NILES CHARTER TOWNSHIP
BERRIEN COUNTY, MICHIGAN

ORDINANCE NUMBER _____

ADOPTED: _____, 2016
EFFECTIVE: _____, 2016

AN ORDINANCE TO AMEND THE NILES CHARTER TOWNSHIP CODE OF ORDINANCES TO PROHIBIT TRUCK TRAFFIC ON CERTAIN TOWNSHIP RESTRICTED ROADS; TO PROVIDE PENALTIES FOR THE VIOLATION THEREOF; AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH.

THE CHARTER TOWNSHIP OF NILES

BERRIEN COUNTY, MICHIGAN ORDAINS:

SECTION 1. Article III of Chapter 26 of the Niles Charter Township Code is hereby created to read as follows:

ARTICLE III. TRUCK TRAFFIC RESTRICTION

26-31. Purpose. *The purpose of this Article is to prohibit truck traffic on certain restricted roads to further the betterment of traffic flow, to protect road infrastructure and to mitigate the negative impact truck traffic can have on the community, particularly residential areas, and to do so in a manner that will not result in the diversion of truck traffic onto a border highway; and to provide for the violation and enforcement thereof.*

25-32. Definitions.

A. ***Implement of husbandry*** *means every vehicle that is designed for agricultural purpose and exclusively used by the owner thereof in the conduct of agricultural operations.*

B. ***Restricted Road*** *means any street, highway or route within Niles Charter Township that is designated as restricted from usage by trucks or truck-tractors and semi-trailers or truck-tractor and trailer combinations or truck and trailer combinations with a combined carrying capacity over five (5) tons.*

C. ***Semi-trailer*** *means every vehicle with or without motive power, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by some other vehicle.*

D. ***Trailer*** *means every vehicle with or without motive power, designed for carrying persons or property and for being drawn by a motor vehicle.*

E. ***Truck*** *means every motor vehicle that is designed, used or maintained primarily for the transportation of property.*

F. ***Truck-tractor*** *means every motor vehicle designed and used primarily for drawing other vehicles, and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.*

G. ***Person*** *includes an agency, company, organization, firm, association, partnership, joint venture, corporation, trust or equivalent entity or a combination of any of them as well as a natural person.*

26-33. Rule of construction. *Any word or term not defined herein shall be considered to be defined in accordance with its common or standard definition.*

26-34. Restricted Roads. *The following roads are restricted roads in Niles Charter Township:*

Road Name	***Segment***
BOND AVENUE	Between Fort Street and U.S. 12.

26-35. Prohibition against travel on restricted roads. *Except as expressly permitted under this Article, no person shall operate a truck or truck-tractor and semi-trailer or truck-tractor and trailer combination, or truck and trailer combination with a combined carrying capacity over five (5) tons in Niles Charter Township on any restricted road.*

26-36. Exemptions. *Restricted road limitations prescribed in this Article shall not apply to:*

A. Fire trucks or other emergency vehicles or vehicle on emergency business involved in the saving of life or property, or

B. Implements of husbandry incidentally moved upon a road, or

C. Road repair, construction or maintenance vehicles while involved in the repair, construction or maintenance of roads within the Township, or

D. Garbage service vehicles while involved in the provision of services to residents of the Township.

E. Vehicles used for public utilities services or repairs.

26-37. Deliveries, service calls. *A vehicle that would otherwise be restricted may be used to make deliveries or service calls to properties on a restricted road or properties only accessible off of a restricted road by using the most direct route to and from an unrestricted road.*

26-38. Leaving or returning to home or place of business. *Nothing herein contained shall prevent a truck or truck-tractor and semi-trailer, or truck-tractor and trailer combination, or truck and trailer combination from leaving or returning to its customary storage location at the owner or operator's personal residence, or a commercial or industrial location in the Township, provided the most direct route to and from an unrestricted road is utilized.*

26-39. Signs. *The Township Board shall procure and have posted appropriate signs at or along the restricted roads, as required by the laws of the State of Michigan.*

26-40. Violations and Enforcement.

A. Any person who violates, disobeys, neglects or refuses to comply with any provision of this Article, or any order issued under the Article, including any conditions imposed thereon shall be deemed to be responsible for a violation of this Article.

B. Each day that a violation exists shall constitute a separate offense for enforcement purposes.

C. Any violation of this Article is hereby declared to constitute a public nuisance, and shall constitute a basis for such judgment, writ or order necessary to compel compliance with the Article and/or to restrain and prohibit continuation of the violation, or other appropriate relief in any court of competent jurisdiction, in addition to any other relief or sanction herein set forth or allowed by law.

D. A violation of this Article is a municipal civil infraction as defined by Michigan statute and shall be punishable by a civil fine determined in accordance with the following schedule:

		Minimum Fine	*Maximum Fine*
---	*1st offense*	*$ 150.00*	*$500.00*
---	*2nd offense*	*$ 325.00*	*$500.00*
---	*3rd or subsequent offense*	*$ 500.00*	*$500.00*

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township has incurred in connection with the municipal civil infraction.

E. This Article shall be enforced by the Ordinance Enforcement Officer(s) of Niles Township, any deputy of the Berrien County Sheriffs Department, and by such other person or persons as the Township Board may designate.

SECTION 2. REPEAL. All ordinances or parts of law in effect that are in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid by a court of law, such decision shall not affect the validity of the remaining portions of this ordinance. The Niles Charter Township hereby declares that it would have passed this law, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared invalid.

SECTION 4. EFFECTIVE DATE. This Ordinance shall take effect thirty (30) days after publication.

This Ordinance is hereby declared to have been passed and adopted by the Charter Township of Niles, County of Berrien, State of Michigan, at a regularly scheduled meeting thereof duly called and held on this_____ day of _____, 2016.

_____
James Stover
Township Supervisor

ATTEST:

_____
Terry Eull, Township Clerk