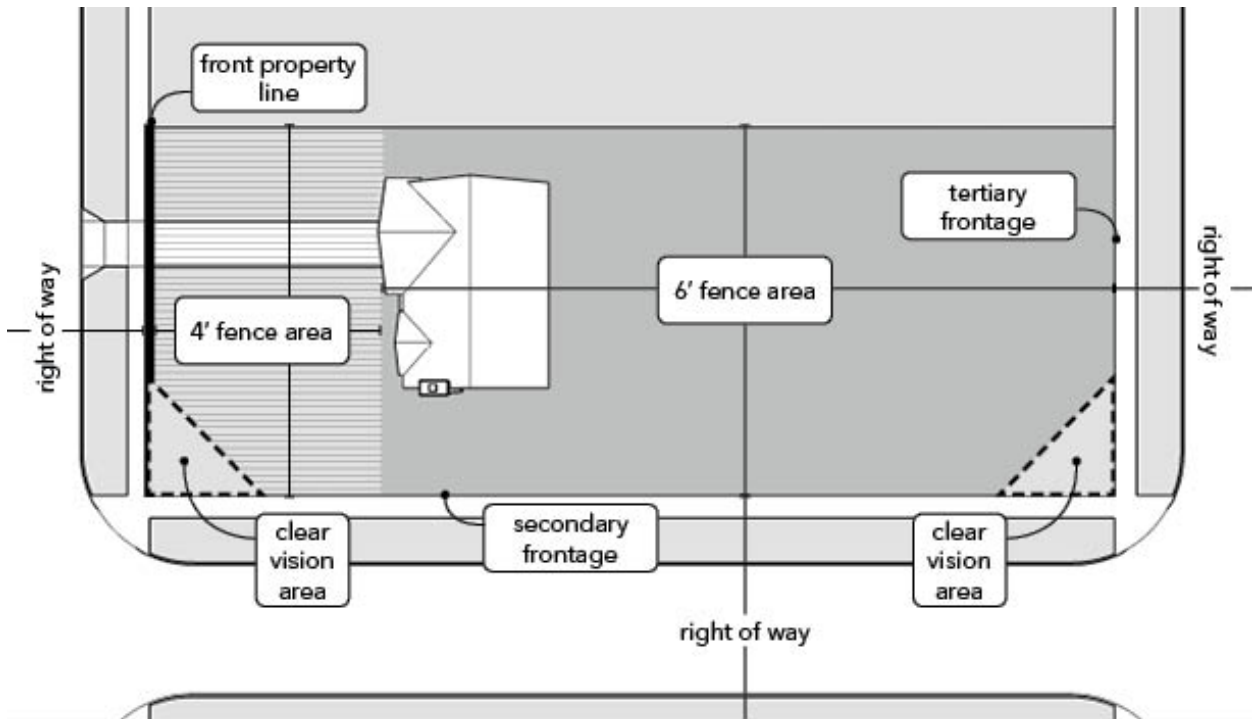
9. Lots Fronting More than One Street. On lots fronting more than one street, the 4' height maximum shall apply to the designated front yard and all areas past the front plane of the house. Six (6) footw privacy fences may be located along the secondary and/or tertiary frontage areas behind the front plane of the house and up to the property line, subject to maintaining all clear-vision areas for corners, in accordance with Section 302 (see Figure 3-4).

10. Permit Required. A zoning compliance permit must be obtained prior to the installation or erection of any fence in accordance with Section 1102, Zoning Compliance Permits.

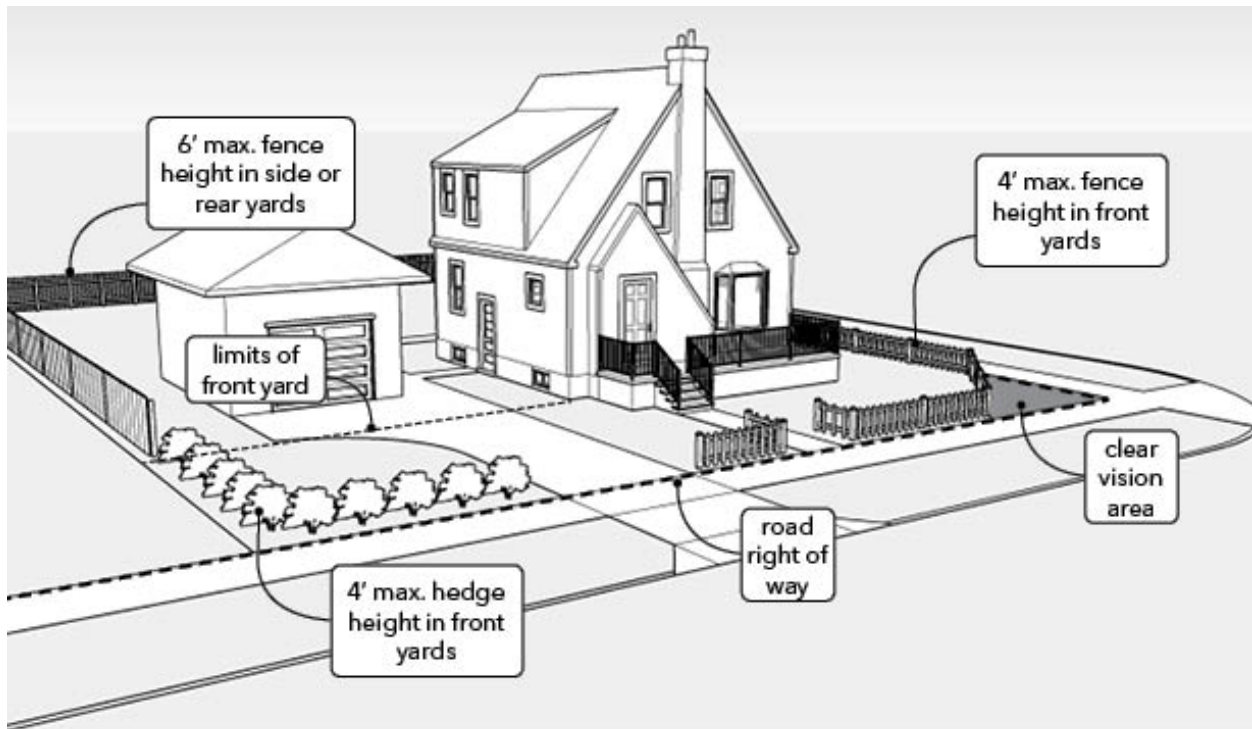
B. Fencing Associated with Residential Uses. The following regulations shall apply to fences associated with residential uses (see Figure 3-5).

1. Front Yards.

- a. Any fence or wall erected for the purpose of enclosing a front yard shall be not more than fifty percent (50%) solid, and shall not exceed four (4) feet in height above natural grade to the highest point of the fence structure, not including any decorative appurtenance that may exceed the height of the fence structure (see Figure 3-6).
- b. Secondary front yards on corner lots shall be permitted to have a six (6) foot privacy fence in accordance with Section 317.A.9 of this Ordinance.
- c. Any hedge erected for the purpose of enclosing a front yard shall not exceed four (4) feet in height above the natural grade.



FENCES ON LOTS FRONTING MORE THAN ONE STREET. FIGURE 3-4



FENCES IN RESIDENTIAL DISTRICTS. FIGURE 3-5

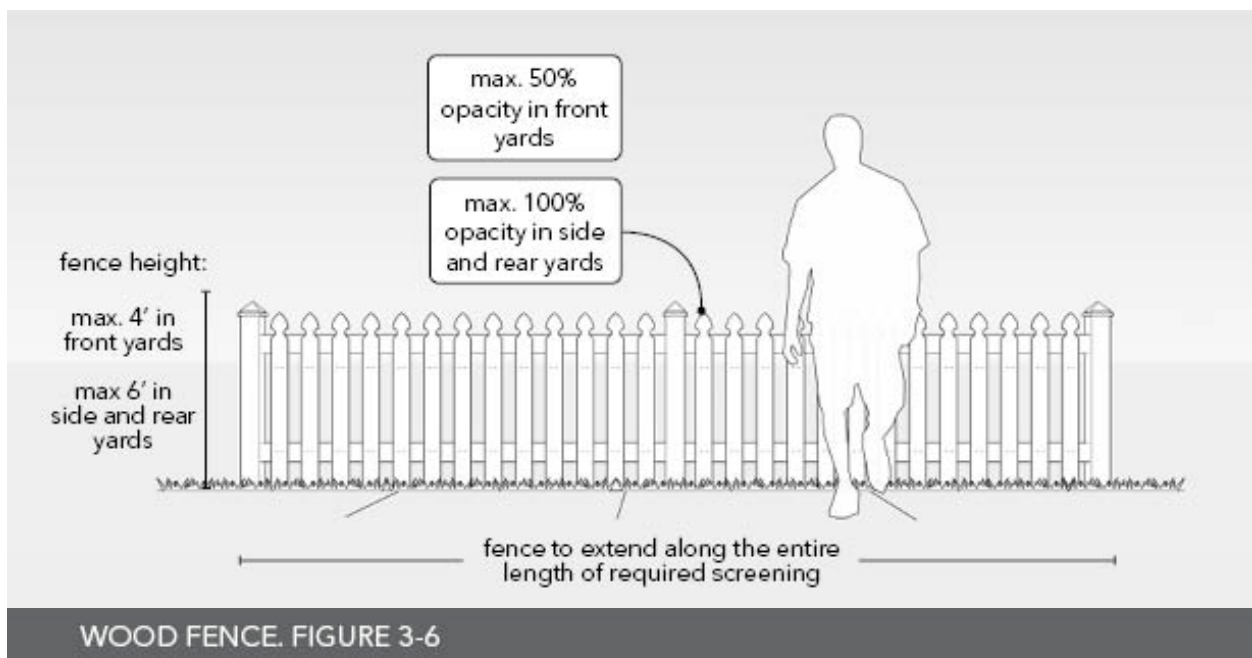
- d. At no time shall a fence, wall or hedge obstruct the vision of a pedestrian or motor vehicle driver or non-motorized vehicle driver to the extent that a safety hazard exists in the opinion of the Zoning Administrator. This shall apply along street or highway right-of-way including ingress and egress facilities to real property (see Figure 3-1).

2. Side and Rear Yards.

- a. Fences erected for the purpose of enclosing a side or rear yard shall not exceed six (6) feet in height above the natural grade, and shall comply with Section 317.A.9 when applied to parcels with more than one street frontage (see Figure 3-6).
- b. Side or rear yards that abut commercial or industrial uses may contain a fence not to exceed ten (10) feet in height for screening purposes of incompatible land uses.

C. Non-Residential Uses.

- 1. Fences located adjacent to residential districts or residential uses shall not exceed ten (10) feet in height above natural grade. Fences that are not located adjacent to a residential district or residential use shall not exceed sixteen (16) feet in height, subject to site plan review. Fencing in the front yard of a non-residential use shall not exceed four (4) feet in height.
- 2. Fencing in the side and rear yard of a non-residential use shall not exceed ten (10) or sixteen (16) feet, in accordance with Sections 317.B.2.a and 317.B.2.b.
- 3. All fences that are used for screening purposes of permitted outdoor storage of material, equipment, and vehicles shall obscure the outdoor storage area from view from the street, and shall not exceed ten (10) or sixteen (16) feet, in accordance with Sections 317.B.2.a and 317.B.2.b.



Section 318 – Stripping of Top Soil

No person, firm or corporation shall strip, excavate, or otherwise remove top soil for sale, or for use other than on the premises from which the same shall be taken except in connection with a development project on such premises and the excavation or grading incidental thereto.

Section 319 – Antennas

- A. Antennas pursuant to this Section shall be considered to be an accessory use to the principal use of a lot or parcel. All antennas shall be subject to the review and approval of the Building Official and Zoning Administrator in accordance with the following provisions:
1. Antennas shall be installed and maintained in compliance with the requirements of the City's Existing Structures Code.
 2. Antennas that are roof-mounted shall not extend higher than fifteen (15) feet above the peak of the roof except a single-vertical pole antenna may extend to twenty (20) feet above the peak of the roof. Disc antennas exceeding twenty-four (24) inches in diameter shall not be permitted on the roof unless an architect or engineer registered in the State of Michigan certifies that the roof structure can support the expected structural load.
 3. Not more than one ground-mounted antenna not to exceed forty-five (45) feet in height shall be permitted on each lot.
 4. Antennas shall be used for private, non-commercial purposes in residential areas.
 5. Antennas shall be erected or maintained to the rear of the front building line, except in those instances when the subject property is a cul-de-sac or corner lot where the side yard is larger than the rear yard in which case the antenna may be located in the side yard. Antenna towers shall not be located in any required setback area. No portion of an antenna array shall extend beyond the property lines or into any front yard area. Guy wires shall not be anchored within any front yard area but may be attached to the building.
 6. Antennas may be roof or ground mounted, freestanding, or supported by guy wires, buildings or other structures in compliance with the manufacturer's structural specifications. Ground mounted antennas shall be any antenna with its base mounted directly in the ground, even if such antenna is supported or attached to the wall of the building. Fixed guyed antenna towers shall be fascia-mounted or guyed according to approved standard. Wire antennas that are not self-supporting shall be supported by objects within the property lines but not with any front yard areas.
 7. The antenna, including guy wires, supporting structures and accessory equipment, shall be located and designed so as to minimize the visual impact on surrounding properties and from public addition of architectural features and/or landscaping that harmonize with the elements and characteristics of the property. The materials used in constructing the antenna shall not be unnecessarily bright, shiny, garish, or reflective.
 8. Installation procedures for antennas shall meet all manufacturer's specifications.

9. Whenever it is necessary to install an antenna near power lines, or where damage would be caused by its falling, a separate safety wire must be attached to the antenna mast or tower and secured in a direction away from the hazard.
 10. Every antenna must be adequately grounded, for protection against a direct strike of lightning, with an adequate ground wire. Ground wires shall be for the type approved by the latest edition of the Electrical Code for grounding masts in a mechanical manner, with as few bends as possible, maintaining a clearance of at least two (2) inches from combustible materials. Lightning arresters shall be used that are approved as safe by the Underwriter's Laboratories, Inc. and both sides of the line must be adequately protected with proper arresters to remove static charges accumulated on the line. When lead-in conductors of polyethylene ribbon-type are used, lightning arresters must be installed in each conductor. When coaxial cable or shielded twin lead is used for lead-in suitable protection may be provided without lightning arresters by grounding the exterior metal sheath.
 11. In no instance shall an antenna be used as a sign.
- B. Prior to installation of any antenna, application shall be submitted to and approved by the Building Official. The application shall be accompanied by the manufacturer's specifications, and a plot plan showing the location of the antenna, property and setback lines and all structures. In additions, applications for a tower or pole mounted antenna shall be accompanied by engineering data establishing the fact that the antenna conforms to the structural requirements of the Building Code. Such engineering data may include the manufacturer's engineering specifications for mounting or anchoring, or custom engineering calculations submitted by a structural or civil engineer licensed by the State of Michigan.
 - C. All applications shall be accompanied by a fee determined by the City Council by resolution from time to time. An application and fee shall be submitted to the Building Official for review and approval. The Building Official shall notify the applicant within five (5) working days after receipt of an application of the approval or denial of said application.
 - D. It shall be the responsibility of the owner that the structural integrity of the antenna be maintained through periodic inspections. No addition, changes, or modifications shall be to an antenna, unless the addition, change or modification is in conformity with the Existing Structures Code.

Section 320 – Short-Term Rentals

A short-term rental unit, as defined in Article 2 of this Ordinance, is permitted in all zoning districts where residential use of property is permitted by right or has been approved for special land use, and shall be subject to the following provisions:

- A. The short-term rental unit shall meet all applicable building, health, fire and related safety codes at all times.
- B. Signs shall be subject to the applicable provisions of the Article 7.
- C. The use of outdoor yard areas, open decks, pools and the like shall not result in the production of excessive off-site noise, odor or other external disturbances. Any such violation shall be enforced as a nuisance under Article V, Offenses Against Public Peace and Order, of the City of Niles Code of Ordinances.

Section 321 – Land Divisions

No land in the City shall be divided or partitioned except in accordance with the terms of this ordinance and the Land Division Act (Act 288 of 1967 as amended).

Section 322 – National Flood Insurance Program (NFIP)

- A. The rules and regulations promulgated by the Federal Emergency Management Agency (FEMA) and the National Flood Insurance Act of 1968 as amended. Together with subsequent additions, amendments, and deletions made in accordance with the National Flood Insurance Program, and in conjunction with various other laws and regulations as constituted in accordance with the National Flood Insurance Act of 1968, are hereby ratified and approved.
- B. The National Flood Insurance Rate Map (FIRM) and panels applicable to the City of Niles are available in the office of the City Clerk is hereby approved for distribution to the general public and enforcement by the Building Official.

Section 323 – Wireless Communications Antennas and Equipment Colocation

- A. **Antennas on Existing Structures.** Compact platform-type, omni directional, or singular-type antenna which is not attached to a tower may be approved by the Zoning Administrator as an accessory use to any commercial, industrial, professional, institutional, or multi-family structure of eight (8) or more dwelling units, provided:
 - 1. The antenna does not extend more than fifteen (15) feet above the highest point of the structure;
 - 2. The antenna complies with all applicable Federal Communications Commission (FCC) and Federal Aviation Administration (FAA) regulations; and
 - 3. The antenna complies with all applicable building codes.
 - 4. This Section is not applicable to the proposed location of antennas or other personal wireless service facilities on existing towers.
- B. **Microcell Networks.** Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.
- C. **Antenna Placement on City Owned Water Towers.** Wireless Telecommunication Towers only, their accessory equipment and shelters, may be installed on City of Niles-owned water towers, in any zoning district, with an approved lease from the City of Niles, and subject to the requirements of the Site Plan Review provisions of Article 9 and with review and approval by the City Planning Commission. In addition to Site Plan Review, the following subsections will be applicable to the review by the Planning Commission, although the Planning Commission may waive or reduce the burden on the applicant of one or more of the criteria of each subsection if the Planning Commission concludes that the goals of this ordinance are better served.

Section 324 – Nonconformities

- A. Purpose and Intent.** It is the intent of this Ordinance to regulate nonconforming structures, uses, and lots, as defined herein, which were lawful at the time of establishment under this Ordinance or before the adoption of this Ordinance. Nonconforming uses, structures and lots shall lawfully continue to exist, however, the expansion, enlargement, or extension of such nonconformities shall only be permitted as outlined in this Ordinance.
- B. Nonconforming Structures.** Nonconforming structures are those that do not meet the current dimensional standards for the zoning district in which they are located, such as height, setbacks, or floor areas.
- 1. Repairs and Maintenance of nonconforming structures.** Nothing in this Ordinance shall prevent the repair, reinforcement, improvement, or rehabilitation of nonconforming structures, or part thereof, existing as of the effective date of this Ordinance, rendered necessary by wear and tear, deterioration, or depreciation; nor prevent compliance with the provisions of the applicable building codes, relative to the maintenance of buildings or structures.
 - 2. Improvements of nonconforming buildings.** A nonconforming structure may be improved by way of expansion, provided that such improvement will not increase the degree of nonconformity, except as provided below:
 - a. Improvements to add an unenclosed porch or another similar architectural feature that is in keeping with the surrounding architectural style, provided such an unenclosed porch or feature is no closer than five (5) feet from any property line.
 - b. Improvements to the structure only to provide barrier-free access or accommodation.
 - c. Improvements to the structure only to accomplish changes the Historic District Commission recommends for structures located in designated historic districts.
 - 3. Reconstruction and Restoration.** A nonconforming structure damaged by fire, explosion, natural disaster, or other similar causes may be restored or rebuilt only in compliance with the current dimensional regulations. The Zoning Board of Appeals may consider any exceptions to this provision.
- C. Nonconforming Land Uses.** The nonconforming uses of land may lawfully continue for the life of the structure in which it occupies, provided that structures occupied by nonconforming uses shall not be improved or expanded in such a way that would extend the life of the nonconforming use.
- 1. Repairs and Maintenance structures occupied by nonconforming uses.** Nothing in this Ordinance shall prevent the repair, reinforcement, improvement, or rehabilitation of nonconforming structures, or part thereof, existing as of the effective date of this Ordinance, rendered necessary by wear and tear, deterioration, or depreciation; nor prevent compliance with the provisions of the applicable building codes, relative to the maintenance of buildings or structures occupied with a nonconforming use.
 - 2. Improvements to Structures Occupied by Nonconforming uses.** A structure occupied by a nonconforming use may not be improved by way of expansion or any other improvement that would extend the life of the nonconforming use, life the nonconforming use, except as provided below:

- a. The addition of an unenclosed porch, deck, or similar feature that does not extend the building footprint of the structure.
- b. Improvements to the structure only to provide barrier-free access or accommodation.
- c. Improvements to the structure only to accomplish changes the Historic District Commission recommends if the structure is located within a designated historic district.
- d. Interior improvements that would not constitute an expansion of the footprint of the structure.
- e. Exterior improvements such as new roofing, siding, shutters, gutters, driveways, landscaping, and stormwater controls.

3. Reconstruction and Restoration. A structure occupied by a nonconforming use that is damaged by fire, explosion, natural disaster, or other similar causes may only be restored or rebuilt in accordance with the following:

- a. The structure previously occupied by a nonconforming use may be rebuilt or restored only in compliance with the current land use and dimensional regulations for the zoning district in which the structure was located, with the following exception:
 - i. Residential Structures. If the structure occupied by a nonconforming use was a residential structure, it may be rebuilt or restored if a building permit is applied for within one year of the destruction or total loss of the home.
 - ii. Rebuild letter. The Zoning Administrator may write a “rebuild letter” for a prospective buyer or property owner who wishes to refinance a residential home that is considered a nonconforming use in the zoning district in which it is located, whose lending institution requires this as part of the terms of financing.
 - iii. All other structures occupied by nonconforming uses may request a use variance from the Zoning Board of Appeals, provided that the property cannot be reasonably occupied by a use that is permitted by right or by special land use in the zoning district in which it is located.

4. Change of Ownership of Tenancy. There may be a change of tenancy, ownership, or management of an existing nonconforming use, provided there is no change in the nature or character of such nonconforming use, except for provisions noted herein that would allow such changes.

D. Nonconforming Lots of Record.

- 1. A parcel of land that is platted or is otherwise of public record at the time of the adoption of this Ordinance, or the adoption of any relevant amendment herein, and that does not comply with the minimum lot area requirement and/or the minimum lot width requirement, or other minimum requirements for such parcel of land, for the zoning district in which the parcel of land is located, may nevertheless be used for a land use permitted in that district if at least ninety percent (90%) of each required minimum front, rear and side yard building setbacks comply with the current dimensional standards for that zoning district.

2. For purposes of this Section, an existing parcel of land of record means a lot or parcel that is described in a deed or other conveyance instrument recorded in the office of the Berrien County Register of Deeds prior to the effective date of this Ordinance or any relevant amendment thereof, or any recorded land contract, recorded memorandum of land contract or other recorded instrument, including a platted subdivision and a condominium and site condominium master deed, which has the effect of conveying the land or an interest therein.

Section 325 – Essential Services

- A. All essential services, as defined in Article 2 of this Ordinance, shall be exempt from the requirements of Sections 407 and 408. Essential services shall be permitted in any district of the City, except as hereinafter provided.
- B. The erection or construction of any building or structure for essential services, including but not limited to electrical substations, gas regulator stations, wastewater or storm water facilities, or other similar facilities shall be designed and erected to conform harmoniously with the general architecture and plan of such district in which they are to be erected, shall not interfere with the planned use of such district, and shall be subject to the prior approval of the Planning Commission. Plans and specifications for such building or structure shall be tendered to the Zoning Administrator and the Planning Commission as a prerequisite of such approval. The Planning Commission may permit any essential service to erect and use an essential service building or structure in any permitted district, to a greater height or of a greater area than the district requirements established, provided the Planning Commission shall first find such structure or building necessary for public convenience and necessity.

Section 326 – Wellhead Protection Area

- A. **Intent and Purpose.** The purpose of this Ordinance is to protect groundwater quality in the delineated wellhead protection areas identified in the *City of Niles Wellhead Protection Plan*, with the intent to achieve the following:
 1. To provide a mechanism to regulate and prohibit certain land uses within Wellhead Protection areas that have the potential to degrade or otherwise negatively impact groundwater resources.
 2. To minimize the risk of spills, leaks, and other discharges into groundwater supplies within the identified Wellhead Protection Area.
 3. To prevent and minimize public and private losses due to contamination of the public water supply, and the expenditure of tax dollars for the remediation of contamination of the water supply, and for projects and/or replacement of the City's water supply system assets.
- B. **Scope.** The standards in this Section shall apply to the whole of any parcel and land uses located within the Wellhead Protection Area as illustrated on the Wellhead Protection Area Map prepared by the City and approved by Michigan's Department of Energy, Great Lakes and Environment (EGLE) (see Figure 3-7). The regulations in this Section are intended to augment and be in addition to any standard or rule concerning groundwater protection promulgated by federal, state, or local agencies. Where the requirements of this Section conflict with other regulations or requirements promulgated or followed by the City of Niles, the most restrictive standards shall apply.

C. General Requirements.

1. All land uses located within the Wellhead Protection Areas shall comply with the following standards:
 - a. All uses shall connect to municipal sanitary sewer systems and public water supplies in accordance with Section 90-73 of the City of Niles Code of Ordinances.
 - b. Temporary outdoor storage areas shall be a minimum of one hundred (100) feet from any creek, stream, river, pond, or wetland; and any runoff shall be diverted away from such water body.
 - c. Garbage, trash, refuse, junk vehicles, junk appliances, toxic substances, and similar materials, shall not be dumped or stored outside a protected structure or container.
 - d. Exterior aboveground holding tanks shall include, at a minimum, the following: a monitoring system and secondary standpipe above the one hundred (100) year flood level; and an impervious dike above the one hundred (100) year flood level capable of containing one hundred and ten percent (110%) of the largest volume of storage, provided with an overflow recovery catchment area or sump.
 - e. Loading and unloading areas where hazardous substances and waste materials are handled shall be enclosed or roofed with secondary containment isolated from floor drains. Loading and unloading areas shall have impervious surfaces and be designed to prevent releases onto the ground or into a water body or to groundwater.
 - f. The applicant shall demonstrate to the Department of Public Works that on-site stormwater will not have an adverse effect on groundwater, with respect to:
 - i. The planned use of natural and/or structural mechanisms to purify storm water through settling out or filtering of solids.
 - ii. Separation and capture of hydrocarbons, such as oil and grease, absorption of particulates, and uptake of dissolved solids.
 - iii. Stormwater shall be treated prior to infiltration or controlled surface water discharge.

D. Prohibited Uses within the Wellhead Protection Overlay District. The following uses and actions are prohibited within the Wellhead Protection Overlay District:

1. Bulk petroleum stations
2. Automobile service station
3. Automobile wrecking yard
4. Sanitary landfills & transfer stations
5. Central dry cleaning and laundry facilities

6. Possession, use, processing, storing, or generating of regulated substances, including fuels (e.g. gasoline, diesel, kerosene, etc.) exceeding fifty five (55) gallons aggregate for liquid materials or four hundred and forty (440) pounds aggregate for dry weights at any given time.
7. Construction or replacement of a septic tank or other receptacle intended or used for the disposal of domestic or non-domestic wastewater if, in the determination of the City, public sanitary sewer is reasonably available.
8. Installation of a private water well for the purpose of drinking water.
9. Installation of a private water well for irrigation if the City's Utilities Manager determines that the well will not harm the public water supply.
10. Installation or use of a geothermal well for heating and cooling systems.

E. Land Uses Subject to Special Land Use Standards. The following land uses, when proposed within the Wellhead Protection Areas, shall be considered Special Land Uses, and subject to the provisions of Article 8, Special Land Uses:

1. Auto parts and accessories retail
2. Automobile wash establishment
3. Warehousing and general storage
4. Mini-warehousing and self-storage facilities
5. Outdoor storage & contractor's yards
6. Vehicle repossession and/or seizure & auction facility
7. Principal and accessory industrial uses not conducted within a completely enclosed building.
8. Public utility storage and service yard/private transfer facility
9. Bulk mixing of fertilizers, herbicides, and pesticides

F. Additional Requirements for Special Uses within the Wellhead Protection Areas. In addition to the requirements of Article 8 and Article 9, land uses identified in this Section to be special land uses, shall comply with the following:

1. Any and all applicable EGLE requirements and associated applicable permits.
2. Identification of all storage areas containing chemicals, liquids, and underground facilities.
3. An Environmental Checklist for Site Plan Review shall be submitted with the application.

G. Conditions and Modifications.

1. The Planning Commission shall reserve the right to impose reasonable conditions to minimize adverse effects on groundwater within the Wellhead Protection Area and may include, but not be limited to, the recommendations of the City of Niles Wellhead Protection Plan.

2. After a site plan is approved or recommended for approval by the Planning Commission, no modifications to a site plan shall be made without review and approval by the Planning Commission as if the proposal were a new application.

H. Nonconforming Uses and Structures.

1. If a land use, building, or structure, that conflicts with the standards of this Section, existed prior to the effective date of this Ordinance, then:
 - a. Such nonconforming use, building, or structure shall not be moved in whole or in part, added to, extended or expanded, reconstructed, or structurally altered, unless the modification will reduce the extent of nonconformity and improve groundwater protection on the property, upon the review by the Zoning Administrator and Department of Public Works.
 - b. It shall be unlawful to alter the contour of the land or to change the type of land use or type of occupancy of any building or structure, unless the modification will reduce the extent of nonconformity and improve groundwater protection on the property, in the opinion of the Zoning Administrator.
 - c. Modification on the property shall not be permitted unless the Zoning Administrator has issued for such intended modification a Zoning Compliance Permit.

I. Determination of Wellhead Protection Overlay Zone Boundaries. In determining the location of properties within the Wellhead Protection Overlay Zone, the following rules shall apply:

1. The Utilities Manager or Zoning Administrator shall have the authority to interpret the Wellhead Protection Overlay Zone Map and determine where the boundaries of the different zones fall, if in dispute. The interpretation of the map boundaries may be appealed to the Zoning Board of Appeals pursuant to Article 12 of this Ordinance.
2. The Wellhead Protection Overlay Zone Map (see Figure 3-7) may be modified from time to time based on the recommendation of the City of Niles Wellhead Protection Committee, EGLE, the Utilities Manager, or the Department of Public Works. Modifications shall be delineated by a professional engineer, and based on revisions to the map and the one (1) year, five (5) year, and ten (10) year time of travel capture zones. Changes to the Wellhead Protection map. City Council shall approve any changes to the Wellhead Protection Overlay Zone Map.

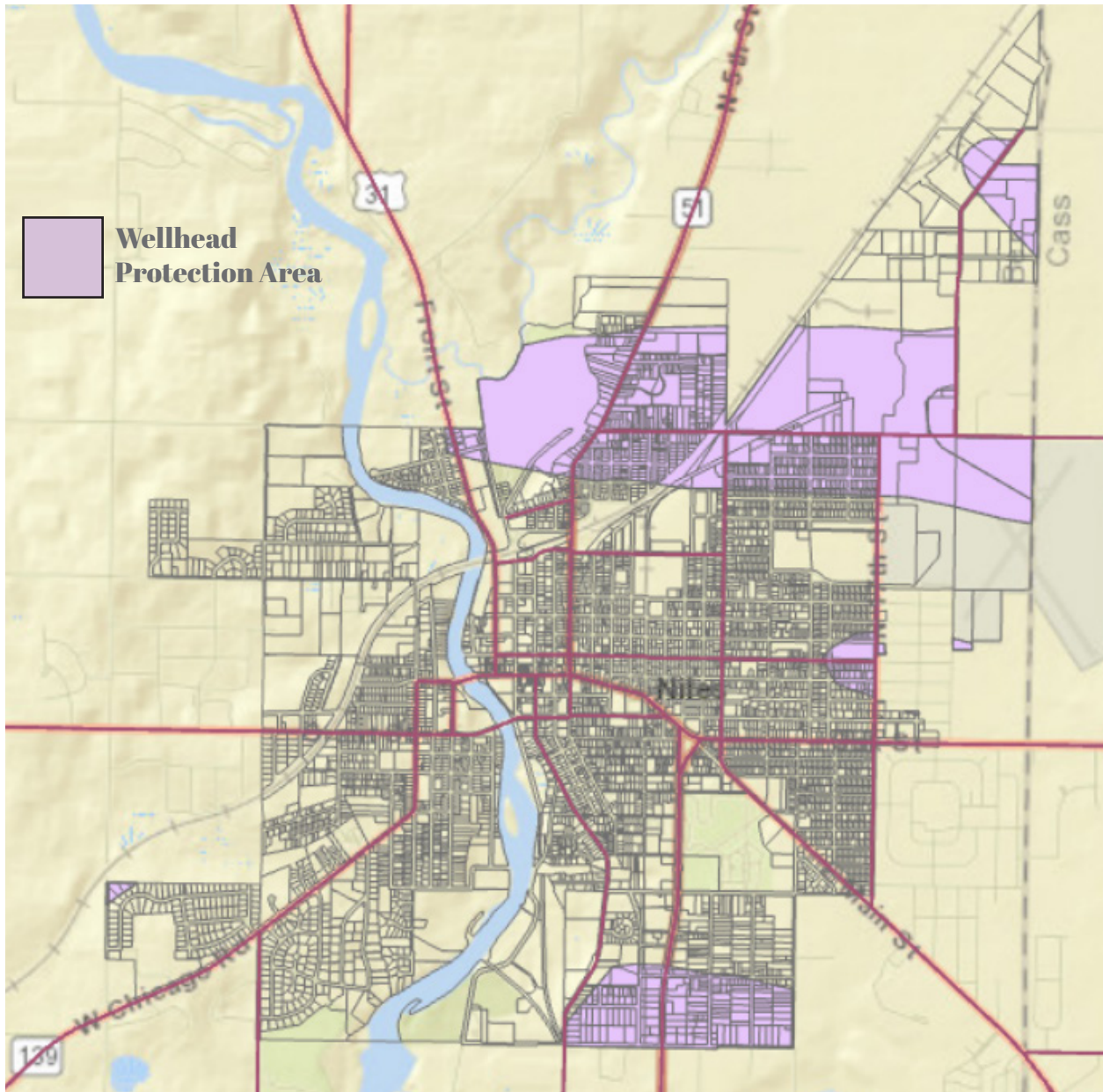


FIGURE 3-7, CITY OF NILES WELLHEAD PROTECTION OVERLAY

Article 4:

Zoning Districts, Land Use Table and Zoning Map

Section 400 – Division into Districts

For purposes of this Ordinance, the lands within the corporate limits of the City of Niles are hereby divided among the following zoning districts as further described in Article 5 of this Zoning Ordinance:

R-1 Traditional Residential	R-2 Moderate Density Residential
CB Central Business District	NC Neighborhood Center
RC Regional Commercial	OC Office/Commercial
IND Industrial	OS Open Space
MHP Mobile Home Park	WHP Wellhead Protection Overlay

Section 401 – Zoning Map

The official zoning map shall be identified by the signature of the Mayor and attested by the City Clerk. The boundaries of the zoning districts are established as shown on the map entitled “Official Zoning Map of the City of Niles, Berrien County, Michigan”; this map is made a part hereof, and shall have the same force and effect as if the Official Zoning Map, together with all notations, references and other information shown thereon were fully set forth and described herein.

- A. The Official Zoning Map shall be identified by the signature of the mayor, attested by the City Clerk, and shall bear the seal of the City under the following words: “This is to certify that this is the Official Zoning Map referred to in Article 4, Section 401 of Zoning Ordinance of the City of Niles, Berrien County, Michigan”, together with the date of the adoption of this ordinance.
- B. If in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map within ten (10) days after the amendment has been approved by the City Council with a notation of the changes made and the date of action of the City Council.
- C. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance and punishable as provided in Article 11, hereof.
- D. Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be amended, the Official Zoning Map which shall be located in the City Hall shall be the final authority as to the current zoning status of land and water areas, buildings and other structures on the City.

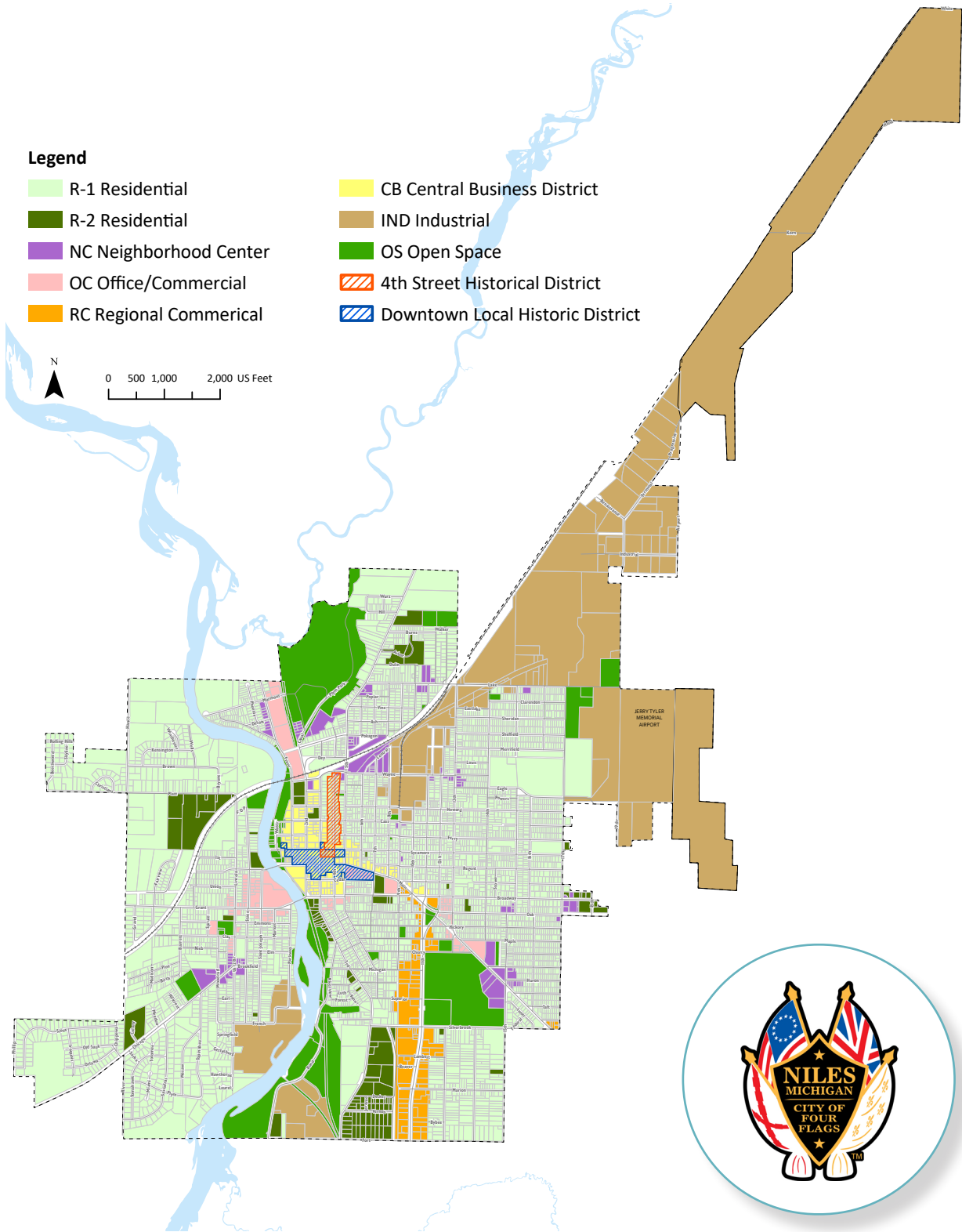
- E. In the event the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the City Council may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omission in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk and shall bear the seal of the City under the following words: “This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced)”.
- F. Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved together with all available records pertaining to its adoption or amendment.

Section 402 – Interpretation of District Boundaries

When uncertainty exists with respect to the boundaries of the various districts, as shown on the Zoning Map, the following rules shall apply:

- A. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed as following such centerlines.
- B. Boundaries indicated as approximately following property, parcel, or lot lines shall be construed as following such lines.
- C. Boundaries indicated as approximately following municipal boundaries shall be construed as following such boundaries.
- D. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- E. Boundaries indicated as following shorelines shall be construed to following such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.
- F. Boundaries indicated as parallel to or extensions of features indicated in paragraphs A through E above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- G. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by this Section 402, the Zoning Board of Appeals shall interpret the district boundaries.
- H. Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, the entire lot shall be construed to be within the district which applies to the greater portion of the parcel.

City of Niles Zoning Map



Section 403 – Zoning Vacated Areas

Whenever any road, alley, or other public right-of-way within the City of Niles is vacated, such road, alley, or other public way or portion thereof, shall automatically be classified in the same zoning district as the property to which it attaches.

Section 404 – Zoning District Regulations

The Schedule of District Regulations set forth as Section 408 provides an overview of the dimensional requirements of this Zoning Ordinance. It is provided for quick reference. However, it should not be substituted for a precise reference to the specific language of this Ordinance.

Section 405 – Reserved for Future Use

Section 406 – Amendments

Proposed amendments to the text of the Zoning Ordinance or the Zoning Map (rezoning), shall follow the procedures outlined in Article 11 of this Ordinance.

Section 407 – Permitted Land Uses

This section summarizes land uses permitted by right and by special land use as governed under this Zoning Ordinance. Table 4-1 is provided for expeditious reference. However, it should not be substituted for careful reference to the specific language of this Ordinance.

Table 4-1 – Land Use Table

R-1	R-2	CB	NC	RC	OC	IND	OS	MHP		
Traditional Residential	Moderate Density Residential	Central Business District	Neighborhood Center	Regional Commercial	Office/ Commercial	Industrial	Open Space	Mobile Home Park		
Zoning District										
R = By Right SLU = Special Land Use										
Uses										
Accessory Bldg. smaller than the footprint of the principal structure	R	R-1	R-2	CB	NC	RC	OC	IND	OS	MHP
Accessory Bldg exceeding area of principal structure				SLU	SLU	SLU		R	R	R
Accessory Uses, related to uses permitted by right	R	R	R	R	R	R	R	R	R	R
Accessory Dwelling Unit	SLU	SLU	SLU							
Airport								SLU		
Banks and Financial Institutions				R	R	R	R			
Bed & Breakfast	SLU	SLU	SLU	SLU	R	SLU				
Billboards						SLU		SLU		
Camps and Campgrounds									SLU	
Car Wash						R	SLU	SLU		
Cemeteries	SLU	SLU	SLU						SLU	
Child Care Family Home (1-6 minor children)	R	R	R	R	R	R	R			R
Child Care Group Home (7-12 minor children)	R	R	R	R	SLU	SLU	SLU			R
Commercial Establishments w/ Drive-Through					SLU	SLU	SLU	SLU	SLU	
Contractor's Facility							SLU	R		
Construction Equip. Sales & Supplies						SLU		R		
Day Care Center or Child Care Center				SLU	SLU	SLU	SLU	SLU		
Dry Cleaning Establishment						SLU			R	
Duplex	SLU	SLU	SLU	R	R					
Dwelling, single-family	R	R	R	R	R			R		
Vocational Institution (trade schools, etc.)					SLU			R	R	
Fabrication & Assembly									R	

R = By Right SLU = Special Land Use

Uses	Zoning District									
	R-1	R-2	CB	NC	RC	OC	IND	OS	MHP	
Adult Foster Care Small Group Home (7-12 residents)	R	R		SLU						
Adult Foster Care Family Home (1 to 6 residents)	R	R	R	SLU						
Adult Foster Care Large Group Home (13-20 Residents)	SLU	SLU	SLU	SLU						
Funeral Home			SLU	SLU	R	R	R			
Galleries and Museums			R	SLU	R	R	R			
Gasoline Station				SLU	R	SLU	R			
Golf Courses and related accessory uses	SLU	SLU						R		
Government Offices		R	R	R	R	R	R			
Greenhouses & Nurseries				SLU	R		R			
Home Based Business	SLU	SLU								
Homes for the Aged/Convalescent Homes	R	R								
Home Occupation, Minor	R	R	R	R		R			R	
Home Occupation, Major	R	R	R	R					R	
Hotels & Motels			R		R	SLU				
Industrial Sub-Division										
Kennels					SLU	SLU	R			
Academic Institutions (public and private)	R	R	R	R	R	R	R	R		
Research Laboratories						SLU	R			
Laundry Service				R	R					
Laundromat			SLU	R	R	R				
Leasing Office		R	R	R						R
Lodging and Boarding House		R	R	R						
Marihuana Establishment – Grower								SLU		
Marihuana Establishment – Excess Grower								SLU		
Marihuana Establishment – Processor								SLU		
Marihuana Establishment – Retailer					SLU			SLU		

R = By Right SLU = Special Land Use

Uses	Zoning District									
	R-1	R-2	CB	NC	RC	OC	IND	OS	MHP	
Marihuana Establishment – Safety Compliance					SLU				SLU	
Marihuana Establishment – Secure Transporter					SLU				SLU	
Marihuana Establishment – Microbusiness					SLU				SLU	
Marihuana Establishment- Designated Consumption Center		SLU			SLU	SLU			SLU	
Medical Marihuana Facility - Excess Grower									SLU	
Medical Marihuana Facility - Grower									SLU	
Medical Marihuana Facility - Processor									SLU	
Medical Marihuana Facility - Provisioning Center					SLU				SLU	
Medical Marihuana Facility - Safety Compliance Facility									SLU	
Medical Marihuana Facility - Secure Transporter									SLU	
Mobile Home Community										R
Mobile Home										R
Modular Home	R	R	R	R						
Mini-Warehouse, Self-Store					SLU				R	
Mixed-Use Building			R	R	R	SLU				
Multi-family Structure	SLU	R	SLU	SLU						
Nursing Home		SLU	R	R	R	R				
Open Air Business					R					
Pet Daycare					SLU	SLU	R			
Personal Service Establishment			R	R	R	R				
Places of Public Assembly, Large	SLU	SLU	SLU	SLU	SLU				SLU	
Places of Public Assembly, Small	R	R	R	R	R					R
Processing and Manufacturing			SLU		SLU	SLU	R			
Professional Offices			R	R	R	R	R			
Public Open Space	R	R	R	R	R	R	R	R	R	R

R = By Right SLU = Special Land Use

Uses	Zoning District									
	R-1	R-2	CB	NC	RC	OC	IND	OS	MHP	

Printing, Publishing, and Allied Industry			R							
Recreation Facilities, Indoor			SLU	SLU	SLU	SLU	R			
Recreation Facilities, Outdoor	SLU	SLU	R	R	R	R	R	R	R	R
Research Laboratory					SLU	SLU	R			
Restaurant			R	R	R	R				
Retail Business			R	R	R	R	SLU			
Sand and Gravel Mining Operation							SLU	SLU		
Sexually Oriented Business					SLU					
Short-term rental	R	R	R	R						R
Showroom for Office & Building Trades					R		R			
Social Club			SLU	SLU	SLU			SLU		
Studio for performing and graphic arts			R	R	R	R	R			
Taverns and Lounges			R	SLU	R		R			
Vehicle Repair Facilities				SLU	R		R			
Vehicle Sales Lot				SLU	R		R			
Veterinary Clinic			SLU	R	R	R	R			
Warehousing							R			
Wireless Communication Tower					SLU		SLU	SLU		
Wholesale Business					R		R	R		
Vehicle Rental Establishment					SLU		R			

Section 408 – Schedule of Dimensional Regulations

City of Niles Schedule of Dimensional Regulations									
Zoning District	Min. Lot Dimensions		Max. Lot Coverage	Min. Yard Requirements (in feet)			Max. Height		Min. Floor Area Per Unit (in square feet)
	Area (sq. ft.)	Road Frontage		%	Front ^(a)	Side ^(b)	Rear	Feet	
R-1, Traditional Residential	4,000	50	35	30	10	20	35	2.5	800
R-2, Moderate Density Residential	8,000	50	40	25 ^(d)	7 ^(b)	25	40	4	800
Single-Family Duplex		70	50						
Multiple Family	none	none	n/a	0	0	0	60	n/a	400
CB Central Business District	6,000	60	50	15	7 ^(b)	15	35	n/a	800
NC Neighborhood Center									
Single Family Duplex	8,000	100	50	20	0	15	45	n/a	600
Multiple Family	12,500	n/a ^(e)	80	15	7	10	60	n/a	n/a
RC Regional Commercial	n/a ^(e)	n/a ^(e)	75	40	25	30	60	n/a	n/a
O/C Office/Commercial	n/a	n/a	20	50	25	30	35	n/a	n/a
Industrial									
OS Open Space									

- a. Required front yard shall be as set forth herein, except where, in the judgment of the Zoning Administrator or their designee, the predominate condition of the existing on the same block and on the same side of the street would dictate a lesser or greater setback
- b. Plus one (1) foot for each two (2) feet in building height over fifteen (15) feet, and not less than fifteen (15) feet between adjacent buildings
- c. Plus one (1) foot for each two (2) feet in building height over thirty (30) feet.
- d. Plus four (4) feet for each story in building height over two (2) stories.
- e. No minimum, but all applicable provisions of the Zoning Ordinance shall be met
- f. Required side yard shall be as set forth herein, except where, in the judgment of the Zoning Administrator or their designee, the predominate condition of the existing on the same block and on the same side of the street would dictate a lesser or greater setback; provided in no instance shall the required side yard be less than three (3) feet, except where buildings are permitted to be located on the side lot line.

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Article 5:

District Regulations

Section 501 – R-1, Traditional Residential District

A. Intent. The intent of the R-1, Traditional Residential zoning district is to accommodate single-family housing, as well as a mix of attached units, arranged in a grid pattern. This zoning district is also intended to provide human-scale, walkable neighborhoods within close proximity to commercial, recreational, service, and institutional uses and amenities.

B. Permitted Uses. Land and/or buildings in this zoning district may be used for the following purposes only. Uses permitted by special land use are subject to the requirements of Article 8, and may require Planning Commission approval.

C. Uses Permitted by Right

1. Accessory Bldg. smaller than the footprint of the principal structure
2. Accessory Uses, related to uses permitted by right
3. Child Care Family Home (1-6 minor children)
4. Child Care Group Home (7-12 minor children)
5. Dwelling, Single Family
6. Adult Foster Care Small Group Home (7-12 residents)
7. Adult Foster Care Family Home (1 to 6 residents)
8. Homes for the Aged/Convalescent Homes
9. Home Occupation Minor
10. Home Occupation Major
11. Academic Institution (public and private)
12. Modular Home
13. Places of Public Assembly, Small
14. Public Open Space
15. Short-Term Rental

D. Special Land Uses

1. Accessory Dwelling Unit
2. Bed & Breakfast Establishment
3. Adult Foster Care Large Group Home (13-20 residents)
4. Cemeteries
5. Duplex
6. Golf Courses and related accessory uses
7. Home-based business
8. Places of Public Assembly, Large
9. Outdoor Recreation Facilities
10. Multi-family structure

E. Dimensional Standards. Uses in the R-1 district are subject to the requirements in Section 408, City of Niles Schedule of Dimensional Regulations:

Zoning District	Min. Lot Dimensions		Max. Lot Coverage	Min. Yard Requirements (in feet)			Max. Height		Min. Floor Area Per Unit
	Area (sq. ft.)	Road Frontage	%	Front ^(a)	Side ^(b)	Rear	Feet	Stories	
R-1, Traditional Residential	4,000	50	35	30	10	20	35	2.5	800

Notes to Schedule of Regulations:

- a. Required front yard shall be as set forth herein, except where, in the judgment of the Zoning Administrator or their designee, the predominate condition of the existing on the same block and on the same side of the street would dictate a lesser or greater setback.
- b. Required side yard shall be as set forth herein, except where, in the judgment of the Zoning Administrator or their designee, the predominate condition of the existing on the same block and on the same side of the street would dictate a lesser or greater setback; provided in no instance shall the required side yard be less than three (3) feet, except where buildings are permitted to be located on the side lot line.

