Niles Charter Township

Zoning Ordinance

Recommended by the Planning Commission on June 9, 2015
following a public hearing on May 6, 2015

Adopted by the Township Board on December 21, 2015
Effective January 6, 2016

Amended June 24, 2016

NILES CHARTER TOWNSHIP ZONING ORDINANCE

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CHAPTER 1
TITLE, PURPOSE AND REPEALER

Section 1.01 - Title

This Ordinance shall be known as the "Niles Charter Township Zoning Ordinance."

Section 1.02 – Authority and Purpose

This ordinance is adopted pursuant to the authority granted Niles Charter Township by the Michigan Zoning Enabling Act, being Act 110, of 2006, as amended (MCL 125.3101). The purpose of this Ordinance is to promote and safeguard the public health, safety, morals, prosperity and general welfare of the people. The provisions are intended to, among other things, encourage the use of lands, waters and other natural resources in the Township in accordance with their character and most suitable use; to limit the improper use of land and resources; to provide reasonable terms under which the lawful use of nonconforming buildings, structures, and land may be continued; to reduce hazards to life and property; to provide for orderly development within the Township; to avoid overcrowding of the population; to provide for adequate light, air and health conditions in dwellings and buildings hereafter erected or altered; to lessen congestion on the public streets and streets; to protect and conserve natural recreational areas, agricultural, residential, and other areas naturally suited to particular uses; to facilitate the establishment of an adequate and economic system of transportation, sewage disposal, safe 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.

Section 1.03 – The Effect of Zoning

A. For the purposes of this Ordinance, except as hereafter specifically provided, no lot, land or premises shall be used, maintained or occupied, and no building or structure or part thereof shall be constructed, erected, moved, placed, maintained, reconstructed, used, extended, enlarged or altered, except in conformity with the regulations for the Zoning District in which it is located; these limitations being the minimum legislation necessary to promote and protect the general safety and welfare of the community.

B. In case any land, building, structure, or part thereof is used, erected, altered or occupied contrary to law or to the provisions of this Ordinance, such use of land, building or structure shall be unlawful and shall be declared a nuisance and such use of land may be required to cease and buildings or structures may be required to be vacated, torn down, or abated by any legal means and such land, building, or structure shall not be used or occupied until brought into conformance.

C. If construction on a building or structure is lawfully begun prior to adoption of this Ordinance, nothing in this Ordinance shall be deemed to require any change in the planned use of any such building, provided that actual construction is being diligently carried on, and further provided that such building shall be entirely completed for its planned or designed use within two (2) years from the effective date of this Ordinance.

D. Nonconforming buildings, uses, and lots shall be governed by the provisions of Section 3.22 of this Ordinance.

E. Any land use not specifically permitted by right or as a Special Land Use is prohibited. In the event a use of land is proposed for which there is a demonstrated need in the Township and which is not permitted in any zoning district in the Township, the provisions of Chapter 29 shall apply.

SECTION 1.04 – Repealer

All Zoning Ordinances previously adopted by the Township, and all amendments thereto, are hereby repealed. The repeal of the above Ordinance and its amendments does not affect or impair any act done, offense committed or right accruing, accrued, or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted or inflicted.

CHAPTER 2
DEFINITIONS

SECTION 2.01 – Rules Applying to the Text

A. If the meaning of this Ordinance is unclear in a particular circumstance, then the board or official charged with interpreting or applying the Ordinance shall construe the provision to carry out the intent of the Ordinance, if such intent can be discerned from other provisions of the Ordinance or law.

B. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

C. The particular shall control the general.

D. In case of any difference of meaning or implication between the text of this Ordinance and any caption diagram, or sketch, the text shall control.

E. All words and phrases shall be construed and understood according to the common preferred usage of the language; but technical words and phrases and such as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

F. Words used in the present tense shall include the future; and words used in the singular number shall include the plural; and the plural the singular, unless the context clearly indicates the contrary.

G. A "building" or "structure" includes any part thereof.

H. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity. Gender related words, such as “he” and “him” include “she” and “her,” or other similar uses of gender.

I. Unless the context clearly indicates the contrary, the conjunctions noted below shall be interpreted as follows.

   1. "And" indicates that all connected items, conditions, provisions, or events shall apply.
   2. "Or," indicates that the connected items, conditions, provisions or events may apply singularly or in any combination.
   3. "Either…or" indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.

Section 2.02 – Definitions – “A”

ABOVEGROUND STORAGE TANK SYSTEM

A tank or combination of tanks, including the pipes that are connected to the tank or tanks or ancillary equipment containment systems, if any, which is, was, or may have been used to contain an accumulation of liquids and which has less than 10% of its volume, including the volume of the underground pipes that are connected to the tank or tanks, beneath the surface of the ground,

as defined in Storage and Handling of Flammable and Combustible Liquids Rules, June 30, 1992 (Bureau of Fire Services, Michigan Department of Licensing and Regulatory Affairs).

ACCESS

A way or means of approach to provide year-round automobile and pedestrian ingress and egress to a property lake or stream.

ACCESSORY BUILDING

A building or portion of a building supplementary and subordinate to a main building on the same lot occupied by or devoted exclusively to an accessory use.

ACCESSORY USE

A use naturally and normally incidental and subordinate to, and devoted exclusively to the main use of the land or building.

ADULT FOSTER CARE FACILITY

A facility defined by the Adult Foster Care Facility licensing act (PA 218 of 1979), as amended, having as its principal function the receiving of adults for foster care. Such facility includes facilities and foster care family homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis, but who do not require continuous nursing care.

ADULT FOSTER CARE FAMILY HOME

A private residence in which the licensee is a member of the household and an occupant, providing foster care for five (5) or more days a week and for two (2) or more consecutive weeks with the approved capacity to receive six (6) or fewer adults.

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 twelve (12) or fewer adults to be provided with foster care.

AGRICULTURE

The use of land for tilling the soil, raising tree or field crops, or animal husbandry as a source of income, as regulated by the Michigan Right to Farm Act, being Act 93 of 1981, as amended (MCL 286.471) and the rules and regulations promulgated thereunder.

AGRICULTURAL LABOR HOUSING

One or more dwellings located on the property of an active farm operation intended for the

seasonal occupation by migratory farm workers and their families which meets the requirements of the Michigan Department of Agriculture and this Ordinance.

AGRICULTURE PRODUCTION

The conduct of all activities associated with the operation and management of a farm or a condition or activity that occurs at any time as necessary on a farm in connection with the commercial production, harvesting, and storage of farm products, including, but not limited to:

A. Marketing produce at roadside stands or farm markets.

B. The generation of noise, odors, dust, fumes, and other associated conditions.

C. The operation of machinery and equipment necessary for a farm including, but not limited to, irrigation and drainage systems and pumps and on-farm grain dryers, and the movement of vehicles, machinery, equipment, and farm products and associated inputs necessary for farm operations on the roadway as authorized by the Michigan vehicle code.

D. Field preparation and ground and aerial seeding and spraying.

E. The application of chemical fertilizers or organic materials, conditioners, liming materials, or pesticides.

F. Use of alternative pest management techniques.

G. The fencing, feeding, watering, sheltering, transportation, treatment, use, handling and care of livestock.

H. The management, storage, transport, utilization, and application of farm by-products, including manure or agricultural wastes.

I. The conversion from a farm operation activity to other farm operation activities.

J. The employment and use of labor.

AIRPORTS AND LANDING FIELDS

A Public Airport. A public facility designed for the take-off, landing, and storage of aircraft which is required to be licensed by the Michigan Aeronautics Commission, along with related accessory uses, such as, charter service, flying lessons, sale of fuel, mechanics, terminal buildings, and hanger facilities, which are available to the public.

B. Private Landing Field. An airport which is not available to the public, and not shown on aeronautical charts, not licensed by the Michigan Aeronautic Commission, and which does not offer charter flight service, the sale of gasoline or oil, student instruction, flying lessons, aviation maintenance services or other commercial services to the public.

ALLEY

A public or private right-of-way less than 22 feet wide that is primarily designed to serve as secondary access to the rear or side of those properties whose principal frontage is on some other street.

ALTERATIONS

Any change, addition or modification in construction or type of use or occupancy; any change in the supporting structural members of a building, such as walls, partitions, columns, beams, girders, or any change which may be referred to herein as "altered" or "reconstructed."

ANIMALS, SMALL DOMESTIC

Any dog, cat, household bird, fish, or other small animal, not including livestock, which is trained or bred to live in or about the habitations of humans.

ARCHITECTURAL FEATURES

Architectural features of a building shall include cornices, eaves, gutters, belt courses, sills, lintels, bay windows, chimneys and decorative ornaments, such as recesses, projections, wall insets, arcades, window display areas, awnings, balconies, window projections, landscape structures or other features that complement the design intent of the structure.

ASSEMBLY BUILDING (see Places of Public Assembly)

ATTIC

The area between roof framing and the ceiling of the rooms below that is not habitable, but may be reached by ladder and used for storage or mechanical equipment.

AVERAGE GRADE

The average finished ground elevation at the center of all walls of a building established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building or structure being measured.

AWNING (OR CANOPY)

A fabric or rigid feature attached to and projecting from a building above an entrance, window or other opening and intended to provide shade or partial cover from the elements.

SECTION 2.03 – Definitions – "B"

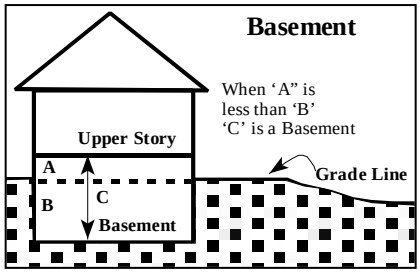
BANK or CREDIT UNION

Any building wherein the primary occupation is concerned with such federal or state regulated businesses as banking, savings and loans, credit unions, loan companies, and investment companies.

BASEMENT OR CELLAR

That portion of a building having more than one-half (½) of its height below grade.

Figure 2-1 Basement



BED AND BREAKFAST ESTABLISHMENT

A use within a detached single family dwelling in which transient guests are provided a sleeping room, breakfast and access to bathing and lavatory facilities in return for payment.

BILLBOARD

Any structure, including the wall of any building, on which lettered, figured, or pictorial matter is displayed for advertising a business, service, or entertainment that is not conducted on the land upon which the structure is located or products not primarily sold, manufactured, processed, or fabricated on such land.

BOARD, TOWNSHIP

As used in this Ordinance, this term means the Niles Charter Township Board of Trustees.

BUFFER (or Buffer Area)

A landscaped area intended to separate and partially obstruct the view of two adjacent land uses/properties from one another.

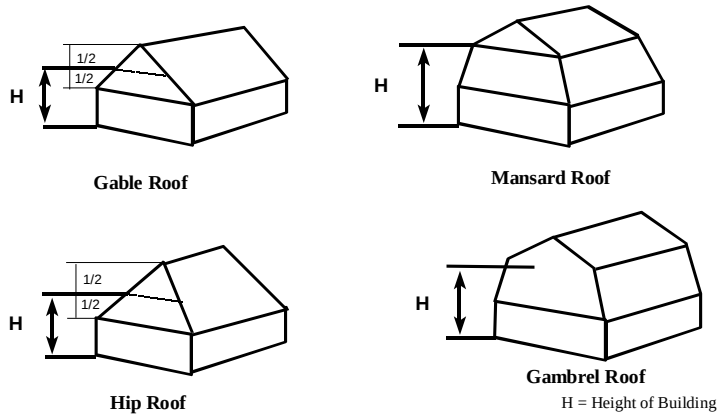
BUILDING

An independent structure, temporary or permanent, having a roof supported by columns, walls, or any other support used for the enclosure of persons, animals, or chattels, or carrying on business activities or other uses. When any building portion is completely separated from every other part by division of walls from the ground up, and without openings, each portion of such building shall be deemed a separate building.

BUILDING ENVELOPE

That portion of a lot within which the principal building, accessory buildings, and driveways are to be constructed, outside of all yards and setbacks required by this Ordinance or as approved as part of the density bonus option approval. (See Figure 2-3).

Figure 2-2



BUILDING HEIGHT

The building height is the vertical distance measured from the average grade, as defined herein, to the highest point of the roof surface if a flat roof; to the deck of mansard roofs; and to the mean height level between eaves and ridge of gable, hip and gambrel roofs (see Figure 2-2).

BUILDING, MAIN

A building in which the principal use of the lot on which it is situated is conducted.

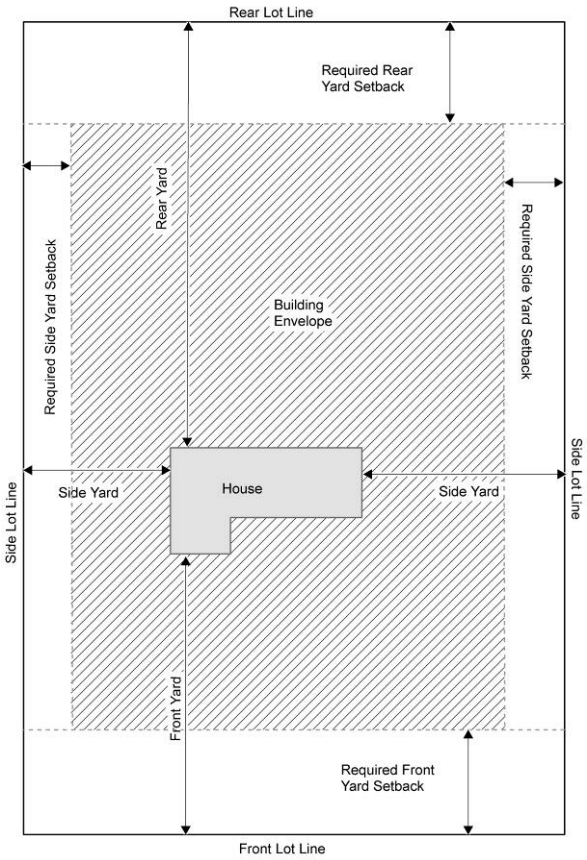
BUILDING MATERIALS SALES

An establishment where lumber and other building materials such as brick, tile, cement, insulation, roofing materials, heating and plumbing supplies, electrical supplies, paint, glass, hardware, and wallpaper stored are sold at retail.

BUILDING PERMIT

A written authority as issued by the Building Official on behalf of the Township permitting the construction, moving, alteration or use of a building in conformity with the provisions of this Ordinance and the applicable Building Code.

Figure 2-3 Yards, Setback and Building Envelope



BUILDING SETBACK LINES

Lines marking the required setback distance from the lot lines which establish the minimum permitted front, side, or rear yards.

A. Front Building Setback Line. The line marking the required setback distance from the front lot line or street easement line, as applicable, which establishes the minimum front yard setback area.

B. Rear Building Setback Line. The line marking the required setback distance from the rear lot line which establishes the minimum rear yard setback area.

C. Side Building Setback Lines. Lines marking the required setback distance from the side lot lines which establish the minimum side yard setback area.

BUSINESS CENTER

Any two (2) or more businesses which:

A. are located on a single parcel of property; or

B. are connected by common walls, partitions, canopies, or other structural members to form a continuous building or group of buildings; or

C. are under one (1) common ownership or management and have a common arrangement for the maintenance of the grounds; or

D. share a common parking area; or

E. otherwise present the appearance of a single, contiguous business area.

BUSINESS OFFICE

A building housing the professional activities of one or more agencies or businesses and maintained for the conduct of such professions.

SECTION 2.04 – Definitions – "C"

CAMPGROUND.

A use on a parcel or tract of land licensed by the State under the control of a person or public agency in which sites are offered for the use of the public or members of an organization either free of charge or for a fee, for the establishment of temporary living quarters for three or more recreational units, which includes trailers, as defined in this Ordinance.

CEMETERY

Grounds and facilities for the permanent disposition of human remains, including any one or a combination of more than one of the following: a burial ground for earth interment, a mausoleum for crypt entombment; a columbarium for the deposit of cremated remains.

CHILD CARE FACILITY

A facility having as its principal function the receiving of minor children for care, maintenance, training and supervision, notwithstanding that educational instruction may be given. This definition shall include: child caring institutions, child placing agencies, children's camps, child care centers, day care facilities, foster family homes, foster family group homes, family day care homes, group day care homes, nursery schools, and parent cooperative preschools, as those terms are defined by Public Act 116 of 1973, as amended, and which are licensed and regulated by the State under that Act.

CHURCH

A place of public assembly, as defined herein, wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory uses customarily associated with such primary purpose.

CLEARANCE ZONE

Those portions of a Building Envelope which are required to be excavated or cleared of existing vegetation and/or topsoil for the purposes of construction of Principal Buildings, Accessory Buildings, utility lines, driveways, sidewalks, and other similar necessary structures or facilities.

CLINIC

A building or group of buildings where human patients are admitted for examination and treatment by more than one (1) professional, such as a physician, dentist, or the like, except that human patients are not lodged therein overnight.

CLUB

Non-commercial organizations formed for recreational, social or sporting purposes, comprised of

members of the general public voluntarily participating in, or concerned with common activities or interests.

CO-LOCATION

The use of a wireless telecommunication support facility, such as, but not limited to a telecommunication tower, by more than one wireless telecommunication service provider.

COMMERCIAL

The use of property for the purchase, sale, barter, display, or exchange of goods, wares, merchandise or personal services or the maintenance of service offices, recreation, amusement enterprise, or garage/yard sales operating more than twelve (12) days during any one (1) twelve (12) month period.

COMMERCIAL REMOVAL AND PROCESSING OF MINERAL PRODUCTS

The removal, extraction, excavation, processing, fill, or grading for commercial purposes of soil, sand, shell, limestone, dolomite, gravel, ore, rock, clay, peat, or any other material by whatever process.

COMMERCIAL SCHOOL

A school established to provide for the teaching of industrial, clerical, managerial, or artistic skills. This definition applies to schools that are owned and operated privately for profit and that do not offer a complete educational curriculum (e.g., beauty school, modeling school).

COMMERCIAL WIRELESS TELECOMMUNICATION SERVICES

Licensed telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

COMMISSION, PLANNING

As used in this Ordinance, this term means the Niles Charter Township Planning Commission.

CONDOMINIUM ACT

Public Act 59 of the Michigan Public Acts of 1978, as amended.

CONDOMINIUM UNIT

That portion of the condominium project designed and intended for separate ownership and use, as described in the Master Deed of the condominium project.

CONDOMINIUM PROJECT

A plan or project consisting of not less than two condominium units established in conformance with the Condominium Act.

CUL-DE-SAC

A local street having one end open to vehicular traffic and the other end permanently closed with a vehicular turnaround.

SECTION 2.05 – Definitions – "D"

DAY CARE FACILITY

A. *Family Day Care Facility -* A single family residence, occupied as such, in which care is provided for more than one (1) but not more than six (6) minor children or adults for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian. Care for persons related by blood, marriage or adoption to a member of the family occupying the dwelling is excluded from this definition.

B. *Group Day Care Facility -* A single family residence, occupied as such, in which care is provided for at least seven (7) but not more than twelve (12) minor children or adults for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian. Care for persons related by blood, marriage, or adoption to a member of the family occupying the dwelling is excluded from this definition.

C. *Commercial Day Care Facility -* A facility, other than a private residence, receiving minor children or adults for care for periods of less than 24 hours in a day, for more than two (2) weeks in any calendar year. Child care and supervision provided as an accessory use, while parents are engaged or involved in the principal use of the property, such as a nursery operated during church services or public meetings, or by a fitness center or similar operation, shall not be considered Commercial Day Care.

DECK

A platform, either on grade or freestanding or attached to a building that is supported by pillars or posts.

DISTRICT, ZONING

A portion of the Township within which certain uses of land or buildings are permitted and within which certain regulations and requirements apply under the provisions of this Ordinance.

DRIVE-THROUGH ESTABLISHMENT

A commercial establishment whose retail/service character is significantly dependent on providing a driveway approach and service windows or facilities for vehicles in order to serve patrons while in or momentarily stepped away from the vehicle. Examples include banks, cleaners, and restaurants, but not including vehicle service stations.

DRIVEWAY, PRIVATE

An improved or unimproved path or road extending from a public right-of-way or private road

easement to a single building, dwelling, or structure, intended to provide ingress and egress primarily for occupants thereof.

DRIVEWAY, SHARED

A private driveway, as defined herein, which provides access to up to three (3) contiguous lots within a residential zoning district.

DRY CLEANING ESTABLISHMENT

An establishment which launders or dry cleans articles dropped off on the premises directly by the customer or where articles are dropped off, sorted, and picked up but where laundering or cleaning is done elsewhere.

DWELLING, OR DWELLING UNIT

A dwelling unit is any building or portion thereof having cooking and housekeeping facilities, which is occupied wholly as the home, residence or sleeping place of one (1) family, either permanently or transiently, but in no case shall a motor home, trailer coach, garage, automobile chassis, tent, or portable building be considered a dwelling. In case of mixed occupancy, where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit and shall comply with the applicable provisions of this Ordinance.

DWELLING, ACCESSORY

A separate dwelling unit, but excluding a manufactured home, located on the same lot as a single-family dwelling unit, either within the same building as the single-family dwelling unit or in a detached building.

DWELLING, MULTIPLE FAMILY

A building or portion thereof, used or designed for use as a residence for three (3) or more families living independently of each other and each doing their own cooking and housekeeping.

DWELLING, TWO-FAMILY

A detached building used or designed for use exclusively by two (2) families living independently of each other and each doing their own cooking and housekeeping. It may also be termed a duplex.

DWELLING, SINGLE FAMILY (DETACHED)

A detached building used or designed for use exclusively by one (1) family.

SECTION 2.06 – Definitions – "E"

EASEMENT

The legal right given to a person or entity or to the public to cross on or over the property of another for a specified purpose.

ERECTED

The word "erected" includes built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage, and the like, shall be considered a part of the term “erect” or “erected.”

ESSENTIAL SERVICES

A. The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, towers, poles, and other similar equipment, and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health or general welfare.

B. Essential services does not include buildings other than such buildings that are primarily enclosures or shelters of the above essential service equipment

C. Cellular telephone or commercial wireless communications towers shall not be considered essential services.

EXCAVATING

Excavating shall be the removal of soil below the average grade of the surrounding land or street grade, whichever shall be highest, excepting common household gardening.

SECTION 2.07 – Definitions – “F”

FAMILY

A. An individual or group of two (2) or more persons related by blood, marriage, or adoption, together with foster children and servants of the principal occupants who are domiciled together as a single housekeeping unit in a dwelling unit; or

B. A collective number of individuals domiciled together in one (1) dwelling unit whose relationship is of a continuing, non-transient domestic character and who are cooking and living as a single nonprofit housekeeping unit.

C. This definition shall not include any society, club, fraternity, sorority, association, half-way house, lodge, coterie, organization, group of students, or other individual whose domestic relationship is of a transitory or seasonal nature, is for an anticipated limited duration of a school term or during a period of rehabilitation or treatment, or is otherwise not intended to be of a permanent nature.

FARM

Land, plants, animals, buildings, structures, including ponds used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products.

FENCE

Any permanent fence, partition, wall, structure or gate erected as a dividing structure, barrier or enclosure, and not part of a structure requiring a building permit.

FLOODPLAIN

The low land near a watercourse which has been, or may be, covered by water of a flood of 100-year frequency, as established by the U.S. Army Corps of Engineers, or other state or federal authority.

FLOOD WAY

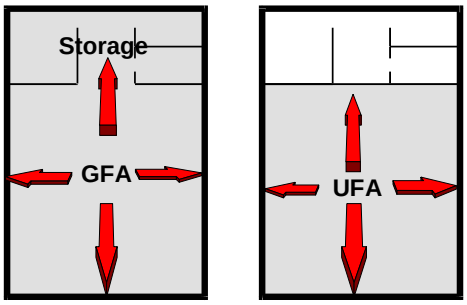
The channel of a watercourse and those portions of the adjoining floodplains which are required to carry and discharge the 100-year flood with no significant increase in the base flood elevation.

FLOOR AREA, GROSS (GFA)

A. The sum of the gross horizontal area of the several floors of the building measured from the exterior faces of the exterior walls or from the center line of walls separating two (2) buildings. The gross floor area of a building shall include the basement floor area only if more than one-half (1/2) of the basement height is above finish lot grade. (See Basement.)

B. Gross floor area shall not include attic space having headroom of seven and one-half (7-1/2) feet or less, or interior balconies or mezzanines. Any space devoted to off-street parking or loading shall not be included in floor area. Areas of basements (except as provided above), breezeways, porches, or attached garages are not included.

Figure 2-4



Gross Floor Area Usable Floor Area

FLOOR AREA, USABLE (UFA)

A. That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers; or area used in a dwelling unit for living purposes. Floor area which is used or intended to be used principally for the storage or processing of merchandise, for hallways, or for utilities shall be excluded from the computation of usable floor area.

B. Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building measured from the interior faces of the exterior walls.

FOSTER FAMILY GROUP HOME

A private residence in which more than four (4) but fewer than seven (7) minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are provided care for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.

FOSTER FAMILY HOME

A private residence in which one (1) but not more than four (4) minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are provided care for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.

FUNERAL HOME (see Mortuary)

SECTION 2.08 – Definitions – "G"

GARAGE

An accessory building used primarily for the storage of vehicles for the use of the occupants of the main building on the lot.

GENERALLY ACCEPTED AGRICULTURAL MANAGEMENT PRACTICES (GAAMPs)

Those practices as defined by the Michigan Commission of Agriculture and the Department of Agriculture as promulgated from time to time.

GOLF COURSE OR COUNTRY CLUB

A tract of land laid out with at least nine holes for playing a game of golf and improved with tees, greens, fairways, and hazards. A golf course includes a clubhouse and shelters as accessory uses

GREENHOUSE

A building or structure constructed chiefly of glass, glasslike or translucent material, cloth, or lath, which is devoted to the protection or cultivation of flowers, trees, shrubbery or other vegetation which is kept for personal enjoyment or sold at wholesale.

GREENSCAPE (see Buffer)

GUN CLUB

A club, as defined herein, organized for the purpose of sport shooting, engaged in training in firearms safety and handling, firearms and archery marksmanship training and practice shooting, firearms collecting, display and related activities associated with gun collecting, stocked hunting and game preserve usage, youth programs involving hunting skills, firearms and archery safety and skill-building, and competitive events associated with firearms.

SECTION 2.09 – Definitions –"H"

HAZARDOUS SUBSTANCE

A chemical or other material which is or may become injurious to the public health, safety, or welfare, or to the environment. The term "hazardous substance" includes, but is not limited to,

any of the following:

A. Hazardous Substances as defined in the comprehensive environmental response, compensation, and liability act of 1980, Public Law 96.510, 94 State. 2767.

B. Hazardous Waste as defined in Part 111 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended.

C. Regulated Substance as defined in Part 213 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended.

D. Hazardous Substance as defined in Part 201 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended.

E. Used oil.

F. Biohazards, including infectious tissues, agents or compounds, dressings or related materials, human or animal waste, animal byproducts or carcasses.

HEALTH AND FITNESS FACILITY

An establishment open to the public that offers aerobics, free weights, weight-lifting equipment, tanning, stationary bicycling, massage therapy, sports facilities, pools, personal trainers, an indoor running track, saunas, health food, yoga, spinning, martial arts, and other similar facilities and activities related to personal or team athletics, exercise, fitness, health and relaxation.

HEATING AND ELECTRICAL GENERATING PLANT

A facility engaged in the production of heat or electrical energy for distribution to the public or portions of the community, regardless of the fuel source, but excluding emergency or so-called back-up generation equipment intended for private use.

HOME OCCUPATION

An occupation customarily conducted in a dwelling unit or accessory building that is clearly an incidental and secondary use of the dwelling and which results in little, if any, intrusion into the residential character of the surrounding neighborhood.

HOSPITAL

An institution providing health services, primarily for in-patients and medical or surgical care including related facilities such as laboratories, out-patient departments, training facilities, central service facilities and staff offices.

HOTEL (or Motel)

A building occupied or used as a predominantly temporary abiding place by individuals or groups of individuals, with or without meals.

SECTION 2.10 – Definitions – "I"

IMPERVIOUS SURFACE

An area which has been treated, compacted or covered with any type of material such that rainfall will runoff as opposed to being able to percolate into the ground. These materials include but are not limited to: gravel, asphalt, concrete, metals, and water repellent polymers.

INDOOR COMMERCIAL RECREATIONAL AND ENTERTAINMENT FACILITIES

An establishment offering facilities for personal types of recreation or entertainment in which customers actively participate, including, but not limited to, bowling alleys, billiard halls, video arcades and similar establishments.

SECTION 2.11 – Definitions – "J"

JUNK

Any motor vehicle, machinery, appliance, product, or merchandise with parts missing; scrap metal or material that is damaged or deteriorated; vehicles or machines in a condition which precludes their use for the purpose for which they were manufactured.

JUNK YARD

The term "junk yard" includes automobile wrecking yards and salvage areas and includes any area of more than two hundred (200) square feet for the storage, sale, processing, keeping or abandonment of junk, including scrap metals, other scrap materials or reclaimed materials, or for the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof for profit, but does not include uses established entirely within enclosed buildings.

SECTION 2.12 – Definitions – "K"

KENNEL

Any lot or premises on which more than four (4) small domestic animals, six (6) months of age or older are kept temporarily or permanently for the purpose of breeding, boarding or sale.

SECTION 2.13 – Definitions – "L"

LAND DIVISION

The partitioning or splitting of a parcel or tract of land by the proprietor thereof pursuant to the Land Division Act, being Act 288 of 1967, as amended (MCL 560.101).

LIVESTOCK

Animals kept for agricultural production purposes, also including horses and ponies kept for

recreation and as companion animals.

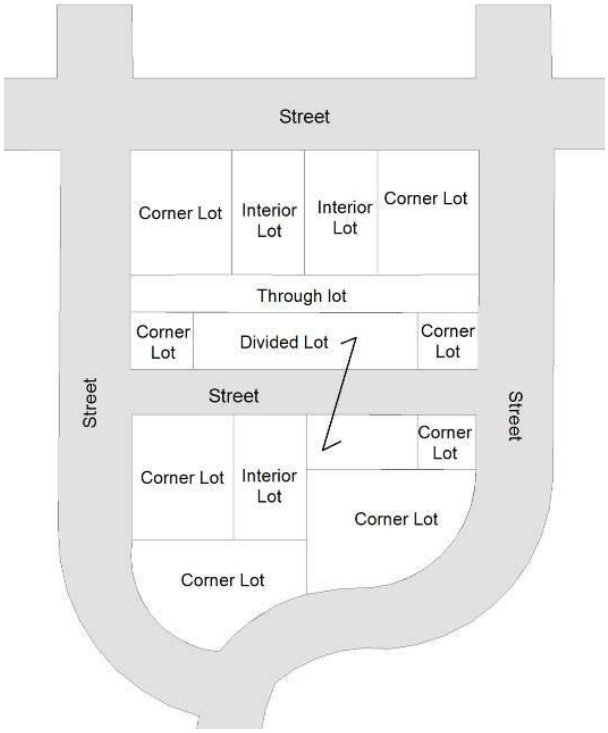
LOADING SPACE

An off-street space on the same lot with a building or group of buildings, for temporary parking for a commercial vehicle while loading or unloading merchandise or materials. Off-street loading space is not to be included as off-street parking space in computation of required off-street parking.

LOT

A distinct piece of land, individually recorded in the records of the Berrien County Register of Deeds by description on a recorded plat, condominium subdivision or by metes and bounds description. The word "lot" includes the words "plot," "tract" and "parcel." A lot may also mean a portion of a condominium project, as regulated by Public Act 59 of 1978, as amended, designed and intended for separate or limited ownership or use.

Figure 2-5



LOT AREA

The total horizontal area within the lot lines of a lot, excluding street right-of-way.

LOT, CORNER

A lot located at the intersection of two (2) streets or a lot bounded on two (2) sides by a curving street, any two (2) chords of which form an angle of one hundred thirty-five (135) degrees or less.

LOT COVERAGE

The part or percent of the lot occupied by buildings or structures, including accessory buildings or structures, but not including parking lots.

LOT, DEPTH

The mean horizontal distance from the front lot line to the rear lot line, or the two (2) front lines of a double frontage lot.

LOT DIVIDED

A single lot or parcel with a single property description and identification number which is separated into two or more segments by a public right-of-way.

LOT, THROUGH (or Double Frontage)

A lot other than a corner lot having frontage on two (2) more or less parallel streets.

LOT, FRONTAGE

The horizontal distance between the side lot lines measured at the street right-of-way or easement line.

LOT, INTERIOR

A lot other than a corner lot with only one (1) lot line fronting on a street.

LOT LINES

The property lines or other described lines bounding the lot.

A. Front Lot Line. The front lot line shall mean any line separating such lot from such street right-of-way or easement.

B. Rear Lot Line. Ordinarily, that lot line which is opposite and most distant from the front lot line of the lot.

   1. In the case of an irregular or triangular-shaped lot, a line at least ten (10) feet in length entirely within the lot, parallel to, and at the maximum distance from the front lot line of the lot shall be considered to be the rear lot line for the purpose of determining depth of rear yard.

   2. In cases where none of these definitions are applicable, the Zoning Administrator shall designate the rear lot line.

C. Side Lot Line. Any lot line not a front lot line or a rear lot line. A side lot line separating a lot from another lot, or lots is an interior side lot line.

LOT OF RECORD

A lot which exists in a subdivision plat as shown on the records of the County Register of Deeds, or a lot or parcel described by metes and bounds, which has been so recorded as required by law.

LOT, WATERFRONT

A lot which abuts directly upon the St. Joseph or Dowagiac Rivers.

LOT WIDTH

The horizontal distance between the side lot lines, as measured at the front yard setback line.

LOTS, CONTIGUOUS (or Contiguous Parcels)

Two or more separate lots or parcels which share a common boundary line but not including lots which adjoin only at a single point.

SECTION 2.14 – Definitions – "M"

MAIN BUILDING

The building on a lot which houses the principal use on said lot.

MAJOR OR MINOR ARTERIAL ROAD

For the purposes of this Zoning Ordinance, the following roadway segments shall be considered to be major or minor arterial roads:

	Segment	
Road Name	**From**	**To**
Pulaski Highway (US-12)	West Twp. Limits	11th Street (M-51)
11th Street	Fort Street	South Twp. Limits
3rd Street	Fort Street	South Twp. Limits
Stateline Road	3rd Street	11th Street
Ontario Road	3rd Street	East Twp. Limits
Bertrand Road	St. Joseph River	East Twp. Limits
Fulkerson Road	3rd Street	11th Street
Bell Road (two segments)	3rd Street	East Twp. Limits
17th Street	Between the two segments of Bell Road	
West Chicago Road	Weiser Road	Niles City Limits
Niles-Buchanan Road	West Twp. Limits	Niles City Limits
Rangeline Road	Walton Road	North Twp. Limits
Walton Road	West Twp. Limits	N. Old US-31 (M-139)
N. Old US-31 (M-139)	North Twp. Limits	Niles City Limits
M-140	North Twp. Limits	N. Old US-31 (M-139)
Ullery Road	N. Old US-31 (M-139)	Pucker Drive
Pucker Drive	Ullery Road	N. 5th Street (M-51)
N. 5th Street (M-51)	East Twp. Limits	Niles City Limits

MANUFACTURED HOME

A structure, transportable in 1 or more sections, which is built on a chassis and designed to be used as a dwelling with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

MANUFACTURED HOME PARK

A parcel or tract of land under the control of a person upon which two (2) or more manufactured homes are located on a continual, nonrecreational 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 manufactured home.

MANUFACTURED HOME SPACE

A plot of ground within a manufactured home park designed for the placement of one (1) manufactured home.

MANUFACTURING AND PROCESSING

Product assembling, blending or mixing, where raw materials or previously processed components or manufactured parts produced off-site are fitted together into a complete product or subassembly. This may include product packaging, storage and shipping activities.

MARIHUANA (or Marijuana)

This term shall have the meaning given to it in the Michigan Public Health Code, 1978 PA 368, MCL 333.7106, as is referred to in Section 3(d) of the Michigan Medical Marihuana Act, PA 2008, Initiated Law, MCL 333.26423(d).

MASTER DEED

The legal condominium document recording the condominium project it governs; Typically attached as an exhibit and incorporated by reference in the approved bylaws for the project and as part of the approved condominium plan for the project.

MASTER PLAN

The Master Plan currently adopted by Niles Charter Township, including graphic and written materials, indicating the general location for streets, parks, schools, public buildings, and all physical development of the Township, and includes any unit or part of such plan and any amendment to such plan.

MEDICAL OR DENTAL OFFICE

A facility in which one or more physicians, dentists, chiropractors or other licensed practitioners of the healing arts provide examination and treatment services of persons solely on an outpatient basis.

MEDICAL USE OF MARIHUANA

The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, as defined under the Michigan Medical Marihuana Act, PA 2008, Initiated Law, MCL 333.26423(d).

MINI-STORAGE WAREHOUSE.

An enclosed storage facility containing independent, fully enclosed bays that are leased to

individuals exclusively for long-term storage of their household goods or personal property.

MORTUARY

A facility used for the preparation of the deceased for burial and for visitation and for the conduct of memorial and funeral services, but excluding crematoria.

MOTEL (see Hotel)

MOTOR HOME

A motorized vehicular unit primarily designed for temporary dwelling in connection with travel and recreational usage. This term does not include manufactured homes.

MULTI-TENANT BUILDING

A building, whether residential, commercial or industrial, which has more than one lessee.

MUNICIPAL BUILDINGS

Buildings owned or operated by Niles Charter Township, or any agency or instrumentality thereof.

SECTION 2.15 – Definitions – "N"

NON-CONFORMING BUILDING OR STRUCTURE

A building, structure or portion thereof lawfully existing at the effective date of this Ordinance, or amendments thereto, and which does not conform to the provisions of the Ordinance in the Zoning District in which it is located.

NON-CONFORMING LOT

A lot, which has not been subdivided or reduced in size and which conformed with all Township zoning requirements at the time of its creation but no longer conforms to the current requirements for lot area or lot width.

NON-CONFORMING USE

A use which lawfully occupied a building or land at the effective date of this Ordinance or amendments thereof, and that does not conform to the use regulations of the Zoning District in which it is located.

NONRESIDENTIAL DISTRICT

The Office/Service (OS), Local Business (LB), General Business (GB), Highway Business (HB), and Industrial (I) Zoning Districts.

NURSERY

An establishment involved in the commercial raising and cultivation of annual and perennial flowers, turf, plants, trees and shrubs either indoors or outdoors and which may involve retail or wholesale sales activities.

NURSING HOME

A home for the care of the aged or infirm, or a place of rest for those suffering bodily disorders, wherein persons are provided care for compensation. Said home shall conform to, and be licensed under applicable State law.

SECTION 2.16 – Definitions – "O"

OFFICE BUILDING

A building used primarily for the offices of professional, administrative or executive occupations which may include ancillary services for office workers.

OFFICE BUILDING – NEIGHBORHOOD SCALE

An office building as defined herein, but limited to not more than two business uses and designed to be compatible in scale and presentation to the surrounding neighborhood.

OFFICE AND SHOWROOM

A facility providing sales and office facilities for a commercial operation and which incorporates an open area where products are displayed for sale.

OPEN AIR BUSINESS

Uses operated substantially in the open air, including, but not limited to:

A. Bicycle, utility truck or trailer, motor vehicle, boats, or home equipment sale, repair, rental, or storage services.

B. Outdoor display and sale of garages, motor homes, manufactured homes, snowmobiles, farm implements, swimming pools, and similar activities.

C. Retail or wholesale sale of trees, fruits, vegetables, shrubbery, plants, mulch, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.

D. Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving ranges, children's amusement park or similar recreation uses (transient or permanent).

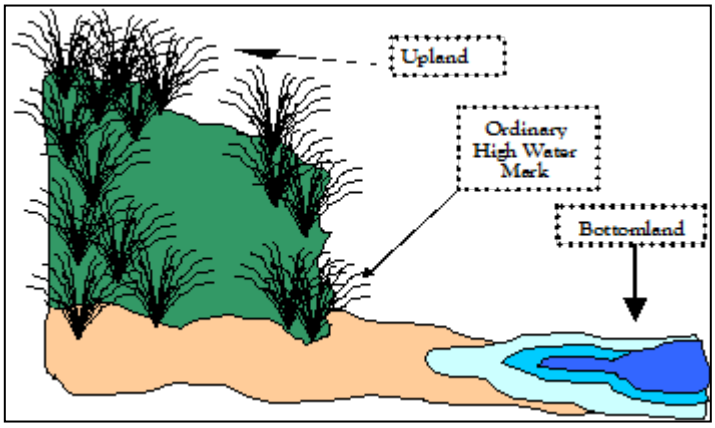
OPEN SPACE

Land used for recreation, resource protection, amenity, and/or buffers. In no event shall any area of a lot constituting the minimum required lot area or setback, nor any part of an existing or future road or right-of-way be considered open space.