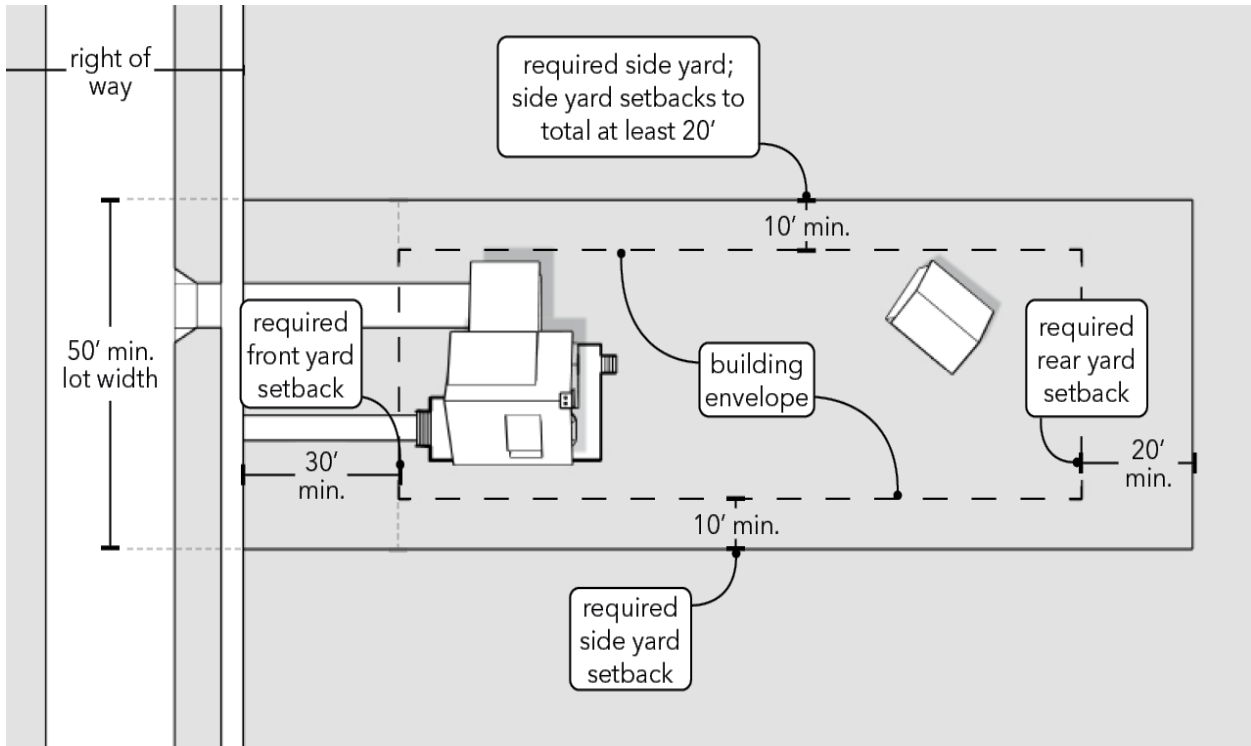


FIGURE 5-1. R-1, TRADITIONAL RESIDENTIAL

F. Additional Standards

1. Uses described in Section 1102 are subject to zoning approval prior to commencement of such use or construction of structures associated with the use.
2. Uses listed in Section 901 are subject to Site Plan Review.
3. Off-Street parking and loading in conjunction with uses permitted in the R-1 district is subject to Section 903, Off-Street Parking and Loading.
4. Uses subject to Site Plan Review shall comply with Section 904, Landscaping.
5. Uses subject to Site Plan Review shall comply with Section 905, Lighting.
6. Uses subject to Site Plan Review shall comply with Section 906, Stormwater Management.

Section 502 – R-2, Moderate Density Residential

- A. Intent.** The Intent of this zoning district is to provide zoning regulations for lower density single-family subdivision, as well as multiple-family developments and amenities. The R-2 zoning district is characterized by larger lot sizes and areas on the edges of the City center.
- B. Permitted Uses.** Land and/or buildings in this zoning district may be used for the following purposes only. Uses permitted by special land use are subject to the requirements of Article 8, and may require Planning Commission approval.

C. Uses Permitted by Right

1. Accessory Bldg. smaller than the footprint of the principal structure
2. Academic Institution (public and private)
3. Accessory Uses, related to uses permitted by right
4. Adult Foster Care Small Group Home (7-12 residents)
5. Adult Foster Care Family Home (1 to 6 residents)
6. Child Care Family Home (1-6 minor children)
7. Child Care Group Home (7-12 minor children)
8. Dwelling, Single Family
9. Duplex
10. Government Offices
11. Homes for the Aged/Convalescent Homes
12. Home Occupation Minor
13. Home Occupation Major
14. Lodging and Boarding House
15. Modular Home
16. Places of Public Assembly, Small
17. Public Open Space
18. Short-Term Rental
19. Leasing Office
20. Multi-Family Structure

21. Special Land Uses

22. Adult Foster Care Large Group Home (13-20 Residents)
23. Accessory Dwelling Unit
24. Bed & Breakfast Establishment
25. Day Care or Child Care Center
26. Golf Courses and related accessory uses
27. Home-based business
28. Places of Public Assembly, Large
29. Outdoor Recreation Facilities
30. Nursing Home

D. Dimensional Standards. Uses in the R-2 district are subject to the requirements in Section 408, City of Niles Schedule of Dimensional Regulations.

Zoning District	Min. Lot Dimensions		Max. Lot Coverage	Min. Yard Requirements (in feet)			Max. Height		Min. Floor Area Per Unit
	Area (sq. ft.)	Road Frontage	%	Front ^(a)	Side ^(d)	Rear	Feet	Stories	
R-2 Moderate Density Residential	Single Family	50	40	25 ^(c)	7 ^(b)	25	40	4	800
	Duplex								
Multiple Family	8,000	70	50	25 ^(c)	7 ^(b)	25	40	4	1 bd: 400 SF
									2 bd: 500 SF
									3+ bd: +100 SF per bd

Notes to Schedule of Regulations:

- a. Required front yard shall be as set forth herein, except where, in the judgment of the Zoning Administrator or their designee, the predominate condition of the existing on the same block and on the same side of the street would dictate a lesser or greater setback.
- b. Plus one (1) foot for each two (2) feet in building height over fifteen (15) feet, and not less than fifteen (15) feet between adjacent buildings.
- c. Plus four (4) feet for each story in building height over two (2) stories.
- d. Required side yard shall be as set forth herein, except where, in the judgment of the Zoning Administrator or their designee, the predominate condition of the existing on the same block and on the same side of the street would dictate a lesser or greater setback; provided in no instance shall the required side yard be less than three (3) feet, except where buildings are permitted to be located on the side lot line.

E. Additional Standards.

1. Uses described in Section 1102 are subject to zoning approval prior to commencement of such use or construction of structures associated with the use.
2. Uses listed in Section 901 are subject to Site Plan Review.
3. Off-Street parking and loading in conjunction with uses permitted in the R-2 district is subject to Section 903, Off-Street Parking and Loading.
4. Uses subject to Site Plan Review shall comply with Section 904, Landscaping.
5. Uses subject to Site Plan Review shall comply with Section 905, Lighting.
6. Uses subject to Site Plan Review shall comply with Section 906, Stormwater Management.

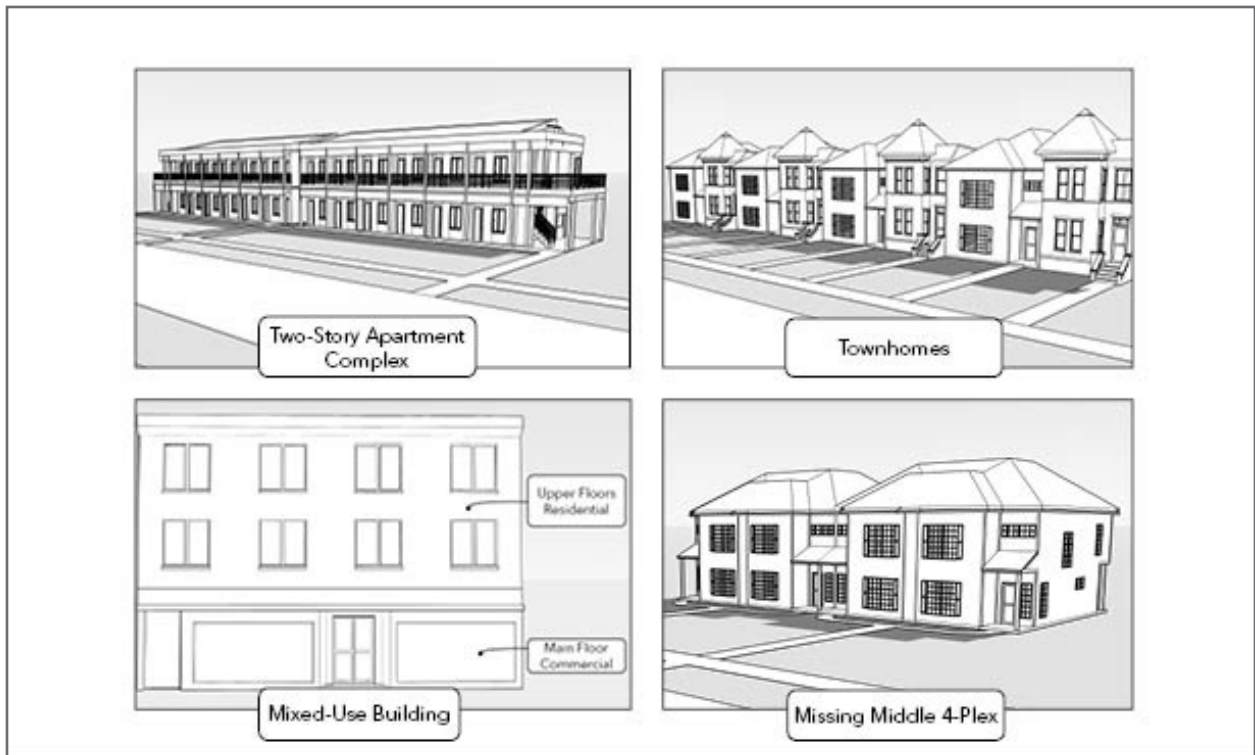


FIGURE 5-2 MULTIPLE-FAMILY HOUSING FORM EXAMPLES

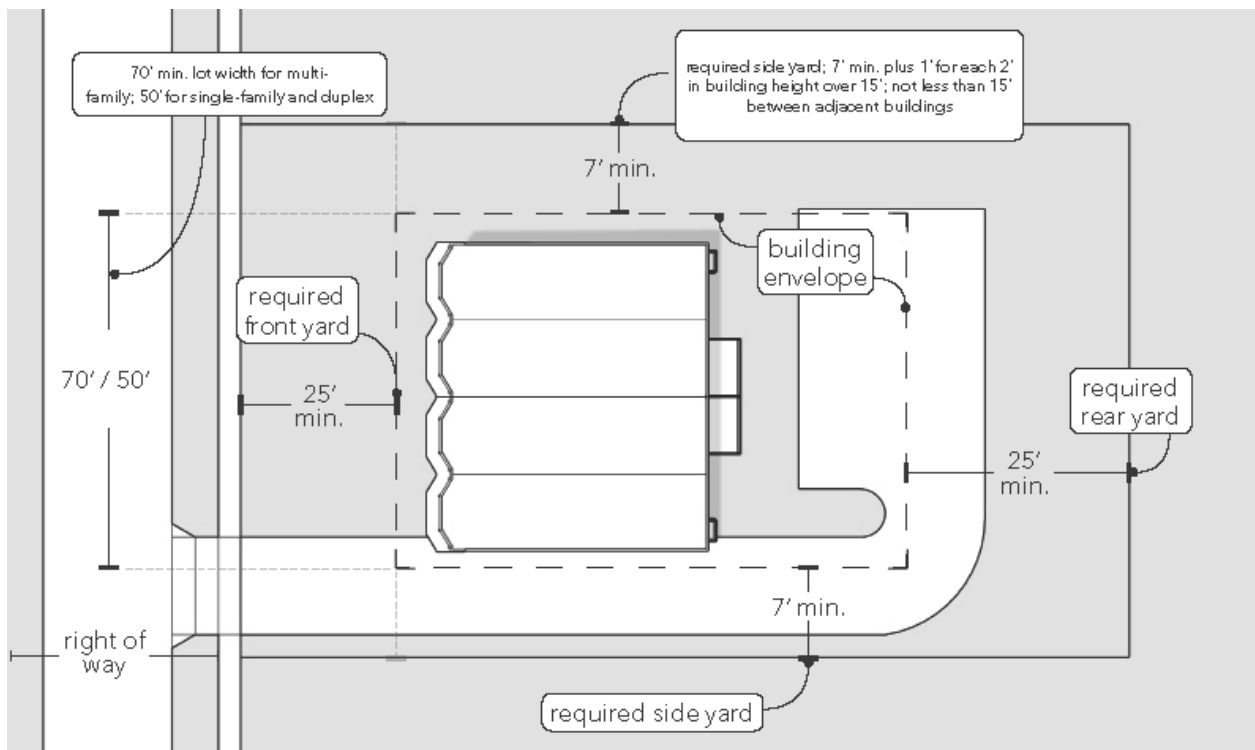


FIGURE 5-3, R-2 DIMENSIONAL REQUIREMENTS FOR MULTIPLE FAMILY STRUCTURES

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Section 503 – Mobile Home Park District (MHP)

A. Intent. The intent of this district is to provide suitable areas for residential mobile home communities.

B. Permitted Uses. Land and/or buildings in this zoning district may be used for the following purposes only:

C. Uses Permitted By Right

1. Adult foster care family home
2. Accessory building smaller than the footprint of the principal structure
3. Accessory uses related to uses permitted by right
4. Child Care Family Home (1-6 minor children)
5. Child Care Group Home (7-12 minor children)
6. Home Occupations, Minor
7. Home Occupations, Major
8. Mobile homes
9. Mobile home parks
10. Accessory uses customarily associated with a mobile home park
11. Leasing Office
12. Utility facilities, including laundry facilities for mobile home park residents.
13. Public open space
14. Places of Public Assembly, small

D. Special Land Uses

1. Places of public assembly, large
2. Adult Foster Care Group Home
3. Wireless Communications Facilities

E. District Regulations

1. Dimensional regulations within this district shall comply with the rules and regulations outlined in the Mobile Home Commission Act (Act 96 of 1987).
2. The rules promulgated by the Michigan Mobile Home Commission to implement the Mobile Home Commission Act (Act 96 of 1987) as amended, are incorporated herein, by reference.
3. In accordance with the provisions of Article 11, a zoning permit and certificate of occupancy shall be required for each mobile home installed in the park.
4. No construction shall take place on a new mobile home park or the expansion of an existing mobile home park until after a preliminary plan, as required in Act 96 of 1987, as amended, has been submitted and approved by the Planning Commission. No preliminary plan shall be approved unless it conforms to all applicable laws and local ordinances and all applicable rules promulgated under Act 96, 1987, as amended.
5. Uses described in Section 1102 are subject to zoning approval prior to commencement of such use or construction of structures associated with the use.

6. Uses listed in Section 901 are subject to Site Plan Review.
7. Off-Street parking and loading in conjunction with uses permitted in the MHP district is subject to Section 903, Off-Street Parking and Loading.
8. Uses subject to Site Plan Review shall comply with Section 904, Landscaping.
9. Uses subject to Site Plan Review shall comply with Section 905, Lighting.
10. Uses subject to Site Plan Review shall comply with Section 906, Stormwater Management.

Section 504 – Central Business District (CB)

A. Intent. The Central Business District is intended as a shopping and business center for the City and surrounding area. Attractive and inviting patterns of development along and off of Main Street and higher-density residential and commercial uses here allow for a secure and exciting living and shopping environment. Finally, this district is meant to serve as a social and entertainment gathering place for area residents and as the community’s civic core.

B. Permitted Uses. Land and/or buildings in this zoning district may be used for the following purposes only. Uses permitted by special land use are subject to the requirements of Article 8, Special Land Uses, and require Planning Commission review.

C. Uses Permitted By Right

1. Academic Institution, Public & Private
2. Accessory buildings with floor area smaller than the footprint of the principal structure
3. Accessory uses related to uses permitted by right
4. Adult Foster Care Family Home (1-6 residents)
5. Banks and Financial Institutions
6. Child Care Family Home (1-6 minor children)
7. Galleries, Libraries and Museums
8. Government Offices
9. Home Occupations, Major & Minor
10. Hotels and Motels
11. Lodging & Boarding House
12. Modular Home
13. Mixed Use Building
14. Nursing Home
15. Outdoor Recreation Facilities
16. Personal Service Establishment
17. Places of Public Assembly, small
18. Printing, Publishing & Allied Industries
19. Professional Offices
20. Public Open Space
21. Restaurants

22. Retail Business
23. Short-term Rental
24. Studio for Performing and Graphic Arts
25. Taverns and Lounges

D. Special Land Uses

1. Adult Foster Care Group Home (13-20 residents)
2. Accessory buildings exceeding the area of principal structure
3. Bed & Breakfast
4. Child Care Group Home (7-12 minor children)
5. Commercial Establishments with drive-through facilities
6. Day Care/Child Care Center
7. Funeral Home
8. Indoor Recreation Facilities
9. Laundromat
10. Marihuana Establishment – Designated Consumption Center
11. Multifamily Structure
12. Funeral Home
13. Places of Public Assembly, large
14. Social Club
15. Veterinary Clinic
16. Vocational School

17. Dimensional Standards. All dimensional minimums for the Central Business District shall be in accordance with Section 408, Schedule of Dimensional Regulations.

Zoning District	Min. Lot Dimensions		Max. Lot Coverage	Min. Yard Requirements (in feet)			Max. Height		Min. Floor Area Per Unit
	Area (sq. ft.)	Road Frontage	%	Front ^(a)	Side ^(b)	Rear	Feet	Stories	
CB Central Business District	none	none	n/a	0	0	0	60	n/a	400 sf

Notes to Schedule of Regulations:

- a. Required front yard shall be as set forth herein, except where, in the judgment of the Zoning Administrator or their designee, the predominate condition of the existing on the same block and on the same side of the street would dictate a lesser or greater setback
- b. Required side yard shall be as set forth herein, except where, in the judgment of the Zoning Administrator or their designee, the predominate condition of the existing on the same block and on the same side of the street would dictate a lesser or greater setback; provided in no instance shall the required side yard be less than three (3) feet, except where buildings are permitted to be located on the side lot line.

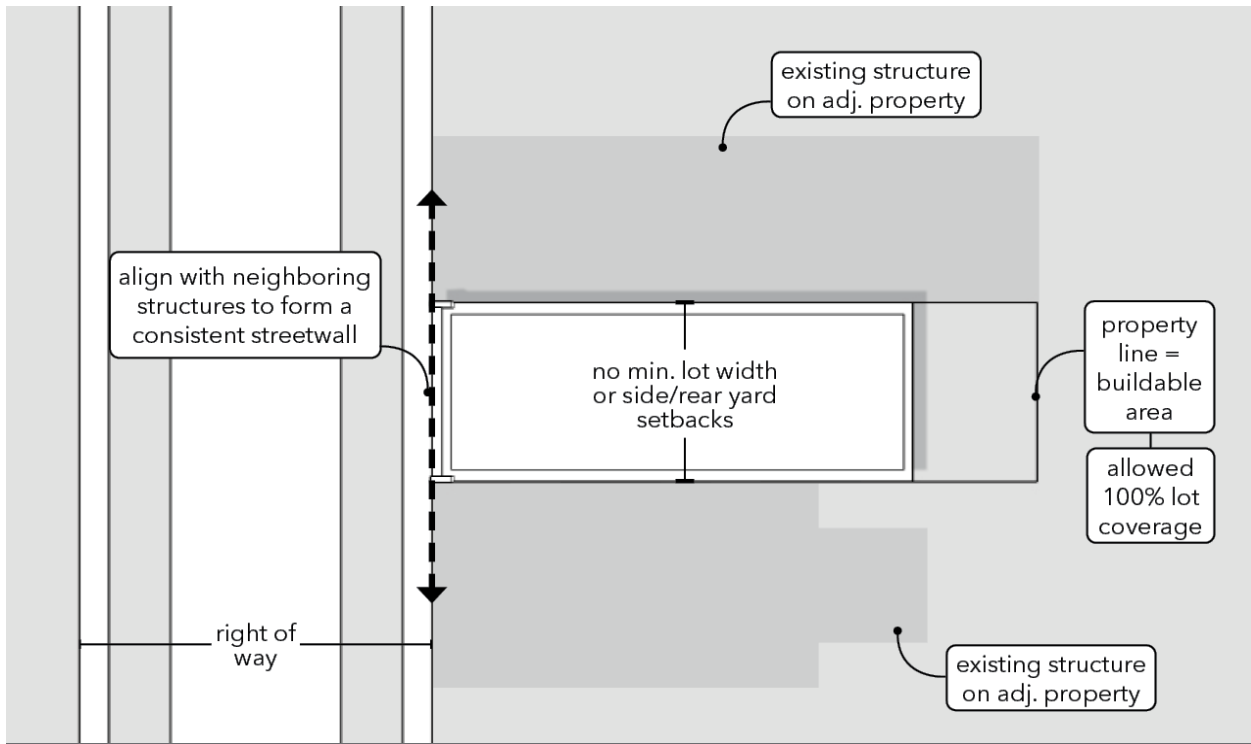


FIGURE 5-4. CBD, CENTRAL BUSINESS DISTRICT

E. Additional Standards.

1. Uses described in Section 1102 are subject to zoning approval prior to commencement of such use or construction of structures associated with the use.
2. Uses listed in Section 901 are subject to Site Plan Review.
3. Off-Street parking and loading in conjunction with uses permitted in the CB district is subject to Section 903, Off-Street Parking and Loading.
4. Uses subject to Site Plan Review shall comply with Section 904, Landscaping.
5. Uses subject to Site Plan Review shall comply with Section 905, Lighting.
6. Uses subject to Site Plan Review shall comply with Section 906, Stormwater Management.

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Section 505 – Neighborhood Center (NC)

- A. Intent.** The Neighborhood Center District is intended to provide commercial options at a scale and a distance that encourages walking with additional associated residential forms to create an urban village atmosphere.
- B. Permitted Uses.** Land and/or buildings in this zoning district may be used for the following purposes only. Uses permitted by special land use are subject to the requirements of Article 8, Special Land Uses, and require Planning Commission review.
- C. Uses Permitted By Right**
1. Accessory buildings with floor area less than the footprint of the principal structure
 2. Accessory uses related to uses permitted by right
 3. Bed & Breakfast
 4. Banks and Financial Institutions
 5. Child Care Family Home (1-6 minor children)
 6. Government Offices
 7. Home Occupations, Major & Minor
 8. Academic Institution, Public & Private
 9. Laundromat
 10. Laundry Service
 11. Lodging & Boarding House
 12. Mixed Use Building
 13. Modular Home
 14. Nursing Home
 15. Personal Service Establishment
 16. Places of Public Assembly, small
 17. Professional Offices
 18. Public Open Space
 19. Outdoor Recreation Facilities
 20. Restaurants
 21. Retail Business
 22. Short-term Rental
 23. Single Family Dwelling
 24. Duplex
 25. Studio for Performing and Graphic Arts
- D. Special Land Uses**
1. Adult Foster Care Family Home (1-6 residents)
 2. Adult Foster Care Small Group Home (7-12 residents)
 3. Adult Foster Care Group Home (13-20 residents)
 4. Accessory buildings exceeding the area of the principal structure
 5. Accessory Dwelling unit
 6. Commercial Establishments with drive-through facilities
 7. Child Care Group Home (7-12 Minor Children)
 8. Day Care/Child Care Center
 9. Dry Cleaning Establishment
 10. Multifamily Structure
 11. Funeral Home
 12. Galleries, Libraries and Museums
 13. Gas Station
 14. Greenhouses & Nurseries
 15. Places of Public Assembly, large
 16. Indoor Recreation Facilities
 17. Social Club
 18. Taverns and Lounges
 19. Vehicle Repair Facilities
 20. Vehicle Sales Lot
 21. Veterinary Clinic

E. Dimensional Standards. All dimensional minimums for the Neighborhood Center District shall be in accordance with Section 408, Schedule of Dimensional Regulations.

Zoning District	Min. Lot Dimensions		Max. Lot Coverage	Min. Yard Requirements (in feet)			Max. Height		Min. Floor Area Per Unit
	Area (sq. ft.)	Road Frontage	%	Front ^(a)	Side ^(b)	Rear	Feet	Stories	
NC Neighborhood Center									
Non-Residential Uses	6,000	60	50	15	7	15	35	n/a	n/a
Single-Family	6,000	60	50	15	7	15	35		800
Duplex									600
Multi-family (max density of 12 units per acre)	8,000	60	80	15	7	15	45	3	1 bd: 400 SF 2 bd: 500 SF 3+ bd: 100 additional SF per bedroom

Notes to Schedule of Dimensional Regulations

- a. Required front yard shall be as set forth herein, except where, in the judgment of the Zoning Administrator or his/her designee, the predominate condition of the existing on the same block and on the same side of the street would dictate a lesser or greater setback
- b. Required side yard shall be as set forth herein, except where, in the judgment of the Zoning Administrator or his/her designee, the predominate condition of the existing on the same block and on the same side of the street would dictate a lesser or greater setback; provided in no instance shall the required side yard be less than three (3) feet, except where buildings are permitted to be located on the side lot line.

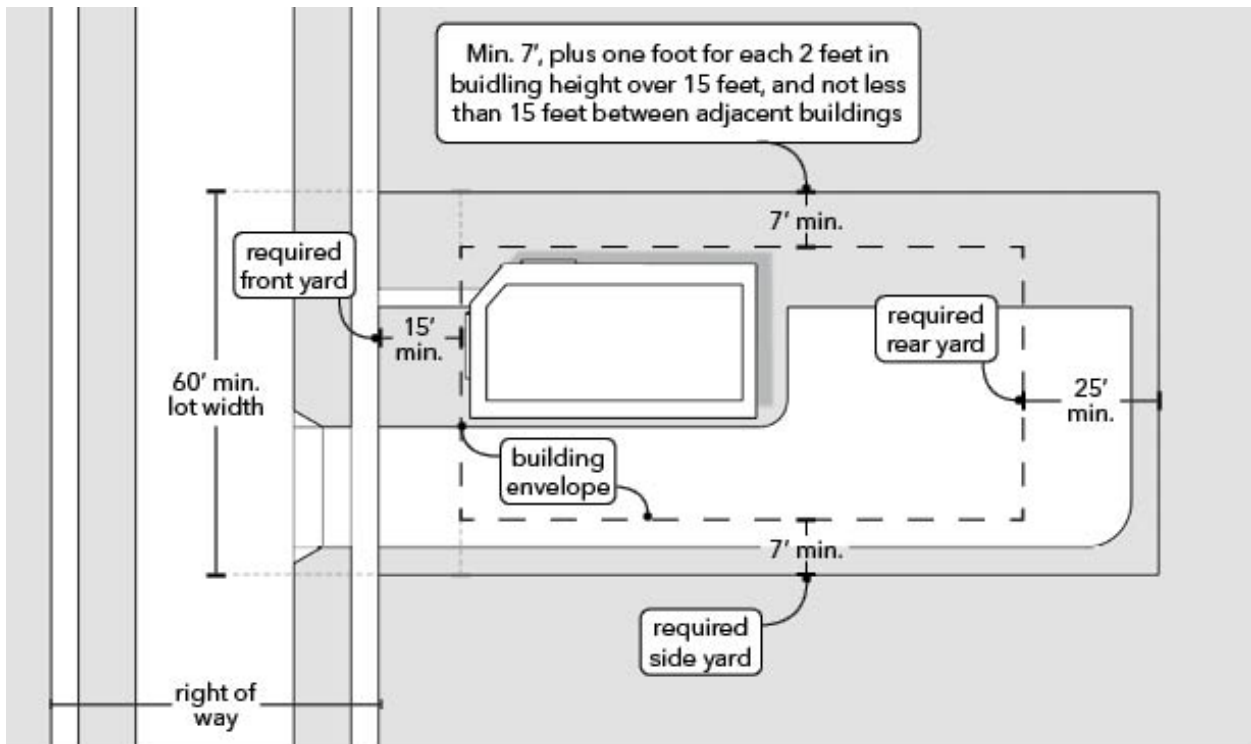


FIGURE 5-5. NC, NEIGHBORHOOD CENTER

F. Additional Standards.

1. Uses described in Section 1102 are subject to zoning approval prior to commencement of such use or construction of structures associated with the use.
2. Uses listed in Section 901 are subject to Site Plan Review.
3. Off-Street parking and loading in conjunction with uses permitted in the NC district are subject to Section 903, Off-Street Parking and Loading.
4. Uses subject to Site Plan Review shall comply with Section 904, Landscaping.
5. Uses subject to Site Plan Review shall comply with Section 905, Lighting.
6. Uses subject to Site Plan Review shall comply with Section 906, Stormwater Management.

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Section 506 – Regional Commercial, RC

A. Intent. This zoning classification is intended to provide goods and services for the greater Niles region, including jobs for residents and goods for visitors including large-scale retailing, automobile-related services, lodging, and entertainment services.

B. Permitted Uses. Land and/or buildings in this zoning district may be used for the following purposes only. Uses permitted by special land use are subject to the requirements of Article 8, Special Land Uses, and require Planning Commission review.

C. Uses Permitted By Right

1. Accessory buildings with floor area smaller than the footprint of the principal structure
2. Banks and Financial Institutions
3. Car Wash
4. Funeral Home
5. Galleries, Libraries and Museums
6. Gasoline Station
7. Government Offices
8. Greenhouses & Nurseries
9. Hotels and Motels
10. Academic Institution, Public & Private
11. Veterinary Clinic
12. Laundry Service
13. Laundromat
14. Mixed Use Building
15. Nursing Home
16. Personal Service Establishment
17. Places of Public Assembly, small
18. Professional Offices
19. Open Air Business
20. Outdoor Recreation Facilities
21. Restaurants
22. Retail Business
23. Showroom for Office & Building Trades
24. Studio for Performing and Graphic Arts
25. Taverns and Lounges
26. Vehicle Repair Facilities
27. Vehicle Sales Lot
28. Wholesale Business
29. Public Open Space

D. Special Land Uses

1. Accessory buildings exceeding the area of the principal structure
2. Billboards
3. Commercial Establishments with drive-through facilities
4. Construction Equipment Sales & Supplies
5. Day Care/Child Care Center
6. Dry Cleaning Establishment
7. Marihuana Establishment - Retailer
8. Marihuana Establishment - Safety Compliance
9. Marihuana Establishment - Secure Transporter
10. Marihuana Establishment - Designated Consumption Center
11. Marihuana Establishment - Microbusiness
12. Marihuana Establishment - Microbusiness A transitioning to Grower Class A or B and retail.
13. Medical Marihuana Facility - Provisioning Center
14. Mini-Warehouse/Self-Storage

D. Special Land Uses (continued)

- 15. Pet Daycare Facility
- 16. Places of Public Assembly, large
- 17. Processing & Manufacturing
- 18. Indoor Recreation Facilities
- 19. Research Laboratory
- 20. Kennel
- 21. Adult Use
- 22. Social Club
- 23. Vocational School
- 24. Wireless Telecommunications Tower
- 25. Vehicle Rental Establishment

E. Dimensional Standards. All dimensional minimums for the Regional Commercial District shall be in accordance with Section 408, Schedule of Dimensional Regulations.

Zoning District	Min. Lot Dimensions		Max. Lot Coverage	Min. Yard Requirements (in feet)			Max. Height		Min. Floor Area Per Unit
	Area (sq. ft.)	Road Frontage	%	Front	Side	Rear	Feet	Stories	
RC Regional Commercial	12,500	100	50	20	0	15	45	n/a	n/a

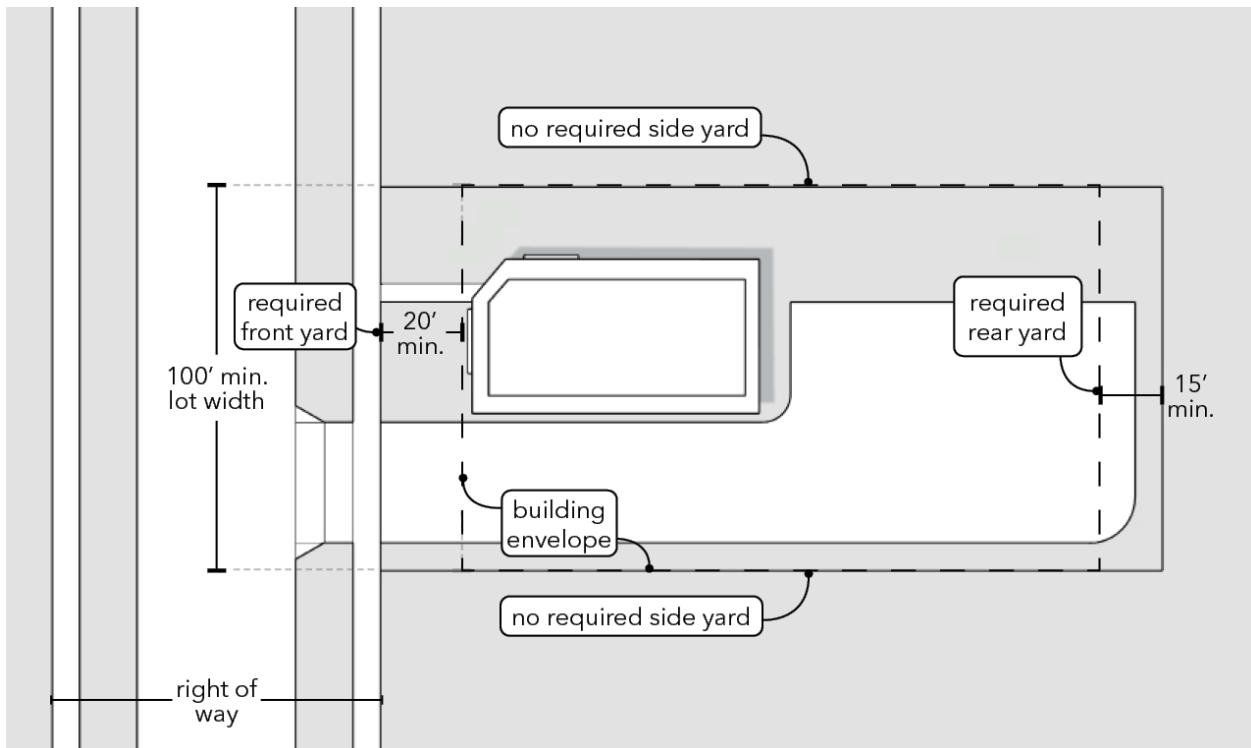


FIGURE 5-6. RC, REGIONAL COMMERCIAL

F. Additional Requirements

1. Uses listed in Section 506.D are subject to Special Land Use review by the Planning Commission in accordance with Article 8, Special Land Uses.
2. Uses listed in Section 901.2 are subject to Site Plan Review.
3. Off-street parking and loading in conjunction with uses permitted in the RC district is subject to Section 903, Off-street Parking and Loading.
4. Uses subject to Site Plan Review shall comply with Section 904, Landscaping.
5. Uses subject to Site Plan Review shall comply with Section 905, Lighting.
6. Uses subject to Site Plan Review shall comply with Section 906, Stormwater Management.

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Section 507 – Office Commercial (OC)

- A. Intent.** The OC Office Commercial District is intended to accommodate office uses, office sales related commercial activities and certain basic personal services that generate relatively low traffic volumes and operate primarily during normal business hours.
- B. Permitted Uses.** Land and/or buildings in this zoning district may be used for the following purposes only. Uses permitted by special land use are subject to the requirements of Article 8, Special Land Uses, and require Planning Commission review.
- C. Uses Permitted By Right**
1. Accessory buildings with floor area less than or equal to that of the principal structure
 2. Accessory uses related to uses permitted by right
 3. Bank and Financial Institutions
 4. Child Care Family Home (1-6 children)
 5. Dwelling, single family
 6. Home Occupation, Minor
 7. Vocational School
 8. Funeral home
 9. Galleries and Museums
 10. Government Offices
 11. Veterinary Clinic
 12. Academic Institution (public and private)
 13. Nursing Home
 14. Personal Service Establishments
 15. Professional Offices
 16. Public Open Space
 17. Restaurants
 18. Retail business
 19. Studio for performing or graphic arts
 20. Wholesale Businesses
 21. Recreation Facilities, Outdoor
 22. Laundromat
- D. Special Land Uses**
1. Bed & Breakfast Establishment
 2. Car Wash
 3. Contractor’s Facility
 4. Commercial Establishments with Drive-Through facilities
 5. Child Care Group Home (7-12 children)
 6. Day Care/Child Care Center
 7. Dry Cleaning Establishment
 8. Gasoline Station
 9. Hotels and Motels
 10. Kennel
 11. Mixed-Use Building
 12. Pet Daycare Facility
 13. Processing and Manufacturing
 14. Recreation Facilities, Indoor
 15. Research Laboratory
 16. Marihuana Establishment - Designated Consumption Center

E. Dimensional Standards. All dimensional minimums for the Office Commercial District shall be in accordance with Section 408, Schedule of Dimensional Regulations.

Zoning District	Min. Lot Dimensions		Max. Lot Coverage	Min. Yard Requirements (in feet)			Max. Height		Min. Floor Area Per Unit
	Area (sq. ft.)	Road Frontage	%	Front	Side	Rear	Feet	Stories	
OC Office Commercial	n/a ^(a)		80	15	7	10	60	n/a	n/a

Notes to Schedule of Regulations

- a. No minimum, but all applicable provisions of the Zoning Ordinance shall be met

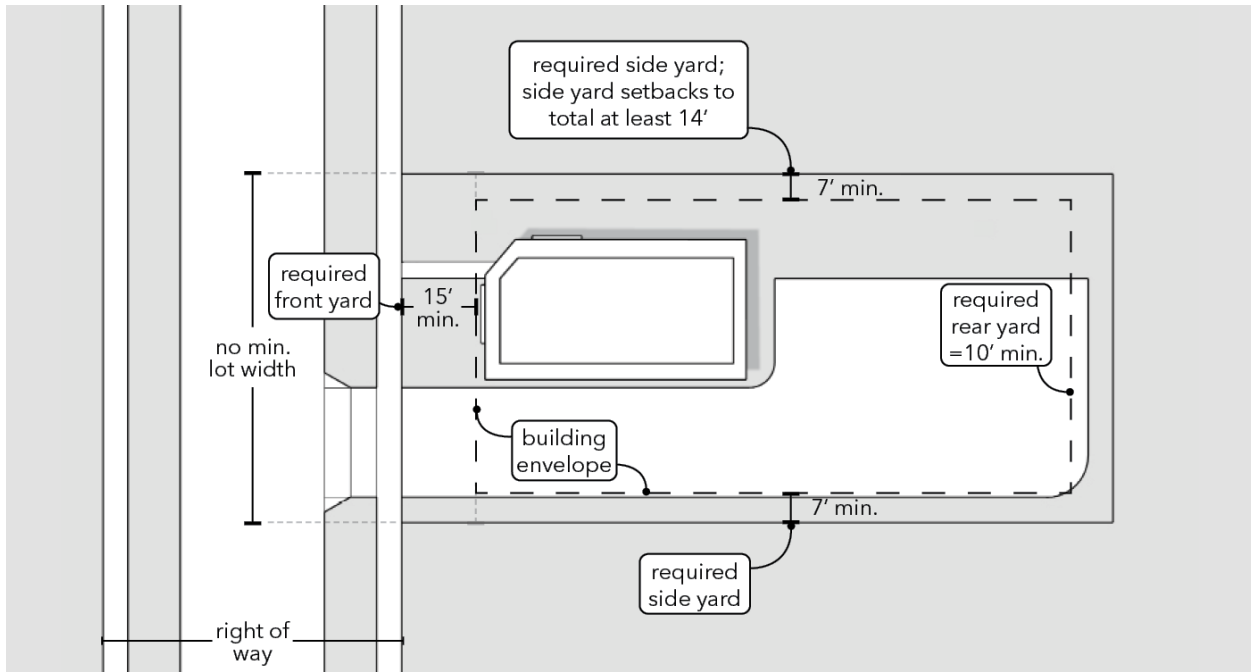


FIGURE 5-7. OC, OFFICE / COMMERCIAL

F. Additional Requirements

1. Uses listed in Section 901.2 are subject to Site Plan Review.
2. Off-street parking and loading in conjunction with uses permitted in the OC district are subject to Section 903, Off-street Parking and Loading.
3. Uses subject to Site Plan Review shall comply with Section 904, Landscaping.
4. Uses subject to Site Plan Review shall comply with Section 905, Lighting.
5. Uses subject to Site Plan Review shall comply with Section 906, Stormwater Management.

Section 508 – Industrial (IND)

- A. Intent.** The Industrial District is intended to primarily accommodate wholesale, warehouse, and industrial operations in which external physical effects are restricted to the area of the districts without detrimental impacts on the surrounding districts. The Industrial District is structured to permit, along with any other specified uses, the manufacturing, compounding, processing, packaging, assembly and/or treatment of finished or semi-finished products from previously prepared material.
- B. Permitted Uses.** Land and/or buildings in this zoning district may be used for the following purposes only. Uses permitted by special land use are subject to the requirements of Article 8, Special Land Uses, and require Planning Commission review.

C. Uses Permitted by Right

1. Academic Institutions, Public & Private
2. Accessory Bldg. smaller than the footprint of the principal structure
3. Accessory Bldg. exceeding area of the principal structure
4. Accessory Uses, related to uses permitted by right
5. Contractor's Facility
6. Construction Equip. Sales & Supplies
7. Dry Cleaning Establishment
8. Fabrication & Assembly
9. Funeral Home
10. Galleries and Museums
11. Gasoline Station
12. Government Offices
13. Greenhouses & Nurseries
14. Industrial Sub-Division
15. Pet Daycare Facility
16. Research Laboratory
17. Vocational Institution
18. Veterinary Clinic
19. Vehicle Rental Establishment
20. Vocational School(trade schools, etc.)

D. Special Land Uses

1. Airport
2. Billboards
3. Car Wash
4. Commercial Establishments w/ Drive-Through facilities
5. Laundry Service
6. Medical Marihuana Facility - Grower
7. Medical Marihuana Facility - Excess Grower
8. Medical Marihuana Facility - Processor
9. Medical Marihuana Facility - Provisioning Center
10. Medical Marihuana Facility - Safety Compliance Facility
11. Marihuana Establishment - Designated Consumption Center
12. Marihuana Establishment - Grower
13. Marihuana Establishment - Excess Grower
14. Marihuana Establishment - Microbusiness
15. Marihuana Establishment - Processor
16. Marihuana Establishment - Retailer
17. Marihuana Establishment - Safety Compliance
18. Marihuana Establishment - Secure Transporter
19. Mini-Warehouse, Self-Store
20. Processing and Manufacturing
21. Professional Offices
22. Public Open Space

D. Special Land Uses (continued)

- | | |
|--|-------------------------------|
| 23. Recreation Facilities, Indoor | 29. Taverns and Lounges |
| 24. Recreation Facilities, Outdoor | 30. Vehicle Repair Facilities |
| 25. Retail Business | 31. Vehicle Sales Lot |
| 26. Sand and Gravel Mining Operation | 32. Warehousing |
| 27. Showroom for Office & Building Trades | |
| 28. Studio for Performing and Graphic Arts | |

E. Dimensional Standards. Uses in the IND district are subject to the requirements in Section 408, City of Niles Schedule of Dimensional Regulations:

Zoning District	Min. Lot Dimensions		Max. Lot Coverage	Min. Yard Requirements (in feet)			Max. Height		Min. Floor Area Per Unit
	Area (sq. ft.)	Road Frontage	%	Front ^(a)	Side ^(c)	Rear	Feet	Stories	
IND, Industrial	n/a ^(b)		75	40	25	30	60	n/a	n/a

Notes to Schedule of Dimensional Regulations

- a. Required front yard shall be as set forth herein, except where, in the judgment of the Zoning Administrator or their designee, the predominate condition of the existing on the same block and on the same side of the street would dictate a lesser or greater setback
- b. No minimum, but all applicable provisions of the Zoning Ordinance shall be met
- c. Required side yard shall be as set forth herein, except where, in the judgment of the Zoning Administrator or their designee, the predominate condition of the existing on the same block and on the same side of the street would dictate a lesser or greater setback; provided in no instance shall the required side yard be less than three (3) feet, except where buildings are permitted to be located on the side lot line.

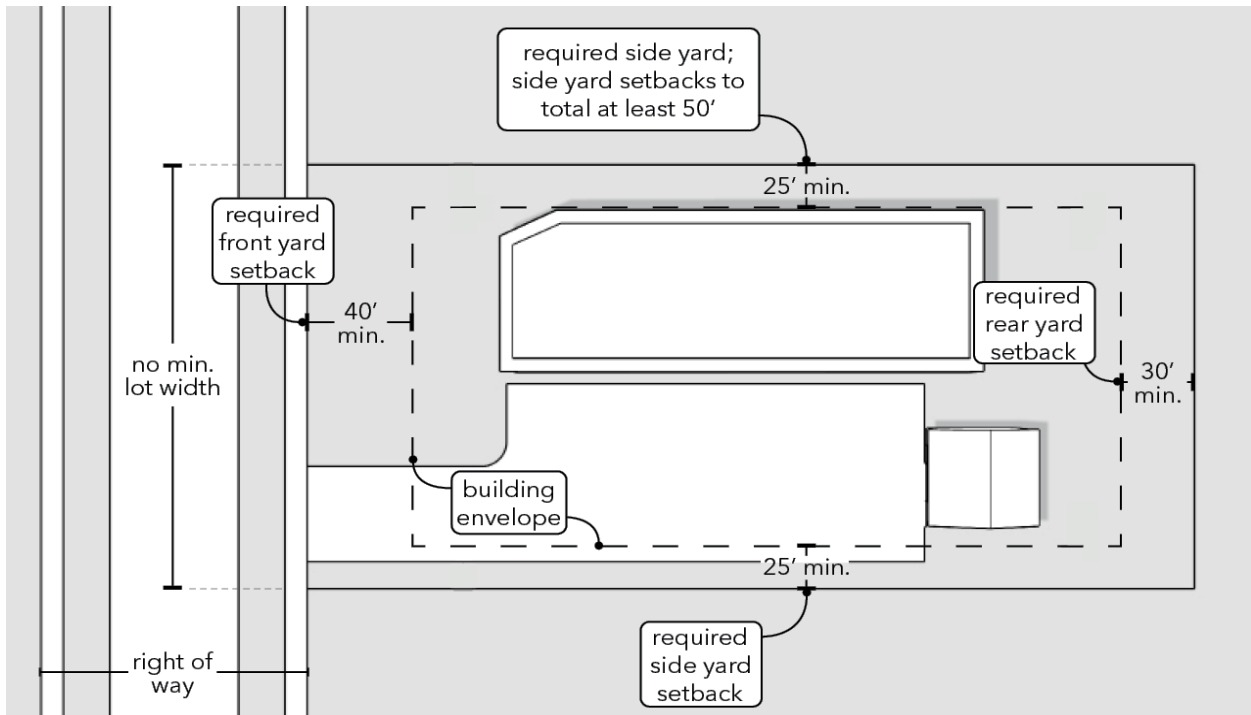


FIGURE 5-8. IND, INDUSTRIAL

F. Additional Standards

1. Uses described in Section 1102 are subject to zoning approval prior to commencement of such use or construction of structures associated with the use.
2. Uses listed in Section 901 are subject to Site Plan Review.
3. Off-Street parking and loading in conjunction with uses permitted in the IND district is subject to Section 903, Off-Street Parking and Loading.
4. Uses subject to Site Plan Review shall comply with Section 904, Landscaping.
5. Uses subject to Site Plan Review shall comply with Section 905, Lighting.
6. Uses subject to Site Plan Review shall comply with Section 906, Stormwater Management.

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Section 509 – Open Space (OS)

- A. Intent.** The intent of the OS Open Space District is to provide recreational areas and to protect and preserve areas of scenic, scientific and cultural value. Such areas will provide for contact with nature in an urban area thus enhancing the quality of life for Niles residents and visitors.
- B. Permitted Uses.** Land and/or buildings in this zoning district may be used for the following purposes only. Uses permitted by special land use are subject to the requirements of Article 8, Special Land Uses, and require Planning Commission review.
- C. Uses Permitted By Right**
1. Accessory Bldg. smaller than the footprint of the principal structure
 2. Accessory Uses, related to uses permitted by right
 3. Golf Courses and related accessory uses
 4. Academic Institutions, Public & Private
 5. Public Open Space Recreation Facilities, Outdoor
- D. Special Land Uses**
1. Camps and campgrounds
 2. Cemeteries
 3. Sand and Gravel Mining Operation
 4. Social Club
 5. Wireless Communications Tower
- E. Dimensional Standards.** All dimensional minimums for the Open Space District shall be in accordance with Section 408, Schedule of Dimensional Regulations.

Zoning District	Min. Lot Dimensions		Max. Lot Coverage	Min. Yard Requirements (in feet)			Max. Height	
	Area (sq. ft.)	Road Frontage	%	Front ^(a)	Side ^(g)	Rear	Feet	Stories
OS, Open Space	n/a		20	50	25	30	35	n/a

- F. Additional Standards**
1. Uses described in Section 1102 are subject to zoning approval prior to commencement of such use or construction of structures associated with the use.
 2. Uses listed in Section 901 are subject to Site Plan Review.
 3. Off-Street parking and loading in conjunction with uses permitted in the OS district is subject to Section 903, Off-Street Parking and Loading.
 4. Uses subject to Site Plan Review shall comply with Section 904, Landscaping.
 5. Uses subject to Site Plan Review shall comply with Section 905, Lighting.
 6. Uses subject to Site Plan Review shall comply with Section 906, Stormwater Management.

Section 510 – Reserved for Future Use

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Article 6:

Reserved for Future Use

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Article 7:

Signs

Section 700 – Purpose and Intent

PURPOSE. The purpose of this Article is to promote traffic safety, public safety, and community aesthetics through the application of reasonable controls over the use, size, placement and general appearance of signs, billboards and other advertising structures. Furthermore, it is the purpose of this Article to maintain the attractive character and environment of the City through the implementation of these controls.

INTENT. The intent of this article is to provide regulatory parameters for the location, quantity, and method of display of signs in the City in a manner consistent with the following purposes:

1. To protect and further the health, safety, and welfare of the City’s residents, property owners, and visitors.
2. To prevent traffic hazards and pedestrian accidents caused by signs that obstruct vision, distract or confuse drivers, or are improperly secured or constructed.
3. To conserve and enhance community character.
4. To promote uniformity in the size, number, or placement of signs within districts.
5. To promote the economic viability of commercial areas by minimizing visual clutter and allowing for proper placement of signs to safely direct motorists to their destination.
6. To balance the public’s right to be informed and its desire to avoid visual pollution and hazardous conditions with the rights of businesses and other non-business uses to communicate.
7. To allow for the reasonable continuance of the use of nonconforming signs.
8. It is further recognized that special circumstances or events may create a need for portable signage for a limited and reasonable period of time.
9. It is not the intent of this ordinance to regulate the content of any signs.

The regulations and standards of this Article are considered the minimum amount of regulation necessary to achieve a substantial government interest for public safety, aesthetics, and protection of property values.

Section 701 – Applicability

The provisions of this Article shall apply to all persons, firms, partnerships, associations, and corporations owning, occupying, or having control or management of any premises located within the City of Niles, as it relates to the size, placement, use, structural quality, and quantity of signs.