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. Where the water levels vary for purposes of water level management, the ordinary high water mark shall be the higher of the levels generally present.

Figure 2-6 Shoreline and High Water Mark



OUTDOOR FURNACE

An accessory structure to a residence or business consisting of an external burner of wood, pellets, corn or other similar products and used for hot air or hot water heating.

SECTION 2.17 – Definitions " P"

PARK

A public or private area of land, with or without buildings, intended for outdoor active or passive recreational uses.

PARKING LOT

A facility providing vehicular parking spaces, along with adequate drives, aisles, and maneuvering space to allow unrestricted ingress and egress to at least two (2) vehicles.

PARKING SPACE

A space suitable to safely accommodate one (1) motor vehicle

PATIO

An uncovered exterior surface, usually made of concrete, brick, or other masonry material, which is placed at grade and used as outdoor living space.

PERSONAL SERVICE ESTABLISHMENT

An establishment, including a residence, where cosmetology, barbering, shaving or similar services

are offered or practiced on a regular basis for compensation; including, but not limited to, hair care, nail care, skin care, but excluding physical therapy or massage.

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 numbering thirty (30) or more.

PLACE OF PUBLIC ASSEMBLY, LARGE

A place of public assembly, as defined herein, with a capacity of more than one hundred-fifty (150) persons.

PLACE OF PUBLIC ASSEMBLY, SMALL

A place of public assembly, as defined herein, with a capacity of thirty-one (31) to one hundred-fifty (150) persons.

PLANNED UNIT DEVELOPMENT (PUD)

A development of land planned and developed as a whole in a single project or series of phases. The PUD may include streets, utilities, buildings, open spaces, and other site features and improvements.

PORCH, ENCLOSED

A covered entrance to a building or structure which is totally enclosed, and projects out from the main wall of said building or structure and has a separate roof or an integral roof with the main building or structure to which it is attached.

PORCH, OPEN

A covered entrance to a building or structure which is unenclosed except for columns supporting the porch roof, and projects out from the main wall of said building or structure and has a separate roof or an integral roof with the main building or structure to which it is attached. A recessed porch is considered an open porch.

PRIMARY CAREGIVER

Primary caregiver or caregiver means a person as defined under MCL 333.7106(g) of the Michigan Medical Marihuana Act, and who has been issued and possesses a Registry Identification Card under the Act.

PRIMARY CAREGIVER HOME OCCUPATION

An activity in which a primary caregiver assists qualified patients with the medical use of marihuana as a home occupation.

PRODUCTION, REFINING OR STORAGE OF PETROLEUM PRODUCTS

A facility involving the refining, blending and storage of chemicals, petroleum products, or hazardous materials in above ground or below ground storage containers for wholesale distribution or mass consumption.

PRINCIPAL BUILDING

The building or structure on a lot which is occupied by the principal use of the property.

PRINCIPAL USE

The primary and predominant use or intended use of the premises according to the zoning district requirements or the actual use of the premises.

PUBLIC UTILITY

Any person, firm, corporation, municipal department, board, or commission duly authorized to furnish, under Federal, State or municipal regulations, to the public, electricity, gas, steam, communications (except cellular telephone or commercial wireless communications towers), telegraph, transportation, or water services.

SECTION 2.18 – Definitions – "Q"

QUALIFYING PATIENT OR PATIENT

Qualifying patient or patient means a person as defined under MCL333.7106(h) of the Michigan Medical Marihuana Act, and who has been issued and possesses a Registry Identification Card under the Act.

SECTION 2.19 – Definitions – "R"

RECREATION VEHICLE OR EQUIPMENT

A vehicle or equipment intended for temporary or periodic use for recreational or leisure pursuits. Such vehicles shall include boats, airplanes, special purpose automobiles, floats, rafts, trailers, snowmobiles, camping or travel trailers, motorized homes, detachable travel equipment of the type adaptable to light trucks, and other equipment or vehicles of a similar nature.

REPLACEMENT COST

Cost of replacing a structure or building at current costs at the time of the loss, identical to the one that was destroyed, without application of depreciation. This may also be defined as twice the current State Equalized Value.

RESEARCH AND DEVELOPMENT FACILITY

A structure or complex of structures designed or used primarily for research development functions related to industry and similar fields of endeavor and which normally does not involve

mass manufacture, fabrication, processing, or sale of products.

RESIDENTIAL DISTRICT

The Agricultural Preservation (AP), Rural Preservation (RP), Low Density (R-1A), Medium Density (R-1B), High Density (R-2), and Manufactured Housing Community (R-3) Zoning Districts.

RESIDENTIAL SUBDIVISION, CONVENTIONAL

A subdivision or site condominium, as both terms are defined herein, designed and constructed for residential use and without significant open space.

RESIDENTIAL SUBDIVISION, OPEN SPACE PRESERVATION

A subdivision or site condominium, as both terms are defined herein, designed and constructed for residential use and which incorporates common open space areas in accordance with the requirements of this ordinance.

RESTAURANT

A commercial establishment in which the principal use is the preparation and sale of food and beverages of any kind for consumption on site or to carry out.

RETAIL BUSINESS

A commercial enterprise that provides goods and/or services directly to the consumer and where goods are available for immediate purchase.

RIGHT-OF-WAY

An area dedicated to public use for pedestrian and vehicular movement, which may also accommodate public utilities.

ROOF PITCH

The amount of slope of the roof in terms of angle or other numerical measure typically expressed as one unit of vertical rise for "X" units of horizontal extension (e.g. "1 on 3.")

ROADSIDE STAND

A farm building or separate structure used for the display or sale of agricultural products conducted in accordance with Generally Accepted Agricultural Management Practices (GAAMPS).

SECTION 2.20 – Definitions – "S"

SALVAGE YARD

A space where waste, surplus, discarded, or salvaged materials are bought, sold, exchanged, stored,

baled, cleaned, packed, disassembled, or handled, including house wrecking, structural steel materials, equipment and auto wrecking.

SATELLITE DISH ANTENNA, OR DISH ANTENNA

An apparatus capable of receiving communications from a transmitter or a transmitter relay located in planetary orbit.

SAWMILL

A facility where logs or partially processed cants are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products, not including the processing of timber for use on the same lot by the owner or resident of that lot.

SCHOOL, PUBLIC OR PRIVATE

A private, public or parochial educational facility offering instruction at the elementary, junior and/or senior high levels in the branches of learning and study required to be taught in the public schools of Michigan.

SCREENING

A method of shielding a view of one site from another neighboring site, including but not limited to, fences, walls, hedges, berms, and other types of vegetation.

SENSITIVE LANDS

Lands classified for purposes of density calculation that contain a minimum contiguous area of two (2) acres and which contain significant natural features.

SEXUALLY ORIENTED BUSINESS

As defined by Chapter 20, Article II of the Niles Charter Township Code of Ordinances.

SIGN

A device, structure, fixture, or placard using graphics, symbols and written copy designed specifically for the purpose of identifying an establishment, product, service, commodity, or activity, or displaying or depicting other information.

SIGN, BUSINESS CENTER

A freestanding or ground sign identifying the name of a Business Center and/or one (1) or more individual businesses within the center.

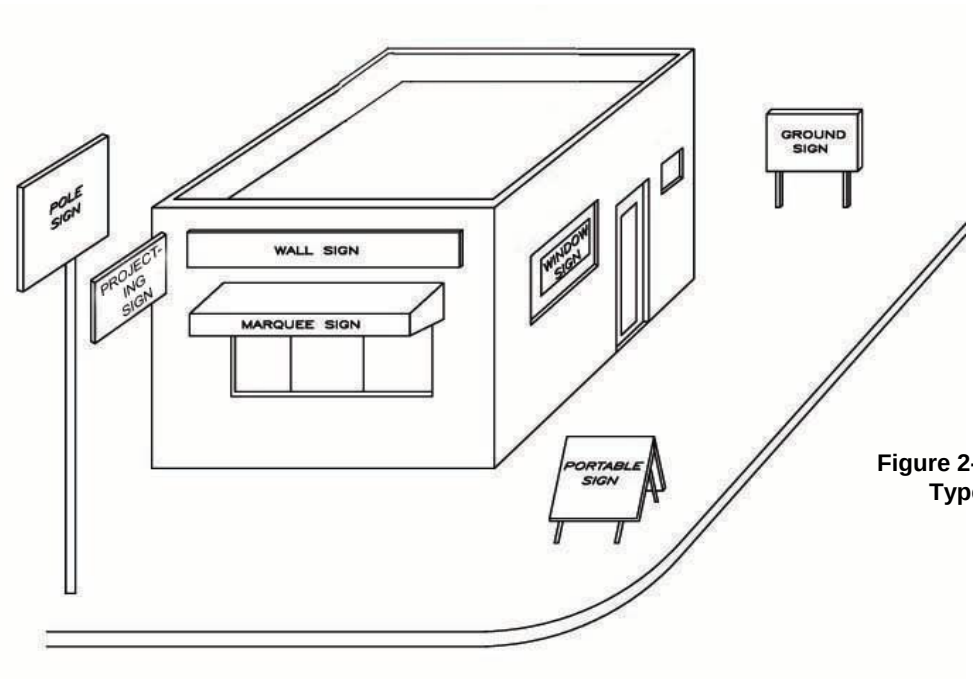


Figure 2-7 Sign Types

SIGN, COMMUNITY SPECIAL EVENTS

A portable sign erected for a limited time for the purpose of calling attention to events of interest to the general public and which are sponsored by governmental agencies, schools, or other non-profit groups whose purpose is of a public, charitable, philanthropic, religious or benevolent nature.

SIGN, CONSTRUCTION SIGN

A sign identifying the owners, contractors, architects, and engineers of a building(s) or development project under construction.

SIGN, DIRECTIONAL

A sign which gives directions, instruction, or information relating to location of buildings, designated routes for pedestrians and vehicles and other information for convenience or safety, such as parking information signs or entrance and exit signs.

SIGN, FREESTANDING (OR POLE SIGN)

A sign not attached to a building or wall and which is supported by one (1) or more poles or braces with a minimum ground clearance of eight (8) feet.

SIGN, GOVERNMENTAL

A sign erected or required to be erected by the Township, Berrien County, or by the state or federal government.

SIGN GROUND (OR MONUMENT SIGN)

A sign, the bottom of which is no more than twenty-four (24) inches from the ground, which rests directly on the ground, or is supported by short poles or a base platform or monument, and is not attached to a building or wall.

SIGN, INCIDENTAL

A sign, as determined by the Zoning Administrator, that identifies street address, entrances and exits, safety precautions, identifying logos without text, and other such incidental information, which is not generally intended for business advertisement or which is not intended to be read from the street.

SIGN, MEMORIAL

A sign, tablet, or plaque memorializing a person, event, structure, or site.

SIGN, OFF-PREMISE

Any sign, visible from a location off the property, that directs attention to a business, commodity, services or entertainment conducted, offered or sold at a location other than the premises on which the sign is located.

SIGN, POLITICAL

A sign erected for a limited period of time for purposes of political campaigns for public office, for elections on public questions, or otherwise relating to public elections or public meetings held for the purpose of voting on or for public offices or public questions.

SIGN, PROJECTING SIGN

A sign that projects from and is supported by a wall of a building and does not extend beyond or into and over street right-of-way.

SIGN, REAL ESTATE

A sign advertising the real estate upon which the sign is located as being available for sale, rent, or lease.

SIGN, REAL ESTATE DEVELOPMENT

A sign located on a portion of a platted subdivision or site condominium approved in accordance with the Land Division Act and which promotes the sale of lots or sites within such development.

SIGN, ROOF

Any sign erected above the roof line of a building.

SIGN, SUBDIVISION IDENTIFICATION

A sign identifying or otherwise stating the name of a platted subdivision, site condominium development, apartment complex, manufactured housing community, or other residential, commercial or industrial development.

SIGN, TEMPORARY (OR PORTABLE SIGN)

A display, informational sign, banner or other advertising device with or without a structural frame and intended for a limited period of display, including seasonal produce sales and decorative displays for holidays, or public demonstrations.

SIGN, WALL

A sign painted on, or attached directly to and parallel to, the exterior wall of a building, extending not greater than twelve (12) inches from the exterior face of the wall to which it is attached.

SIGN, WINDOW

A sign attached to or suspended near the windows of a building and intended to be visible from outside the building.

SIGNIFICANT NATURAL FEATURE

Any area which exhibits unique topographical, ecological, or hydrological characteristics such as wetlands, flood plains, water features, woods, slopes in excess of fifteen (15%) percent, active agricultural lands, or other unique natural features, as determined by the Township Board, Planning Commission, Michigan Department of Natural Resources and Environmental (MDNRE), or other appropriate agency.

SITE CONDOMINIUM (ALSO CONDOMINIUM SUBDIVISION)

Any division of land on the basis of condominium ownership, which is not subject to the provisions of the Land Division Act (Act 288 of 1976, as amended), but which is subject to the requirements and provisions of the Condominium Act (Act 59 of 1978, as amended).

STABLES, PRIVATE

A building or structure, located on a lot of five (5) acres or more on which a dwelling is located; designed, arranged, used, or intended to be used for housing saddle horses or ponies primarily for the use of occupants of the dwelling and not for hire.

STABLES, RIDING

A building or structure which is designed, arranged, used, or intended to be used for housing saddle horses or ponies primarily for hire.

STATE LICENSED RESIDENTIAL FACILITY

A residential care facility licensed by the State of Michigan under Act 287 of 1972 of the Public

Acts of Michigan, as amended, or Act 116 of 1973 of the Public Acts of Michigan, as amended, which provides resident care services under twenty four (24) hour supervision or care, but does not include facilities licensed by the State of Michigan for care and treatment of persons released from or assigned to correctional institutions.

A. A State Licensed Residential Family Facility includes a state licensed residential facility providing resident services to six (6) or fewer persons.

B. A State Licensed Residential Group Facility includes a state licensed residential facility providing resident services to more than six (6) persons.

STORY

That portion of a building, other than a basement or mezzanine, included between the surface of any floor and the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. For the purpose of this Ordinance, a basement or cellar shall be counted as a story only if over fifty percent (50%) of its height is above the average grade, or, if it is used for business purposes.

STORY, HALF

That part of a building between a pitched roof and the uppermost full story, said part having a floor area which does not exceed one-half (½) the floor area of said full story, provided the area contains at least two hundred (200) square feet and which contains a clear height of at least seven and one-half (7½) feet, at its highest point.

STREET, PRIVATE

A privately owned and maintained thoroughfare meeting the requirements of Chapter 26 of this Ordinance.

STREET, PUBLIC

A public thoroughfare including any rights-of-way and traveled surfaces which afford traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and other thoroughfare; except an alley.

STRUCTURE

Anything constructed or erected, the use of which requires location on the ground or attachment to something on the ground.

SUBDIVISION

A division of land as defined in the Land Division Act (being Act 288 of 1967, as amended) that results in 1 or more parcels of less than 40 acres or the equivalent, and which is not exempted from the platting requirements of said Land Division Act

SECTION 2.21 – Definitions – "T"

TELECOMMUNICATION ANTENNA

Any mounted device that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies, wireless communication signals, optical, laser or other communication signals; including, but not limited to cellular, PCS, land mobile radio, marine, paging, AM/FM radio antenna, television antenna, satellite dishes, and licensed amateur radio facilities.

TELECOMMUNICATION TOWER

A structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telecommunication purposes, including self-supporting lattice towers, monopole towers or guyed towers.

TEMPORARY BUILDING OR USE

A structure or use permitted by the Zoning Administrator to exist during periods of construction of the main building or for special events as permitted by this Ordinance.

TRUCK AND FREIGHT TERMINAL

A facility including buildings and grounds, used for the purpose of storing, transferring, loading and unloading goods.

SECTION 2.22 – Definitions – "U"

UNCONSTRAINED LANDS

Lands classified for purposes of density calculation which are not classified as sensitive lands.

UNDERGROUND STORAGE TANK SYSTEM

A tank or combination of tanks, including underground pipes connected to the tank or tanks, which is, was, or may have been used to contain an accumulation of hazardous substances, as defined in Part 213 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended.

UNDEVELOPABLE LANDS

Lands located within wetlands regulated by the Michigan Department of Natural Resources and Environment, submerged lands beneath any permanent surface water lake or stream, lands within a 100-year floodplain as established by the Federal Emergency Management Agency, lands with slopes in excess of 25%, lands encumbered by any other permanent restrictions that prevent development, such as utility, drainage or access easements.

URGENT CARE FACILITY (see Clinic)

USE, PRINCIPAL

The primary purpose for which land or premises, or a building thereon, is designed, arranged, or intended, for which it is occupied, or maintained, let, or leased.

USEABLE OPEN SPACE

Lands within a development designed and intended for uses that do not require significant built improvements; such as walking, cross-country skiing, biking, nature study, bird watching, picnicking, community gardening, hunting, fishing or the playing of golf or disk golf. Useable open space is distinct from areas devoted to conservation or sensitive lands without built improvements which would normally not be accessible for use by humans and from areas devoted to active pursuits on open space, such as ball fields or recreational vehicle courses.

SECTION 2.23 – Definitions – "V"

VEHICLE REPAIR

Any major activity involving the general repair, rebuilding or reconditioning of motor vehicles, engines, or trailers; collision services, such as body, frame, or fender straightening and repair; overall painting and vehicle rust-proofing; refinishing or steam cleaning.

VEHICLE SALES OR RENTAL (see Open Air Business)

VEHICLE SERVICE STATION

A building and lot or parcel designed or used for the retail sale of fuel, lubricants, air, water or other operating commodities for motor vehicles (including trucks, aircraft and boats) and including ancillary retailing activities. Facility may include space and facilities for the installation of such vehicle fuel, lubricants and other products.

VEHICLE WASH ESTABLISHMENT

A building, or portion thereof, the primary purpose of which is that of washing motor vehicles.

VIEWSHED

The line of sight identified as to height, width, and distance of an observer looking toward a visually sensitive area.

VETERINARY CLINIC

An establishment for the medical care and treatment of injured or diseased domestic animals including livestock and household pets which may include facilities for the proper disposal of deceased animals.

SECTION 2.24 – Definitions – "W"

WAREHOUSE

An establishment engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment; and also including an enclosed storage facility containing independent, fully enclosed bays that are leased to individuals exclusively for long-term storage of their household goods or personal property.

WASTE TREATMENT AND DISPOSAL FACILITY

A building and grounds used for the collection or processing of waste and recyclable material; including the processing by chemical process and the baling, compacting, composting, flattening, grinding, crushing, mechanical sorting, or cleaning of materials for recycling or disposal.

WELL

A permanent or temporary opening in the surface of the earth for the purpose of removing fresh water, testing water quality, measuring water characteristics, liquid recharge, waste disposal, or dewatering purposes during construction, as defined in the Michigan Water Well Construction and Pump Installation Code, Part 127, Act 368 of the Public Acts of 1978, as amended, and rules.

WELLHEAD PROTECTION AREA (WHPA)

The wellhead protection area map approved by the Michigan Department of Environmental Quality, Drinking Water and Radiological Protection Division.

WHOLESALE BUSINESS

An establishment primarily engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

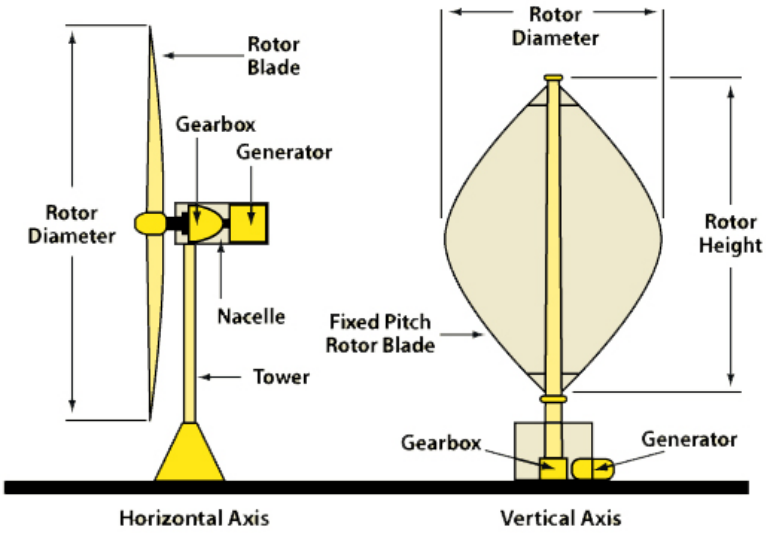
WIND ENERGY CONVERSION SYSTEM (WECS)

A. Wind Energy Conversion System (WECS) - shall mean a combination of:

   1. A surface area, either variable or fixed, for utilizing the wind for electrical powers; and

   2. A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-

Figure 2-8. WECS Towers



producing device; and

3. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and
4. The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted; and
5. Building or equipment accessory thereto.

B. Survival wind speed: The maximum wind speed, as designated by the WECS manufacturer, at which a WECS, in unattended operation (not necessarily producing power) is designed to survive without damage to any structural equipment or loss of the ability to function normally.

C. Noncommercial WECS: WECS towers placed upon land with the intent to provide electricity primarily for the owner of the property.

D. Commercial WECS: one or more WECS towers placed upon land with the intent to sell or provide electricity to others. The tower may or may not be owned by the owner of the property upon which the tower is placed.

E. Wind Farm: A grouping of commercial WECS (3 or more).

F. Interconnected WECS: A WECS, which is electrically connected to the local electrical power utility system and can feed power back into the local electrical power utility system.

G. WECS tower height:

1. Horizontal axis wind turbine rotors: The distance between the ground and the highest point of the WECS, as measured from the ground, plus the length by which the rotor blade on a horizontal mounted WECS exceeds the structure which supports the rotor and blades;
2. Vertical axis wind turbine: The distance between the ground and the highest point of the WECS.

WINERY, BREWERY OR DISTILLERY

A facility located on a farm operation in which grapes, fruits, honey or grains are grown or purchased, fermented or brewed, and processed into wine, mead, liquor, or beer, and packaged for distribution, including on-site tasting and consumption, as licensed by the State of Michigan.

SECTION 2.25 – Definitions – "X" Reserved

SECTION 2.26 – Definitions – "Y"

YARD

A yard is an open space on the same land with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line and is unoccupied and

unobstructed from the ground upward, except as otherwise provided herein. (See Figure 2-3)

A. A Front Yard is an area extending the full width of the lot, the uniform depth of which is measured at right angles to the front lot line.

B. A Rear Yard is an area extending across the full width of the lot, the uniform depth of which is measured at right angles to the rear lot line.

C. A Side Yard is an area between a main building and the side lot lines, extending from the front yard area to the rear yard area. The width of the side yard shall be measured horizontally from and at right angles to the nearest point of the side lot line.

YARD, REQUIRED (see Building Setback Lines)

SECTION 2.27 – Definitions – "Z"

ZONING ACT

The Michigan Zoning Enabling Act; Act 110 of 2006 of the Public Acts of Michigan, as amended.

ZONING ADMINISTRATOR

The person designated by the Township Board to administer the provisions of this Zoning Ordinance.

ZONING BOARD OF APPEALS, OR BOARD OF APPEALS

The Zoning Board of Appeals of Niles Charter Township.

ZONING COMPLIANCE PERMIT

Official sanction or approval of a defined activity, land use, development as authorized by this Ordinance.

ZONING LOT

Two or more contiguous lots sharing common lot lines and under single ownership used or designated by the owner for treatment as one lot for the purposes of compliance with this Zoning Ordinance.

CHAPTER 3
GENERAL PROVISIONS

SECTION 3.01 – Required Area, Space, and Use Conditions and Exceptions

A. Dividing Existing Lots. No lot or lots in common ownership and no yard, parking area or other space shall be so divided, altered or reduced as to make that area or dimension less than the minimum required under this Ordinance. If already less than the minimum required under this Ordinance, said area or dimension shall not be further divided or reduced.

B. Existing lots of record.

   1. A lot which is platted, or otherwise lawfully of record as of the effective date of this Ordinance, may be used as specified in the District in which it is located, provided the lot conforms to the applicable requirements of the Berrien County Health Department.

   2. The main building on a lot shall be located so that it meets the yard setback requirements of the Zone District in which it is located.

SECTION 3.02 – Height Exceptions

A. Except as otherwise regulated in this ordinance, the following buildings and structures shall be exempt from height regulations in all Districts: parapet walls not exceeding four (4) feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, grain elevators, silos, stacks, elevated water towers, stage towers, scenery lofts, monuments, cupolas, domes, spires, penthouses housing necessary mechanical appurtenances, or wind-powered electrical generators.

B. Television and radio reception and transmission antennas, and towers for commercial wireless telecommunication services which do not exceed one hundred (100) feet in height shall also be exempt from height requirements. Those structures exceeding one hundred (100) feet in height shall be subject to Special Land Use approval, as indicated in the appropriate zoning districts.

C. Existing buildings which exceed the height limitations of the zoning district may be expanded and an addition or improvement to such buildings may also exceed the height limitations of the zoning district, provided:

   1. The height of the proposed addition shall not exceed the height of the existing building, and

   2. There is open area on the lot equivalent to, or greater than, the height of the tallest portion of the structure, as proposed.

SECTION 3.03 – Principal Use

A. Except as specifically provided in this ordinance, no lot or parcel of land shall contain more than one (1) main building or one (1) principal use.

B. Multiple buildings may be considered a principal use collectively if the following conditions are met.

   1. The buildings and land uses are planned and designed as a single integral development, including joint parking, compatible architecture, shared driveways, shared signs, and other similar features.

   2. All uses, if not the same, shall be similar in function and/or operation.

SECTION 3.04 – Street Access and Minimum Frontage

A. Except as provided in subparagraph B hereof, any lot created after the effective date of this Ordinance shall front upon a public street or an approved private street and shall contain a minimum frontage equivalent to at least fifty (50) percent of the required lot width.

B. Cul-de-Sac and Irregularly Shaped Lots. The minimum lot width for a lot on a cul-de-sac or other irregularly shaped lot shall be measured at the front yard setback line and shall not be diminished throughout the rest of the lot. These lots shall have a minimum width of forty (40) feet at the front property line.

SECTION 3.05 – Determining Front Yard Requirements

A. All building setback dimensions shall be measured from the lot boundary to the building foundation.

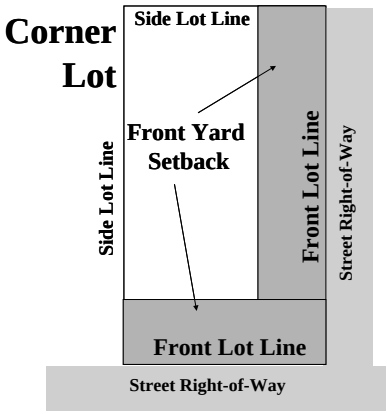
B. The front yard setback line shall be measured from the right-of-way or easement line for metes and bounds parcels or the front lot line in all other cases, to an imaginary line across the width of the lot drawn at the minimum required front setback distance for that district, except as noted elsewhere in this section.

C. Where an average setback line less than that required by this Ordinance has been established by existing buildings located within two hundred (200) feet of the proposed building on the same side of the street, the average setback shall apply.

D. On corner and through lots, the front yard requirements shall apply on both streets.

E. In the case of a row of double frontage lots, one (1) street will be designated as the front street for all lots. Where there are existing structures fronting on one (1) or both of the streets, the required front yard setback shall be observed on those streets where the structures presently front.

Figure 3-1



F. Waterfront Lots. On waterfront lots, the front yard requirements shall apply on the waterfront side of the lot and shall be measured from the ordinary high watermark. The street side, or lot line opposite the front lot line shall be considered the rear lot line.

SECTION 3.06 – Reserved

SECTION 3.07 – Projections into Yards

A. Architectural features, as defined herein, may project a maximum of three (3) feet into a required yard setback area.

B. Porches, terraces, decks, balconies, window awnings, and similar structures which are open on three (3) sides, unenclosed, and uncovered and project six (6) inches or more above the surrounding grade:

1. may project a maximum of ten (10) feet into a front yard setback area;
2. may project a maximum of fifteen (15) feet into a rear yard setback area; but
3. shall not project into a side yard setback area; nor
4. be placed closer than ten (10) feet to any front or rear lot line.

C. Porches, terraces, decks or balconies which are permanently enclosed on any side or covered in any manner shall be considered part of the main building.

SECTION 3.08 – Accessory Buildings, Structures and Uses

A. Accessory Buildings.

1. Accessory buildings, including enclosed porches, walls, roofs, or garages, attached to, or within ten (10) feet of, dwellings or other main buildings, shall be deemed a part of the main building and must conform to all regulations of this Ordinance applicable to the main buildings.
2. Except for buildings related to active farming operations, an accessory building or use shall only be permitted on a lot which contains a principal use and or main building.
3. Except as otherwise provided herein, no part of an accessory building shall be used as a dwelling.
4. Detached accessory buildings shall be located:
   a. At least ten (10) feet from a main building;
   b. At least ten (10) feet from any rear lot line and five (5) feet from any side lot line;
   c. At least sixty (60) feet from the front lot line.
5. In the case of a through lot, detached accessory buildings shall be located at least sixty (60) feet from the lot line which abuts the street from which the lot takes its address and at least

twenty (20) feet from the lot line which abuts another street. (this seems clearer than the existing language)

6. Setbacks for accessory buildings shall be measured to the foundation of the building.
7. Accessory buildings, sizes, and heights. *(as amended, June 24, 2016)*
   a. The total area for all accessory buildings shall not exceed the floor areas noted in subparagraph b, below.
   b. Accessory Buildings to Single-- and Two-Family Dwellings. Maximum gross floor areas and heights for buildings accessory to single and two family dwellings:

Parcel Area	Maximum Number of Accessory Structures	Maximum Floor Area for all Structures*	Maximum Height
Less than one (1) acre	2	1,200 SF	14 feet
One (1) to Two (2) acres	3	1,800 SF	18 feet
Greater than 2 up to 3 acres	3	2,200 SF	22 feet
Greater than 3 up to 4 acres	3	2,800 SF	28 feet
Greater than 4 up to 5 acres	3	3,200 SF	28 feet
Greater than 5 up to 6 acres	4	3,600 SF	28 feet
Greater than 6 up to 7 acres	4	4,000 SF	28 feet
Greater than 7 up to 8 acres	4	4,400 SF	28 feet
Greater than 8 up to 9 acres	4	4,800 SF	35 feet
Greater than 9 up to 10 acres	4	5,200 SF	35 feet
More than 10 acres	4	5,600 SF	35 feet

* An applicant may seek special land use approval for an Outsized Accessory Building pursuant to Section 21.36 for proposed accessory buildings that exceed that standards set forth in this section.

   c. All Other Principal Uses. Maximum floor areas for buildings accessory to principal uses other than single- and two-family dwellings:
      1) Buildings accessory to farms and agricultural operations: no area or height size limitation.
      2) Multiple family developments: same as section 3.08, A, 7, b, excluding garages or carports for the use of residents.
      3) Manufactured home parks: as required by Chapter 10.
      4) Nonresidential uses in Residential Districts: not to exceed twenty-five percent (25%) of the gross floor area of the main building(s).
      5) In Nonresidential districts accessory building floor area shall be regulated in accordance with the lot coverage limitations for the district.

d. Accessory buildings in Nonresidential Districts may be constructed to the permitted maximum height for the zoning district in which it is located. Provided, however, that farm buildings in the AP and RP districts may be constructed without limitation as to height.

e. A maximum of two (2) accessory buildings whose combined floor area does not exceed the limits of this Section shall be permitted on any one (1) parcel.

f For the purposes of this ordinance a structure consisting of a framework of wood, plastic or metal which is secured to the ground by anchor, rod, rod drill, buried or unburied weight and covered with fabric, plastic, metal panels or other lightweight materials, shall be considered an accessory building subject to the terms of this Section.

B. Accessory Uses

1. Storage of Hazardous Substances. The storage of hazardous substances as an accessory use or activity associated with another principal use shall be subject to the following provisions.

a. A description of any hazardous substances expected to be used, stored or disposed of on the site shall be provided to the Niles Charter Township Building Department. Three copies of this information, including MSDS data sheets, describing the type of materials, quantity, location within the site and method of containment shall be provided.

b. Documentation of compliance with federal and state requirements, and a Pollution Incident Prevention Plan (PIPP) shall be submitted to the Niles Charter Township Building Department.

c. Any discharge of wastewater to a storm sewer, drain, lake, stream or other surface water shall be documented and appropriate permits obtained from the Department of Environmental Quality, Surface Water Quality Division. Any discharge of liquids, sludges, wastewater and/or wastewater residuals into or onto the ground shall be documented and appropriate permits obtained from the Department of Environmental Quality, Waste Management Division.

d. A detailed description of any underground storage tanks and the materials to be stored shall be documented and appropriate permits obtained from the State Police Fire Marshal Division, Hazardous Materials Section.

e. Storage of pesticide or fertilizer in quantities greater than fifty five (55) gallons or one hundred (100) pounds shall be documented and appropriate permits obtained from the Michigan Department of Agriculture, Pesticide and Plant Pest Division.

2. Co-Located Commercial Wireless Telecommunication Service Antennas.

a. Accessory Use Treatment. Co-Located Commercial Wireless Telecommunication Service Antennas may be regarded as an accessory use hereunder, under one or more of the following circumstances:

1) The antenna shall be placed on or attached to an existing structure which constitutes a principal use or equipment compound, including existing

communication towers and water towers; provided the following conditions are met:

a) Any antenna proposed for co-location shall not extend more than thirty (30) feet above the roofline or uppermost portion of the structure to which it is attached;

b) The height of the existing structure shall not be increased more than twenty (20) feet, or ten percent (10%) of its original height, whichever is greater;

c) The existing structure shall not be modified in a manner which would increase the width of the existing structure by more than the minimum necessary to permit co-location;

d) The proposed co-location shall not require an increase in the area of the existing equipment compound to greater than 2,500 square feet.

e) The proposed collocation shall comply with the terms and conditions of any previous final approval of the wireless communications support structure or equipment compound.

2) The Wireless Telecommunication Service Antenna shall be placed on an existing utility or light pole which will serve as a wireless telecommunications facility and where the height of said existing pole or other structure is not increased more than twenty (20) feet, or ten percent (10%) of its original height, whichever is greater and the existing pole and other structure is not proposed to be modified in a manner which would increase the width of the existing structure by more than the minimum necessary to permit co-location or materially alter the pole or structure and/or result in an impairment of sight lines or other safety interest.

3) All associated wireless telecommunication equipment shelters shall meet accessory use height and setback requirements of the district, and receive administrative approval.

b. This Section shall not exempt the applicant from such other government review and permitting procedures of the Federal Communications Commission or Federal Aeronautics Administration.

c. Under circumstances other than those described in subparagraph a hereof, a proposed Commercial Wireless Telecommunication Service Antenna shall be processed as a special land use in those districts where they may be allowed and in compliance with the requirements of Chapter 21 hereof.

3. Outdoor Furnaces and Boilers.

a. Purpose. The Township desires to regulate the location and operation of outdoor furnaces to secure and promote the health, safety and welfare of the public. Outdoor furnaces are an alternative to traditional home-heating methods and have increased in popularity because of rising fuel costs. This increased usage has led to the recognition that outdoor furnaces can impact health, safety and welfare if not designed and used properly and these impacts are multiplied when used in densely populated areas.

Outdoor furnaces shall only be permitted under certain circumstances and only when specific requirements are met in order to broaden home-heating options for residents while insuring regulations are in place to protect residents from health, safety and welfare impacts.

b. Application. An outdoor furnace shall not be installed on any property unless a certificate of zoning compliance and any required mechanical and building permits have been issued by the appropriate authority. In addition, the applicant shall submit a signed acknowledgement indicating that combustion in the outdoor furnace of material prohibited by this section is grounds for revocation of the zoning compliance permit requiring immediate discontinuance of its use.

c. Eligibility. Outdoor furnaces are permitted in side and rear yards as an accessory use to residential dwellings or commercial uses on parcels with a parcel area of at least twenty thousand (20,000) square feet. The application for a zoning compliance permit shall include a recorded deed restriction in a form acceptable to the Township signed by the property owner prohibiting the subdivision or splitting of the parcel in a manner which would result in the outdoor furnace being located on a parcel of less than twenty thousand (20,000) square feet or with isolation and setback dimensions less than those required by this section.

d. Isolation and setback. An outdoor furnace shall be located a minimum of eighty (80) feet from any residential dwelling on an adjacent parcel and shall be located a minimum of forty (40) feet from the property line of the parcel where it is located.

e. Stack height. Stack or chimney height of an outdoor furnace shall extend to an elevation at least two (2) feet above the roof peak of any residential dwelling within three hundred (300) feet of the outdoor furnace.

f. Combustion materials. Only dry, seasoned wood or pellets manufactured for use in an outdoor furnace may be used in an outdoor furnace. The Zoning Administrator may approve an alternative fuel if it is recommended by the outdoor furnace manufacturer and will result in air emissions no greater than that of dry, seasoned wood or pellets manufactured for outdoor furnace use. Combustion of toxic or other materials that generate offensive odors or excessive smoke or that are harmful to human health are prohibited. Such prohibited materials include, but are not limited to, coal, trash, garbage, plastics of any kind, wood that is painted, varnished or treated, gasoline, oil, rubber, naphtha, materials treated with petroleum products, leaves and paper products including cardboard. Any combustion of prohibited construction materials shall result in the revocation of the zoning compliance permit requiring the immediate discontinuance of use of the outdoor furnace.

4. Private Swimming Pools. Pools used for swimming or bathing with a depth of twenty-four (24) inches or more, or with a surface area of more than two hundred (200) square feet, or permanently equipped with a water re-circulating system, shall be in conformity with the requirements of this Section.

a. A swimming pool or appurtenances thereto shall not be constructed, installed, enlarged or altered until a building permit (if required) has been obtained.

b. The outside edge of the pool wall shall meet the side and rear yard setbacks of the zone district in which it is located. Swimming pools shall not be located in the front yard.

c. Each pool shall be enclosed by a fence or wall with a height of at least four (4) feet, sufficient to make the body of water inaccessible to small children. The enclosure, including gates therein, must be not less than four (4) feet above the underlying ground; all gates must be self-latching, and latches shall be placed four (4) feet above the ground or otherwise made inaccessible from the outside to small children. See Section 3.12 for other fence requirements.

d. All swimming pool installations shall comply with any applicable Construction Codes and all other standard codes to which it refers.

5. Noncommercial Wind Energy Conversion Systems (NWECS). NWECS shall be permitted in any zoning district, provided the following standards are met:

a. The minimum parcel area upon which the NWECS is to be located shall be one and one-half (1 ½) acres.

b. Maximum height of a NWECS shall be eighty (80) feet, as measured from the ground at its base to tip of the rotor blade in the upright position (e.g. when extended above the support structure). NWECS's of over eighty (80) feet in height shall be considered a special land use, subject to the requirements of Chapter 21 hereof.

c. Minimum setback of a NWECS shall be equal to the height of the NWECS measured as set forth in subparagraph b, above.

d. For every additional NWECS on a parcel, an additional one and one-half (1 ½) acres of land area shall be provided; however, the wind turbines may be clustered on site. NWECS installations consisting of three (3) or more NWECS per parcel shall be subject to site plan review pursuant to Chapter 23 and in addition to the requirements of that Chapter, an application for site plan approval for an installation of three (3) or more NWECS shall include the following information:

1) Location and height of all buildings, structures, towers, guy wires, guy wire anchors, security fencing, and other above ground structures associated with the NWECS.

2) Existing and proposed setbacks of all structures located on the property in question.

3) Sketch elevation of the premises accurately depicting the proposed NWECS and its relationship to all structures within three hundred (300) feet.