Section 702 – Definitions

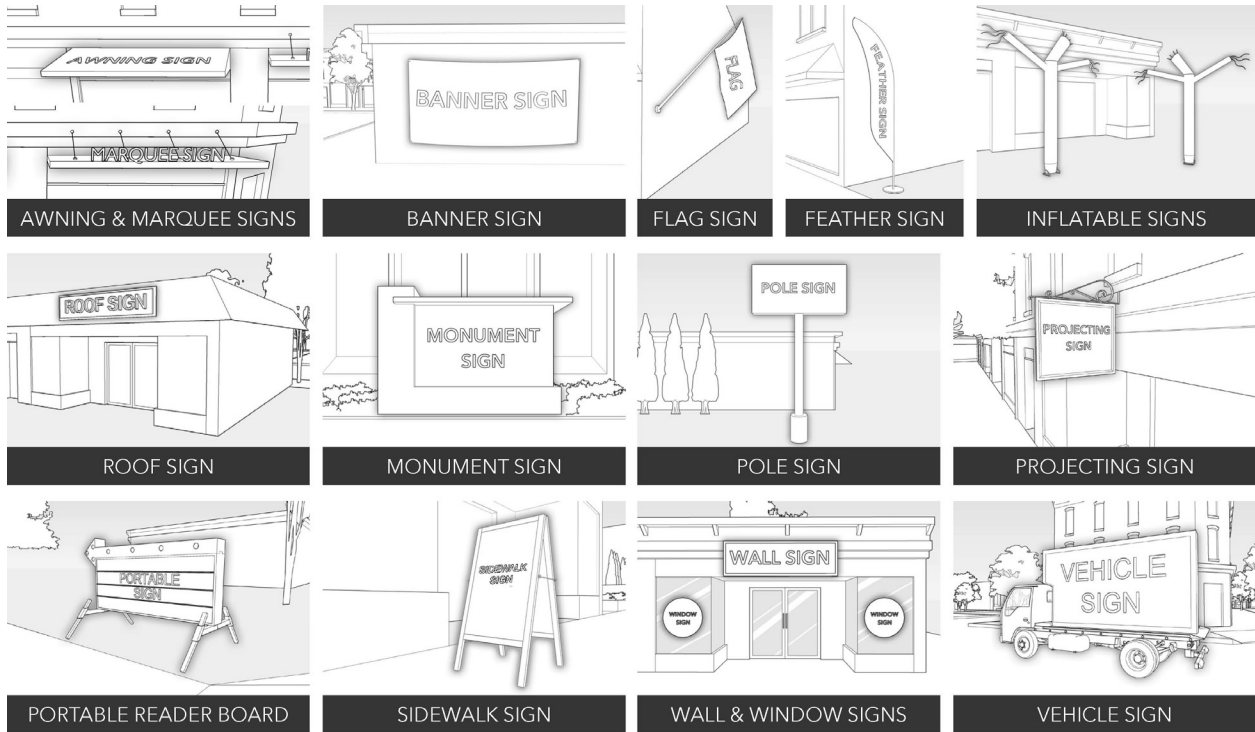
For purposes of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1. **Abandoned Sign.** A sign for which no legal owner can be found; or a sign that is dilapidated, has fallen into disrepair or otherwise exhibits characteristics of abandonment in the opinion of the Zoning Administrator.
2. **Architectural Feature.** An integral element of a building that does not contain any discernible commercial message.
3. **Ancillary Sign.** A sign separate from and subordinate in area to the principal sign, no larger than.
4. **Artwork.** Any decorative element that is not integral to a building and does not contain an immediately discernible commercial message or representation.
5. **Awning.** A retractable or fixed shelter constructed of non-rigid materials on a supporting framework that projects from the exterior wall of a building. An awning is the same as a canopy.
6. **Awning Sign.** A sign painted on, printed on, or attached flat against the surface of an awning or canopy.
7. **Balloon Sign.** See inflatable sign.
8. **Banner Sign.** A sign made from fabric, plastic, vinyl, or other non-rigid material. A banner sign will be defined as one of the following:
9. **Banner Sign, Temporary.** A temporary sign made from fabric, plastic, vinyl, or other non-rigid material without an enclosing structural framework attached to or hung from a pole, rope or to a building or structure.
10. **Banner Sign, Permanent.** Wall signs made exclusively from plastic, vinyl, or other non-rigid materials that are permanently affixed to the wall of a building with fasteners. Permanent banner signs may or may not have a frame surrounding the sign area.
11. **Billboard.** A sign separate from an on-premise sign erected for the purpose of displaying messages or images, located on private property and contains over two hundred (200) square feet of sign copy area or sign face area.
12. **Building Frontage.** The area in square feet of a building façade facing a street as viewed from the exterior. In the case of a multi-tenant building, the building frontage shall consist of the area of the frontage of the exterior space occupied by the tenant/occupant.
13. **Changeable Copy.** A sign that contains a copy area capable of changing the message or images either by digital technology or manual means.
14. **Digital Sign.** An internally lit sign that contains changeable copy in the form of digital (LED, LCD, and similar technologies) images or messages.

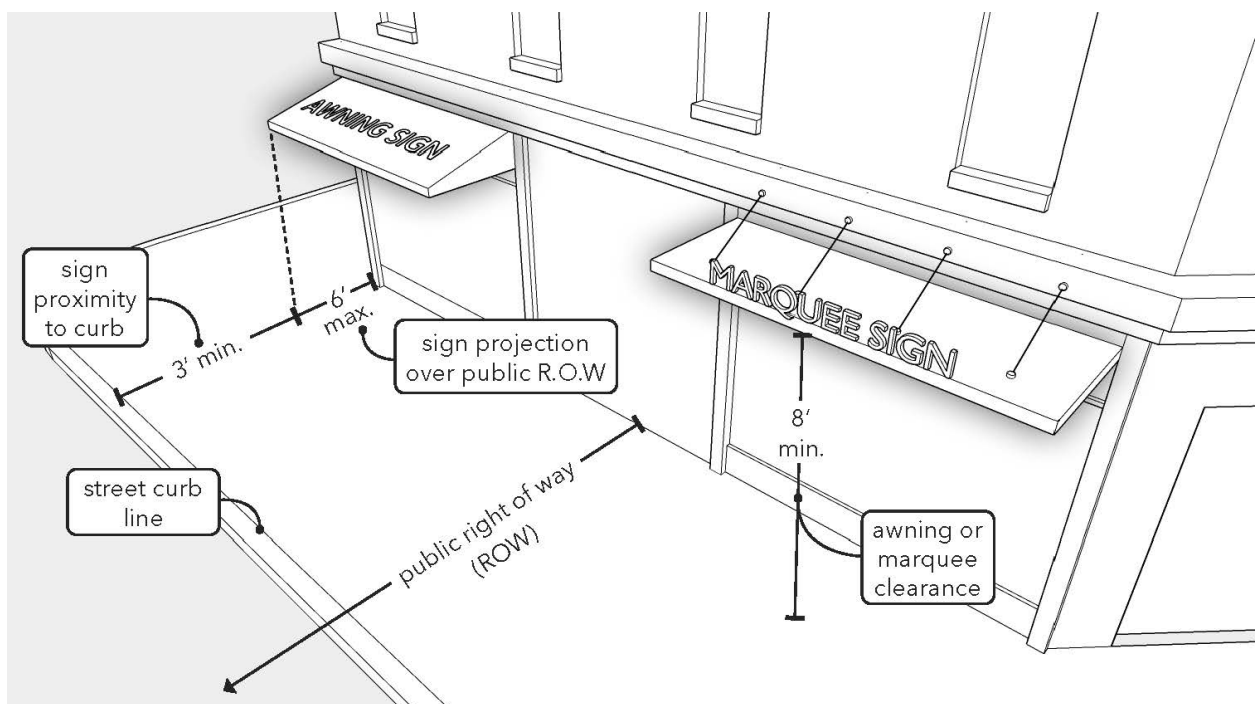
15. **Electronic Message Center.** The use of changing lights or video screen(s) to form a sign message or messages in text display form wherein the messages and the rate of change can be modified by an electronic process.
16. **Essential Service.** Uses that are deemed essential such as public schools, public utility companies, and government agencies.
17. **Exempt Sign.** A sign that is exempt from either a sign permit or from the provisions of this entire article, as described in Section 704.
18. **External Illumination.** Lights designed to illuminate a sign that are not located within the sign itself.
19. **Feather Sign.** A portable lightweight piece of cloth, fabric, or other similar material in the shape of a feather that is supported by a slender rod or pole driven into the ground.
20. **Festoons.** A string of ribbons, tinsel, flags, pennants, or pinwheels that contains messages or sign copy.
21. **Flag.** A lightweight piece of cloth, fabric, or other similar material that is attached either to a ground-mounted pole used exclusively for the purpose of flag display or attached to a permanent building using a flag pole bracket.
22. **Flashing Sign.** Any illuminated sign in which the artificial light is not maintained stationary or constant in intensity and/or color. For the purpose of this Ordinance, a revolving illuminated sign shall be considered a flashing sign.
23. **Footcandles.** A unit of illumination on a surface equal to one lumen per square foot, which is used to measure the brightness of a sign containing internal or external illumination or digital signs displayed on a screen.
24. **Freestanding Sign.** A sign not attached to a building or wall that is supported by one or more poles or braces, or that rests on the ground or on a foundation resting on the ground.
25. **Government Sign.** A sign that is erected or required to be erected by the City of Niles, Berrien County, the State of Michigan, or United States federal government.
26. **Ground Sign.** See Monument Sign.
27. **Human Sign.** A sign that is held by a person and displayed on or off-site to attract the attention of passing pedestrians and vehicular traffic.
28. **Illegal sign.** A sign that does not meet the requirements of this article and that has not received legal nonconforming status.
29. **Inflatable Sign.** Any three (3) dimensional object, including a tethered balloon, capable of being filled with air or gas depicting a character, figure, product, or product trademark, whether or not such object contains a message or lettering, that may or may not have some form of movement.
30. **Integral Signs.** Any sign that is integral to site circulation and wayfinding, such as above entrances.
31. **Internal Illumination.** Lights designed to illuminate a sign from the interior of the sign itself.

32. **Mansard Roof.** A sloped roof or roof-like façade that is architecturally comparable to a building wall.
33. **Marquee.** A permanent structure constructed of rigid materials that project from the exterior wall of a building.
34. **Marquee Sign.** A sign affixed or printed on any hood, canopy, awning or permanent construction that projects from a wall of a building.
35. **Monument Sign.** A freestanding, ground-level sign with a solid brick, stone, metal, or masonry base that extends the full width of the sign structure, and structurally capable of withstanding wind and snow loads as prescribed in the applicable building code.
36. **Non-conforming Sign.** Any permanent sign that has been erected prior to the adoption of this Article that does not comply with the provisions of this Article with regard to form, size, quantity, location, illumination, etc. as contained herein.
37. **Painted Wall Sign.** A sign that is applied with paint or a similar substance on the face of a wall or the roof of a building.
38. **Pole Sign.** A free-standing sign that is supported by a single pole structure, that is less than 50 percent of the width of the sign.
39. **Pennant.** A flag or cloth that tapers to a point.
40. **Projecting Sign**ches but not more than forty eight (48) inches from the face of the building or wall.
41. **Reader Board Sign.** One of the following:
 - a. Manual reader board. A sign on which the letters or pictorials are changed manually or;
 - b. Electronic reader board. A sign with a fixed or changing display or message composed of a series of internal lights or digital images and text that may be changed through electronic means.
 - c. Portable reader board. A sign where, by its nature may be or is intended to be easily moved from one location to another, typically a sign supported on a metal chassis and may include copy that can be changed manually through the use of attachable characters, but not including sidewalk signs, banners, etc.
 - d. Multi-vision sign. Any sign composed in whole or in part of a series of vertical or horizontal slats or cylinders that are capable of being rotated at intervals so that partial rotation of the group of slats or cylinders produces a different image or images.
 - e. Digital reader board. A sign that uses digital or electronic technology to display a changeable or static copy of messages, images, or information.
42. **Roofline.** The top of a roof or parapet wall, whichever is higher, but excluding any cupolas, chimneys, or other minor projections.

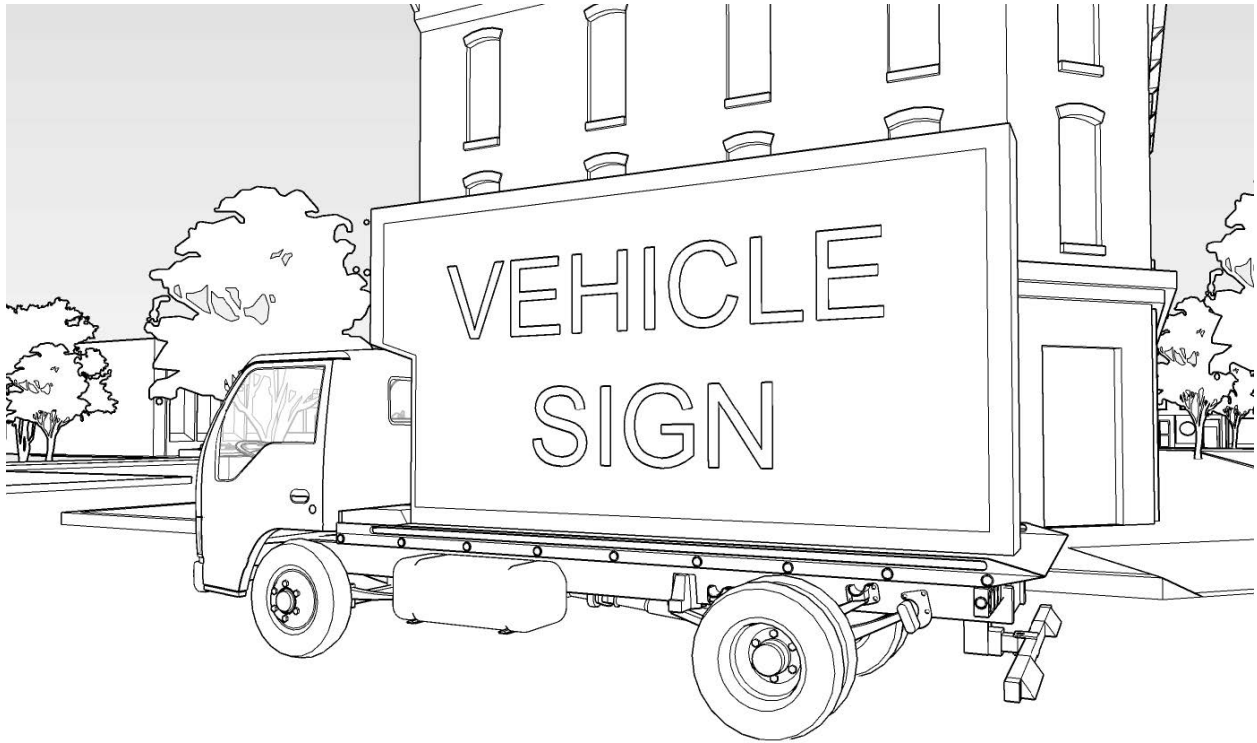
43. **Roof Sign.** A sign that is mounted on the roof of a building and that projects above the top walk or edge line of a building with a flat roof or above the eave line of a building with a gambrel, gable, or hip roof, or above the deck line of a building with a mansard roof.
44. **Rotating Sign.** A sign in which the sign itself or any portion of the sign moves in a revolving or similar manner. Such motion does not refer to methods of the changeable copy.
45. **Sidewalk Sign.** An A-frame sign that is portable and designed to be placed on the sidewalk in front of the use it advertises. Also commonly called a “sandwich board sign.”
46. **Sign.** A device, structure, fixture, figure, or placard that may or may not use graphics, symbols, emblems, numbers, lights and/or written copy to communicate information of any kind to the public. House numbers, addresses, and name plates not exceeding two (2) square feet shall not be considered signs.
47. **Sign Copy Area.** Each part of a sign structure which is used to graphically communicate a message or announcement including a border space outside any lettering or other graphic symbols or depictions. Areas dedicated to the structural base of a sign shall not be included in the calculation of the sign copy area.
48. **Permanent Sign.** A sign installed on a support structure, not intended to be moved or removed, but to remain for an indefinite period of time.
49. **Temporary Sign.** A sign installed for a limited period of time intended to be removed within a time period as specified herein. Examples of temporary signs include, but are not limited to, yard signs, banners, feather flags, balloon signs/air dancers and signs with wooden or metal supports that are placed into the ground, without a permanent foundation. Temporary signs are not designed to withstand wind and snow loads as prescribed by applicable building codes.
50. **Snipe Sign.** A sign that is attached to a utility pole, tree, fence, or to any object located or situated on public property, or private property without permission.
51. **Streamers.** A long, narrow strip of material used as a decoration or symbol.
52. **Wall Sign.** A sign fastened to or painted on the exterior wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign.
53. **Window Sign.** A sign installed on or inside a window and intended to be viewed from the outside.
54. **Vehicle Sign.** A fixed billboard display that is either digital or static, used for the purpose of on or off-premise display of messages on a stationary or moving vehicle, including, but not limited to, automobiles, trucks, buses, boats, trailers, semi-trailers or airplanes.
55. **Yard Sign.** A temporary sign made of corrugated plastic, vinyl, cardboard, poster board or similar material that is supported by or attached to metal stakes.



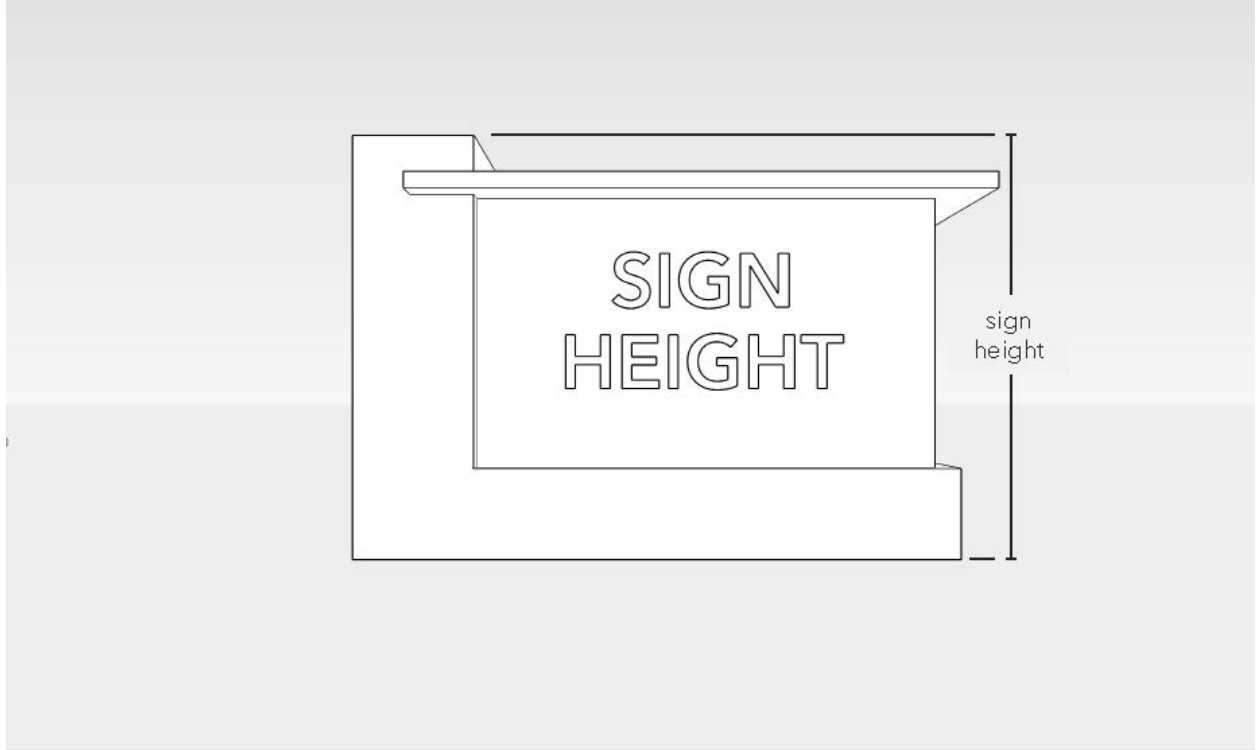
SIGN TYPES. FIGURE 7-1



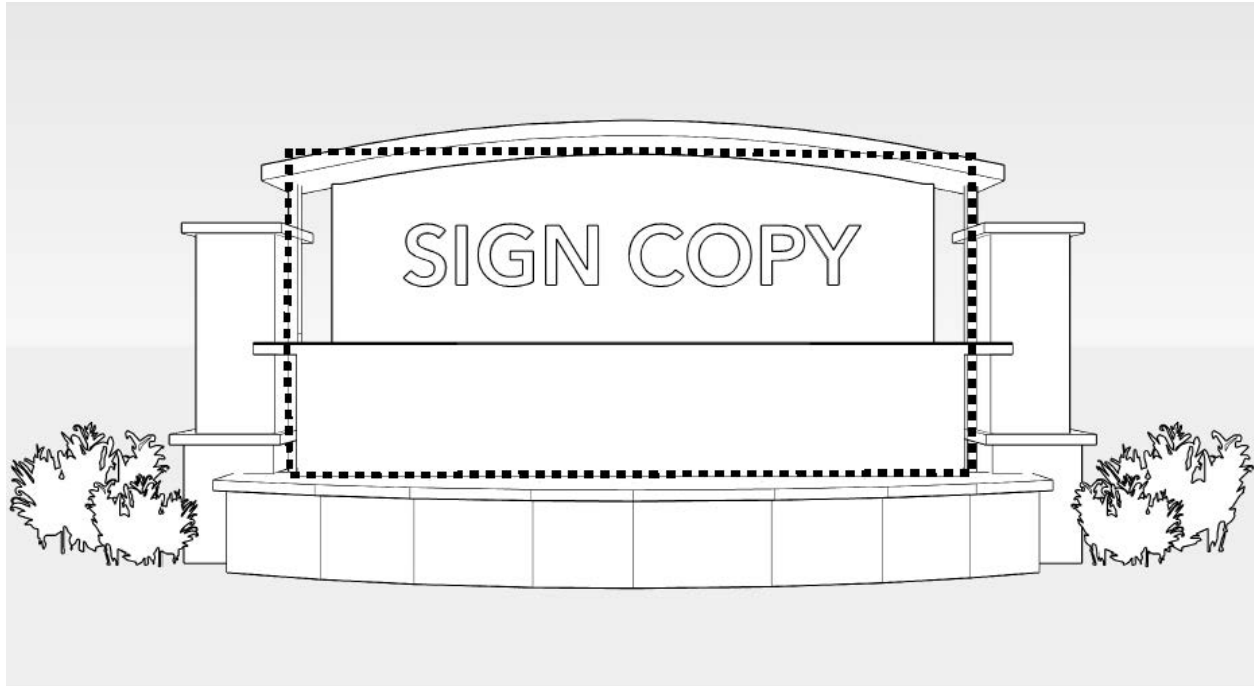
AWNING & MARQUEE REGULATIONS APPLICABLE TO ALL DISTRICTS. FIGURE 7-2



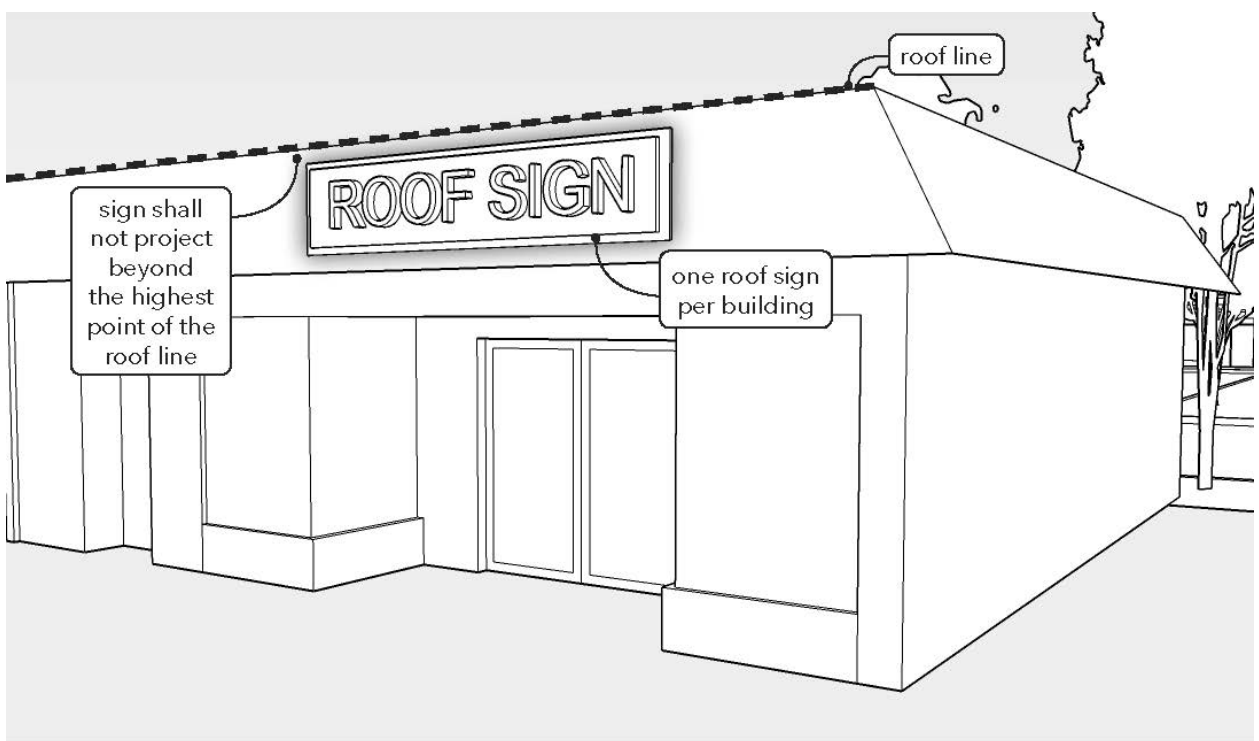
VEHICLE SIGN. FIGURE 7-3



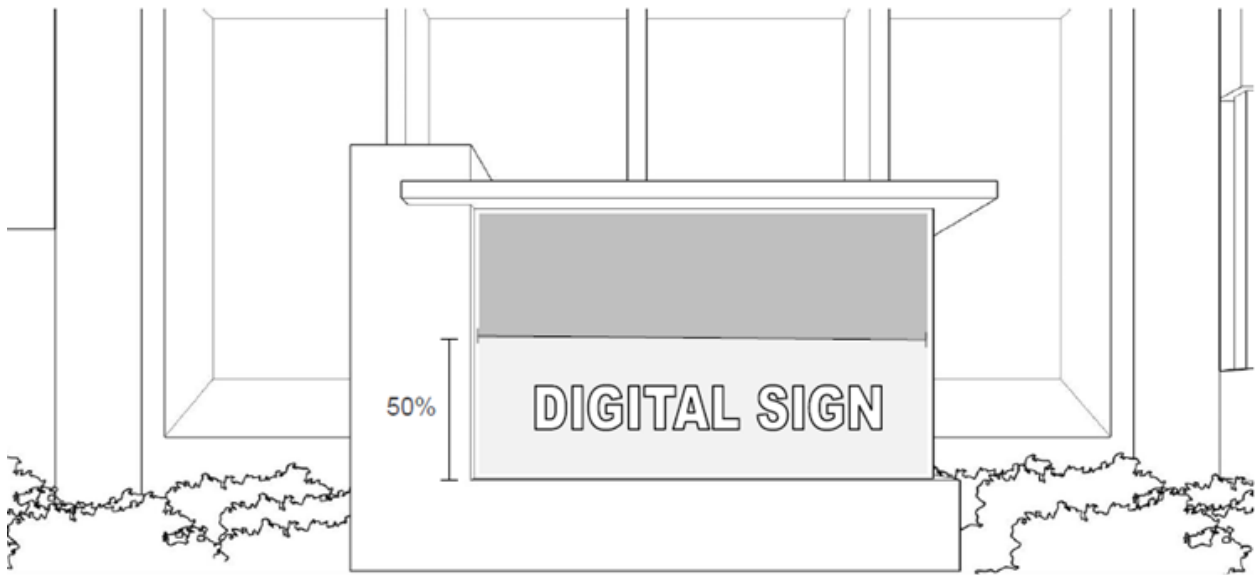
MONUMENT SIGN HEIGHT. FIGURE 7-4



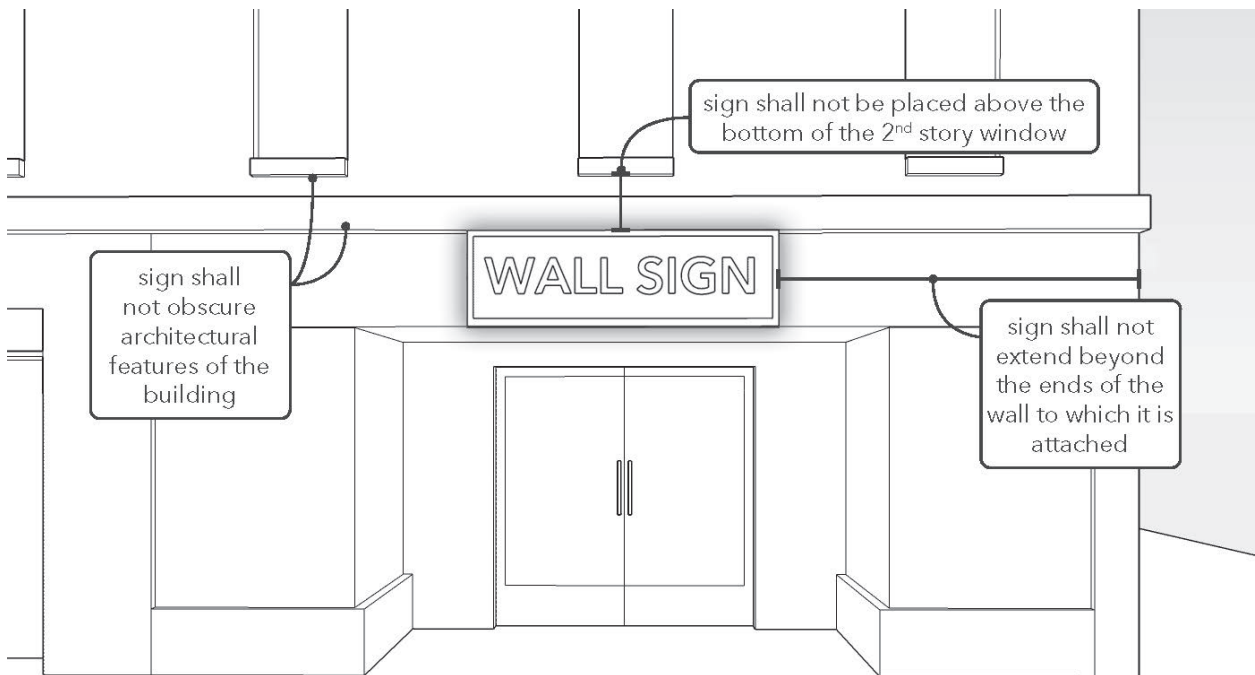
SIGN COPY AREA. FIGURE 7-5



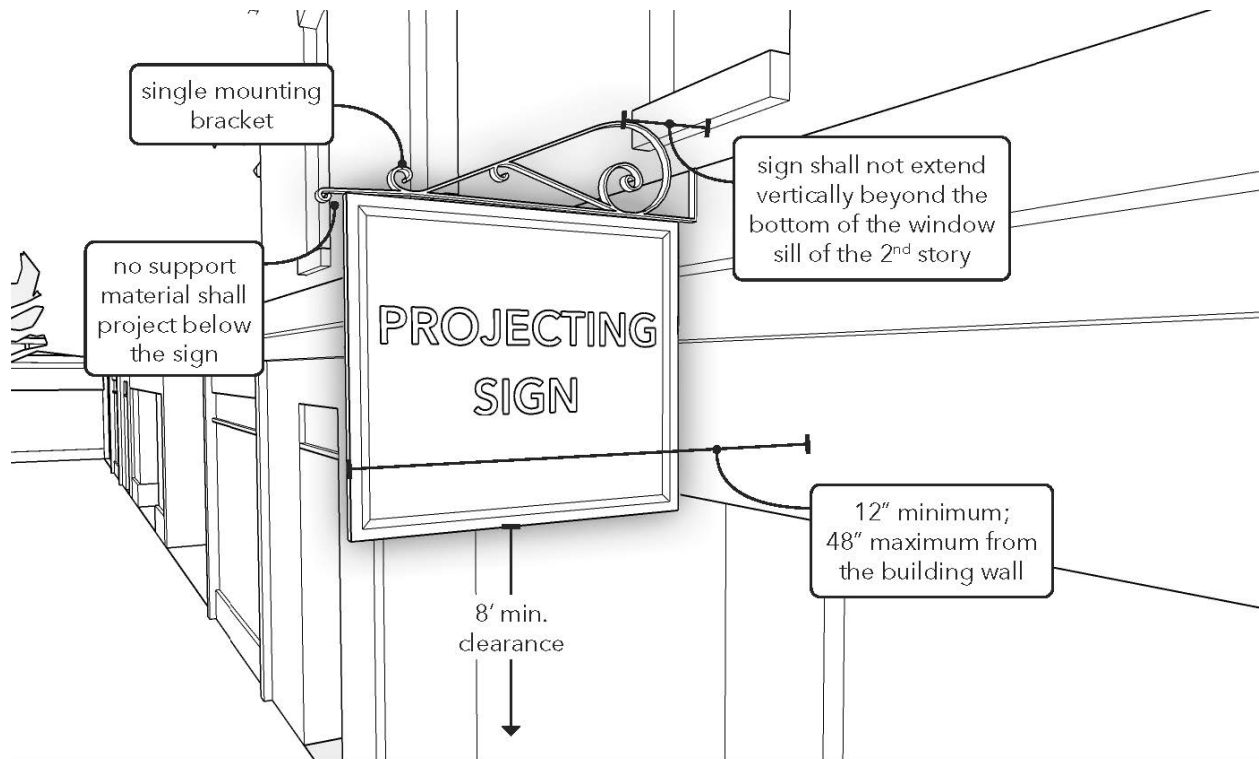
ROOF SIGN REGULATIONS APPLICABLE TO ALL DISTRICTS. FIGURE 7-6



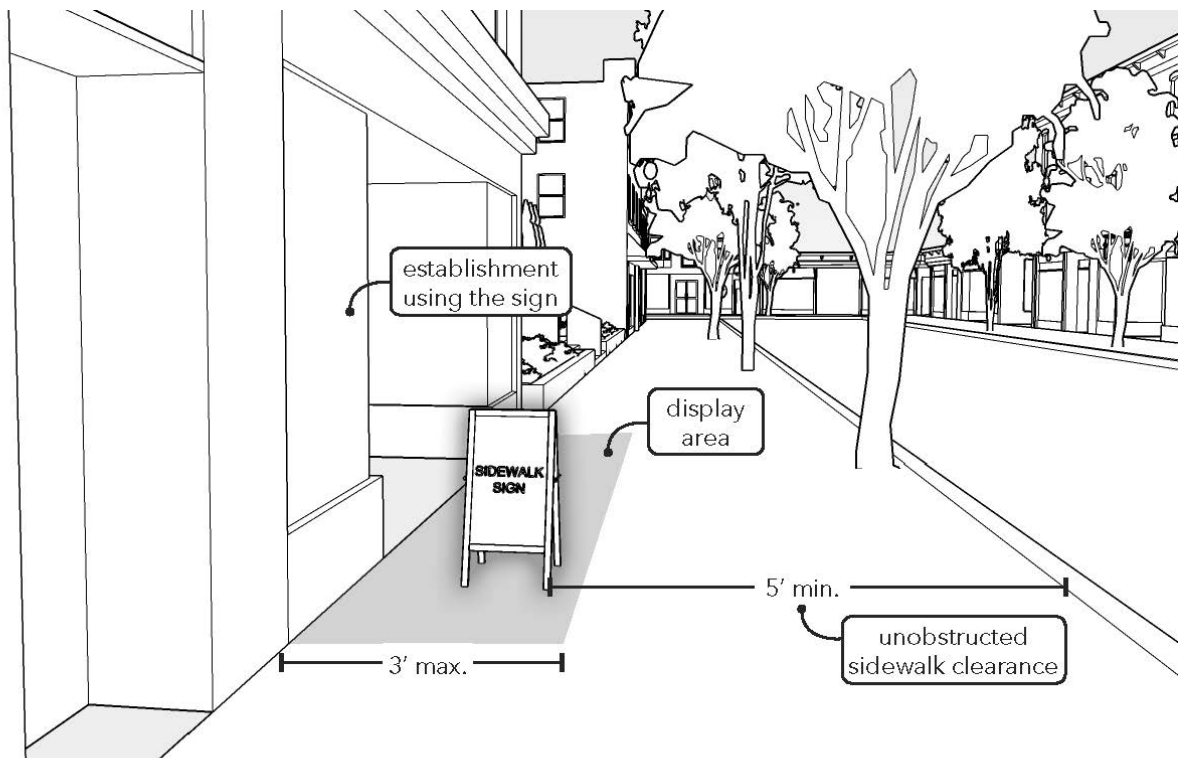
DIGITAL SIGN. FIGURE 7-7



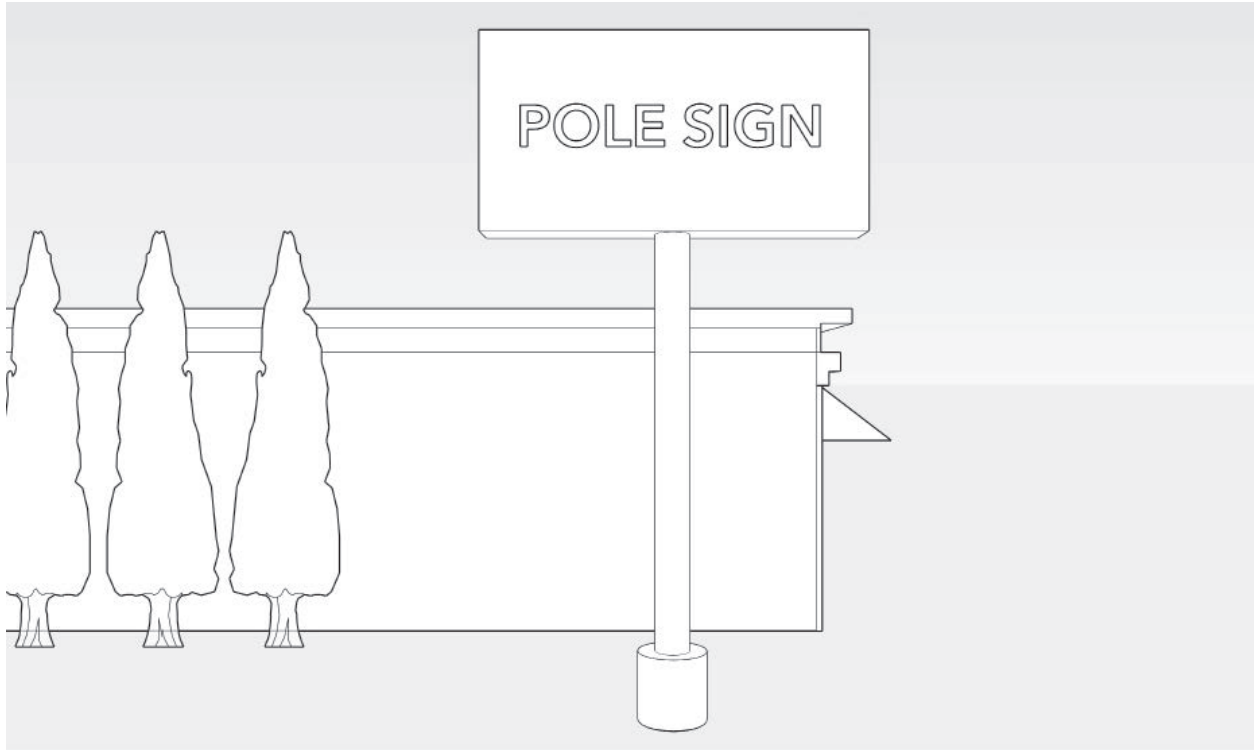
WALL SIGN REGULATIONS APPLICABLE TO ALL DISTRICTS. FIGURE 7-8



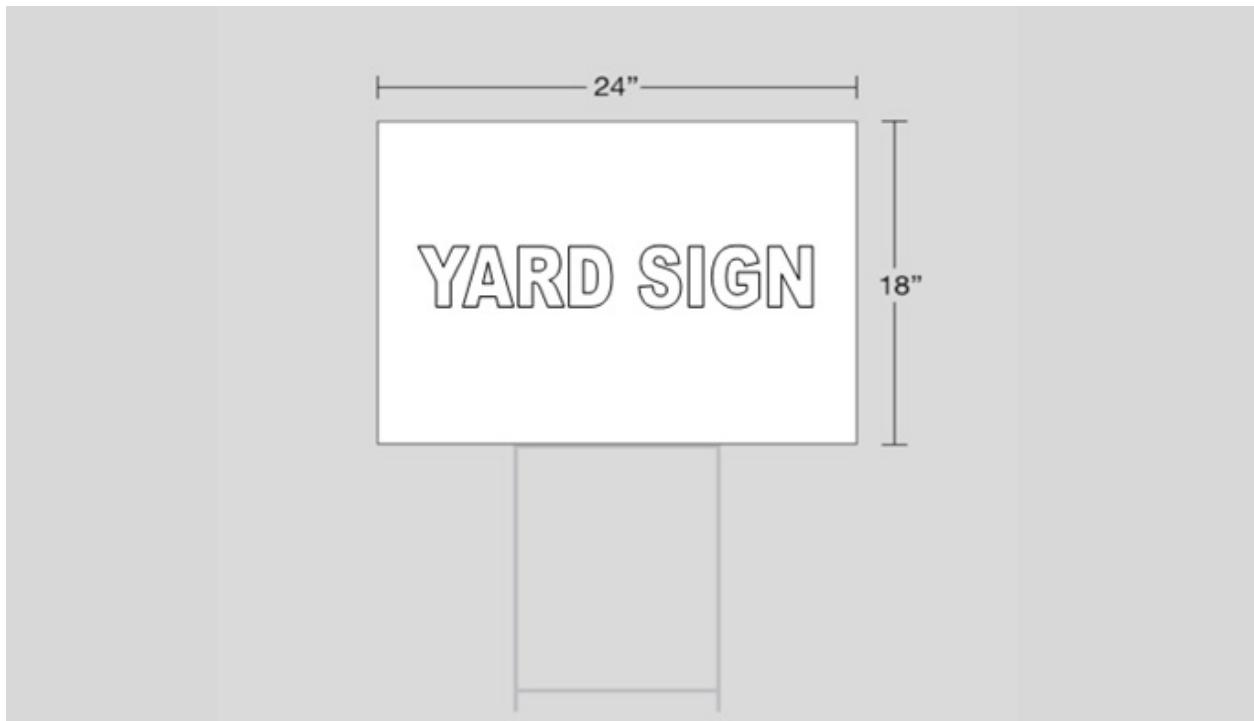
PROJECTING SIGN REGULATIONS APPLICABLE TO ALL DISTRICTS. FIGURE 7-9



SIDEWALK SIGN REGULATIONS APPLICABLE TO ALL DISTRICTS. FIGURE 7-10



POLE SIGN. FIGURE 7-11.



YARD SIGN. FIGURE 7-12.



BANNER SIGN. FIGURE 7-13.

Section 703 – Sign Permit Procedures

- A. **PERMIT REQUIRED.** Prior to the commencement of the erection, alteration or structural change to a sign or other advertising structure, with the exception of the signs listed in Section 703.B and identified as “exempt”, a zoning permit must be obtained in accordance with the process set forth in Section 1102 , Zoning Compliance Permit.
- B. **EXEMPT SIGNS.** The following signs shall not require a permit but shall be subject to all other applicable regulations of this article.
 1. Government signs, including wayfinding, identification, traffic control and light pole banner signs.
 2. Signs with an area of less than two (2) square foot.
 3. Traffic control signs approved and established by state, county or local units of government.
 4. Internal site traffic circulation and wayfinding signs on private property.
 5. Window signs, provided no flashing lights are used in conjunction with the window sign, and the window sign does not exceed fifty percent (50%) of the window to which it is affixed.
 6. Flags and flagpoles, provided no more than three (3) flag poles are erected at a height not to exceed thirty five (35) feet.
 7. Yard signs as regulated in Section 704.

Section 704 – General Provisions for Signs in All Districts

The following regulations are applicable to signs in all zoning districts:

- A. **Vertical Clearance.** Any awning sign, marquee sign, and projecting sign shall maintain a minimum vertical clearance of eight (8) feet from the bottom of the sign to the ground directly beneath the sign.
- B. **Vehicle Signs.** Vehicles that bear signs (Figure 7-3) may be parked on-site provided they are located in such a manner that they do not function as signs as prohibited by Section 705. of this Article. In no case shall a vehicle bear an electronic or static billboard, as defined in Section 702, on any public or private street or on any public or private property within the City.
- C. **Monument Signs.**
 1. Monument signs shall not exceed six (6) feet in height in any district.
 2. Monument signs over three (3) feet in height shall not be placed within any clear vision area as illustrated in Section 302 of this Ordinance.
 3. Electronic reader boards or LED/digital copy area shall not exceed fifty percent (50%) of the sign copy area within a monument sign, and shall comply with the illumination requirements outlined in Section 704.G of this Ordinance.
 4. Monument signs shall be constructed primarily with carved wood, brick, stone, wrought iron, terra cotta, glazed tile, or similar decorative material in order to reflect and enhance the character of the area.
- D. **Sign Measurement.** Except where otherwise expressly provided for in this article, sign copy area and heights of signs shall be measured in accordance with the requirements below, and per the illustration shown in Figure 7-4:
 1. The height of a monument sign shall be measured as the vertical distance from the highest point on the sign to the grade of the surface on which the sign is erected. The height measurement for monument sign shall include the height of the base or support structure on which it is fixed.
 2. The sign copy area shall be measured as the area within a single, continuous perimeter composed of four (4) straight lines which enclose the extreme limits of writing, representation, emblem, logo, or any other figure of similar character, together with any frame, architectural feature or other material or color-forming part of the display or used to differentiate the sign from the background against which it is placed. See Figure 7-5.
 3. The area of a monument sign that has two (2) or more faces shall be measured by including the area of all sign faces. However, if two (2) such faces are placed back-to-back and are no more than two (2) feet apart at any point, the area of the two (2) back-to-back faces shall be counted as one face with the larger of the two (2) sign faces to be counted as the relevant sign face for sign area measurement purposes.

- E. **Removal or Repair of Signs; Notice.** Any sign and appurtenant structure shall be removed or repaired by the owner within thirty (30) days of receipt of notice from the Zoning Administrator or their designee, stating that the sign is unsafe, not properly maintained, or otherwise does not comply with the requirements of this article (excluding properly maintained signs that lawfully retain associated nonconforming rights).
- F. **Structural Requirements.** All permanent signs shall be constructed to withstand all wind and vibration forces that normally can be expected to occur in the vicinity, per the applicable building codes.
- G. **Sign Illumination.** Signs may be internally or externally illuminated where permitted. The following provisions apply to illuminated signage in the City of Niles:
1. Glare and Distractions. All illuminated signs shall not create glare or light trespass onto adjacent properties. Any sign illumination that may cause or otherwise create traffic hazards is prohibited.
 2. Electrical Wiring. All electrical wiring shall be located underground and any associated electrical conduit or piping shall not be exposed to view above ground.
 3. External Illumination. For externally illuminated signs, the lighting fixture shall be mounted above the sign only and the light fixture shielded such that light is directed downward and directly at the sign face only (below the horizontal plane). Externally illuminated signs shall not be directly aimed at adjacent streets, roads, or other properties, and shall meet all other applicable standards of this zoning ordinance.
 4. Internal Illumination. Internally illuminated signs shall adhere to the following parameters:
 - a. The sign shall not be illuminated after 11:00 PM or no more than thirty (30) minutes after the close of business, whichever is earlier.
 - b. No sign shall be illuminated prior to 6:00 AM or thirty (30) minutes before the opening of business, whichever is later.
- H. **Projection.** A sign and its supporting mechanism shall not extend beyond any lot lines of the property on which it is located except that in the CBD, Central Business district, projecting signs may project over the public sidewalk.
- I. **Roof Signs.**
1. A roof sign shall not project or extend beyond or above the highest point of the roof line.
 2. Only one (1) roof sign shall be permitted per building.
 3. The size of a roof sign shall not exceed ten (10) percent of the building frontage area or the area occupied by an individual business within a multi-tenant building.
 4. Lighting for roof signs shall comply with Section 704.G.
 5. Roof signs are not permitted in the CBD, Central Business District.
 6. A roof sign may consist of painting on the surface of a roof or a sign that is composed of roofing materials or other materials affixed parallel to the roof surface.

J. **Changeable Copy Reader Boards.** Wall and freestanding signs may include manual or digital changeable reader boards subject to the following regulations:

1. The reader board portion of the sign shall not consist of more than fifty percent (50%) of the total permitted sign copy area (see Figure 7-7) .
2. The changeable copy on a digital reader board or electronic message center shall not change at a frequency higher than every ten (10) seconds.
3. The brightness of the internal illumination of the electronic LED, LCD, or other type of digital display shall be controlled remotely to adapt to daylight and evening light levels.
4. Digital reader boards are permitted in non-residential districts only, unless used in conjunction with a permitted non-residential use in a residential district.
5. All digital reader boards must adhere to the following illumination requirements:
 - a. Digital reader boards shall comply with the internal illumination requirements outlined in Section 704.G.
 - b. The illumination levels of digital reader boards shall comply with Section 905, Lighting, of this ordinance.
6. Nonconforming pylon or pole signs shall not be upgraded to include digital reader board copy area.
7. Temporary manual reader boards are not permitted within the City limits.

K. **Wall Signs.**

1. Wall signs shall not obscure architectural features of the building including, but not limited to windows, arches, sills, moldings, cornices, and transoms.
2. Wall signs shall not extend above the lowest point of the roof, nor beyond the ends of the wall to which it is attached.
3. A wall sign shall not be placed above nor shall any part of the sign extend above the bottom of the second-story window of a multi-story building. Wall signs shall not project past the wall face by more than one (1) foot.

L. **Projecting Signs.**

1. Projecting signs shall not extend vertically beyond the bottom of the window sill of the second story.
2. The sign shall maintain a minimum clearance from the ground of eight (8) feet.
3. The sign shall be mounted to the building by a single mounting bracket (support chains shall be prohibited) and no support material shall project below the sign.
4. Projecting signs shall not be internally lit. External illumination is permitted but the source of illumination shall not cause glare and shall comply with Section 704.H and 704.I.

M. Awning and Marquee Signs.

1. Such signs shall not project more than six (6) feet into the public right-of-way, nor be closer than three (3) feet to any street curb line.
2. The awning or marquee to which the sign is attached shall maintain a minimum clearance from the ground of eight (8) feet. (See Figure 7-2).

N. Sidewalk Signs.

1. Sidewalk signs shall only be permitted on property zoned NC, Neighborhood Commercial or CBD, Central Business District.
2. The sign shall be placed in front of the establishment that is using the sign.
3. A minimum of five (5) feet of unobstructed sidewalk clearance must remain on the sidewalk at all times.
4. A display area adjacent to and not extending further than thirty six (36) inches from the front wall of the building may contain a sidewalk sign. However, five (5) feet of unobstructed sidewalk clearance must be maintained between the sign and the edge of the street or roadway.
5. The sign shall not be placed in a way that obstructs pedestrian circulation, interferes with the opening of doors of parked vehicles, or snow removal operations.
6. Such signs shall be properly maintained and not allowed to become unsightly.
7. Such signs shall only be in place during hours of operation of the establishment.

O. Pole Signs. No pole sign shall be permitted as of the effective date of this ordinance. Any existing pole signs shall be subject to Section 714, Nonconforming Signs.

P. Temporary Signs.

1. Temporary signs as defined in Section 702 are permitted subject to the following restrictions:
 - a. Sidewalk signs (as shown in Figure 7-10) shall not be deemed temporary signs
 - b. All temporary signs shall be subject to the prohibitions outlined in Section 705.
 - c. Yard signs:**
 - i. Up to four (4) temporary yard signs are permitted for every parcel in all districts.
 - ii. Temporary yard signs shall not be subject to the requirements of Section 1102, Permit Procedures and Regulations.
 - iii. No temporary yard sign shall be permitted in a single location for a period exceeding ninety (90) days.
 - iv. Temporary yard signs shall not exceed an area of four (4) square feet.
 - v. Temporary yard signs shall adhere to the provisions of Section 705, Prohibitions.

d. Temporary banner signs:

- i. A temporary banner shall not be subject to Section 1102, Permit Procedures and Regulations.
- ii. One (1) temporary banner sign shall be permitted in association with non-residential uses within the NC, IND, OC, or RC zoning districts, or on parcels in residential districts when associated with a non-residential use.
- iii. No temporary banner sign shall be located in a single location for longer than thirty (30) days.
- iv. Temporary banner signs shall not exceed eight (8) square feet.
- v. Temporary banner signs shall adhere to the provisions of Section 705, Prohibitions.