4) A copy of the manufacturer's installation instruction shall be provided. Included as part of or as an attachment to the installation instructions shall be standard drawings of the structural components of the wind energy conversion system and support structures, including base and footings provided along with engineering data and calculations to demonstrate compliance with the structural design provisions of the Michigan Building Code as adopted by the Township; drawings and engineering calculations shall be certified by a registered engineer licensed to practice in the State of Michigan.

e. NWECS electrical equipment and connections shall be designed and installed in adherence to the National Electrical Code as adopted by the Township.

f. NWECS shall be equipped with both a manual and automatic braking device capable of stopping the NWECS operation in high winds, as established by the manufacturer.

g. NWECS shall have one sign, not to exceed two (2) square feet in area posted at the base of the tower containing the following information:

1) Emergency phone number.

2) Emergency shutdown procedures.

3) "Warning, high voltage" signs

h. NWECS shall not have affixed or attached any signs, lights, reflectors, flashers or any other illumination.

i. Noise emanating from the operation of NWECS shall not exceed fifty (50) decibels, as measured on the DBA scale, measured at the nearest property line.

j. The Township hereby reserves the right upon issuing any NWECS zoning compliance permit to inspect the premises on which it is located. If a NWECS is not maintained in operational condition and poses a potential safety hazard, the owner shall take expeditious action to correct the situation.

k. Any NWECS that is not used for twelve (12) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner.

6. Satellite Dish Antennas conforming to the following standards shall be considered a permitted accessory use in any district.

a. These regulations are formulated to ensure that adequate protection measures are provided in the Ordinance for ensuring that sight distance is not impaired, that the dish antennas are located and constructed in a manner which will not afford the potential for injury, and to ensure that the intent and purposes of this Ordinance are met. The following standards shall apply to antennas that have a diameter of one (1) meter or more in residential districts, or two (2) meters or more in non-residential districts.

b. Nonresidential Districts:

1) The dish antenna shall be permitted in an interior side or rear yard, or mounted on top of a building, and securely anchored.

2) The nearest part of the antenna shall be at least five (5) feet from any property line.

3) The height shall not exceed the height restrictions in the Zoning District in which the proposed device is to be located.

c. Residential Districts:

1) The antenna shall be permitted in the rear yard only.

2) The nearest part of the antenna shall be at least (5) feet from any property line.

3) The unit shall be securely anchored as determined by the Zoning Administrator.

4) The maximum height measured from the ground to the top edge of the dish shall be fourteen (14) feet.

5) The antenna shall be an unobtrusive color, as approved by the Zoning Administrator.

d. No portion of the antenna shall contain any name, message, symbol, or other graphic representation.

e. A site plan shall be submitted to the Zoning Administrator for approval prior to the issuance of a zoning compliance permit. The site plan shall include the proposed location of the antenna and an elevation drawing showing the proposed height, color, and foundation details.

7. The outdoor storage of no more than five (5) recreational vehicles may be permitted as an accessory use to a residential or agricultural use in the AP district, provided the following standards are met.

a. Such outdoor storage shall not be located in the front yard,

b. Such outdoor storage shall be maintained at least at least fifty (50) feet from the side and rear lot lines, and

c. Such outdoor storage area shall be screened from view from neighboring properties and the street by vegetation, fencing or other means.

SECTION 3.09 – Regulations Applicable to Single-Family Dwellings

It is the intent of this Section to establish minimum standards of construction and appearance for all single-family dwellings placed in the Township, whether constructed as a manufactured home or constructed on a lot. Construction and placement of a single-family dwelling on any lot or parcel shall be permitted only if the dwelling complies with all of the following standards:

A. If the dwelling unit is a manufactured home, the manufactured home must either be:

1. new and certified by the manufacturer or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development of 1976, as amended, or any similar successor or replacement standards which may be promulgated; or

2. used and certified by the manufacturer or appropriate inspection agency as meeting the standards referenced in subsection (1) above, and found, on inspection by the Building Official or his designee, to be in excellent condition, safe and fit for residential occupancy.

B. The dwelling unit shall comply with all applicable building, electrical, plumbing, fire, energy and other similar codes which are or may be adopted by the County or Township, and with

applicable federal or state standards or regulations for construction. Appropriate evidence of compliance with the standards or regulations shall be provided to the Building Official.

C. The dwelling unit shall comply with all restrictions and requirements of this Ordinance, including, without limitation, the lot area, lot width, residential floor area, yard, and building height requirements of the district in which it is located.

D. The dwelling unit shall be firmly attached to a permanent continuous foundation which complies with applicable provisions of the building code enforced by the Township.

E. If the dwelling unit is a manufactured home, it shall be installed with the wheels and towing mechanism removed.

F. Single-Family Dwellings not located within a manufactured housing community shall meet the minimum floor area requirements of this Ordinance and shall have minimum exterior dimensions of at least twenty (20) feet. For the purposes of this section, the minimum exterior dimension shall be measured along two adjoining sides of a rectangle containing the structure, including the sum of all wall segments with essentially the same general orientation (as illustrated in Figure 3-2), but excluding minor extensions such as bay windows, "bump-outs," "expandos" or similar extensions with a floor area of less than one hundred (100) square feet.

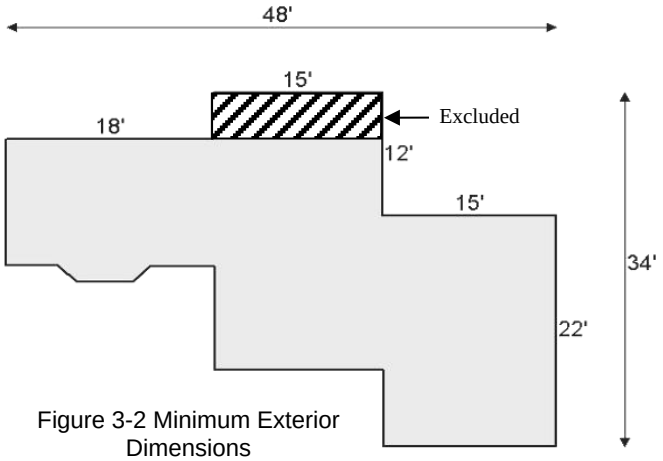


Figure 3-2 Minimum Exterior Dimensions

G. The dwelling unit shall be connected to public sewer and water supply systems, or to private facilities for potable water and disposal of sewage approved by the Berrien County Health Department.

H. The foregoing standards shall not apply to a manufactured home located in a manufactured home park licensed by the Michigan Manufactured Home Commission and approved by the Township according to the provisions contained in Chapter 10, of this Ordinance except to the extent required by state or federal law.

I. The use of any basement for dwelling purposes is forbidden in any Zoning District unless said basement meets the appropriate building codes for the Township, County, or state and the remainder of the dwelling has been completed and available for occupancy.

J. Buildings erected as garages or accessory buildings shall not be occupied for dwelling purposes, except as may be provided in this Ordinance.

SECTION 3.10 – Temporary Uses or Buildings Requiring Zoning Administrator Authorization

A. Upon application, the Zoning Administrator may issue a permit for the following temporary buildings or uses. Each permit shall specify a location for the building or use and shall be valid for a period of not more than twelve (12) calendar months. Permits may be renewed by the Zoning Administrator for one (1) or more additional successive period~~s~~ of six (6) calendar months or less at the same location and for the same purpose.

1. Temporary office building or construction yard incidental and necessary to construction at the site where located.
2. Temporary sales office incidental and necessary for the sale or rental of real property in a new subdivision or housing project. In any case, the temporary office shall be removed when fifty percent (50%) or more of the lots or units have been sold or leased.
3. The applicant shall pay a fee to the Township Treasurer as determined by the Township Board for the permit.

B. In considering authorization for all temporary uses or buildings, the Zoning Administrator shall consider the following standards and may attach reasonable conditions to temporary uses or buildings to ensure that the standards of this Section are met. The Zoning Administrator shall determine that:

1. The use or building will not have an unreasonable detrimental effect upon adjacent properties.
2. The use or building shall be reasonably necessary for the convenience and safety of the construction proposed.
3. The use or building shall not adversely impact the character of the surrounding neighborhood.
4. Access to the use area or building shall be at a safe location and will not create a traffic hazard.
5. Construction shall comply with all applicable codes and ordinances.

C. Seasonal Uses. The Zoning Administrator may issue a permit for the temporary sale of merchandise, in the LB or GB Districts only, related to a seasonal or periodic event. Seasonal uses shall include the sale of Christmas trees, and similar activities, but shall not include roadside stands. In considering a request for a temporary permit, the Zoning Administrator shall determine that the operation of the use is seasonal in nature and will not be established as a permanent use.

1. The Zoning Administrator shall also determine:
   a. That the use shall not have an unreasonable detrimental effect upon adjacent properties.
   b. That the use shall not impact the nature of the surrounding neighborhood.
   c. That access to the area shall not constitute a traffic hazard due to ingress or egress.
   d. That adequate off-street parking shall be available to accommodate the use.

2. Each permit shall be valid for a period of not more than two (2) calendar months and may be renewed by the Zoning Administrator for up to one (1) additional successive month, provided the season or event to which the use relates is continued.

D. Temporary Storage of Used Materials. The storage, collection, or placing of used or discarded material, such as lumber, scrap iron, ashes, slag or other commercial or industrial by-products or waste is prohibited without a Temporary Permit obtained from the Zoning Administrator or his designee, which shall be accompanied by a performance guarantee. In reviewing the request, the Zoning Administrator shall consider the length of time requested, the visibility of the storage area from surrounding properties, potential safety concerns, the ability to provide adequate security fencing and aesthetic screening, and other factors relevant to the specific location.

SECTION 3.11 – Reserved

SECTION 3.12 – Fences

A. Construction of a fence shall require authorization from the Zoning Administrator evidenced by issuance of a Zoning Compliance Permit.

B. Fences shall not be constructed in any public right-of-way.

C. Except as provided in Section 3.14, C, and as may be provided for elsewhere in this Ordinance, a fence located in any front yard setback area, shall not exceed a height of four (4) feet.

D. Except as noted in Section 3.12, E, fences outside the front yard setback shall not exceed a height of six (6) feet.

E. In residential districts, fences shall not shall include any barbed wire or electrification unless necessary for livestock purposes. Barbed wire may be used for security in nonresidential districts, or for the protection of public utility buildings or improvements. The barbed portion of the fence shall be at least six (6) feet from the ground.

F. Fences used to enclose vacant land or land used for agricultural purposes may be erected within any yard, provided that any fence over four (4) feet in height shall be not greater than fifty percent (50%) opaque.

G. Finished Side. The Zoning Administrator shall evaluate the type of fence proposed and determine whether the two sides of the fence vary significantly in appearance and, in such cases, the side with the better finished appearance shall be placed facing neighboring properties. For the purposes of this paragraph, the finished side shall be the side on which vertical support members are significantly screened from view.

H. Densely landscaped areas, such as hedges and closely spaced shrubs, bushes or other growing plants, may be considered a fence when they have the effect or accomplish the purposes normally associated with fences.

SECTION 3.13 – Greenbelts and Landscaping

A. To provide protective screening for residential districts or uses adjacent to nonresidential districts or uses, a landscaped greenbelt shall be required on the nonresidential property.

B. A required greenbelt shall be a strip of land at least ten (10) feet in width planted and maintained with evergreens, such as spruce, pines, or firs at least five (5) feet in height, or a hedge of evergreens at least four (4) feet in height, at time of planting. The greenbelt shall be situated so as to provide an effective sound and visual permanent buffer.

C. All landscaped areas shall be kept in a healthy growing condition, neat and orderly in appearance.

D. Any shrubs, bushes or other growing plants which project into or across adjacent land may be trimmed back to the property line by the adjacent property owner. Any plant materials required as part of the greenbelt which die shall be replaced by the property owner.

E. Required landscaping shall be kept in a healthy growing condition and any plant materials required as part of the greenbelt which die shall be replaced by the property owner.

F. Any site on which a use permitted by this Ordinance is established shall, within six (6) months after a certificate of occupancy is issued, install a lawn or other type of living ground cover for land areas disturbed as a result of construction and not covered by impervious or graveled surfaces. Such landscaped areas shall be reasonably maintained thereafter or replaced.

G. A performance guarantee as provided in Section 23.13 may be required by the Township to ensure that landscaping is installed within the six (6) month period.

H. No landscape materials other than lawn and street trees approved by the Berrien County Road Commission\MDOT shall be planted within any public street right-of-way.

SECTION 3.14 – Clear Vision Area

A. No plantings, fencing, or other structures shall be established or maintained on any corner lot which will obstruct the view of a vehicle driver approaching the intersection.

B. An unobstructed corner shall mean a triangular area formed by the street property lines or right-of-way easement line for lots with the front lot line in the center of the right-of-way, and a line connecting them at points thirty (30) feet from the intersection of the street or easement lines, as applicable, or in the case of a rounded property corner from the intersection of the street property lines or easement lines extended, as applicable.

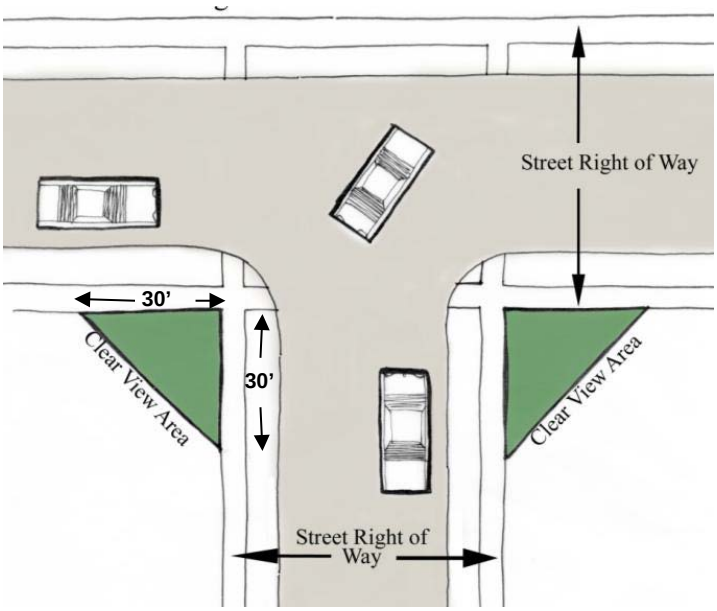


Figure 3-3 Clear Vision Area

C. This shall not prohibit the planting of shrubbery which will not achieve a height at maturity of more than thirty (30) inches or erection of a fence up to a height of three (3) feet, provided such fence is no more than fifty (50) percent solid.

D. No vegetation or structure shall be maintained in any setback area which, in the opinion of the Zoning Administrator, will obstruct the view of vehicles entering or leaving the site from driveways or adjacent roadways.

SECTION 3.15 – Essential Services

The erection, construction, alteration or maintenance of essential services, shall be permitted as authorized or regulated by law and other ordinances in any district, it being the intention to exempt the erection, construction, alteration, and maintenance of essential services from the application of this Ordinance.

SECTION 3.16 – Reserved

SECTION 3.17 – Excavations

A. It shall be prohibited to construct or maintain within the Township any unprotected, un-barricaded, open, or dangerous excavations, holes, pits, or wells, which constitute or are likely to constitute a danger or menace to the public health, safety, or welfare.

B. This Section shall not prevent any excavation under a permit issued by the Building Official where the excavations are properly protected and warning signs posted in a manner as approved by the Building Official.

C. This Section shall not apply to streams, natural bodies of water, or to ditches, reservoirs, and other bodies of water created or existing by authority of governmental units or agencies.

D. This Section shall not include excavations related to approved operations for the commercial removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources as regulated by Niles Charter Township.

SECTION 3.18 – Outdoor Storage in Residential Districts

The outdoor storage or parking of recreational vehicles in all Residential Districts shall be subject to the following minimum conditions:

A. Any recreational vehicles parked outside, shall not be located in any required front yard or closer than three (3) feet to any property line.

B. Except as provided in Section 3.08, B, 7, the storage or parking of the vehicles shall be limited to the lot or parcel upon which the owner of the vehicle also makes his primary residence. The lease of space for storage or parking of recreational vehicles for compensation shall not be permitted in a residential district.

C. Travel trailers and other vehicles or equipment intended or adaptable for sleeping purposes shall remain unoccupied and shall not be connected to sanitary sewer facilities or have a fixed connection to electricity, water, or gas, provided that the equipment may be parked and used for living or housekeeping purposes for a period not exceeding fourteen (14) days in any six (6) month period, provided that running water or indoor sewage facilities within the equipment is not utilized.

SECTION 3.19 – Exterior Lighting

A. Intent and Purpose. The purpose of this Section is to maintain safe nighttime driver performance on public roadways, by minimizing both brightly lighted surfaces and lighting glare, to preserve the restful quality of nighttime, by eliminating intrusive, artificial light and lighting that unnecessarily contributes to "sky glow," and to reduce light pollution from lighting luminaries and light trespass onto adjacent properties. 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 Ordinance.

B. General Provisions.

1. Exempted areas and types. The following types of outdoor lighting shall not be covered by this Ordinance:

   a. Residential decorative lighting such as porch lights, low level lawn lights, and special seasonal light such as for Christmas decorating, and residential yard lights whether building mounted or pole mounted.

   b. Sign lighting as regulated by Chapter 25 hereof.

   c. Lighting associated with detached single family housing and agricultural operations.

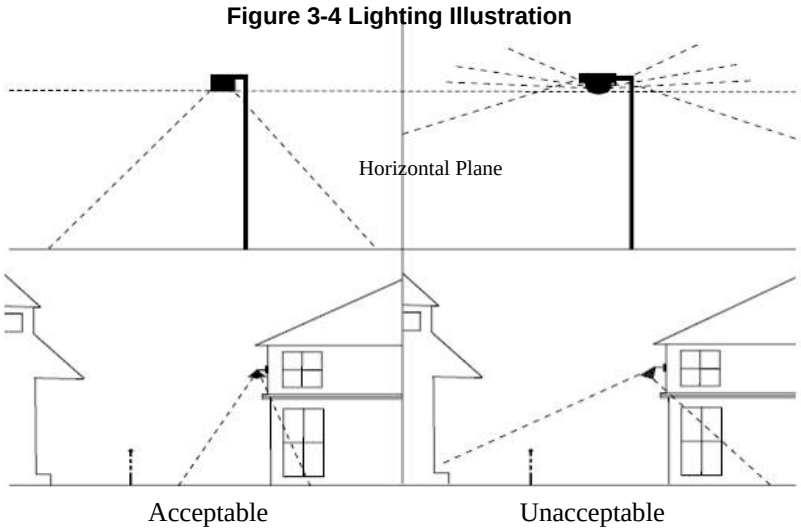
2. Regulated Lighting. The following types of lighting shall be regulated by this Ordinance:

   a. Parking lot lighting and site lighting for commercial, industrial, institutional and other non-residential developments.

   b. Lighting for multiple-family developments or uses, including parking lot lighting and site lighting.

   c. Publicly and privately

Figure 3-4 Lighting Illustration



owned roadway lighting.

d. Building facade lighting.

e. Other forms of outdoor lighting which, in the judgment of the Planning Commission or Zoning Administrator is similar in character, luminosity and/or glare to the foregoing.

3. Standards. Lighting shall be designed and constructed in such as manner to:

a. Ensure that direct or directly reflected light is confined to the development site.

b. Lamps and luminaries shall be shielded, hooded and/or louvered to provide a glare free area beyond the property line and beyond any public right-of-way, or the light source is not directly visible from beyond the boundary of the site.

c. The light from any illuminated source shall be designed so that the light intensity or brightness at any property line shall not exceed one (1) foot candle.

d. 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 3-4). No light fixture shall be mounted higher than twenty (20) feet above the average grade of the site.

e. Outdoor recreation area lighting may use standard color metal halide sources and standard sports lighting fixtures if they are mounted at a sufficient height and properly equipped with baffling, glare guards or lenses to meet the requirements of this section.

f. There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness or color. Beacon and search lights are not permitted.

g. No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.

SECTION 3.20 – Home Occupations

A. Purpose. The purpose of this section is to ensure that home occupations will not be a detriment to the character and livability of the surrounding neighborhood. The intent of this section is to establish standards for all home occupations rather than to limit the allowed uses to a specific list and to ensure that home occupations remain subordinate to the residential use. It is recognized that many types of occupations can be done in a home with little or no effect on the surrounding neighborhood.

B. Minor Home Occupation: A minor-home occupation is a home occupation as defined herein, which would normally not be apparent to neighbors living in the vicinity, such as providing piano lessons to one student at a time. A minor home occupation shall be permitted in the AP, RP, R-1A, R-1B, R-2 and R-3 districts, subject to the following conditions:

1. Applications for the conduct of a minor home occupation shall be reviewed by the Zoning Administrator for compliance with the requirements of this section. An application for a

permit for a home occupation shall be accompanied by a letter from the applicant indicating the nature of the home occupation and sufficient facts to indicate that the home occupation will comply with the requirements of this Section. Such application shall incorporate an affidavit to be signed by the applicant acknowledging the requirements of this Section and agreeing to fully abide by them.

2. The minor home occupation must be conducted entirely within a residential building and not more than one (1) accessory building. The minor home occupation must not be evident in any way from the street or from any neighboring premises.
3. The minor home occupation must not change the character of the building in which it is conducted and must not constitute, create or increase a nuisance.
4. The minor home occupation must be carried on only by the inhabitants of the building plus not more than one non-resident employee.
5. The minor home occupation must employ only mechanical equipment which is similar in power and type used for household purposes and hobbies.
6. The minor home occupation must not generate noise, vibrations, smoke, dust, odor, heat, or glare which are detectable beyond the property lines. Furthermore, the minor home occupation shall not create an electrical interference with the transmission of television, cellular, wireless service, or radio in the area which exceeds that which is normally produced by a residential dwelling unit in the district.
7. The minor home occupation must provide sufficient solid waste receptacles sufficiently screened and maintain the property free of debris.
8. The minor home occupation must not devote more than twenty-five (25) percent of the principal building to such home occupation.
9. For the purposes of this Section, neither a family day care nor a family adult foster care facility shall be considered a minor home occupation.
10. The minor home occupation must not require more than two (2) parking spaces, which shall be located off the street, and shall not be located in the front yard setback area.
11. The minor home occupation must not generate vehicle trips in excess of six (6) round-trips per day, and only between the hours of 8:00 am and 9:00 pm.
12. On-site sale of merchandise shall be by appointment only. Only those materials produced on the premises as a result of the home occupation, or are clearly related and incidental to the home occupation, may be provided for sale. No merchandise or articles for sale shall be displayed for advertising purposes, and no device relative to the sale of the merchandise shall be displayed on the premises.
13. For the purposes of this section, multiple home occupations or combined home occupations shall be regarded as, and comply with the requirements of a single home occupation.
14. Signage for a minor home occupation shall be limited to one (1) non-illuminated sign of color and style compatible with the residence mounted to the residence or to a pole

immediately adjacent to the residence and no taller than the first story eaves, with an area not to exceed two (2) square feet.

C. Prohibited uses. Under no circumstances shall the following be considered a minor home occupation:

1. Warehousing and rental of storage space for gain
2. Junkyards
3. Sexually Oriented Business
4. Bed and Breakfast

D. Major Home Occupations. A major home occupation shall be a home occupation that cannot meet the requirements of this Section. Such major home occupation shall be regulated pursuant to Section 21.22 Home Occupation, Major of this Ordinance.

SECTION 3.21 – Reserved

SECTION 3.22 – Nonconforming Lots, Buildings, Structures and Uses

A. General Conditions

1. Nonconforming Uses. Except where specifically provided to the contrary, and subject to the provisions of this Section, the use of any building or structure or of any land or premises which is existing and lawful on the effective date of this Ordinance, or in the case of an amendment to this Ordinance, then on the effective date of the amendment, may be continued even though the use does not conform with the provisions of this Ordinance or any amendment thereto.
2. Nonconforming Buildings or Structures. Except where specifically provided to the contrary and subject to the provisions of this Section, a building or structure which is existing and lawful on the effective date of this Ordinance, or, in the case of an amendment of this Ordinance, then on the effective date of the amendment, may be maintained and continued even though the building or structure does not conform with the provisions of this Ordinance or any amendment thereto.
3. Nonconforming Lots. Except where specifically provided to the contrary and subject to the provisions of this Section, a lot legally created prior to the effective date of this Ordinance, or in the case of an amendment to this Ordinance, then on the effective date of the amendment, and which fails to meet one or more of the dimensional requirements of the respective zoning district in which it is located may be used for any principal use permitted in said district, subject to all required yards (setback) standards.

B. Nonconforming buildings and structures: Extensions, enlargements, alterations, remodeling, or modernization.

1. Nonresidential Districts.

a. Nonconforming buildings or structures in Nonresidential Districts may be extended, enlarged, altered, remodeled or modernized when the Zoning Board of Appeals determines that all of the following conditions are met:

1) The building or structure shall comply with all height, area, and parking and loading provisions with respect to the extension, enlargement, alteration, remodeling or modernization.

2) The enlargement or extension shall be limited to the same parcel the nonconforming use was located on at the time of the adoption of the existing Niles Charter Township Zoning Ordinance.

3) The enlargement or extension shall not interfere with the use of other properties in the vicinity.

4) The enlargement or extension shall not exceed fifty percent (50%) of the GFA of the original building when it became nonconforming.

b. Any building or structure which is nonconforming by reason of parking or loading provisions and which later provides additional parking or loading spaces to meet the provisions of this Ordinance, shall not be permitted to use the additional spaces to meet requirements for another extension, enlargement, or change of use which requires additional parking or loading spaces, without providing the spaces.

c. Residential Districts and Uses. Nonconforming residential buildings or structures may be extended, enlarged, altered, remodeled or modernized when the Zoning Board of Appeals determines that the following conditions are met:

1) The enlargement or extension shall be limited to the same parcel the nonconforming building or structure was located on, at the time of the adoption of the existing Niles Charter Township Zoning Ordinance.

2) The enlargement or extension shall not interfere with the use of other properties in the vicinity.

3) The enlargement or extension shall not further encroach into any setback area. If the nature of the nonconformity is any portion of the existing structure is located within a portion of the required front, side or rear yard, the structure may be expanded provided the expansion does not increase the degree of the nonconformity by enlarging any portion of the structure in the required yard in the direction of the adjoining property line.

C. Restoration and Repair

1. Subject to the provisions of this Section, nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of any building or structure which is unsafe.

2. All repairs and maintenance work required to keep a nonconforming building or structure in sound condition may be made, but it shall not be structurally altered to permit the use of the building or structure beyond its natural life except for repairs necessary to maintain public safety.

3. No nonconforming buildings or structures damaged more than sixty percent (60%) of replacement cost by fire, wind, act of God or public enemy shall be repaired or rebuilt, except in conformity with the provisions of this Ordinance. Any such building or structure damaged less than sixty percent (60%) of replacement cost may be reconstructed provided that the reconstruction does not increase the prior nonconformity. In all cases, a determination of the replacement cost of the building or structure shall be made by the Building Official.
4. Any reconstruction shall commence within one (1) year of the date on which the structure was damaged. Further, the work must be completed and eligible for occupancy, as determined by the Building Official, within eighteen (18) months of the date on which the structure was damaged.

D. Nonconforming uses – Change, Enlargement, or Discontinuance

1. Except as noted in 2, below, the nonconforming use of a building or structure or of any land or premises shall not be:
   a. Re-established after it has been changed to a conforming use.
   b. Re-established after being abandoned or discontinued for a continuous period of twelve (12) consecutive months, or for eighteen (18) months within any three (3) year period. A nonconforming use shall be determined to be abandoned or discontinued if one (1) or more of the following conditions exists, and are deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:
      1) Utilities, such as water, gas and electricity to the property, have been disconnected;
      2) The property, buildings, and grounds, have fallen into disrepair;
      3) Signs or other indications of the existence of the nonconforming use have been removed;
      4) Removal of equipment or fixtures which are necessary for the operation of the nonconforming use;
      5) Other actions, which in the opinion of the Zoning Administrator, constitute an intention of the part of the property owner or lessee to abandon the nonconforming use.
2. The Zoning Administrator may permit a nonconforming use to be converted to a more conforming use. In considering permission, the Zoning Administrator shall use the following standards in reaching a decision:
   a. The building or premises may be changed to a use permitted in the Zoning District in which the existing nonconforming use is located. However, the new use shall not require more off-street parking than exists on the premises.
   b. The use shall be conducted entirely within an enclosed building.
3. Except as provided herein, no nonconforming use shall be enlarged or increased, nor extended to occupy a greater portion of the building or a greater area of land than was occupied at the effective date of the adoption or amendment of this Ordinance. Provided,

however, that the Zoning Board of Appeals may permit the enlargement or increase of a non-conforming use when it determines:

a. That such use was existing and lawful on the effective date of this Ordinance, or in the case of an amendment to this Ordinance, then on the effective date of the amendment, and;

b. Allowing the enlargement or increase of the use will not be contrary to the public interest and will ensure that the spirit of this Ordinance is observed; and

c. Allowing the enlargement or increase of the use will not cause a substantial adverse effect to property or improvements in the vicinity or in the district in which the subject property is located.

4. A nonconforming use which was located in a conforming building that was damaged by fire, wind, act of God or public enemy may be reestablished on the same parcel of land in a reconstructed conforming building.

E. Any building or structure shall be considered existing and lawful, and for purposes of Section 3.22, A, to have been in use for the purpose it was constructed if:

1. On the effective date of this Ordinance, a building permit has been obtained for the building; or

2. If no building permit is required, a substantial start has been made toward construction, and construction is thereafter pursued diligently to conclusion.

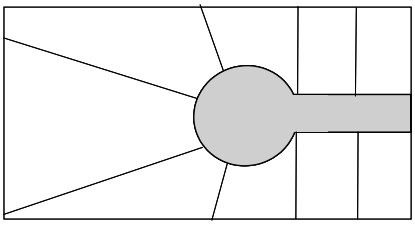
F. Any structures or uses which fail to conform to the previous Niles Charter Township Zoning Ordinance, were not constructed or used legally, were not permissible nonconforming uses or structures thereunder, or which violated that Zoning Ordinance, shall not be considered nonconforming uses or structures under this and any other law or ordinance. These structures or uses shall be considered illegal, a nuisance, and subject to the enforcement provisions of this Ordinance and all other Township Ordinances.

SECTION 3.23 – Demolition Permits

No buildings shall be razed until a demolition permit has been obtained from the Building Official.

SECTION 3.24 – Maximum Width to Depth Ratio

Figure 3-5
Width to Depth Ratio
Exception for Cul-de-sac Lots



A. In all Residential Districts, no lot shall be created with a depth that is more than four (4) times its width, except for residentially zoned lots or parcels that have more than one half (1/2) of their street frontage on a circular cul-de-sac turn-around.

B. For purposes of this Section, the beginning points of a cul-de-sac shall be deemed to be the intersections of the radius of the cul-de-sac turn-

around with the right-of-way lines of the street connected to the turn-around.

C. In the case of a corner lot, the depth of the lot shall be measured from the midpoint of the narrowest of the front lot lines to the midpoint of the opposite side line.

D. The Zoning Board of Appeals may permit the creation of a lot or parcel which does not comply with this Section. In determining whether to grant its approval, the Zoning Board of Appeals shall first find that:

1. The greater depth is necessitated by conditions of the land in question, such as topography, street access, soils, wetlands, or floodplain; and
2. The creation or use of the lot will not conflict with other Township Ordinances and regulations, unless an appropriate variance is received from other Ordinances or regulations.

SECTION 3.25 – Site Condominiums

A. Intent. The purpose of this Section is to regulate the creation and use of condominium developments within the Township and to promote and protect the health, safety and general welfare of the public. Should a conflict exist between the standards and provisions of this section and State or federal laws, the State or federal laws shall supersede

B. Legal Authority. These regulations are enacted by authority of the Zoning Enabling Act and the Condominium Act, P.A. 59 of 1978, as amended, whereby all developments utilizing any form of condominium subdivision of land shall be reviewed and approved or disapproved by the Planning Commission.

C. General Requirements.

1. Compliance with Federal, State and Local Laws: All condominium projects shall comply with all applicable Federal, State and local laws and Ordinances.
2. Zoning and Design Standards: All condominium projects shall be located within the appropriate Zoning District that permits the proposed use and shall comply with all zoning standards. Condominium projects proposed to include special land uses shall be subject to review pursuant to Chapter 21 and such other applicable sections. A condominium subdivision shall be designed and laid out in accord with the design requirements of the Niles Charter Township Subdivision Control Ordinance, being Chapter 12 of the Township Code of Ordinances.
3. Required Review and Approval: Prior to recording of the condominium subdivision plan with the Berrien County Register of Deeds, required by Section 66 Of the Condominium Act, the condominium development shall undergo site plan review and approval by the Planning Commission in accordance with Chapter 23 of this Ordinance. Approval under this Ordinance shall be required as a condition to the right to construct, expand or convert a condominium project in the Township.
4. Compliance of Condominium Lot: For the purposes of these regulations, each condominium lot in a condominium subdivision shall be considered as a single lot and shall comply with all regulations of the Zoning District in which it is located. In a

condominium development containing single-family detached dwelling units, not more than one (1) dwelling unit shall be located on a condominium lot, nor shall a dwelling unit be located on a condominium lot with any other principal structure or use. Required yards shall be measured from boundaries of a condominium lot.

5. Easements for Utilities. Road rights-of-way shall be parcels separate from individual condominium units or lots and deemed as common elements. The rights-of-way shall be for roadway purposes and for the maintaining, repairing, altering, replacing, and/or removing of pipelines, wires, poles, mains, conduits, and other installations of a similar character, hereinafter collectively called public structures, for the purpose of providing public utilities, including electric, communications, water, drainage and sewers, and subject to easements to be dedicated to the Township.

6. Procedure for Required Plan Review and Approval.

   a. Required Information.

      1) All condominium site plans shall include the information required in Section 66 of the Condominium Act and Section 23.03 (Site Plan Application Requirements) and all other information required under regulations pertaining to the Zoning District in which the condominium development is proposed or located.

      2) In the case of single-family detached dwelling units, location and dimensions of condominium units and condominium lots rather than individual buildings and required yards shall be shown on the site plan.

   b. Site Plan Review.

      1) An application for site plan approval shall be filed for review as per the requirements of Chapter 23 of this Ordinance. All procedures and standards of Chapter 23 shall apply to condominium projects.

      2) The application for site plan review shall also include a copy of the proposed Master Deed to be recorded with the County Register of Deeds, for review and approval by the Planning Commission.

      3) The Master Deed shall be reviewed with respect to all matters subject to regulation by the Township, including but not limited to, preservation and maintenance of drainage, retention ponds, wetlands and other natural areas, maintenance of landscaping in common areas in the project and maintenance of sewage disposal facilities. Also, the Master Deed shall provide for the means by which any private road rights-of-way may be dedicated to the public entity having jurisdiction in the future should such dedication be later deemed appropriate by the Condominium Association.

D. Performance Guarantees. As a condition of approval of the site plan, the Planning Commission may require a surety bond pursuant to Section 23.13 to make improvements shown upon the site plan and to insure completion of filing requirements. Upon fulfillment of all requirements, the developer shall apply to the Township for release of performance guarantees.

E. Manufactured Housing Condominium Project. Manufactured Housing condominium developments shall conform to the requirements of this Ordinance and in accordance with the Condominium Act, and other applicable Local and State laws, Ordinances and regulations.

F. Additional Filings Required. Subsequent to the recording of the Master Deed, Bylaws and Deed Restrictions, and subsequent to the construction of improvements, the developer shall file the following information with the Township:

1. As-built Condominium Subdivision plans submitted as one (1) mylar copy, one digital copy and a sufficient quantity of print copies as required by the Zoning Administrator.
2. Two (2) copies of the recorded Master Deed, Bylaws and Deed Restrictions with all pertinent attachments.
3. A written certification from the developer's licensed Professional Engineer that improvements have been installed in conformance with the approved construction drawings and monuments.

SECTION 3.26 – Reserved

SECTION 3.27 – Keeping of Animals

A. Small, Domestic Animals.

1. The keeping of up to four (4) small domestic animals shall be considered customary to, and commonly associated with, the operation of the Permitted Uses or Special Land Uses, subject to the requirements of this Section.
2. Any land, building, or structure where more than four (4) small domestic animals six (6) months of age or older are boarded, housed, or bred for commercial purposes shall be considered a kennel.
3. Kennels shall only be permitted as required in the Zoning District in which the property is located. Any pen or building or structure housing these animals shall be a minimum of fifty (50) feet from any property line and a minimum of twenty (20) feet from any dwelling unit.
4. Where animals other than house pets of the owner or occupant of the premises are kept or allowed outside, a suitable fence to keep the animals from leaving the premises at will, shall be provided and regularly maintained. House pets shall be kept on the premises of their owner.
5. No more than four (4) small domestic animals shall be kept in a private residence, unless approved as a kennel pursuant to the provisions of this Ordinance.
6. This Section shall not prohibit the keeping of small domestic animals or livestock for supervised youth agricultural experiences sponsored by an organization that is exempt from taxation under Section 501(c)(3) of the IRS Code of 1986, or by any subsequent corresponding IRS code of the United States as from time to time amended, in any area which is zoned for residential use, on lots of one (1) or more acres.

B. Keeping of Chickens.

1. In the R-1A, R-1B and R-2 districts a maximum of six (6) hens may be kept per parcel, if kept in accord with this section and in accord with all Niles Charter Township ordinances pertaining thereto. Roosters shall be prohibited.
2. Chickens shall be provided, and maintained within, a fully enclosed shelter located within the rear yard. Such enclosure shall be located in accord with rear setback standards for the respective districts but shall not be located closer than 25 feet from any side lot line.
3. Slaughtering chickens outdoors shall be prohibited.
4. No chickens shall be kept on parcels with more than two (2) dwellings.
5. At all times proper licensing and permitting shall be maintained.
6. In the AP and RP districts, the keeping of chickens shall be permitted without restriction, if conducted in accordance with the GAAMPs.

C. Nothing in this Section 3.27 shall be considered to limit the keeping of livestock in conjunction with a farm, as defined herein.

SECTION 3.28 – Storage and Repair of Vehicles

The outdoor repair, restoration and/or maintenance of vehicles in any residential district which may require the vehicle to be immobile or inoperable in excess of sixty (60) days shall be prohibited.

SECTION 3.29 – Riparian Access

The following restrictions are intended to limit the number of users of water bodies within the Township in order to preserve the quality of the waters, to promote safety, and to preserve the quality of recreational use for all users.

A. In all Districts there shall be at least forty (40) feet of lake or river frontage, as measured along the shoreline or ordinary high water mark of the lake or river, for each dwelling unit utilizing or accessing such frontage. For example, a multiple family building with four (4) dwelling units would require one hundred and sixty (160) feet of frontage on the water to gain access to the lake or river for all of the units.

B. Notwithstanding any other requirement of this Ordinance, any lot, providing riparian access shall meet the following requirements:

1. A minimum of one hundred and fifty (150) feet of frontage, as measured along the shoreline or ordinary high water mark.
2. A minimum lot area of thirty thousand (30,000) square feet.
3. Only one (1) boat mooring per dwelling unit served by riparian access shall be permitted.

C. The restrictions of this Section shall apply to all lots and parcels on or abutting any lake or river in all Districts, regardless of whether access to the waters shall be by easement, park, common-fee ownership, single-fee ownership, condominium arrangement, license, or lease.

D. The provisions of this Section 3.29 shall not apply to any public access to water included on facilities owned or operated by the Township, the County or State.

SECTION 3.30 – Residential Open Space Subdivisions and Site Condominiums

A. Purpose: The purpose of this Section is to adopt "open space preservation" provisions consistent with Section 506 of the Zoning Enabling Act (being Act 110 of 2006, as amended), to encourage residential subdivisions and site condominiums arranged with the same number of dwellings as may be allowed under a conventional subdivision or site condominium, but with at least 50% of the land preserved as permanent open space. The policies of the Township favor efforts to protect open space even while recognizing that development can and should occur where appropriate. The purpose of this section is to encourage the open space design format for such development as a permitted use and to provide that conventional subdivisions and site condominiums, as defined herein, be treated as special land uses, subject to the terms of Section 21.11.

B. Qualifying conditions: Land may be developed under the provisions of this Section only if each of the following conditions are satisfied:

1. The land shall be located in the RP, R-1A, or R-1B Zoning Districts.
2. The development of land under this Section shall not depend upon the extension of a public sanitary sewer or a public water supply system to the land, unless the development of a conventional subdivision would also depend on such extension.