Section 705 – Prohibitions

The following forms, conditions, and actions are prohibited as it pertains to signs in the City of Niles.

- A. **Inflatable Signs.** Inflatable or balloon signs (“air dancers”) are not permitted in any district at any time.
- B. **Unsafe Signs.** Any sign which is structurally or electrically unsafe, consistent with the City’s adopted codes. The procedures outlined in Article 11, Administration and Enforcement shall be followed in notifying a property owner of their responsibility to repair or remove an unsafe sign.
- C. **Consent Required.** Any sign erected on any property, public or private, without the consent of the property owner, shall be prohibited.
- D. **Motion.** A sign shall not contain parts or display images that flash or blink, nor shall any sign contain moving parts.
- E. **Prohibition in Right of Way.** Signs shall not be placed in, upon or over any public right-of-way, private road easement, alley, or other place, except as may be otherwise permitted by this ordinance.
- F. **Prohibition on Utility Poles.** A utility pole, light pole or other similar supporting member shall not be used for the placement of any sign unless specifically designed and approved for such use.
- G. **Obstructions Prohibited.** A sign shall not be erected in any place where it may, by reason of its position, shape, color, or other characteristics, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or constitute a nuisance per se. Additionally, no sign shall obstruct the twenty five (25) foot clear vision zone at intersections as illustrated in Section 303 of this Ordinance.
- H. **Sparks and Flames.** No sign shall incorporate any type of spark or flame.
- I. **Blighted Signs Prohibited.** Any sign which, in the opinion of the Zoning Administrator, has

deteriorated due to structural damage, unshielded lights, exposed electrical wiring, cracked or broken sign cabinet, significant rust or other deterioration of materials, and peeling or flaking paint. The procedure outlined in Article 11, Administration and Enforcement, shall be followed in notifying a property owner of their responsibility to repair or remove an unsafe sign.

- J. **Vehicle Signs.** Stationery or moving vehicle signs, which contain a fixed billboard display that is either digital or static, used for the purpose of on or off-premise display of messages, shall be prohibited in all zoning districts.

Section 706 – Residential District Sign Allowances

- A. In addition to other regulations provided herein, signs associated with residential and non-residential uses in residential zoning districts, and residential uses in non-residential districts are subject to the following:

Signs Permitted in Residential Districts, R-1, R-2, MHP, or other districts that contain a residential or mixed-use (with the exception of PUD districts):						
Form		Max #	Max Area (per sign)	Max height (per sign)	Illumination Permitted	Min. Setback
Monument	Residential Development/ Subdivision	1	25 sq. ft.	6'	Yes (external only)	1' from R.O.W. line for every 1' of sign height
	Non-Residential Uses	1	32 sq. ft.	6'	Yes	1' from R.O.W. line for every 1' of sign height
Wall	Home Occupations	1	2 sq. ft.	N/A	No	N/A
	Non-Residential Uses	1 per street frontage	32 sq. ft.	N/A	Yes (external only)	N/A
Temporary Signs		Permitted in accordance with Section 704.P				
Electronic Reader Boards (monument signs ONLY)		Shall comply with Section 704.G and 704.J				
Electronic Reader Boards (monument signs ONLY)		1	Not more than 50% of sign copy area	8'	Yes	N/A

Section 707 – CBD, Central Business District Allowances

A. In addition to other regulations provided herein, the following shall apply to signs associated with non-residential uses within the CBD, Central Business District:

Signs Permitted in the CBD, Central Business District					
Form Permitted	Max #	Max Area (per sign)	Max height (per sign)	Illumination Permitted	Min. Setback
Monument	1 per parcel	32 sq. ft.	6'	Yes	Not less than 5' from the front or side property line
Temporary Signs	Permitted in accordance with Section 704.P				
Projecting	1 per 20' of street frontage	12 sq. ft.	6'	Yes	No part of a projecting or suspended sign shall extend from the building upon which it is mounted more than seven (7) feet
Sidewalk	1 per commercial establishment	8 sq. ft.	6'	No	Must maintain 5' of clearance on sidewalk
Marquee	1 per street frontage	Not to exceed 30% of vertical surface area to which it is affixed	N/A	Yes	The marquee structure shall not project closer than two (2) feet from the edge of the street right-of-way.
Wall	1 wall sign per building side facing a street or public parking area	Not to exceed 10% of the wall face to which it is affixed	N/A	Yes	N/A
Electronic Message Center	Shall comply with Section 704.G and 704.J				
	1 per essential service or public entity	Not to exceed 50% of total sign copy area within a Monument sign only	6'	Yes	None

B. Additional requirements for signs in the CBD, Central Business District:

1. Residential uses are subject to the sign allowances provided in Section 706.A.
2. Signs for non-residential multiple occupant structures:
 - a. Number: Not more than one (1) monument sign per street frontage and one wall sign per street frontage for each occupant, provided the area requirements of this section are met.
 - b. Area: Not more than thirty-two (32) square feet for monument signs and the cumulative total of all wall signs shall not exceed ten percent (10%) of the first story building wall area upon which the signs are affixed.
 - c. Location: For monument signs, not less than one (1) foot from any property line, and shall comply with the requirements of Section 302, Vision Clearance.

Section 708 – NC, Neighborhood Center District Allowances

A. In addition to other regulations provided herein, the following shall apply to signs associated with non-residential uses within the NC, Neighborhood Commercial District:

Signs Permitted in the NC, Neighborhood Center District					
Form Permitted	Max #	Max Area (per sign)	Max height (per sign)	Illumination Permitted	Min. Setback
Monument	1 per parcel	32 sq. ft.	6'	Yes	Not less than 6' from the front or side property line
Temporary Signs	Permitted in accordance with Section 703.P				
Projecting	1 per 20' of street frontage	12 sq. ft.	N/A	Yes	N/A
Sidewalk	1 per commercial establishment	8 sq. ft.	6'	No	Must maintain 5' of clearance on sidewalk
Marquee/ Awning	1 per street frontage	Not to exceed 20% of vertical surface area to which it is affixed	N/A	Yes	N/A
Wall	1 per side of the building facing a street right-of-way or public parking area	Not to exceed 10% of the area of the first story wall face to which it is affixed	N/A	Yes	N/A
Electronic Message Center (monument signs ONLY)	Shall comply with Section 704.G and 704.J				
	1 per essential service or public entity	Not to exceed 50% of total sign copy area within a Monument sign only	6'	Yes	None

B. Additional requirements for signs in the NC, Neighborhood Center District:

1. Residential uses are subject to the sign allowances provided in Section 706.A.

Section 709 – RC, Regional Commercial District

- A. In addition to other regulations provided herein, the following shall apply to signs in the RC, Regional Commercial zoning district:

Signs Permitted in the RC, Regional Commercial zoning district					
Form Permitted	Max #	Max Area (per sign)	Max height (per sign)	Illumination Permitted	Min. Setback
Monument	1	48 sq. ft.	6'	Yes	Not less than 10' from any property line
Temporary Signs	Permitted in accordance with Section 704.P				
Marquee or Awning	1 per street frontage	Not to exceed 30% of the total vertical surface area of the marquee/awning/canopy to which it is affixed	N/A	Yes	N/A
Wall	1 per street-facing building side	Not to exceed 100 sq. ft. or 20% of wall face of building or tenant space, whichever is less.	N/A	Yes	N/A
Window	1 per street frontage	Shall not exceed 30% of the total window area on any side of the building	N/A	No	N/A
Billboards	Existing Billboards permitted subject to Section 713.				
Electronic Message Center/ Digital and Changeable Copy	Shall comply with Section 704.G and 704.J				

- B. Additional requirements for signs in the RC, Regional Commercial zoning district:

1. Business Center Signs for multiple occupant structures.

- a. Wall signs: The cumulative total of all wall signs shall not exceed the lesser of one hundred (100) square feet or twenty percent (20%) of the first story building wall area upon which such signs are affixed.
- b. Height: Monument signs shall not exceed six (6) feet in height.
- c. Maximum Monument sign display area shall be determined in accordance with the following table:

Street Frontage	Maximum Display Area
Less than 100 feet	40 square feet
101 to 200 feet	50 square feet
201 to 300 feet	60 square feet
more than 300 feet	80 square feet

Section 710 – OC, Office Commercial District Allowances

- A. In addition to other regulations provided herein, the following shall apply to signs associated with non-residential uses within the OC, Office Commercial district:

Signs Permitted in the OC, Office Commercial Zoning District					
Form Permitted	Max #	Max Area (per sign)	Max height (per sign)	Illumination Permitted	Min. Setback
Monument	1 per parcel	48 sq. ft.	6'	Yes	None
Temporary Signs	Permitted in accordance with Section 704.P				
Projecting	1 per 20' of street frontage	14 sq. ft.	N/A	Yes	N/A
Marquee	1 per street frontage	Not to exceed 20% of the area of the surface to which it is affixed	N/A	Yes	N/A
Wall	1 per side of the building facing a street right of way or public parking area	Not to exceed 10% of the area of the wall face to which it is affixed.	N/A	Yes	N/A
Electronic Message Center	Shall comply with Section 704.G and 704.J				
	1 per monument sign	Not to exceed 50% of total sign copy area within a Monument sign only	N/A	Yes	N/A

- B. Additional requirements for signs in the OC, Office/Commercial District:

1. Residential uses are subject to the sign allowances provided in Section 706.A.
2. Business Center Signs for multiple occupant structures.
 - a. Number: Not more than one (1) monument sign per street frontage and any number of wall signs, provided the area requirements of this section are met.
 - b. Area: Not more than thirty-two (32) square feet for monument signs and the cumulative total of all wall signs shall not exceed ten percent (10%) of the first story building wall area upon which the signs are affixed.
 - c. Location: For monument signs, not less than seven (7) feet from the front or side parcel line. Wall signs shall be mounted above the window course on the side of the building facing the street right-of-way or public parking area, but not lower than eight (8) feet nor higher than twenty (20) feet above the existing grade. Wall signs shall not project from the building face by more than one (1) foot.
 - d. Height: Monument signs shall not exceed six (6) feet in height.

Section 7II – IND, Industrial District Allowances

A. In addition to other regulations provided herein, the following shall apply to signs in the IND, Industrial zoning district:

Signs Permitted in the IND, Industrial zoning district					
Form Permitted	Max #	Max Area (per sign)	Max height (per sign)	Illumination Permitted	Min. Setback
Monument	1 per parcel	48 sq. ft.	6'	Yes	7' from side or front property line
Temporary Signs	Permitted in accordance with Section 704.P				
Wall	1 per side of the building facing a street right-of-way or public parking area	The lesser of one hundred (100) square feet or twenty percent (20%) of the first story building wall area upon which the sign is affixed	N/A	Yes	N/A
Marquee	1 per commercial establishment and each street frontage	Not to exceed 20% of wall face of building or tenant space	N/A	Yes	N/A
Electronic Message Center	Shall comply with Section 704.G and 704.J				
	1 per monument sign	Not to exceed 50% of total sign copy area within a Monument sign only	N/A	Yes	N/A

B. Additional requirements for signs in the IND, Industrial zoning district:

1. Business Center Signs for multiple occupant structures:

- a. Number: Not more than one (1) monument sign per street frontage and any number of wall signs, provided the area requirements of this section are met.
- b. Area: Not more than forty-eight (48) square feet for monument signs and the cumulative total of all wall signs shall not exceed the lesser of one hundred (100) square feet or twenty percent (20%) of the first story building wall area upon which the sign is affixed.
- c. Location: For monument signs, not less than seven (7) feet from the front or side parcel line.
- d. Height: Monument signs shall not exceed six (6) feet in height.

Section 712 – OS, Open Space District Allowances

- A. In addition to other regulations provided herein, the following shall apply to signs associated with uses within the OS, Open Space district:

Signs Permitted in the OS, Open Space zoning district					
Form Permitted	Max #	Max Area (per sign)	Max height (per sign)	Illumination Permitted	Min. Setback
Monument	1 per parcel	32 sq. ft.	6'	Yes	Not less than 7' from front or side property line
Temporary Signs	Permitted in accordance with Section 704.P				
Marquee	1 per street frontage	Not to exceed 30% of vertical surface area to which it is affixed	N/A	Yes	N/A
Wall	1 side of building facing street right of way or public parking area	Not to exceed 10% of the area of the wall face to which it is affixed	N/A	Yes	N/A
Electronic Message Center	Shall comply with Section 704.G and 704.J				
	1 per monument sign	Not to exceed 50% of total sign copy area within a Monument sign only	N/A	Yes	None

Section 713 – Billboards

- A. New billboards shall not be erected within the City limits after the effective date of this ordinance. Existing billboards shall adhere to the following provisions:
1. Permitted Activity:
 - a. Any existing billboards shall not be expanded or enlarged, with the exception of routine maintenance or repairs.
 - b. Existing billboards within the City are permitted to lawfully remain for the life of the billboard.
 - c. The life of the billboard shall be defined as the period within which the structural integrity of the billboard supports meets current building code standards for wind loads and weight loads, as determined by a structural engineer.
 - d. Billboards that are visibly in disrepair may be required to be inspected by a structural engineer to determine whether the supports are structurally sound in accordance to Section 713.A.c.
 2. Activity Permitted Upon Issuance of a Zoning Permit
 - a. The sign copy area may be refaced or replaced within the life of the billboard, so long as the supports remain structurally sound and the sign copy area is not expanded, enlarged, or upgraded to any other format (such as digital or tri-vision), and shall remain static.
 - b. Any changes to the sign copy area shall require the issuance of a zoning permit. The application for a zoning permit shall contain a clear description of the proposed scope of work for the reface or replacement of the sign copy area.
 - c. The zoning administrator may require an inspection of the billboard structure by a structural engineer to determine whether the supports are in structurally sound condition to support changes to the sign copy area, prior to the issuance of a zoning permit for the reface or replacement of the sign copy area.

Section 714 – Nonconforming Signs

- A. It is the intent of this Section to permit the continuance of the lawful use of any sign that does not conform with the provisions of this ordinance with regard to size, number, height, form, illumination or location. All lawful nonconforming signs shall be subject to the following regulations:
1. Nonconforming Status: All signs which have been lawfully erected or are lawfully in place on the effective date of this Article, but which do not comply with the provisions of this Article shall be deemed nonconforming.
 2. Structural Changes: Structural supports, framing mechanisms, or other parts of any nonconforming sign shall not be changed, altered, substituted, or enlarged unless the result of the structural change conforms with the provisions of this article. Removal of the structural support mechanisms will result in loss of nonconforming rights associated with the sign.
 3. Repairs and Refacing: Nonconforming signs may undergo repairs and alterations resulting in the change of the sign copy areas that do not alter the sign by way of structural changes as described in part 2 of this section. Repairs may include, but are not limited to:
 - a. Refacing that is typically associated with rebranding, change in ownership or replacement of sign copy area due to damage.
 - b. Painting.
 - c. Resurfacing.
 - d. Upgrading of electrical wiring or illuminating mechanisms.
 - e. Addition of an electronic message center, not exceeding 50% of the sign copy area, as permitted for essential services and public entity uses only.
 - f. Routine maintenance.
 - g. Any other repair or upgrade determined by the Zoning Administrator not to be a structural change.
 4. Replacement. If a nonconforming sign is damaged to the point of needing structural repairs, it may not be reconstructed, or replaced except with a sign that conforms to with all the provisions of this Article.

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Article 8:

Special Land Uses

Section 800 – Purpose

A Special Land Use (also “Special Use”) is a use that is permitted within a specified zone district after meeting specific requirements listed in this Article 8. It is the purpose of this Article to name, describe, and list any additional requirements for each individual conditional land use. Due to the nature of the use, Special Uses require special consideration in relation to the welfare of adjacent properties and to the community as a whole.

Section 801 – Special Use Procedures and Standards

A Special Use application shall be submitted and processed according to the following procedures:

- A. Submission of Application.** Applications shall be submitted through the Zoning Administrator to the Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the City Council to cover the costs of processing the application. Application fees shall not be refundable, unless held in escrow, in accordance with Article 11. An application shall be submitted to the Zoning Administrator on a Special Use permit application form.
- B. Completed Applications.** A special land use application shall be placed on the agenda of the Planning Commission by the Zoning Administrator within thirty (30) days of the submission of a *complete* application prepared in accordance with this Zoning Ordinance. An application, which is incomplete or otherwise not in compliance with this Ordinance, shall be returned to the applicant. No application shall be processed until properly prepared and submitted and all required fees paid in full.
- C. Data Required.** An application for a Special Use permit shall be presented to the Zoning Administrator on forms provided by the City, and accompanied by the following supplemental documentation and information:
 - 1. The completed Special Use permit application, which shall include the following information:
 - a. Name and address of applicant.
 - b. Legal description, property parcel number and street address of the subject parcel of land.
 - c. Area of the subject parcel of land stated in acres, or if less than one (1) acre, in square feet.
 - d. Present zoning classification of the parcel.
 - e. Present and proposed land use.

2. A letter or signed narrative describing in detail the proposed special use and detailing why the location selected is appropriate.
3. Applicant's statement of the expected effect on emergency service requirements, schools, storm water systems, automobile and truck circulation patterns, and local traffic volumes.
4. Any additional material information necessary to consider the impact of the project upon adjacent properties and the general public as may be required by this Ordinance, by the City Zoning Administrator or the Planning Commission.
5. A statement and other evidence or proof by the applicant of present and future compliance with the standards required for approval in this Article and other standards imposed by this Ordinance affecting the special use under consideration.
6. A complete Site Plan containing all the applicable data required by Section 901.B, Data Required for Site Plan Review.
7. Supporting statements, evidence, information and exhibits that address the standards and requirements for evaluating Special Use permit applications as provided in this Article.
8. Any additional information deemed necessary for the Planning Commission to determine the impact of the proposed Special Use on the adjacent properties, public infrastructure, and community as a whole. Such information may take the form of, but is not limited to the following:
 - a. Traffic impact analysis
 - b. Environmental impact assessments,
 - c. Reports and/or testimony by officials representing state, county or local departments of public safety (police and fire), health, highways or roads, and/or environment.
9. The Zoning Administrator may, with the approval of the Planning Commission, waive the submission of materials outlined in this Section if such materials are determined to be not applicable to the proposed Special Use or relevant to the consideration of the Planning Commission.

D. Special Use Review Procedures. An application for Special Use Approval shall be processed as follows:

1. **Public Hearing.** The public hearing must be noticed in the manner outlined in Article 11, Administration and Enforcement.
2. **Planning Commission Action.** After the Public Hearing and upon review of the merits of the Special Use permit application, the Planning Commission shall review the site plan and other application materials to reach a decision to approve, approve with conditions, or deny the application.
3. **Motion.** The Planning Commission's decision shall be incorporated in a motion containing conclusions reached relative to the proposed Special Use which motion shall provide the basis for the decision and any conditions imposed.

4. **Basis for Action.** In arriving at its decision, the Planning Commission shall refer to and be guided by those standards set forth in this Section 802 of this Article, and for certain uses, the additional standards set forth in Section 803, if applicable. If the facts regarding the Special Use do not establish by preponderance of the evidence that the standards and requirements set forth in the Article can and will be met by the proposed Special Use, the Planning Commission shall deny the Special Use permit application.
5. **Attachment of Conditions.** Subject to the terms of this Article, the Planning Commission may prescribe conditions of approval deemed necessary to achieve the following:
 - a. To protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and land owners immediately adjacent to the proposed land use or activity, and the community as a whole.
 - b. Related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
 - c. The intent and purpose of the Zoning Ordinance;
 - d. Connection to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.
- E. **Issuance of a Special Use permit.** Upon approval by the Planning Commission, the Zoning Administrator shall issue the Special Use permit. It shall be the responsibility of the Zoning Administrator to monitor compliance with the terms, conditions and restrictions of any Special Use permit and take any enforcement action necessary in the event of a violation of the Special Use permit.
- F. **Appeals.** No decision or condition related to a Special Use application, other than an interpretation of the terms of this Ordinance, shall be taken to the Zoning Board of Appeals. An appeal of a Special Use decision or condition may be taken to the Circuit Court.
- G. **Effectiveness of Approval.** The Special Use permit shall become effective when the Planning Commission has approved the application, provided the following are met:
 1. The Building Official shall not issue a Building Permit until approval of such Special Use permit and the satisfactions of any conditions pertaining to such approval are met.
 2. Until a Building Permit has been granted pursuant to the Special Use permit, there shall be no construction or excavation of said land, nor shall there be any use of the land in anticipation of the Special Use unless such use is incorporated in the conditions of approval adopted by the Planning Commission.
 3. Land subject to a Special Use permit may not be used or occupied for such special use until after a certificate of occupancy has been issued pursuant to the provisions of this Ordinance.
- H. **Amendments.** Amendments to Special Use permits shall be handled in the same manner as the initial Special Use permit application. Minor non-substantive changes to a site plan may be made to an existing Special Use permit with the approval of the Zoning Administrator, if the proposed amendment is considered minor, per the criteria outlined in Section 901.2.B, Administrative Site Plan Review.

- I. **Expiration.** Site plan approval shall expire one year from the approval date, in accordance with Section 901.6.E. Once construction has commenced and is completed, special use permits shall run with the land, and be valid for as long as the approved use continues in accordance with the terms and conditions of the approved permit. Expiration of the Special Use permit after its establishment can also occur if any other following conditions are true:
 - 1. If replaced or superseded by a subsequent permitted use or Special Use permit.
 - 2. If the applicant requests the rescinding of the Special Use permit.
 - 3. If a condition of approval included stipulation to expire the Special Use permit by a certain date.
 - 4. If the use is abandoned, moved or vacated for a period of one year.
- J. **Violations.** Any violation of the terms, conditions or limitations of a Special Use permit shall be cause for revocation or suspension of the permit. The Planning Commission may either revoke or suspend, pending correction of the violation, any Special Use permit. The act to revoke or suspend the permit shall occur after giving notice to the permit holder, specifying the alleged violation(s) and disclosing when a hearing will be held on the matter. The notice shall be delivered by registered mail. Any interested party may appear in person or by attorney at the hearing. The act to revoke or suspend the permit shall occur after, or at the hearing on the matter. Before revoking or suspending the permit, the Planning Commission shall make a finding that a material violation of the Special Use permit exists. The permit holder shall be given reasonable opportunity to correction the violation(s).

Section 802 – Special Land Use General Standards

- A. **Special Use Review Standards.** The following standards shall govern the review and approval of all uses expressly named as special uses in the City of Niles.
 - 1. **General Review Standards.** The Planning Commission, before acting on a Special Use permit application, shall employ and be guided by standards which shall be consistent with and promote the intent and purpose of this Zoning Ordinance, and ensure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use.

The Planning Commission shall review each application and shall approve such Special Use only if it finds that such Special Use meets each of the following standards, together with any and all Special Use standards reflected for the zoning district in Article 5 hereof, and any and all applicable specific review standards found in this Article. The Planning Commission shall find adequate evidence that each use at its proposed location will be consistent with the public health, safety, and welfare of the City and shall comply with the following standards:

 - a. The Special Use shall be consistent with the adopted City of Niles Master Plan.
 - b. The Special Use shall be designed, constructed, operated and maintained to be consistent with the existing or intended character of the general vicinity and such use will not change the essential character of the area in which it is proposed.

- c. The Special Use shall not be hazardous or disturbing to existing or future uses in the same general vicinity and in the community as a whole.
- d. The Special Use shall be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, storm water drainage, refuse disposal, water and sewage facilities and schools or persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately for such services.
- e. The Special Use shall not create excessive additional requirements at public cost for facilities and services and will not be detrimental to the economic welfare of the community.
- f. The Special Use shall not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any person, property or general welfare by reason of excessive production of traffic, noise, vibration, smoke, fumes, glare or odors.
- g. The Special Use shall meet the intent and purpose of the Zoning Ordinance; be related to the standards established in the Ordinance for the land use or activity under consideration; and will be in compliance with these standards.
- h. All applicable development standards in relation to site plan review, access, landscaping, off-street parking and loading, and stormwater management, as outlined in Article 9, Site Design Standards, shall be met.

2. Conditions and Approval Standards.

Further, the Planning Commission's approval of a special and use may include reasonable conditions. Conditions imposed shall meet all of the following requirements:

- a. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and land owners immediately adjacent to the proposed land use or activity, and the community as a whole.
- b. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
- c. Be necessary to meet the intent and purpose of the Zoning Ordinance; be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

Section 803 – Specific Review Standards for Certain Uses

Specific Review Standards. In addition to the general review standards set forth in Section 802, the Planning Commission, shall apply the specific review standards set forth in Section 803 for specific uses deemed Special Use.

803.1 – Accessory Buildings Exceeding Area of Principal Structure

A. Regulations and Conditions.

1. In all zoning districts and on parcels of less than one (1) acre, the floor area of an accessory building as defined in this Section shall not exceed the ground floor area or building footprint of the principal building by more than fifty percent (50%).
2. In all zoning districts, except the IND district, the following standards shall be applied:
 - a. On parcels of more than one (1) acre, but less than five (5) acres, the floor area of an accessory building as defined in this Section shall not exceed the ground floor area or building footprint of the principal building by more than one hundred percent (100%).
 - b. On parcels of five (5) acres or more, the floor area of an accessory building as defined in this Section shall not exceed the ground floor area or building footprint of the principal building by more than two hundred percent (200%).
3. Only within the IND district on parcels larger than one (1) acre, the ground floor area or footprint of accessory buildings may exceed the area of the principal building without limitation, providing all other provisions of this Zoning Ordinance are met.
4. The floor area limitations of this Section shall be applied cumulatively for all accessory buildings on a parcel.
5. Accessory buildings as defined in this Section shall comply with all yard, setback and building height standards of this Zoning Ordinance.

803.2 – Accessory Dwelling Units (ADU)

- A. Intent. Accessory Dwelling Units are intended to accommodate the rising need of family members living upon a single parcel, but who desire separate quarters, as well as to provide additional attainable housing options for both family members and non-family members.
- B. Standards and Conditions.
 1. All structures designed and/or used for the temporary or permanent dwelling of a person or persons and not integrated into the primary residence on a lot shall be considered an Accessory Dwelling Unit. Accessory dwelling units shall be permitted as special land use on lots of five thousand (5,000) square feet or more in the R-1 and R-2 zoning districts, subject to the following standards:
 - a. The unit shall be connected to public water and wastewater systems.
 - b. The unit shall include, at a minimum, a kitchen, bathroom, and sleeping area

separate from the primary residence, and shall meet all provisions of the applicable Building Code and regulations of the International Property Maintenance Code (IPMC).

- c. The exterior design of an Accessory Dwelling Unit, whether a detached structure or attached to the principal structure, including the primary dwelling unit, shall be compatible with the existing residence on the lot. The building form, construction materials, dimensions, and landscaping shall remain consistent with the principal structure and in harmony with the character and scale of the surrounding neighborhood.
 - d. The retro-fit of an Accessory Dwelling Unit within an existing accessory building or garage shall meet all applicable building codes for dwelling units, and shall be designed to preserve at least two hundred and eighty eight (288) square feet of storage or garage space within the existing accessory building.
 - e. The accessory dwelling shall not result in excessive traffic, parking congestion, or noise.
 - f. Where applicable, the accessory unit shall be located and designed to protect neighboring views of scenic areas.
 - g. No more than one Accessory Dwelling Unit shall be permitted on a single parcel.
2. Development Standards.
- a. Unit Floor Area. Accessory Dwelling Units shall have a floor area no less than five hundred (500) square feet and no greater than one thousand (1,000) square feet. The floor area of an Accessory Dwelling Unit shall not be greater than one-third that of the primary dwelling.
 - b. Lot Coverage. The maximum lot coverage for a given district be not be exceeded by the combined footprint of the principal building and any accessory buildings, including the Accessory Dwelling Unit. Provided, however when the Accessory Dwelling Unit is adjacent to, and accessed from an alley, the lot coverage for the district may be exceeded by not more than ten percent (10%).
 - c. Setbacks. Accessory dwelling units shall be located in compliance with all setbacks for the zoning district, and in no instance shall any portion of an Accessory Dwelling Unit be located less than three (3) feet from any property line.
 - d. Owner Occupancy. The property owner must occupy either the primary or accessory dwelling.
 - e. Parking. One (1) on-site parking space, in addition to the required parking for the primary residence, shall be provided for an Accessory Dwelling Unit.
 - f. Height. The height of an attached Accessory Dwelling Unit shall not exceed the maximum height for the zoning district in which it is located.
 - g. Window Orientation. Windows facing an adjoining residential property must be aligned, oriented, or screened with fencing or landscaping to protect the privacy of neighboring properties.

- h. Separate Entrance/Exit. All attached Accessory Dwelling Units shall have an entrance/exit separate from that of the primary dwelling unit. Any interior passageways connecting the primary residence to the accessory unit shall be equipped with a solid core door which is locked from both sides.
3. Deed Restrictions. Before obtaining a building permit or occupancy permit, or making an Accessory Dwelling Unit available for use, the property owner shall submit a draft deed restriction to the Zoning Administrator, which incorporates the following restrictions:
- a. The Accessory Dwelling Unit is restricted to the approved floor area, setbacks and height.
 - b. The Accessory Dwelling Unit shall not be sold separately.
 - c. The deed restrictions shall run with the land, and are binding upon any successor in ownership.
 - d. The deed restrictions shall lapse upon the removal of the Accessory Dwelling Unit.
 - e. The draft deed restriction shall be reviewed by the City Attorney prior to recordation. Once recorded, the property owner shall provide a recorded copy of the deed restriction to the Zoning Administrator.

803.3 – Airports

C. Regulations and Conditions.

1. Public Use Airports.

- a. Public Use Airports shall comply with all requirements of the Federal Aviation Administration (FAA), Michigan Aeronautics Commission (MAC), Michigan Department of Transportation (MDOT), and any other agency having jurisdiction in the regulation of public use airports. Written documentation of such compliance shall be furnished to the City.
- b. Public airports shall meet the standards for Class A, B, or C, commercial airports, contained in the Rules and Regulations of the Michigan Aeronautics Commission.
- c. Zoning compliance permits for public airports shall not be granted until the facility has been granted a Landing Area License pursuant to Part 5 of the Rules and Regulations of the Michigan Aeronautics Commission.
- d. Public airports shall not be permitted within an area where an existing dwelling, or other existing buildings classified in “Use Group A, H, I, or R” as defined in the Michigan Construction Code are found. Said area shall extend two-hundred (200) feet on either side of the centerline of the proposed runways and extended for a distance of two-thousand five-hundred (2,500) feet from both ends of the proposed runway.
- e. All signage shall be in accordance with Article 7 of this Ordinance.

2. Private Use Airports.

- a. Any private use airport previously deemed public, shall continue to meet the same FAA, MAC, and MDOT standards and specifications required for public use airports.
- b. Private use airports shall not be located within five (5) miles of a public use airport which is licensed by the Michigan Aeronautic Commission without the prior written approval of the Bureau of Aeronautics pursuant to R259.253 of the Michigan Administrative Code.
- c. Private use airports shall comply with the provisions of the City of Niles Airport Zoning Ordinance.
- d. All signage shall be in accordance with Article 7 of this Ordinance.

803.4 – Places of Public Assembly – Large

A. Regulations and Conditions.

1. Large places of public assembly, as defined herein, shall be effectively sited and designed to comport properly with the surrounding neighborhood. Auditoriums that are out of scale or excessively imposing in an area shall be prohibited.
2. As a condition of approval, the Planning Commission may establish hours of operation for large places of public assembly if in the judgment of the Planning Commission such restrictions are needed to assure the compatibility of the facility with neighboring uses.
3. Large places of public assembly shall front on and be accessed from a major or arterial street, as defined herein.
4. Large places of public assembly that include facilities for the service of food or beverages for commercial purposes shall also meet the standards of Section 803.36, hereof pertaining to Taverns and Lounges.
5. The Zoning Administrator may recommend and the Planning Commission may require the completion of a traffic impact study if the proposed large place of public assembly expected to generate significant levels of traffic that may create excessive congestion. The results of such traffic study may be considered by the Planning Commission in its decision to grant, grant with conditions or deny the special land use application.
6. All signs shall be in accordance with Article 7, Signs.

803.5 – Bed and Breakfast

- A. The Bed and Breakfast Establishment shall comply with all applicable building and fire codes.
- B. All signs shall be in accordance with Article 7 of this Zoning Ordinance.
- C. The number of sleeping rooms rented to transient guests within a Bed and Breakfast Establishment shall not exceed the following standards:

1. Within the R-1 Zoning District: 5 sleeping units
 2. Within the R-2 Zoning District: 6 sleeping units
 3. Within the CB and OC Districts: 6 sleeping units
- D. The establishment shall be the principal dwelling unit on the property and shall be owner-occupied at all times.
 - E. The rooms utilized for sleeping shall be a part of the primary residential use and not specifically constructed for rental purposes.
 - F. The essential character of the lot or structure in terms of traffic generation or appearance shall not be substantially altered.
 - G. A site plan shall include a floor plan layout of the proposed Bed & Breakfast Establishment drawn to scale that shows the specific layout of the proposed facility in accord with the provisions of this Zoning Ordinance.

803.6 – Reserved for Future Use

803.7 – Contractor’s Facility

- A. Regulations and Conditions.
 1. The applicant shall provide documentation acceptable to the Planning Commission that the proposed use shall meet the following standards:
 - a. Uses shall produce no detectable objectionable dust, fumes or odors at any property line, in accordance with the performance standards outlined in Section 902.
 - b. All travel surfaces shall be paved as a condition of approval.
 2. The Planning Commission may establish hours of operation for such uses consistent with the character of the land uses in the vicinity.
 3. Standards for outdoor storage:
 - a. All outdoor storage shall be screened from view by a fence in accordance with the provisions outlined in Section 317.
 - b. No materials or or products shall be stored above the height of the fence.
 - c. No outdoor storage shall occur within any required front yard, unless specifically permitted by the Planning Commission in the case of a corner lot.

803.8 – Camps and Campgrounds

- A. Regulations and Conditions. The applicant shall provide documentation acceptable to the Planning Commission that the proposed use shall meet the following standards:

1. An application for a Special Use permit for a camp or campground shall include evidence of proper licensure by all state and local regulatory agencies.
2. The application shall include a clear definition of the sponsoring agency or organization, including names and resumes of owners/operators and/or officers of the camp. Any affiliation with regional or national organizations shall be disclosed.
3. The applicant shall provide a detailed description of the proposed camping program to be carried out at the facility. Such description shall include the times of the year when the camp is proposed to be occupied, the nature of any instruction or educational program that may be provided, the numbers, ages and gender of campers to be accommodated, the ratio of camp staff to campers, and other information which in the judgment of the Zoning Administrator is necessary to provide a complete presentation of the proposed facility.
4. The site plan presented as part of the Special Use application shall indicate the location of temporary and permanent structures proposed.
5. All signs shall be in accordance with Article 7 of this Zoning Ordinance.

803.9 – Car Wash

A. Regulations and Conditions.

1. All such facilities shall be connected to a public sewer system.
2. All washing activities shall be carried out within a building.
3. No vacuum equipment shall be located closer than one hundred (100) feet from any property line which abuts a property zoned or used for residential purposes.
4. The facility shall comply with the Performance Standards outlined in Section 902.
5. The facility shall not allow stacking lines to queue into the public street or within any public right of way.
6. Any car wash facility proposed on a lot that abuts a residential use or a residential lot shall provide an acceptable screening method as permitted in Section 904.4.

803.10 – Cemeteries

A. Regulations and Conditions.

1. Cemeteries shall be established in compliance with the Public Health Code (Act 368 of 1978, as amended), the Cemetery Regulation Act (Act 251 of 1968, as amended), and any other state or federal legislation having regulatory jurisdiction of the establishment and maintenance of cemeteries.
2. A proposed cemetery that provides a chapel or other enclosure for graveside, interment and committal services shall be appropriately designed to accommodate occasional gatherings, including necessary restroom facilities and utilities.
3. All signs shall comply with Article 7 of this Ordinance.

803.11 – Reserved for Future Use

803.12 – Commercial Establishments with Drive-Through

A. Regulations and Conditions.

1. All automobile queuing for a drive-through window shall be separated from other on-site traffic patterns.
2. Pedestrian areas shall be clearly marked.
3. The drive-through lane(s) shall be designed to accommodate a full-size passenger vehicle pulling a recreation-vehicle trailer.
4. The applicant shall demonstrate to the satisfaction of the Planning Commission that vehicle stacking areas for the drive-through facility are adequate to handle the highest volume likely at the facility without encroaching on the public right-of-way or the drive aisles, parking or pedestrian areas on site.
5. All signs shall comply with Article 7 of this Ordinance.

803.13 – Construction Equipment Sales and Supplies

A. Regulations and Conditions.

1. Building any outdoor storage area shall conform to the yard, setback and height standards of the zoning district in which it is located.
2. Uses shall produce no detectable objectionable dust, fumes or odors at any property line.
3. All travel surfaces shall be paved.
4. Interior site circulation shall be planned in such a manner that any trucks, tractors, cranes, or any other large construction related vehicles shall not protrude into any road right of way during ingress and egress from the site.
5. No off-site discharge of storm water except to approved drainage system in accord with the requirements of the City's Department of Public Works.
6. Noise generated on site from any source shall not exceed fifty (50) decibels measured at any property line.
7. The Planning Commission may establish hours of operation for such uses consistent with the character of the land uses in the vicinity.
8. All signs shall be in accordance with Article 7 of this Zoning Ordinance.

803.14 – Child Care Group Home (7-12 Children)

A. Regulations and Conditions.

1. All required state and local licensing shall be maintained at all times.
2. All outdoor areas used for the care and supervision of patrons shall have appropriate fencing for the safety of the children in the group day-care home; consisting of a six (6) foot high privacy fence along the area adjoining another residence, and a minimum four (4) foot high fence in the remaining area devoted to the day-care area.
3. Such facilities shall be located at least one thousand five hundred (1,500) feet from any one of the following:
 - a. A licensed or pre-existing operating child care group home.
 - b. An adult foster care small group home (1-12 adults).
 - c. An adult foster care large group home (13-20 adults).
 - d. A facility offering substance abuse treatment and rehabilitation service to seven (7) or more people.
 - e. A community correction center resident home halfway house or similar facility under jurisdiction of the Department of Corrections.
4. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding neighborhood.
5. Hours of operation shall not exceed sixteen (16) hours during a twenty four (24) hour period. The Planning Commission shall not prohibit evening operations completely, but may establish limitations on hours of operation and/or activities between the hours of 10:00 PM and 6:00 AM.
6. All signs shall comply with Article 7 of this Ordinance.

803.15 – Day Care Center or Child Care Center

A. Regulations and Conditions.

1. All required state and local licensing shall be maintained at all times.
2. All outdoor areas used for the care and supervision of patrons shall have appropriate fencing for the safety of the children. Such fencing shall consist of a 6-foot high privacy fence along the area adjoining another residence, and a four (4) foot to six (6) foot high fence in the remaining area devoted to the day-care area.
3. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate.
4. Such facilities shall be located at least one thousand five hundred (1,500) feet from any one of the following:

- a. A licensed or pre-existing operating group day-care home.
 - b. An adult foster care small group home (1-12 adults).
 - c. An adult foster care large group home (13-20 adults).
 - d. A facility offering substance abuse treatment and rehabilitation service to 7 or more people.
 - e. A community correction center resident home halfway house or similar facility under jurisdiction of the Department of Corrections.
5. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding neighborhood.
 6. Hours of operation shall not exceed sixteen (16) hours during a twenty four (24) hour period. The Planning Commission shall not prohibit evening operations completely, but may establish limitations on hours of operation and/or activities between the hours of 10:00 AM and 6:00 PM.
 7. All signs shall comply with Article 7 of this Ordinance.

803.16 – Reserved for Future Use

803.17 – Reserved for Future Use

803.18 – Pet Daycare Facility

A. Regulations and Conditions

1. Pet daycare facilities must operate within enclosed buildings and comply with performance standards outlined in Section 901.
2. Pet daycare facilities shall operate from inside a wholly enclosed, climate-controlled building and include an outdoor area enclosed by a ten (10) foot fence or masonry wall.
3. Pet daycare facilities on lots that abut a residential use or district shall be set back at least fifty (50) feet from the property line which abuts the residential use or district.
4. The maximum number of animals on site shall be based on best practices as established by the industry standard for pet to staff person ratios.
5. Pets shall be under continuous visual supervision by trained staff during all hours of operation.
6. A clean, safe, and odor-free environment shall be maintained at all times, both inside and in outdoor areas.
7. The pet daycare facility shall obtain and keep current any and all licenses or permits required by other agencies at all times.

803.19 – Vocational School or Trade School

A. Regulations and Conditions.

1. An vocational or trade school shall have its primary access directly from a paved, all-season road.
2. If the facility incorporates any gymnasium, theater, auditorium or large meeting space, it shall also comply with the requirements pertaining to the Places of Public Assembly use as provided n this Article.
3. All required state and local licenses, charters, permits and similar approvals shall be issued prior to occupancy for any educational purposes.

803.20 – Foster Care, Adult (7-12 Residents)

A. Regulations and Conditions.

1. Adult Foster Care homes serving seven (7) to twelve (12) residents shall not be considered a single family dwelling and shall be subject to the requirements of this Section.
2. Adult Foster Care homes shall, as a condition of Special Use approval, at all times maintain all valid state and local licenses.
3. An adult foster care home serving seven (7) to twelve (12) residents shall not be located within one thousand five hundred (1,500) feet of any other adult foster care home.
4. All signs shall be in compliance with the provisions of Article 7 of this Ordinance.

803.21 – Foster Care, Adult (13+ Residents)

A. Regulations and Conditions.

1. Adult Foster Care homes serving more than twelve (12) residents shall not be considered a single family dwelling and shall be subject to the requirements of this Section.
2. Adult Foster Care homes shall, as a condition of Special Use approval, at all times maintain all valid state and local licenses.
3. An adult foster care home serving more than twelve (12) residents shall not be located within one thousand five hundred (1,500) feet of any other adult foster care home.
4. All signs shall be in compliance with the provisions of Article 7 of this Ordinance.

803.22 – Funeral Home

A. Regulations and Conditions.

1. The applicant shall illustrate to the Planning Commission the estimated necessity of off-street parking and stacking room for motor vehicles lined for funeral procession, and shall demonstrate how the site plan for the funeral home meets these requirements.

2. The Planning Commission may establish hours of operation for funeral homes consistent with the character of the land uses in the vicinity.

803.23 – Galleries and Museums

A. Regulations and Conditions.

1. The Planning Commission may establish hours of operation for such uses consistent with the character of the land uses in the vicinity.
2. All signs shall be in compliance with the provisions of Article 7 of this Ordinance.

803.24 – Gasoline Station

A. Regulations and Conditions.

1. The Planning Commission may establish hours of operation for gasoline stations which include the retail sale of goods other than the sale or supply of fuels for motor vehicles to protect the character of the land uses in the vicinity.
2. The applicant shall demonstrate to the Planning Commission proper design and licensing measures as required by State and federal statutory and regulatory authority.
3. All buildings, pump islands and other facilities shall be located in conformance with the yard and setback requirements of the zoning district.
4. Dismantled, wrecked, or immobile vehicles shall not be kept outdoors.
5. No vehicles shall be parked on site for the purpose of selling or renting such vehicles.
6. All signs shall be in compliance with the provisions of Article 7 of this Ordinance.

803.25 – Home Based Businesses

A. Regulations and Conditions.

1. The use of the dwelling unit for the home based business shall be clearly incidental and subordinate to its use for residential purpose by its occupants, and not more than twenty five percent (25%) of the floor area of the dwelling unit and one (1) permitted accessory building shall be used in the conduct of the home based business. A floor plan shall be submitted which illustrates conformance to said regulation.
2. No person, other than the resident occupants and one employee or independent contractor who need not be a resident, shall be working in the operation of the home based business. This does not preclude the use of additional employees who may be employed by the home based business who work in other locations off the home based business site. A resident occupant of the home based business site who is not employed by the home based business shall not be considered an employee or independent contractor of the home based business.
3. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home based business other than one (1) sign, not to exceed eight (8) square feet in area, non-illuminated, and mounted flat against the wall of the principal building.

4. A home based business shall not have a material negative impact upon the public health, safety or welfare of the City of Niles or areas immediately surrounding the home based business, including, but not limited to, overuse of streets and roads, change to the character of the area, blight, excessive noise, odors, or electrical interference. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.
5. No traffic shall be generated by such home based business in greater volume than would be normally expected given the master planned and zoned district.
6. No equipment or process shall be used in connection with the home based business, which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot.
7. Customer, employee, or other vehicles must be parked off-street in a designated parking area at all times. The designated parking area shall be on the property of the dwelling which will accommodate the home based business. Such designated parking area shall be designed for no more than three (3) vehicles, and shall not be located in the required front yard area. Landscaping may be required as determined by the Planning Commission.
8. Outside storage of material, equipment, scrap, and other goods relating to the home based business is prohibited, and any storage shall take place within an enclosed area.
9. One (1) vehicle used in the conduct of the home based business may be stored on the site of the home based business.
10. The Planning Commission may impose restrictions on the hours of operation of the home-based business.
11. The Planning Commission may impose additional conditions as necessary to preserve the home based business area.

803.26 – Hotels and Motels

- A. Regulations and Conditions.
 1. The property shall be suitable for transient lodging facilities with overnight lodgers staying typically not longer than seven (7) nights.
 2. A hotel that includes spaces for public assembly shall be further regulated under the provisions of Section 803.4.
 3. The use shall be compatible with other allowed uses in the vicinity and the impact of the establishment in terms of parking, traffic, noise and odors.
 4. All signs shall be in compliance with the provisions of Article 7 of this Ordinance.

803.27 – Kennels

A. Regulations and Conditions.

1. Animal wastes, biohazard materials or byproducts shall be disposed of as required by the Medical Waste Law of the State of Michigan and kennel operations shall be subject to inspection by the Michigan Department of Public Health as that law requires. All other wastes shall be contained in leak-proof and odor-proof containers removed not less frequently than once per week. No animal wastes, biohazard materials or byproducts shall be buried or incinerated on site. Any failure on the part of the operator to maintain proper licensing shall be grounds for the revocation of a special use approval for an
2. Said use shall be located on not less than one-third (1/3) acre of land, provided all operations and the housing of animals are contained in one or more completely enclosed buildings, with the exception of outdoor areas specified in part 5 of this Section.
3. Only household pets, such as dogs and cats, shall be boarded on the premises.
4. There shall be sufficient sound proofing to prevent any noise disturbance beyond the property boundaries.
5. All outdoor exercise areas for animals shall be adequately fenced to prevent both escape and entry by wild animals into the facility.
6. All signs shall be in compliance with the provisions of Article 7 of this Ordinance.
7. Approval of a kennel permitted under this section shall be conditioned upon continued compliance with Section 10-63 of Article III, Dogs, of the City of Niles Code of Ordinances.
8. Approval of a kennel permitted under this section shall also be conditioned upon the applicable license or permit issued by any other agency having jurisdiction to regulate kennels. The kennel shall not be in operation or occupied by animals until after the issuance of said license or permit, which shall also be furnished to the City upon issuance.

803.28 – Research Laboratories

A. Regulations and Conditions.

1. All activity associated with the Research Laboratory use shall be designed to comply with Section 902, Performance Standards.
2. All experimentation and storage shall take place inside a secure building or structure.
3. Facilities shall be designed in accordance with all required state and federal licensing and permitting requirements. All wastes produced within the facility shall be properly characterized and documented and disposed of in accordance with applicable statutory and regulatory requirements. Any failure to comply with any federal or state licensing or permitting requirement shall be grounds for the revocation of any special use permitted issued pursuant to this section.

4. All activities shall take place inside a fully enclosed building or structure when located within one hundred (100) feet of a R-1 or R-2 zoning district.
5. Outdoor storage may be permitted, subject to compliance with Section 317, Fences.
6. All signs shall be in compliance with the provisions of Article 7 of this Ordinance.

803.29 – Dry Cleaning Establishment

- A. Regulations and Conditions.
 1. All storage tanks or other facilities used to store hazardous, toxic, explosive or flammable substances shall be equipped with appropriate containment structures or equipment to prevent any migration of such substances into the groundwater or surface waters of the City.
 2. All signs shall be in compliance with the provisions of Article 7 of this Ordinance.

803.30 – Reserved for Future Use

803.31 – Mini-Warehouse, Self-Storage

- A. Regulations and Conditions.
 1. The area of the proposed site shall be at least one (1) acre.
 2. The use shall be established and maintained in accordance with all applicable local, state and federal laws.
 3. All storage shall be inside an enclosed building; no outdoor storage is allowed, with the exception of vehicles being stored outdoors in conjunction with the self-storage use.
 4. The Planning Commission shall approve the circulation pattern within the site, which shall be clearly marked.
 5. Each storage unit shall have an individual door to the outdoors and shall be accessible by the owner of the storage items in accordance with hours of operation approved by the Planning Commission. Such hours of operation shall be posted at the entrance to the facility.
 6. All signs shall be in compliance with the provisions of Article 7 of this Ordinance.

803.32 – Nursing Home

- A. Regulations and Conditions.
 1. A nursing home proposed to be located within the R-1, Traditional Residential district shall not provide care for more than twenty (20) persons.

2. The use shall be established and maintained in accordance with all applicable Local, State and Federal laws. As a condition of Special Use approval, at all times the nursing home shall maintain all valid state and local licenses.
3. A nursing home shall not be located within fifteen hundred (1,500) feet of any other nursing home.
4. All signs shall be in compliance with the provisions of Article 7 of this Ordinance.

803.33 – Reserved for Future Use

803.34 – Reserved for Future Use

803.35 – Reserved for Future Use

803.36 – Taverns and Lounges

- A. Regulations and Conditions.
 1. Such facilities shall maintain, at all times, all required state and local licenses and permits.
 2. A restaurant that includes a hotel or motel shall also be required to meet the standards of Section 803.26.
 3. Such facilities shall be located and designed such that no objectionable noise shall be carried onto adjoining property zoned for, or occupied by residential uses.
 4. The Planning Commission may require that some or all of the property be fenced to contain any debris or materials used or discarded on site and/or to prevent unauthorized access to the grounds.

803.37 – Reserved for Future Use

803.38 – Retail Business

- A. Regulations and Conditions.
 1. The Planning Commission shall determine whether the proposed retail special use will be essentially compatible with the character of the proposed site and the existing uses in the vicinity.
 2. All signs shall be in compliance with the provisions of Article 7 of this Ordinance.

803.39 – Sand and Gravel Mine

A. Regulations and Conditions.

1. In General. To provide for the prior approval by the Planning Commission of a Special Use Permit for earth removal, quarrying, gravel processing, mining, and related mineral extraction businesses in any area of the City, said commission shall be satisfied the following conditions and limitations are, or shall be, strictly complied with, in addition to any other requirements contained in this zoning ordinance or in any other ordinance controlling such operations.
2. **Location.** All such operations shall be located on a paved, all-season road, as defined by the Director of Public Works, for ingress and egress thereto, or on a road, which does not create traffic through an area, developed primarily for residential purposes. Where necessary, the Planning Commission may require the applicant to repair any roads that are damaged by truck travel to the specifications of the Director of Public Works.
3. **Setback.** The following setback limits shall be observed.
 - a. Sufficient setbacks shall be provided from all property lines and public highways to assure adequate lateral support for adjacent public and private property.
 - b. No such excavation operation shall be permitted closer than one hundred fifty (150) feet from the boundary lines of the property or such larger setback as may be required by the Planning Commission to adequately protect adjoining properties. However, if the adjoining property is also used for such mining and excavation operation, then the Planning Commission may reduce or eliminate the required setback from that interior boundary line. In addition, such setback may be temporarily reduced to fifty (50) feet if reclamation of the land is promptly effected to increase the setback to at least one hundred and fifty (150) feet in accordance with the reclamation plan approved by the Planning Commission and adequate lateral support is at all times maintained.
 - c. No excavation operation shall be permitted within fifty (50) feet of adjoining public rights-of-way except for the lowering of land adjoining said rights-of-way to the grade level of said rights-of-way. Such excavation businesses shall at no time be permitted where adequate lateral support for the maintenance of adjoining lands is not maintained.
 - d. Any permanent processing plant and accessory structures shall be located no closer than two hundred fifty (250) feet from any parcel boundary, and shall, where practicable, be located at a lower elevation than the surrounding terrain to lessen visual and noise impact. In addition, the foregoing shall apply to the digging or excavating apparatus and to the stockpiling or loading of materials and to the location of transportation equipment.
 - e. No such excavation operation shall be within one hundred (100) feet of the banks of any stream or waterway unless previously approved, in writing from the Department of Energy, Great Lakes and Environment.
 - f. No such mining operations shall interfere with the natural established flow of surface waters to the detriment or damage of adjoining public or private properties.