C. Permitted Uses: Only dwelling units and non-dwelling unit structures (as described in Section 3.30, F, 10) permitted by the zoning district in which the land is located shall be permitted on land developed, or used pursuant to the provisions of this Section.

D. Application and Review Procedure: The application and review procedures for land proposed to be developed pursuant to this Section shall be those stated in Chapter 23 of this Ordinance, governing site development plans, except as otherwise provided in this Section. In addition to the application materials required by Chapter 23 of this Ordinance, an application for the development of land under the provisions of this Section shall include the following:

1. Density Determination. The maximum number of dwelling units that may be incorporated in an Open Space Subdivision or Site Condominium shall be determined by either of the following two methods, at the option of the applicant:

   a. Formula Plan. The number of dwelling units shall be determined by subtracting from the total site area the area of all non-building portions of the site (including surface water, wetlands, utility easements and existing road rights-of-way) and multiplying the resulting land area by 85% to account for potential new roads and easements. The resulting value shall be divided by the minimum lot area applicable in the zoning district

and the resulting value, rounded down to a whole number, shall be the maximum number of dwellings allowed in the Open Space Subdivision or Site Condominium.

b. As an alternative to the formula plan set forth in subparagraph "a" hereof, a Parallel Plan may be prepared for the purpose of demonstrating the number of dwelling units that could reasonably be developed on the land under its existing zoning if an open space preservation design were not used. The Parallel Plan may be conceptual in nature but shall include at least the following information:

1) Date, north arrow and scale, which shall not be more than 1" = 100', and, in all cases, the scale shall be the same as that utilized for the site development plan illustrating the proposed open space preservation development.

2) Location of street rights-of-way or easements.

3) Location of all lots, illustrating lot area and width to demonstrate compliance with the minimum requirements of the applicable zoning district.

4) Required building setback lines on all lots to demonstrate the availability of sufficient buildable land to make the lot usable.

5) Location of all utilities that would be necessary to serve a development under the Parallel Plan and which would not be located within any public road right-of-way or private street easement, or on buildable lots. Such utilities include, but are not limited to, storm water retention or detention basins, community sewage treatment systems and community water supply facilities.

6) If development under the Parallel Plan would require the use of septic tanks and drain fields, such Plan shall illustrate the location of all septic tanks and drain fields. The applicant shall submit proof that the proposed septic tank and drain field location for each lot would be approved, or has been approved, by the Berrien County Health Department.

7) The location of all portions of the land that are un-buildable for residential purposes due to the presence of wetlands, slopes in excess of 25%, flood plains, or other features prohibiting development for residential purposes.

2. When reviewing an application submitted under the terms of this Section which includes a Parallel Plan, the Planning Commission shall determine whether the Parallel Plan accurately reflects the number of dwelling units that could be developed on the land under its existing zoning. If the Planning Commission determines that the number of dwellings illustrated on the Parallel Plan exceeds the number of dwellings that could be permitted on the land if it were developed as a conventional subdivision, the applicant shall submit a revised site development plan for the clustering option reflecting the permitted number of dwellings, as determined by the Planning Commission.

3. A copy of the conservation easement, plat dedication, restrictive covenants, or other legal instrument that would run with the land, and would have the legal effect of preserving the open space in perpetuity in an undeveloped state shall be provided with the application. Such legal instrument shall be reviewed by the Township Attorney prior to recording, and

shall be subject to the approval of the Planning Commission, consistent with the terms of this Section. The legal instrument shall:

a. Indicate the proposed permitted use(s) of the undeveloped open space.

b. Require that the open space be maintained in perpetuity in an undeveloped condition, without buildings, structures or other improvements, except such drainage improvements, utility lines, riding trails, hiking trails, picnic areas, park or playground equipment, agricultural structures or similar improvements that may be approved by the Planning Commission.

c. Require that the open space be maintained by parties who have an ownership interest in the property.

d. Provide standards for scheduled maintenance of the open space, including necessary pruning and harvesting of trees and new plantings.

4. The site development plan for the Open Space Subdivision or Site Condominium shall include the following minimum information, in addition to that required by Chapter 23 of this Ordinance:

a. Land proposed to remain in a perpetually undeveloped state and the portions of the land to be used for clustered development.

b. Total number of acres of land proposed to remain in a perpetually undeveloped state, the total number of acres of land proposed to be used for clustered development, and the area contained within rights-of-way or easements for streets. The percentage of each, as compared to the total site acreage, shall be indicated.

c. Lots and proposed building envelopes and indicate the lot area and width of each lot.

d. Location and type of all proposed structures or improvements that are not dwellings.

e. The applicant shall submit evidence that soil conditions are satisfactory for septic tank and drain fields.

5. If the development is to be served by public streets, proof that the Berrien County Road Commission has approved the design, layout and construction of the streets

E. If a site development plan satisfies all applicable requirements of Chapter 23 of this Ordinance, all requirements of this Section and all conditions of approval imposed by the Planning Commission pursuant to Section 23.10, the Planning Commission shall approve the site development plan. The Planning Commission may require performance guarantees, in accordance with Section 23.13.

F. Development requirements:

1. Required Open Space. At least 50% of the land proposed for development under the provisions of this Section shall remain in a perpetually undeveloped state (i.e., "open space"). The following areas shall not constitute open space:

a. The area within all public street rights-of-way.

b. The area within all private street easements.

c. Any easement for overhead utility lines, unless adjacent to open space.

d. The area within a platted lot or site condominium unit.

e. Off street parking areas.

f. Detention and retention ponds.

g. Community drain fields.

h. Areas devoted to community water supply or sanitary sewer treatment systems.

i. Marinas.

j. Club houses and swimming pools.

2. Standards for Open Space. The following standards shall apply to the open space required pursuant to this Section:

a. The open space shall not include a golf course.

b. The open space may include a recreational trail, picnic area, children's play area, greenway, linear park, natural area, agricultural use or other use which, as determined by the Planning Commission, is substantially similar to these uses.

c. The open space shall be available for all residents of the development, subject to reasonable rules and regulations and shall be reasonably usable by such residents for passive recreation such as hiking and picnicking. Use of the open space may be allowed, but such public use shall not be required.

d. Open space shall be located so as to be reasonably accessible to the residents of the development. Safe and convenient pedestrian access points to the open space from the interior of the development shall be provided.

e. A portion of the open space shall be located along the perimeter street frontage abutting the land. The depth of this area shall be at least twenty (20) feet, not including public right-of-way, and this area shall be left in its natural condition or be landscaped to help to preserve or enhance the existing views.

f. Open space shall be located so as to preserve significant natural resources, natural features, scenic or wooded conditions, bodies of water, wetlands or agricultural land.

g. If the land contains a lake, stream or other body of water, the Planning Commission may require that a portion of the open space abut the body of water.

3. Use of Open Space. All dwelling units and other structures and improvements shall be located outside that portion of the land designated as open space. However, the Planning Commission, in its discretion, may permit structures or improvements to be located in the open space if such would be consistent with the designated purpose of the open space. By way of example only, park or playground equipment could be permitted on open space designated for recreational use, or agricultural structures could be permitted on open space designated for agricultural use. Sanitary sewer drain fields may be located within open space areas with the approval of the Health Department. However, club houses, swimming pools,

golf courses, marinas, and similar recreational amenities shall not be permitted within the designated open space.

4. Underlying- Zoning District. The development of land under this Section shall comply with all requirements of this Ordinance applicable to the zoning district in which the land is located, except for the lot width, setback and lot area requirements that must be adjusted to allow the clustering option permitted herein.

5. Minimum Lot Area. The area of lots within an Open Space Subdivision or Site Condominium shall be not less than 50% of the minimum lot area for the underlying zoning district. Lots shall be as uniform in area as is reasonably practicable, unless otherwise approved by the Planning Commission.

6. Building Envelopes. The location and area of building envelopes, as proposed by the applicant, shall be subject to the review and approval of the Planning Commission. The location and area of building envelopes shall be established to achieve the intent and purpose of the zoning district in which the land is located.

7. Required Frontage. All dwelling lots shall be accessed from an interior street within the development and shall meet the minimum frontage requirement on such interior street.

8. Lot Width. Each lot shall have a minimum width equal to no less than one-half (1/2) the minimum lot width specified for the zoning district in which the land is located.

9. Maximum Number of Lots. The clustered portion of the development shall contain no more than the maximum number of lots, as determined from the Formula Plan or Parallel Plan approved by the Planning Commission, and as reduced to reflect the inclusion of non-dwelling unit structures, if any, as described in Section 3.30, F, 10.

10. Non-Dwelling Unit Structures. Lots containing non-dwelling structures such as a clubhouse and its related amenities shall be subject to all requirements of this Section applicable to lots containing dwellings and shall further be subject to all other requirements of this Ordinance and other Township ordinances applicable to the type of structure proposed.

11. Reduction in Lots for Non-Dwelling Structures. If structures other than dwellings, such as a clubhouse, are constructed on a lot in the clustered portion of the land, the number of dwelling lots permitted to be developed shall be reduced as follows:

    a. The area occupied by non-dwelling structures, shall be divided by the average area of dwelling lots that could be situated in the development if the non-dwelling structures were not included. If this number is a fraction, it shall be rounded up to the nearest whole number.

    b. The number calculated under subsection "a" shall be subtracted from the number of dwelling lots that could be permitted in the clustered development, as determined from the formula plan or approved Parallel Plan.

12. Perimeter Lots. Notwithstanding any other provision of this Section, the Planning Commission may require that the open space preservation development be designed and constructed with lot sizes and setbacks on the perimeter that will be reasonably consistent with the lot sizes and setbacks of adjacent uses (planned or existing).

13. Grading. Grading within the development shall comply with the following requirements:
    a. To preserve the natural appearance of the land, all graded areas, cuts and fills shall be kept to a minimum. Specific requirements may be placed on the area of land to be graded or to be used for building, and on the size, height, and angles of cut-and-fill slopes and the shape thereof. Retaining walls may be required.
    b. All areas indicated as open space on the approved development plan shall be undisturbed by grading, excavating, structures or otherwise, except as permitted by the Planning Commission. Drainage improvements, utility lines, riding trails, hiking trails, picnic areas, and similar recreational improvements and amenities may be placed in open space areas if approved by the Planning Commission.
    c. Grading within the clustered development shall be planned and carried out so as to avoid erosion, pollution, flooding or other adverse effects upon the land, and so as to have only such minimal effect upon the environmental characteristics of the land as may be reasonably feasible.
14. Private Streets. Private streets within an open space preservation development shall conform to the private street requirements of this Ordinance.
15. Other Laws. The development of land under this Section is subject to all other applicable Township ordinances, state and federal laws, rules and regulations, including, but not limited to, rules relating to suitability of groundwater for on-site water supply for land not served by a public water system, and rules relating to the suitability of soils for on-site sewage disposal for land not served by public sanitary sewers.

G. Amendments to an Approved Site Plan.

An approved development plan for an Open Space Subdivision or Site Condominium and any conditions imposed upon its approval shall not be changed except upon the mutual consent of the Planning Commission and the applicant, except as provided in Section 23.07, B.

SECTION 3.31 – Reserved

SECTION 3.32 – Driveway Standards

A. Applicability. No building or structure, nor the enlargement of any building or structure, shall hereafter be erected unless the following regulations are met and maintained in connection with such building, structure, or enlargement. Should any requirement of this Section conflict with any other requirement of this Ordinance, the stricter of the requirements shall prevail.

B. Driveways
    1. The following provisions shall apply to all driveways. The number of driveways permitted shall be the minimum necessary to provide reasonable access for regular traffic and emergency vehicles, while preserving traffic operations and safety along the public roadway.
    2. Each lot may be permitted one (1) driveway, provided the spacing requirements of this Section can be achieved. However, shared driveways between up to three (3) contiguous properties in any residential district shall be permitted, provided that the addresses of each

residence accessed by such shared driveway is clearly displayed at the entrance of the driveway and the public or private road.

3. One (1) additional driveway may be permitted on parcels with lot widths exceeding five hundred (500) feet.
4. Additional driveways may be permitted by the Planning Commission for any site, providing the spacing and alignment criteria listed below are met, and a traffic impact study is completed which justifies an additional driveway.
5. The Planning Commission may permit two (2) one-way driveways rather than a single dual movement driveway for particular uses where safer, more efficient circulation and function of the drives can be demonstrated.
6. The applicant shall submit evidence indicating that the sight distance requirements of the Michigan Department of Transportation (MDOT) or Berrien County Road Commission, as appropriate, are met.

SECTION 3.33 – Medical Marihuana

A. Purpose and Intent. It is the purpose of this section to give effect to the intent of Initiated Act 1 of 2008, the Michigan Medical Marihuana Act (the MMMA) and not to establish any local program or regulation that would violate or contravene any enforced State or Federal statute. The MMMA authorizes a narrow exception to the general rule and law that the cultivation, distribution and use of marihuana amount to criminal acts. It is the purpose of this Section to establish standards for the application of that narrow exception in Niles Charter Township to enable the legitimate and legally-authorized practice of the Primary Caregiver activity as set forth herein. It is not the intent of this Section to broaden the strict interpretation of the MMMA to apply to activities not explicitly provided for therein nor is it the intent of this Section to encourage or sanction the cultivation, processing, refinement, distribution, transfer or use of marihuana except as permitted by a strict application of the terms of the MMMA and any rules or regulations duly promulgated thereunder.

B. Findings. This Section is based on the following findings:

1. The voters of the State of Michigan approved by initiative and referendum the use of marihuana by Qualifying Patients for certain medical conditions and established as a legitimate activity that individuals with appropriate credentials may assist Qualifying Patients in the use of marihuana under the provisions of the MMMA.
2. Despite the provisions of the MMMA, marihuana remains a controlled substance under Michigan and Federal law and if its use is not carefully monitored and regulated, there exists significant potential for abuse and illegal conduct that can threaten the health, safety and welfare of the residents of Niles Charter Township.
3. In other States where medical marihuana is similarly permitted but inadequately regulated, there are indications of significant negative secondary effects surrounding places where marihuana is dispensed, processed or used by groups of people. Such secondary negative effects tend to be exacerbated where multiple marihuana facilities are located and include

sale and use of other controlled substances, robberies, assaults, break-ins, vagrancy and depressed property values.

4. Niles Charter Township neither supports nor opposes the legitimate medicinal use of marihuana by Qualifying Patients in compliance with the MMMA, but finds that it has an obligation to residents and property owners to effectively mitigate potential secondary impacts that could result from the Primary Caregiver activity.

C. **Regulations.** Primary Care Giver Home Occupation. In addition to the regulations of Section 3.20 above, a Primary Caregiver shall be considered a minor home occupation and shall be subject to the following further requirements.

1. Primary Caregiver Home Occupations, as defined in Section 2.17, shall be permitted within the AP and RP districts only.
2. Primary caregivers shall deliver medical marijuana to the qualified patients, as defined in the Michigan Medical Marihuana Act, and no dispensing or sale of medical marihuana shall occur on the premises of the Primary Care Giver.
3. Growing operations shall be fully contained within a locked and secured building or other facility as permitted by the MMMA.
4. Only one person residing within dwelling shall be permitted to be a primary caregiver for those who do not reside within the dwelling.
5. All growing and processing operations shall be conducted in compliance with the Initiated Law 1 of 2008, known as the Michigan Medical Marijuana Act.
6. Primary Caregiver Home Occupations shall not be located within 1000 feet of any church, school, or other land use deemed sensitive by the Township Zoning Administrator.
7. Structures containing a primary caregiver home occupation shall conform to applicable building code standards.
8. A primary caregiver home occupation shall not bear any sign or emblem that would indicate the presence of the activity.

CHAPTER 4
MAPPED DISTRICTS

SECTION 4.01 – Zoning Districts

In order to more effectively protect and promote the general welfare and accomplish the aims and objectives of the Niles Charter Township Master Plan, the Township is divided into Zoning Districts of such number, boundaries, shape, and area that are deemed most suitable to provide for the best development of the community, while protecting the common rights and interests of all through associated regulations and restrictions. For the purposes of this Ordinance, Niles Charter Township is hereby divided into the following Zoning Districts:

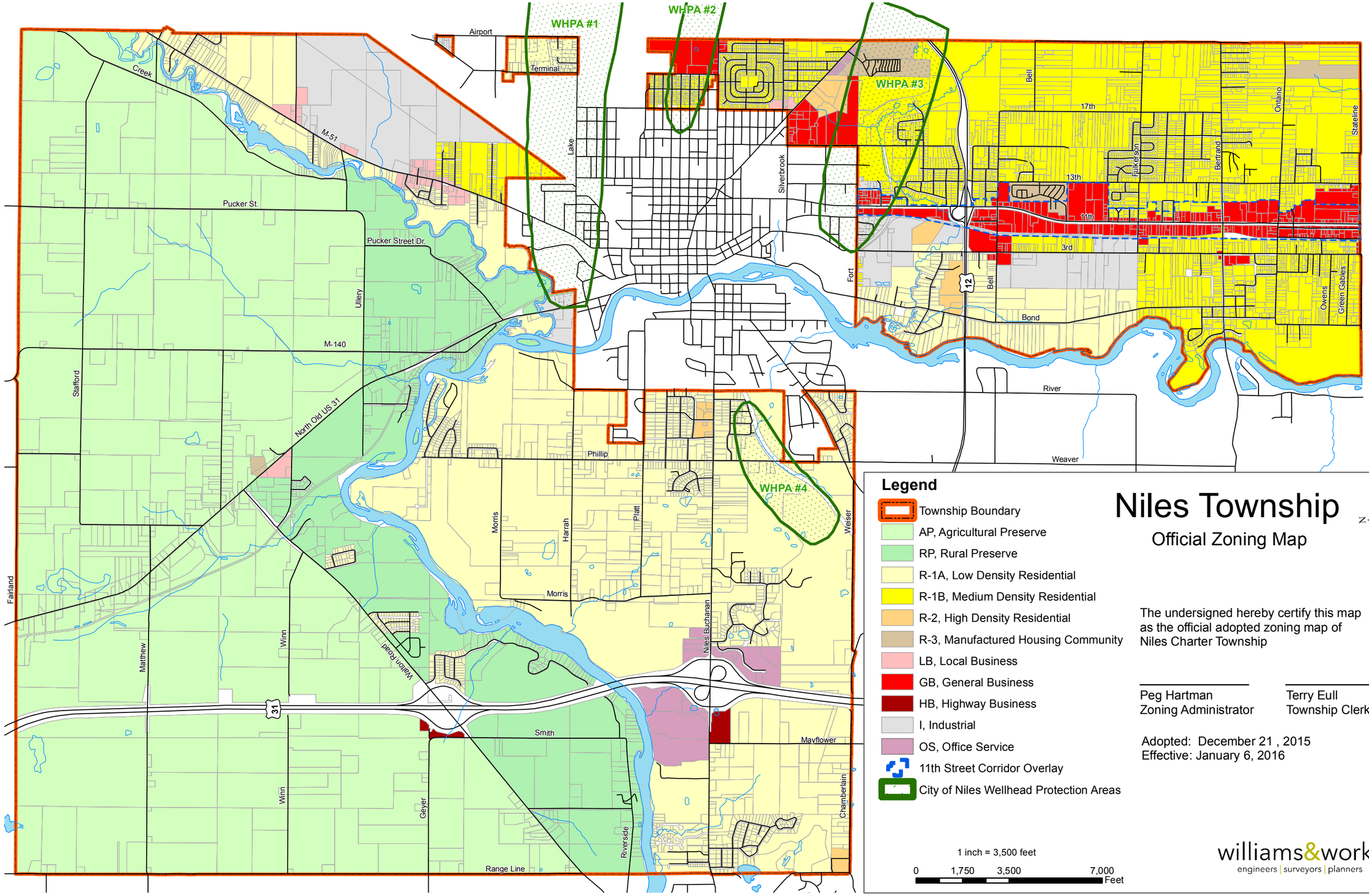
AP	Agricultural Preservation District
RP	Rural Preservation District
R-1A	Low Density Single Family District
R-1B	Medium Density Residential District
R-2	High Density Residential District
R-3	Manufactured Housing Community District
OS	Office Service District
LB	Local Business District
GB	General Business District
HB	Highway Business District
I	Industrial District
WP	Wellhead Overlay Protection Zone

SECTION 4.02 – Zoning Map

The locations and boundaries of these descriptions are hereby established on a map entitled "Niles Charter Township Zoning Map" which is hereby adopted and declared to be a part of this Ordinance.

A. Regardless of the existence of copies of the zoning map which may be made or published, the Official Zoning Map shall be located in the office of the Zoning Administrator and shall be the final authority as to the current zoning status in the Township. A record is to be kept by the Zoning Administrator of all changes made or required to be made to the Official Zoning Map.

B. The Official Zoning Map shall be the map marked as effective on January 6, 2016, and identified by the signature of the Zoning Administrator, attested to by the Township Clerk. The Official Zoning Map is to be kept up to date, accessible to the general public, and shall be the final authority as to the current Zoning District status of all land and buildings in Niles Charter Township which are subject to the provisions of this Ordinance.



Niles Township

Official Zoning Map

The undersigned hereby certify this map as the official adopted zoning map of Niles Charter Township

Peg Hartman
Zoning Administrator

Terry Eull
Township Clerk

Adopted: December 21 , 2015
Effective: January 6, 2016

williams&works
engineers | surveyors | planners

SECTION 4.03 – District Boundaries

Where uncertainty exists as to the boundaries of Zoning Districts as shown on the Zoning Map, the following rules shall apply:

A. Where the boundaries are indicated as approximately following the street, alleys, or highways, the centerlines of said streets, alleys, or highways, or such lines extended shall be construed to be such boundaries.

B. Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.

C. Boundaries indicated as approximately following Township boundary lines shall be construed as following such township lines.

D. Boundaries indicated as approximately following railroad lines shall be construed to be the centerline of the railroad right-of-way.

E. Boundaries indicated as approximately parallel to the centerlines of streets or highways shall be construed as being parallel thereto and at such distances there from as indicated on the official Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on the Official Zoning Map.

F. Boundaries following the shoreline of stream, lake, or other body of water shall be construed to follow such shoreline, and in the event of change in the shoreline shall be construed as moving with the actual shoreline. Boundaries indicated as approximately following the centerline of streams, rivers, canals, or other bodies of water shall be construed to follow such centerlines.

G. Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two districts, the Zoning Administrator shall determine the appropriate district boundaries. Appeals of the Zoning Administrator decision may be appealed only to the Zoning Board of Appeals.

SECTION 4.04 – Zoning of Vacated Areas

Whenever any street, alley or other public way within the Township is vacated by official governmental action, and when the lands within the boundaries thereof attach to and become a part of lands adjoining such street, alley, or public way, such lands shall automatically be subjected to the same zoning regulations as are applicable to lands to the adjoining lands.

SECTION 4.05 – Zoning of Filled Land

Whenever any fill is placed in any lake or stream, after all required permits are obtained, the land thus created shall automatically and without further governmental action thenceforth acquire and be subjected to the same zoning regulations under this Ordinance for such adjoining lands. No use of the surface of any lake or stream shall be permitted for any purpose not permitted on the land from which the use emanates.

SECTION 4.06 – Reserved

SECTION 4.07 – Zoning District Changes

When District boundaries hereafter become changed, any use made nonconforming by such change may be continued, subject to the provisions of this Ordinance.

Section 4.08 - Summary Tables of Dimensional Standards and Uses

B. Table 4.08, A - The Schedule of Regulations and Dimensions provides an overview of the dimensional requirements of this Zoning Ordinance. It is provided for expeditious reference. However, it should not be substituted for a precise reference to the specific language of this Ordinance. In the event of a discrepancy between the table and the text of the Ordinance, the text shall prevail.

A. Table 4.08, B - Table of Land Uses summarizes the applicable regulatory standards for the land uses governed under this Zoning Ordinance. It is provided for expeditious reference. However, it should not be substituted for careful reference to the specific language of this Ordinance. In the event of a discrepancy between the table and the text of the Ordinance, the text shall prevail.

Table 4.08, A – Schedule of Regulations and Dimensions

DISTRICT	MINIMUM LOT AREA	MINIMUM LOT WIDTH (in feet)	MINIMUM YARD SETBACKS (in feet)			MAXIMUM HEIGHT		MAXIMUM LOT Coverage (%)
			Front	Rear	Side	Feet	Stories	
AP, Agricultural Preservation	2 acres	220	50	50	25	35	2½	20
RP, Rural Preservation	1.5 acres	150	50 [1]	40	15	35	2½	10
R-1A, Low Density Single Family	12,000 sq. ft. [2]	80 [2]	40 [3]	40	10	35	2½	25
R-1B, Medium Density Single Family	7,500 sq. ft. [4]	60	30 [5]	30	6	35	2½	30
R-2, High Density Residential	7,500 sq. ft. \4	90	25 [5 6]	25 [6]	6 [7]	35	2½	30
R-3, Manufactured Housing Community	See Chapter 10							
OS, Office Service	20,000 sq. ft.	100	25	25 [9]	11 [9]	40	3	25
LB, Local Business	20,000 sq. ft.	100	25	25 [9]	11 [9]	35	2½	25
GB, General Business	30,000 sq. ft.	150	35	40 [9]	11 [9]	35 [8]	N/A	25
HB, Highway Business	30,000 sq. ft.	200	50	40 [9]	11 [9]	40 [8]	N/A	25
I, Industrial	2 acres	250	100	75 [9]	20 [9]	40	N/A	40

1. 75 ft. from State or Federal highways
2. 20,000 Sq. Ft in area and 100 foot width if not served by public or community sewer system and public water system
3. 60 ft. from State or Federal highways
4. Min. area for two-family dwellings is 7,500 sq. ft. per unit and width of 90 ft.; min. of 2 acres for non-residential uses and 200 ft. width
5. 50 ft. from State and Federal highways
6. All uses other than two-family require 50 ft.
7. All uses other than two-family require 35 ft. on each side
8. Building heights of up to 45 feet may be allowed on parcels adjoining property zoned GB or HB on all sides. On parcels adjoining the RP, R-1A, R-1B, R-2 or R-3 districts, building heights of up to 45 feet may be allowed, if one foot of additional setback on the property line(s) is provided adjoining such districts for each foot the building height exceeds 35 feet in the GB district or 40 feet in the HB district.
9. Refer to Section 3.13 for landscaping requirements for side and rear yards which adjoin residential districts or uses.

Table 4.08, B – Table of Land Uses *(as amended, June 24, 2016)*

USES	AP	RP	R-1A	R-1B	R-2	R-3	OS	LB	GB	HB	I
Accessory Buildings and Uses	P	P	P	P	P	P	P	P	P	P	P
Adult Foster Care, Family Home	P	P	P	P	P						
Adult Foster Care, Large Group Home					SU		SU	SU			
Adult Foster Care, Small Group Home	SU	SU	SU	SU	P						
Agricultural Labor Housing	SU										
Agriculture Production	P	P									
Airports and Landing Fields											SU
Banks and credit unions							P	P	P	P	
Bed and Breakfast Establishments	SU	SU	SU	SU							
Building Materials Sales									P		P
Business Offices							P	P	P	P	
Campgrounds		SU									
Cemeteries	P	P	P	P	P						
Commercial Removal and Processing of Soil, Sand, Gravel	SU	SU									SU
Commercial Schools							P	P	P	P	P
Day Care, Commercial							P	P	P	P	P
Day Care, Family	P	P	P	P	P	P					
Day Care, Group		SU	SU	SU	SU						
Drive Through Facilities[1]							SU[1]	SU[1]	SU[1]	SU[1]	
Dwelling – Accessory	SU	SU	SU	SU	SU						
Dwelling – Multiple Family					P			SU			
Dwelling – Two Family				SU	P						
Dwelling – Single Family	P	P	P	P							
Farms	P	P									
Golf Course and Country Clubs	SU	SU	SU	SU	SU						
Gun Clubs	SU	SU									SU
Health and Fitness Facility							P		P		
Heating & Electrical Generating											SU

USES	AP	RP	R-1A	R-1B	R-2	R-3	OS	LB	GB	HB	I
Plants											
Home Occupations, Major	SU	SU	SU	SU	SU						
Home Occupations, Minor	P	P	P	P	P	P					
Hospitals	SU	SU			SU		P		P		
Hotels and Motels									P	P	
Indoor Comm'l. Recreational and Entertainment Facilities								SU	SU	SU	
Junkyards and Salvage Yards											SU
Kennels	P	SU							SU		P
Manufactured Homes						P					
Manufacturing & Processing											P
Medical or Dental Offices or Clinics							P	P	P		P
Mini-Storage Warehouses											SU
Mortuaries and Funeral Homes							SU	SU	SU		
Municipal Buildings	P	P	P	P	P	P	P	P	P	P	P
Nursery, including retailing	SU	SU							SU		SU
Nursery, without retailing	P	P							SU		SU
Nursing or Convalescent Homes					SU		SU	SU			
Office Building							P	P	P	P	
Office Building – Neighborhood Scale			SU	SU	SU						
Office and Showrooms							P	P	P	P	
Open Air Business									SU		
Outsized Accessory Building	SU	SU	SU	SU	SU						
Parks, Playgrounds, Play Fields and Similar Open Space Recreation	SU	SU	P	P	P	P					
Personal Service Establishment							P	P	P	P	
Places of Public Assembly, Small	P	P	P	P	P		P	P	P	P	
Places of Public Assembly, Large	SU	SU	SU	SU	SU		SU	SU	SU	SU	SU
Planned Unit Development		SU	SU	SU	SU		SU	SU	SU	SU	SU
Production, Refining or Storage											SU

USES	AP	RP	R-1A	R-1B	R-2	R-3	OS	LB	GB	HB	I
of Petroleum Products											
Public Buildings, Utility Offices		SU	SU	SU	SU		P	P	P	P	P
Public and Parochial Schools		SU	SU	SU	SU						
Research and Development Facilities								P	P		P
Retail Business								P	P	P	
Residential Subdivision, Conventional		SU	SU	SU	P	P					
Residential Subdivision, Open Space	SU	P	P	P	P	P					
Restaurants							SU	P	P	P	
Roadside Stands	P	P									
Sawmills	SU										SU
Sexually Oriented Business											SU
Site Condominium	See Residential Subdivision, Open Space and Conventional										
Stables, Private	P	P	SU	SU							
Stables, Riding	P	SU									
Telecommunication Tower	SU	SU							SU	SU	SU
Truck and Freight Terminals											SU
Vehicle Repair									SU	SU	P
Vehicle Sales (see open air bus.)											
Vehicle Service Stations								SU		P	
Vehicle Service Stations, including convenience stores of less than 4,000 square feet									SU		
Vehicle Wash Establishments								SU	SU	SU	
Veterinary hospitals and clinics	SU								SU		P
Warehouse											P
Waste Treatment or Disposal Services, including incinerators											SU
Wholesale Business											P
Winery, Brewery or Distillery	SU	SU									

[1] Not all uses with drive through facilities may be allowed in every district, see specific district Chapters

CHAPTER 5
AP AGRICULTURAL PRESERVATION DISTRICT

SECTION 5.01 – Purpose

The purpose of this district is to preserve the agricultural character of lands within the Township; maintain the integrity of agricultural areas; minimize public service costs; limit areas of urban influence; preserve a maximum of open space; and lessen conflicts between farm and non-farm residents.

This district is intended primarily for agricultural uses and associated agricultural activities. A limited number of non-farm residences and related land uses may be appropriate where land does not hold a great deal of agricultural value; will not conflict or interfere with existing agricultural operations; or where the property owner has found it desirable to sell a portion of his or her land for income or use by family members. Careful consideration will be given to environmental concerns related to groundwater quality and other related issues due to the limited ability of the Township to provide public services. All uses permitted within this district shall be conducted with due consideration for the potential effects which may result from authorized agricultural uses, in accordance with Public Act 94 of 1995, the Michigan Right to Farm Act.

SECTION 5.02 – Permitted Uses

The following uses shall be permitted within this District, by right:

A. Accessory Buildings and Uses
B. Adult Foster Care, Family Home
C. Agricultural Production
D. Cemetery
E. Day Care, Family
F. Dwelling, Single Family
G. Farms
H. Home Occupation, Minor
I. Kennel
J. Municipal Buildings
K. Nursery, without retailing
L. Place of Public Assembly, Small
M. Riding Stable
N. Roadside Stand
O. Stable, Private

SECTION 5.03 – Special Land Uses

A. Certain land uses may be allowed in the AP district pursuant to this Section 5.03 upon a finding by the Planning Commission that:
   1. The proposed use shall be sited upon lands which are less suitable for agricultural operations than other agricultural lands within the District.
   2. The proposed use shall be sited on a parcel in a manner which minimizes the amount of

productive agricultural land which is converted to the proposed use.

3. The proposed use shall be located in areas where groundwater quality and the general integrity of environmental resources; including but not limited to wetlands, floodplains, watersheds, and significant wildlife habitat and forest lands, will not be negatively affected.

B. Upon a finding as provided in subparagraph 5.03, A, hereof, the following uses may be permitted in this district, subject to the standards of Chapter 21:

1. Adult Foster Care, Small Group Home
2. Agricultural Labor Housing
3. Bed and Breakfast Establishment
4. Commercial Removal and Processing of soil, sand and gravel
5. Dwelling, Accessory
6. Golf Course and Country Club
7. Gun Club
8. Home Occupation, Major
9. Hospital
10. Nursery, including retailing
11. Parks, Playgrounds, Play Fields and Similar Open Space Recreation
12. Place of Public Assembly, Large
13. Residential Subdivision, open space design
14. Sawmill
15. Telecommunication Tower
16. Veterinary Hospital and Clinic
17. Winery, Brewery or Distillery

SECTION 5.04 – District Regulations

A. No building or structure, nor the enlargement of any building or structure, shall be erected unless the following yards, lot area, and building coverage requirements are provided and maintained in connection with such building or structure, or enlargement.

B. The maximum number of lots, in addition to that of an existing principal dwelling, that may be created, shall be based on the gross area of the parcel which is to be subdivided, and which constitutes the lot of record as of the date of adoption of this Ordinance as follows:

Schedule of Density Table	
Area of Lot of Record	Maximum Number of Additional Lots
less than 20 acres	2
20.1 to 40 acres	3
40.1 to 80 acres	4
80.1 to 160 acres	5
over 160.1 acres	6

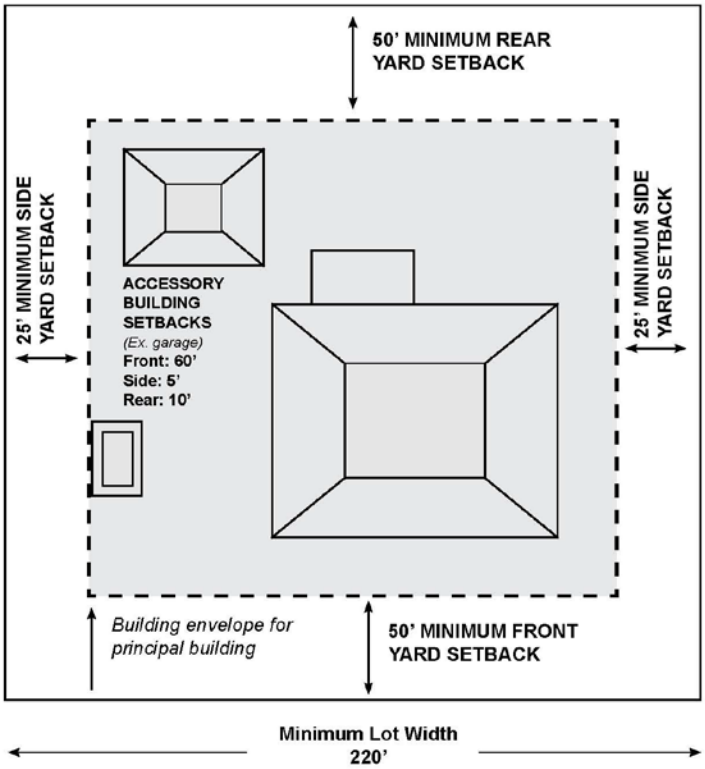
C. Lots which are created shall be located on lands least suitable for agricultural production. In addition, lots shall be located in areas where groundwater quality and the general integrity of environmental resources; including but not limited to wetlands, floodplains, watersheds, and significant wildlife habitat and forest lands, will not be compromised.

D. The following development standards shall be followed for all parcels unless otherwise provided herein.

DISTRICT REGULATIONS

Minimum Lot Area	**2 Acres**	**Minimum Lot Width**	220 feet
		Maximum Bldg Height for Non-Farm buildings	35 feet
Setbacks:			
Front Yard	50 feet	**Maximum Lot Coverage**	20%
Side Yard, residential	25 feet	**Minimum dwelling unit size**	1,000 sq ft with at least 720 ft. on ground floor
Rear Yard	50 feet		

AP Agricultural Preservation



CHAPTER 6
RP RURAL PRESERVATION DISTRICT

SECTION 6.01 – Purpose

Through the application of this district, the Township acknowledges the need and desire for low density residential development that will afford a rural living environment for those who desire such an option. This district recognizes that much of the land in this classification may eventually be converted from farm and vacant fields to residential uses. However, there is no intent to encourage the premature conversion of such land to residential uses.

The purpose of this district is to protect the valued natural features of the community such as woodlands, wetlands, hilly terrain, water, and associated animal habitats that contribute to the rural character of much of the Township, while allowing low density residential development to occur in harmony with these features. The RP district is further intended to preserve privacy, protect ground water quality, and recognize the limited ability of the Township to provide costly services associated with higher residential densities in outlying areas.

SECTION 6.02 – Permitted Uses

The following uses shall be permitted within this district, by right:

A. Accessory Buildings and Uses
B. Adult Foster Care, Family Home
C. Agricultural Production
D. Cemetery
E. Day Care, Family
F. Dwelling, Single Family
G. Farms
H. Home Occupation, Minor
I. Municipal Buildings
J. Nursery, without retailing
K. Place of Public Assembly, Small
L. Residential Subdivisions, Open Space
M. Roadside Stand
N. Stable, Private

SECTION 6.03 – Special Land Uses

The following uses may be permitted in this district, subject to the standards of Chapter 21:

A. Adult Foster Care, Small Group Home
B. Bed and Breakfast Establishment
C. Campgrounds
D. Commercial Removal and Processing of Soil, Sand or Gravel
E. Day Care, Group
F. Dwelling, Accessory
G. Golf Course and Country Club
H. Gun Club
I. Home Occupation, Major
J. Hospital
K. Kennel
L. Nursery, including retailing
M. Parks, Playgrounds, Play Fields and

Similar Open Space Recreation

N. Place of Public Assembly, Large

O. Planned Unit Development

P. Public and Parochial Schools

Q. Public Buildings & Utility Offices

R. Residential Subdivision, Conventional

S. Riding Stables

T. Telecommunication Tower

U. Winery, Brewery or Distillery

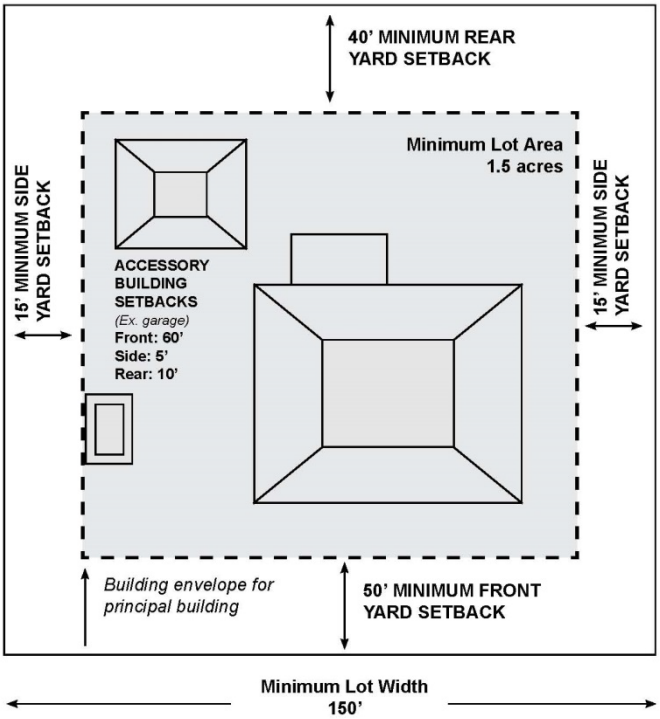
SECTION 6.04 – District Regulations

The following dimensional requirements shall be met for any use permitted within the RP district, unless otherwise provided herein.

DISTRICT REGULATIONS

Minimum Lot Area	1.5 acres
Setbacks:	
Front Yard	75 feet from State or Federal Highways 50 feet from all other roads
Side Yard, residential	15 feet
Rear Yard	40 feet
Minimum Lot Width	150 feet
Maximum Building Height	35 feet
Maximum Lot Coverage	10%
Minimum dwelling unit size	1,000 sq ft with at least 720 ft. on ground floor

RP Rural Preservation



CHAPTER 7
R-1A LOW DENSITY SINGLE FAMILY RESIDENTIAL DISTRICT

SECTION 7.01 – Purpose

This district is intended to provide for a stable and sound family residential environment with its appropriate neighborhood related urban amenities, facilities, and services. A relatively low density urban residential pattern will be permitted through construction and occupancy of single family dwellings within concentrated developments such as plats and site condominiums.

SECTION 7.02 – Permitted Uses

The following uses shall be permitted within this district, by right:

A. Accessory Buildings and Uses
B. Adult Foster Care, Family Home
C. Cemetery
D. Day Care, Family
E. Dwelling, Single Family
F. Home Occupation, Minor
G. Municipal Buildings
H. Parks, Playgrounds, Play Fields and Similar Open Space Recreation
I. Place of Public Assembly, Small
J. Residential Subdivisions, Open Space

SECTION 7.03 – Special Land Uses

The following uses may be permitted in this district, subject to the standards of Chapter 21:

A. Adult Foster Care, Small Group Home
B. Bed and Breakfast Establishment
C. Day Care, Group
D. Dwelling, Accessory
E. Golf Course and Country Club
F. Home Occupation, Major
G. Office Building, Neighborhood Scale
H. Place of Public Assembly, Large
I. Planned Unit Development
J. Public Buildings and Public Utility Offices
K. Public and Parochial Schools
L. Residential Subdivision, Conventional
M. Stable, Private

SECTION 7.04 – District Regulations

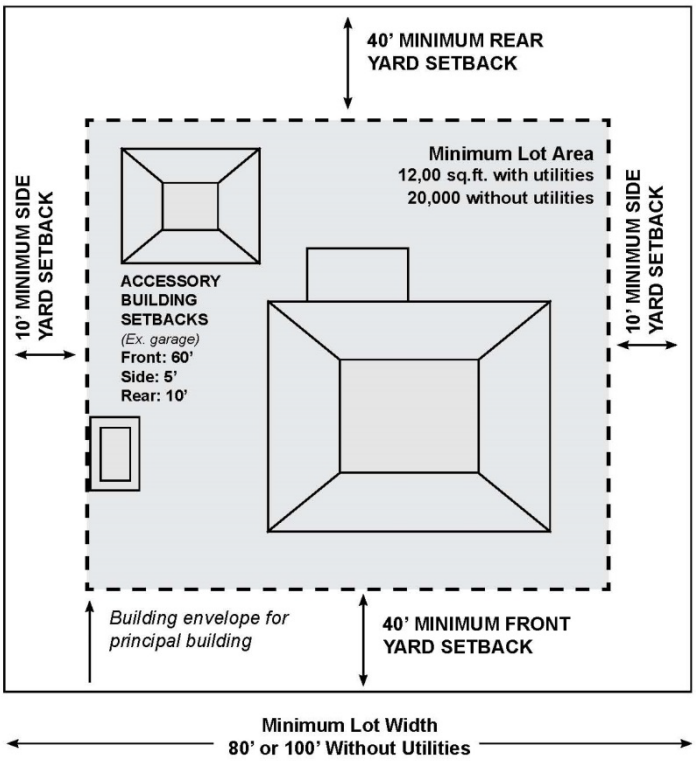
The following dimensional requirements shall be met for any use permitted within the R-1A district, unless otherwise provided herein.

DISTRICT REGULATIONS

Minimum Lot Area (residential)	
with public water & sewer	12,000 sq. ft.
without water & sewer	20,000 sq. ft
Minimum Lot Area (non residential)	2 acres
with public water & sewer	12,000 sq. ft.
without water & sewer	20,000 sq. ft
Setbacks:	
Front Yard	60 feet from State or Federal Highways
	40 feet from all other roads
Side Yard	10 feet
Rear Yard	40 feet

Minimum Lot Width (residential)	
with public water & sewer	80 ft.
without water & sewer	100 ft.
Min. Lot Width (nonresidential)	200 ft.
Maximum Building Height	35 feet
Maximum Lot Coverage	25%
Minimum dwelling unit size	1,100 sq ft with at least 900 ft. on ground floor

R-1A Low Density Single Family



CHAPTER 8
R-1B MEDIUM DENSITY RESIDENTIAL DISTRICT

SECTION 8.01 – Purpose

This district is intended to achieve the single family character and living environment provided in the R-1A District, but with a slightly higher density. In addition, two family dwellings may be permitted under certain circumstances. The R1-B district is applied primarily to existing neighborhoods within the Township where homes have been long-established on relatively small lots. It is not the intent of this district, however, to create a pattern of development or a quality of living that is less than any other residential district.

SECTION 8.02 – Permitted Uses

The following uses shall be permitted within this district, by right:

A. Accessory Buildings and Uses
B. Adult Foster Care, Family Home
C. Cemetery
D. Day Care, Family
E. Dwelling, Single Family
F. Home Occupation, Minor
G. Municipal Buildings
H. Parks, Playgrounds, Play Fields and Similar Open Space Recreation
I. Place of Public Assembly, Small
J. Residential Subdivisions, Open Space

SECTION 8.03 – Special Land Uses

The following uses may be permitted in this district, subject to the standards of Chapter 21:

A. Adult Foster Care, Small Group Home
B. Bed and Breakfast Establishment
C. Day Care, Group
D. Dwelling, Accessory
E. Dwelling, Two Family
F. Golf Course and Country Club
G. Home Occupation, Major
H. Office Building, Neighborhood Scale
I. Place of Public Assembly, Large
J. Planned Unit Development
K. Public Buildings and Public Utility Offices
L. Public and Parochial Schools
M. Residential Subdivision, Conventional
N. Stable, Private

SECTION 8.04 – District Regulations

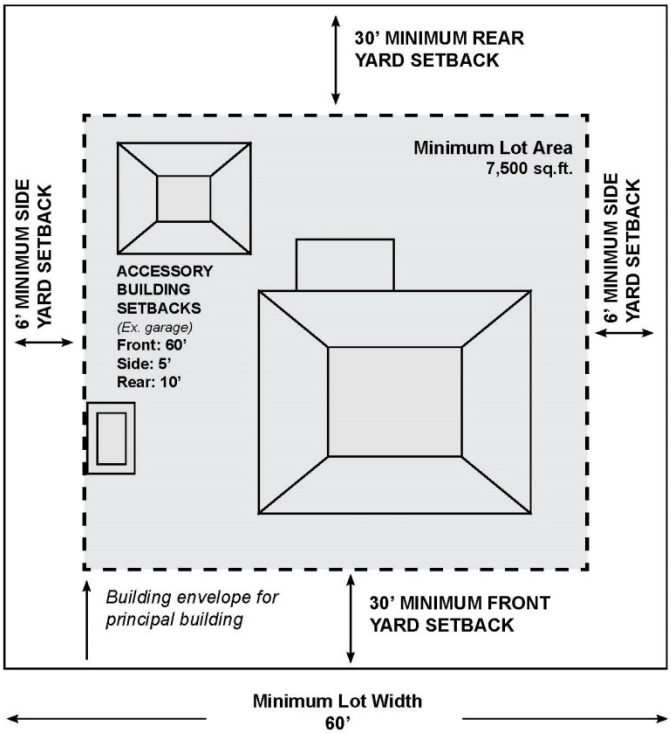
The following dimensional requirements shall be met for any use permitted within the R-1B district, unless otherwise provided herein.

DISTRICT REGULATIONS

Minimum Lot Area (residential)	
single family	7,500 sq. ft.
two-family (per unit)	7,500 sq. ft
Minimum Lot Area (non residential)	2 acres
Setbacks:	
Front Yard	50 feet from State or Federal Highways 30 feet from all other roads
Side Yard, residential	6 feet
Nonresidential	20 feet
Rear Yard	30 feet
Minimum Lot Width	
single family	60 ft.
two family	90 ft.
nonresidential uses	200 feet
Maximum Building Height	35 feet
Maximum Lot Coverage	30%
Minimum dwelling unit size	900 sq ft with at least 720 ft. on ground floor

R-1B Medium Density Single Family

(Residential Uses)



CHAPTER 9
R-2 HIGH DENSITY RESIDENTIAL DISTRICT

SECTION 9.01 – Purpose

This district is intended primarily for high density multiple family and attached single family dwellings, together with certain institutional or other compatible uses under specified conditions. There is no intent to promote by these regulations, a residential district of lower quality or livability than any other residential district. It is the express purpose of these regulations to provide sites for multiple family dwelling structures of a low rise, high density character where adequate public services are available.

SECTION 9.02 – Permitted Uses

The following uses shall be permitted within this district, by right:

A. Accessory Buildings and Uses
B. Adult Foster Care, Family Home
C. Adult Foster Care, Small Group Home
D. Cemetery
E. Day Care, Family
F. Dwelling, Multiple
G. Dwelling, Two Family
H. Home Occupation, Minor
I. Municipal Buildings
J Parks, Playgrounds, Play Fields and Similar Open Space Recreation
K. Place of Public Assembly, Small
L. Residential Subdivision, Conventional or Open Space

SECTION 9.03 – Special Land Uses

The following uses may be permitted in this district, subject to the standards of Chapter 21:

A. Adult Foster Care, Large Group Home
B. Bed and Breakfast Establishment
C. Day Care, Group
D. Dwelling, Accessory
E. Golf Course and Country Club
F. Home Occupation, Major
G. Hospital
H. Nursing or Convalescent Home
I. Office Building, Neighborhood Scale
J. Place of Public Assembly, Large
K. Planned Unit Development
L. Public Buildings and Public Utility Offices
M. Public and Parochial Schools

SECTION 9.04 – District Regulations

The following dimensional requirements shall be met for any use permitted within the R-2 district, unless otherwise provided herein.

DISTRICT REGULATIONS

Minimum Lot Area (residential)	
two-family (per unit)	7,500 sq. ft
multiple family	2 acres
Minimum Lot Area (non residential)	2 acres
Setbacks:	
Front Yard	
two family	25 feet
all other uses and any use fronting State or Federal Highway	50 feet
Side Yard, residential	
two family	6 feet
all other uses	35 feet
Rear Yard	
two family	25 feet
all other uses	50 feet
Minimum Lot Width	
two family	90 ft.
multiple family	100 feet
nonresidential uses	200 feet
Maximum Building Height	35 feet
Maximum Lot Coverage	30%
Minimum dwelling unit size	
two family	900 sq. ft
multiple family	
One-bedroom	650 sq. ft.
Two-bedroom	800 sq. ft.
Three + bedroom	950 sq. ft.

CHAPTER 10
R-3 MANUFACTURED HOUSING COMMUNITY DISTRICT

SECTION 10.01 – Purpose

This district is intended to provide for manufactured housing community development, of long-term duration of stay, in areas that are appropriate in terms of traffic access, public utilities and services. Public water and sewer facilities, or a suitable alternative method shall be provided for each development. Any such development shall be located near essential community services and abutting paved public streets. The R-3 zoning district shall only be established in conformance with the Niles Charter Township Master Plan.

SECTION 10.02 – Permitted Uses

The following uses shall be permitted within this district, by right:

A. Accessory Buildings and Uses

B. Day Care, Family

C. Home Occupation, Minor

D. Manufactured Homes

E. Municipal Buildings

F. Parks, Playgrounds, Play Fields and Similar Open Space Recreation

G. Residential Subdivision, Conventional or Open Space

SECTION 10.03 – Regulations

All manufactured housing communities shall comply with the applicable requirements of Act 96 of 1987, as amended, provided further that said developments meet the standards and conditions of all other provisions as herein established.

SECTION 10.04 – Application Procedures

A. Rezoning Approval: If the property intended to be used for a manufactured housing community is not already zoned R-3, an application for rezoning shall be filed with the Township. The application for rezoning for a manufactured housing community requires the approval of the Township Board upon recommendation from the Niles Charter Township Planning Commission and the Berrien County Planning Commission.

B. Site Plan: Any application for the extension, alteration, or construction of a manufactured housing community shall include a site plan of the development indicating the proposed methods of compliance with the requirements of this Ordinance and all other applicable regulations, including the regulations and requirements promulgated pursuant to Act 96 of the Public Acts of 1987, as amended. Said site plan shall be in conformance with the provisions

and requirements of Chapter 23 of this Ordinance.

SECTION 10.05 – Manufactured Home Sales

A. No person desiring to rent a dwelling unit site shall be required, as a condition to such rental, to purchase a manufactured home from the owner or operator of the park, as long as the manufactured home intended to be located on such rented site conforms in size, style, shape, price, etc., as may be required by any reasonable rules and regulations governing the operation of the manufactured home community.

B. Nothing contained in this Ordinance shall be deemed as prohibiting the sale of a manufactured home lot by the individual owner or his agent, or those home occupations as permitted in the Zoning Ordinance, provided such sales and occupations are permitted by the manufactured housing community regulations. A commercial manufactured home sales lot shall be considered an open air business and shall not be permitted in this District.

CHAPTER 11
Reserved

CHAPTER 12
OS OFFICE SERVICE DISTRICT

SECTION 12.01 – Purpose

This district is designed to accommodate office uses, together with office sales and certain personal services. It is the purpose of the Office Service District to accommodate permitted uses typically in proximity to major shopping facilities and/or freeway interchanges. The nature of modern office development provides greater compatibility for integration into the community structure, often serving as a suitable buffer or transition use between residential and more intense nonresidential uses. Therefore, this district has been established for the purpose of encouraging office and related development, but excluding general commercial activity.

SECTION 12.02 – Permitted Uses

The following uses shall be permitted within this district, by right:

A. Accessory Buildings and Uses
B. Banks and Credit Unions
C. Business Offices
D. Commercial Schools
E. Day Care, Commercial
F. Health and Fitness Facility
G. Hospital
H. Medical/Dental Offices and Clinics
I. Municipal Buildings
J. Office Buildings
K. Office and Showrooms
L. Personal Service Establishment
M. Place of Public Assembly, Small
N. Public Buildings and Public Utility Offices

SECTION 12.03 – Special Land Uses

The following uses may be permitted in this district, subject to the standards of Chapter 21:

A. Adult Foster Care, Large Group Home
B. Drive Through Facilities
C. Mortuaries and Funeral Homes
D. Nursing or Convalescent Homes
E. Place of Public Assembly, Large
F. Planned Unit Development
G. Restaurants

SECTION 12.04 – District Regulations

The following dimensional requirements shall be met for any use permitted within the OS district, unless otherwise provided herein.

DISTRICT REGULATIONS			
Minimum Lot Area	20,000 sq. ft.	**Minimum Lot Width**	100 feet
Setbacks:			
Front Yard	25 feet	**Maximum Building Height**	40 feet
Side Yard	11 feet	**Maximum Lot Coverage**	25%
Rear Yard	25 feet		

CHAPTER 13
LB LOCAL BUSINESS DISTRICT

SECTION 13.01 – Purpose

The Local Business District is intended to provide for small, convenient commercial areas adjacent to existing or planned residential concentrations. Uses and locations considered to be appropriate for the LB District shall cater to the residents of Niles Charter Township and nearby areas, remain small enough in scale to be well integrated into a neighborhood or residential setting, and possess appropriate traffic safety components that will limit potential negative impacts resulting from a non-residential use.

SECTION 13.02 – Permitted Uses

The following uses shall be permitted within this district, by right:

A. Accessory Buildings and Uses
B. Banks and Credit Unions
C. Business Offices
D. Commercial Schools
E. Day Care, Commercial
F. Medical/Dental Offices and Clinics
G. Municipal Buildings
H. Office Buildings
I. Office and Showrooms
J. Personal Service Establishment
K. Place of Public Assembly, Small
L. Public Buildings and Public Utility Offices
M. Research and Development Facility
N. Retail Business
O. Restaurants

SECTION 13.03 – Special Land Uses

The following uses may be permitted in this district, subject to the standards of Chapter 21:

A. Adult Foster Care, Large Group Home
B. Drive Through Facilities
C. Dwelling, Multiple Family
D. Indoor Commercial Recreation and Entertainment Facilities
E. Mortuaries and Funeral Homes
F. Nursing or Convalescent Homes
G. Place of Public Assembly, Large
H. Planned Unit Development
I. Vehicle Service Stations
J. Vehicle Wash Establishments

SECTION 13.04 – District Regulations

The following dimensional requirements shall be met for any use permitted within the LB district, unless otherwise provided herein.

DISTRICT REGULATIONS			
Minimum Lot Area	20,000 sq. ft.	**Minimum Lot Width**	100 feet
Setbacks:			
Front Yard	25 feet	**Maximum Building Height**	35 feet
Side Yard	11 feet	**Maximum Lot Coverage**	25%
Rear Yard	25 feet		

CHAPTER 14
GB GENERAL BUSINESS DISTRICT

SECTION 14.01 – Purpose

The purpose of this district is to provide for the general, community-wide commercial and service needs of the Township and surrounding area in high visibility locations abutting major traffic arteries. Permitted uses are intended to be of an appropriate scale, appearance, and arrangement to maximize compatibility with adjoining uses and minimize conflicts with traffic on adjacent streets.

SECTION 14.02 – Permitted Uses

The following uses shall be permitted within this district, by right:

A. Accessory Buildings and Uses
B. Banks and Credit Unions
C. Building Material Sales
D. Business Offices
E. Commercial Schools
F. Day Care, Commercial
G. Health and Fitness Facility
H. Hospital
I. Hotels and Motels
J. Medical/Dental Offices and Clinics
K. Municipal Buildings
L. Office Buildings
M. Office and Showrooms
N. Personal Service Establishment
O. Place of Public Assembly, Small
P. Public Buildings and Public Utility Offices
Q. Research and Development Facility
R. Retail Business
S. Restaurants

SECTION 14.03 – Special Land Uses

The following uses may be permitted in this district, subject to the standards of Chapter 21:

A. Drive Through Facilities
B. Indoor Commercial Recreation and Entertainment Facilities
C. Kennels
D. Mortuaries and Funeral Homes
E. Nursery with or without retailing
F. Open Air Business
G. Place of Public Assembly, Large
H. Planned Unit Development
I. Telecommunication Tower
J. Vehicle Repair
K. Service Stations, including convenience stores of less than 4,000 sq. ft.
L. Vehicle Wash Establishments
M. Veterinary Hospitals and clinics

SECTION 14.04 – District Regulations

The following dimensional requirements shall be met for any use permitted within the GB district, unless otherwise provided herein.

DISTRICT REGULATIONS

Minimum Lot Area	30,000 sq. ft.	**Minimum Lot Width**	150 feet
Setbacks:			
Front Yard	35 feet	**Maximum Building Height**	35 feet
Side Yard	11 feet	**Maximum Lot Coverage**	25%
Rear Yard	40 feet		

SECTION 14.05 – 11th Street Overlay District Requirements

A. **Intent:** 11th Street is a primary entrance route into the greater Niles Community from the south, providing direct access from US Highway 12. As such, the community has identified this corridor as a gateway to the historic downtown of Niles. The provisions of the 11th Street Overlay District are intended to carry out the goals and objectives of the *11th Street Corridor Plan,* which was the result of a joint planning effort between the City of Niles, the Charter Township of Niles, local business owners along 11th Street, the Southwestern Michigan Economic Growth Alliance, Southwest Michigan Planning Commission, Berrien County, the Four Flags Area Chamber of Commerce, the Four Flags Area Tourist Council, and the Michigan Department of Transportation.

The 11th Street Overlay District is intended to:

1. Improve pedestrian and vehicle traffic safety, access, and circulation.
2. Enhance the visual aesthetics through improved landscaping, signage, and building façade design.
3. Reduce impervious surfaces and storm water runoff while improving the usage and efficiency of parking areas.

B. **Applicable Requirements:** The 11th Street Overlay District is a mapped overlay within the General Business zoning district which imposes a set of requirements in addition to those of the underlying zoning district. Properties within the Overlay District which fall into the GB district shall be developed only under the applicable conditions and requirements of both the GB District and this Overlay District. Portions of the area within the boundaries of the Overlay may fall into zoning districts other than GB and it is intended that the requirements of this Section 14.05 shall not apply to such properties unless and until their zoning classification is changed to GB. It is intended that land uses in existence as of the adoption

shall maintain conformity with the underlying zoning standards, but any expansion, redevelopment which enlarges the floor area of an existing structure by fifty (50) percent or more, or new development shall conform to the 11th Street Overlay District standards. In the event there is a conflict between the requirements of the GB District and the 11th Street Overlay District, the requirements of the 11th Street Overlay District shall govern.

C. **Creation of 11th Street Corridor Overlay District Boundaries**: The 11th Street Overlay District boundaries shall be as established on the Niles Charter Township Official Zoning Map. The 11th Street Overlay District may be established or amended according to the procedures set forth in this Zoning Ordinance.

D. **Administration and Review:** All applications for expansion, redevelopment, or new development shall follow all site plan review standards and special land use requirements, if applicable, as set forth in this Zoning Ordinance.

E. **Permitted and Special Land Uses**: Property in the 11th Street Overlay District may be used in accordance with uses that are permitted by right or may be permitted by special land use approval in the General Business District.

~~F.~~ **Regulations and Conditions**: The following standards shall apply in the 11th Street Overlay District to new or replacement buildings and to existing buildings which are to be expanded or redeveloped buildings such that the existing building floor area is increased by fifty percent (50%) or more.

1. Maximum Impervious Surface Coverage: The maximum impervious surface coverage (including buildings, parking lot, and sidewalks) shall not exceed 80% of the lot, and the remaining 20% of the lot shall be dedicated to landscaping and other pervious surfaces. However, the maximum impervious surface coverage of the lot may be increased to 90% if the lot permits and develops an interconnecting drive with an adjacent commercial lot in accordance with paragraph F, 2, f, below.

2. Access and Parking:

   a. Maximum Number of Curb Cuts per Lot: The number of curb cuts per lot shall not exceed one (1), except as follows:

      1) Lots with more than two hundred (200) feet of frontage may have two (2) curb cuts if no cross access from an adjoining parcel is available at the time of site plan review and provided the applicant agrees to provide such cross access to at least one adjoining property.

      2) Lots with one (1) side of frontage may have one (1) curb cut for each side of frontage.

      3) For lots that contain a building with more than fifty-thousand (50,000) square feet of floor area, one (1) additional curb cut may be permitted for each side of frontage as an access drive for service and delivery vehicles.

b. Minimum Setbacks:

1) Parking Lot Setback from a Right-of-Way: The minimum setback of parking lots from a right-of-way shall be 20 feet.

2) Driveway Setbacks from a Road Intersection or Another Driveway: Subject to approval of driveway locations by the Berrien County Road Commission, vehicle ingress and egress driveways shall not be closer than fifty (50) feet to the right-of-way of two (2) intersecting streets, or closer than fifty (50) feet to another driveway measured along the right-of-way line.

c. Driveway Alignment with Driveway across Street: Subject to approval of driveway locations by the Berrien County Road Commission, driveways shall be symmetrically aligned with existing driveways located across the street, unless site conditions prohibit alignment.

d. Joint Parking: Joint use of off-street parking areas may be provided collectively by two or more buildings or uses, provided the total number of parking spaces shall not be less than the sum of the requirements of the space requirements computed separately. In the instance of dual function of off-street parking spaces where operating hours or parking needs of individual buildings or uses occur at distinctly different times, the Planning Commission may grant an exception to this requirement.

e. Interconnection between Parking Lots: In an effort to reduce the incidence of vehicle crashes along 11th Street and improve traffic flow between businesses, the owners applying for site plan approval shall delineate and construct an interconnecting drive between their lot and adjacent commercial lots. The subject owner(s) shall sign an easement and maintenance agreement and record the agreement with the Register of Deeds. If the owner of an adjacent commercial lot refuses to sign the easement and maintenance agreement or otherwise allow for the construction of an interconnecting drive, the owner applying for site plan approval shall sign and record an easement and maintenance agreement for his/her property only and construct the drive on his/her property.

f. Surface: Parking and drive areas shall be surfaced with asphalt or concrete and gravel or dirt parking areas shall be prohibited.

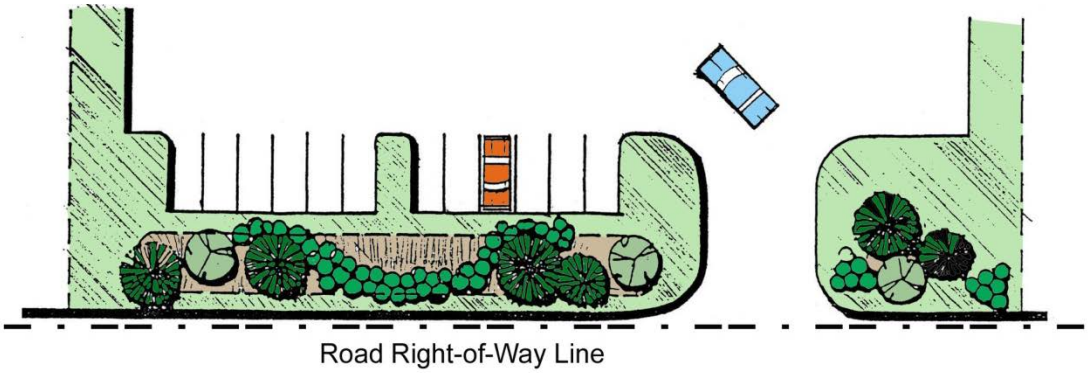
g. Wheel Blocks: All off-street parking areas shall be provided with wheel block or bumper guards in cases where parking areas abut a sidewalk, pedestrian walkway, street, landscape area, or adjoining property line so that no part of the parked vehicles extend beyond the provided parking area.

3. Landscaping: Landscaping shall be required in accordance with Section 3.13 and shall consist of a combination of ground level shrubs, and evergreen, ornamental and deciduous trees. The following landscaping shall be required:

a. Front Yard Landscaping: Landscaping between the building and the road right-of-way shall comply with the following planting requirements: One (1) canopy tree per forty (40) feet of frontage (or fraction thereof) and one (1) shrub per five (5) feet of frontage

(or fraction thereof). For the purposes of computing length of road frontage, openings for driveways and sidewalks shall not be counted (see diagram example below). Trees and shrubs may be planted at uniform intervals, at random, or in groupings. The required trees and shrubs shall not be located in a required clear vision area per Section 3.14. Landscaping may be allowed within the right-of-way, if permitted by Road Commission or MDOT.

Figure 14-1. Example of Front Yard Landscaping

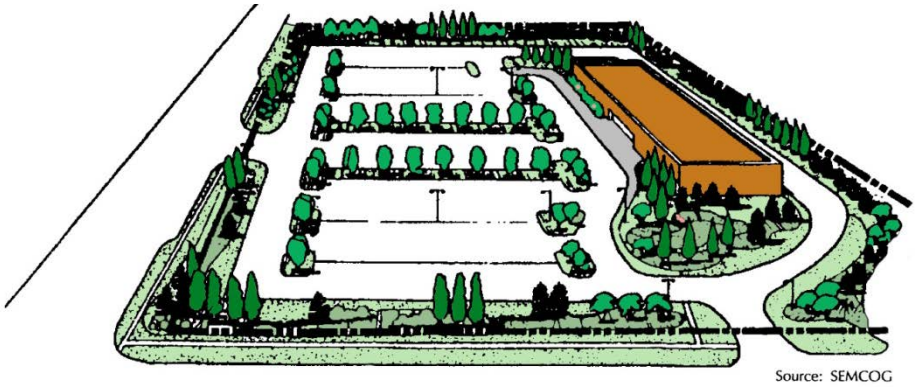


Source SEMCOG

a. Parking Lot Screening: Parking located in front or on the side of a building shall be intermittently screened from the road with a three (3) foot high red or brown brick wall, evergreen landscaping, or an approved alternative. For the purposes of this section, an intermittent screen shall provide visual screening for at least 50% of the lot frontage. For evergreen screening, the use of dwarf species which will not reach heights of more than three (3) feet shall be required. This evergreen screening shall be in addition to the front yard landscaping required in Section 3.13.

b. Interior Parking Lot Landscaping: Off-street parking areas containing greater than fifteen (15) spaces shall be provided with at least ten (10) square feet of interior landscaping per parking space. A minimum of one (1) canopy or ornamental tree shall be planted per three hundred (300) square feet or fraction thereof of interior landscaped area. At least fifty percent (50%) of each interior landscaped area shall be covered by living plant material such as sod, shrubs, ground cover, or trees (see diagram example below).

Figure 14-2. Example of Interior Parking Lot Landscaping



c. Lot Line Screening: An evergreen screening buffer shall be required wherever a lot abuts a residential zoning district. The buffer shall consist of a dense double row of evergreen trees at least six (6) feet in height. No buffer shall be required where a public road separates the zoning districts

d. Mechanical Equipment Screening: All heating, ventilation, and air conditioning mechanical equipment located on the exterior of the building shall be screened from adjacent public or private streets and adjacent properties. If the equipment is mounted on the building, it shall be screened in a manner that is architecturally compatible with the building design. If the equipment is ground mounted, it shall be screened in a similar manner and/or with evergreen plant materials. Other types of mechanical equipment located on the exterior of the building, such as dust collectors, hoppers, stacks, etc., that cannot practically be screened, shall be designed, located, and/or painted to minimize the adverse visual impact.

e. Storm Water Management: Sites shall manage storm water in accordance with the requirements of the Berrien County Drain Commissioner. The use of Low Impact Development (LID) techniques, such as bioretention as a part of the site landscaping shall be permitted.

4. Signage: The regulations of Chapter 25 shall apply to properties within the 11th Street Overlay District.

5. Lighting: All lighting shall meet the height and illumination standards of Section 3.19. Light fixtures shall not be attached to a utility pole. All light poles shall be traditional-style light fixtures that are aesthetically attractive.

6. Façade Design and Guidelines:

   a. Windows: All building facades visible from the street shall have windows with transparent, non-reflective glass. Provided, however, that retail uses that require the use of the inner surface of exterior walls for retail displays may incorporate interior screening on windows to obscure the view of such retail displays. The following requirements for windows shall apply:

      1) First floor: minimum 30% of façade, 70% maximum.

2) Second floor and above: minimum 20% of façade, 60% maximum.

b. Exterior Building Materials: Traditional building materials, such as masonry, stone, brick, or wood, shall be used as the predominant exterior building materials for all new construction, renovations, and additions. Plain concrete block, plain concrete, corrugated metal, plywood, vinyl siding, and sheet pressboard may only be used as secondary exterior finish materials, provided they cover no more than ten percent (10%) of the surface area. Large blank walls extending more than twenty (20) feet without articulation shall be prohibited. Building articulation features may include windows, pilasters, a change in materials or other design elements to break up large blank walls.

7. Standards for Siting and Screening of Trash Dumpster.

a. Location: Dumpsters shall be located in a rear yard, provided any such dumpster shall not encroach on required parking area and is clearly accessible to servicing vehicles, and is located at least ten (10) feet from any building. Provided, that a dumpster enclosure which is designed as an integral part of the main building and which includes a direct access doorway from the building for servicing, may be allowed. Dumpsters shall comply with the setback requirements for the district in which they are located. Dumpsters shall be located as far as practicable from any adjoining residential district.

b. Concrete Pad: Dumpsters shall be placed on a concrete pad. The concrete pad should extend a minimum of three (3) feet in front of the dumpster enclosure.

c. Screening: Dumpsters shall be screened from view from adjoining property and public streets and thoroughfares. Dumpsters shall be screened on three sides with a permanent building, decorative masonry wall, or pressure-treated wood fencing, not less than six (6) feet in height or at least one (1) foot above the height of the enclosed dumpster, whichever is taller. The fourth side of the dumpster screening shall be equipped with an opaque lockable gate that is the same height as the enclosure around the other three sides.

CHAPTER 15
HB HIGHWAY BUSINESS DISTRICT

SECTION 15.01 – Purpose

This district is intended to provide appropriate and confined locations for commercial and business enterprises that primarily serve the motoring public. This district should be located adjacent to freeway interchanges which offer convenient and safe access, as well as appropriate visibility. The range of uses allowed within this District is specifically limited to prevent the creation of widespread commercial areas and inappropriate strip development patterns.

SECTION 15.02 – Permitted Uses

The following uses shall be permitted within this district, by right:

A. Accessory Buildings and Uses
B. Banks and Credit Unions
C. Business Offices
D. Commercial Schools
E. Day Care, Commercial
F. Hotels and Motels
G. Municipal Buildings
H. Office Building
I. Office and Showrooms
J. Personal Service Establishment
K. Place of Public Assembly, Small
L. Public Buildings and Public Utility Offices
M Retail Business
N. Restaurant
O. Vehicle Service Stations

SECTION 15.03 – Special Land Uses

The following uses may be permitted in this district, subject to the standards of Chapter 21:

A. Drive -through Facilities
B. Indoor Commercial Recreation and Entertainment Facilities
C. Place of Public Assembly, Large
D. Planned Unit Development
E. Telecommunication Tower
F. Vehicle Repair
G. Vehicle Wash Establishment

SECTION 15.04 – District Regulations

The following dimensional requirements shall be met for any use permitted within the HB district, unless otherwise provided herein.

DISTRICT REGULATIONS			
Minimum Lot Area	30,000 sq. ft.	**Minimum Lot Width**	200 feet
Setbacks:			
Front Yard	50 feet	**Maximum Building Height**	40 feet
Side Yard	11 feet	**Maximum Lot Coverage**	25%
Rear Yard	40 feet		

CHAPTER 16
I INDUSTRIAL DISTRICT

SECTION 16.01 – Purpose

The intent of this district is to provide appropriate locations within the Township for those intense industrial and related uses that offer employment opportunities and tax base to the community. Such locations are to be served by public services and facilities with adequate capacity. This district is specifically designed to prevent potentially negative impacts such as heavy traffic, continuous operation, odor, noise, or visual obtrusiveness from encroaching into areas or districts where they would be incompatible.

SECTION 16.02 – Permitted Uses

The following uses shall be permitted within this district, by right:

A. Accessory Buildings and Uses
B. Building Material Sales
C. Commercial Schools
D. Day Care, Commercial
E. Kennels
F. Manufacturing and Processing
G Medical/Dental Offices and Clinics
H. Municipal Buildings
I. Public Buildings and Public Utility Offices
J. Research and Development Facilities
K. Vehicle Repair
L. Veterinary Hospitals and Clinics
M. Warehouse
N. Wholesale Business

SECTION 16.03 – Special Land Uses

The following uses may be permitted in this district, subject to the standards of Chapter 21:

A. Airports and Landing Fields
B. Commercial Removal and Processing of Soil, Sand and Gravel
C. Gun Clubs
D. Heating and Electrical Generating Plants
E. Junk Yards and Salvage Yards
F. Mini-Storage Warehouse
G. Nursery with or without retailing
H. Place of Public Assembly, Large
I. Planned Unit Development
J. Production, Refining, or Storage of Petroleum Products
K. Sawmills
L. Sexually Oriented Business
M. Telecommunication Tower
N. Truck and Freight Terminal
O. Waste Treatment or Disposal Services, including Incinerators

SECTION 16.04 – District Regulations

The following dimensional requirements shall be met for any use permitted within the I district, unless otherwise provided herein.

DISTRICT REGULATIONS			
Minimum Lot Area	2 acres	**Minimum Lot Width**	250 feet
Setbacks:			
Front Yard	100 feet	**Maximum Building Height**	40 feet
Side Yard	20 feet	**Maximum Lot Coverage**	40%
Rear Yard	75 feet		

CHAPTER 17
WELLHEAD PROTECTION OVERLAY ZONE

SECTION 17.01 – Purpose

A. Niles Charter Township has determined that:

1. Certain groundwater underlying the Township is the source of public drinking water for existing and developing areas of the Township.
2. Groundwater aquifers are integrally connected with the surface water, streams, drains and the St. Joseph River which constitute significant public health, recreational and economic resources of the Township and surrounding area.
3. Spills and discharges of petroleum products, sewage and hazardous substances threaten the quality of the groundwater supplies and other water related resources, posing potential public health and safety hazards and threatening economic losses.

B. Therefore, Niles Charter Township has enacted an Overlay Zone to initiate the following actions:

1. Preserve and maintain existing and potential groundwater supplies, aquifers, and groundwater recharge areas for the township water supply, and to protect them from adverse land use development or land use practices.
2. Preserve and protect sources of drinking water supply for public health and safety.
3. Conserve the natural resources of the Township and the surrounding area.
4. Provide a level of protection of the financial investment that the Township has in its drinking water supply.
5. Assure that State regulations which help protect groundwater are implemented consistently when new or expanded development proposals are reviewed.

SECTION 17.02 – Permitted and Prohibited Uses

Within the area defined as the Wellhead Protection Overlay Zone on the Official Zoning Map of Niles Charter Township, permitted land uses shall include all those permitted uses as allowed in the underlying zoning district, except for the following:

A. Production, Refining or Storage of Petroleum Products

B. Junk Yards and Salvage Yards

C. Waste Treatment or Disposal Services, including Incineration

D. Vehicle Repair

E. All Manufacturing and Processing Operations Involving the Manufacture or Processing of Chemicals, Solvents, Paint, Plating Compounds or Hazardous Materials of any kind. This may include, but not be limited to:

1. Laundry and dry cleaner operations.
2. Electronic equipment manufacturing operations.
3. Electro-plating and chemical coating operations.
4. Other similar uses utilizing chemicals on a commercial or industrial basis.

SECTION 17.03 – Overlay Zone Provisions

These provisions shall apply to all properties within the Wellhead Protection Overlay Zone, including private, commercial, industrial, residential and public properties, which use includes the storage or generation of hazardous substances in quantities greater than one hundred (100) kilograms (approximately two hundred and twenty (220) pounds or twenty-five (25) gallons per month, and which require site plan review under provisions of this Ordinance. These Provisions apply to entire property parcels, providing that the parcel is at least partially included in the Wellhead Protection Overlay Zone.

A. Groundwater Protection Standards

1. The project and related improvements shall be designed to protect the natural environment, including lakes, ponds, streams, wetlands, floodplains and groundwater, and to ensure the absence of an impairment, pollution, and/or destruction of water, natural resources, and the public trust therein.
2. Stormwater management and drainage facilities shall be designed to retain the natural retention and storage capability of any wetland, water body, or watercourse, and shall not increase flooding, or the potential for environmental contamination, on-site or off-site, and shall not result in loss of the use of property by any third party.
3. Industrial facilities with a point source discharge of storm water shall maintain a Storm Water Pollution Prevention Plan in accordance with applicable State and Federal regulations.
4. General purpose floor drains shall be connected to a public sewer system, an on-site holding tank, or a system authorized through a State surface or groundwater discharge permit. If connected to the public sewer system then the volumes and concentrations of waste discharged to the floor drain may require compliance with Niles Charter Township pre-treatment requirements.
5. Sites that at any time use, store or generate substances in quantities greater than one hundred (100) kilograms per month that include hazardous substances shall be designed to prevent spills and unpermitted discharges to air, surface of the ground, groundwater, lakes, streams, rivers or wetlands.

6. State and Federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without applicable permits and approvals.
7. Bulk storage of pesticides shall be in accordance with applicable County, State and Federal regulations.

B. Aboveground Storage and Use Areas for Hazardous Substances

1. Primary containment of hazardous substances shall be product tight.
2. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance. Products held in containers with a volume of less than forty (40) gallons and packaged for retail use shall be exempt from this item.
3. Outdoor storage of hazardous substances shall be prohibited except in product-tight containers which are protected from weather, leakage, accidental damage and vandalism, including an allowance of the expected accumulation of precipitation.
4. Accessory buildings, storage rooms, sheds and pole barns which are utilized as secondary containment shall not have floor drains which outlet to soil, public sewer system, groundwater, or nearby drains or natural water bodies unless a surface or groundwater discharge permit has been obtained pursuant to applicable County, State and Federal regulation.
5. Areas and facilities for loading and unloading of hazardous substances as well as areas where such materials are handled and stored, shall be designed and constructed to prevent unpermitted discharges to floor drains, rivers, lakes, wetlands, groundwater, or soils.