- 4. Screening.** Sight barriers shall be provided along all boundaries of the site where quarrying, gravel processing, mining and related mineral extraction is proposed, which lack natural screening conditions through existing contours or evergreen growth. Such barriers shall consist of one or more of the following:
- a. Earth berms constructed to a height of six (6) feet above the mean elevation of the centerline of the adjacent public highway or six (6) feet above the general level of terrain along interior property lines, as the case may be. Such berms shall have slopes that are not in excess of one (1) foot vertical to three (3) feet horizontal and shall be planted with grass, trees or shrubs.
 - b. Plantings of evergreen trees or shrubbery in rows parallel to the boundaries of the property, not less than four (4) feet in height at the time of planting and which grow to not less than six (6) feet in height at maturity sufficiently spaced to provide effective sight barriers when six (6) feet in height.
 - c. Masonry walls or attractive solid fences made of uniform new materials constructed to a height of not less than six (6) feet and maintained in good repair.
- 5. Nuisance Abatement.** Noise and vibration shall be minimized in their effect upon adjacent properties by the utilization of modern equipment designed to accomplish such minimization and by the proper use of berms, walls, and natural planting screens. All equipment shall be maintained and operated in such a manner so as to eliminate, as far as practicable, excessive noise and vibrations which are not necessary in the operation of such equipment. Air pollution in the form of dust and dirt shall also be kept to a minimum by the use of modern equipment and methods of operation designed to avoid any excessive dust or dirt or other air pollution injuries or substantially annoying to adjoining property owners. Interior and adjoining roads used in the operations shall have their surface treated to minimize any such nuisance.
- 6. Hours.** The operation shall be restricted to the hours of 7:00 AM until 7:00 PM and no operations shall be allowed on Sundays.
- 7. Fencing.** All dangerous excavations, pits, and pond areas, banks or slopes shall be fenced and posted with signs around the perimeter thereof and maintained to prevent injury to children or others, and shall be eliminated as expeditiously as possible.
- 8. Reclamation of Mined Areas or Excavated Areas.** Reclamation and rehabilitation of mined areas shall be accomplished as soon as practicable following the mining or excavation of an area. Rehabilitation and reclamation shall be commenced immediately upon the termination of the mining or excavation operations in any area consisting of one acre or more. Substantial completion of reclamation and rehabilitation shall be affected within one (1) year after termination of mining or excavation activity. Inactivity for a twelve (12) month consecutive period shall constitute, for this purpose, termination of mining activity. The following standards shall control reclamation and rehabilitation:
- a. All excavation shall be either to a water-producing depth of not less than five (5) feet below the average summer level of water in the excavation, or shall be graded or back-filled with non-noxious, non-inflammable and non-combustible solids to ensure:

- i. That the excavated areas shall not collect stagnant water and not permit the same to remain therein; or,
 - ii. That the surface of such area which is not permanently submerged is graded or backfilled as necessary to produce a gently rolling surface that will minimize wind and water erosion, and which will be generally compatible with the adjoining land area.
 - b. The banks of all excavations shall be sloped to the waterline in a water-producing excavation, and to the pit floor in a dry operation at a slope, which shall not be steeper than one foot vertical to three feet (1:3) horizontal. Topsoil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water, except where streets, beaches or other planned improvements are to be completed within a one-year period. Where used, topsoil shall be applied to a minimum depth of four (4) inches sufficient to support vegetation.
 - c. Vegetation shall be restored by the appropriate seeding of grasses or the planting of trees and shrubs to establish a permanent vegetative cover on the land surface and to minimize erosion.
 - d. Upon cessation of mining operations by abandonment or otherwise, the operating company, within a reasonable period of time not to exceed twelve (12) months thereafter, shall remove all plant structures, foundations, buildings, stockpiles and equipment, provided that buildings and structures which have a function under the reclamation plan and which can be lawfully used under the requirements of the zoning district in which they will be located under such plan may be retained.
- 9. Performance Bond.** A performance bond, irrevocable bank letter of credit or cash shall be furnished to the Finance Director insuring the proper rehabilitation and reclamation of the mined and excavated areas prior to the commencement of any such mining or excavating operations. The amount of guarantee shall be not less than five thousand (\$5,000) dollars per acre proposed to be mined or excavated in the following twelve (12) months' period and which has previously been mined or excavated during any preceding period and not reclaimed and rehabilitated in accordance with this ordinance and the applicant's filed plan.
- 10. Submission of Operational and Reclamation Plans.** No earth removal, quarrying, gravel processing, mining and related mineral extraction businesses shall be allowed or commenced until a plan has been submitted to the Planning Commission and approved. Such plan shall set forth measures to be taken to assure compliance with all of the provisions of this section. Such plans shall include, among other things, the following:
- a. A contour map of the tract of land involved in the operations, including dimensions of the same, access thereto abutting public streets, and whether or not the same are "paved, all-season" roads, additional roads, if any, to be constructed, and the location and nature of abutting improvements on adjoining property.
 - b. The number of acres and the location of the same proposed to be operated upon within the following twelve (12) months period after commencement of operations. Not more than three (3) acres of any site shall be open for active mining operations at any one time unless the applicant has demonstrated to the satisfaction of the

Planning Commission that appropriate measures will be in place to control erosion, prevent slope failure, prevent unauthorized access to the site and prevent blowing of sand and dust onto neighboring premises or onto the adjoining roadway.

- c. The type of mining or processing proposed to be conducted and the nature of the equipment to be used.
- d. The location of the principal processing plant and the distance of any proposed excavation or mining from the boundaries of the site.
- e. Soil boring tests shall be made around the perimeter of the excavation site in the event excavation or activities are to be conducted closer than one hundred fifty (150) feet from the boundaries of the site, said boring tests shall disclose conditions satisfactory for lateral support of adjacent premises as determined by the Director of Public Works. The written consent of the owners of adjoining premises and of the Planning Commission shall be required if mining operations shall be closer than specified in the ordinance to the boundaries of the site.
- f. A map or plan disclosing the final grades and elevations to be established following the completion of the mining operations, including the proposed uses then contemplated for the land, future lakes and roads and such other matters as may evidence the bona fide nature of the reclamation and rehabilitation plans and the fact that the land will not be devastated and rendered unusable by the proposed mining activities. The Planning Commission may consult with mining or engineering consultants to evaluate the proposed mining plan and any cost associated with such review shall be the responsibility of the applicant.
- g. Soil boring tests shall be submitted to provide the depth of the groundwater table of the proposed site.
- h. The Planning Commission may require an environmental impact statement, concerning the existing environmental conditions in the proposed area to be excavated, which should include statements concerning, but not limited to: land, vegetation, water, etc.

11. Basis for Decisions. Following a special use hearing, the Planning Commission shall grant, deny or table the application and set forth its reasons for its decision. Such decision shall be based upon the criteria set forth in this Ordinance and shall be based, in addition, on a consideration of the following:

- a. The most advantageous use of the land, resources and property.
- b. The character of the area in question and its peculiar suitability, if any, for particular uses.
- c. Conservation of property values, as well as natural resources and the general and appropriate trend and character of development in the subject area.
- d. The protection and preservation of the general health, safety and welfare of the residents of the City.
- e. The scarcity or value of the minerals sought to be mined as compared with the effect upon the adjacent community of the proposed operations.

- f. Whether or not the operations were previously in existence prior to the adoption of this section and the extent and character of such previous operations.

12. Conditions. In making any decision, the Planning Commission shall have the right and authority to impose such additional conditions and safeguards as it deems necessary for the protection of the health, safety and general welfare of the neighborhood and of the adjoining residents and property owners. It may also limit the length of time its Special Land Use Permit is to be effective and may provide for a periodic review of the proposed operations to ascertain compliance with the conditions and limitations imposed upon the same.

13. Extension, Renewal, Revocation. The Planning Commission shall be empowered to renew or extend a Special Use permit issued under this Section where all standards and conditions are complied with and may revoke or refuse to renew the same where noncompliance exists. No revocation or failure to renew or extend a permit shall release the applicant from the duty of rehabilitation and reclamation of said mined or disturbed area. No permit shall be revoked or not renewed until the operator has been given written notice of any violation forming the basis of such revocation or denial of renewal and not less than thirty (30) days have elapsed to correct the said violation. The Zoning Administrator shall review all permits annually and report to the Planning Commission. The operator shall be required to pay an annual fee to cover the cost of inspections and additional meetings of the Planning Commission as may be established by the City Council.

14. Liability Insurance. All operators shall be required to carry personal injury and property damage insurance while any un-reclaimed or un-rehabilitated areas exist, in the amount of not less than one hundred thousand dollars (\$100,000) for each person or property injured or damaged and not less than three hundred thousand dollars (\$300,000) for injury or damage to more than one person or one person's property arising out of one occurrence. Such insurance shall cover injury or damage occurring upon the site of the operations as well as upon properties adjoining thereto, as a result of conditions or activities existing upon the site. A copy of the policy shall be filed with the Zoning Administrator.

803.40 – Adult Uses

A. Intent. It is the intent of this subsection to provide regulations controlling those uses that are recognized as having serious, objectionable, operational characteristics inducing a deleterious impact on adjacent uses and areas. Special regulations of these uses are necessary to ensure that the anticipated adverse impacts will not contribute to the blighting or downgrading of the surrounding neighborhood.

B. Regulations and Conditions:

1. The lot or parcel on which the use is located shall not be closer than five hundred (500) feet from any Residential District or use, school, church, or park, as measured from the nearest part of any lot line.
2. The use shall not be located within a one thousand (1,000) foot radius of any other adult use, as measured from the nearest part of any lot line.

3. Any sign or signs proposed for the adult use business must comply with the requirements of Article 7 of this Ordinance, and shall not include photographs, silhouettes, drawings, or pictorial representations of any type, nor include any animated illumination or flashing illumination.
4. Signs must be posted on both the exterior and interior walls of the entrances, in a location which is clearly visible to those entering or exiting the business, and using lettering which is at least two (2) inches in height, that:
 - a. “Persons under the age of 18 years are not permitted to enter the premises.”
 - b. “No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission.”
5. No product for sale or gift, nor any picture or other representation of any product for sale or gift, shall be displayed so that it is visible by a person of normal visual acuity from the nearest adjoining roadway or adjoining property.
6. No adult use shall be open for business prior to 10:00 AM nor after 10:00 PM. However, employees or other agents, or contractors of the business are permitted to be on the premises at other hours for legitimate business purposes such as maintenance, clean-up, preparation, record keeping, and similar purposes not involving the general public.

803.41 – Social Club

- A. Regulations and Conditions. Social Clubs shall be subject to the following standards:
 1. Social clubs shall maintain, at all times, all required state and local licenses and permits.
 2. Social clubs serving alcoholic beverages shall also meet the requirements of Section 803.36 pertaining to Taverns and Lounges.
 3. Social clubs shall be located and designed such that no objectionable noise shall be carried onto adjoining property zoned for, or occupied by residential uses.
 4. The Planning Commission may require that any or all of the property of a club facility be fenced to contain any debris or materials used or discarded on site and/or to prevent unauthorized access to the grounds.

803.42 – Recreation Facility, Outdoor

- A. Regulations and Conditions. Outdoor Recreation facilities, whether open to the public or by private membership, shall be subject to the following standards:
 1. Such facilities shall maintain, at all times, all required state and local licenses and permits.
 2. Any such facilities serving alcoholic beverages shall be located on a major street.
 3. Such facilities serving alcoholic beverages shall also meet the requirements of Section 803.36 pertaining to Taverns and Lounges.

4. Outdoor recreation facilities shall not permit the use of firearms, per Section 58-106 of the City of Niles Code of Ordinances.
5. Such facilities shall be located and designed such that no objectionable noise shall be carried onto adjoining property zoned for, or occupied by residential uses.
6. The Planning Commission may require that any or all of the property of a club facility be fenced to contain any debris or materials used or discarded on site and/or to prevent unauthorized access to the grounds.

803.43 – Recreational Marihuana Establishments

A. General Regulations for all Recreational Marihuana Establishments

It is the intent of this Section to authorize certain types of recreational marihuana establishments or other regulated activity authorized by the Rules promulgated under the Michigan Regulation and Taxation of Marihuana Act (MRTMA, Initiated Law 1 of 2018) in the City of Niles and to provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; retain the character of neighborhoods and business districts; and mitigate potential impacts on surrounding properties and persons.

It is further the intent of this Section to implement the provisions of the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (MCL 333.27951 et. seq.) with respect to local zoning and land use, and to permit the growing, processing, sale, and distribution of marihuana consistent with applicable State statutes.

Nothing in this Chapter purports to permit activities that are otherwise illegal under State or local law, and nothing in this ordinance is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacturing, possession, use, sale, or distribution of marihuana, in any form, that is not in compliance with the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (MCL 333.27951 et. seq.); and all other applicable rules promulgated by the State of Michigan.

1. Marihuana establishments and other regulated activity authorized by the rules promulgated under the MRTMA as defined by this Ordinance shall be subject to the following regulations:
 - a. Any uses or activities found by the State of Michigan or a court with jurisdiction to be unconstitutional or otherwise not permitted by State law may not be permitted by the City of Niles. In the event that a court with jurisdiction declares some or all of this Section invalid, the City of Niles may suspend the acceptance of applications for special land use permits for marihuana establishments or other regulated activity authorized by the rules promulgated under MRTMA pending the resolutions of the legal issue in question.
 - b. An operator of a marihuana establishment or other regulated activity authorized by the rules promulgated under MRTMA shall at all times have a valid Marihuana Establishment or other regulated activity authorized by the rules promulgated under MRTMA license issued by the City of Niles pursuant to Ordinance No. 491 as amended, and a State operating license as issued by LARA pursuant to the

Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (MCL 333.27951 et. seq.) or other regulated activity authorized by the rules promulgated under MRTMA.

- c. All marihuana establishments or other regulated activity authorized by the rules promulgated under MRTMA formed pursuant to the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (MCL 333.27951 et. seq.) shall only be permitted upon receiving special land use approval in accordance with this Article.

B. Separation of Licensed Premises. One building may be used for one or more types of marihuana establishments or other regulated activity authorized by the rules promulgated under MRTMA, provided that the locational requirements and all other standards for each type of marihuana establishment are satisfied. As allowed by law, a grower establishment and processor establishment are separate marihuana commercial entities requiring separate licenses and separate premises. In addition to all other application requirements for separate premises, each business shall:

1. Have separate operations, ventilation, security, and fire suppression systems, and separate access from a public area.
2. Be divided within a building from floor to roof. Unless a more restrictive standard is required by applicable State law and/or the rules promulgated thereunder, there must be a minimum of a one-hour fire separation between a marihuana business and any adjacent business.

C. Operation and Safety/Security Plans. In addition to the materials required for Site Plan Review in Section 901, an application for a marihuana establishment or other regulated activity authorized by the rules promulgated under MRTMA shall also include a comprehensive establishment operation and safety plan meeting the following minimum standards:

1. A written safety/security plan indicating how the applicant will comply with the requirements of this Ordinance and any other applicable law, rule or regulation.
2. The safety/security plan shall include details of security arrangements and will be protected from disclosure as provided under Michigan Freedom of Information Act, MCL 15.231 et seq. If the City finds that such documents are subject to disclosure, it will attempt to provide at least two (2) business days' notice to the applicant prior to such disclosure.
3. To the extent that the law and rules promulgated allow, the security plan must include, at a minimum, the following security measures:
 - a. Cameras. The marihuana establishment or other regulated activity authorized by the rules promulgated under MRTMA shall install and use security cameras to monitor and record all areas of the premises (except in restrooms) where persons may gain or attempt to gain access to marihuana establishment or cash maintained by the marihuana establishment. Cameras shall record operations of the business to an off-site location, as well as all potential areas of ingress or egress to the

business with sufficient detail to identify facial features and clothing. Recordings from security cameras shall be maintained for a minimum of thirty (30) days in a secure offsite location in the City or through a service over a network that provides on- demand access, commonly referred to as a “cloud.” The offsite location shall be included in the security plan submitted to the City and provided to the City of Niles Police Department upon request, and updated within seventy-two (72) hours of any change of such location.

- b. Use of Safe for Storage. The marihuana establishment or other regulated activity authorized by the rules promulgated under MRTMA shall install and use a safe for storage of any processed marihuana and cash on the premises when the business is closed to the public. The safe shall be incorporated into the building and/or securely attached thereto. For marihuana-infused products that must be kept refrigerated or frozen, the business may lock the refrigerated container or freezer in a manner authorized by the City in place of use of a safe so long as the container is affixed to the building structure.
- c. Alarm system. The marihuana establishment or other regulated activity authorized by the rules promulgated under MRTMA business shall install and use an alarm system that is monitored by a company that is staffed twenty-four (24) hours a day, seven (7) days a week. The security plan submitted to the City shall identify the company monitoring the alarm, including contact information, and updated within seventy-two (72) hours of any change of monitoring company.
- d. For microbusinesses, growers, excess growers and processing establishments, a plan that specifies the methods to be used to prevent the growth of harmful mold and compliance with limitations on discharge into the wastewater system of the City;
- e. A lighting plan showing the lighting outside of the marihuana establishment or other regulated activity authorized by the rules promulgated under MRTMA for security purposes and compliance with applicable City requirements;
- f. A plan for disposal of any marihuana or marihuana-infused product, including any/all byproducts and/or waste products that is not sold in a manner that protects any portion thereof from being possessed or ingested by any person or animal.
- g. A plan for ventilation of the marihuana establishment or other regulated activity authorized by the rules promulgated under MRTMA that describes the ventilation systems that will be used to prevent any odor of marihuana establishment or other regulated activity authorized by the rules promulgated under MRTMA off the premises of the business. For any marihuana establishments or other regulated activity authorized by the rules promulgated under MRTMA that grow marihuana plants, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the premises. For marihuana establishment or other regulated activity authorized by the rules promulgated under MRTMA that produce marihuana- infused products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process

- h. A description of all toxic, flammable, or other materials regulated by a federal, State, or local authority that would have jurisdiction over the business if it was not a marihuana establishment or other regulated activity authorized by the rules promulgated under MRTMA business, that will be used or kept at the marihuana establishment or other regulated activity authorized by the rules promulgated under MRTMA business, the location of such materials, and how such materials will be stored.
- i. A statement of the amount of the projected daily average and peak electric load anticipated to be used by the business and certification from a licensed electrician that the premises are equipped to safely accept and utilize the required or anticipated electric load for the establishment.
- j. Prior to making a modification to a structure that would require a building permit or which would alter or change items required by this subsection, the licensee shall submit to the City and have an approved completed application for modification of premises in the form provided by the City.
- k. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation wall between a marihuana establishment or other regulated activity authorized by the rules promulgated under MRTMA and any adjacent business or residence.
- l. A description of the security plan shall be submitted with the application for a City operating license. The security system, shall be maintained in good working order and provide twenty-four (24) hours per day coverage. A separate security system is required for each establishment.
- m. Parking shall comply with Article 9 of this Ordinance.
- n. In order to be eligible for a special land use permit, the marihuana establishment or other regulated activity authorized by the rules promulgated under MRTMA must be in the licensing process with the State of Michigan, and then must be at all times in compliance with the laws of the State of Michigan including but not limited to the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (MCL 333.27951 et. seq.); and all other applicable rules promulgated thereunder. No marihuana establishment shall be operated, nor shall a certificate of occupancy be issued, until the appropriate State operating license is obtained from LARA and submitted to the City of Niles, and all fees related to the application are paid by the applicant.
- o. A marihuana establishment or other regulated activity authorized by the rules promulgated under MRTMA as defined by this ordinance, or activities associated with the licensed growing, processing, testing, transporting, or sales of marihuana, or a designated consumption center, shall not be permitted as a home occupation or accessory use, nor may they include accessory uses, except as otherwise provided in this ordinance and permitted by the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (MCL 333.27951 et. seq.)
- p. Pursuant to Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (MCL 333.27951 et. seq.), marihuana establishments or other regulated activity authorized by the rules promulgated under MRTMA shall not be located

within one thousand (1,000) feet of a federally recognized K-12 public, private school or publicly funded preschool or library property.

- q. Unless otherwise provided or exempted by this Section, marihuana establishments and other regulated activity authorized by the rules promulgated under MRTMA shall comply with all other applicable standards of this Ordinance.
- r. The license required by Ordinance of the City of Niles and the State of Michigan shall be prominently displayed on the premises of a marihuana establishment or other regulated activity authorized by the rules promulgated under MRTMA. Disposal of marihuana shall be accomplished in a manner that prevents its acquisition by any person who may not lawfully possess it and otherwise in conformance with State law;
- s. All chemicals or hazardous substances used in the growing, processing, testing, or storage of marihuana shall be stored and used in strict compliance with manufacturer recommendations and all applicable federal, State or local regulations.
- t. Signage for marihuana establishments or other regulated activity authorized by the rules promulgated under MRTMA shall comply with the requirements of Article 7, and the requirements of this subsection. All signage and advertising for a marihuana establishment or other regulated activity authorized by the rules promulgated under MRTMA shall comply with all applicable provisions of this Code and the City Zoning Code.
 - i. Establishments or other regulated activity authorized by the rules promulgated under MRTMA are prohibited exterior signage or displays that contain an image of a marijuana leaf or other commonly recognized symbol for marijuana or which utilize any of the following words: marijuana, marihuana, weed, cannabis, blunt, doobie, joint, hooch, hash, or other similar slang term for marijuana or marijuana-related products; except that each marihuana vendor may display the universal green cross symbol.
 - ii. In addition, it shall be unacceptable for any licensee to use signage or advertising with the word “marihuana”, “marijuana” or “cannabis” or any other word, phrase or symbol commonly understood to refer to marihuana or any advertising material that would appeal to minors.
 - iii. Establishments or other regulated activity authorized by the rules promulgated under MRTMA may not use exterior signage or displays with neon, flashing lights, or similarly noxious or obtrusive lighting or effects.
 - iv. Warning Signs: There shall be posted in a conspicuous location inside of each establishment or other regulated activity authorized by the rules promulgated under MRTMA at least one (1) legible sign containing the content of this section warning that:
 - A. The possession, use or distribution of marihuana is a violation of federal law;
 - B. It is illegal under State law to drive a motor vehicle or to operate machinery when under the influence of, or impaired by marihuana;
 - C. No one under the age of twenty-one (21) is permitted on the premises.

- u. All marihuana establishments or other regulated activity authorized by the rules promulgated under MRTMA shall provide landscaping as required by Article 9 of this Ordinance.
- v. The nonconforming provisions of Section 324 shall apply to all marihuana establishments or other regulated activity authorized by the rules promulgated under MRTMA.

D. Visibility of activities; control of emissions.

1. Unless otherwise allowed for through State and local ordinance, all activities of marihuana establishments or other regulated activity authorized by the rules promulgated under MRTMA, including, without limitation, the cultivating, growing, processing, displaying, manufacturing, selling, and storage of marihuana and marihuana-infused products shall be conducted indoors and out of public view except those entities and/or events with an approved event permit by the State and City Council.
2. Designated Consumption Centers may apply for a smoking deck or other protected outdoor smoking location that complies with all State requirements through Special Land Use, but local approval is not guaranteed and subject to a case by case approval by the Planning Commission.
3. No marihuana or paraphernalia shall be displayed or kept so as to be visible from outside the licensed or specially permitted premises (the latter only in cases approved by the Niles City Council and State of Michigan as an event by an approved event vendor).
4. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a marihuana establishment or other regulated activity authorized by the rules promulgated under MRTMA must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a marihuana establishment or other regulated activity authorized by the rules promulgated under MRTMA, the owner of the establishment or other regulated activity authorized by the rules promulgated under MRTMA and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary, and secure manner and in accordance with all applicable federal, State and local laws and regulations.
5. No person, tenant, occupant, or property owner shall permit the emission of marihuana odor from any source to result in detectable odors that leave the premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of another's property.
6. The City of Niles may use a field olfactometer to measure and quantify odor strength in the ambient air.
 - a. Field olfactometry calculates the "Dilution-to-Threshold" (D/T) ratio as:

$$D/T = \frac{\text{Volume of Carbon-Filtered Air}}{\text{Volume of Odorous Air}}$$

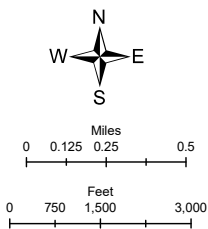
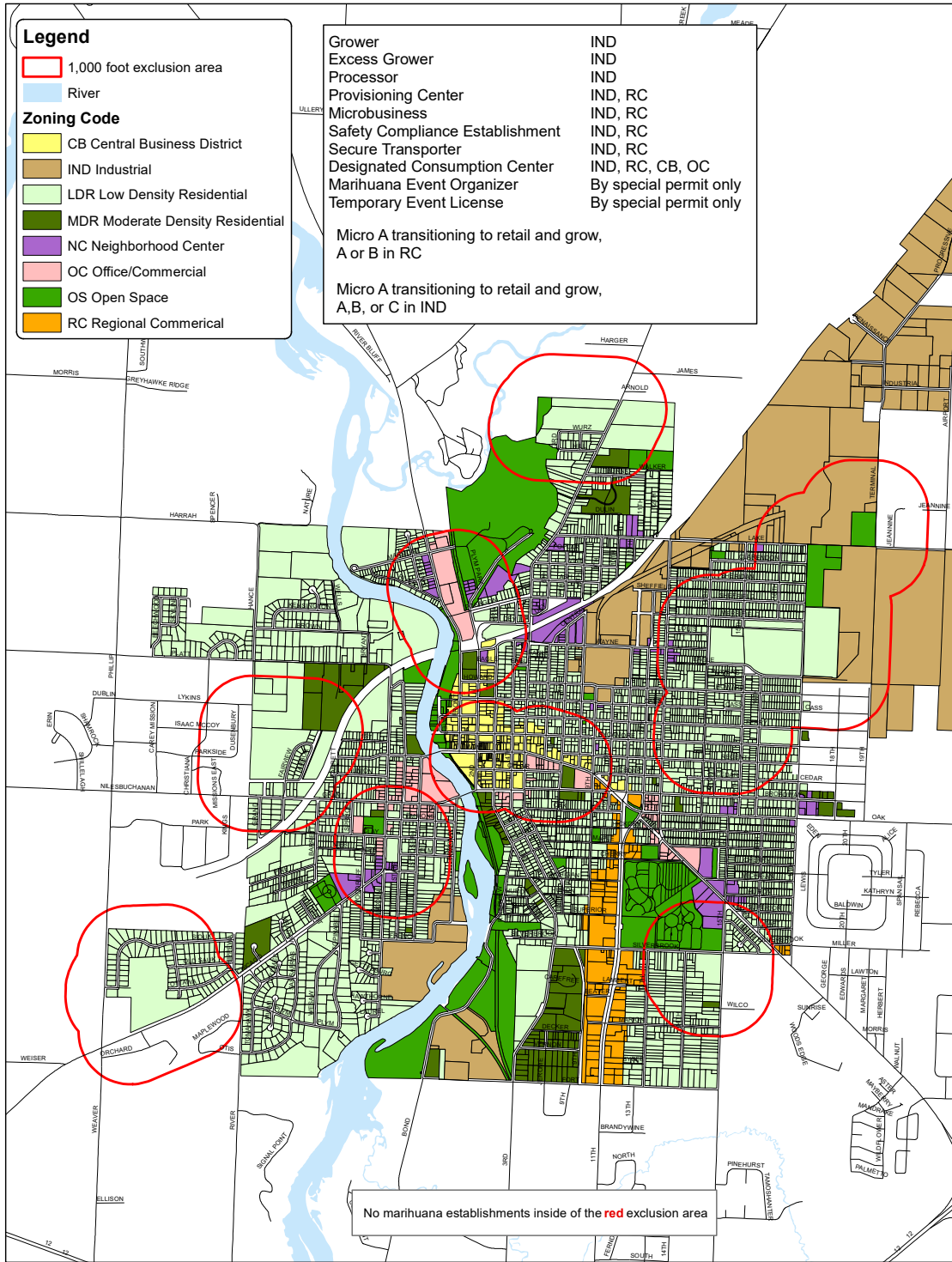
- b. All establishments or other regulated activity authorized by the rules promulgated under MRTMA that keep marijuana onsite shall maintain a D/T ratio of seven (7) D/T or less at the property line
 - c. Any property found out of compliance will be required to remediate the odor within seventy two (72) hours. If the D/T ratio remains noncompliant, the license will be revoked until the odor level is compliant with this Section.
- 7. Whether or not a marijuana odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity.
 - 8. All marijuana establishments or other regulated activity authorized by the rules promulgated under MRTMA shall install and maintain in operable condition a system which precludes the emission of marijuana odor from the premises to the satisfaction of the City.
 - 9. All marijuana establishments or other regulated activity authorized by the rules promulgated under MRTMA must comply with the Michigan Department of Environment, Great Lakes, and Energy (EGLE) Air Quality Division regulations.

E. Additional requirements

- 1. No marijuana establishment or other regulated activity authorized by the rules promulgated under MRTMA may use metals, butane, propane, or other flammable product, or produce flammable vapors, to process marijuana unless the process used and the premises are verified as safe and in compliance with all applicable codes by a qualified industrial hygienist.
- 2. The City may require the business to obtain verification from a qualified industrial hygienist that the manner in which the business is producing marijuana complies with all applicable laws and does not produce noxious or dangerous gases or odors or otherwise create a danger to any person or entity in or near the establishment.

F. Siting Criteria.

- 1. Marijuana establishments or other regulated activity authorized by the rules promulgated under MRTMA shall be only permitted by special land use in accordance with the map illustrated in Figure 8-1.
- 2. Areas shown within a one thousand (1,000) foot radius of a federally recognized K-12 public, private school or publicly funded preschool or library property are delineated in Figure 8-1 .



Adult Use Marihuana Zoning



K:\Community Development\Community Dvpt Dept\GIS\Medical_MIAUMZMA1-2025.mxd

FIGURE 8-1. ADULT USE MARIHUANA FACILITY SITING

G. Marihuana Cultivation/Growers & Excess Growers.

1. Cultivation, generally.
 - a. No marihuana cultivation shall be conducted openly or publicly.
 - b. Marihuana cultivation shall comply with all applicable requirements of the laws and regulations of the City and the State.
 - c. Marihuana cultivation shall not occur in detached accessory buildings or outbuildings.
 - d. All marihuana cultivation shall take place in a locked and enclosed space.
2. All marihuana products kept on premises where marihuana plants are grown shall be stored in a locked and enclosed space.
3. The use of any lighting for indoor marihuana cultivation shall be limited to light-emitting diodes (LEDs), compact fluorescent lamps (CFLs) or other fluorescent lighting. All high-density (HID) lighting, including but not limited to, mercury-vapor lamps, metal-halide (MH) lamps, ceramic MH lamps, sodium-vapor lamps, high-pressure sodium (HPS) lamps and xenon short-arc lamps, may only be allowed with permission of the City of Niles Utilities Director or their designee.
4. No marihuana cultivation activity shall result in the emission of any gas, vapors, odors, smoke, dust, heat or glare that is noticeable at or beyond the property line of the structure (including dwellings) at which the cultivation occurs. Sufficient measures and means of preventing the escape of such substances from a dwelling must be provided at all times. In the event that any gas, vapors, odors, smoke, dust, heat or glare or other substances exit a dwelling, the owner of the subject premises shall be liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The owner shall properly dispose of all such materials, items and other substances in a safe, sanitary, and secure manner and in accordance with all applicable federal, State and local laws and regulations. In the event there is a lessee of the subject premises, the owner and the lessee shall be jointly and severally liable for such conditions.
5. Growers shall only be permitted on parcels within the IND (industrial district) and within the permissible areas as illustrated on Figure 8-1. In an event where a microbusiness transitions to retail and grow Class A or retail and grow Class B license, then growers are permitted in IND - Industrial or RC - Regional Commercial District. For micro-businesses in the IND, Industrial District, establishments are permitted to transition to retail and grow class A, B, or C.
6. Excess Growers are further limited to only the parcel with ID number 11-71-0026-0039-00-3 or within any of the parcels located within the City of Niles Industrial Park located north of Lake St. in the City of Niles.
7. Light cast by fixtures within the building shall not be visible from outside the building.
8. The building shall be equipped with an activated carbon filtration system or other comparable odor control system to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter. The establishment shall not emanate odors at any time that are readily detectible at the property line.

9. Doors and windows to a growing establishment shall remain closed, except for the minimum length of time needed to allow people to reasonably enter or exit the building.
10. In instances where a grower is within a building containing multiple principal uses, all other uses requiring a marihuana license within shall be subject to special land use review pursuant to Article 8 of this Ordinance.

H. Marihuana Processing Establishments

1. Processors shall only be permitted on parcels within the IND – Industrial district and within the permissible areas as illustrated on Figure 8-1 map above.
2. Light cast by fixtures within the building shall not be visible from outside the building.
3. The building shall be equipped with an activated carbon filtration system or other comparable odor control system to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter. The establishment shall not emanate odors at any time that are readily detectible at the property line.
4. Doors and windows to a growing establishment shall remain closed, except for the minimum length of time needed to allow people to reasonably enter or exit the building.
5. The City may require security cameras which shall record the subject property and may be directed to other areas normally visible to the general public as applicable, unless otherwise required to comply with licensing requirements of the State of Michigan.
6. In instances where a processing establishment is within a building containing multiple principal uses, all other uses within shall be subject to special land use review pursuant to Article of this Ordinance.

I. Microbusinesses

1. Microbusiness shall only be permitted in buildings located on parcels within the IND, Industrial, or RC, Regional Commercial district and within the permissible areas as illustrated on the map in Figure 8-1 above.
2. Microbusinesses must adhere to all provisions located in the Marihuana Cultivation/ Growers section
3. Microbusinesses must adhere to all provisions located in the Marihuana Processing Establishments of this section
4. Microbusiness must adhere to all provisions for Marihuana Retailers of this section.

J. Marihuana Retailers

1. Marihuana Retailers shall only be permitted in buildings located on parcels within the IND, Industrial, or RC, Regional Commercial district and within the permissible areas as illustrated on the map in Figure 8-1 above.
2. All activities of a provisioning center, including all sales/transfers of marihuana, shall be conducted within the structure and out of public view. A marihuana retailer shall not have a walk-up window or a drive-through window service.

3. Unless otherwise permitted, public or common areas of the marijuana retailer must be separated from restricted or non-public areas of the provisioning center by a permanent barrier. No marijuana is permitted to be stored, displayed, or transferred in an area accessible to the general public.
4. Marijuana products shall not be smoked, ingested, or otherwise be consumed in the building or on the property occupied by the marijuana retailer.
5. The exterior appearance of a provisioning center shall remain compatible with the exterior appearance of buildings already constructed or under construction within the immediate area. The exterior shall be maintained as to prevent blight or deterioration or substantial diminishment or impairment of property values within the immediate area. New buildings shall be constructed in accordance with the adopted plans and policies of the City of Niles.
6. Marijuana retailers shall be equipped with an activated carbon filtration system or other comparable odor control system to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter. The establishment shall not emanate odors at any time that are readily detectable at the property line.
7. In instances where a provisioning center is within a building containing multiple principal uses, all other uses a marijuana license within shall be subject to special land use review pursuant to Article 8 of this Ordinance.

K. Safety Compliance Establishments

1. Safety Compliance Establishments shall only be permitted in buildings located on parcels within the IND – Industrial, or RC Regional Commercial district and within the permissible areas as illustrated on the map in Figure 8-1 above.
2. Marijuana products shall not be smoked, ingested, or otherwise be consumed in the building or on the property occupied by the safety compliance establishment.
3. Doors and windows to a safety compliance establishment shall remain closed, except for the minimum length of time needed to allow people to reasonably enter or exit the building.
4. In instances where a safety compliance establishment is within a building containing multiple principal uses, all other uses requiring a marijuana license within shall be subject to special land use review pursuant to Article 8 of this Ordinance.

L. Secure Transporters

1. Secure Transporters shall only be permitted in buildings located on parcels within the IND – Industrial, or RC Regional Commercial district and within the permissible areas as illustrated on the map in Figure 8-1 above.
2. Marijuana products shall not be smoked, ingested, or otherwise be consumed in the building or on the property occupied by the secure transporter.
3. Doors and windows to a secure transporter shall remain closed, except for the minimum length of time needed to allow people to reasonably enter or exit the building.

4. In instances where a secure transporter is within a building containing multiple principal uses, all other uses requiring a marihuana license within shall be subject to special land use review pursuant to Article 8 of this Ordinance.

M. Designated Consumption Centers

1. While there is a limit of three (3) Designated Consumption Center Licenses, the following shall also apply at all times.
 - a. All Designated Consumption Centers must be at least one thousand (1,000) feet away from any school, library or publicly funded preschool.
 - b. Designated Consumption Centers may only be located in the Central Business (CB), Office Commercial (OC), Industrial (IND) and/or Regional Commercial (RC) Zones.
2. Designated consumption centers may not be in a private residence or any other places meant for permanent human habitation.
3. Designated consumption centers may only operate between the hours of 7:00 AM and 12:00 AM.
4. All activities of a designated consumption center, shall be conducted within the structure and out of public view. Provided however, that designated consumption centers may apply for a smoking deck or other protected outdoor smoking location that complies with all State requirements, but local approval is not guaranteed and subject to a case by case approval by the City's Zoning Administrator with input from the Police Chief, City Attorney, City Administrator and Fire Chief.
5. No marihuana is permitted to be bought, sold, stored, displayed, or transferred in an area accessible to the general public.
6. A designated consumption center shall not have a walk-up window or a drive-through window service.
7. Unless otherwise permitted, public or common areas of the designated consumption center must be separated from restricted or non-public areas of by a permanent barrier.
8. All Designated Consumption Centers must employ or otherwise retain onsite security personnel during all business hours.
9. The exterior appearance of a designated consumption center shall remain compatible with the exterior appearance of buildings already constructed or under construction within the immediate area. The exterior shall be maintained as to prevent blight or deterioration or substantial diminishment or impairment of property values within the immediate area. New buildings shall be constructed in accordance with the adopted plans and policies of the City of Niles.

Designated consumption center shall be equipped with an activated carbon filtration system or other comparable odor control system to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter. The establishment shall not emanate odors at any time that are readily detectable at the property line.

10. In instances where a designated consumption center is within a building containing multiple principal uses, all other uses requiring a marihuana license within shall be subject to special land use review pursuant to Article 8 of this Ordinance.
11. No activity shall result in the emission of any vapors, odors, smoke, or heat that is noticeable at or beyond the property line of the structure at which the designated consumption center exists. Sufficient measures and means of preventing the escape of such substances from an establishment must be provided at all times. A designated consumption center shall have a ventilation system that directs air from the consumption area to the outside of the building through a filtration system sufficient to remove visible smoke, consistent with all applicable building codes and ordinances and adequate to eliminate odor at the property line, if consumption by inhalation is permitted. In the event that any gas, vapors, odors, smoke, dust, heat or glare or other substances exit an establishment, the owner of the subject establishment and premises shall be liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition.
12. A designated consumption center shall have a product destruction and waste management plan for the destroying and disposal of any waste left at the consumption center. The owner shall properly dispose of all such materials, items and other substances in a safe, sanitary, and secure manner and in accordance with all applicable federal, State and local laws and regulations.
13. Designated consumption centers must have a smoke free area for employees to monitor the marihuana consumption area.
14. A location physically separated from areas where smoking is prohibited and where smoke does not infiltrate into nonsmoking areas or buildings.

N. Abandonment. In instances where there is a conflict between this section and other applicable provisions of this Ordinance, the more restrictive regulations shall control.

1. A property owner or operator of a marihuana establishment or other regulated activity authorized by the rules promulgated under MRTMA shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this ordinance or any applicable amendment thereto.
2. Discontinuation of a State Marihuana Establishment or other regulated activity authorized by the rules promulgated under MRTMA license shall not be considered an abandonment if the marihuana establishment transitions to a medical marihuana facility, and vice versa. A transition from establishment to facility shall not preclude the licensee from complying with special land use standards specific to the type of operation (establishment, Section 803.43 or facility, Section 803.44).
3. A facility and/or an establishment that fails to maintain either licensure (facility or establishment), the special land use shall be deemed discontinued and abandoned.
4. The special land use authorization will expire upon the expiration of the license or upon the failure of a license holder to renew said license. There shall be no lapse in either licensure due to failure to renew or expiration of license.

5. In the event there is a lessee of the marihuana establishment premises or other regulated activity authorized by the rules promulgated under MRTMA, the owner and the lessee shall be jointly and severally liable for such conditions.

O. Severability

If any Section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity and enforceability of the remaining portions of this ordinance.

803.44 – Medical Marihuana Facilities

A. General Regulations for all Medical Marihuana Facilities

1. The following provisions relate to medical marihuana facilities within the City of Niles. In instances where there is a conflict between this section and other applicable provisions of this Ordinance, the more restrictive regulations shall control.
 - a. No marihuana facilities operating or purporting to operate prior to December 15th 2017, shall be deemed to have been a legally existing use nor shall the operations of such marihuana facility be deemed a legal nonconforming use pursuant to Section 325.
 - b. A property owner or operator of a medical marihuana facility shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this ordinance or any applicable amendment thereto.
2. It is the intent of this Section to authorize the establishment of certain types of medical marihuana facilities in the City of Niles and to provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; retain the character of neighborhoods and business districts; and mitigate potential impacts on surrounding properties and persons.
3. It is further the intent of this Section to implement the provisions of the Michigan Medical Marihuana Facilities Licensing Act (MMMFLA, Public Act 281 of 2016; MCL 333.27101, et. seq.) with respect to local zoning and land use, and to permit the growing, processing, sale, and distribution of medical marihuana consistent with applicable State statutes.
4. Nothing in this Section purports to permit activities that are otherwise illegal under State or local law, and nothing in this ordinance is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacturing, possession, use, sale, or distribution of marihuana, in any form, that is not in compliance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; the Marihuana Tracking Act, MCL 333.27901 et seq.; and all other applicable rules promulgated by these Acts.

B. Medical marihuana facilities as defined by this Ordinance shall be subject to the following regulations:

1. Any uses or activities found by the State of Michigan or a court with jurisdiction to be unconstitutional or otherwise not permitted by State law may not be permitted by City of Niles. In the event that a court with jurisdiction declares some or all of this Section invalid, the City of Niles may suspend the acceptance of applications for special land use permits pending the resolutions of the legal issue in question.
2. An operator of a medical marihuana facility shall at all times have a valid Medical Marihuana Facility license issued by the City of Niles pursuant to this Ordinance, as amended, and a State operating license as issued by LARA pursuant to the Medical Marihuana Facilities Licensing Act, (MMFA) MCL 333.27101 et seq.
3. Separation of licensed premises; one building may be used for one or more types of marihuana facilities, provided that the locational requirements and all other standards for each type of medical marihuana facility are satisfied. A grower facility and processor facility are separate medical marihuana commercial entities requiring separate licenses and separate premises. In addition to all other application requirements for separate premises, each business shall:
 - a. Have separate operations, ventilation, security, and fire suppression systems, and separate access from a public area.
 - b. Be divided within a building from floor to roof. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation between a medical marihuana business and any adjacent business.
4. All medical marihuana facilities established pursuant to the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. shall only be permitted upon receiving special land use approval in accordance with this Article.
5. Operation and Safety/Security Plans; In addition to the materials required for Site Plan Review in Section 901, an application for a medical marihuana facility shall also include a comprehensive facility operation and safety plan.
 - a. A comprehensive facility operation plan for the medical marihuana commercial entity which shall contain, at minimum, a safety/security plan indicating how the applicant will comply with the requirements of this Ordinance and any other applicable law, rule or regulation.
 - b. The safety/security plan shall include details of security arrangements and will be protected from disclosure as provided under Michigan Freedom of Information Act, MCL 15.231 et seq. If the City finds that such documents are subject to disclosure, it will attempt to provide at least two (2) business days' notice to the applicant prior to such disclosure.
 - c. The security plan must include, at a minimum, the following security measures:
 - i. Cameras. The medical marihuana business shall install and use security cameras to monitor and record all areas of the premises (except in restrooms) where persons may gain or attempt to gain access to medical marihuana or

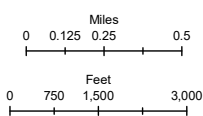
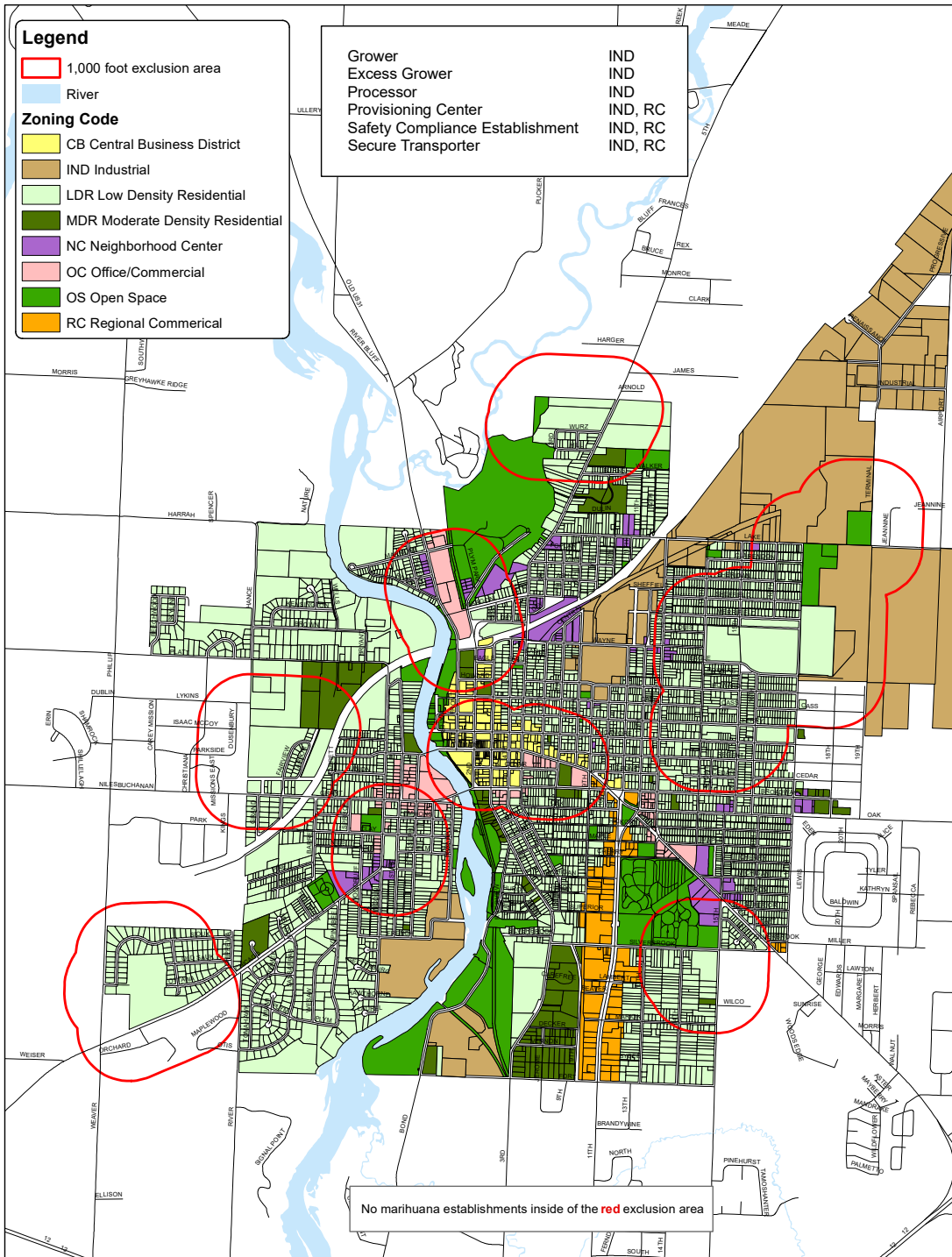
cash maintained by the medical marijuana business entity. Cameras shall record operations of the business to the off-site location, as well as all potential areas of ingress or egress to the business with sufficient detail to identify facial features and clothing. Recordings from security cameras shall be maintained for a minimum of thirty (30) days in a secure offsite location in the City or through a service over a network that provides on demand access, commonly referred to as a “cloud.” The offsite location shall be included in the security plan submitted to the City and provided to the City of Niles Police Department upon request, and updated within seventy-two (72) hours of any change of such location.

- ii. Use of Safe for Storage. The medical marijuana business shall install and use a safe for storage of any processed medical marijuana and cash on the premises when the business is closed to the public. The safe shall be incorporated into the building structure or securely attached thereto. For medical marijuana-infused products that must be kept refrigerated or frozen, the business may lock the refrigerated container or freezer in a manner authorized by the City in place of use of a safe so long as the container is affixed to the building structure.
- iii. Alarm system. The medical marijuana business shall install and use an alarm system that is monitored by a company that is staffed twenty-four (24) hours a day, seven (7) days a week. The security plan submitted to the City shall identify the company monitoring the alarm, including contact information, and updated within seventy-two (72) hours of any change of monitoring company.
- iv. For grower and processing facilities, a plan that specifies the methods to be used to prevent the growth of harmful mold and compliance with limitations on discharge into the wastewater system of the City;
- v. A lighting plan showing the lighting outside of the medical marijuana facility for security purposes and compliance with applicable City requirements;
- vi. A plan for disposal of any medical marijuana or medical marijuana-infused product, including any/all byproducts and/or waste products that is not sold to a patient or primary caregiver in a manner that protects any portion thereof from being possessed or ingested by any person or animal.
- vii. A plan for ventilation of the medical marijuana facility that describes the ventilation systems that will be used to prevent any odor of medical marijuana off the premises of the business. For medical marijuana facilities that grow medical marijuana plants, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the premises. For medical marijuana businesses that produce medical marijuana-infused products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process.
- viii. A description of all toxic, flammable, or other materials regulated by a federal, State, or local authority that would have jurisdiction over the business if it was not a medical marijuana business, that will be used or kept at the medical marijuana business, the location of such materials, and how such materials

will be stored.

- ix. A Statement of the amount of the projected daily average and peak electric load anticipated to be used by the business and certification from a licensed electrician that the premises are equipped to safely accept and utilize the required or anticipated electric load for the facility.
 - x. Prior to making a modification to a structure that would require a building permit or which would alter or change items required by this subsection, the licensee shall submit to the City and have an approved completed application for modification of premises in the form provided by the City.
 - xi. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation wall between a medical marihuana facility and any adjacent business or residence.
 - xii. A description of the security plan shall be submitted with the application for a City operating license. The security system, shall be maintained in good working order and provide twenty-four (24) hours per day coverage. A separate security system is required for each facility.
6. Parking shall comply with Section 903 of this Ordinance.
 7. In order to be eligible for a special land use permit, the medical marihuana facility must be in the licensing process with the State of Michigan, and then must be at all times in compliance with the laws of the State of Michigan including but not limited to the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.; and all other applicable rules promulgated by the State of Michigan. No medical marihuana facility shall be operated, nor shall a certificate of occupancy be issued, until the appropriate State operating license is obtained from LARA and submitted to the City of Niles, and all fees related to the application, including applicant escrows, are paid by the applicant.
 8. A medical marihuana facility as defined by this ordinance, or activities associated with the licensed growing, processing, testing, transporting, or sales of marihuana, shall not be permitted as a home occupation or accessory use, nor may they include accessory uses, except as otherwise provided in this ordinance and permitted by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
 9. Pursuant to MCL 333.7410 et seq., medical marihuana facilities shall not be located within one thousand (1,000) feet of a school property or a library.
 10. Unless otherwise provided or exempted by this Section, medical marihuana facilities shall comply with all other applicable standards of this Ordinance.
 11. The license required by this Ordinance and the State of Michigan shall be prominently displayed on the premises of a medical marihuana facility;
 12. Disposal of medical marihuana shall be accomplished in a manner that prevents its acquisition by any person who may not lawfully possess it and otherwise in conformance with State law;

13. All chemicals or hazardous substances used in the growing, processing, testing or storage of medical marihuana shall be stored and used in strict compliance with manufacturer recommendations and all applicable federal, State or local regulations.
14. Signage for Medical marihuana facilities shall comply with the requirements of Article 7, and the requirements of this subsection. All signage and advertising for a medical marihuana facility shall comply with all applicable provisions of this Code and the City Zoning Code.
 - a. Where there is a conflict between the standards of Article 7 and the following standards, the more restrictive standards shall control:
 - b. Warning Signs: There shall be posted in a conspicuous location inside of each facility at least one (1) legible sign containing the content of this section warning that:
 - i. The possession, use or distribution of marihuana is a violation of federal law;
 - ii. It is illegal under State law to drive a motor vehicle or to operate machinery when under the influence of, or impaired by marihuana; and
 - iii. No one under the age of eighteen (18) is permitted on the premises.
 - c. In addition, it shall be unlawful for any licensee to:
 - i. Use signage or advertising with the word “marihuana”, “marijuana” or “cannabis” or any other word, phrase or symbol commonly understood to refer to marihuana or any advertising material that would appeal to minors;
 - ii. Advertise in a manner that is inconsistent with the medicinal use of medical marihuana or use advertisements that promote medical marihuana for recreational or any use other than medicinal purposes.
15. All medical marihuana facilities shall provide landscaping as required by Section 904 of this Ordinance.
16. The nonconforming provisions of Section 325 shall apply to all medical marihuana facilities.
17. Visibility of activities; control of emissions.
 - a. All activities of medical marihuana commercial entities, including, without limitation, the cultivating, growing, processing, displaying, manufacturing, selling, and storage of medical marihuana and medical marihuana-infused products shall be conducted indoors and out of public view.
 - b. No medical marihuana or paraphernalia shall be displayed or kept in a business so as to be visible from outside the licensed premises.



Medical Marihuana Zoning



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FIGURE 8-2. MEDICAL MARIHUANA FACILITY SITING

- c. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a medical marijuana commercial entity must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a medical marijuana commercial entity, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, State and local laws and regulations.
- d. No person, tenant, occupant, or property owner shall permit the emission of medical marijuana odor from any source to result in detectable odors that leave the premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of another's property.
- e. The City of Niles may use a field olfactometer to measure and quantify odor strength in the ambient air.
- f. Field olfactometry calculates the "Dilution-to-Threshold" (D/T) ratio as:

$$D/T = \frac{\text{Volume of Carbon-Filtered Air}}{\text{Volume of Odorous Air}}$$

- g. Properties with medical marijuana onsite will be maintain a score of seven (7) D/T or less at the property line
- h. Any property found out of compliance will be required to remediate the odor within 72 hours. If the D/T remains noncompliant, the license will be revoked until the odor level is compliant with this Section.
- i. Whether or not a medical marijuana odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity.
- j. A grower or a processor shall install and maintain in operable condition a system which precludes the emission of medical marijuana odor from the premises.

C. Additional requirements

- 1. No medical marijuana business may use metals, butane, propane, or other flammable product, or produce flammable vapors, to process medical marijuana unless the process used and the premises are verified as safe and in compliance with all applicable codes by a qualified industrial hygienist.
- 2. The City may require the business to obtain verification from a qualified industrial hygienist that the manner in which the business is producing medical marijuana complies with all applicable laws and does not produce noxious or dangerous gases or odors or otherwise create a danger to any person or entity in or near the businesses.

D. Siting Criteria. Medical marijuana facilities shall be only permitted by special land use in accordance with the map shown in Figure 8-2.

E. Medical Marihuana cultivation/Growers.

1. Cultivation, generally.
 - a. No medical marihuana cultivation shall be conducted openly or publicly.
 - b. Medical marihuana cultivation shall comply with all applicable requirements of the laws and regulations of the City and the State.
 - c. Medical marihuana cultivation shall not occur in detached outbuildings.
 - d. All medical marihuana cultivation shall take place in a locked and enclosed space.
 - e. All medical marihuana products kept on premises where medical marihuana plants are grown shall be stored in a locked and enclosed space.
 - f. The use of any lighting for indoor medical marihuana cultivation shall be limited to light-emitting diodes (LEDs), compact fluorescent lamps (CFLs) or other fluorescent lighting. All high-density (HID) lighting, including but not limited to, mercury-vapor lamps, metal-halide (MH) lamps, ceramic MH lamps, sodium-vapor lamps, high-pressure sodium (HPS) lamps and xenon short-arc lamps, may only be allowed with permission of the City of Niles Utilities Director or their designee.
 - g. No medical marihuana cultivation activity shall result in the emission of any gas, vapors, odors, smoke, dust, heat or glare that is noticeable at or beyond the property line of the structure (including dwellings) at which the cultivation occurs. Sufficient measures and means of preventing the escape of such substances from a dwelling must be provided at all times. In the event that any gas, vapors, odors, smoke, dust, heat or glare or other substances exit a dwelling, the owner of the subject premises shall be liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The owner shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, State and local laws and regulations. In the event there is a lessee of the subject premises, the owner and the lessee shall be jointly and severally liable for such conditions.
2. As required by the MMFLA, Growers shall only be permitted on parcels within the IND, Industrial district and within the permissible areas as illustrated in Figure 8-2.
3. Light cast by fixtures within the building shall not be visible from outside the building.
4. The building shall be equipped with an activated carbon filtration system or other comparable odor control system to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter. The facility shall not emanate odors at any time that are readily detectible at the property line.
5. Doors and windows to a growing facility shall remain closed, except for the minimum length of time needed to allow people to reasonably enter or exit the building.
6. In instances where a grower is within a building containing multiple principal uses, all other uses within shall be subject to special land use review pursuant to Article 8 of this Ordinance.

F. Processing Facilities

1. As required by the MMFLA Processors shall only be permitted on parcels within the IND – Industrial district and within the permissible areas as illustrated on the map in subsection (2) above.
2. Light cast by fixtures within the building shall not be visible from outside the building.
3. The building shall be equipped with an activated carbon filtration system or other comparable odor control system to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter. The facility shall not emanate odors at any time that are readily detectible at the property line.
4. Doors and windows to a growing facility shall remain closed, except for the minimum length of time needed to allow people to reasonably enter or exit the building.
5. The City may require security cameras, which shall be directed to record only the subject property and may not be directed to public rights-of-ways as applicable, unless required to comply with licensing requirements of the State of Michigan.
6. In instances where a processing facility is within a building containing multiple principal uses, all other uses within shall be subject to special land use review pursuant to Article 8 of this Ordinance.

G. Provisioning Centers

1. Provisioning centers shall only be permitted in buildings located on parcels within the IND – Industrial, or RC Regional Commercial district and within the permissible areas as illustrated on the map in subsection (2) above.
2. All activities of a provisioning center, including all sales/transfers of medical marijuana, shall be conducted within the structure and out of public view. A provisioning center shall not have a walk-up window or a drive-through window service.
3. Unless otherwise permitted, public or common areas of the medical marijuana provisioning center must be separated from restricted or non-public areas of the provisioning center by a permanent barrier. No medical marijuana is permitted to be stored, displayed, or transferred in an area accessible to the general public.
4. Medical marijuana products shall not be smoked, ingested, or otherwise be consumed in the building or on the property occupied by the provisioning center.
5. The exterior appearance of a provisioning center shall remain compatible with the exterior appearance of buildings already constructed or under construction within the immediate area. The exterior shall be maintained as to prevent blight or deterioration or substantial diminishment or impairment of property values within the immediate area. New buildings shall be constructed in accordance with the adopted plans and policies of the City of Niles.
6. Provisioning centers shall be equipped with an activated carbon filtration system or other comparable odor control system to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter. The facility shall not emanate odors at any time that are readily detectable at the property line.

7. In instances where a provisioning center is within a building containing multiple principal uses, all other uses within shall be subject to special land use review pursuant to Article 8 of this Ordinance.

H. Safety Compliance Facilities

1. Medical marijuana products shall not be smoked, ingested, or otherwise be consumed in the building or on the property occupied by the safety compliance facility.
2. Doors and windows to a safety compliance facility shall remain closed, except for the minimum length of time needed to allow people to reasonably enter or exit the building.
3. In instances where a safety compliance facility is within a building containing multiple principal uses, all other uses within shall be subject to special land use review pursuant to Article 8 of this Ordinance.

I. Secure Transporters

1. Medical marijuana products shall not be smoked, ingested, or otherwise be consumed in the building or on the property occupied by the secure transporter.
2. Doors and windows to a secure transporter shall remain closed, except for the minimum length of time needed to allow people to reasonably enter or exit the building.
3. In instances where a secure transporter is within a building containing multiple principal uses, all other uses within shall be subject to special land use review pursuant to Article 8 of this Ordinance.

J. Abandonment

1. Discontinuation of a State Marijuana Establishment or other regulated activity authorized by the rules promulgated under MRTMA license shall not be considered an abandonment if the medical marijuana facility transitions to a marijuana establishment, and vice versa. A transition from establishment to facility shall not preclude the licensee from complying with special land use standards specific to the type of operation (establishment, Section 803.43 or facility, Section 803.44).
2. A facility and/or an establishment fails to maintain either licensure (facility or establishment), the special land use shall be deemed discontinued and abandoned.

803.45 – Vehicle Repair Facility

A. Regulations and Conditions.

1. Dismantled, wrecked, inoperable, or immobile vehicles shall not be kept outdoors where they are visible from any lot line. The Planning Commission may require an opaque fence up to eight (8) feet in height and/or an evergreen landscape buffer not less than eight (8) feet in height at time of planting to screen from view any vehicles from neighboring uses or passers-by.
2. Vehicle rental or sales may be permitted as an accessory use, subject to the applicable special land use standards for those uses.

3. All vehicle parts and scrap shall be stored entirely within an enclosed structure.
4. All equipment including hydraulic hoists, pits, lubrication and repair facilities shall be entirely enclosed within a building. No outdoor storage of merchandise or equipment shall be permitted.
5. All repair and maintenance activities shall be performed entirely within an enclosed building.
6. The Planning Commission may establish hours of operation for such uses consistent with the character of the land uses in the vicinity.
7. All signs shall be in accordance with Article 7 of this Zoning Ordinance.
8. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from lot lines.

803.46 – Wireless Communications Towers

- A. Purpose and Intent. The Telecommunications Act of 1996, as amended, sets forth provisions concerning placement, location and construction of towers and related facilities for personal wireless services. The purpose of this section is to establish general guidelines for the siting of personal wireless service facilities, which include antenna structures (towers). In order that such towers not cause visual pollution or create a safety hazard or reduce property values on adjacent properties, reasonable regulations for the location, use of existing structures (e.g., water towers, school and church steeples, tall buildings), design of structures and towers, is appropriate. Wireless Telecommunication Towers are specifically determined to NOT be essential services nor to be public utilities as such terms are used in this Ordinance. The intent of these provisions is to encourage users of towers and antennas to:
 1. Protect residential areas and land uses from potential adverse impacts of towers.
 2. Place the location of towers in non-residential-zoned areas.
 3. Minimize the total number of towers throughout the community.
 4. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers.
 5. Locate them on City-owned water towers where feasible and to the satisfaction of the City Council.
 6. Locate them, to the extent possible, in areas where the adverse impact on the community is minimal.
 7. Configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques.
 8. Use monopole-type towers and establish them at zoning district height limits where possible so as to maintain property values on surrounding properties, not impair scenic views, and provide reasonable service to City of Niles residents. It is not the

intent to create “antennae farms” with a number of monopoles and antennae in a small area. Taller towers may be allowed only if it is proven to the satisfaction of the City that monopole towers using zoning district height limits cannot provide reasonable service to City of Niles residents.

9. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.
 10. Consider the public health and safety of personal wireless service facilities.
 11. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.
 12. In furtherance of these goals, the City of Niles shall give due consideration to natural features, the St. Joseph River and its resources, the City of Niles Comprehensive Master Plan and zoning map, existing land uses, and other characteristics and policies of the City in approving sites for the location of towers and antennas. It is not the intent to regulate ham radio antennae under this section.
- B. Review Provisions and Zoning Districts Allowed. Wireless Telecommunication Towers and their accessory equipment and shelters as defined will be considered as a listed Special Use and activities eligible for approval consideration, subject to all the provisions within each district as allowed and specified, and also subject to the requirements of the Site Plan Review provisions of Article 9, after review and approval by the City Planning Commission.
- Zoning Districts which will be applicable to this land use are Regional Commercial (RC), Industrial (IND) and Open Space (OS).
- C. Special Use Review Procedures.
1. Applications for Special Use under this Section shall be subject to the procedures and requirements of the zoning district, except as modified in this Section.
 2. In granting a Special Use, the Planning Commission may impose conditions that are necessary to minimize any adverse effect of the proposed tower on adjoining properties.
 3. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be stamped by a licensed professional engineer.
 4. Applicants for Special Uses shall submit the information described in this Section, a non-refundable fee as established by Resolution of the City of Niles, and an escrow amount to be deposited in accordance with Section 1110 to reimburse the City of Niles for the costs of reviewing the application.
- D. Additional Information Required for Review. In addition to the standard requirements of information requested of all uses under Special Uses and Site Plan Review, Wireless Telecommunication Towers will be required to provide additional information as follows:
1. Evidence of ownership of the property on which the facility is to be placed.
 2. Name and address of the proposed owner and/or operator of the site.
 3. Engineering requirements for the service to be provided at the site.

4. Name and address, including phone number of the person responsible for determining feasibility of co-location as provided in this section.
 5. Preliminary design of all proposed structures.
 6. Licensed Engineer's stamp of the design and safety of the proposed tower to withstand winds of eighty five (85) miles per hour.
 7. A landscape plan showing specific landscape materials.
 8. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
 9. Each applicant shall provide an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the City of Niles, or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The Zoning Administrator may share such information with other applicants applying for approvals under this ordinance or other organizations seeking to locate antennas within the City, provided, that the Zoning Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
 10. The separation distance from other towers described in the inventory of existing sites shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
 11. Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the City and surrounding area.
 12. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
 13. A description of the feasible location(s) of future towers or antennas within the City of Niles or within two (2) miles of the borders of the City of Niles based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
- E. Factors Considered in Granting Special Uses for Towers. In addition to any standards for Special Uses in each zoning district that applies, the Planning Commission shall consider the following factors in determining whether to issue an approval, although the Planning Commission may waive or reduce the burden on the applicant of one or more of these criteria if the Planning Commission concludes that the goals of this ordinance are better served:
1. Height of the proposed tower.
 2. Proximity of the tower to residential structures and residential district boundaries.
 3. Nature of uses on adjacent and nearby properties.
 4. Surrounding topography.

5. Surrounding tree coverage and foliage.
 6. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
 7. Proposed ingress and egress.
 8. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures.
- F. Availability of Suitable Existing Towers, Other Structures, or Alternative Technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers, other structures, or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
1. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
 2. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
 3. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 4. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 5. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 6. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
 7. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- G. General Provisions. Construction of Wireless Telecommunication Towers including their accessory equipment are allowed in the City of Niles subject to the following provisions:
1. Multiple Antenna/Tower Plan; the City of Niles encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority.

2. Such equipment shall not be placed in any road right-of-way or in any easement for road purposes.
3. Such towers and facilities shall be placed on parcels (whether the land is owned or leased by the tower owner) which have an area no less than the minimum parcel size for the district. The Zoning Board of Appeals shall not reduce this size limit.
4. All setbacks for the zoning district shall be met and in no case less than 175 feet from any residence or one hundred seventy five (175) feet from a residential zoning district.
5. All proposed towers of more than thirty-five (35) feet in height shall be submitted to the Michigan Aeronautics Commission and FAA for review and approval prior to approval by the City of Niles. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
6. Prior to approval by the City, any franchise required by the City Council shall be in place.
7. If the tower is located in a prime scenic view but its location is adjacent to existing structures, is backed by trees or other vegetation, or is otherwise located so that in the sole discretion of the Planning Commission it does not impair the scenic view.
8. Antennas and/or repeaters may be mounted on existing towers.
9. Antenna type preferred for all applications are the singular tube antenna type such as omni directional antennas or arrangements that use compact-type platforms instead of the broad designed type sectorized antenna array.
10. The tower and/or antenna is painted or screened so as to blend into the background.
11. The service building is aesthetically and architecturally compatible with its environment.
 - a. The service building shall be constructed of compatible materials such as wood, brick, or stucco, and shall be designed to architecturally match the exterior of buildings within three hundred (300) feet of the property on which it is located.
 - b. In no case will metal exteriors be allowed for service buildings.
 - c. All connecting wires from towers to accessory buildings shall be underground
 - d. All electrical and other service wires to the facility shall be underground.
 - e. The service building shall be no larger than necessary to house the equipment and meets all setback requirements of this Ordinance.

- f. If the proposed tower layout is a co-location site providing service to other use providers, then the building shall be designed for accommodating all use providers. The intent is not to allow for additional buildings on one site.
12. The tower itself is strongly preferred to be of a monopole design. If the applicant proposes to use a guyed or lattice tower, the applicant shall demonstrate why a monopole design cannot be used.
13. The City may require landscape screening of the service building and fencing.
 - a. Landscaping shall consist of a five (5) foot wide buffer of plant materials that effectively screens the view of the tower compound from adjacent parcels. This buffer shall be located outside the perimeter of the compound.
 - b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
 - c. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.
14. Strobe lights shall not be allowed except as required by Federal Aviation Administration (FAA).
15. The City Planning Commission may, at its sole discretion, require that the tower be camouflaged to resemble a tree or otherwise be made to be less obtrusive.
16. Signs. No signs shall be allowed on an antenna or tower.
17. Security fencing. Towers shall be enclosed by a locked gate and security fencing at least 6 feet in height, and shall be equipped with an appropriate anti-climbing device; provided however, that the Planning Commission may waive such requirements, as it deems appropriate.
18. Emergency Provider Use. The applicant is encouraged to provide at no cost, co-location space for public emergency service providers, should the need exist.
19. Towers may exceed district height limits, providing they comply with the following standards, in addition to the previous listed standards:
 - a. In order to maximize the efficiency of the provision of telecommunication services, while also minimizing the impact of such facilities on the City of Niles, co-location, or the provision of more than one antenna on a single tower may/will be allowed and/or required by the City.
 - i. The Applicant shall be required to provide information regarding the feasibility of co-location at proposed sites. Factors to be considered in determining feasibility of co-sharing include available space on existing towers, the tower owner's ability to lease space, the tower's structural capacity, radio frequency interference, geographic service area requirements, mechanical or electrical incompatibilities, the comparative costs of co-location and new construction, and any FCC limitations on tower sharing.

- ii. The applicant shall be required to send a certified mail announcement to all other tower users in the area, stating their siting needs and/or sharing capabilities in an effort to encourage tower sharing. The applicant shall not be denied or deny space on a tower unless mechanical, structural, or regulatory factors prevent them from sharing.
 - iii. The applicant shall be required to provide a letter of intent to lease excess space on a facility and commit itself to:
 - 1. Respond to any requests for information from another potential shared use applicant;
 - 2. Negotiate in good faith and allow for leased shared use if an applicant demonstrates that it is technically practicable, and;
 - 3. Make no more than a reasonable charge for a shared use lease.
 - iv. Once a co-location type tower has received a Special Use approval, the Zoning Administrator may approve such co-locator antennas without review by the Planning Commission.
 - b. Tower height may be no more than required according to engineering requirements for a specific site or the technical capabilities of the antennas being mounted. The applicant shall provide funds to the City determined by the City Council to be sufficient to acquire an independent technical and engineering evaluation of the need for any tower in excess of the district maximum height. Where the independent evaluation shows that service can be provided by a lower elevation tower, no tower in excess of the district maximum height shall be allowed. The Zoning Board of Appeals shall not grant a variance from this requirement.
 - c. Tower separation distances between proposed and pre-existing towers are as follows:
 - i. Monopole over thirty five (35) feet in height: fifteen hundred (1,500) feet;
 - ii. Lattice and guyed towers - five thousand (5,000) feet.
- H. Removal of Abandoned Antennas and Towers. The maximum time which an unused tower may stand is twelve (12) months. The applicant or owner is responsible for the removal of an unused tower. Failure to do so shall be sufficient for the City to remove the structure according to the provisions under the Dangerous Buildings Law.
- I. Bonds. The owner of a Wireless Telecommunications Tower; including equipment/accessory buildings, shall post a bond with the City of Niles in an amount to cover the reasonable estimated costs and expenses of dismantling and removing the telecommunication facility or tower in the event that the same is abandoned, and the owner fails to dismantle and/or remove the same within one hundred and eighty (180) days. Said bond shall be with a reputable insurance or guarantee company. The amount of the bond shall be established by the City Council, and may be adjusted from time to time on an annual basis to reflect changing costs and expenses of dismantling and moving the personal wireless service facility.

J. Nonconforming Uses.

1. No Expansion of Nonconforming Use; Antennas that are installed in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.
2. Pre-existing towers; Pre-existing towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a pre-existing tower shall comply with the requirements of this ordinance; however, modifications to height and type of construction of pre-existing towers shall not be permitted.
3. Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas:
 - a. Notwithstanding Section 803.46.G.19.b. hereof, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain a Special Use approval having to meet the separation requirements of this Ordinance.
 - b. The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility approval.
 - c. Zoning compliance permits to rebuild the facility shall be obtained within one hundred and eighty (180) days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified.

803.47 – Golf Courses

- A. Purpose and Intent: The purpose of the special land use standards for golf courses and their permitted accessory uses is to ensure compatibility with the surrounding land uses, and to ensure the health, safety and general welfare of the City's residents and preservation of the character of the vicinity in which a golf course is proposed.
- B. Special Land Use Standards
 1. The minimum area shall be twenty (20) acres for a nine (9) hole par three (3) course, forty (40) acres for an eighteen (18) hole par three (3) course, fifty (50) acres for a nine (9) hole regulation course, and one hundred (100) acres for an eighteen (18) hole regulation course.
 2. No building or non-golfing use, with the exception of parking, shall be located within 75 feet of the front or corner front lot line, fifty (50) feet of the side lot line, or one hundred (100) feet of the rear lot line.
 3. Existing residential uses located on the property may be permitted, but only as an accessory use to the special use.
 4. Swimming pools, tennis courts, retail sales, health clubs, special events and similar uses shall be considered as accessory uses to the special use.
 5. All signs shall be in compliance with the provisions of Article 7 of this Ordinance.

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Article 9:

Site Development Standards

Section 900 – Purpose and Intent

- A. Purpose. The purpose of the Site Plan Review and Development Design Standards within this zoning ordinance is to establish a comprehensive framework that guides the physical development of land within the jurisdiction. This section aims to promote sustainable, aesthetically pleasing, and functional development that aligns with the community's values, vision, and long-term goals. By implementing rigorous site plan review and design standards, the ordinance seeks to create a built environment that enhances the quality of life for residents, fosters economic vitality, and ensures the responsible use of land resources.
- B. Intent. This article intends to provide clear guidance to those who administer and use this ordinance in an effort to clearly communicate the City's requirements to increase the efficiency of review and processing of development applications.

The requirements and standards in this article are intended to promote land use compatibility, functional design, and to ensure seamless integration of new development with the scale, character, and architectural features of surrounding neighborhoods and districts. The standards aim to enhance pedestrian and vehicular circulation, prioritize safety, and improve accessibility. This combined approach seeks to create a well-integrated urban fabric where different land uses cohesively coexist, fostering both a visually cohesive environment and efficient, accessible spaces that cater to the City of Niles' diverse community needs.

Section 901 – Site Plan Review

901.1 – Conformance with Approved Site Plan

For all activities requiring a site plan as listed in Sections 901.B.1 and 901.B.2, no permit shall be issued for any form of construction except in accordance with an approved site plan. No occupancy permit shall be granted until all improvements shown on an approved site plan have been completed and all conditions imposed upon the approved site plan shall have been satisfied or a satisfactory performance guarantee as detailed in Article 11, Section 1108, has been submitted to the City.

901.2 – When Required

A site plan shall be prepared and submitted in accordance with the requirements of this Ordinance under the following conditions:

A. Planning Commission Review:

The Planning Commission shall review the following application types:

1. Special Land Use, when specified in Article 8 of this Ordinance.
2. Any application for new construction or an expansion of an existing building within the CB, Central Business zoning district (with the exception of vertical expansions – see part 2 below).
3. Any application for new construction or the expansion of an existing accessory structure exceeding five hundred and seventy six (576) square feet in CB, Central Business District.
4. Any application for new construction or expansion of structures and uses in the RC, Regional Commercial, OC, Office Commercial, and IND, Industrial zoning districts, that would exceed five thousand (5,000) square feet in area, or fifteen percent (15%) of the existing building footprint, whichever is greater
5. New construction or expansion of principal structures associated with non-residential uses within residential zoning districts.
6. Accessory structures exceeding one thousand one hundred and fifty (1,150) square feet in area when used in conjunction with non-residential uses within residential districts.
7. New Multiple Family Residential developments, and any expansion of an existing Multiple Family Residential development with structures dedicated to additional dwelling units.
8. New residential and non-residential condominium and site condominium developments.
9. New residential and non-residential platted developments.
10. Development of sites within a Planned Unit Development as specified in Section 901.
11. Amendment of a Planned Unit Development as specified in Section 901.

B. Administrative Site Plan Review.

1. **Application Types.** The Zoning Administrator shall review the following application types, considered for administrative site plan review:
 - a. Vertical expansions of existing buildings within the CB, Central Business zoning district.
 - b. Any application to expand the footprint of an existing structure in the RC, Regional Commercial, OC, Office Commercial, or IND, Industrial zoning districts that will not exceed 5,000 square feet in area or fifteen percent (15%) of the existing building footprint, whichever is smaller.

- c. Minor changes to an approved site plan. The following changes shall be considered a minor change:
 - i. Changes to site lighting.
 - ii. Changes to site landscaping that do not involve a reduction in plantings, such as materials, species, or location.
 - iii. Internal arrangement of parking lots or the reduction of parking quantities.
 - iv. Decrease in the size or the number of buildings in a condominium development, or decrease in the number of lots in a plat or site condo.
 - v. Moving the location of a building no more than ten (10) feet or five percent (5%) of the distance to the closest property line, whichever is smaller, without encroachment into the required yard.
 - vi. Minor changes to grading and building design and materials
 - vii. Any approvals or conditions delegated by the Planning Commission.
- 2. **Submittal Requirements.** Submittals for activity to be reviewed administratively shall comply with the provisions of Section 901.3.
- 3. **Procedures for Administrative Site Plan Review.** Applicable procedures outlined in Section 901.5 shall be used to process administrative site plan review submittals.

901.3 – Submittal Requirements

A. Application.

An application shall be submitted on a form provided by the Community Development Department, accompanied by a fee as established by the fee schedule adopted by the City Council (as amended from time to time) and an escrow deposit, in accordance with Section 1110, Applicant Escrow Accounts. All applications, site plans, and supplemental documentation shall be provided in electronic format, along with a quantity of full-size (24" x 36") printed copies as determined by the Zoning Administrator. The application form shall include the following information:

1. The address(es) and parcel number(s) of the subject property.
2. The property owner's name, address, phone number, and email address.
3. The applicant's name, address, phone number, and email address.
4. Name of business associated with proposed development (if applicable)
5. Name, address, phone number, and email address of the person and firm that prepared the site plan.
6. Name of project.
7. The zoning designation of the subject parcel(s).
8. The gross acreage of all parcels associated with the project.

9. Legal description of subject parcel(s).
10. Signature of the applicant and owner or agent (see subsection B.1. for additional information required if the applicant is not the property owner).
11. The Zoning Administrator has the authority to return incomplete application submittals.

B. Supplemental Documentation Required.

The following supplemental documentation shall accompany all Site Plan Review applications, unless not applicable, as determined by the Zoning Administrator.

1. Proof of property ownership or proof of interest in the property (such as a signed affidavit or purchase agreement, title commitment, or deed), and whether there are any options on the property or any liens against it.
2. A narrative that provides a detailed project description and the scope of proposed work, type of development, number of units (if applicable), phasing plan (if applicable), and projected benefits the proposed development would bring to the community. If any public engagement activities have been held in connection to this project, please include details on how it was received and a summary of input received by the public. Please also include any historical context that may apply to the subject property or the project itself.
3. Written statements relative to project impacts on existing infrastructure (including traffic capacity of streets, schools, and existing utilities) and on the natural environment of the site and adjoining lands.
4. A completed Site Plan Review Checklist.
5. Rationale for requests for waiver or modification of any site plan data elements required in Section 901.4.B., if applicable.

C. Site Plan Requirements.

1. The site plan submittal shall include large-scale prints in the quantity requested by the Zoning Administrator, as well as a .pdf file of the site plan and supplemental documentation.
2. All site plans shall be professionally prepared and sealed by a licensed surveyor, an engineer, or an architect or landscape architect, licensed to work in Michigan.

901.4–Planning Commission Review

A. Modification of Required Site Plan Data.

The Planning Commission, upon written request of an applicant and with the recommendation of the Zoning Administrator, or their designee, may waive or modify any of the required site plan data listed below, provided, however, that all other applicable requirements of this and other City ordinances and State laws are met.

B. Site Plan Data Required

The required site plan data listed below shall be illustrated or stated on the site plan, and shall not be provided separately:

1. Project title and description
2. Sheet index
3. Date of latest revision
4. Name, contact information and seal of the professional engineer, architect, landscape architect who prepared sheets within a plan set.
5. The name and address of the owner(s) of record if the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land).
6. A vicinity map drawn at a scale of one inch (1") = two hundred feet (200') with north arrow indicated.
7. The address(es), parcel number(s), and legal description of the subject property.
8. Name and address of the developer (if different from the applicant).
9. The gross acreage of all parcels in the project.
10. Proposed land uses, including the following:
 - a. Total number of structures proposed
 - b. Number of units within each structure
 - c. Number of bedrooms within each unit
11. Proposed gross and net residential densities:
 - a. Gross density = # of units per total number of acres of subject site.
 - b. Net density = # of units per total net acreage of the subject site.
 - c. Net acreage = developable area minus road rights of way, easements, detention basins, wetlands and submerged lands.
12. A land use tabulation summary shall be provided in the margin of the plan indicating types of uses, acreage for each land use, number of units, densities, and land use intensities.
13. Number of offices
14. Floor plan delineation of proposed uses; total and usable floor area for each use
15. Location of existing and proposed buildings and intended uses thereof, as well as the length, width and height of each building and elevation views of proposed structures.

16. Proposed and existing locations of accessory structures, buildings and uses, including but not limited to all flagpoles, light poles, bulkheads, docks, storage sheds, transformers, air conditioners, generators and similar equipment, and the method of screening where applicable.
17. Amount of recreation and open space, type of recreation facilities and amenities to be provided.
18. Zoning classification on the subject parcel(s) and adjoining parcels within one hundred (100) feet of the subject parcel(s).
19. Parking and Traffic Circulation:
 - a. Provide required parking and proposed parking space quantities (may include on-street parking spaces and/or shared parking spaces)
 - b. Number of carports or garages providing parking spaces
 - c. Number of employees by shift, if applicable
 - d. Parking space dimensions
 - e. Drive aisle dimensions
20. Required and provided loading space quantities
21. Truck-turning templates (when requested)
22. Indication of the direction of traffic flow
23. Location and dimensions of existing adjacent public or private roads, rights-of-way and all public and private easements of record, including the liber and page or instrument number reference for recorded documents. Recorded copies of easement agreements shall be submitted upon request.
24. Location and dimensions of proposed streets, drives, and curb cuts (to be created, relocated, or abandoned), as well as acceleration, deceleration, and passing lanes (if any) serving the development.
25. Directional signage proposed including pavement markings.
26. Location, design, and dimensions of existing and/or proposed curbing, barrier-free access, detail of surfacing method, and fire lanes.
27. Project completion schedule/development phases.
28. Location of proposed and/or existing property lines, dimensions, and setback lines.
29. Existing topographic elevations at two (2) foot intervals, proposed grades and direction of drainage flows.
30. The location and type of existing soils on the site and any certification of borings.

31. The location of all existing trees having five (5) inches or greater diameter breast height, identified by common or botanical name. Trees proposed to remain, to be transplanted or to be removed shall be so designated. Cluster of trees standing in closed proximity (3-5 feet or closer) may be designated as a “stand” of trees, and the predominant species, estimated number and average size shall be indicated.
32. Location and elevations of existing water courses and water bodies, including County drains and man-made surface drainage ways, floodplains and wetlands. Wetlands data on site plans shall come from a delineation by an environmental professional or EGLE. Floodplain locations shall be consistent with the Floodplain Insurance Rate Maps (FIRM) for the City of Niles.
33. Location and design of all existing and proposed sidewalks, walkways, bicycle paths, and areas for public use.
34. Location of water supply lines, including fire hydrants and shut-off valves, and the location and design of storm sewers, catch basins, retention or detention ponds, water lines, cleanout locations, connection points and treatment systems.
35. Location of all other utilities on the site including but not limited to natural gas, electric, cable TV, telephone, internet and fiber optics.
36. Location and size of all existing and proposed signs.
37. Location of existing and proposed exterior lighting fixtures and specifications, along with photometric illumination levels in footcandles to five (5) feet beyond the property line.
38. Location and specifications for all fences, walls and other screening features with cross sections.
39. Landscaping sheet that includes the location and specifications for all proposed perimeter and internal landscape plantings and other buffering features. All vegetation to be retained on the site must be indicated.
40. Proposed open spaces and their intended use, including all proposed active and passive recreation facilities.
41. Location, size and specifications for screening of all trash receptacles and other solid waste disposal features.
42. Location and specifications for any existing or proposed above or below-ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials as well as any containment structures or clear zones required by government authorities.
43. Identification of any significant site amenities or unique natural features.
44. Location and specification of all soil erosion and sedimentation control measures.
45. Stormwater management plan and drainage calculations in accordance with the requirements of the Berrien County Drain Commission if total area disturbance is more than one acre.

46. Additional Information. At the discretion of the Zoning Administrator or Planning Commission, one or more of the following special studies or reports may be required in order to determine whether the standards of site plan review are met. No approvals shall be granted until reports from the special studies are received and reviewed by the appropriate City staff or agency representative.
- a. Traffic Impact Study
 - b. Wetland Delineation Report
 - c. Geotechnical Report
 - d. Tree survey
 - e. Any other study or analysis that the City deems necessary to ensure the standards of site plan review are met.

901.5 – Procedures for Review and Approval

A. Optional Preapplication Conference.

This option is offered to a prospective applicant as an opportunity to meet with City staff to discuss a conceptual site plan and obtain preliminary feedback and recommendations. This optional step is also an opportunity to provide the prospective applicant with a better understanding of the site plan review process and to advise on any other special procedures that may be necessary, such as seeking zoning variance or applying for permits through other agencies such as EGLE or the Berrien County Drain Commission.

Prospective applicants are encouraged to take advantage of this optional step ahead of formally submitting an application and fees for a project that requires site plan review.

B. Site Plan Review Committee.

1. Upon submittal of a complete application, site plans, required supplemental documentation, fees, and escrow deposit, the Zoning Administrator, or their designee, shall disseminate the application and site plan to appropriate City personnel and/or agency (referred to as the Site Plan Review Committee (SPRC)) including but not limited to:
 - a. Director of Public Works
 - b. Utilities Manager
 - c. Police Chief
 - d. Fire Chief
 - e. Building Official
 - f. Code Enforcement Officer

- g. Other agencies such as the Berrien County Health Department (BCHD), Berrien County Drain Commission (BCDC), Michigan Department of Transportation (MDOT), Michigan Department of Environment, Great Lakes, and Energy (EGLE), and the Michigan Department of Natural Resources (MDNR), when applicable, for their review and comment.
 - h. Any other City staff person or official whose input may be beneficial, such as representatives from the Downtown Development Authority or the Historic District Commission.
2. Each applicable agency, board member, or City staff person shall review the site plan and application materials and provide written comments to the Zoning Administrator, which shall be forwarded on to the applicant and the Planning Commission.
- C. Written Report. The Zoning Administrator shall prepare a report based on the revised submittal, including findings of fact and recommendations to the Planning Commission.
 - D. Planning Commission Packets. Upon completion of the report and recommendation, the site plan and all accompanying documents shall be forwarded to the Planning Commission in a packet for consideration prior to the meeting.
 - E. Concurrent Processing of Special Land Use Permits. If the proposed development seeks the issuance of a Special Use Permit, the Planning Commission shall follow the Special Use procedure as provided in Article 8. Provided, however, that an applicant may submit an application for special use permit and site plan approval for concurrent processing.
 - F. Variance Requests. If the proposed development application would require the issuance of a variance by the Zoning Board of Appeals, the Planning Commission shall postpone its action on the application until the Zoning Board of Appeals has ruled on the variance request.
 - G. Zoning Administrator Discretion for Planning Commission Review. If the proposed development or improvements are subject to Administrative Site Plan Review, the Zoning Administrator may refer applications to the Planning Commission at their discretion.

901.6 – Planning Commission Review

- A. General Provisions:
 - 1. The Planning Commission shall examine the site plan and accompanying documents as to proper form and content and particularly as to compliance with all applicable requirements of this Ordinance, and consider the findings of fact and the report and recommendation of the Zoning Administrator.
 - 2. If the proposed development does not require the issuance of a variance, rezoning of land, special use permit or is not located in the Central Business District (CB), the Planning Commission shall approve, deny or postpone their action on the site plan.
 - 3. Within ten (10) days of the decision of the Planning Commission, the Zoning Administrator shall notify the applicant in writing of the decision of the Planning Commission.

4. If the proposed development is located within the Central Business District (CB), the site plan shall be reviewed by the Downtown Development Authority (DDA), prior to final review by the Planning Commission. The DDA shall submit its findings and recommendation to the Planning Commission.
5. Following approval of a site plan, the applicant shall be eligible to apply for all appropriate building permits through City of Niles, when others and other permits required by state and county agencies.
6. As approved, the site plan shall become part of the record of approval and subsequent actions relating to the activity authorized shall be consistent with the approved site plan.

B. Site Plan Approval Standards.

In the process of reviewing a site plan, the Planning Commission or Zoning Administrator shall find that all of the following standards are met:

1. That there is a proper relationship between the existing streets and highways within the vicinity, and proposed deceleration lanes, service drives, entrance and exit driveways, and parking areas to assure the safety and convenience of pedestrian and vehicular traffic, and that the proposed streets and access plan conform to any street or access plan adopted by the City.
2. That the buildings structures and entrances thereto proposed to be located upon the premises are so situated and so designed as to minimize adverse effects upon owners and occupants of adjacent properties and the neighborhood.
3. That as many natural features of the landscape shall be retained as possible, particularly, where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of storm waters.
4. That any adverse effect of the proposed development and activities emanating therefrom upon adjoining residents or owners shall be minimized by appropriate screening, fencing or walls, or landscaping.
5. That all provisions of this Ordinance are complied with unless an appropriate variance therefrom has been granted by the Zoning Board of Appeals.
6. That all buildings and structures are accessible to emergency vehicles.
7. That a plan for erosion control, storm water discharge, has been approved by the appropriate public agency.
8. That the plan as approved is consistent with the intent and purpose of zoning to promote public health, safety and general welfare; to encourage the use of lands in accordance with their character and adaptability; to avoid the overcrowding of population; to lessen the congestion on public roads and streets; to reduce hazards to life and property; to facilitate adequate provisions for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements; and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties; to preserve

property values and natural resources; and to give reasonable consideration to character of a particular area, its peculiar suitability for particular uses and the general appropriate trend and character of land, building and population development.

9. That all utility services shall be provided on site in a manner least harmful to surrounding properties, and that all utilities are located underground, as applicable, unless specifically waived by the Zoning Administrator, Planning Commission or Zoning Board of Appeals.
10. That all applicable local, regional, state and federal statutes are complied with.

C. Approved Site Plans.

A Site Plan shall be approved if it contains the information required by, and is in compliance with the Zoning Ordinance, the conditions, imposed pursuant to the Ordinance, other City planning documents, other applicable ordinances, and state and federal statutes.

D. Conformity To Approved Site Plan.

Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan and any amendments thereto which have received the approval of the Planning Commission. If construction and development does not conform with such approved plans, the approval shall be revoked by the Zoning Administrator by written notice of such revocation posted upon the premises involved and mailed to the developer at the last known address. Upon revocation of such approval, all construction activities shall immediately cease upon the site, other than for the purpose of correcting the violation. However, the Planning Commission may, upon proper application, approve a modification in the site plan, provided such modification complies with the criteria contained in the site plan approval standards in Section 901.6.B.

E. Terms Of Approval of The Site Plan.

Approval of the site plan shall be valid for a period of one (1) year after the date of approval. The Planning Commission may grant extensions if applied for in writing. The reasons for extensions may be the inability to complete the requirements, financial problems, or other proven hardship. If a Zoning compliance permit has not been obtained and the on-site development actually commenced within said one (1) year, the site plan approval shall expire and no earth change or other construction on the site shall be permitted until a new site plan is approved.

F. Amendment To The Site Plan.

No changes shall be made to an approved Site Plan before or during construction except upon notifying the Zoning Administrator, who shall review and approve only minor amendments (as defined in Section 901.2.B). All other amendments, as well as the changes listed below, to a site plan, shall be considered major amendments and shall be reviewed and approved by the Planning Commission:

1. Change of use, change in the number and location of accesses to public streets and alleys,
2. A major relocation of a building (more than ten (10) feet in any direction),

3. Increase in the gross floor area or heights of buildings,
4. A reduction in required open space,
5. Any other changes as determined by the Zoning Administrator to be considered major.

Applications for major amendments shall be processed in the same manner as the original application was submitted, reviewed, and approved.

G. Performance Guarantee Requirements.

As a measure to ensure quality completion of approved site plan elements and conditions of site plan approval, an applicant may be required to provide a performance guarantee in accordance with Article 11 of this ordinance.

Section 902 – Performance Standards

Every use shall be so conducted and operated that it is not obnoxious or dangerous by reason of heat, glare, fumes, odors, dust, noise or vibration beyond the lot on which the use is located, in accordance with the following provisions:

- A. All lighting that illuminates buildings and parking areas shall be cut-off type fixtures and shall direct light away from an adjacent property, in accordance with Section 905 of this Article.
- B. Noise generated from any property or use shall not be injurious to any person or adjacent property. Those agricultural uses protected by the Right to Farm Act shall be exempt from this provision.
- C. Any use operating within the City shall fully comply with all applicable rules and regulations related to air quality, as set forth by the Michigan Department of Energy, Great Lakes, and Environment (EGLE), as well as all other federal, state or county agencies having jurisdiction over air quality.
- D. Sources of fugitive dust (such as unpaved roads, construction site tracking of soils onto paved roads, and aggregate storage piles) shall be controlled using an EPA-acceptable control method, such as the application of water or chemical stabilizers, to prevent the release of fugitive dust into the atmosphere.
- E. No use shall be permitted to create earth-shaking vibrations, and shall be located and/or controlled in such a manner as to prevent transmission of earth-shaking vibrations beyond the lot lines of the lot on which the use is located, perceptible without the aid of instruments.
- F. All outdoor storage of materials, equipment and products shall be screened from view in accordance with Section 904 of this Article.

Section 903 – Off-Street Parking and Loading

903.1 – Intent and Purpose

The purpose of this section is to promote sustainable urban and suburban development and redevelopment by encouraging the shared use of existing public and private parking, promoting the use of alternative modes of transportation, and establishing user-driven parking requirements that promote the conservation of existing green spaces.

The requirements and standards in this article are intended to alleviate and prevent the congestion of vehicles on public streets, and to enhance pedestrian safety, accessibility, and efficiency of travel in all areas of the City. This article intends to regulate parking by zoning district rather than by land use for ease of administration and to reduce the amount of impervious surfaces throughout the City.

903.2 – General Parking Provisions Applicable to All Districts

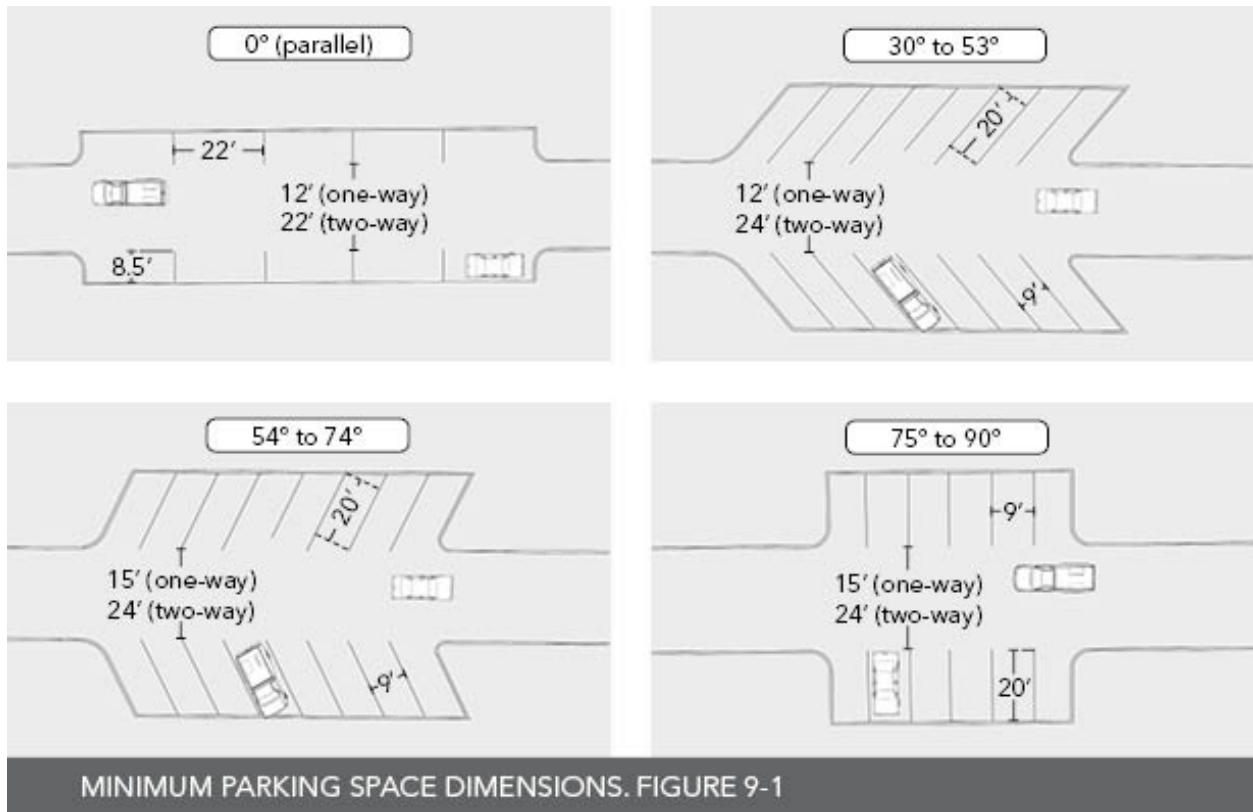
A. Joint Parking Facilities.

Off-street parking facilities for different buildings, structures or uses, or for mixed uses, may be provided collectively in any zoning district in which separate parking facilities for each constituent use would be permitted, provided that the total number of spaces so located together shall not be less than the sum of the separate requirements for each use, unless authorized by the Zoning Administrator or Planning Commission.

B. Determination of Necessary Parking Quantities. The number of parking spaces needed for a new use shall be based on the current parking demand determined by the industry that the land use aligns with combined with the anticipated occupancy of the building for the use. Section 903.3 provides the Planning Commission the discretion to approve or require more or less parking than that proposed for new construction.

1. **Maximum Parking Quantities.** No parking space quantities for new developments shall exceed the number of spaces specified or determined by the Planning Commission in Section 903.3, for any land use. This provision shall not apply to redevelopment sites where a new use will occupy an existing building and associated existing parking lot. No new parking spaces may be constructed on redevelopment sites unless all of the following criteria are met:

- a. Neighboring property owners are unable or unwilling to enter into a shared parking agreement. This must be demonstrated by the applicant to meet this criterion by providing a written statement from neighboring property owners indicating their inability or their unwillingness to allow for the shared use of their parking area.
- b. The number of existing spaces is less than the required quantity specified in Section 903.3, Schedule of Parking Requirements.
- c. The redevelopment site is located in the RC, Regional Commercial zoning district.
- d. The redevelopment results in a loss of existing parking spaces due to the expansion of a building, outdoor seating area, display area or any other area of expansion that would result in the loss of existing parking spaces.

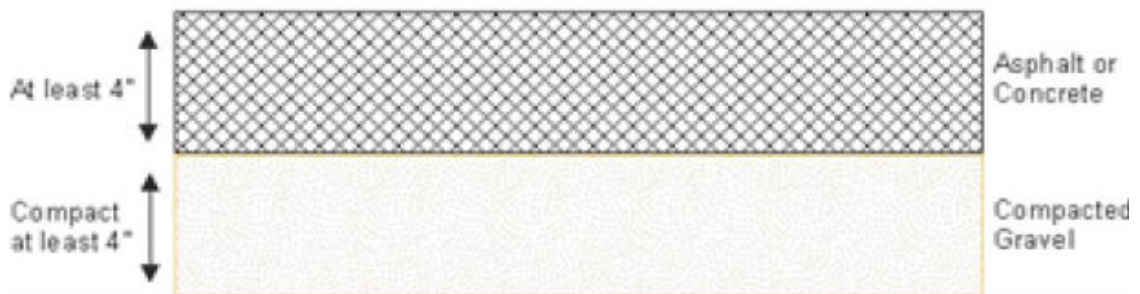


MINIMUM PARKING SPACE DIMENSIONS. FIGURE 9-1

- C. Off-Street Parking Space and Drive Aisle Dimensions. Off-street parking spaces and drive aisles shall meet the dimensional requirements set forth in Figure 9-1.
- D. Access. Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space without having to pass over another space. All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley in a manner that will least interfere with traffic movements. No driveway across public property and no curb cut shall exceed a width of thirty (30) feet.
- E. Use of Parking Facilities.
 1. Off-street parking facilities accessory to any residential use and developed in any residential district in accordance with the requirements of this section shall be used for the parking of vehicles owned by occupants of the dwelling structures to which such facilities are accessory or by guest of said occupants.
 2. Required parking spaces for residential uses shall not be occupied by commercial vehicles, as defined in Article 2, Definitions, unless otherwise expressly permitted elsewhere in this Ordinance.
 3. No parking facilities (on-street or off-street) shall be used for any use other than the short-term parking of vehicles or as permitted by the City Council or Planning Commission in the case of a special event.
 4. No repair work of any kind shall be permitted in conjunction with any on-street or off-street parking facilities in any zoning district within the City of Niles.