C. Underground Storage Tank Systems

1. Existing and new underground storage tanks shall be registered with the authorized State agency in accordance with applicable requirements of the U.S. Environmental Protection Agency and the Michigan Department of Environmental Quality.
2. Installation, operation, maintenance, closure, and removal of underground storage tanks shall be in accordance with applicable requirements of the Michigan Department of Environmental Quality (MDEQ). Leak detection, secondary containment, corrosion protection, spill prevention and overfill protection requirements shall be met.

D. Well Abandonment. Out of service wells shall be sealed and abandoned in accordance with applicable State requirements.

E. Well Construction

1. Well drilling, construction and installation shall only be performed by State of Michigan Registered Well Drillers.
2. Well construction shall be completed in accordance with Part 127 of Act 368 of the Public Acts of 1978, as amended, and rules.

3. Well construction shall include fully grouting the entire length of the well casing in accordance with Part 127 of Act 368 of the Public Acts of 1978, as amended, and rules.

F. Sites With Contaminated Soils and/or Groundwater

4. Site plans shall take into consideration the location and extent of any contaminated soils and/or groundwater on the site, and the need to protect public health and environment.
5. Information must be provided regarding the type, concentration and extent of identified contamination, land use deed restrictions and any remedial action plans.
6. Excavation, drilling, direct-push and other earth penetration shall be sealed with grout, or with soil material exhibiting lower hydraulic permeability than the native soil.

G. Construction Standards

1. The general contractor, or if none, the property owner, shall be responsible for assuring that each contractor or subcontractor evaluates each site before construction is initiated to determine if any site conditions may pose particular problems for handling any hazardous substances. For instance, handling hazardous substances in proximity to water bodies or wetlands may be improper.
2. Hazardous substances stored on the construction site during the construction process, shall be stored in a location and manner designed to prevent spills and unpermitted discharges to air, surface of the ground, groundwater, lakes, streams, rivers, or wetlands. Any storage container volume of over forty (40) gallons that contains hazardous substances shall have secondary containment.
3. If the contractor will be storing or handling hazardous substances that require a Material Safety Data Sheet (MSDS), the contractor shall familiarize him/herself with the sheet, and shall be familiar with procedures required to contain and clean up any releases of the hazardous substance.
4. Upon completion of construction, all hazardous substances and containment systems no longer used, or not needed in the operation of the facility shall be removed from the construction site by the responsible contractor, and shall be disposed of, recycled, or re-used in a proper manner as prescribed by applicable State and Federal Regulations.
5. Excavation, drilling, direct-push and other earth penetration shall be sealed with grout, or with soil material exhibiting lower hydraulic permeability than the native soil.

H. Maintenance. In areas where hazardous substances are handled, structural integrity of the building must be maintained to avoid inadvertent discharge of chemicals to soil and groundwater. Cracks and holes in floors, foundations and walls must be repaired in areas where hazardous substances are handled or stored.

I. Exclusions.

1. A limited exclusion from the Provisions of Section 17.03 is hereby authorized for hazardous substances as follows:

a. The hazardous substance is packaged for personal or household use or is present in the same form and concentration as a product packaged for use by the general public.

b. The total excluded substances containing hazardous substances may not exceed fifty (50) gallons or four hundred (400) pounds at any time.

2. A limited exclusion from the provisions of Section 17.03 is hereby authorized for non-routine maintenance or repair of property in the Wellhead Protection Overlay Zone provided the uses are limited as follows:

a. The aggregate of hazardous substances may not exceed fifty (50) gallons or four hundred (400) pounds at any time.

b. The total use of substances containing hazardous substances may not exceed one-hundred (100) gallons or eight hundred (800) pounds at any time.

SECTION 17.04 – District Regulations

In addition to the requirements of Chapter 23 Site Plan Review, the following information shall be provided on a site plan submitted for review to the Township:

A. The location and size of interior and exterior area(s) and structure(s) to be used for on-site storage, use, loading/unloading, recycling, or disposal of hazardous substances.

B. The location of all underground and above ground storage tanks for such uses as fuel storage, waste oil holding tanks, hazardous substance storage, collection of contaminated storm water or wash water, and all similar uses.

C. The location of existing and proposed wells.

D. The location of exterior drains, dry wells, catch basins, retention/detention areas, sumps, and other facilities designed to collect, store or transport storm water or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.

E. The areas on the site that the applicant has reason to believe are contaminated, together with a report on the status of any site remedial action plan and land use deed restrictions, if applicable.

SECTION 17.05 – Exemptions and Waivers

The transportation of any hazardous substance shall be exempt from the provisions of this Ordinance provided the transporting motor vehicle or rail is in continuous transit, or that it is transporting substances to or from a State licensed hazardous waste treatment, storage, or disposal facility.

CHAPTERS 18 - 20
RESERVED

CHAPTER 21
SPECIAL LAND USES

SECTION 21.01 – Scope

This Chapter provides a set of procedures and standards for uses of land or structures which, because of their unique characteristics, require special consideration in relation to the welfare of adjacent properties and the community as a whole. The regulations and standards herein are designed to allow practical latitude for the applicant and at the same time, maintain adequate provision for the protection of the health, safety, convenience, and general welfare of the residents of Niles Township. For purposes of this Ordinance, all Special Land Uses within the various districts are subject to the conditions and standards of this Chapter. In addition, individual uses shall conform to the specific standards cited in this Chapter 21, or Chapter 22, as applicable.

SECTION 21.02 – Purpose

A. An application shall be submitted to and reviewed by the Zoning Administrator for completeness. Each application shall be accompanied by:
   1. The payment of a fee as established by the Township Board;
   2. A completed application form, as provided by the Township, including a detailed narrative description of the proposed special land and a presentation of how the proposal responds to each of the review standards of this Chapter; and
   3. Site plans as specified in Chapter 23.

B. Applications for a Special Land Use shall be submitted at least thirty (30) days prior to the next regular Planning Commission meeting.

C. The complete application, along with the required site plans, shall be forwarded to the Planning Commission. Incomplete applications or plans will be returned to the applicant and will not be forwarded to the Planning Commission.

D. The Planning Commission shall hold a public hearing on the application in accordance with the provisions of Chapter 29.

E. The Planning Commission shall review the application and other information available to it through the public hearing, or from any other sources, including recommendations or reports from the Township planner, engineer, fire department, or other agencies or professionals. The Planning Commission shall approve, approve with conditions, or deny the request, and incorporate, as part of its motion, findings of fact that provide the basis for the decision and any conditions which will be imposed.

F. No Special Land Use application which has been denied shall be resubmitted for a period of one (1) year from the date of disapproval. The Planning Commission may choose to hear the

request prior to the one (1) year period if new and significant facts or conditions are presented which could alter its decision.

G. An approved Special Land Use shall be under construction within eighteen (18) months of such approval, except as noted below:

1. The Planning Commission may grant one (1), six (6) month extension of the eighteen months time period, provided the applicant requests the extension prior to the expiration date of the Special Land Use approval.
2. The extension shall be approved if the applicant presents reasonable evidence to the effect that said development has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period.
3. If neither of the above provisions are fulfilled or the six (6) month extension has expired prior to the start of construction, the Special Land Use approval shall be null and void.
4. The Planning Commission shall have the authority to revoke any Special Land Use approval after it has been shown that the holder of the approval has failed to comply with any of the applicable requirements of this Chapter, other applicable sections of this Ordinance, or conditions of the Special Land Use approval. Prior to any action, the Planning Commission shall conduct a public hearing following the notification procedures set forth in Chapter 29.

SECTION 21.03 – General Review Standards

A. In addition to the standards established for specific Special Land Uses set forth in this Chapter 21, an application for a Special Land Use approval shall satisfy the following general review standards which are basic to all Special Land Uses. The Planning Commission shall reach findings that a proposed Special Land Use will meet all of the following general review standards:

1. The proposed use is listed as a Special Land Use for that district in which said use is proposed to be located.
2. All special requirements for the proposed Special Land Use, if any, and all standards of the district, if any, in which the Special Land Use is to be located shall be fulfilled or met.
3. The Special Land Use must be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
4. The Special Land Use shall not inappropriately change the essential character of the surrounding area.
5. The Special Land Use shall not interfere with the general enjoyment of adjacent property owners, inhabitants, and guests.
6. The Special Land Use shall represent an improvement in, or to the use or character of the property under consideration, and the surrounding area in general, while also maintaining as closely as possible the natural environment of the site.

7. The Special Land Use shall not be hazardous to adjacent property, nor shall it involve uses, activities, materials or equipment which will be detrimental to the health, safety, or welfare of persons or property through the production of excessive traffic, noise, smoke, odor, fumes, glare or other conditions which will be significantly greater than current conditions in the vicinity.
8. The Special Land Use shall be adequately served by essential public facilities and services, or, in the alternative, it must be demonstrated that the person responsible for the proposed Special Land Use will be able to continually provide adequately for the services and facilities deemed essential to the Special Land Use under consideration.
9. The Special Land Use shall not place demands on public services and facilities in excess of available capacity.
10. The Special Land Use shall be consistent with the intent and purpose of this Ordinance and with the objectives of the Niles Charter Township Master Plan.
11. The proposed Special Land Use shall, at all times, be in compliance with all other Township, County, State, and Federal ordinances, laws, rules, and regulations.

B. The Planning Commission shall reach findings that a proposed Special Land Use will meet all of the standards for site plan review set forth in Chapter 23.

C. Conditions of Approval. The Planning Commission may stipulate additional conditions and safeguards deemed necessary to mitigate the impact of the proposed special land use on neighboring properties or the community or to achieve the objectives of this Ordinance or the Niles Charter Township Master Plan. Failure to comply with such conditions may result in the revocation of the Special Land Use approval. Any conditions imposed shall meet the following standards:

1. Conditions shall be necessary to meet the intent and purpose of the Zoning Ordinance.
2. Conditions shall relate to the standards established in the Ordinance for the land use or activity under consideration.
3. Conditions shall be necessary to insure compliance with Ordinance standards.
4. Conditions shall be necessary to protect the general welfare and individual property rights.

Section 21.04 – Adult Foster Care, Large and Small Group Homes

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed Adult Foster Care, Large Group Home shall meet the following specific Special Land Use standards.

A. An Adult Foster Care Group Home serving, or capable of serving, more than six (6) residents shall not be considered a single family dwelling.

B. An Adult Foster Care Group Home shall, as a condition of Special Use approval, at all times maintain all valid state and local licenses.

C. An Adult Foster Care, Large Group Home shall not be located within fifteen hundred (1,500) feet of any other Foster Care Facility.

D. An Adult Foster Care, Large Group Home shall be located on, and take direct access from a paved, all-season road or highway.

E. An Adult Foster Care, Small Group Home shall not be located within five hundred (500) feet of any other Foster Care Facility.

Section 21.05 – Airports and Landing Fields

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed Airport or Landing Field shall meet the following specific Special Land Use standards.

A. Private 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.

B. The elements of safety, design, and construction of a private airport facility shall be certified by an aviation engineer licensed in the State of Michigan.

C. 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.

D. Land Use 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.

E. 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.

Section 21.06 – Agricultural Labor Housing

In addition to the standards of Section 21.03, the Planning Commission shall find that proposed Agricultural Labor Housing shall meet the following specific Special Land Use standards.

A. A site plan pursuant to Chapter 23 shall be required prior to the construction, placement or use of Agricultural Labor Housing.

B. Agricultural Labor Housing shall be located on a parcel of land use that is primarily used for agricultural purposes and shall be considered an accessory use to such agricultural purposes.

C. Agricultural Labor Housing shall be located on a parcel of at least ten (10) acres in area.

D. Agricultural Labor Housing shall meet all setback standards of the AP Agriculture Preservation District.

E. Agricultural Labor Housing shall at all times comply with all rules, regulations and standards of the State of Michigan Department of Agriculture and Rural Development which governs the licensing and operation of migratory worker dwellings, as well as all applicable requirements of the Berrien County Health Department and any other local, State or Federal requirements.

F. Agricultural Labor Housing shall provide a minimum of 100 square feet of habitable space per occupant. The term 'habitable space' shall be as defined by the Michigan Department of Agriculture and Rural Development's Agricultural Labor Camp Rules, as authorized by Part 124 of Act 368 of 1978, as amended (MCL 333.12421).

G. Agricultural Labor Housing shall only be occupied between the dates of April 1 and November 30 of a calendar year.

H. The size, location, access and character of the proposed Agricultural Labor Housing shall be generally compatible with existing residential areas and not detract from existing scenic areas. The Planning Commission may require greater setback and screening regulations based on the use and compatibility of adjacent property.

I. The owner or operator of the farm served by the Agricultural Labor Housing shall ensure that occupants of the housing maintain reasonable quiet hours at night.

J. Agricultural Labor Housing shall only be used for the housing of persons primarily employed by the owner of the farm and the employee's immediate family.

K. Vehicular parking areas shall be clearly delineated and arranged in an orderly manner. Parking areas shall not be located within the required front yard as defined in this Ordinance.

Section 21.07 – Bed and Breakfast Establishment

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed Bed and Breakfast Establishment shall meet the following specific Special Land Use standards.

A. The establishment shall be serviced by water and sanitary sewer services approved by the Berrien County Health Department.

B. The uses shall only be established in a detached single family dwelling.

C. Parking shall be located to minimize negative impacts on adjacent properties.

D. The lot on which the establishment is located shall meet the minimum lot size requirements of the zone district.

E. The total number of guest rooms in the establishment shall not exceed six (6).

F. Exterior refuse storage facilities beyond what might normally be expected for a detached single family dwelling shall be screened from view on all sides by a six (6) foot solid, decorative fence or wall.

G. One (1) sign shall be allowed for identification purposes. The sign shall not exceed sixteen (16) square feet in area, and may not exceed four (4) feet in height. If illuminated, the

illumination shall only be directed downward; internally lighted signs are not permitted. The sign shall be set back at least one-half (½) of the front yard setback area of the zoning district in which the use is located, and shall be located at least fifteen (15) feet from any side or rear lot line.

H. The establishment shall contain the principal residence of the operator.

I. Accessory retail or service uses, including but not limited to gift shops, antique shops, bakeries, and other similar uses shall be prohibited.

J. Meals may be served only to the operator's family, employees, and overnight guests.

SECTION 21.08 – Campgrounds

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed public or private Campground shall meet the following specific Special Land Use standards.

A. Campgrounds shall only be placed on parcels of twenty (20) acres or greater.

B. Individual camp sites, accessory buildings and similar features shall be isolated from surrounding single-family residential uses or similar camps and campground uses by screening, distance or other means satisfactory to the Planning Commission to protect the quiet enjoyment and aesthetic values of adjoining properties.

C. Campgrounds shall comply with site design standards set forth by the Michigan Department of Environmental Quality.

D. As part of a submittal for special land use approval for a Campground, the applicant shall present a detailed management plan for the facility. Such management shall include, but not be limited to, the following information and the continued compliance with the terms of the management plan shall be a condition of any approval granted under this section:

   1. The total number of campsites proposed
   2. The maximum permitted duration of residency
   3. The general nature of camping shelters, recreation vehicles and related equipment anticipated on site
   4. The nature of services and facilities to be offered to facility users
   5. Policies and enforcement procedures to deal with noise, rowdy behavior, and similar nuisance activities
   6. The hours and seasons the facility will operate
   7. Any other information determined by the Zoning Administrator or Planning Commission to be necessary to properly evaluate the proposed request.

E. Campgrounds shall obtain and maintain any required state licensing.

F. When applicable, camps and campgrounds shall comply with all requirements of the Berrien County Health Department.

SECTION 21.09 – Commercial Removal and Processing of Soil, Sand, Gravel, or other Mineral Resources (Mineral Removal)

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed mineral removal operation shall meet the following specific Special Land Use standards.

A. Intent. Niles Charter Township recognizes that certain valuable natural resources may exist in the Township which can only be used if extracted from the earth. It is further recognized-that mineral extraction, by its nature, can present very serious consequences that can be devastating to the environment, the value of property in the community, the health and safety of the people, and the general public welfare. Accordingly, the Planning Commission shall evaluate a proposed earth removal, quarrying, gravel processing, mining and related mineral extraction business and may approve such operation upon a finding that no very serious consequences, as defined in Section 205 of the Michigan Zoning Enabling Act (MCL 125.3205), will result. In reaching such finding, the Planning Commission shall evaluate proposed measures to address or mitigate potential very serious consequences and consider the standards set forth in Silva v Ada Township, 416 Mich 153 (1982), as well as all of the following factors, if applicable:

1. The relationship of extraction and associated activities with existing land uses.
2. The impact on existing land uses in the vicinity of the property.
3. The impact on property values in the vicinity of the property and along the proposed hauling route serving the property, based on credible evidence.
4. The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property.
5. The impact on other identifiable health, safety, and welfare interests in the local unit of government.
6. The overall public interest in the extraction of the specific natural resources on the property.

B. Location:

1. All such operations shall be located near a primary road, as defined by the Berrien County Road Commission, for ingress and egress thereto; and on a road which if used as the access to the proposed operation will not result in significant increase in truck traffic through an area developed primarily for residential purposes. Where necessary as determined by the Planning Commission, the Commission may require the applicant to construct and/or improve a road to accommodate the truck traffic created by the operations as a condition of the permit, and for the purpose of routing traffic around residential areas and preventing the breaking up of existing roads, that may not be constructed to accommodate a large volume of heavy vehicles.
2. Sufficient setbacks of mining, excavation and extraction activities shall be provided from all property lines and public highways to assure adequate lateral support for adjacent public and private property. No excavation operations shall be permitted closer than 150 feet

from interior boundary lines of the property. Larger setbacks may be required by the Planning Commission to adequately protect adjoining properties. However, if the adjoining property is also used for mining and excavation operations, then the Planning Commission may reduce or eliminate the required setback from the interior boundary line. Such required setback may be temporarily reduced to fifty (50) feet by the Planning Commission; if reclamation of the land is promptly effected to increase the setback to at least one hundred fifty (150) feet in accordance with the reclamation plan approved by the Commission, and adequate lateral support is at all times maintained. However, any temporary reduction in a required setback shall be conditioned upon specific written assurances by the applicant detailing the date(s) such reduced setback shall occur and the date by which reclamation to increase the setback to one hundred fifty (150) feet shall be completed. Failure of the applicant to comply with said written assurances shall be grounds for revocation of the temporary setback reduction permit and for revocation of the special use permit in its entirety.

3. No such excavation operation shall be permitted within fifty (50) feet of the 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.

4. Processing of excavated or imported materials, including washing, screening, crushing and stockpiling may be incorporated in an operational plan as set forth in Subparagraph F hereof, providing any such processing plant and its accessory structures and digging or excavating apparatus, and areas where stockpiling and loading of materials occurs, shall be located no closer than two hundred fifty (250) feet from the interior property lines and adjoining public rights-of-way. Where practicable, processing operations shall be located at a lower elevation than the surrounding terrain to lessen visual and noise impact. All areas used for parking or storage of equipment shall also comply with this requirement, to the extent practical. In those instances where the applicant believes it to be impractical to locate processing and parking activities at an elevation lower than surrounding terrain, the applicant may request a waiver accompanied by a detailed explanation of such impracticability. The Planning Commission shall evaluate the materials submitted and reach a finding regarding a waiver of this standard.

5. No excavation or processing operation shall be located within one hundred (100) feet of the banks of any stream or waterway unless previously approved, in writing, by the Michigan Water Resources Commission or such other state agency having jurisdiction thereof. No such mining, excavation, processing, or related operations shall interfere with the natural established flow of surface waters to the detriment or damage of adjoining public or private properties.

C. Sight Barriers. Sight barriers shall be provided along all boundaries of the site which lack natural screening conditions. Such barriers shall consist of one or more of the following:

1. Earth berms constructed to a height of six (6) feet above the mean elevation of the centerline of the adjacent public road; 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 four (4) feet horizontal and shall be planted with grass, trees, and/or shrubs.

2. 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. The trees and shrubbery shall be spaced to provide effective sight barriers.
3. 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.

D. Nuisance Abatement:

1. Noise generated shall not exceed eighty (80) decibels at the property line. Vibration shall be minimized in its effect upon adjacent properties by the utilization of modern equipment designed and maintained to accomplish such minimization and by the proper use of berms, walls, and natural planting screens. All equipment shall be located, maintained and operated in such a manner so as to eliminate, as far as practicable, noise and vibrations which are discernable outside the boundaries of the property.
2. Air pollution in the form of dust and dirt shall be kept to a minimum by the use of equipment and methods of operation which avoid any excessive dust or dirt or other air pollution injurious 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.
3. Hours – The operation shall be restricted to the hours of 7:00 a.m., until 7:00 p.m. and no operations shall be allowed on Sundays or legal holidays. The Planning Commission may require shorter hours of operation of certain activities such as hauling or processing where the proposed use is to be located in or near an area where residential uses exist because of the very serious consequences that noise, dust, and traffic have upon residential uses.
4. Traffic – The operation shall be managed and controlled so that truck and heavy equipment traffic generated by the use is controlled by the permit holder and haul routes to and from the site shall be approved by the Planning Commission.
5. Fencing – All dangerous excavations, pits, 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.
6. Security – The Planning Commission may require on-site security provisions to be provided to protect the site and adjoining areas from danger of unauthorized entry or operations. However, no on-site security shall be permitted which has the effect of creating a condition of noise or glare of lights.
7. Maximum Area – Mining, excavating and extraction of minerals shall be limited to an area of five (5) acres or less at all times. No expansion of the area of mining, excavation or extraction shall occur until reclamation and rehabilitation of previously mined areas have been completed in conformity to the approved site plan, so as to limit the area actively

being used plus the area where mining has occurred but which has not yet been fully reclaimed and rehabilitated to no more than five (5) acres in total, at any time.

8. Prior to receiving approval of any special use permit, the applicant shall submit, in addition to all other information required by this Chapter, a detailed plan for review by the Planning Commission showing the proposed end use and a specific schedule for extraction, processing and reclamation activities. The proposed plan shall be reviewed annually by the Planning Commission for comparison of actual progress to the applicant's proposed schedule.
9. The Township Zoning Administrator shall be authorized to enter the subject property at any time during the permitted hours of operation for the purpose of inspecting the operations for compliance with the requirements of the special use permit and this Ordinance.

E. Reclamation of Mined Areas:

1. Reclamation and rehabilitation of mined areas shall be accomplished 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 (1) acre or more. Substantial completion of reclamation and rehabilitation shall be effected within one (1) year after termination of mining or excavation activity.
2. 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 clean gravel, fill dirt, or recycled concrete of particles less than two (2) inches in diameter. Other non-noxious, non-flammable, and non-combustible solids may be used only with the express written permission of the Niles Charter Township Planning Commission, to ensure that:
      1) The excavated area shall not collect stagnant water and not permit the same to remain therein; or
      2) The surface of such area which is not permanently submerged is graded or back-filled 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 (1) foot vertical to four (4) feet horizontal.
   c. Top soil 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 (1) year period. Where used, topsoil shall be applied to a minimum depth of four (4) inches sufficient to support vegetation.
   d. Vegetation shall be restored by the appropriate seeding of grasses and/or the planting of trees and shrubs to establish a permanent vegetative cover on the land surface and to minimize erosion.

e. Upon cessation of mining operations by abandonment or otherwise, the operating company, within a reasonable time period (not to exceed 12 months), 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.

3. A financial guarantee, in a form approved by the Township Board, shall be furnished to the Township Clerk, prior to commencing any operations, to ensure the rehabilitation and reclamation of the subject site in accordance with the approved plan and conditions of the special use permit. The amount of such guarantee shall be no less than $10,000 per acre for each acre proposed to be mined or excavated in the following twelve (12) months, plus $10,000 per acre for each acre previously mined or excavated but not yet restored in accordance with the approved plan and conditions of the special use permit. Mined areas resulting in a water depth of five (5) feet or more shall be deemed to be reclaimed areas to within fifteen (15) feet of any vertical shoreline thereof and to the extent of the shoreline, where the same has been sloped to a grade, as required by this Chapter. The financial guarantee shall be reviewed by the Zoning Administrator annually, on or about the anniversary date of the permit, for adjustment and compliance with the foregoing requirements. In no event, shall such financial guarantee be less than $10,000.

F. Submission of Operational Plans. No earth removal, quarrying, gravel processing, mining and related mineral extraction or recycling businesses shall be allowed or commenced until a plan has been submitted to the Planning Commission disclosing compliance with all of the provisions of this Ordinance or the manner in which compliance will be secured by the applicant. Such plans shall include, in addition to the requirements of Section 21.02, A, the following:

1. A detailed narrative description of the nature of mining, extraction and processing operations proposed to be conducted on site.

2. A contour map of the tract of land involved in the operations, including dimensions of the same, access thereto, abutting public roads, whether such roads are designated "all weather" roads, additional roads to be constructed, and the location and nature of proposed improvements on adjoining property.

3. The number of acres and the location of the phases to be undertaken within the following twelve (12) month period after commencement of operations.

4. The type of mining or processing proposed to be conducted and the nature of the equipment to be used. Specific information shall be provided concerning the applicant's plan for controlling traffic, hours of operation, noise, pollution, drainage, and security.

5. The location of the principal processing plant and the distance of any proposed excavation or mining from the boundaries of the site; and the location and layout of loading areas and parking areas proposed to be used for storage.

6. 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

any boundary of the site. Said soil boring tests shall disclose conditions satisfactory for lateral support of adjacent premises as determined by the Township engineer. The written consent of the owners of adjoining property and Planning Commission approval shall be required if mining operations shall be located closer to the site boundaries than specified within the Ordinance.

7. A map or plan disclosing the final grades and elevations to be established following the completion of the mining operation, including the proposed uses 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.
8. Documented description of the experience and background of the facility operator and key personnel to be on site.

G. Liability Insurance. All operators shall be required to carry personal injury and property damage insurance in the amount of not less than $100,000 for each person or property injured or damaged and not less than $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 the subject property as a result of conditions or activities existing upon the site. A copy of the policy shall be filed with the Township Clerk by the insurance carrier. The insurance required by this subsection shall be continuously in force until all areas within the subject property to which the special use permit applies have been fully reclaimed or rehabilitated in conformity with the reclamation plan. Failure to maintain liability insurance in full force at all times shall result in immediate suspension of a special land use permit.

H. Administration and Enforcement.

1. In considering an application for a special land use for a mineral removal operation under this section, the Planning Commission shall consider the following criteria in reaching a decision:
   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, as well as natural resources, and the general and appropriate trend and character of development in the general vicinity of the subject property;
   d. The protection and preservation of the general health, safety, and welfare of the Township;
   e. The effect of the proposed use upon existing public services and facilities;
   f. The scarcity or value of the minerals sought to be mined as compared with the effect of the proposed operations upon the adjacent community; and
2. In making its decision, the Planning Commission shall have the authority to impose such conditions and safeguards as it deems necessary to ensure compliance with the

requirements and standards of this section. The Planning Commission may also impose reasonable time limits on the special use permit and provide for a periodic review of the proposed operations to ascertain compliance with the conditions and limitations. The Planning Commission is further empowered to renew or extend the special use permit where all standards and conditions are complied with and may revoke or refuse to renew the same for noncompliance. No revocation or failure to renew or extend a permit shall release the applicant from the duty of rehabilitation and reclamation. No permit shall be revoked or not renewed until the operator has been given written notice of any violation forming the basis of such action and given at least thirty (30) days to correct the violation.

3. The operator shall be required to pay an annual fee to cover the cost of inspections and additional meetings of the Planning Commission. Such fee shall be in accordance with any fee schedule established by the Township Board for administration of this Ordinance.

SECTION 21.10 – Reserved

Section 21.11 – Conventional Residential Subdivisions and Site Condos

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed conventional residential subdivision or site condo shall meet the following specific Special Land Use standards.

A. The Niles Charter Township Master Plan sets forth the policies of the Township regarding the preservation and enhancement of the community's natural character. In those parts of the Township that include prime or unique agricultural lands and/or are characterized by important natural features, proposed developments that fail to properly recognize those features or incorporate measures to protect and preserve them are hereby found to be generally at odds with the policies of the Master Plan. Therefore, in the RP, R-1A and R-1B districts, the subdivision and development of property for residential uses shall be undertaken primarily through exempt splits or divisions not subject to the platting requirements of the Land Division Act or the Condominium Act, or as Open Space Subdivisions or Site Condominiums pursuant to Section 3.30 of this ordinance. In the AP District, the subdivision and development of property for residential uses shall be undertaken primarily through exempt splits or divisions not subject to the platting requirements of the Land Division Act or the Condominium Act, or pursuant to Section 21.43. It is understood that there may be areas of the Township within the RP, R-1A and R-1B districts where the provisions of Section 3.30 may not be appropriate, or there may be particular development forms that do not include significant areas of open space but which nevertheless do substantially support the policies of the Master Plan. The purpose of this section is to provide standards and conditions to address those areas of the Township and those development forms as Special Land Uses.

B. An application to undertake a Conventional Residential Subdivision or Site Condominium in the RP, R-1A or R-1B districts shall include a written narrative demonstrating why the particular parcel is a poor site for a Conservation Subdivision pursuant to Section 3.30.

Reasons why a property may be a poor site for application of the standards of Section 3.30 include:

1. A lack of any identified significant natural features; and/or
2. A lack of prime or unique agricultural soils; and/or
3. A predominant pattern of development adjacent to and in the immediate vicinity of the site which would make the protection of agricultural lands or open space on the parcel of little value; and/or
4. The concealed location of the site which would preclude any open space on the site from contributing to the rural character of the community; and/or
5. A demonstration that the proposed residential subdivision would be more in keeping with the goals and objectives of the Niles Charter Township Master Plan than other feasible forms of development.

C. The Planning Commission shall conduct a detailed inquiry of any proposal to undertake a Residential Subdivision in the RP, R-1A or R-1B districts and carefully apply the standards of this section. The Planning Commission may seek additional detail of the applicant to determine whether the parcel may be used for agricultural or other permitted purposes or be developed under Chapter 22, Planned Unit Development with minor reconfiguration or adjustment.

D. Where a proposed Conventional Residential Subdivision or Site Condominium will abut an existing residentially zoned and improved parcel, the Planning Commission may require buffering, screening, setbacks and/or other elements that are greater than those otherwise required by this ordinance to assure an attractive and harmonious transition from existing development patterns to the proposed development.

Section 21.12 - Day Care, Group Facilities

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed group Day Care facility shall meet the following specific Special Land Use standards.

A. The group day care shall not be located closer than 1,500 feet to any of the following:

1. Another licensed group day-care home.
2. Another adult foster care small group home or large group home licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.
3. A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed under article 6 of the public health code, 1978 PA 368, MCL 333.6101 to 333.6523.
4. Community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the department of corrections.

B. The operator shall maintain the property consistent with the visible characteristics of the neighborhood.

C. The group day care shall not exceed 16 hours of operation during any 24-hour period. There shall be no more than two (2) clients under care between the hours of 10 p.m. and 6 a.m.

D. Signs used by the group day care shall be in accordance with Chapter 25.

E. There shall be provided, equipped and maintained, on the premises, a minimum of one hundred and fifty (150) square feet of usable outdoor recreation area for each client of the facility.

F. The outdoor recreation area shall be fenced with a decorative fence or wall, and landscaped.

G. Required off-street parking, as well as off-street pick-up and drop-off areas shall be provided.

H. The applicant shall provide evidence of the ability to comply with all applicable State licensing requirements.

Section 21.13 – Drive-Through Facilities

In addition to the standards of Section 21.03, the Planning Commission shall find that a drive through facility shall meet the following specific Special Land Use standards.

A. The applicant shall document that the site provides sufficient stacking capacity for the drive-through portion of the operation to ensure that traffic does not extend into the public right-of-way. In all cases, stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the property by vehicles not using the drive-through portion of the facility.

B. In addition to parking space requirements for the specific use, at least two (2) off-street parking spaces shall be provided, in close proximity to the exit of the drive-through portion of the operation, to allow for customers waiting for delivery of orders, as needed.

C. The proposed site shall front upon a paved public street. All ingress and egress shall be from said street.

D. The parking and maneuvering areas of the site shall be screened from the view of any abutting Residential District in accordance with the requirements of Section 3.13.

E. Outdoor speakers for the drive through facility shall be located in a way that minimizes sound transmission toward adjacent property.

F. For proposed restaurants with drive through facilities, the following additional requirements shall apply:

   1. If the facility abuts a residential district, Planning Commission may restrict the hours of operation of the drive-through.

   2. The minimum front setback shall be seventy-five (75) feet. No parking area, except for entrance driveways, shall be located within the first fifty (50) feet adjacent to the right-of-way. This area shall be landscaped.

3. Trash receptacles used by the employees of the facility shall be enclosed on all sides by a solid, sight-obscuring fence or wall constructed of decorative material, approved by the Planning Commission.

Section 21.14 – Dwelling, Accessory

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed accessory dwelling shall meet the following specific Special Land Use standards.

A. A proposed accessory dwelling that is an individual, free-standing structure shall not be out of character with the surrounding neighborhood.

B. An accessory dwelling which is included within the principal building, shall be provided with a separate, lockable entrance from the outside and any interior connections between the accessory dwelling and the principal dwelling shall be equipped with a lockable passage door.

C. A proposed accessory dwelling shall be located on a parcel that meets or exceeds the lot area and width requirements of the zoning district and, in no instance, shall such parcel be less than 10,000 square feet in area nor 60 feet of width.

D. Such accessory dwellings shall conform to all dimensional, structural and maintenance requirements of this ordinance and the Building Code.

E. Accessory dwellings shall have a minimum of 400 square feet, and no more than 650 square feet of living area.

F. Not more than one (1) accessory dwelling shall be permitted on any one (1) parcel.

G. At least one (1) off-street parking space shall be provided for an accessory dwelling.

H. The applicant shall provide written property rental, management and maintenance rules and procedures which the Planning Commission must find adequate to assure that the Accessory Dwelling remains compatible with the neighborhood in which it is located.

Section 21.15 – Dwelling, Multiple Family

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed multiple family dwelling shall meet the following specific Special Land Use standards.

A. Parking areas intended for the use of residents of Multiple Family Dwellings shall be located within two hundred (200) feet of the building.

B. In the LB District, dwelling units shall not be located on the street level or basement except in those locations where resident privacy can be provided by building design, courtyards, topography or similar design; such as daylight or walkout dwelling units along the riverfront or into a secured and private side or rear yard. Provided, however, that in a mixed-use building located in the LB District, the street level of a Multiple Family Dwelling structure shall be

dedicated to retail, commercial or office uses for a depth of not less than twenty (20) feet from the street.

C. No Multiple Family Dwelling structure shall be located closer than twenty (20) feet from any other structure located on the same parcel.

D. Groups of Multiple Unit Dwellings located on one parcel shall have common ownership. For the purposes of this paragraph, a condominium unit shall be considered a single parcel.

E. Safe pedestrian and vehicular circulation patterns shall be established in group building developments, as determined by the Planning Commission.

Section 21.16 – Reserved

Section 21.17 – Dwelling, Two Family

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed two family dwelling shall meet the following specific Special Land Use standards.

A. Two family dwellings in the R-1B district shall not be located on parcels in the interior of neighborhoods, but may be located at intersections of arterial streets with neighborhood streets.

B. Two family dwellings in the R-1B district shall be located on parcels with not less than 90 feet of lot width.

C. No existing single family dwelling located in the R-1B district shall be converted into a two family dwelling, except as a special land use in conformance with the requirements of this section.

Section 21.18 – Golf Courses and Country Clubs

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed golf course or country club shall meet the following specific Special Land Use standards.

A. The site shall be so planned to provide all access directly onto or from a paved street.

B. All structures shall be at least one hundred (100) feet from any lot line abutting a Residential District.

C. The off-street parking area shall be so arranged as to provide the most safety for pedestrians, and ease of vehicular maneuvering.

D. The off-street parking area shall be at least fifty (50) feet from any lot line abutting a Residential District.

E. Accessory uses like pro shops, restaurants and lounges, and golf driving ranges may be permitted to serve the golf course or country club customers or members, subject to meeting any applicable zoning or special land use requirements for such uses.

F. Golf driving ranges shall be sufficient in size to retain balls within the site by means of landscaping, a berm or a six (6) foot high fence. Netting shall be prohibited unless the Planning Commission determines that it would be compatible with surrounding uses.

G. If required by the Planning Commission, a hydrologic impact assessment shall be provided describing the existing ground and surface water resources including, but not limited to, a description of the water table, direction of groundwater flow, recharge and discharge areas, lake levels, surface drainage, floodplains, and water quality as well as the projected impact of the proposed development on the resources, in particular impacts associated with water supply development, wastewater disposal, and storm water management.

Section 21.19 – Gun Clubs

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed gun club shall meet the following specific Special Land Use standards.

A. Minimum lot area of forty (40) acres.

B. The proposed shooting area shall be designed in conformance with the *Range Source Book* as published by the National Rifle Association, and the applicant shall provide an engineer's certification that the facility has been so designed and constructed.

C. A minimum setback of two hundred and fifty (250) feet from all lot lines shall be established where no shooting activities shall take place.

D. Hours of operation shall not begin before 9:00 a.m., nor end later than sundown.

E. The use shall not be located any closer than one-quarter (1/4) mile from any church, school, park or similar place of public assembly.

F. Rifle and pistol ranges shall have adequate backstops.

Section 21.20 - Heating and Electrical Generating Plant

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed heating and electrical generating plan shall meet the following specific Special Land Use standards.

A. A proposal to establish a Heating and Electrical Generating Plant shall not be approved unless the Planning Commission reaches a finding, based on objectively verified evidence, that all processes to be used in the handling of fuel material, the combustion of fuels, the disposal of any byproduct, the handling of cooling water, the transmission of electrical energy, the handling of process chemicals and liquids, the maintenance of equipment and all processes and procedures associated with the facility shall be the most advanced such systems in terms of the following criteria:

   1. Potential environmental impacts on air, surface water, ground water, soils, and natural features, shall be minimized or fully mitigated,

   2. Potential community impacts on nearby land uses, public infrastructure and the economic

vitality of the community shall be demonstrated to be either neutral or positive,

3. Potential impacts on the health of residents of Niles Charter Township and surrounding communities and on plant and wildlife communities in the vicinity shall be negligible,
4. Potential safety impacts on the residents of Niles Charter Township and surrounding communities and employees of the facility shall be fully and adequately addressed.

B. The applicant shall fully disclose:

1. The nature and quantity of all fuels, chemicals, hazardous materials to be used or stored on site and all uses and activities shall at all times comply with all applicable State and Federal requirements pertaining thereto.
2. All operating and procedural details of the proposed facility including, but not limited to, equipment specifications, maintenance schedules, capital replacement schedules and plans for eventual decommissioning of the facility.
3. The chemical constituents of all emissions to the air, groundwater and surface waters.
4. The organizational, capital and operating financial structure for the proposed facility including resumes of officers, all members of the board of directors and key technical staff assisting in the development.
5. The proposed phasing of the project including any change in ownership of the facility during development or following start-up.
6. All required federal, state and local permits needed for facility operation, the procedures for permit application, the standards for review and approval, the specific agencies responsible for permit review and the status of all such permit applications.

C. An application for a Heating and Electrical Generating Plant shall include an environmental assessment in accord with the requirements of Niles Charter Township as established by the Zoning Administrator.

D. Wastewater discharges to a public wastewater system shall, at all times, conform to the requirements of the system's operating agency. No toxic or hazardous materials shall be discharged to groundwater or surface waters. No process or cooling waters shall be discharged to any surface water body other than cooling ponds completely contained within the boundaries of the site and protected from any access by the public.

E. All manufacturing and processing activities shall take place inside a fully enclosed building or structure. Outdoor storage shall be permitted but shall be buffered with a wall of evergreens, or 6-foot tall fencing designed to be compatible with the surrounding neighborhood.

F. The application shall provide for measures acceptable to the Planning Commission to prevent any noise in excess of 60 decibels at any property line.

G. All local, county, state, and federal laws, statutory, and regulatory requirements shall be met at all times. 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.

H. In addition to the provisions of Section 3.13, the Planning Commission may require

additional open space and landscape buffer to screen the proposed special use from adjacent property.