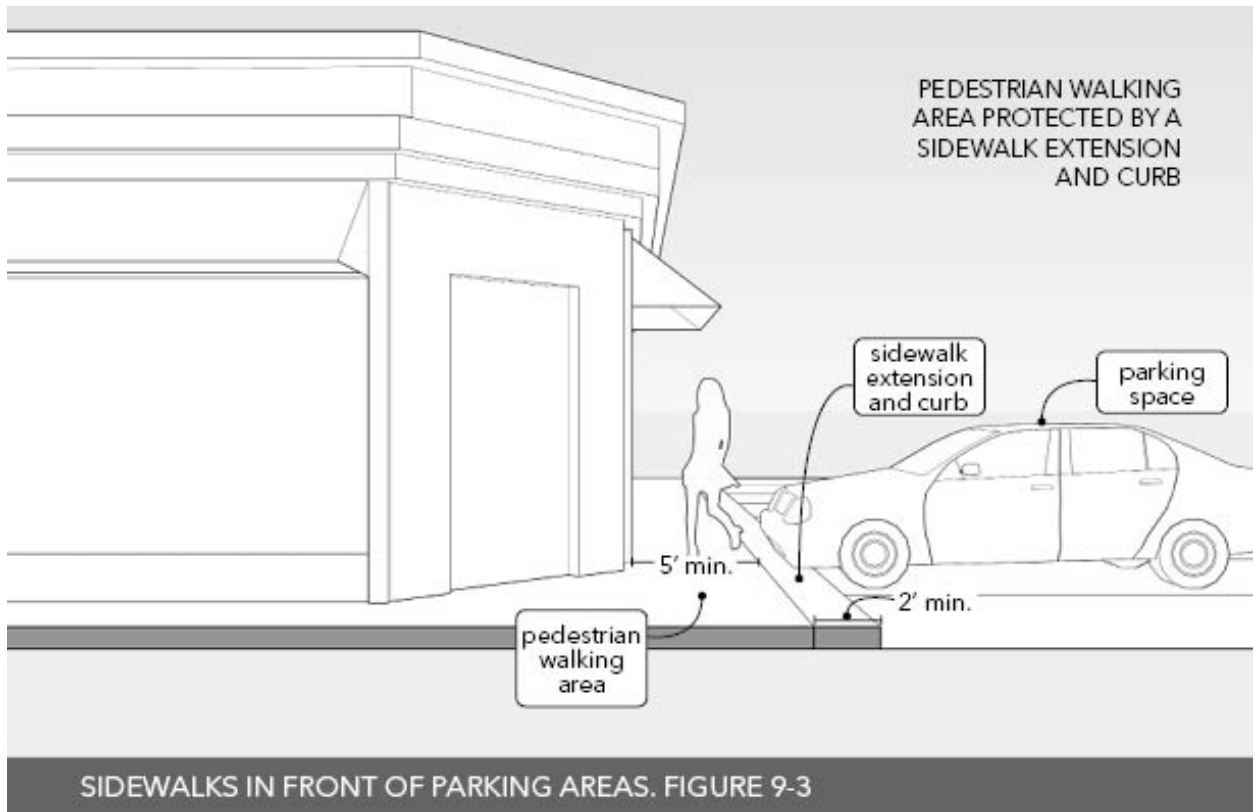
F. Design and Maintenance.

1. Design: All open off-street parking areas and driveways shall be improved as follows:
 - a. The base shall consist of compacted gravel or slag, not less than four (4) inches thick, and surfaced with no less than four (4) inches of asphalt or concrete. See Figure 9-2. Unpaved parking areas in non-residential districts shall not be permitted for new developments, however, may be permitted for redevelopment under the following exception:
 - i. In the NC, Neighborhood Commercial and RC, Regional Commercial Districts, if an existing off-street parking area is unpaved and the site is redeveloped, the Planning Commission or Zoning Administrator may use discretion in determining whether to require the paving of an existing unpaved parking area.



TYPICAL PARKING LOT PAVEMENT SECTION. FIGURE 9-2

- b. All parking spaces within off-street parking areas in commercial districts shall be provided with a wheel block or bumper guard in cases where parking areas abut sidewalks so that no part of parked vehicles extend beyond the provided parking area or property line.
 - c. All off-street parking spaces that abut pedestrian walkways adjacent to a building shall be seven (7) feet from the wall of the building to allow for a two (2) foot overhang before the five (5) foot walkway begins, in accordance with Figure 9-3.
 - d. Driveways in the R-1 and R-2 districts may be comprised of a dustless, compact surface.
 - e. Parking lots shall provide parking spaces for that accommodate drivers and passengers using wheelchairs or other mobility devices in compliance with applicable building codes and the Americans with Disabilities Act (ADA), as applicable.
- G. Maintenance. All off-street parking area(s) shall be maintained and kept in good condition as follows:
1. All public and private on and off-street parking areas shall remain free of dust, trash, and debris.
 2. All public and private on and off-street parking areas shall be maintained during the winter months and shall not accumulate snow amounts in excess of three and a half (3 ½) feet within thirty (30) feet of the public right of way.



H. Setback. Off-street parking areas shall comply with the following setbacks:

1. All non-residential parking facilities and spaces in the NC RC and OC districts and adjoining or fronting any property in a residential district shall be setback five (5) feet from the front property line.
2. All automobile parking facilities in the CB, NC, RC, and OC districts which abut rear property lines of a residential district shall be setback five (5) feet from said rear property line. Such setback, shall serve as a buffer and be screened and landscaped as outlined in Section 904, Landscaping.
3. Where an industrial district abuts a residential district, off-street parking areas shall not be nearer than twenty-five (25) feet to the property line adjoining the residential district, and such parking area shall be screened as outlined in Section 904, Landscaping.

I. Joint Parking Facilities.

Off-street parking facilities for different buildings, structures or uses, or for mixed uses, may be provided collectively in any zoning district in which separate parking facilities for each constituent use would be permitted, provided that the total number of spaces so located together shall not be less than the sum of the separate requirements for each use, unless authorized by the Zoning Administrator or the Planning Commission.

J. Location: Off-street parking facilities shall be located as follows:

1. R-1, R-2, OS and IND Districts: All required parking spaces for principal uses shall be located on the same zoning lot as the principal use.

2. RC and OC Districts: All required parking spaces for principal uses shall be within three hundred (300) feet of the use served, however, shall not be located within a residential district.
3. CB and NC Districts: All required parking spaces for principal uses shall be within four hundred (400) feet of the use served and may include on-street spaces.
4. Residential Driveways: In residential districts, parking may be located on one (1) side of a residence or directly in front of an attached or detached garage, provided that no portion of the required front yard outside of these areas is used for parking. Parking may be located within the side or rear yards; however, parking may be located within the front yard providing a permit is granted by the Building Department, based upon the following conditions:
 - a. For a horseshoe shape driveway on a lot with a minimum width of sixty (60) feet, a minimum front yard depth of thirty-five (35) feet, and a minimum front yard area of two thousand one hundred (2,100) square feet.
 - b. For a "T" shape driveway on a lot with a minimum width of fifty (50) feet, a minimum front yard depth of thirty (30) feet, and a minimum front yard area of one thousand five hundred (1,500) square feet. The appendage of the "T" shape driveway which lies parallel to the street shall be located not less than fifteen (15) feet from the front lot line.
 - c. There shall be no more than one (1) driveway per residential dwelling, which shall be surfaced as required in Section 903.2.F. Parking is encouraged to be located in the rear of multiple-family buildings.
5. Front Yard Prohibition: In all non-residential districts, no new parking spaces shall be constructed within the required front yard of any lot or between any building and the street right of way. Parking areas and spaces existing as of the date of this ordinance shall be considered conforming.

K. Screening and Landscaping.

1. All parking areas located in non-residential zoning districts that abut a sidewalk, street, or residentially zoned or residentially used property shall be effectively screened in accordance with the screening requirements outlined in Section 904.5, Parking Lot Landscaping.
2. All off-street parking shall be located at the rear of the primary use and provide landscape buffering to separate parking and mitigate the visual and environmental impacts of parking lots, unless there are site-specific features that prevent rear yard parking.

L. Lighting. Any lighting used to illuminate off-street parking areas shall adhere to the requirements of Section 905, Lighting.

M. Signs. Signs in off-street parking areas shall comply with the requirements of Article 7 of this Zoning Ordinance.

N. Street Right-of-Way. No person, firm or corporation shall deposit, leave or store any motor vehicle or tangible personal property of any type or description at any time within the right-of-way of any street within the city.

O. Planning Commission Authority to Waive or Reduce Requirements.

The Planning Commission has the authority to waive or reduce the requirements of this Section 903, upon finding that at least one (1) of the following criteria are met:

1. That the proposed development would result in an excessive amount of impervious surface, which would alter the character of the proposed development.
2. That the area dedicated to the required parking quantities would result in inadequate area for the proposed building.
3. That providing new surface parking for a proposed development may result in the financial infeasibility to develop the site altogether. Documentation supporting this claim shall be required.
4. That unique circumstances exist, as determined by the Planning Commission.

P. In lieu of the provision of on-site parking, the Downtown Development Authority may recommend and Planning Commission may approve a shared parking agreement with another property located within a reasonable walking distance of the property in question. Such agreement shall be in writing and shall assure satisfactory to the City that the parking needs of the proposed development shall be adequately met.

Q. For parking lots accommodating more than twenty five (25) parking spaces the following standards shall apply:

- a. Parking lots shall provide shared access with adjoining uses where feasible.
- b. Parking areas shall be designed, built, and screened so as to reasonably shield them from view from Main Street. Planter islands shall be provided.
- c. Each parking area shall have not more than two (2) driveways connecting to other parking areas.

903.3 – Schedule of Parking Requirements

For the following uses, off-street parking spaces shall be provided as required hereinafter.

Land Use	Required Parking Quantity
Residential Uses	
One-family Dwellings and Two (2) Family Dwellings	Two (2) parking spaces shall be provided for each dwelling unit.
Multiple-Family Dwellings: (Including Apartment Hotels)	Two (2) parking spaces shall be provided for every dwelling unit. For lodging rooms located in an apartment hotel, one (1) parking space shall be provided for each two (2) lodging rooms, One (1) parking space shall be provided for each employee.
Motels, Inns, and Auto Courts	One (1) parking space shall be provided for each sleeping room or suite, plus one (1) space for each employee.
Lodging, Rooming and Boarding Houses	One (1) parking space for each dwelling unit and/or lodging room shall be provided. One (1) parking space for each employee. One (1) parking space shall be provided for each lodging room plus one (1) space for the owner/manager and each employee.
Private Clubs and Lodges: (With Sleeping Facilities for Guests)	One (1) parking space shall be provided for each lodging room plus parking spaces equal in number to ten percent (10%) of the capacity in persons (exclusive of lodging room capacity) of such club or lodge. One (1) parking space shall be provided for each employee.
Retail and Services Uses	
Retail Stores, Office, and Banks	One (1) parking space shall be provided for each three- hundred (300) square feet of floor area. Drive-in banks or other similar drive-in establishments shall provide three (3) stacking spaces per teller or customer service window. One (1) parking space shall be provided for each employee.
Automobile Service Stations	One (1) parking space shall be provided for each employee.
Automobile-Laundry	Fifteen (15) stacking spaces shall be provided for each wash rack. One (1) parking space for each employee.
Bowling Alleys	Five (5) parking spaces shall be provided for each alley, plus such additional spaces as may be required herein for affiliated uses: bars, restaurants and the like. One (1) space shall be provided for each employee.

Establishments Dispensing Food or Beverages for Consumption on the Premises	One (1) parking space shall be provided for each two-hundred (200) square feet of floor area. One (1) space shall be provided for each employee.
Furniture and Appliance Stores, Household Equipment or Furniture Repair Shops	One (1) parking space shall be provided for each six-hundred (600) square feet of floor area. One (1) space shall be provided for each employee.
Motor Vehicle Sales and Machinery Sales	One (1) parking space shall be provided for each six hundred (600) square feet of floor area. One (1) space shall be provided for each employee.
Undertaking Establishment, Funeral Parlors	One (1) parking space for each fifty (50) square feet of gross floor area or part thereof. One (1) parking space for each employee and funeral vehicle kept on the premises.
Office, Professional and Governmental	The greater of either one (1) parking space for each four-hundred (400) square feet of floor area or three (3) parking space shall be provided for each four (4) employees.
Medical or Dental Clinics	One (1) parking space shall be provided for each two-hundred (200) feet of gross floor area. One (1) space shall be provided for each employee.
Wholesale Establishments (but not including warehouses and storage buildings)	One (1) parking space shall be provided for each one-thousand (1,000) square feet of gross floor area. One (1) space shall be provided for each employee
Manufacturing Uses or any establishment engaged in production, processing, cleaning, servicing, testing or of materials, goods or products	Three (3) parking spaces shall be provided for each four (4) employees. One (1) space shall be provided for each vehicle used in the conduct of the enterprise.
Warehouse and Storage Buildings	Three (3) parking spaces shall be provided for each four(4) employees. One (1) space shall be provided for each vehicle used in the conduct of the enterprise.
Community Service Uses	
Auditoriums	One (1) parking space shall be provided for each three (3) auditorium seats. Adequate space shall also be provided for buses used in connection with the activities of the institution, and all loading and unloading of passengers shall take place upon the premises.
Colleges, Universities, and Business, Professional and Trade Schools	One (1) parking space shall be provided for each three (3) employees and one (1) parking space shall be provided for each four (4) students based on the maximum number of students attending classes on the premises at any one time during any twenty-four (24) hour period.

Health Centers, Government Operated	Six (6) parking spaces shall be provided for each doctor or professional person, in addition one (1) parking space shall be provided for each employee.
Hospitals	One (1) parking space shall be provided for each four (4) hospital beds, plus one (1) parking space for each employee.
Libraries, Art Galleries and Museums – Public	One (1) parking space shall be provided for each one thousand (1,000) square feet of gross floor area.
High Schools, Public or Private	One (1) parking space for each seven (7) students based on the maximum number of students that can be accommodated with such design capacity of the building.
Places of Assembly, including stadiums, arenas, places of worship, and similar places of assembly	Parking spaces equal in number to forty percent (40%) of the approved occupancy shall be provided.
Miscellaneous Uses	
Private Clubs, Lodges (Without Sleeping Facilities for Guest):	Parking spaces equal in number to twenty-five percent (25%) of the approved occupancy;
Rest Homes, Sanitariums, Convalescent Homes and Nursing Homes	One (1) parking space shall be provided for each six (6) beds plus one (1) parking space each for employees and staff doctors
For the following uses – parking spaces shall be provided in adequate number – as determined by the Zoning Administrator, to serve persons employed or residing on the premises as well as the visiting public:	
Convents and monasteries Municipal or privately owned recreation buildings or community center Tennis Courts Swimming pools	Rectories and parish houses Crematories or mausoleums Fraternal institutions Outdoor amusement establishments Airports or aircraft landing fields and heliports
Mixed Uses: When two (2) or more uses are located on the same zoning lot within the same building, parking spaces equal in number to the sum of the separate requirements for each such use shall be provided. No parking spaces or portion thereof shall serve a required space for more than one (1) use unless otherwise authorized by the Zoning Administrator.	
Other Uses For uses not listed heretofore in this schedule of parking requirements, parking spaces shall be provided on the same basis as required for the most similar listed use, or as determined by the Zoning Administrator or Planning Commission.	

903.4 – Off-Street Loading Requirements

For every building or addition to an existing building hereafter erected to be occupied by manufacturing, storage, display of goods, retail stores or block of stores of over ten thousand (10,000) square feet, wholesale stores, markets, hotels, hospitals, funeral homes, laundromats, dry cleaners, restaurants or other similar uses requiring the receipt of distribution in vehicles of materials or merchandise, there shall be provided off-street loading spaces.

- A. Location: All required loading spaces shall be located on the same zoning lot as the use served. No loading space shall be located in required front, side or rear yards, but said yards may be used for maneuvering. No loading space for vehicles over two (2) tons capacity shall be closer than fifty (50) feet to any property in a residence district. No permitted or required loading space shall be located within twenty-five (25) feet of the nearest point of intersection of any two (2) streets.
- B. Number: Off-street loading spaces shall be required concerning floor area as follows:
 - 1. Up to 20,000 square feet – 1 space;
 - 2. 20,001 – 50,000 square feet – 2 spaces;
 - 3. 50,001 – 100,000 square feet – 3 spaces;
 - 4. One (1) additional space for each additional 100,000 square feet or fraction thereof.
- C. Size: Loading spaces shall be required as follows:
 - 1. Small berth size: For retail and service commercial uses, financial and personal services, and multi-family uses that generally have small business floor areas, small loading spaces of not less than twelve (12) feet wide, thirty (30) feet long, and fourteen (14) feet overhead clearance shall be provided.
 - 2. Large berth sizes: For all industrial uses, large product commercial uses (such as automobile sales, major appliance and furniture sales), warehousing, shopping centers and large office buildings, etc., large berth sizes are required. Berth shall be fourteen (14) feet wide and sixty (60) feet long, with fifteen (15) feet overhead clearance.
 - 3. Funeral homes: Berth shall be eight (8) feet wide and twenty five (25) feet long with ten (10) feet over head clearance.
- D. Access: Each required off-street loading space shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement. One-way access drives shall have a minimum width of twelve (12) feet. Two-way access drives shall have a minimum width of twenty two (22) feet.
- E. Repair and Service: No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any industrial or business districts.
- F. Joint Loading Facilities shall be permitted for shopping centers and for multi-tenanted office and industrial buildings for commercial/industrial complexes containing several connected buildings, one or more central freight receiving points are allowed subject to approval through the site plan review process. The number of berths required for joint loading facilities shall be the sum of the separated floor area requirements.

- G. Screening and Landscaping: Where loading spaces can be seen from a residential area or are located on the side of a building, screening and landscaping shall be required. The screen may be an opaque wall, berm or landscaping. Walls must have a finished surface and can be no higher than six (6) feet. Landscaping must be evergreens, opaque, and reach a height of six (6) feet within two (2) years of planting.
- H. Lighting: If the loading area is illuminated, lighting shall comply with the provisions of Section 905 of this Zoning Ordinance.
- I. Not in the Right-of-Way: Except as provided herein, all uses shall provide off-street loading areas sufficient for their requirements. Such space shall be adequate so that no vehicle being loaded or unloaded in connection with normal operations shall stand in or project into a public street, walk, alley or way.
- J. Space allocated to any off-street loading shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.
- K. For special uses other than prescribed for herein, loading spaces adequate in number and size to serve such uses as determined by the Zoning Administrator, shall be provided.
- L. Uses for which off-street loading spaces are required herein but which are located in buildings of less floor area than the minimum prescribed for such required facilities, shall be provided with adequate receiving facilities off any adjacent alley, service drive, or open space on the same lot which is accessible by motor vehicle.

Section 904 – Landscaping and Buffering

904.1 – Intent and Purpose

The intent of this section is to establish standards for the design, installation, and maintenance of landscaping for the protection and enhancement of the City’s environment. Landscaping and screening enhance the visual image of the City, preserve natural features, improve property values, and alleviate the impact of noise, traffic, and visual distraction associated with certain uses.

The standards contained in this section are considered the minimum necessary to achieve this section’s intent. In several instances, these standards are intentionally flexible to encourage creative design. Applicants are encouraged to provide additional landscaping beyond the minimum requirements of this Section to improve the function, appearance, and value of their property.

904.2 – Applicability and General Requirements

- A. Exemptions. Individual single-family dwellings, two (2) family dwellings, home occupations, and other uses not requiring site plan review are not subject to the provisions of this Section.
- B. Landscape Plan. When a site plan is required pursuant to this Ordinance, landscaping shall be incorporated into the site and a landscape plan shall be submitted in conjunction with the site plan. The landscape plan shall clearly describe the location, quantity, species, size (in caliper), height (in feet), and spacing of all proposed plant materials.
- C. Modification of Requirements. The Planning Commission may modify the requirements of this Section when it finds that the landscaping requirements of this Section would be unnecessary or ineffective, where it would impair vision at a driveway or street intersection, or in finding that existing landscaping, screening, or existing site conditions would meet the intent of this Section.
- D. Installation. All landscaping materials shall be installed in accordance with the approved site plan prior to the issuance of occupancy for the new use or structure, unless the time of year is not conducive to planting. Under this circumstance, the Zoning Administrator may allow a postponement of installation until the next planting season if the following provisions are met:
 - 1. A performance guarantee is deposited, in accordance with Section 1108 of this Ordinance, with the dollar amount equal to the cost of the landscaping materials and installation.
 - 2. Such performance guarantee shall be submitted in the form of a cash deposit or irrevocable letter of credit from a financial institution and accompanied by a quote for the required landscaping materials and installation.
 - 3. The Zoning Administrator shall reimburse the applicant upon successful completion of the landscaping installation in accordance with the approved landscaping plan.

- E. Maintenance. All lot areas not used for buildings, parking, loading, and storage shall be landscaped, unless otherwise not required by this Ordinance. Maintenance shall include all reasonable and regular watering, weeding, fertilizing, and pruning. Plant materials that show signs of insect pests, diseases, death, and/or damage should be removed immediately or as soon as practical under the seasonal conditions and replaced according to the approved site plan.

904.3 – General Standards for Landscape Materials and Ground Cover

- A. Quality and Composition. Plant material and grasses should be native species whenever possible. Species listed in Section 904.7 shall be used to ensure compatibility with hardiness to the Southwest Michigan climate, local soil characteristics, drainage, and water supply.
- B. All final landscape plans shall be subject to review and acceptance by the Department of Public Works prior to installation.
- C. Minimum Planting Sizes: Minimum planting sizes for required landscaping shall be as follows, unless otherwise stated in the standards of this ordinance, or waived by the Planning Commission:

Planting Type	Min height	Min. caliper
Large deciduous trees	Over 30' at matured height	2" caliper measured at 6" above the soil line
Small deciduous trees	Under 30' at mature height	1.5" caliper measured at 6" above the soil line
Evergreen trees	6' in height	n/a
Upright shrubs	3-gallon container or 30" in height, whichever is greater	n/a
Spreading shrubs	3-gallon container or 30" in height, whichever is greater	n/a
Plant materials added that exceed the required quantities are not subject to these size requirements.		

- D. Care shall be taken to protect existing trees on site during construction.
- E. In the event that healthy trees are used to meet the minimum requirements of this Ordinance or those labeled to remain are cut down, destroyed, damaged, or excavated at the dripline, as determined by the City, the contractor shall replace them with trees which meet Ordinance requirements.
- F. No synthetic plant materials such as artificial grass, shrubs, trees, or flowers shall be used to fulfill any landscaping requirements.
- G. Landscaping shall not interfere with public safety, and shall not interfere with the safe movement of motor vehicles, bicycles, or pedestrians.
- H. Landscaped materials shall not obstruct the operation and maintenance of fire hydrants and electrical facilities.
- I. Ground covers shall be established within two (2) growing seasons.

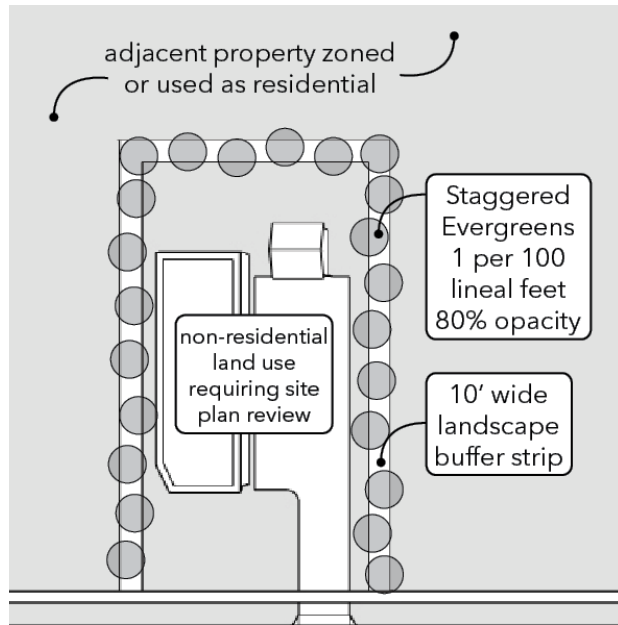
- J. Salt tolerant vegetation is highly encouraged to be planted along streets, sidewalks, parking lots, or other areas that may be salted to prevent the build-up of ice and/or snow.

904.4 – Screening Requirements

- A. Whenever a land use requiring site plan review abuts a residentially zoned property or a property containing a residential use, screening shall be provided along all side and rear property lines that abut the residential district or use. The minimum height for the required screening shall be six (6) feet, unless otherwise indicated in this Ordinance.

- B. The following materials and structures may serve as screening:

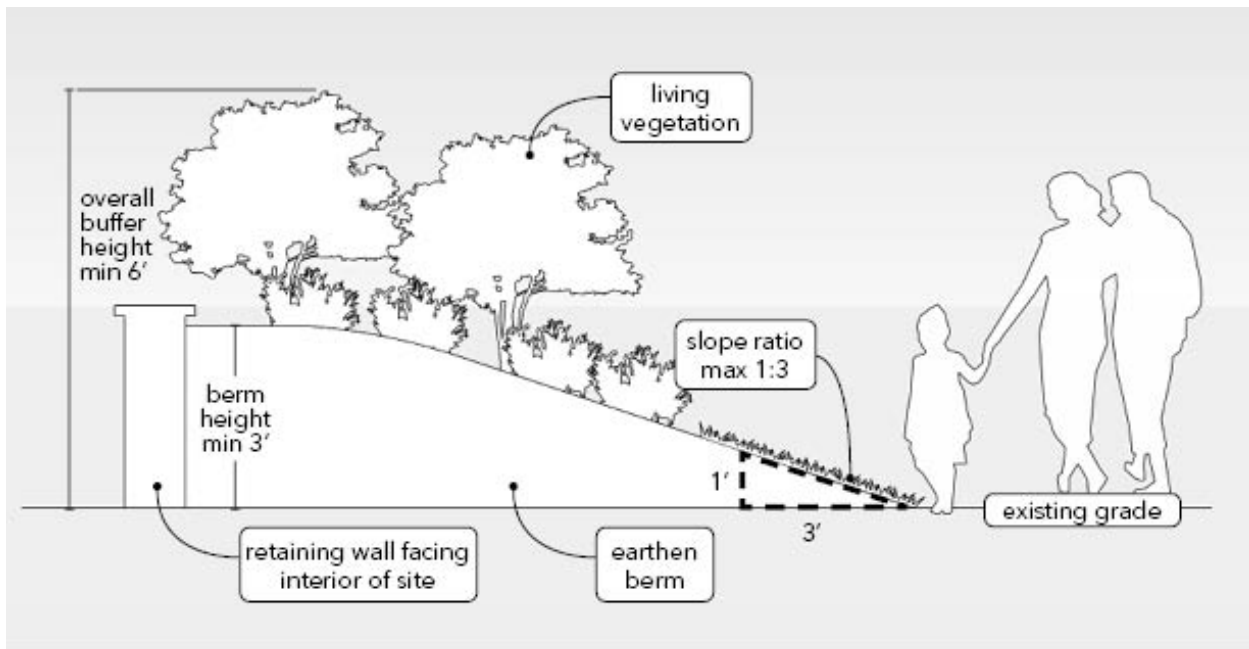
1. A ten (10) foot landscape buffer containing staggered evergreens (one (1) evergreen tree per one hundred (100) lineal feet) so as to maintain a minimum year-round opacity of at least eighty (80) percent based upon reasonably anticipated growth over a period of three (3) years. See Figure 9-4.



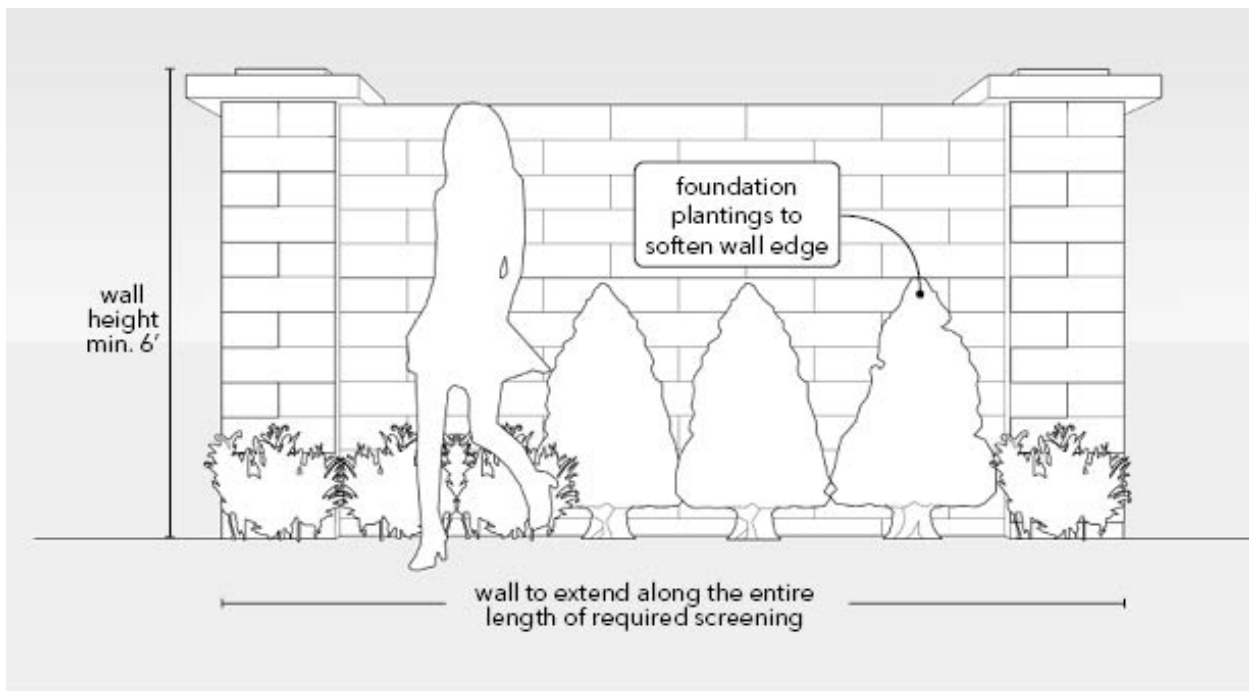
2. An opaque fence or other solid wall with a height of six (6) feet.
3. An earthen berm meeting the following specifications:
 - a. The berm shall be a minimum of six (6) feet in height, unless evergreen plantings are placed on the crest that would create an overall height of six (6) feet at the time of planting. In this case, the berm may be permitted at three (3) feet in height, in accordance with Figure 9-5.

LANDSCAPE BUFFER. FIGURE 9-4

- b. Shall not exceed one on three (1:3) slope on either side of the berm.
 - c. Living evergreen and/or deciduous planting materials may be placed on the crest of the berm.
 - d. The crest of the berm shall be a minimum of two (2) feet in width.
4. A greater screen or barrier, as determined by the Planning Commission (such as shown in Figure 9-6) may be required for more intense development, if the potential for incompatibility exists with the proposed land use.
- C. Mechanical and/or HVAC equipment located at grade conjunction with a multi-family residential building or a non-residential building, shall be screened from the view of the street or surrounding properties by a solid evergreen hedge, a wall, or fencing.



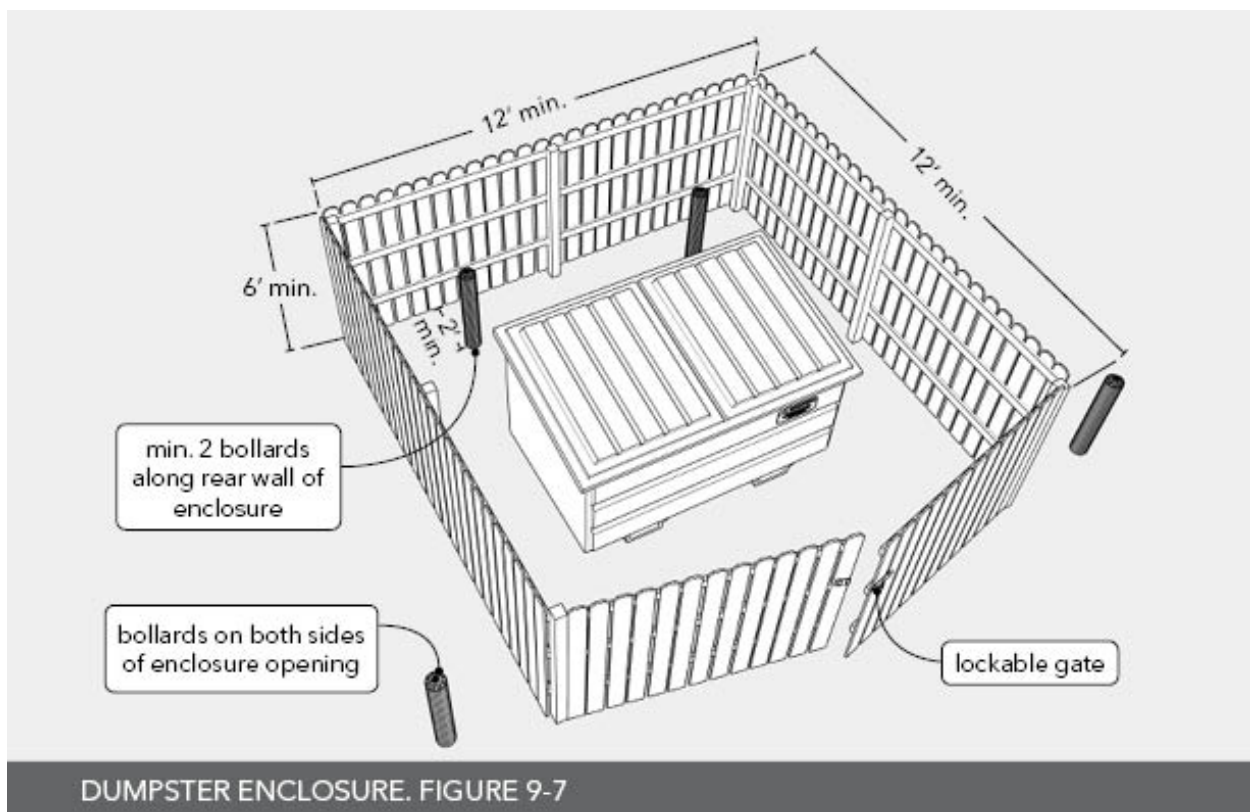
LANDSCAPE BERM AND WALL. FIGURE 9-5



MASONRY WALL WITH PLANTINGS. FIGURE 9-6

- D. Outdoor storage in commercial and industrial districts shall be screened from view by an opaque wall or fence except as otherwise permitted by this Section.
- E. Outdoor equipment associated with essential service facilities shall be screened from view by an opaque wall or fence except as otherwise permitted by this Ordinance.

- F. Dumpsters shall be screened in accordance with the following specifications, as shown in Figure 9-7:
1. Screening shall be of masonry construction, opaque fencing or vegetative material.
 2. Vegetative materials used for screening shall comply with Section 904.4.B.
 3. The screening height shall be six (6) feet.
 4. The area of the enclosure shall be a minimum of one hundred and forty four (144) square feet.
 5. Bollards shall be placed on the inside of the enclosure, at a minimum of two (2) feet from the screening wall, and on the outside of the enclosure on each side of the enclosure opening.
 6. The enclosure shall have a lockable gate.

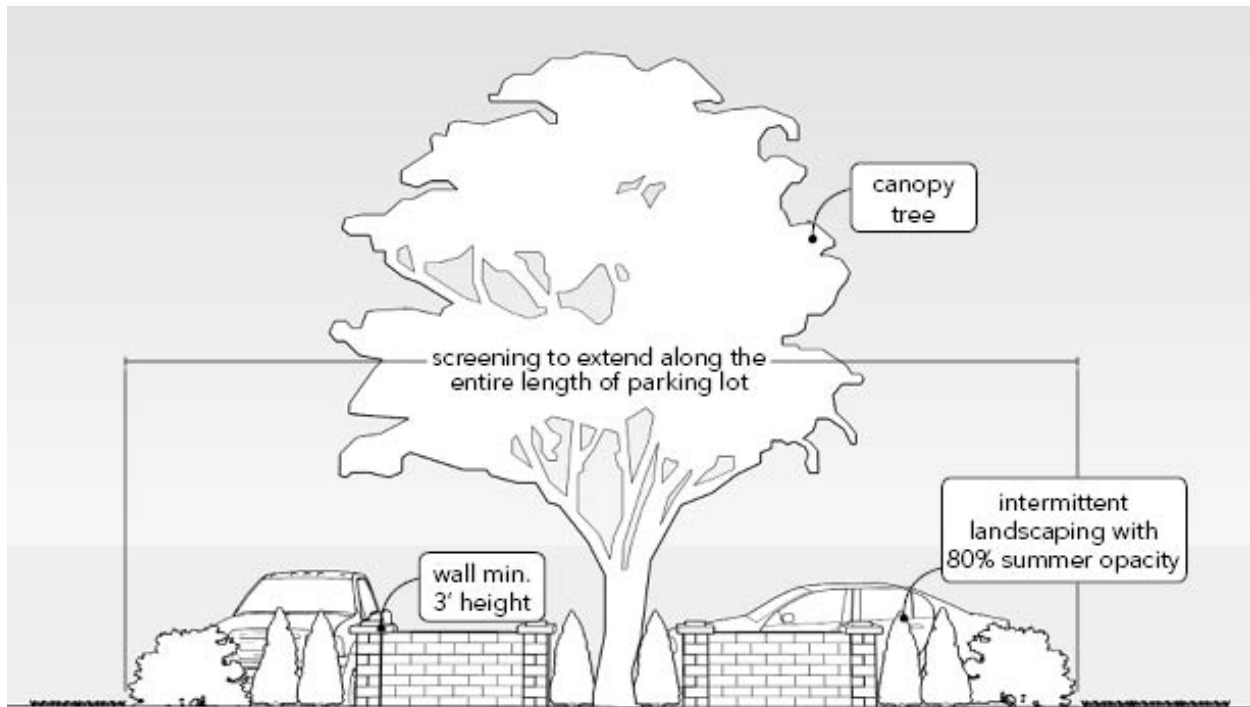


- G. Exceptions to Screening Requirements:
1. Required screening or fencing may be omitted along any lot line where a building wall exists immediately abutting the lot line.
 2. Where property line fencing or screening is required, the location may be adjusted so the fencing may be constructed at or within the setback line, provided the areas between the fence and the lot lines are landscaped.

3. Required screening or fencing may be waived or modified by the Planning Commission, at the request of the applicant and the recommendation by the Zoning Administrator. Such waiver may be permitted by the Zoning Administrator in the case of Administrative Site Plan Review.
4. When plant materials are used for screening, the following standards shall apply:
5. Plant materials with an anticipated dripline of the plant materials at maturity would extend beyond the fence line or property line shall not be placed within four (4) feet from of a fence line or property line.
6. Where plant materials are placed in two (2) or more rows, plantings shall be staggered.
7. Evergreen trees shall be planted not more than thirty (30) feet on center and shall be at least six (6) feet tall when planted.
8. Narrow evergreens shall be planted not more than six (6) feet on center and shall be not less than three (3) feet in height when planted.
9. Tree-like shrubs shall be planted not more than ten (10) feet on centers and shall be not less than four (4) feet in height when planted.
10. Large deciduous shrubs shall be planted not more than four (4) feet on centers and shall not be less than six (6) feet in height when planted.
11. Large deciduous trees shall be planted not more than thirty (30) feet on centers and shall be not less than eight (8) feet in height when planted.

904.5 – Parking Lot Landscaping

- A. Required parking lot landscaping in accordance with subsection 3 below shall be factored into the stormwater management plan in accordance with the standards required by the Berrien County Drain Commission.
- B. Frontage parking lot landscaping. Where any parking area abuts or faces a public street, landscaping shall be required between the parking area and the street right-of-way. Such landscaping shall consist of, at a minimum, one of the following:
 1. A strip of land at least five (5) feet in width as well as a solid screen of a hedge, fence, or decorative wall, or any combination thereof, which measures at least three (3) feet in height;
 2. A strip of land at least ten (10) feet in width consisting of one (1) canopy tree and three (3) deciduous shrubs for each thirty (30) feet of lot width.
 3. The required five (5) foot strip of land combined with a solid screen as described in Section 904.5.B.1 shall also contain ground cover.



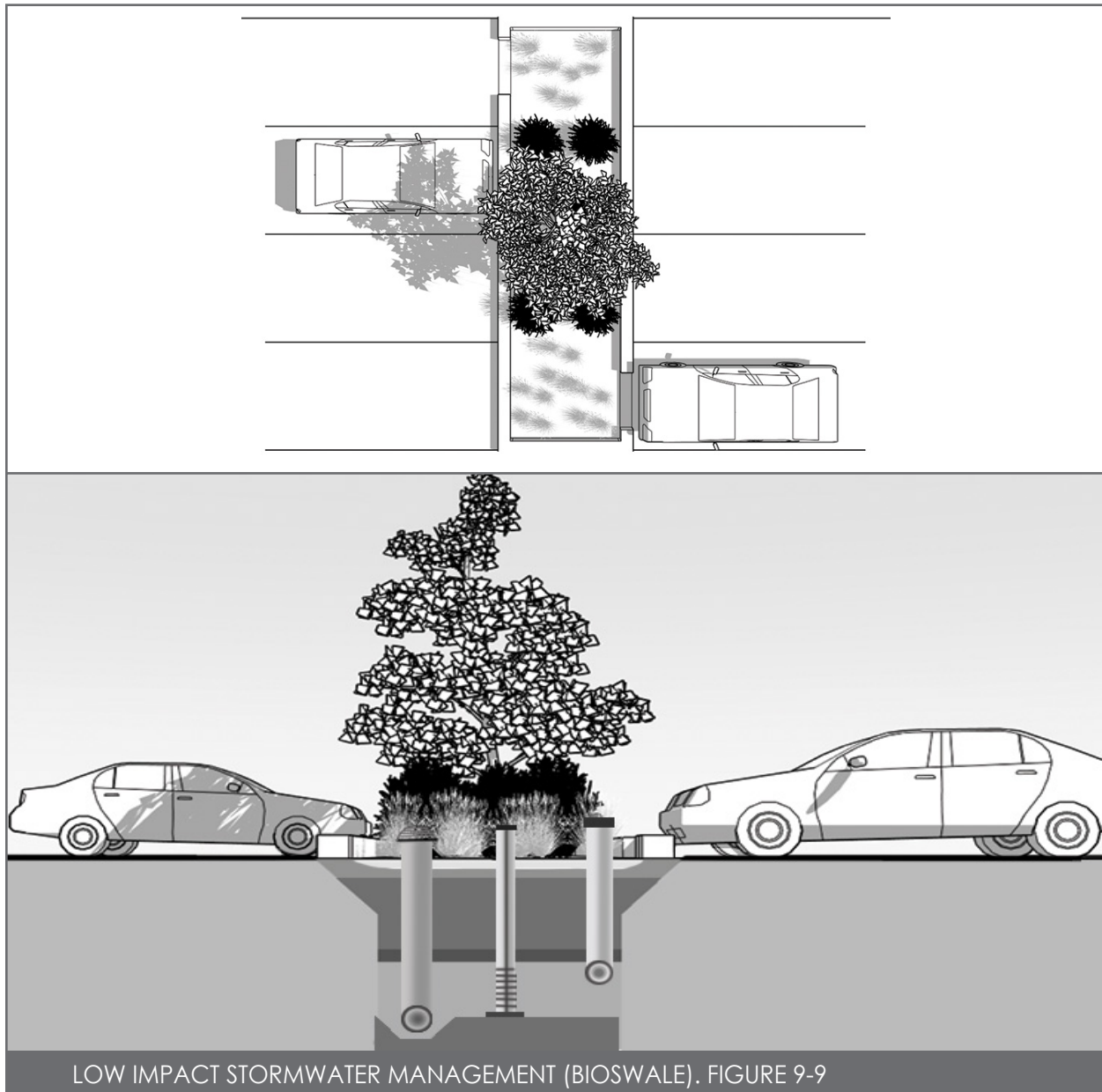
PARKING LOT BUFFER - WALL & INTERMITTENT LANDSCAPING. FIGURE 9-8

904.6 – Interior Parking Lot Landscaping

In addition to frontage landscaping, parking lots shall also contain landscaping within the interior of the parking lots as specified below:

- A. Interior landscaping shall be provided for any parking area containing twenty (20) or more spaces.
- B. The interior of the parking lot shall be considered as any point from the outside boundary of the parking area. The parking area is measured through the connection of straight lines along the edge of parking area pavement or curb, including planting islands, peninsulas, and corners, and excludes access drives located beyond the last parking spaces to the point of ingress/egress.
- C. Low-impact stormwater management facilities such as a bioswale or rain garden shall be utilized as landscape islands and shall be maintained to provide the required stormwater storage and infiltration originally designed as depicted in Figure 9-9.
- D. All new low-impact stormwater management facilities within a parking lot shall have a recorded maintenance agreement that specifies the following:
 1. Maintenance shall occur at least twice a year, once in the spring and once in the fall.
 2. Maintenance shall consist of the removal of fallen leaves, debris, litter accumulation, and or sediment deposits from all entry points, outlets, side slopes, and basin floors.

3. Repairs shall be required upon the discovery of any damage from vehicles, foot traffic or erosional processes which results in the destruction of the function of the facility.
4. Vegetative and mulch cover shall be reestablished if any bare soil patches exist.
5. Facilities shall be inspected for evidence of standing water that remains for more than twenty four (24) hours after a rain event. All outlet structures must be cleared and/or modified soil layers replaced when ponding regularly exceeds the design drainage time.



904.7 – Suggested Native Species

Suggested Native Plants. The use of native species is required for landscaping to support the local ecosystem. The following is a list of suggested native plant species.

Plant Type	Common Name	Botanical Name
Shrubs	Bush Honeysuckle	Diervilla lonicera
	Common Juniper	Juniperus communis
	Red osier dogwood	Cornus sericea
	Highbush Blueberry	Vaccinium corymbosum
	New Jersey Tea	Ceanothus americanus
	Carolina Rose	Rosa carolina
	Fragrant Sumac	Rhus aromatica
	Common Witch Hazel	Hamamelis virginiana
	Michigan Holly	Ilex verticillata
	Buttonbush	Cephalanthus occidentalis
	Spice Bush	Lindera benzoin
	Shrubby cinquefoil	Potentilla fruticosa
	Creeping Juniper	Juniperus horizontalis
	American Arborvitae	Thuja occidentalis
Ornamental Grasses and Perennials	Palm Sedge	Carex muskingumensis
	Little bluestem	Schizachyrium scoparium
	Switchgrass	Panicum virgatum
	Tufted Hairgrass	Deschampsia cespitosa
	Sundial Lupine	Lupinus perennis
	Bee Balm	Monarda fistulosa
	Black-Eyed Susan	Rudbeckia hirta
	Sweet Joe Pye Weed	Eupatorium purpureum
	Cardinal Flower	Lobelia cardinalis
	Butterfly Weed	Asclepias tuberosa
	New England Aster	Aster novae-angliae
	Blue Stemmed Goldenrod	Goldenrod Solidago caesia
	Columbine	Aquilegia canadensis
	Wild Blue Phlox	Phlox divaricata

Ornamental Trees	American Hazelnut	<i>Corylus americana</i>
	Eastern Red Bud	<i>Cercis canadensis</i>
	Cockspur hawthorn	<i>Crataegus crus-galli</i>
	Pagoda Dogwood (Tree Form)	<i>Cornus alternifolia</i>
	Fringe Tree	<i>Chionanthus virginicus</i>
	Allegheny Serviceberry	<i>Amelanchier laevis</i>
Evergreen Trees	Eastern White Pine	<i>Pinus strobus</i>
	Red Cedar	<i>Juniperus virginiana</i>
	White Spruce	<i>Picea glauca</i>
	Balsam Fir	<i>Abies balsamea</i>
	Canadian Hemlock	<i>Tsuga canadensis</i>
Canopy Trees	Red Oak	<i>Quercus rubra</i>
	Hackberry	<i>Celtis occidentalis</i>
	American Hornbeam	<i>Carpinus caroliniana</i>
	Black Oak	<i>Quercus velutina</i>
	Ironwood	<i>Ostrya virginiana</i>
	Kentucky Coffee Tree (Fruitless)	<i>Gymnocladus dioicus</i>
	Sugar Maple	<i>Acer saccharum</i>
	Red Maple <i>Acer rubrum</i>	<i>Acer rubrum</i>
	White Oak	<i>Quercus alba</i>
	Sycamore	<i>Platanus occidentalis</i>
	Thornless Honeylocust	<i>Gleditsia triacanthos f. inermis</i>
	River Birch	<i>Betula nigra</i>
	Osage orange (Fruitless)	<i>Maclura pomifera</i>
	Black Gum	<i>Nyssa sylvatica</i>

904.8 – Limited Use Trees

Limited Use Trees. Trees listed under this category are permitted in locations with open spaces, like parks or large greens, where there is limited contact with people spaces (walkways, picnic areas, etc.), vehicles, utilities, and structures.

Common Name	Botanical Name
Box Elder	<i>Acer negundo</i>
Silver Maple	<i>Acer Saccharinum</i>
Catalpa	<i>Catalpa speciosa</i>
Black Walnut	<i>Juglans Nigra</i>
Mulberry	<i>Morus rubra</i>
Black Willow	<i>Salix nigra</i>

904.9 – Reserved for Future Use

Section 905 – Lighting

905.1 – Intent and Purpose

The intent and purpose of this section shall be to:

- A. Permit the use of outdoor lighting that does not exceed the minimum levels as specified by the Illuminating Engineering Society (IES), and recommended practices for night-time safety, wildlife protection, security, productivity, enjoyment, and commerce.
- B. Minimize adverse offsite impacts of lighting such as light trespass, and obtrusive light.
- C. Minimize light pollution, reduce skyglow and improve the nighttime environment.
- D. Help protect the natural environment from the adverse effects of night lighting from gas or electric sources.
- E. Conserve energy and resources to the greatest extent possible.

905.2 – Applicability

- A. Exempted areas and types. The following types of outdoor lighting shall not be subject to this Ordinance, however, no lighting shall cause a disturbance on private property, as described in Section 58-166 of the City of Niles Code of Ordinances.
 - 1. Residential decorative lighting such as porch lights, low level lawn lights, and special seasonal lights.
 - 2. Streetlights located within the public right-of-way.
 - 3. Sign lighting as regulated in Article 7 of this Ordinance.
 - 4. Lighting necessary for road work, utility work.
 - 5. Lighting for a permitted temporary event such as a carnival, fair, or City-sanctioned event.

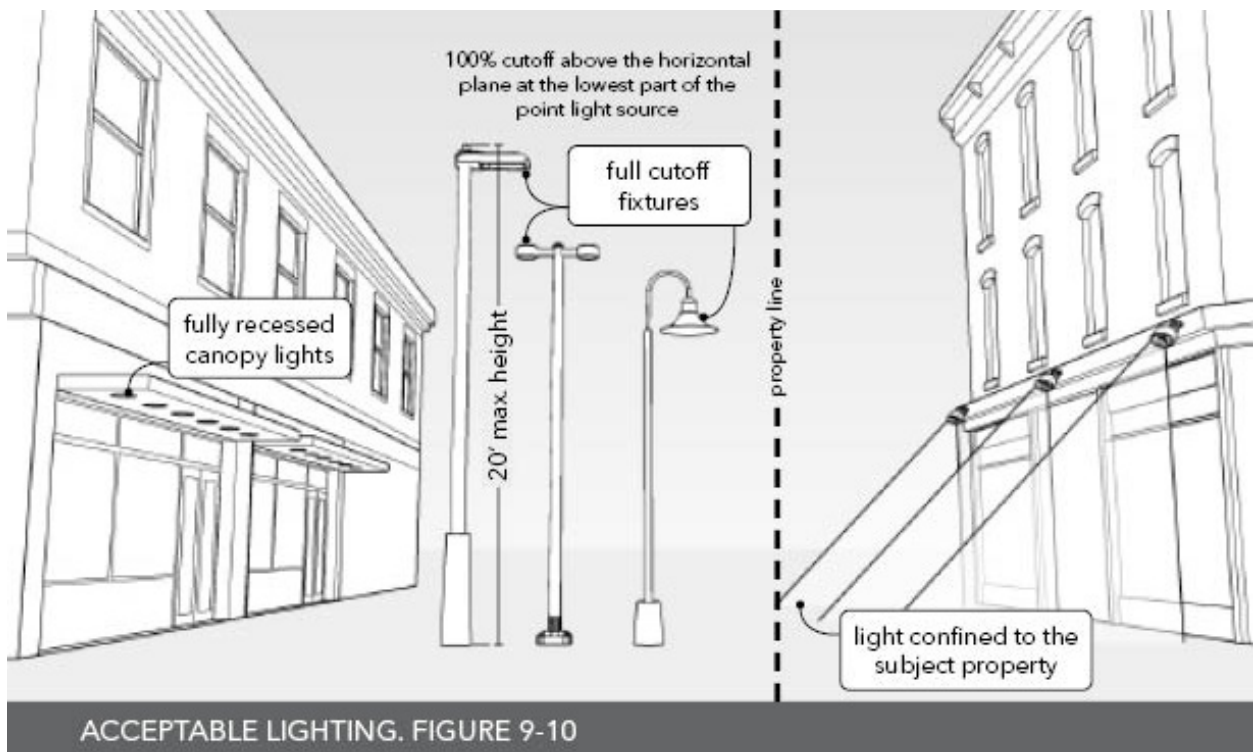
905.3 – Regulated Lighting

The following requirements shall be considered by the Planning Commission and Zoning Administrator in the review of all site plans submitted for approval under the terms of this Zoning Ordinance as it relates to the following types of exterior lighting:

- A. Parking lot lighting and site lighting for commercial, industrial and institutional developments.
- B. Multiple Family Developments.
- C. Privately owned roadway lighting.
- D. Building facade lighting.
- E. Other forms of outdoor lighting which, in the judgment of the Planning Commission is similar in character, luminosity and/or glare to the foregoing.