Section 21.21 – Reserved

Section 21.22 – Home Occupation, Major

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed major home occupation, or a minor home occupation which no longer meets the standards of Section 3.20, shall meet the following specific Special Land Use standards.

A. The home occupation shall be conducted entirely within enclosed structures and shall be limited to not more than thirty-five percent (35%) of the principal residence of the person engaging in the home occupation and not more than two approved accessory buildings.

B. The home occupation shall be an accessory use to the residential use of the property.

C. The activities and carrying on of the home occupation shall be operated in such a manner that other residents of the area, under normal circumstances, would not be aware of the existence of the home occupation. The major home occupation shall not create an electrical interference with the transmission of television, cellular, wireless service, or radio in the area which exceeds that which is normally produced by a residential dwelling unit in the district.

D. With the exception of material purchased over the counter for household cleaning, lawn care, operation of a photocopy machine, paint, printing, arts and craft supplies or heating fuel, the home occupation(s) shall not involve the generation or use of any hazardous substance.

E. All parking associated with the home occupation shall be on the parcel where the home occupation is taking place and parking for not more than four (4) automobiles may be constructed in addition to the area of the driveway in existence prior to the establishment of the home occupation.

F. Only the inhabitants of the residence plus not more than three (3) non-residents shall be employed on site by the home occupation.

G. Any change or alteration in the nature or activities of a Home Occupation shall be regarded as a new Home Occupation and shall require a new application hereunder.

H. Signage for a major home occupation shall be limited to one (1) non-illuminated sign of color and style compatible with the residence mounted to the residence or to a pole immediately adjacent to the residence and no taller than the first story eaves, with an area not to exceed six (6) square feet.

I. The major home occupation shall provide sufficient solid waste receptacles sufficiently screened and maintain the property free of debris.

J. On-site sale of merchandise shall be by appointment only. Only those materials produced on

the premises as a result of the home occupation, or are clearly related and incidental to the home occupation, may be provided for sale. No merchandise or articles for sale may be displayed outdoors.

K. For the purposes of this section, multiple home occupations or combined home occupations shall be regarded as, and comply with the requirements of a single home occupation.

L. Prohibited uses. Under no circumstances shall the following be considered a minor home occupation:

1. Warehousing and rental of storage space for gain.
2. Junkyards
3. Sexually Oriented Business
4. Bed and Breakfast

Section 21.23 – Hospital

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed hospital shall meet the following specific Special Land Use standards.

A. Minimum lot area shall be five (5) acres.

B. The proposed site shall front upon a major or minor arterial road, as defined herein. The ingress and egress for all off-street parking facilities, deliveries, and emergency vehicles shall be directly from said street or streets.

C. Minimum main and accessory building setbacks from all lot lines shall be one hundred (100) feet.

D. Ambulance and emergency entrance areas shall be visually screened from view of adjacent residential uses by a structure or by a sight-obscuring wall or fence of six (6) feet in height.

E. No more than twenty-five percent (25%) of the gross site area shall be occupied by buildings, excluding parking structures.

F. Any hazardous materials proposed to be stored, used or handled on site shall be disclosed by the applicant and all such storage, use and handling shall be conducted in accordance with applicable State or Federal requirements.

G. Helicopter landing pads may be permitted as accessory uses.

Section 21.24 – Indoor Commercial Recreation and Entertainment Facility.

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed indoor commercial recreation and entertainment facility shall meet the following specific Special Land Use standards.

A. The proposed site shall front upon a paved public street. All ingress and egress shall be from that street.

B. Any lot line abutting a Residential District shall provide a fifty (50) foot wide greenbelt in accordance with Section 3.13.

C. The main and accessory buildings and structures shall not be located within one-hundred (100) feet of any Residential District boundary.

Section 21.25 - Junk Yards

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed junk yard shall meet the following specific Special Land Use standards.

A. Applications for a Special Land Use approval for establishment of a salvage or junk yard shall also require submission of a detailed proposal identifying the predominant type of salvage or junk to be received, the methods of separation and recycling, and ultimate destination of waste materials. The applicant shall be required to submit written materials outlining measures taken to comply with all necessary state, county, and local laws.

B. The site shall front upon and have direct access to a major or minor arterial road, as defined herein to ensure safe, direct transport of salvage to and from the site.

C. No portion of the storage area shall be located within two hundred (200) feet of any Residential District or residential lot line.

D. Any outdoor storage area shall be completely enclosed by a fence or wall at least eight (8) feet in height, but no more than ten (10) feet, and constructed of a sturdy, durable material. The fence shall be sufficiently opaque to ensure that none of the stored material is visible from outside the storage area. The fence or wall shall have a minimum of two (2) non-transparent gates not exceeding forty-eight (48) feet in width providing access to the storage area for vehicles but shall not allow direct view of the storage area from adjacent properties or streets. Said fence or wall shall be continuously maintained in good condition and shall include only approved signs.

E. Stored materials shall not be stacked higher than ten (10) feet, and shall be stored in a manner so as not to be visible from adjoining properties or rights-of-way. The piles shall not encompass more than seven hundred (700) square feet. A clear distance of twenty (20) feet shall be maintained between each pile.

F. The fence or wall enclosing the storage area shall meet the applicable building setback requirements.

G. A management office shall be provided on site. A residence may be permitted for security personnel or on-site operator.

H. Conditions within the storage area shall be controlled to minimize the hazards of fire and other threats to health and safety.

I. All portions of the storage area shall be accessible to emergency vehicles.

J. Vehicles or vehicle bodies shall be stored in rows with a minimum of twenty (20) foot continuous loop drives separating each row of vehicles.

K. All batteries shall be removed from any vehicle, and all radiator and fuel tanks shall be drained prior to the vehicle being placed in the storage yard. Drainage shall take place in a confined, hard surfaced area with adequate containment facilities to retain spillage. Salvaged batteries, oil, and other similar substances shall be removed and disposed of by a licensed disposal company. No fluids removed from vehicles shall be applied as a dust control method.

L. Vehicle parts shall not be stored, loaded, unloaded, or dismantled outside the fence enclosing the salvage yard.

M. The application for special land use approval for a junk yard shall include a detailed description of proposed abatement measures and equipment to manage dust, vibration, odors, noise and other potential impacts on neighboring properties. The failure to maintain such systems and measures in effective operable condition shall constitute grounds for suspension of a special land use permit granted hereunder.

N. Minimum site size for the facilities shall be six (6) acres.

O. The crushing, shredding, breaking or other processing of trash, vehicles, vehicle parts or other materials shall be conducted no earlier than 8:00AM nor later than 6:00PM. The burning or incineration of any junk, garbage, trash, vehicles or vehicle parts, yard waste or other materials shall be prohibited

P. The Planning Commission may impose other conditions, such as landscaping, which have a reasonable relationship to the health, safety and general welfare of the Township.

Section 21.26 – Reserved

Section 21.27 – Kennels and Veterinary Hospitals or Clinics

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed kennel or veterinary hospital or clinic shall meet the following specific Special Land Use standards.

A. The minimum lot area shall be one (1) acre for the first four (4) animals and an additional one-third (1/3) acre for each animal over the first four (4). However, there shall be no limit on the number of animals on sites of more than three (3) acres. Animals counted toward this total shall include the total capacity for overnight boarding or keeping.

B. Buildings wherein animals are kept, dog runs, and exercise areas shall not be located nearer than one hundred (100) feet to any adjacent occupied dwelling or any adjacent building used by the public and shall be set back at least seventy-five (75) feet from any Residential District boundary. Runs and exercise areas shall not be located in any front yard or required, rear or side yard setback area.

C. All principal use activities, other than outdoor dog run areas, shall be conducted within a totally enclosed building.

D. Animal wastes, biohazard materials or byproducts shall be disposed of as required by the

Berrien County Health Department, the Michigan Department of Public Health, or other duly appointed authority. 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 suspension or revocation of a special use permit.

Section 21.28 - Mini-Storage Warehouse

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed mini-storage warehouse shall meet the following specific Special Land Use standards.

A. Minimum lot area shall be two (2) acres.

B. A residence may be permitted on the premises for security personnel or on-site operator. The residence shall conform to the minimum requirements for a single family dwelling in the R-1B District.

C. Parking and circulation shall meet the following requirements:

   1. One (1) parking space shall be provided for each ten (10) storage units, equally distributed throughout the storage area.

   2. Two (2) parking spaces shall also be required for the residence of security personnel, or on-site operator employed on the premises.

   3. One (1) parking space shall also be required for every twenty (20) storage units, up to a maximum of ten (10) spaces, to be located adjacent to the rental office, for the use of customers.

D. All driveways, parking, loading, storage, and vehicular circulation areas shall be hard surfaced and provided with a permanent, durable, and dustless surface and shall be graded and drained so as to dispose of all surface water on site.

E. No more than eighty percent (80%) of the site shall be covered with buildings or pavement.

F. A six (6) foot fence shall surround the property. The fence shall be aesthetically pleasing, and be made of a material approved by the Planning Commission, such as, but not limited to, redwood, cinder block, or chain link with slats. The fence must be setback at least twenty (20) feet from the road right-of-way, and five (5) feet on the side and rear yard.

G. The use shall be fully screened from adjacent Residential Districts, in accordance with the requirements of Section 3.13.

H. The facility shall be lighted to insure optimal security. Any lights shall conform to the requirements of Section 3.19.

I. No toxic, hazardous, or flammable materials may be stored in the storage units.

Section 21.29 – Mortuary and Funeral Home

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed mortuary or funeral home shall meet the following specific Special Land Use standards.

A. Minimum lot area shall be two (2) acres with a minimum lot width of two hundred and twenty (220) feet.

B. A well designed, landscaped off-street vehicle assembly area shall be provided in support of funeral procession activity. This area shall not obstruct internal circulation within the required off-street parking area or related maneuvering space.

C. Service and loading entrances shall be screened from view from off the site with dense, evergreen landscape materials or fencing.

D. A caretaker's residence may be provided within the main building, meeting the multiple family dwelling unit size requirements of the R-2 District.

E. The proposed site shall front upon a major or minor arterial road, as defined herein. All ingress and egress shall be from that street or streets.

Section 21.30 – Nursery

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed nursery shall meet the following specific Special Land Use standards.

A. Nurseries which do not include retail sales and which are located in the GB or I districts, shall limit all outdoor spraying, harvesting and mechanical operations within two hundred (200) feet from the property line to daylight hours only. In addition, the outdoor application of any aerosol pesticides or other chemicals shall only occur when winds are calm to avoid air borne impacts on neighboring properties.

B. Nurseries located in any district which include greenhouses or other transparent or semi-transparent enclosures shall be designed to ensure that all grow lights are equipped and maintained to prevent light from casting directly through the transparent or semi-transparent structure such that the light source is visible from off the property.

C. Nurseries located in any district which include retail sales shall be designed and maintained in accordance with Section 21.35 - Open Air Business and meet the following standards:

   1. The storage or materials display area shall meet all the yard setback requirements applicable to the main building in the District.

   2. All loading activities and parking areas shall be off-street, and provided on the same premises.

   3. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.

Section 21.31 – Reserved

Section 21.32 – Nursing Home

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed nursing home shall meet the following specific Special Land Use standards.

A. A nursing home proposed to be located within the R-2 district shall not provide care for more than twenty (20) persons.

B. 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.

C. A nursing home shall not be located within fifteen hundred (1,500) feet of any other nursing home.

D. Biohazard materials shall be disposed of as required by the Berrien County Health Department, the Michigan Department of Public Health, or other duly appointed authority. All other wastes shall be contained in leak-proof and odor proof containers removed not less frequently than once per week. Any failure on the part of the operator to maintain proper licensing shall be grounds for the suspension or revocation of a special use permit.

Section 21.33 – Reserved

Section 21.34 – Office Building – Neighborhood Scale

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed neighborhood scale office building shall meet the following specific Special Land Use standards.

A. Neighborhood Scale Office Buildings shall be consistent in scale and design with surrounding improved properties. In no event shall the gross floor area of the ground floor of a Neighborhood Scale Office Building exceed 3,000 square feet and the total gross floor area of all floors shall not exceed 5,000 square feet.

B. All required parking shall be provided on site and parking areas shall be screened from view from adjoining properties and public rights-of-way by evergreen plantings, fencing or masonry walls.

C. Any illuminated signage for a Neighborhood Scale Office Building shall be externally lit only with down-cast light fixtures shielded and directed to prevent light from casting off the site.

D. In addition to compliance with the requirements of Section 3.21, any lighting for parking areas shall be mounted not more than 20 feet above grade and lighting fixtures shall be shielded and directed to prevent light from casting off the site.

E. A Neighborhood Scale Office Building shall only be located on and have its primary access from one of the following street segments:

   1. East Main Street

2. Niles-Buchanan Road, from US-31 east to a point 750 feet west of Shillelagh Lane.
3. North 5th Street
4. Pulaski Highway (US-12), from the west Township limits to S. 11th Street.
5. Bell Road, from Bond Street to 13th Street.
6. 3rd Street, from Bell Road to Fulkerson Street.

F. The applicant shall disclose the nature of the office uses proposed to occupy a Neighborhood Scale Office Building and shall provide written property management and maintenance rules and procedures which the Planning Commission must find adequate to assure that the facility remains compatible with the neighborhood in which it is located.

Section 21.35 – Open Air Business

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed open air business shall meet the following specific Special Land Use standards.

A. Minimum lot area shall be two (2) acres and minimum lot width of two hundred (200) feet.

B. The Planning Commission may require a six (6) foot fence or wall to be constructed along the rear and sides of the lot to keep trash, paper, and other debris from blowing off the premises. As an alternative to fencing, the Planning Commission may establish, as a condition of approval, buffering mechanisms, including, but not limited to, evergreen landscaping, berms, and fencing; and such conditions may be in addition to the Landscaping and Buffering standards of Section 3.13 of this Zoning Ordinance to mitigate the visual impact of an Open Air Business.

C. All open air businesses shall comply with all applicable Berrien County Health Department regulations regarding sanitation and general health conditions.

D. The proposed site shall front upon a major or minor arterial road, as defined herein. All ingress and egress shall be from that street or streets.

E. The lot area used for parking, driveways and vehicle movement shall be hard-surfaced. The display or storage areas shall be provided with a permanent, durable, and dustless surface, and shall be graded and drained so as to dispose of all surface water on-site.

F. No display area shall be located within the required front yard, nor within twenty (20) feet of any side or rear lot line.

G. No item or items displayed or stored outdoors shall be greater than thirty-five (35) feet in height.

H. The Planning Commission may establish, as a condition of approval, hours of operation for the Open Air Business.

I. The Planning Commission may make reasonable inquiries of the applicant, including, but not limited to, what types of items will be for sale. Certain items, as determined by the Planning Commission, may be restricted for display to rear or side yards and with adequate screening or

fencing.

SECTION 21.36 – Outsized Accessory Building *(as amended, June 24, 2016)*

In addition to the standards of Section 21.03 of the Niles Charter Township Zoning Ordinance, the Planning Commission shall find that a proposed Outsized Accessory building which exceeds the maximum floor area requirements of Section 3.08 shall meet the following specific Special Land Use standards.

A. Maximum Gross Floor Areas. The maximum combined gross floor area of all accessory buildings that may be approved pursuant to this Section 21.36 shall be a function of the parcel area as set forth below:

Parcel Area	Maximum Floor Area for all Structures*
One (1) to Two (2) acres	2,700 SF
Greater than 2 up to 3 acres	3,300 SF
Greater than 3 up to 4 acres	4,200 SF
Greater than 4 up to 5 acres	4,800 SF
Greater than 5 up to 6 acres	7,200 SF
Greater than 6 up to 7 acres	8,000 SF
Greater than 7 up to 8 acres	8,800 SF
Greater than 8 up to 9 acres	9,600 SF
Greater than 9 up to 10 acres	10,400 SF
More than 10 acres	14,000 SF

B. The Planning Commission shall find that any Outsized Accessory Building shall be effectively screened from neighboring properties by topography, vegetation or isolation distance to mitigate any imposition on the surrounding area.

C. As a condition for Special Land Use approval for an Outsized Accessory Building permitted under this section, the applicant shall provide to the Township a copy of an instrument as recorded with the Berrien County Register of Deeds indicating that any future division of the subject parcel shall meet the above limits for lot area and accessory building ground floor area provided in this Section 21.36.

Section 21.37 – Park and Outdoor Recreation Facility

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed park and outdoor recreation facility shall meet the following specific Special Land Use standards.

A. Minimum lot area shall be ten (10) acres.

B. The use shall be located on property with direct access to a paved public street.

C. Any outdoor activity areas shall be set back a minimum of one hundred (100) feet from any Residential District or use.

D. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any Residential District or use.

E. Buildings for storage of equipment, or other similar buildings shall be located at least fifty (50) feet from any lot line.

F. A park or outdoor recreation facility proposed in the AP or RP districts and which include active recreation facilities such as, but not limited to, ball fields, disk golf, motocross or other activities which may generate spectator crowds or larger gatherings, shall be regarded as a large place of public assembly, pursuant to Section 21.38 hereof. Provided, however, that a golf course or country club or a gun club shall be separately regulated pursuant to Sections 21.18 and 21.19, respectively.

G. Any elevated lighting for play fields or spectator areas shall be directed to the greatest extent possible away from surrounding road rights-of-way or neighboring properties.

Section 21.38 – Place of Public Assembly, Large

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed large place of public assembly, or an existing small place of public assembly which is proposed for expansion, shall meet the following specific Special Land Use standards.

A. A Large Place of Public Assembly shall front on and be accessed primarily from a paved, all weather roadway.

B. All parking areas shall be paved and graded to contain storm water on the site.

C. A Large Place of Public Assembly located in the OS district which also includes a restaurant shall meet the standards of Section 21.44, hereof. A Large Place of Public Assembly proposed in the AP, RP, R-1A, R-1B or R-2 districts shall not also incorporate a restaurant.

D. The Planning Commission may require the completion of a traffic impact study under the terms of Section 23.12, B of this Zoning Ordinance.

E. The special land use shall describe any loudspeaker, public address or other audio system to be used which may be audible at the property line and the Planning Commission shall find that at no time shall the sound level from such system exceed 55 decibels during daylight hours or 45 decibels after dark, when measured at the property line.

Section 21.39 – Planned Unit Development

A Planned Unit Development (PUD) shall be a special land use which may be allowed in all zoning districts, except AP and R-3, and the objectives of the PUD, the procedures for processing and evaluating a proposed PUD shall be in accordance with Chapter 22 hereof.

Section 21.40 – Production, Refining and Storage Facility for Petroleum Products

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed petroleum production, refining and/or storage facility shall meet the following specific Special Land Use standards.

A. The applicant shall demonstrate to the Planning Commission proper design and licensing measures as required by State and Federal statutory and regulatory authority.

B. Any hazardous, flammable or corrosive materials proposed to be produced, refined, stored, used or handled on site shall be disclosed by the applicant and all such production, refining, storage, use and handling shall be conducted in accordance with applicable State and Federal requirements.

C. State and Federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharge to groundwater, including direct and indirect discharges, shall be allowed.

D. All areas on the site where petroleum products are produced, refined, stored or otherwise handled shall be provided with adequate security and signage to notify the public of the hazardous materials and to prevent trespass.

E. The Planning Commission shall have the authority to require buffering, screening, setbacks and other elements that are greater than those otherwise required by this ordinance in keeping with the spirit and intent of this ordinance to protect the public health, safety and welfare.

Section 21.41 – Public Buildings and Public Utility Offices

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed public building or public utility office shall meet the following specific Special Land Use standards.

A. When adjoining a Residential District, the Planning Commission may require that outside storage area shall be screened from view on all sides by a six (6) foot or greater solid, decorative fence or wall, or landscaped equivalent.

B. All parking areas and truck maneuvering areas shall be treated to minimize dust and the site plan shall demonstrate provisions to contain blowing dust, trash and debris on the site.

C. The lot shall have at least one (1) lot line that abuts a major arterial road, as defined herein. The ingress and egress for all vehicles shall be directly from that street.

D. A public building which includes public meeting space with a capacity of more than one hundred-fifty (150) persons shall also be considered a Large Place of Public Assembly and be subject to the requirements of Section 21.38 hereof.

Section 21.42 – Public and Parochial Schools

In addition to the standards of Section 21.03 and the requirements of the State Superintendent of

Schools, if applicable, the Planning Commission shall find that a proposed public or parochial school shall meet the following specific Special Land Use standards.

A. A minimum lot area of ten (10) acres shall be required.

B. Playground equipment may only be located in the side or rear yard of the lot. The playground must be at least fifty (50) feet from any side or rear lot line abutting a Residential District. All outdoor play areas shall be located in the rear or side yards only and shall be enclosed with a durable fence six (6) feet in height, or four (4) feet in height if adjoining a right-of-way. Provided, however, the Planning Commission may permit chain link or wrought iron fences up to six (6) feet in height adjoining a right-of-way upon a finding that such fences are necessary for the safety of pupils of the facility.

C. The off-street parking shall be arranged so the area for bus loading and unloading of students will not be in the path of vehicular traffic.

D. Sidewalks shall be required connecting the off-street parking area to the main entrance of the school, and to the required sidewalk along the adjacent road right-of-way line.

E. The school main building shall be at least one hundred (100) feet from any lot line.

F. All required state and local licenses, charters, permits and similar approvals shall be issued prior to occupancy for any educational purposes and shall be maintained in good standing.

G. The Planning Commission may establish standards to limit routine noise generated by a school to no more than sixty (60) decibels at the property line, taking into account the nature of the facility, the surrounding uses and zoning and the probable frequency of objectionable noise levels that may be generated by the use.

H. A public or parochial school that includes a Large Place of Public Assembly as defined herein, shall comply with the special land use standards for such facility as set forth in Section 21.38 hereof.

Section 21.43 – Residential Site Condominium and Subdivision in the AP District

In addition to the standards of 21.03, the Planning Commission shall find that an open space design or conventional design residential site condominium or subdivision proposed to be located in the AP district shall meet the following specific Special Land Use standards.

A. Two-Step Process. In the AP district, an application for a residential site condominium or subdivision shall be processed in the following manner:

   1. An initial submission shall include documentation that the proposed site is unsuited for agricultural use. Such documentation shall include an independent analysis of the property prepared or endorsed by a recognized expert in agricultural practices in the southwest Michigan area.

   2. If the Planning Commission finds sufficient independent evidence that the proposed site may be unsuited for agricultural use, the applicant shall be invited to prepare a complete special land use application in accordance with this Chapter.

B. The provisions of Section 3.30 shall be applied to evaluate its design, subject to the remaining special land use requirements of this section.

C. The Planning Commission shall conduct a detailed inquiry of the proposal and may seek additional detail from the applicant to determine whether the parcel may be reasonably designed using the Open Space design form or whether it may be used for other land uses permitted in the AP district. The possible or alleged impact of the Open Space design form on the marketability of the property or the lots or parcels to be developed is considered to be speculative and shall not be a consideration of the Planning Commission.

D. Where a proposed Residential Subdivision or Site Condominium will abut lands in agricultural use, the Planning Commission may require buffering, screening, setbacks and/or other elements that are greater than those otherwise required by this ordinance to reduce the potential for conflicts between land uses.

E. For site condominium proposals, the provisions of Section 3.25 pertaining to site condominiums shall apply, in addition to the other requirements of this section.

F. In the event of a conflict between the applicable standards cited in this ordinance, the more stringent provision, in the judgment of the Zoning Administrator, shall apply.

Section 21.44 – Restaurant

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed restaurant shall meet the following specific Special Land Use standards.

A. Restaurants shall maintain, at all times, all required state and local licenses and permits.

B. Restaurants shall be located and designed such that no objectionable noise in excess of sixty (60) decibels and no objectionable vibration shall be carried onto adjoining property zoned for, or occupied by, residential uses.

C. Restaurants shall be located and designed such that no objectionable odor or fumes shall be carried onto property located in the residential districts.

D. The site plan shall include measures satisfactory to the Planning Commission to control blowing trash, dust or debris from the facility.

E. The Planning Commission may establish reasonable hours of operation for eating and drinking establishments.

F. Outdoor seating and rooftop dining may be permitted by the Planning Commission if it finds that such facilities shall not create any detrimental conditions that may affect adjoining or nearby properties.

G. A restaurant that includes a large place of public assembly as defined herein, shall comply with the special land use standards for such facility as set forth in Section 21.38 hereof.

Section 21.45 – Sawmill

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed sawmill shall meet the following specific Special Land Use standards.

A. The Planning Commission may require that outside storage area be screened from view on all sides by a six (6) foot or greater solid, decorative fence or wall, or landscaped equivalent.

B. The applicant shall comply with the requirements of the Fire Marshall to incorporate provisions to minimize fire risks on the site.

C. The Planning Commission may stipulate hours of operation.

D. Appropriate measures shall be incorporated in the proposed site plan to mitigate fugitive saw dust.

E. The Planning Commission may establish shipping and transport routes for trucks serving the facility to limit truck traffic on surrounding roads to those which are, in the judgment of the Planning Commission, best suited to accommodate such traffic.

F. All parking areas and truck maneuvering areas shall be treated to minimize dust and the site plan shall demonstrate provisions to contain blowing dust, trash and debris on the site.

G. Activities shall not generate noise exceeding 60 decibels for more than 4 hours in a 24 hour period at any property line.

H. A sawmill shall include stormwater management facilities satisfactory to the Township Engineer and/or the Michigan Department of Environmental Quality intended to prevent the runoff of stormwater carrying excess concentrations of soil, organic materials or nutrients from entering natural streams, lakes or rivers.

Section 21.46 – Reserved

Section 21.47 – Sexually Oriented Business

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed sexually oriented business shall meet the following specific Special Land Use standards.

A. The Township will not accept an application for a sexually oriented business special land use except from an individual who has been duly licensed by the Township pursuant to Chapter 20, Article II of the Niles Charter Township Code of Ordinances.

B. Requirements for the siting, design, operation, management and maintenance of a sexually oriented business special land use shall be as set forth in Chapter 20, Article II of the Niles Charter Township Code of Ordinances.

C. Failure to site, design, operate, manage and maintain a sexually oriented business special land use in full accord with this ordinance and with Chapter 20, Article II of the Niles Charter Township Code of Ordinances shall be grounds for suspension or revocation of any approved special land use permit.

Section 21.48 – Stables, Riding Stables and Private Stables

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed riding stable in the RP District, and Private Stables in the R-1A and R-1B districts shall meet the following specific Special Land Use standards.

A. The minimum lot area shall be five (5) acres.

B. The maximum horse population shall be limited to two (2) horses for the first five (5) acres and an additional one (1) horse per each acre over five (5) acres.

C. Any buildings used to breed, house, feed, train, or shelter horses shall be located at least fifty (50) feet from any lot line and paddocks or corrals must be at least ten (10) feet from any side or rear lot line.

D. The facility shall be so constructed and maintained that odor, dust, noise, or drainage shall not constitute a nuisance, disturbance, or hazard to adjacent or nearby property owners.

E. All on-site accumulations of manure and other animal related solid wastes shall be disposed of in accordance with Berrien County Health Department and State health regulations. On-site accumulations of manure shall not adversely affect adjoining parcels.

F. All egress points and off-street parking areas shall be of a durable and dust free surface, graded, and properly drained.

G. For riding stables only, one and one half (1.5) off-street parking spaces shall be provided for each horse kept on-site, plus any required for other uses accessory to the stable.

H. Off-street loading and unloading of horses, feed, straw, or any other on-site use related to the facility shall be located completely on the property.

I. A riding stable that includes a Large Place of Public Assembly as defined herein, shall comply with the special land use standards for such facility as set forth in Section 21.38 hereof.

Section 21.49 – Telecommunication Tower

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed telecommunication tower shall meet the following specific Special Land Use standards.

A. Equipment Co-Location on Existing Structures.

1. Approval for a construction and use of a telecommunication tower shall not be granted unless and until the applicant demonstrates that a feasible co-location is not available for the coverage area and capacity needs, in accordance with this subparagraph.

2. The applicant shall submit to the Township an inventory of all towers, antennas, or sites approved for towers or antennas within the jurisdiction of Niles Charter Township or within one (1) mile of the border of the Township. The inventory shall include the following information on each tower, antenna, or site approved for towers or antennas:

   a. Information about the location.

b. Height of each tower.

c. Design of each tower.

d. An itemized description of each tower and an explanation of why it is unsuitable for co-location.

3. The Planning Commission may retain at the applicant's expense a third party telecommunications specialist to evaluate the potential co-location and to advise on the need for a proposed new telecommunication tower.

4. Any proposed telecommunication tower shall be designed structurally, electrically, and in all other respects, to accommodate both the applicant's equipment and comparable equipment for at least two (2) additional users. Towers must be designed to allow for future rearrangement of equipment upon the tower and to accept equipment mounted at varying heights. The applicant shall submit a statement in writing agreeing to permit future users to collocate on the tower.

5. The applicant shall submit a notarized statement by a registered design professional as to whether construction of tower will accommodate co-location of additional antennas for future users.

B. Tower Design, Appearance and Construction:

1. Towers shall be designed to blend into the surrounding environment through the use of color and architectural treatment, except in instances where color is dictated by other State or Federal authorities.

2. Towers shall not be illuminated unless required by other State or Federal authorities. No signs or other advertising not related to safety or hazard warnings shall be permitted on any part of the tower or associated equipment or buildings.

3. The Planning Commission may require the structures or equipment on the ground to be screened with landscaping, a berm, walls, fence, or a combination of these elements.

4. All new structures must meet all State or Federal requirements and comply with applicable State or Local building codes and the applicable State or Local building codes.

C. Setbacks: Any part of the structures or equipment placed on the ground pertaining to the tower shall comply with the following setbacks, unless reduced by the Planning Commission when the intent of this Ordinance would be better served by the reduction:

Off-Site Use/ Designated Area	Setback Requirements
Existing Single family detached or two family dwelling units or approved but not constructed residential developments	The greater of 200 feet or twice the height of the tower.
Vacant land in a Residential District	The greater of 100 feet or the height of the tower.
Multiple family dwellings	
Non-Residential Districts and all other uses	75% of the height of the tower

1. Guy wires and accessory buildings must satisfy the minimum setback requirements for main buildings for the district in which they are located.
2. These provisions shall not apply to towers located on buildings, towers, or other structures in existence at the time of the adoption of this Ordinance.

D. Separation Between Proposed and Existing Towers: Except in cases where the Planning Commission finds that a co-location will not be possible, the following separation distances shall apply to all proposed towers and any preexisting towers, as measured along a straight line between the base of the proposed and the preexisting towers.

		Proposed Tower			
		Lattice	**Guyed**	**Monopole**	
Existing Towers				> 75 ft.	< 75 ft.
Lattice		5,000 ft.	5,000 ft.	1,500 ft.	1,500 ft.
Guyed					
Monopole	> 75 ft.	1,500 ft.			750 ft.
	< 75 ft.	750 ft.			

E. Buildings or Other Equipment Storage.

1. For antennas mounted on structures or rooftops, the equipment cabinet or structure used in association with antennas shall comply with the following:
   a. The cabinet or structure, if located on the rooftop, shall not contain more than two hundred fifty (250) square feet of gross floor area or be more than ten (10) feet in height.
   b. If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than five percent (5%) of the roof area.
   c. Equipment storage buildings or cabinets shall comply with all applicable building codes.
2. For antennas mounted on utility poles or light poles, the equipment cabinet or structure used in association with antennas shall be no greater than eight (8) feet in height or two hundred fifty (250) square feet in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of ten (10) feet and a planted height of at least thirty-six (36) inches. In all other instances, structures or cabinets shall be screened from view of all Residential Districts which abut or are directly across the street from the structure or cabinet by a solid fence eight (8) feet in height or an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least thirty- six (36) inches.
3. For antennas located on towers, the related unmanned equipment structure shall not contain more than two hundred fifty (250) square feet of gross floor area or be more than

ten (10) feet in height and shall be located in accordance with the minimum yard requirements of the zoning district in which located.

4. Modification of building size requirements. Where co-location will be achieved, the Planning Commission may waive the requirements of Section 21.49, E.

F. Abandoned or unused towers and any associated structures or equipment shall be removed, within twelve (12) months of the cessation of operations, unless a time extension is granted by the Zoning Administrator. One (1) three (3) month extension shall be permitted if the Zoning Administrator finds that the owner or former operator of the facility is taking active steps to remove it. Pursuant to Section 23.13, the Planning Commission may require that a surety satisfactory to the Township Attorney be posted with the Township to assure the removal of an abandoned or unused telecommunication tower.

Section 21.50 - Truck and Freight Terminals

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed truck or freight terminal shall meet the following specific Special Land Use standards.

A. Minimum lot area shall be three (3) acres.

B. The lot shall have at least one (1) lot line that abuts a major arterial road, as defined herein. The ingress and egress for all vehicles shall be directly from that street.

C. The main and accessory buildings shall be set back at least seventy five (75) feet from all lot lines.

D. All truck parking and maneuvering areas shall be paved or otherwise maintained to assure a hard and dust-free surface.

E. Truck parking and staging areas shall be fenced and screened from the view of any abutting Residential District in accordance with the requirements of Section 3.13.

F. Disabled or inoperable trucks shall not be permitted outside of an enclosed building for more than five (5) consecutive days.

G. No trailers shall be stored on site for use as storage containers for more than five (5) consecutive days.

Section 21.51 – Reserved

Section 21.52 - Vehicle Service Stations and Vehicle Repair Facilities

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed vehicle service station or vehicle repair facility shall meet the following specific Special Land Use standards.

A. All buildings, structures, and equipment shall be located at least fifty (50) feet from any right-of-way line, and at least fifty (50) feet from any side or rear lot line abutting a Residential District.

B. No more than one (1) driveway shall be permitted for every one hundred (100) feet of frontage (or major fraction thereof) along any street, with a maximum of one (1) per street when located on a corner lot, and two (2) for any interior lot.

C. All areas of the site accessible to vehicles shall be paved.

D. A raised curb of six (6) inches in height shall be constructed along the perimeter of all paved and landscaped areas.

E. All areas of the site not paved or occupied by buildings or structures shall be landscaped.

F. All lubrication equipment, hydraulic hoists, and pits shall be enclosed entirely within a building. All gasoline pumps shall be located at least forty (40) feet from any lot line, and shall be arranged so that vehicles shall not be supplied with gasoline or serviced while parked upon or over-hanging any public sidewalk, street or right-of-way.

G. When adjoining a Residential District, parking and storage areas shall be fenced and screened from the view of any abutting Residential District in accordance with the requirements of Section 3.13.

H. All outside storage areas for trash, used tires, auto parts, and similar items shall be enclosed by a six (6) foot sight-obscuring wall or fence. No outside storage area shall exceed an area of two hundred (200) square feet. Outside parking of disabled, wrecked, or partially dismantled vehicles shall not exceed a maximum of three (3) vehicles.

I. The rental of trucks, trailers, and any other vehicles on the premises is expressly prohibited without specific approval by the Planning Commission. If the use is permitted, proper screening, landscaping, and additional parking area shall be provided in accordance with the requirements set forth by the Planning Commission.

J. The lot shall be located so it is at least three hundred (300) feet from an entrance or exit to any property on which is situated a public library, public or private school, playground, play field, park, church or hospital.

K. Where applicable, vehicle queuing space shall be provided in front of each service bay for at least two (2) vehicles.

L. The proposed site shall front upon and have direct access to a major or minor arterial road, as defined herein.

Section 21.53 – Vehicle Wash Establishments

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed vehicle wash establishment shall meet the following specific Special Land Use standards.

A. All washing activities must be carried on within a building.

B. Vacuuming equipment shall be located within the building envelope, as defined herein.

C. Sufficient space shall be provided to accommodate all vehicles queuing on the property, so no vehicles are required to wait on an adjoining street to enter the site. For automatic washes, the stacking space shall be equivalent to five (5) times the wash capacity or fifteen (15) spaces, whichever is greater. Wash capacity shall be determined by dividing the length of the mechanical wash/dry machinery by twenty-five (25) feet. For manual wash facilities, each stall shall have at least two (2) stacking spaces at the entrance and one (1) at the exit.

D. The proposed site shall front upon and have direct access to a major or minor arterial road, as defined herein. All ingress and egress shall be from such street or streets.

E. All buildings, structures, and equipment shall be located at least fifty (50) feet from any right-of-way line, and at least one hundred (100) feet from any side or rear lot line abutting a Residential District.

F. No more than one (1) driveway shall be permitted for every one hundred (100) feet of frontage (or major fraction thereof) along any street, with a maximum of one (1) per street when located on a corner lot, and two (2) for any interior lot.

Section 21.54 – Waste Treatment or Disposal Service or Facility

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed waste treatment or disposal service or facility shall meet the following specific Special Land Use standards.

A. Any hazardous, flammable or corrosive materials proposed to be treated, transported or disposed of on-site shall be disclosed by the applicant and all such activity shall be conducted in accordance with applicable State and federal requirements. The chemical constituents of all emissions to the air, groundwater and surface waters shall be disclosed at the time of application.

B. The application shall disclose all required federal, state and local permits needed for facility operation, the procedures for permit application, the standards for review and approval, the specific agencies responsible for permit review and the status of all such permit applications. State and federal agency requirements for storage, spill prevention, air emissions and air quality, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met at all times.

C. No discharge to groundwater, including direct and indirect discharges, shall be allowed. 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.

D. All areas on the site where any hazardous materials are treated, stored or otherwise handled shall be provided with adequate security and signage to notify the public of the hazardous materials and to prevent trespass.

E. The Planning Commission shall have the authority to require buffering, screening, setbacks and other elements that are greater than those otherwise required by this ordinance in keeping with the spirit and intent of this ordinance to protect the public health, safety and welfare.

F. An application for a Waste Treatment and Disposal Facility shall include an environmental assessment in accord with the requirements of Niles Charter Township as established by the Zoning Administrator.

G. The Planning Commission may retain at the applicant's expense a third party waste treatment specialist to evaluate an application for a special use permit for a waste treatment or disposal service or facility.

H. The application shall provide for measures acceptable to the Planning Commission to prevent any noise in excess of 60 decibels at any property line.

I. All local, county, state, and federal laws, statutory, and regulatory requirements shall be met at all times.

Section 21.55 – Winery, Brewery or Distillery

In addition to the standards of Section 21.03, the Planning Commission shall find that a proposed winery, brewery or distillery shall meet the following specific Special Land Use standards.

A. For the purposes of this ordinance, a winery, brewery or distillery, as defined herein, shall not be considered to be a restaurant which shall be regulated pursuant to Section 21.44 and the requirements of the OS, LB, GB and HB districts.

B. An application for a winery, brewery or distillery shall include a site plan in accordance with this ordinance with detail on parking, sanitation, refuse and solid waste management, outdoor lighting, fencing, crowd control, on-site vehicular and pedestrian circulation, details on any public address system and equipment, signage and related existing and proposed facilities, as applicable. In addition, the application shall include a complete written description of the proposed use, the services to be provided, the maximum number of patrons anticipated on site at any time, hours of operation, activities to be conducted and any other information necessary to properly convey the nature of the facility proposed. Such written description shall be considered a part of the special use permit application to be relied upon by the Township in granting any approval.

C. The Planning Commission shall evaluate the proposed winery, brewery or distillery and the activities proposed to determine whether it will be compatible with neighboring uses and other permitted uses in the vicinity and zoning district.

D. The winery, brewery or distillery use shall comprise only a small part of the property, so that the farm use of the site is predominant and the winery, brewery or distillery use is secondary. The Planning Commission may approve a proposed departure from this requirement if it finds that the proposed winery, brewery or distillery and its activities are substantially farm-related or that the establishment and its activities would not have impacts on the vicinity similar to impacts generated by a commercial business, including consideration of traffic, light pollution,

noise, blowing trash, signage, odor, and aesthetics.

E. The Planning Commission may impose requirements on the placement of the facility on the site to protect adjacent properties from its impacts and to maintain rural views from public roads. The facility and all of its outdoor ancillary structures and activities such as parking and gathering space shall be located at least fifty (50) feet from property lines. The Planning Commission may approve a proposed departure from this requirement, if it finds that locational and layout attributes, buffers, adjacent uses and site configurations, and other features of the subject site and nearby property work together to minimize impacts of the proposed winery, brewery or distillery; provided, that dimensional requirements of the underlying zoning district and other regulations of the Zoning Ordinance are met.