905.4 – Lighting Plan Required

- A. A lighting plan shall accompany a site plan for all uses requiring site plan review pursuant to this ordinance, unless waived by the Planning Commission. Where site plan approval is not required, the following information shall be submitted to the Zoning Administrator, prior to lighting installation:
1. A site plan drawn to a scale showing the buildings, landscaping, parking and service areas, and location and type of all proposed outdoor lighting, including, but not limited to, building wall lighting, entry lighting, parking lot lighting, security lighting, and street lighting on a private service road or access drive.
 2. Photometric data analyses and luminance level diagrams showing that the proposed installation conforms to the lighting level standards in this Section. Diagrams shall indicate illumination levels at ground level based on no greater than a twenty five (25) foot on center grid and shall project twenty five (25) feet onto adjacent properties or to the setback limit line, whichever is greater. Illumination levels should also be measured for all surrounding streets at the public right-of-way.
 3. Specifications for all proposed lighting fixtures, including mounting heights, photometric data, designation as Illumination Engineering Society of North America (IESNA) “cutoff” fixtures, Color Rendering Index (CRI) of all lamps (bulbs), and other descriptive information on the fixtures.
 4. The lighting plan shall provide a design for illuminations in accordance with this Section.



- B. Standards. Lighting shall be designed and constructed in such as manner to:
1. Electrical light sources shall have a color rendering index (CRI) of eighty (80) or higher.
 2. The light from any illuminated source shall be designed so that the light intensity or brightness at any property line shall not exceed one half (.5) foot candle. In the case of form-based districts within the City where zero-foot setbacks are in place, this standard shall not apply.
 3. Lighting fixtures shall have one hundred percent (100%) cut off above the horizontal plane at the lowest part of the point light source. The light rays may not be emitted by the installed fixture at angles above the horizontal plane (see Figure 9-10). No light fixture shall be mounted higher than twenty (20) feet above the grade.
 4. All lighting poles, fixtures and other equipment shall be maintained in good working order. Bulbs, fixtures and other consumables shall be promptly replaced as needed.
 5. There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness or color.
 6. No lighting fixture shall mimic or be designed to be confused with or construed as traffic control devices.
 7. All off-street parking lot lighting shall be turned off between the hours of 11:00 PM and 6:00 AM, except for lighting necessary for security purposes, in which case illumination levels shall not exceed two (2) footcandles.

Section 906 – Stormwater Management

906.1 – Intent and Purpose

The intent of this section is to provide guidance on review jurisdiction for developers, contractors and property owners that propose development or improvement projects to public or private property that will require the management of stormwater drainage.

906.2 – MS4 Community

The City of Niles is an urbanized MS4 (Municipal Separate Sewer Storm System) community, which means that all stormwater travels from surfaces to stormwater infrastructure, including catch basins, piping, ditches, swales, etc., and is directed directly into water bodies.

906.3 – Applicability

- A. This section shall apply to all development activities required to undergo Site Plan Review in accordance with Section 901, as well as any uses and activities that are exempt from Site Plan Review that will cause soil disturbances.
- B. All proposed development or improvement projects that will require the disturbance of less than one (1) acre of soil and are closer than five hundred (500) feet from a water body of the state shall be reviewed by the Director of Public Works.
- C. All proposed development or improvement projects that will result in the disturbance of *more than one (1) acre* of soil are required to adhere to the requirements and review procedures of the Berrien County Drain Commission. These requirements include, but are not limited to the following procedures:
 1. All plans for stormwater management and associated drainage calculations shall comply with the Berrien County Drain Commission Guidelines for Stormwater Management.
 2. The drafting and recordation of a stormwater maintenance agreement that ensures the continued maintenance of any privately-owned drainage structures and facilities.
 3. A stormwater permit shall be issued by the Berrien County Drain Commission for plans that comply with the Berrien County Drain Commission Guidelines for Stormwater Management.
 4. Permits and approvals may be required by other agencies prior to, contingent upon, or concurrently with stormwater permits issued by the Berrien County Drain Commission. Other governmental agency approvals shall not relieve an owner or developer from the requirement to comply with the Berrien County Drain Commission Guidelines for Stormwater Management. Such other agency approvals include, but are not limited to the following:
 - a. Berrien County Drain Commission is responsible for administering the Soil Erosion and Sedimentation Control (SESC) program and is the permit issuing agency. A permit must be obtained when one or more acres of soil is disturbed, and/or if the soil disturbance is within five hundred (500) feet of a lake, stream, or other water body as defined in the Natural Resources And Environmental Protection Act of 1994, as amended.

- b. Berrien County Road Commission (BCRC), which has or shares jurisdiction over drainage along county roads and county rights-of-way within Berrien County. Sites located along county road rights-of-way and discharging to Road Commission drainage systems must obtain a permit from the Road Commission. When a crossing is installed over a county roadside drain, a permit must be obtained from the Road Commission.
- c. Michigan Department of Transportation (MDOT), which has or shares jurisdiction over drainage along state highways and state rights-of-way within Berrien County. Sites located along MDOT rights-of-way and discharging to MDOT drainage systems must obtain a permit from MDOT.
- d. Michigan Department of Environment, Great Lakes, and Energy (EGLE) may require a joint permit with the U.S. Army Corps of Engineers (USACE) which has jurisdiction over proposed work within the one hundred (100) year floodplain, inland lake and stream areas, navigable waterways, critical dunes and wetland areas. A permit must be obtained for work proposed in these areas. In addition, EGLE is responsible for implementing the National Pollution Discharge Elimination System (NPDES) Storm Water Permitting Program.

906.4 – Procedures

The following procedures apply to the review of site plans to determine the jurisdictional permit(s) required:

- A. Applications for site plan review shall be submitted to the Zoning Administrator in accordance with Section 901.
- B. The Zoning Administrator shall forward the site plan to the Director of Public Works, who will review the site plan to determine the extent of soil disturbance.
- C. If the proposed disturbance is *less than one (1) acre*, or within five hundred (500) feet of any waters of the state, the Director of Public Works will review the plan for compliance with the following provisions:
 - 1. Stormwater Retention:
 - a. All industrial, commercial, multi-family residential and other projects which include paved or hard surface parking and drive areas shall be designed to include an on-site storm water retention system.
 - b. Storm water retention can include a retention pond, a leaching basin system, or another approved method for maintaining storm water runoff on-site.
 - c. The pond and leaching basin systems must be of adequate capacity to handle all runoff from all impervious runoff areas including buildings, sidewalks, paved areas, compacted materials such as limestone, asphalt millings, and crushed concrete, and other hard surface areas.
 - d. No storm water shall be allowed to run off the development site and onto any adjoining property.

2. Stormwater Retention Capacity
 - a. All industrial, commercial, multi-family residential and other projects which include paved or hard surfaces as described in Section 906.4.C.1.c. including parking and drive areas, shall be designed to store runoff of the one hundred (100) year, twenty four (24) hour storm event.
 - b. The rainfall amount for the one hundred (100) year storm is 6.15 inches.
 - c. Designed retention storage capacity shall be based on a minimum of thirty (30) gallons per one hundred (100) square feet of impervious runoff area.
 - d. Soil borings shall be completed to determine the types of soil on the site and the groundwater elevation in the area to determine soil suitability.
 - e. Site plans shall show all dimensions and calculations for the runoff area and storage capacities of the proposed retention system, along with all proposed structures, including piping and corresponding sizes.
3. Required volumes for a stormwater retention or detention system shall be established by the Public Works Department, in accordance with best practices.
4. Materials and workmanship shall meet or exceed industry standards for storm water retention and detention systems.
5. The applicant may also be subject to other government agency approvals as noted in Subsection B, as determined by the Director of Public Works.
- D. If the proposed disturbance is more than one (1) acre:
 1. The Director of Public Works will direct the applicant to submit an application, engineered drawings of the design, and the detention calculations spreadsheet to the Berrien County Drain Commission.
 2. The applicant may also be subject to other government agency approvals as noted in Subsection B, as determined by the Berrien County Drain Commission.
- E. For any storm sewer work performed on public property, a City of Niles or MDOT Right-of-Way Permit is required, depending on the project location. There are no permit fees for areas under the jurisdiction of the City of Niles, however there may be permit fees for those areas under MDOT jurisdiction. Insurance and excavation bond requirements must be met prior to the issuance of the permit, as determined by the Director of Public Works.

Section 907 – Reserved

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Article 10:

Planned Unit Development

Section 1001 – Purpose and Intent

- A. Purpose. The purpose of the standards within this Article is to allow regulatory flexibility for projects with creative and innovative designs while providing the City with discretionary authority to permit or prohibit certain land uses to ensure compatibility, as well as require recognizable benefits to the community.
- B. Intent. The PUD process and standards are intended to provide for flexibility in design and permit variation of the specific bulk, area, setback, land use, and other provisions of this Ordinance subject to the approval of the PUD by the Planning Commission and City Council when one (1) or more of the following can be demonstrated in a PUD proposal:
 - 1. Efficient use of land to facilitate a more practical arrangement of buildings, circulation systems, land use, and utilities;
 - 2. Adaptive re-use of significant or historic buildings;
 - 3. The creative mix of uses or residential types to facilitate a more sustainable development;
 - 4. Preservation and protection of significant natural features, open space, and cultural/historic resources;
 - 5. Promotion of efficient provision of public services;
 - 6. Reduction of adverse traffic impacts and accommodation of safe and efficient pedestrian access and circulation;
 - 7. Redevelopment of sites and/or buildings that are under-developed or have fallen into disrepair; and/or
 - 8. Use and improvement of land where site conditions make development under conventional zoning difficult or less desirable.
 - 9. The development of land that would provide affordable and/or attainable housing options, not otherwise permitted in the underlying zoning district.

Section 1002 – PUD as a Separate Zoning District

- A. Rezone. Lands proposed for a PUD shall be rezoned from the underlying zoning district to a Planned Unit Development district. A PUD district is unique from other zoning districts due to the regulatory flexibility as it relates to land use and dimensional standards. Each PUD shall identify minimum and maximum dimensional standards, permitted land uses, and any other unique development standards. These standards and land uses shall run with the land and shall be adhered to for as long as the PUD is in effect.

1. Rezoning Procedures. A proposed Planned Unit Development shall be subject to the procedures and standards outlined in Section 1105, Ordinance Amendments, as well as 1106, Rezoning Criteria.
 2. Public Hearing Notice Requirements. The procedures outlined in Section 1107, Public Hearing Notice Requirements shall be followed for the required public hearings associated with the request to rezone, as well as for the approval of the final PUD site plan by the Planning Commission and City Council
- B. PUD Site Plan. A PUD and its unique standards and regulations relating to permitted uses, lot sizes, setbacks, height limits, required facilities, buffers, open space areas, residential density, and other site elements shall be tied to a final PUD site plan. The site plan shall also provide for the overall design of the development, including the number and dimensions of all proposed lots, lighting, landscaping, sidewalks or other pedestrian pathways, approximate building envelopes, public streets, parking areas, recreation areas, traffic circulation, approximate locations for stormwater management facilities, and natural features to be preserved.

Section 1003 – Regulatory Flexibility

- A. Departures from Underlying Zoning Requirements.
1. Dimensional Minimums and Maximums. In acting upon the application, the Planning Commission may allow for the modification of lot size limits, setbacks, buffers, open space areas, setback requirements, height limits, building size limits, off-street parking regulations, landscaping rules, and miscellaneous regulations, where such regulations or changes are consistent with the standards set forth in Section 1003.B. Further, the Planning Commission may also allow for the alteration of residential density limits, providing they do not exceed the recommended maximums outlined in the City’s Master Plan.
 2. Land Use.
 - a. Land uses permitted in a PUD district shall be limited to those uses permitted by right and by special land use in the underlying zoning district. Special land uses in the underlying zoning district shall not be subject to the procedures outlined in Article 8, Special Land Uses, but rather the procedures outlined in this Article. The Planning Commission has the authority to waive or modify the specific standards outlined in Article 8 for individual special land uses.
 - b. The Planning Commission may also determine that all land uses permitted in the underlying district are not appropriate for the site and can use discretion in prohibiting certain land uses that may be deemed incompatible with uses on adjacent properties.
 3. Final PUD Site Plan. In addition to the dimensional and use standards contained within the underlying zoning district section of this Ordinance, the applicant may request departures from the requirements of the following sections in Article 9, Site Development Standards, if found to meet the standards outlined in Section 1003.B, General Standards for Regulatory Flexibility:

- a. Section 901, Site Plan Review
 - b. Section 903, Off-Street Parking and Loading
 - c. Section 904, Landscaping
 - d. Section 905, Lighting
 - e. Section 906, Stormwater Management
- B. General Standards for Regulatory Flexibility. Where the Planning Commission determines that regulatory flexibility is necessary in order to foster creative and innovative developments, certain requirements of the Niles Zoning Ordinance and Subdivision Regulations may be adjusted if the following general standards can be met with such flexibility:
1. The design and uses therein will be compatible with adjacent land use, the natural environment, and the capacities of affected public services and facilities, and such use is consistent with the public health, safety, and welfare of the residents of the City of Niles and the benefits of the development are not achievable under any single zoning classification.
 2. The design shall be consistent with the City of Niles Master Plan.
 3. The design of the development warrants additional amenities made possible with and incorporated by the development proposal.
 4. The development is designed to consolidate and maximizes usable open space.
 5. The landscaping and buffering measures proposed will ensure that proposed uses will be adequately screened from surrounding uses that may be deemed incompatible.
 6. The design of outdoor features and plantings intends to create a pleasant pedestrian-scale outdoor environment.
 7. Vehicular and pedestrian circulation allows for safe convenient, non-congested and well- defined movements within the development, and vehicular ingress and egress to and from the development will not pose any safety hazards or conflicts with pedestrian movements or moving traffic along roadways.
 8. Existing important natural, historical, and architectural features within the development will be preserved.

Section 1004 – PUD Application Procedures

- A. PUD Application. An application for a PUD on a form provided by the City shall be submitted to the Zoning Administrator, who will process the application in the manner outlined in this Section. Failure of the applicant to provide an application and the required additional items below in a timely manner may delay the process of review. Such additional application requirements are as follows:
1. **Deadline.** The application for a PUD shall be submitted at least thirty (30) days prior to the public hearing required for the rezoning request and preliminary site plan review.

2. Fee. An application fee established by resolution of the City Council in accordance with Section 1109, Fees, of this Ordinance is required and shall be non-refundable.
3. Escrow. An escrow shall be deposited with the City in accordance with Section 1110, Escrow Accounts, of this Ordinance.
4. Ownership. All land for which the application is made must be owned by, or under the control of, the applicant, and the parcel must be capable of being planned and developed as one integral land use unit including any non-contiguous parcels. If the applicant does not own the subject land proposed for PUD, the applicant must provide a statement in writing that authorizes the applicant to apply for development approvals on behalf of the property owner. Additionally, if the subject property is under contract for purchase by the applicant from the property owner, a purchase agreement shall be provided to the City to demonstrate the intent of the applicant to purchase the subject property
5. Signatures. The application must be signed by all applicants and must contain the materials described in this section.
6. Narrative. The applicant shall provide a detailed narrative that describes the overall intent and objectives (physical, social, and environmental) of the proposed planned unit development. The narrative shall also include the following information:
 - a. A statement of present ownership of all land contained in the PUD.
 - b. A population profile for the development.
 - c. Requested departures from the underlying zoning district and/or other provisions of the Zoning Ordinance, and rationale for the request.
 - d. Proposed financing.
 - e. Development staging (if applicable)
 - f. Soil types and ability of soils to accommodate the proposed development.
 - g. Estimated impact of the proposed development on roads, schools, and utilities, including water and sewer, fire protection and emergency services.
 - h. Estimated impact of the proposed development on the environment which includes;
 - i. A written assessment and analysis of the proposed development regarding the water, air and natural features.
 - ii. Any adverse environmental effects which cannot be avoided if the proposal is implemented.
 - iii. Mitigation measures proposed to minimize the impact.
 - iv. Any irreversible environmental changes which would be involved in the proposed action should it be implemented.
 - v. Waste emissions and methods of handling smoke, dust, noise, odors, liquids, solids, and vibrations, if applicable.

- i. Market and economic feasibility.
 - j. Such other information pertinent to the development or use.
7. Preliminary Site Plan. The preliminary site plan shall consist of a conceptual preliminary PUD site plan that contains the following elements:
- a. The PUD preliminary site plan shall be professionally prepared by a licensed engineer, architect, and/or landscape architect and shall be drawn to a scale of not less than one (1) inch = one hundred (100) feet.
 - b. The preliminary PUD site plan shall, at a minimum, contain the following information:
 - i. Address, parcel number and legal description(s) of subject parcel(s).
 - ii. Name and firm address of the professional individual responsible for preparing site plan and his/her professional seal.
 - iii. Name and address of the property owner or petitioner.
 - iv. Scale, north arrow and last revision date.
 - v. Name of proposed development.
 - vi. Acreage of subject parcel(s), gross and net.
 - vii. Zoning of subject and adjacent properties.
 - viii. Notation of any overlays or designated historic districts the subject parcel(s) is located within.
 - c. Existing Site Conditions:
 - i. Boundary survey lines and proposed setbacks.
 - ii. Location sketch showing site, adjacent streets, and properties within two hundred (200) feet or as directed by the Zoning Administrator.
 - iii. Location, width, and purpose of all existing easements and lease areas, including cross-access.
 - iv. Abutting street right(s)-of-way and width.
 - v. Topography with contour intervals of no more than two (2) feet.
 - vi. Natural features such as wooded areas, surface water features, floodplains or floodways, wetlands, slopes exceeding fifteen (15) percent, lakes, rivers, creeks, county drains, and other significant site features, including the area of such features.
 - vii. Existing buildings, structures, paved surfaces and areas, installed landscaping, and other significant physical infrastructure.
 - viii. Size and location of existing utilities and status, where applicable.

- d. Layout of proposed buildings, structures, driveways, parking lots, landscaped areas, and other physical infrastructure, as applicable, including the calculated area of these improvements.
 - e. Proposed density of residential development (gross and net).
 - f. Table containing information regarding the proposed residential dwelling units, such as building type, number of buildings, number of bedrooms within each unit.
 - g. Recreation areas, common use areas, dedicated open space, and areas to be conveyed for public use.
 - h. Layout of sidewalks and/or pathways, both internal to the development and along the main road frontage.
 - i. Layout and typical dimensions of building envelopes, proposed parcels, and lots.
 - j. Parking, stacking, and loading calculations, if applicable.
 - k. Phasing plan, if applicable.
 - l. Conceptual plan for provision of public water and public sanitary sewer services.
 - m. Preliminary grading plan.
 - n. Stormwater concept plan (calculations need not be provided at this stage).
 - o. Building type concepts, including conceptual building elevations and footprints.
8. Final Site plan. The final site plan shall contain the content required in Section 901.4.B, Site Plan Data Required.

Section 1005 – Review Procedures

- A. Pre-application conference. The applicant shall request a pre-application conference in the manner outlined in Section 901.5.A.
- B. Formal submission of application and required documentation. Upon the formal submission of the application, fees, escrow and required supplemental documentation, the Zoning Administrator shall schedule a public hearing for the review of the rezoning request and the preliminary site plan.
- C. Site Plan Review Committee Meeting. The Zoning Administrator shall arrange a meeting of the Site Plan Review Committee and the applicant, in the manner outlined in Section 901.5.G.
- D. Planning Commission Review of Rezone and Preliminary PUD Site Plan – Public Hearing.
 - 1. The Planning Commission shall hold a public hearing to consider the rezoning request and preliminary site plan for the proposed PUD. If a rezoning request is not part of the preliminary PUD site plan review, then the Planning Commission may hold an optional public hearing.

2. Upon meeting all the standards outlined in Section 1106, Rezoning Criteria, for the rezone and the standards outlined in Section 1006 of this Article for the preliminary PUD site plan, the Planning Commission shall forward a recommendation to the City Council for both the rezone and preliminary PUD site plan as a package. If there are standards that have not been met, for either element, the Planning Commission shall deny or postpone any action until such time that the applicant can meet ALL standards outlined in Section 1106, Rezoning Criteria, pertaining to the rezone, and Section 1006 of this Article, pertaining to the preliminary PUD site plan.

E. City Council Review of Rezone and Preliminary PUD Site Plan – Public Hearing.

The City Council shall consider the preliminary PUD site plan and rezoning request, and take the Planning Commission’s recommendation and recommended conditions into consideration. The City Council may add or remove conditions as necessary, however, it is encouraged to send the application back to the Planning Commission upon finding that any standard is not met. Upon meeting all standards for the approval of the preliminary PUD site plan, and the rezoning request, the City Council shall approve the preliminary PUD site plan and rezoning.

F. Planning Commission Review of Final PUD Site Plan.

1. The applicant may return to the Planning Commission for the review of the final PUD site plan upon the rezoning taking effect and the approval of the preliminary PUD site plan.
2. The applicant must submit the application in accordance with the procedures and required site plan data as outlined in Section 1004 of this Article at least thirty (30) days prior to the scheduled Planning Commission meeting.
3. The Planning Commission shall forward a recommendation to the City Council by way of a resolution containing its findings and conditions, for approval of the final PUD site plan, only if the standards outlined in Section 1006 of this Article have been met.

G. City Council Review of Final PUD Site Plan.

1. The City Council shall receive the Planning Commission’s resolution containing its recommendation and findings in support of the recommendation and consider the approval/denial/or sending the application back to the Planning Commission for the final PUD site plan.
2. If upon concurring with the Planning Commission’s findings and conditions stated in the resolution to recommend the approval of the final PUD site plan, the City Council shall grant approval of the final PUD site plan, subject to all conditions recommended by the Planning Commission, and any others deemed necessary.
3. The final and signed resolution to approve the final PUD site plan shall be recorded with the Berrien County Register of Deeds by the applicant. The applicant shall provide the recorded copy to the City Clerk prior to the commencement of any improvements to the subject parcel(s).

Section 1006 – Standards of PUD Approval

- A. Resolution. If the Planning Commission determines that the PUD application is consistent with the intent of this Section and with the other standards and requirements herein contained, it shall adopt a resolution adopting its findings in support of the City Council's approval of the PUD and preliminary site plan in accordance with the application and material submitted, and subject to any conditions that the Planning Commission believes are necessary to carry out the intent and standards of this Ordinance.
- B. Conditions. As noted, the Planning Commission and/or the City Council may attach conditions to the approval of a final PUD site plan. Such conditions must be reasonable, related to the proposed development, and shall be:
 - 1. Designed to protect natural resources, the health, safety and welfare of the community, including those who will use the proposed development,
 - 2. Related to the valid exercise of the police power and purposes which are affected by the proposed PUD,
 - 3. Necessary to meet the intent and purpose of this Ordinance, the standards established for planned unit development and be necessary to assure compliance with this Ordinance.
- C. Standards of Final PUD Site Plan Approval
 - 1. The proposed PUD complies with the intent and purpose and all qualifying conditions of Section 1003.B for any departures from the requirements of the underlying zoning district and/or any other provisions permissible to be modified by the Planning Commission
 - 2. The uses conducted within the proposed PUD, the PUD's impact on the community, and other aspects of the PUD are consistent with, and further implement the policies of, the adopted City of Niles Master Plan.
 - 3. The proposed PUD shall be designed, constructed, operated, and maintained in a manner harmonious with the character of adjacent property, the surrounding uses of land, the natural environment, and the capacity of public services and facilities affected by the development.
 - 4. The proposed PUD shall not be hazardous to adjacent property or involve uses, activities, materials, or equipment that will be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, or glare.
 - 5. The proposed PUD shall not place demands on public services and facilities more than current or anticipated future capacity.
 - 6. The proposed PUD shall satisfy all applicable local, state, and federal statutes and regulations.

D. Performance Guarantees.

1. The City Council may, to ensure strict compliance with any requirement contained in this Article, require the applicant for PUD rezoning and/or final PUD site plan to furnish a performance guarantee such as a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the City Attorney, executed by a company authorized to do business in the state of Michigan in an amount determined by the City Engineer or other appropriate staff person, to be reasonably necessary to ensure compliance with the requirements of this Article.
2. In fixing the amount of guarantee, the size and scope of the proposed project, the phasing of the project, the probable cost of rehabilitating the property upon default by the applicant, the estimated expenses to compel compliance by court decree, and such other factors and conditions as might be relevant in the light of all facts and circumstances surrounding the application, shall be taken into consideration.

- E. Effect of PUD Approval. Lands zoned PUD shall remain zoned PUD unless the proposed construction or significant progress toward construction has not commenced within two (2) years of the City Council's approval of the rezone and associated final site plan. Upon a written request by the applicant, one (1) one-year extension may be granted at the discretion of the Planning Commission and City Council. If upon the expiration of the extension of the approved final PUD site plan and rezoning no progress has been made toward completion of the project, the Planning Commission may recommend the approval of a rezoning back to the underlying zoning district to the City Council, following the procedures outlined in Article 11, Administration and Enforcement.

Section 1007 – Amendments

- A. Minor Amendments. Minor amendments are those which will have no foreseeable effect beyond the property boundary such as minor changes in the location of buildings, the alignment of utilities, and the alignment of interior roadways and parking areas. Minor amendments for good cause may be authorized by the Zoning Administrator provided no such changes shall increase the size or height of structures, reduce the efficiency or number of public facilities serving the PUD, reduce usable open space, or encroach on natural features proposed by the plan to be protected. Any amendment not deemed a minor amendment shall be considered a major amendment.
- B. Major Amendments. A major amendment is defined as any amendment not qualifying as a minor amendment as described in Section 1007.A. and must be approved by the Planning Commission according to the procedures outlined in this Article. A major amendment also includes the following:
1. Each development phase within an existing Planned Unit Development. Each phase of a PUD shall be planned, developed, and approved to exist as a complete development able to stand on its own in the event subsequent phases are not implemented.
 2. The expansion or reduction of the boundaries of a Planned Unit Development.

Section 1008 – Appeals and Variances

The Zoning Board of Appeals shall not have jurisdiction to consider variances from the requirements of this Article, nor may decisions related to a Planned Unit Development be appealed to the Zoning Board of Appeals.

Article II:

Administration & Enforcement

Section II00 – Zoning Administrator

- A. The City Administrator shall designate an individual to serve as the Zoning Administrator to administer and enforce this Ordinance. The Zoning Administrator may be provided with the assistance of such other persons as the City Administrator may direct.
- B. If the Zoning Administrator shall find that any of the provisions of this ordinance are being violated, he or she shall notify, in writing, the person responsible for such violation, indicating the nature or the violation and ordering the action necessary for correction. He or she shall order discontinuance of illegal uses of land, buildings, or structures; removal of illegal buildings or structures or of illegal addition, alterations, or structural changes; discontinuance of any illegal work being done; and shall take any other action authorized by this Ordinance or general law to ensure compliance with or to prevent violation of the provisions of this ordinance.

Section II01 – Duties and Limitations of the Zoning Administrator

- A. The Zoning Administrator shall have the authority to grant Zoning Compliance Permits and to make inspection of buildings or premises necessary to carry out thier duties in the enforcement of this Ordinance.
 - 1. It shall be unlawful for the Zoning Administrator to approve any plans or issue a Zoning Compliance Permit for any excavation or construction or use until such plans have been reviewed in detail and are found to be in compliance with this Ordinance. To this end, the Zoning Administrator shall require that an application for a Zoning Compliance Permit for excavation, construction, moving, alteration, or change in the type of use or type of occupancy, shall, where required by this Ordinance, be accompanied by an engineered site plan or survey prepared by a licensed professional for applications otherwise exempted from site plan review procedures as outlined in Article 9, where in their opinion, a site plan is necessary to ensure compliance with this Ordinance.
- B. If the proposed excavation, construction, moving or alteration, or use of land as set forth in the application, and site plan, when required, is in conformity with the provisions of this Ordinance, the Zoning Administrator shall issue a Zoning Compliance Permit. If an application for such permit is not approved, the Zoning Administrator shall state in writing the cause for such disapproval.
- C. The Zoning Administrator may, but shall not be required to, accept a preliminary application and an incomplete submittal where a basic clarification is desired prior to proceeding with further technical work; and the Zoning Administrator may on such preliminary submittal take the formal action of tentative denial or tentative approval. Provided, that the applicant shall be advised, in writing, that such tentative denial or approval may be overturned by the Planning Commission.

- D. Issuance of a Zoning Compliance Permit shall in no case be construed as waiving any provisions of this Ordinance. The Zoning Administrator is under no circumstances permitted To grant exceptions to the actual meaning of any clause, order, or regulation contained in this Ordinance to any person making application to excavate, construct, move, alter, or use buildings, structures, or land. The Zoning Administrator is under no circumstance permitted to make changes to this Ordinance or to vary the terms of this Ordinance in carrying out his or her duties.
- E. The Zoning Administrator shall not refuse to issue a Zoning Compliance Permit when the applicant has complied with all applicable conditions required by this Ordinance. Violations of contracts such as covenants or private agreements which may result upon the granting of said permit are not cause for refusal to issue a permit.

Section 1102 – Zoning Compliance Permit

- A. It shall be unlawful to commence the excavation for or the construction of any building or other structure, including an accessory building, or to commence the moving, or structural alteration of any buildings until the Zoning Administrator has issued a Zoning Compliance Permit
- B. It shall be unlawful to alter the contour of land, or to change the type of use or type of occupancy of any building, or to extend any use on any lot on which there is a nonconforming use, until the Zoning Administrator has issued a zoning compliance permit for such intended use.
- C. In all cases where a building permit is required, the application for a Zoning Compliance Permit shall be made concurrently with the application for a building permit. This application shall be made in writing to the Zoning Administrator and shall provide all relevant project information as required on an approved form developed by the Community Development Department. A record of all such applications shall be kept on file by the Zoning Administrator.
- D. Any Zoning Compliance Permit issued under the provisions of this Article shall be valid only for a period of one (1) year following the date of issuance thereof. Any project which has not commenced within the one (1) year period will require the request for issuance of an extension of the Zoning Compliance Permit by the Zoning Administrator.
- E. Zoning Compliance Permit applications received which would first require a special land use approval, variance, or other approval, the Zoning Administrator shall inform the applicant.
- F. Before any Zoning Compliance Permit shall be issued, an application, fee, and any required escrow fees shall be paid, in accordance with Sections 1109 and 1110. The amount of such fees and escrows shall be fixed by a schedule established by resolution of the City Council, which may be amended from time to time.
- G. No building or structure or use for which a Zoning Compliance Permit has been issued shall be used or occupied until after a final inspection has been performed which indicates that all the provisions of this Ordinance are met with and a Certificate of Occupancy has been issued by the Building Official. The issuance of a Certificate of Occupancy shall in no case be construed as waiving any provisions of this Ordinance.

Section 1103 – Reapplication

- A. No application for a special land use, site plan review, planned unit development, or variance which has been denied, in whole or in part, by either the Planning Commission or the Zoning Board of Appeals may be resubmitted for a period of twelve (12) months from the date of the denial, except on the grounds of newly discovered evidence.

Section 1104 – Rehearing

- A. The Planning Commission or Zoning Board of Appeals may grant a rehearing under exceptional circumstances for any decision. Exceptional circumstances shall mean any of the following:
 - 1. The applicant who brought the matter before the Planning Commission or Zoning Board of Appeals made misrepresentations concerning a material issue that was relied upon by the Planning Commission or Zoning Board of Appeals in reaching its decision.
 - 2. There has been a material change in circumstances regarding the Planning Commission's or Zoning Board of Appeals' findings of fact which occurred after the public hearing.
 - 3. A rehearing may be requested by the applicant or by the Zoning Administrator, or a rehearing may be granted by the Planning Commission or Zoning Board of Appeals on its own motion, pursuant to the following procedure:
 - a. A request for a rehearing which is made by an applicant must be made within twenty-one (21) days from the date of approval of the Planning Commission's or Zoning Board of Appeals' minutes regarding the decision for which the rehearing is being requested.
 - b. A request for a rehearing made by the Zoning Administrator or a rehearing granted by the Planning Commission or Zoning Board of Appeals on its own motion may be granted at any time as long as the applicant has not been prejudiced by any delay.
 - c. Whenever the Planning Commission or Zoning Board of Appeals considers granting a rehearing, it shall provide written notice to the applicant that a rehearing will be considered. The notice may be served upon the applicant by first class mail at the applicant's last known address, or may be served personally on the applicant. The notice must be served at least nine (9) days before the time set for the hearing if served by mail, or at least seven (7) days before the time set for the hearing if served by personal service. Service by mail shall be complete upon mailing. In addition to serving the above notice on the applicant, all other notice requirements for the type of decision being heard shall be completed before the Planning Commission or Zoning Board of Appeals holds a hearing at which it considers whether to grant a rehearing.
 - d. If the Planning Commission or Zoning Board of Appeals grants a rehearing, then the rehearing on the merits shall not be held until all notice requirements for the type of decision being reheard have been satisfied in accordance with Section 1107.

Section 1105 – Ordinance Amendments

- A. This Ordinance may be amended or supplemented from time to time in accordance with the Zoning Enabling Act (Act 110 of 2006). Amendments to this Ordinance may be initiated by the City Council, the Planning Commission, or by any interested person or persons by petition to the Planning Commission.
- B. All petitions for amendment to this Ordinance shall be in writing, signed, and filed with the Community Development Department for presentation to the Planning Commission. The submission of such petition shall include the following:
 - 1. The petitioner's name, address, and interest in the petition and, if applicable, the name, address, and interest of each person having a legal or equitable interest in any land which is to be rezoned.
 - 2. The description and purpose of the proposed amendment.
 - 3. If the proposed amendment would require a change in the zoning map, a survey of the land that the amendment is proposed for, a legal description of the land, the present zoning district of the land, the zoning district of all abutting lands, and all public and private Right-of-Way and easements bounding and intersecting the land to be rezoned.
 - 4. If the proposed amendment would require a change in the text of the Zoning Ordinance, the petitioner shall indicate the Article and Section number that is requested to be changed and include suggested language for the proposed change to the zoning text.
 - 5. A fee, as established by the fee schedule, as amended from time to time by the City Council.
- C. Amendment Procedure:
 - 1. The Zoning Administrator, or his or her designee, shall schedule a public hearing of the Planning Commission and shall enact the proper protocol for noticing the public in accordance with Section 1107 of this Ordinance.
 - 2. The Planning Commission shall hold a public hearing and allow for public comment on the proposed amendment(s), and make a recommendation to the City Council for the approval (with or without conditions), denial, or postponement of action on the proposed amendment.
 - 3. The City Council shall hold a meeting in consideration of the proposed amendment based on the recommendation and findings noted in the report forwarded by the Planning Commission. If the City Council determines that the proposed amendment should be modified or rejected, it may refer the proposed amendment back to the Planning Commission for consideration and for comments within a time specified by the City Council.
 - 4. The City Council may hold a public hearing on the proposed amendment if it considers it necessary. Notice of any such hearing shall be given in accordance with Section 1106 of this Ordinance.

5. If the City Council adopts the amendment, it shall do so in the prescribed manner and shall publish the amendment or a summary of the amendment within fifteen (15) days in a newspaper of general circulation.
6. The City Council shall then file the amendment in the official ordinance book of the City within seven (7) days after adoption and publication with a certification by the City Clerk and Mayor authenticating the record.

Section 1106 – Rezoning Criteria

In reviewing an application for the rezoning of land, whether the application is made with or without an offer of conditions, factors that should be considered by the Planning Commission and the City Council shall include, but are not limited to, the following criteria:

- A. Whether the rezoning is consistent with the policies and uses proposed for that area in the City of Niles Master Plan;
- B. Whether the range of uses permitted by right and by special land use in the proposed zoning district(s) would be compatible with other adjacent land uses and zoning districts in the surrounding area;
- C. Whether any public services and facilities would be significantly adversely impacted by development or use allowed under the requested rezoning; and
- D. Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.

Section 1107 – Public Hearing Notice Requirements

An application or request for zoning approval of a special land use, variance request, zoning text or map amendment, or any other applications requiring a public hearing under the provisions of this Ordinance and/or the Zoning Enabling Act (Act 110 of 2006), the public shall be notified in the following manner:

- A. The notice of public hearing shall include the following information:
 1. The applicant's name.
 2. A description of the nature of the application or request.
 3. An identification of the address and permanent parcel number (PPN) that is the subject of the application or request.
 4. The date, time, location, and address where the public hearing will be held.
 5. An indication of the place and the times when the application for the request may be examined, as well as a website address if the application can be viewed online.
- B. The notice shall be published once, at least fifteen (15) days prior to the date of the public hearing, in a newspaper of general circulation in the City.

- C. Except as provided in Section 1107.D of this Article, a notice of public hearing shall also be mailed or delivered to the following parties at least fifteen (15) days prior to the date of the public hearing:
 - 1. The applicant;
 - 2. All persons to whom real property is assessed within three-hundred (300) feet of the property that is the subject of the application or request;
 - 3. The occupants of all structures within three hundred (300) feet of the property that is the subject of the application or request.
 - 4. If the above described three hundred (300) feet radius extends outside of the City's boundaries, then notice must be provided outside of the City boundaries, within the three hundred (300) foot radius, to all Persons in the above stated categories.
- D. When a proposed rezoning involves eleven (11) or more adjacent properties, the mailing or delivery requirements of Section 1107.C are not required.

Section 1108 – Performance Guarantees

- A. Intent. In the interest of ensuring compliance with the Zoning Ordinance provisions, protecting the natural resources and the health, safety and welfare of the residents of the City of Niles, and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the Planning Commission or Zoning Board of Appeals, may require the applicant to deposit a performance guarantee as set forth herein.
- B. Purpose. The purpose of the performance guarantee is to ensure the completion of improvements connected with the proposed use as required by this Ordinance, including but not limited to, roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls, and landscaping.
- C. Performance guarantee as used herein shall mean a cash deposit, certified check, or irrevocable bank letter of credit in the amount of the estimated cost of the improvements to be made as determined by the applicant and verified by the City of Niles.
- D. When a performance guarantee is required, said performance guarantee shall be deposited with the City Treasurer prior to the issuance of a Zoning compliance permit by the Zoning Administrator for the development and use of the land. Upon the deposit of the performance guarantee, when in the form of a cash deposit or certified check, the City shall deposit it in an interest-bearing account.
- E. In the event a performance guarantee is required, the applicant shall also furnish such authorization as is required by the City to permit the City to enter upon the subject property to complete the improvements in the event of default by the applicant.
- F. An approved site plan or project shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of the issuance of the Zoning compliance permit.

- G. In the event the performance guarantee deposited is a cash deposit or certified check, the City shall return to the applicant fifty (50) percent of the deposited funds when sixty (60) percent of the required improvements are completed as confirmed by the Zoning Administrator, and the remaining fifty (50) percent of the deposited funds when one-hundred (100) percent of the required improvements are completed as confirmed by the Zoning Administrator.
- H. Upon the satisfactory completion of the improvement for which the performance guarantee was required, as determined by the Zoning Administrator, the Finance Director shall return to the applicant the performance guarantee deposited and any interest earned thereon.
- I. In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the Planning Commission, the City shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements. If the performance guarantee is not sufficient to allow the City to complete the improvements for which it was posted, the applicant shall be required to pay the City the amounts by which the costs of completing the improvements exceeds the amount of the performance guarantee deposited. In the event the City uses the performance guarantee or a portion thereof, to complete the required improvements, any amounts remaining after said completion shall be applied first to the City's administrative costs in completing the improvement with any balance remaining being returned to the applicant.
- J. At the time the performance guarantee is deposited with the City and prior to the issuance of a zoning compliance permit, the applicant shall enter an agreement incorporating the provisions of this Section.

Section 1109 – Fees

- A. The City Council shall establish by resolution, fees for occupancy certificates, appeals, applications for amendments or special uses, and other matters pertaining to this Ordinance.
- B. The schedule of fees shall be posted in the Building Department and may be altered only by resolution of the City Council.
- C. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

Section 1110 – Escrow Accounts

- A. If the Planning Commission or Zoning Board of Appeals determines that the basic fees provided under Section 1109 hereof, will not cover the actual costs of the application review or appeal, or if the Planning Commission or Zoning Board of Appeals determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary, then the applicant shall deposit with the City Treasurer such additional zoning fees in an amount determined by the Planning Commission or Zoning Board of Appeals equal to the estimated additional costs.

- B. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten percent (10%) of the initial escrow deposit or less than ten percent (10%) of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Zoning Administrator may require the applicant to deposit additional fees into escrow in an amount determined by the Zoning Administrator to be equal to the estimated costs to complete the review or decide the appeal.
- C. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete or the appeal procedurally defective thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal.
- D. Any actual costs incurred by the City in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal.

Section IIII – Enforcement

- A. Civil Infractions. Any person, corporation or firm who disobeys, omits, neglects, or refuses to comply with any provision of this Ordinance or any permit, license or exception granted hereunder, or any lawful order of the Zoning Administrator, Planning Commission, Zoning Board of Appeals or the City Council issued in pursuance of this Ordinance shall be in violation of this Ordinance. Any person who violates this Ordinance is responsible for a civil infraction.
- B. Injunctive Relief. The penalties provided herein shall not prohibit the City from seeking injunctive relief against a violator or such other appropriate relief as may be provided by law.

Article 12:

Zoning Board of Appeals

Section 1200 – Creation and Membership

- A. **Members.** A City Zoning Board of Appeals is hereby established. The word “Board” when used in this Section shall be construed to mean the Zoning Board of Appeals. The Board shall consist of five (5) members as provided by Section 601 of the Michigan Zoning Enabling Act (Act 110 of 2006, as amended). One (1) member may be a member of the Planning Commission. The remaining regular members, and any alternate members selected shall be representative of the geographic population distribution of the City. An employee or contractor of the City Council may not serve as a member or an employee of the City on the Zoning Board of Appeals. Members of the Zoning Board of Appeals shall be removable by the City Council for nonperformance of duty or misconduct in office upon written charges and after public hearing. A member shall disqualify oneself from a vote in which he or she has a conflict of interest. Failure of a member to disqualify oneself from a vote in which he or she has a conflict of interest shall constitute misconduct in office.
- B. **Terms.** The term of each member shall be for three (3) years, except for members serving because of their membership on the zoning commission or legislative body, whose terms shall be limited to the time they are members of those bodies. When members are first appointed, the appointments may be for less than three (3) years to provide for staggered terms. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term.
- C. **Meetings.** Meetings of the City Zoning Board of Appeals shall be held at the call of the Chairperson and at other times as the Board in its rules of procedure may specify. All meetings of the Zoning Board of Appeals shall be open to the public. The Board shall maintain a record of its proceedings which shall be a public record.

Section 1201 – Jurisdiction and Authorized Appeals

- A. **Appeals of Decisions Made by City Officials.** Except as otherwise provided in Section 1202, the Zoning Board of Appeals shall hear and decide appeals from and review any order, requirement, decision, or determination made by the Zoning Administrator, Planning Commission, or other official administering or enforcing the provisions of this Ordinance as provided herein, where it is alleged by the appellant that there is a factual error in said order, requirement, permit, decision or determination.

Within this capacity, the Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination.
- B. **Ordinance Interpretation.** The Zoning Board of Appeals shall hear and decide upon the following requests:

1. Interpret the provisions of this Ordinance when it is alleged that certain provisions are not clear or that they could have more than one meaning. In deciding upon such request, the Zoning Board of Appeals shall ensure that its interpretation is consistent with the intent and purpose of this Ordinance, the Article in which the language is contained, and all relevant provisions of this Ordinance.
 2. As provided in Section 402, determine the precise location of the boundary line between zoning districts when there is uncertainty with respect to the location of district boundaries.
- C. Variances. The Zoning Board of Appeals shall decide variances from the provisions of this Ordinance in harmony with its general purpose and intent and shall vary then only in the specific instances hereinafter set forth where the Board shall have made a finding of fact based upon the standards hereinafter prescribed in Section 1204, that there are practical difficulties or particular hardship in the way of carrying out the strict letter of the regulations of this Ordinance.

Section 1202 – Prohibited Appeals

- A. The Zoning Board of Appeals shall not take any actions that have the effect of a legislative action, such as a rezoning or amendment to the text of this Ordinance.
- B. The Zoning Board of Appeals shall not have the authority to hear appeals related to any decision or conditions attached to any decision pertaining to special land uses or planned unit development, unless otherwise specifically permitted in this ordinance.

Section 1203 – Appeals Procedures

- A. Initiation.
 1. Appeals of decisions made by City Officials, as outlined in Section 1201 may be made by any person, firm or corporation, office, department, board, bureau, or commission requesting or intending to request an application for a building permit, zoning compliance permit or occupancy certificate.
 2. Such appeals shall be filed in accordance with the application procedures outlined in Section 1203 and must be filed within sixty (60) days of the aggrieved action, and shall specify the grounds for the appeal.
 3. The City official from whom the appeal is taken shall forthwith transmit for presentation to the Board all materials constituting the record upon which the action appealed from was taken.
 4. Variance request and Zoning Text Interpretation applications shall follow the procedures outlined in this section.
- B. Applications.
 1. An application for a variance or interpretation of the Zoning Ordinance text shall be filed with the Zoning Administrator, shall be filed on forms as provided by the City, and shall include the appropriate filing fee and escrow deposit in accordance with Sections 1109 and 1110 of this Ordinance.

2. For variance requests, the application shall be accompanied by a survey sealed by a licensed surveyor which depicts the following:
 - a. All lot dimensions
 - b. All existing improvements upon the subject property and setbacks from property lines, buildings, and other structures
 - c. All easements and easement dimensions
 - d. Any other features on the lot that would demonstrate the uniqueness or unusual circumstances, such as wetlands, water bodies, or steep slopes.
 - e. Proposed location of improvement(s) for which the variance is sought, including dimensions and all proposed setbacks from property lines and other structures.
 3. For text interpretations of the Zoning Ordinance, a narrative shall be provided indicating the section number of the text that is requested for interpretation, along with reasons for the requested interpretation.
 4. The Zoning Administrator shall process the application and follow the procedures outlined in Section 1107 for preparing a public hearing notice to be published in a newspaper of general circulation and all property owners within three hundred (300) feet of the subject property.
- C. Public Hearing Required.
1. The Zoning Board of Appeals shall hold a public hearing for appeals, interpretations, and variance requests. The Zoning Administrator shall follow the procedures outlined in Section 1107 to provide notice for the required public hearing.
 2. The Zoning Board of Appeals shall fix a reasonable time of the hearing, and decide the appeal within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.
- D. Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Zoning Board of Appeals after the application is filed, that a stay would, in the opinion of the Zoning Administrator, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by a court of record, having jurisdiction and powers to exercise such order.
- E. Decisions.
1. Decisions shall be made upon the concurring vote of the majority of the Board members to reverse any order, requirement, decision or determination of the Zoning Administrator or Planning Commission, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to effect any variance in the application of this Ordinance.
 2. All final decisions of the Zoning Board of Appeals shall be accompanied by specific findings of fact in support of the approval or denial. Such findings shall be tied specifically to the standards listed in Section 1204.

3. All variances granted shall be the minimum variance necessary that will make possible a reasonable use of the land, building, or structure.

Section 1204 – Standards for Granting Variances

- A. Standards. The Zoning Board of Appeals shall not grant a variance from this Ordinance unless it finds, based on the evidence presented by the applicant, the Zoning Administrator, and the public, that the request meets all six (6) of the following standards.
 1. That the practical difficulty is created as a result of unique circumstances or physical conditions specifically related to the land and/or lot for which the variance is requested, and not related to the applicant's personal or financial hardship. Such unique circumstances or physical conditions may include, but are not limited to the following:
 - a. Narrowness of the lot or that the lot is substandard by way of width or frontage
 - b. Shallow depth of the lot
 - c. The irregular shape of the lot
 - d. The encumbrance of the lot by a body of water or wetlands
 - e. Challenging topography or the presence of steep slopes on the lot
 - f. The encumbrance of the lot by easements, such as utility, stormwater, or private road easements.
 2. That the need for the variance is not the result of actions of the property owner or previous property owners.
 3. That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirement will unreasonably prevent the property owner from using the property for permitted purposes, or will render conformity with those regulations unnecessarily burdensome. Potential additional costs required in complying with this Ordinance shall not be deemed to make compliance unnecessarily burdensome.
 4. That the variance will do substantial justice to the applicant as well as to other property owners in the district, or a lesser relaxation than applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
 5. That the variance will not cause adverse impacts on surrounding property, or the use and enjoyment of property in the neighborhood.
 6. That the variance shall not permit the establishment within a district any use which is not permitted by right, or any use for which a special land use or temporary use permit is required.
- B. Conditions.
 1. The Zoning Board of Appeals may impose reasonable conditions upon a variance approval, subject to the conditions being necessary to achieve the following:
 - a. To protect the natural environment and conserve natural resources;

- b. To ensure compatibility with adjacent land uses; and
 - c. To promote the use of land in a socially and economically desirable manner.
2. Conditions imposed upon a variance approval shall be clearly stated in the record or order and shall remain unchanged except upon application to the Zoning Board of Appeals by the property owner.
 3. Similarly, any changes in conditions shall be reflected in the record or order.

Section 1205 – Effect of Approval

- A. Expiration. The variance shall expire at the end of twelve (12) months, unless a zoning compliance permit authorizing the construction has been obtained and construction has started and proceeds to completion in accordance with the terms of the permit, or other tangible evidence of implementation of the variance shall have been presented to the Zoning Administrator.
- B. All approved variances implemented stay with the land and are not subject to revocation due to a change in ownership of the property.
- C. Reapplication. A reapplication or rehearing concerning an action of the Zoning Board of Appeals shall be governed by Sections 1103 and 1104 of this Ordinance, respectively.

Section 1206 – Appeals of the Decisions of the ZBA

- A. Aggrieved Parties. All decisions of the Board shall be final, however, an aggrieved party may appeal the Board's decision to a circuit court in Berrien County in accordance with the procedures stated in the Michigan Zoning Enabling Act (Act 110 of 2006).
- B. Deadline. An appeal from a decision of a zoning board of appeals must be filed within whichever of the following deadlines comes first:
 1. Thirty (30) days after the Board issues its decision in writing signed by the chairperson.
 2. Twenty one (21) days after the Board approves the minutes of its decision.
- C. Court Action. The circuit court may affirm, reverse, or modify the decision of the Board, or make other orders as justice requires.

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Article 13:

Separability, Repealer, Savings and Effective Date

Section 1300 – Separability

If any clause, sentence, sub-sentence, paragraph, section or part of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, sub sentence, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

Section 1301 – Repealer and Savings

- A. Repeal of Former Ordinance. The former Zoning Ordinance of the City of Niles (Ordinance #439), adopted January 22, 2007, and all amendments thereto, are hereby repealed.
- B. Savings Clause. The repeal of the former City of Niles Zoning Ordinance as stated in part A, shall not release any penalty or liability incurred under said Ordinance, and such Ordinance shall be treated as still remaining in force for the purpose of instituting or sustaining any proper action for the enforcement of such penalty or liability.

Section 1302 – Effective Date

Pursuant to the Niles City Charter, this Ordinance shall become effective twenty (20) days following the date of its adoption.