F. The Planning Commission may require submittal of a traffic impact study pursuant to Section 23.12, B, the purpose of which shall be to analyze the effect of traffic generated by the proposed use on the capacity, operations, and safety of the public road system and to propose mitigation measures.

G. Tasting rooms and food service activities, if provided, shall at all times comply with any and all requirements of the Berrien County Health Department and the Michigan Liquor Control Commission and evidence of applicable agency review and approval shall be provided to the Township.

H. The Planning Commission may require landscaping and other features to screen the use from adjacent properties and the Planning Commission may impose limitations on the operation of the facility to protect adjacent properties from its impacts. Such limitations may pertain to hours of operation, outdoor lighting, outdoor activities, noise, and other elements.

I. The applicant shall demonstrate that all vehicular parking will occur on the site. A pervious parking surface is permitted, subject to demonstration by the applicant that dust would be controlled.

CHAPTER 22
PLANNED UNIT DEVELOPMENT

Section 22.01 – Intent

A. Planned Unit Developments (PUDs) in the Township shall be established as a Special Land Use, where authorized, when approved by the Planning Commission in accordance with the procedures specified in this Chapter. The purpose of the Planned Unit Development is to further implement the intent of the Township Master Plan and to:

1. Provide for flexibility in the regulation of land development;
2. Encourage innovation in land use and variety in design, layout, and type of buildings and structures;
3. Achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities;
4. Encourage the use of land in accordance with its character and adaptability;
5. Encourage the provision of useful open space for residents of the development and, where feasible, the general public;
6. Promote the enhancement of housing, employment, traffic circulation, pedestrian movement, and recreational opportunities that benefit all residents of the Township;
7. Provide for the regulation of a variety of land uses not otherwise authorized within a single zoning district;
8. Provide for developments which would result in recognizable and substantial benefits to the ultimate users of a development, and to the community in general, where such benefits would be unfeasible or unlikely to be achieved under the conventional requirements of this Ordinance; and
9. Provide greater protection of, and reduce adverse impacts on, quality natural features in comparison to the impacts associated with a conventional development.

B. In order to accomplish these objectives, this Chapter permits modification of the conventional requirements applicable to the underlying Zoning District(s), including the requirements, procedures and standards of Chapter 21 which may conflict with this Chapter. The use of land and the construction and use of buildings and other structures as a PUD shall be in conformance with the procedures, standards, requirements, and conditions for eligibility contained in this Chapter. A PUD should not be utilized to relax the requirements of the zoning ordinance, except in those cases where a demonstrable benefit to the community will result.

Section 22.02 – Qualifying Conditions

Any development, which fails to meet the following qualifying conditions, at a minimum, shall not qualify for development as a PUD.

A. All PUDs shall be served by available public water and/or public sanitary sewer facilities or, when not available, a privately-owned and operated licensed community system approved by the Planning Commission, the Berrien County Health Department, or other agencies, as appropriate. For the purposes of this Chapter, public water and/or sanitary sewer shall be considered available if public service mains or sewer lines with sufficient available capacity to serve the proposed development are located within 1,000 feet of the boundary of any portion of the proposed PUD.

B. The tract of land for which a PUD application is received must be either in one ownership or the subject of an application filed jointly by the owners of all properties and/or their agent. In the case of a PUD filed jointly by the owners of all properties, the nature of the relationship and any agreement among the joint owners shall be disclosed and the Planning Commission shall be satisfied that such relationship is capable of implementing the PUD. If the PUD application is filed by a prospective purchaser or option holder, written consent of all property owners must be submitted as evidence of their concurrence with the PUD application.

C. The proposed uses, residential densities and land use intensity of the PUD must be consistent with the Master Plan, except as otherwise permitted under the terms of this Chapter.

D. All PUDs that are predominately residential in character shall provide a minimum of twenty-five (25%) percent open space. For the purposes of this Chapter, a PUD shall be regarded as predominately residential in character if 50% or more of the developed portion of the site is to be used for residences. Open spaces and natural features that significantly contribute to the community's character must be preserved in perpetuity through the condominium documents, a conservation easement, deed restriction development agreement or other mechanism satisfactory to the Township and shall be maintained as provided in Section 22.03, B, 5.

E. The proposed PUD shall be compatible with surrounding uses of land, the natural environment, and the capacities of public services and facilities affected by the development. The Planning Commission may request that groundwater resource studies be conducted to ensure adequate water supply, and may require pre-approval from the County Health Department, County Road Commission, the Michigan Department of Natural Resources and Environment or any other State or Federal agency that has jurisdiction over the development.

F. The proposed PUD must meet all the site plan review standards of Section 23.08.

G. The proposed PUD must meet the standards for special land use permits, as set forth specified in Section 21.03.

H. The PUD site shall have direct access to a major or minor arterial road, as defined herein.

Section 22.03 – Site Development Requirements

Except as otherwise approved pursuant to this Chapter, all requirements of the underlying zoning district pertaining to land uses and dimensional standards shall apply to all PUD developments. Further, all PUD developments must adhere to the following standards:

A. Residential Density. The number of residential dwelling units permitted shall be determined

based on the potential yield of the site, as permitted by the zoning regulations applicable to the site. The Planning Commission may approve residential dwellings in excess of the number that might otherwise be approved pursuant to subparagraph 2 of this Section.

1. Base Density. The number of residential dwelling units allowed shall be calculated by dividing the Net Developable Area, as set forth below, by the minimum lot size required in the underlying zoning district. Where there are multiple underlying zoning districts, the base density shall be determined for each and the results shall be summed.

   a. Net Developable Area shall include the gross square footage of the site, measured from the road rights-of-way, minus undevelopable land as defined herein.

      1) Provided, that areas of wetlands or surface water, may be included within the Net Developable Area so long as the total of such area does not comprise more than 30% of the total Net Developable Area.

      2) Net Developable Area shall exclude 20% of the gross square footage, to account for proposed roads. A smaller percentage may be considered if an approvable parallel plan is submitted showing how roads designed under conventional design would require less land area. Such parallel plan shall meet the requirements of subparagraph (4) of this section

      3) The Planning Commission shall review the applicant's site plan application for the determination of Net Developable Area and determine the resulting base density. In the event the applicant does not agree with the Planning Commission's determination of base density, the applicant shall prepare a parallel plan as specified in sub paragraph (4) of this Section and base density shall be determined based on said parallel plan.

      4) The parallel plan shall depict a "by right" feasible build out of the site based on the underlying zoning regulations without application of any of the provisions of this PUD Chapter. A parallel plan shall meet the following requirements

         a) The parallel plan shall contain enough detail to permit the Township to evaluate the feasibility of development for each indicated Lot and/or Dwelling Unit.

         b) At a minimum, the parallel plan shall show property boundaries and dimensions, individual lots, building envelopes, street rights-of-way or easements, significant natural features (wetlands, water features, and similar constraints), and utility easements. The Planning Commission may require additional detail or information as it may determine necessary to evaluate the feasibility of the parallel plan.

         c) All lots or buildings shown on the parallel plan shall be buildable, which for the purposes of this Section shall mean lots or building areas that meet the minimum requirements of the Zoning District to which the property corresponds; that have an area of sufficient size and shape to accommodate the proposed principal building; and that provide required driveways, streets, or

other means of permitted access.

b. For sites containing less than 20% net developable area, the applicant shall demonstrate to the Township's satisfaction that the proposed development can be reasonably accommodated on the site, given setback and buffering requirements, without negative impacts to the environment or the general public.

2. Potential Density Increases. Based on the following, the Planning Commission may approve an increase in density on the site up to 120% of the base density where it finds, in its sole judgment, that the development will provide significant benefits to the community, which may include one or more of the elements or amenities listed below with the corresponding increase in density as noted. Any increase in density permitted under this paragraph shall be determined at the sole discretion of the Planning Commission. The total residential density on the entire PUD shall not exceed 120% of the base density.

Project Elements or Amenities	**Resulting Potential Increase in Base Density**
a. Provision of open space that is open to the general public.	Up to 5%
b. Inclusion of pedestrian pathways and non-motorized elements.	Up to 5%
c. Inclusion of at least 10% additional open space above the minimum required.	Up to 2%
d. Preservation of significant natural features, such as steep slopes, site topography, wetlands, woodlands, important wildlife habitat, streams and/or natural vegetative buffers.	Up to 3%
e. Inclusion of low-impact design of stormwater systems, parking areas, and green buildings. Design elements such as rain gardens, pervious pavement products or grass pavers, and LEED certifications shall contribute to low-impact design.	Up to 3%
f. Use of alternative energy sources that can provide 5% or more of the needed energy for the site. Detailed calculations of anticipated energy needs must be submitted to document this benefit.	Up to 3%
g. Donation and acceptance of valuable recreation land to the Township or other public entity for enjoyment by the general public	Up to 2%
h. Provision of unique development patterns, such as traditional neighborhood design or mixed-use, that support the vision of the Township as expressed in the Master Plan.	Up to 2%

3. In applying the percentages of the table in paragraph 2 of this section, a fractional result shall be rounded to the nearest whole number.

B. Open Space. In predominately residential PUDs, open space shall meet the following requirements:

1. Individual areas of open space shall be large enough and of proper dimensions to contribute significantly to the intent of the PUD, and in no event shall an isolated area of less than 1,000 square feet or an area with the least dimension of 5 feet or less be considered a part of the designated open space.
2. The following land areas or features shall not be included as designated open space for the purposes of meeting minimum open space requirements:
   a. Any area to be conveyed for private ownership, including lots, development envelopes or building envelopes or limited common elements in a site condominium. General common elements of a site condominium may be included if they otherwise meet the requirements of this ordinance.
   b. The area of any road right-of-way or private road easement.
   c. Surface water in natural streams or rivers or in natural or man-made lakes or ponds. Areas devoted to constructed storm water detention or retention basins may be counted for up to fifty percent (50%) of the total open space requirement if they are designed to have the appearance of a natural wetland.
   d. Parking and loading areas.
   e. Any other undeveloped areas not meeting the intent and standards for open space stated in this Section, as determined by the Planning Commission.
3. At least one-third (1/3) of the required open space shall be usable open space for the residents of the development and may be available for use by the general public.
4. Allowable use(s) of the designated open space shall be clearly established in a conservation easement, master deed, deed restriction or other legal instrument satisfactory to the Township. Such legal instrument shall prohibit the following unless prior approval of the Township and any authority having jurisdiction is first granted:
   a. Dumping or storing of any material or refuse.
   b. Activity that may cause risk of soil loss.
   c. Cutting or removal of live plant material in natural areas, except for removal of dying or diseased vegetation.
   d. Cutting, filling or removal of vegetation from wetland areas.
   e. Use of pesticides, herbicides, or fertilizers either within or adjacent to (within 100 feet of) water bodies and wetlands, unless required by the Michigan Department of Environmental Quality to manage nuisance species.
5. Open Space Maintenance. Designated open space shall be set aside through an irrevocable conveyance, approved by the Township Attorney, such as a recorded deed restriction, a conservation easement or through condominium documents. Such conveyance shall, at a minimum, include provisions to accomplish the following objectives with additional

provisions as may be required to address any unique circumstances pertaining to the site in question:

a. A clear designation of the entity, person(s) or agency to be perpetually responsible for the maintenance of the open space.

b. Standards for maintenance of the open space, which shall contain standards for the removal of trash or waste material within the open space, clean up of storm damage, or removal of diseased plant materials and related matters

c. A provision that provides the Township with the irrevocable right, but not the responsibility, to maintain such open space and to assess the costs therefore, including any legal or administrative costs, upon the owners of the open space, or the owners of the properties in the PUD, if such area is considered a general common element. The exercise of such right shall be at the sole discretion of the Township in the event it finds that open spaces are not adequately maintained, or are determined by the Township to be a public nuisance.

C. PUD Perimeter Setbacks: No building envelope shall be located nearer to the perimeter boundary of the PUD than the required yard dimension in the underlying zoning district in accordance with the following requirements. In areas where the underlying zoning district is AG, RP, R-1A, R-1B or R-2, the following additional regulations shall apply to said PUD perimeter setback area:

1. No native or natural vegetation shall be removed from the PUD perimeter setback, except for that necessary for entrance streets or private roads. The Planning Commission may modify this requirement provided the applicant demonstrates that the clearing of existing vegetation would contribute significantly to the intent of this Chapter as described in Section 22.01.

2. No grading or changes in topography shall be permitted, except as may be necessary to construct entrance streets or private roads, or provide screening as noted in subsection (3) below.

3. The PUD perimeter setback may be reduced if a year-round, opaque, natural screen is present or provided for at least seventy (70%) percent of the lineal distance of the property line abutting any street and having a depth of at least twenty-five (25) feet. The natural screen shall be subject to the approval of the Planning Commission, shall have at least fifty (50%) percent opacity from the street view, and shall consist of existing vegetation, land forms, or landscaped areas using native or natural materials, or a combination thereof.

D. Non-Residential Development Requirements:

1. Non-residential uses shall be integrated into the design of the PUD with complementary and coordinated architectural themes and site development elements, such as signs, landscaping, etc.

2. Non-residential uses shall be permitted only if they will not materially alter the residential character of nearby neighborhoods and those within the PUD.

3. All merchandise for display, sale or lease shall be located in areas noted on an approved

site plan. All other materials must be kept entirely within an enclosed building(s) or otherwise screened from view from any off-site vantage point.

E. Driveway Access and Circulation:

1. Access points to the PUD shall be carefully planned to minimize congestion at intersections and to promote safe vehicular, pedestrian and non-motorized transit. The Planning Commission may require that the applicant provide a traffic impact study to demonstrate safe and efficient circulation within the PUD and on adjoining roadways.
2. Additional right-of-way shall be provided as determined by the Planning Commission to accommodate improvements to the existing arterial roadway system that are planned or required to mitigate traffic associated with the PUD.

F. Phased PUDs. The Planning Commission shall evaluate each phase of a proposed PUD to determine whether each phase is able to stand on its own as a viable development and a useful and desirable addition to the Township in the event subsequent phases are deferred or never implemented.

Section 22.04 –Waivers From Standards

The requirements and standards contained in this Chapter may be modified or waived by the Planning Commission, provided that it finds:

A. The objectives and intent of the Master Plan, this Chapter, and the underlying zoning district are better served by such modifications, rather than through the strict application of the requirements contained therein.

B. The requested waiver will not increase the number of residential units above the maximum permitted in Section 22.03.

C. The requested waiver will not decrease the number of required parking spaces below the minimum required, unless a parking study is provided that, in the opinion of the Planning Commission requires such reduction.

D. Appropriate traffic and pedestrian safety is insured.

Section 22.05 – Optional Pre-Application Conference

A. A pre-application conference may be held with the Planning Commission for the purpose of determining the eligibility of the request for consideration as a PUD.

B. A request for a pre-application conference shall be made to the Zoning Administrator who shall schedule a date and time with the Planning Commission. Prior to the pre-application conference, the applicant shall submit eleven (11) copies of a conceptual plan which shows the property location, boundaries, significant natural features, vehicular and pedestrian circulation, acreage, property dimensions, land use for the entire site, and anticipated number and density of dwelling units.

C. The Planning Commission may converse with the applicant regarding the intent of the proposed PUD and it may make inquiries or suggest additional information that may be helpful in reaching a decision on the proposal. The Planning Commission may highlight possible issues or concerns but shall not render any opinion as to whether the application conforms with the intent for PUDs in Section 22.01, whether it qualifies under the minimum requirements of Sections 22.02 and 22.03, or any other portion of this Chapter, and whether the general concept is consistent with the Master Plan until it has received and reviewed a complete application and held the required public hearing. In no case shall any statements made by the Planning Commission at a pre-application conference be construed as a representation concerning approval or denial of the PUD.

Section 22.06 – PUD Application and Preliminary Development Plan

Applicants seeking approval of a PUD shall submit a complete application and a preliminary development plan to the Zoning Administrator, who shall forward the materials for review to the Planning Commission, Township planner and engineer, fire department, and other applicable agencies and professionals. The PUD application shall include the following:

A. A completed application form supplied by the Zoning Administrator.

B. A density calculation indicating the number of dwelling units, and a narrative description of the benefits demonstrated to qualify the project for additional density. This element of the application shall include the parallel plan, if elected by the applicant under Section 22.03, A, 1, a, (3) and (4).

C. Payment of applicable fees, as established by the Township Board.

D. A narrative statement describing:

1. The objectives of the PUD and how it relates to the intent for PUDs, as described in Section 22.01;
2. The conformance of the PUD with the Niles Charter Township Master Plan;
3. The phases of the PUD and approximate time frame for each phase and how each phase will form a viable development that is useful and desirable on its own in the event the subsequent phases fail to materialize.
4. All proposed deed restrictions, covenants, or similar legal instruments to be used within the PUD;
5. The anticipated start and completion of construction;
6. Location, type, and size of areas to be designated for common open space; and
7. All sensitive lands regulated by the MDNRE or any other governmental agency, including the approximate square footage/acreage of major types of such natural features and a description of mechanisms proposed to protect such sensitive lands.

E. Eleven (11) copies of a preliminary development plan shall be submitted. If the PUD is to be

developed in phases, the preliminary development plan shall show all phases. The preliminary plan shall contain the following:

1. The PUD's name, the applicant's name and signature, the name and address of the firm and individual who prepared the preliminary development plan, scale, and north arrow;
2. Property lines, dimensions of all property lines, and size of the PUD and its individual phases, in acres;
3. Existing zoning of all lands within one-half mile of the PUD and the existing land use of all abutting properties;
4. Existing natural features on the site including water, stands of trees, drainage ways, flood plains, wetlands, steep slopes, and similar features;
5. Existing buildings and structures on the site;
6. Proposed uses and their approximate locations;
7. Illustration of area(s) proposed as permanent open space with the land area included and any features to be protected and amenities to be added.
8. Illustration and legal description of existing and proposed easements
9. Illustration and description of any existing encroachments on the property.
10. Rights-of-way and pavement edges of existing streets abutting the PUD;
11. Approximate locations of proposed access drives and streets within the PUD;
12. Proposed walkways or pedestrian paths;
13. Proposed method of providing water, sanitary sewer, and stormwater drainage facilities;
14. Layout and typical dimensions of proposed lots;
15. Approximate phases of the PUD;
16. Proposed residential density by area or phase; and
17. Location of building envelopes, clearance zones, sensitive lands and unconstrained lands.

F. The Planning Commission may require additional information reasonably necessary to demonstrate compliance with the review standards and other requirements of this Chapter. Such information may include, but not be limited to, soil reports, hydrological tests, traffic studies, market analyses, wetland determinations, or other such evidence which shall be submitted by the applicant prior to consideration and a final decision on an application.

G. The applicant may submit the Final Development Plan Application required pursuant to Section 22.09, in which case the Planning Commission shall consider the PUD application in its entirety and complete its evaluation and decision on the application in a single action, providing all of the requirements of this Chapter are met.

Section 22.07 – Notice and Public Hearing for a PUD

A. Upon receipt of an application for PUD approval and a determination by the Zoning Administrator that the application is complete, the Zoning Administrator shall cause notice to be given, in accordance with the requirements of Chapter 29 hereof. The notice shall:

1. Describe the nature of the proposed PUD;
2. Describe the property which is the subject of the PUD application, by both legal description and Street address;
3. State the time, date, and place of the public hearing; and
4. State when and where written comments will be received concerning the application.

B. Following notice, the Planning Commission shall hold a public hearing on the proposed PUD, for the purpose of receiving public comment on the application. The applicant may meet informally with residents of the general area surrounding the proposed PUD site prior to the public hearing or even prior to submitting the PUD application to explain the development, answer questions, and make adjustments to the proposal to address concerns.

Section 22.08 – Planning Commission Decision

A. Following the public hearing, the Planning Commission shall review the PUD request and development plan based on the following and shall approve, approve with conditions, or deny the PUD request. The Planning Commission shall articulate findings of fact and reasons for such decision, specifically citing appropriate standards and Sections of the Ordinance, and identifying those specific conditions, if any, it considers necessary. The Planning Commission shall consider at least the following factors in making its decision concerning the PUD request:

1. Conformance of the PUD with the Master Plan;
2. Compatibility with the type, character, and density of existing and anticipated uses surrounding the site;
3. Consistency with the intent and qualifying conditions of this Chapter in Sections 22.01 and 22.02, respectively, and;
4. Conformance with the standards of Section 22.09, if a Final Development Plan is submitted with the PUD application.

B. Conditions of Approval. Reasonable conditions of approval established by the Planning Commission shall meet all of the following requirements:

1. The PUD shall be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being, of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole;
2. The PUD shall be related to the valid exercise of a police power and purposes which are affected by the proposed use or activity; and
3. The PUD shall be necessary to meet the intent and purpose of the zoning requirements, be related to the standards established in the zoning ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

Section 22.09 – Final Development Plan Application

Within two (2) years of the Planning Commission's approval of the PUD and the preliminary development plan, the applicant shall submit to the Planning Commission a request for final PUD approval. If a request for final approval is not submitted within two (2) years, the provisions of Section 22.15 shall apply. An application for final PUD approval shall consist of the following:

A. A completed application form, supplied by the Zoning Administrator;

B. Payment of a fee, as established by the Township Board;

C. A narrative demonstrating compliance with the findings, review comments, and conditions, if any, from the Planning Commission review of the preliminary development plan and a narrative explanation of the changes made to the final development plan in response to those items;

D. Evidence that all required permits, other than building permits, have been applied for, as applicable, from County, State, and/or Federal agencies; and

E. A site plan containing all of the information required in Section 23.03 however, individual detached single family dwellings need not be shown on the plan. For developments consisting of three (3) or more phases, a plan meeting the requirements of Section 22.06, may be submitted for the overall PUD and a detailed plan as required for final development plan shall be submitted for at least the first phase. Each subsequent phase shall be reviewed in the same manner.

Section 22.10 – Planning Commission Review of Final Development Plan

A. The Planning Commission shall review the final development plan in relation to its conformance with the preliminary development plan and the conditions, if any, of the PUD approval. If it is determined that the final development plan is not in substantial conformance to the preliminary development plan, the review process shall be conducted as a preliminary development plan review, in accordance with the procedures of Section 22.06 through Section 22.08 of this Ordinance.

B. If the final development plan is consistent with the approved preliminary development plan, the Planning Commission shall review the final development plan in accordance with the criteria of Section 22.03.

C. The Planning Commission shall prepare a report of its findings and shall approve, approve with conditions, or deny the final development plan.

Section 22.11 - Reserved

Section 22.12 – PUD Agreement

Prior to issuance of any building permits or commencement of construction on any portion of the

PUD, the applicant shall enter into a development agreement with the Township setting forth the applicant's obligations with respect to the PUD. The development agreement shall be prepared by the applicant in recordable form and shall be subject to review and approval by the Township Attorney. The Agreement shall describe all improvements to be constructed as part of the PUD and shall incorporate, by reference, the final development plan with all required revisions, other documents which comprise the PUD, and all conditions attached to the approval of the PUD. The agreement shall also establish the remedies of the Township in the event of default by the applicant in carrying out the PUD, and shall be binding on all successors in interest to the applicant. All documents shall be executed and recorded in the office of the Berrien County Register of Deeds, at the expense of the applicant.

Section 22.13 – Changes to an Approved PUD

Changes to an approved PUD shall be permitted only under the following circumstances.

A. The holder of an approved PUD final development plan shall notify the Zoning Administrator, in writing, of any desired change to the approved PUD.

B. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the PUD, nor any specified conditions imposed as part of the original approval. Minor changes include the following:

   1. Reduction of the size of any building, except for buildings considered important to the project theme or amenities of the development, in the judgment of the Township
   2. Reduction of the size of any sign;
   3. Movement of buildings and/or signs by no more than ten (10) feet;
   4. Landscaping approved in the final development plan that is replaced by similar landscaping to an equal or greater extent;
   5. Changes in floor plans, of up to five (5%) percent of the total floor area, which do not alter the character of the use or increase the amount of required parking;
   6. Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design;
   7. Changes required or requested by the Township, Berrien County, or other State or Federal regulatory agency in order to conform to other laws or regulations unless such changes have the potential to impact adjoining properties.

C. A proposed change not determined by the Zoning Administrator to be minor shall be submitted by the applicant as an amendment to the PUD and shall be processed in the same manner as the original PUD application, including both preliminary and final plan review.

Section 22.14 – Time Limit for Approved PUD

Each PUD shall be under construction within two (2) years after the date of approval of the PUD final development plan, except as noted in this Section.

A. The Planning Commission may grant extensions of up to (1) year in duration if the applicant applies for such extensions prior to the date of the expiration of the PUD or any previously-authorized extensions and provided that:

   1. The applicant presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the applicant;
   2. The PUD requirements and standards, including those of this Ordinance and the Master Plan, that are reasonably related to the development have not changed; and
   3. The conditions affecting the original approval, including the land uses and related conditions in the vicinity of the site have not changed significantly since the original approval.

B. If any of the provisions of Section 22.14, A, are not fulfilled, or if a previously-approved extension has expired without meaningful commencement of construction, the PUD approval shall be null and void.

Section 22.15 – Existing Planned Unit Developments

Any planned unit development that has been approved by the Township under previous versions of this Zoning Ordinance shall continue to be occupied, used and developed in accordance with the provisions in effect when approval was granted. However, after the effective date of the ordinance adopting this Section, any changes or modifications to such previously-approved PUDs shall be considered and reviewed in accordance with the requirements and procedures of this Chapter.

CHAPTER 23
SITE PLAN REVIEW

Section 23.01 – Purpose

The purpose of this Chapter is to provide for consultation and cooperation between the applicant and the Township in order that the applicant may realize planned objectives in the use of land within the regulations of this Zoning Ordinance. It is also intended to ensure that the development be completed with minimum adverse effect on the use of adjacent streets and highways, and on the existing and future uses and the environment in the general vicinity.

Section 23.02 – Applicability

In accordance with the provisions of this Chapter, the Planning Commission shall be furnished a Site Plan of the proposed development prior to the creation of a use or the erection of a building in the Districts and conditions cited below:

A. Except as exempted pursuant to this Section, all Permitted and Special Land Uses within any zoning district shall require a Site Plan in accordance with this Chapter.

B. Construction in any district of a building addition, with an enclosed floor area greater than twenty-five percent (25%) of the existing enclosed building floor area, provided such building is not exempted pursuant to this section.

C. Site condominiums in any District.

D. Open Space Preservation Developments, as permitted in Section 3.30.

E. The following buildings or land uses, or expansions thereof, shall be exempt from site plan review, except that the Zoning Administrator shall review a plan to ensure compliance with this Ordinance.

   1. Single family detached and two-family dwellings (except those that are required to receive Special Land Use approvals).
   2. Farms.
   3. Roadside stands with less than two-hundred (200) square feet of sales area.
   4. State licensed residential family care facilities and family day care homes.
   5. Home occupations, Minor.
   6. Accessory buildings.
   7. Construction of building additions with an enclosed floor area of not more than twenty-five percent (25%) of the existing building floor area.

Section 23.03 – Site Plan Application Requirements

A. Each site plan submitted shall contain the information listed herein, unless an item is specifically waived by the Planning Commission as not applicable to the proposed development. In no case, shall the Planning Commission be authorized to waive the site plan requirement in its entirety.

B. The site plan shall be prepared by a registered professional engineer, land surveyor, architect, or landscape architect and shall contain the professional seal of the preparer.

C. Eleven (11) copies of a site plan at a scale not to exceed one (1) inch equals one hundred (100) feet (1" = 100') for properties in excess of three (3) acres or one (1) inch equals twenty (20) feet for properties of three (3) acres or less. The following items shall be shown on the plan:

1. Date, north arrow, and scale.
2. The signed seal, name, and address of the professional individual, and firm, responsible for the preparation of the site plan.
3. The name and address of the property owner or petitioner.
4. A location sketch showing the subject property in relation to the surrounding area.
5. Legal description of the subject property or parent tract and leased parcel (if applicable).
6. The size (in acres) of the subject property, and approximate number of acres allocated to each proposed use (buildings, parking, street right-of-way, open space, etc.).
7. Lot lines and required setbacks shown and dimensioned.
8. Gross floor area for buildings and structure, gross area for off-street parking areas, streets and drives, and open space shall also be indicated.
9. The location, footprint, and dimensions of all existing and proposed structures on the subject property including dwelling unit densities by type, if applicable.
10. The location of all existing and proposed drives (including dimensions and radii), acceleration and deceleration lanes, sidewalks, signs, exterior lighting, curbing, parking areas (including the dimensions of a typical parking space and the total number of parking spaces to be provided), and unloading areas.
11. The location of all existing vegetation and the location, type, and size of all proposed landscaping, and the location, height and type of existing and proposed fences and walls.
12. Size and location of existing and proposed utilities, including any proposed connections to public, or private community sewer or water supply systems. The nearest location, if within two (2) miles, of public water and sanitary sewer service shall also be identified.
13. The location and size of all surface water drainage facilities, including source, volume expected, route, and course to final destination.
14. Existing and proposed topographic contours at a minimum of five (5) foot intervals.

15. Recreation areas, common use areas, flood plain areas and areas to be conveyed for public use and purpose.
16. The location of all existing structures, driveways, and parking areas within one hundred (100) feet of the subject property's boundary. If such land is vacant, the site plan shall indicate that fact.
17. The location, pavement width and right-of-way width of all roads, streets, and access easements within one hundred (100) feet of the subject property.
18. The existing zoning and use of all properties abutting the subject property.
19. A narrative and schedule describing any potentially hazardous materials and the methods of storage and handling of such materials.
20. The Planning Commission may require additional information deemed necessary to address specific issues. This may include, but is not limited to, traffic studies, DNR requirements, MDEQ requirements, ground water studies, drainage studies, and similar impact reports. Where such additional information is required, the Planning Commission shall specify the particular information needed and the extent of any needed research necessary to adequately resolve any questions or relieve any concerns about the proposed land use.

Section 23.04 – Application and Review

A. Site plans, a completed application form, all required attachments and supporting materials, and an application fee and any required application escrow deposit, shall be submitted to the Zoning Administrator, by the petitioner or his designated agent, not less than thirty (30) days prior to the next regular Planning Commission meeting. The Zoning Administrator shall review the submittal and determine whether it is complete and, if found to be complete, shall cause the submittal to be placed on the agenda of the next available Planning Commission meeting, subject to allowing sufficient time for staff, consultant, and agency reviews. An incomplete application shall be returned to the applicant to supplement, correct or resubmit.

B. The Planning Commission shall review the site plan in accordance with the review standards of Section 23.08 and shall approve, disapprove, or approve subject to conditions, the site plan, in accordance with the provisions of this Chapter and the purpose of this Ordinance.

C. Any conditions or modifications desired by the Planning Commission shall be recorded in the official minutes of the meeting.

D. Three (3) copies of the final approved site plan shall be signed and dated by the Planning Commission secretary and the applicant. One (1) of these approved copies shall be kept on file by the Township Clerk, one (1) shall be kept on file by the Zoning Administrator, and one (1) shall be returned to the petitioner or his designated representative.

E. Each development shall be under construction within one (1) year after the date of approval of the site plan, except if an extension is granted as noted below. If neither of the provisions

below are fulfilled, or the extension has expired prior to construction, the site plan approval shall be null and void.

1. The Planning Commission may grant one (1) six (6) month extension of the one (1) year approval period, provided the applicant requests such extension, in writing, prior to the date of the expiration of the site plan.
2. The extension shall be approved if the applicant presents reasonable evidence to the effect that said development has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period.

Section 23.05 – Plat Requirements

In those instances in which Act 288, Michigan Public Acts of 1967, as amended, the Land Division Act, is involved (such as PUDs), the owner shall, after Site Plan approval, submit the preliminary and final plats to the Township in conformance with Act 288, and in accordance with all other applicable codes, acts and ordinances. Such plats shall remain in conformance with the approved Site Plan.

Section 23.06 – Administrative Fees and Application Escrow Deposits

A. Any Site Plan application shall be accompanied by a non-refundable fee in accordance with the schedule of fees established by the Township Board.

B. Such fee shall be for the purpose of payment of the administrative costs and services expended by the Township in the implementation of this Chapter and the processing of the application. No part of such fee shall be refundable to the applicant.

C. Application Escrow Deposits. In connection with any application for a special permit, site plan approval, zoning amendment, PUD review, appeal, or similar application, the Township Board may establish from time to time requirements for applicants to deposit funds into a Township escrow account established to cover the reasonable costs of reviewing such application. Such costs may include staff costs or consultant fees covering planning, engineering, environmental analysis, wetland delineation, legal review, and other professional and technical services required for a proper and thorough review of the application. No permit shall be issued until all costs have been paid and all processing, including public hearings, shall be suspended if any applicant escrow deposit account balance is insufficient to support the probable costs of processing. The Township Clerk shall account for the expenditure of all such funds and shall promptly refund any unexpended funds within sixty (60) days of final action by the reviewing board or official.

Section 23.07 – Changes in the Approved Site Plan

Changes to the approved site plan shall be permitted only under the following circumstances:

A. The holder of an approved site plan shall notify the Zoning Administrator in writing of any proposed change to an approved site plan.

B. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design or any specified conditions imposed as part of the original approval. Minor changes shall include only the following:

1. Change in any building size, up to five percent (5%) in gross floor area.
2. Movement of buildings or other structure by no more than ten (10) feet.
3. Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size.
4. Changes in building materials to a comparable or higher quality.
5. Changes in floor plans which do not alter the character of the use.
6. Changes required or requested by the Township, the Berrien County Road Commission, or other County, State, or Federal regulatory agency in order to conform to other laws or regulations.

C. A proposed change not determined by the Zoning Administrator to be minor shall be submitted to the Planning Commission as a site plan amendment, and shall be reviewed in the same manner as the original application, including payment of an application fee.

Section 23.08 – Review Standards

The following standards shall be utilized by the Planning Commission in reviewing all site plans. These standards are intended to provide a frame of reference for the applicant in the preparation of site plans as well as for the reviewing authority in making judgment concerning them. These standards shall not be regarded as inflexible requirements, and are not intended to discourage creativity, invention, or innovation.

A. The uses proposed will not adversely affect the public health, safety, or welfare. Uses and structures located on the site shall take into account topography, size of the property, the uses on adjoining property and the relationship and size of buildings to the site.

B. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.

C. Safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation shall be provided for ingress and egress points, and within the site. Drives, streets and other circulation routes shall be designed to promote safe and efficient traffic operations within the site and at ingress and egress points.

D. The arrangement of vehicular and pedestrian connections to existing or planned streets in the area shall provide a safe and efficient circulation system for traffic within Niles Charter Township.

E. Removal or alteration of significant natural features shall be restricted to those areas which are reasonably necessary to develop the site in accordance with the requirements of this Ordinance. The Planning Commission may require that landscaping, buffers, and greenbelts be preserved or provided to ensure that proposed uses will be adequately buffered from one another, and from surrounding public and private property.

F. Areas of natural drainage such as swales, wetlands, ponds, or swamps shall be protected and preserved, insofar as practical, in their natural state to provide areas for natural habitat, preserve drainage patterns, and to maintain the natural characteristics of the land.

G. The site plan shall provide reasonable visual and sound privacy for all dwelling units located within the site, and adjacent thereto. Fences, walls, barriers, and landscaping shall be used, as appropriate, to accomplish these purposes.

H. All buildings and groups of buildings shall be arranged so as to permit necessary emergency vehicle access. To this end the Zoning Administrator shall refer all site plans for review and comment by the Township Fire Department.

I. All streets and driveways shall be developed in accordance with the Township Land Division Ordinance, the Berrien County Road Commission, or Michigan Department of Transportation specifications, as appropriate. Provided, however, that that the Planning Commission may impose more stringent requirements than those for the Road Commission or Department of Transportation with respect to driveway location and spacing. In addition, sidewalks may be required if determined to be necessary or appropriate for pedestrians and non-motorized vehicles.

J. Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate storm water, prevent erosion and the formation of dust. The use of detention or retention ponds may be required. Surface water on all paved areas shall be collected at intervals so that it will not restrict vehicular or pedestrian traffic, or create puddles in paved areas. Catch basins may be required to contain oil filters or traps to prevent contaminants from being discharged to the natural drainage system. To this end the Zoning Administrator may refer all site plans for review and comment by the Township Engineer.

K. Exterior lighting shall comply with Section 3.19 hereof and be arranged so that it is deflected away from adjacent properties, and does not interfere with the vision of motorists along adjacent streets. Lighting of buildings or structures shall be minimized to reduce light pollution and preserve the character of the Township.

L. All loading and unloading areas, outside storage areas, and areas for the storage of trash which are visible from Residential Districts or public streets, shall be screened by a vertical screen consisting of structural or plant materials no less than six (6) feet in height.

M. Entrances and exits shall be provided at appropriate locations so as to maximize the convenience and safety for persons entering or leaving the site. The number of entrances to and exits from the site shall be determined with reference to the number of dwelling units or other land uses within the site, the nature and location of the surrounding streets, the effect of traffic in the area, nearby topography, and other factors.

N. Site plans shall conform to all applicable requirements of County, State, Federal, and Township statutes and ordinances. Approval may be conditioned on the applicant receiving necessary County, State, Federal, and Township permits before site plan approval or an occupancy permit is granted.

O. Appropriate fencing may be required by the Planning Commission around the boundaries of the development if deemed necessary to minimize or prevent trespassing or other adverse effects on adjacent lands.

P. The general purposes and spirit of this Ordinance and the Master Plan of Niles Charter Township shall be maintained.

Section 23.09 – Conditions of Approval

A. As part of an action to approve any site plan, the Planning Commission may impose any additional conditions or limitations as in their judgment may be necessary for protection of the public interest.

B. Such conditions shall be related to and ensure that the review standards of this Chapter are met and shall meet the requirements of the Zoning Act.

C. Approval of a site plan, including conditions made as part of the approval, shall apply to the property described as part of the application and to all subsequent owners.

D. A record of conditions shall be maintained. The conditions shall remain unchanged unless an amendment to the site plan is approved in accordance with this Ordinance.

E. A record of the decision of the Planning Commission, the reason for the decision reached, and any conditions attached to such decision shall be kept and made a part of the minutes of the Planning Commission.

F. The Zoning Administrator may make periodic inspections of developments for which site plans have been approved. Non-compliance with the requirements and conditions of the approved site plan shall be considered violations of this Ordinance.

G. No zoning compliance permit shall be issued for any proposed development until any and all conditions of approval have been satisfied.

Section 23.10 – Site Plans Requiring a Variance

Any proposed development submitted for site plan review that will require an approved variance shall be deemed incomplete and will not be processed until such variance has been granted by the Zoning Board of Appeals in accordance with Chapter 28 hereof.

Section 23.11 – Appeal

Persons aggrieved by a decision of the Planning Commission in granting or denying approval of a site plan may appeal the decision to the Zoning Board of Appeals. The appeal must be filed within seven (7) days of the decision and shall state the factual basis for the appeal. An appeal shall stay action on the issuance of any permit pursuant to an approved site plan.

A. The Zoning Board of Appeals shall review the record of action taken on the final site plan and shall determine whether Planning Commission properly conducted its review and whether the record supports the action taken. No new evidence shall be presented.

B. The Zoning Board of Appeals shall affirm the site plan if the requirements of this Section and other applicable Ordinance requirements are met. If the Zoning Board of Appeals finds that the Planning Commission failed to properly conduct the required review, it may complete such review and approve, approve with conditions or deny the site plan acting in place of the Planning Commission.

C. The Zoning Board of Appeals shall make written findings in support of its decision on the appeal.

D. This Section shall not apply to the site plan submitted with a PUD application. Decisions on site plans in support of a PUD may not be appealed to the Zoning Board of Appeals.

Section 23.12 – Authority for Supplemental Studies.

For complex site plans and/or for land uses that may generate significant impacts on surrounding land uses or public facilities, the Zoning Administrator or Planning Commission may require any or all of the following reports or studies as a part of a complete site plan.

A. **Environmental Assessment.** An Environmental Assessment shall be a summary review of the environmental impacts of a project in accordance with the following standards:

1. The purpose of the Environmental Assessment shall be:

   a. to provide relevant information to the Planning Commission on the potential environmental impact of applications for special land use permits for substantial projects that may have an impact on the natural, social and economic environment of the Township;

   b. to inject into the developer's planning process consideration of the characteristics of the land and the interests of the community at large, and

   c. to facilitate participation of the citizens of the community in the review of substantial developments.

2. Guidelines. When required by the Planning Commission or the Zoning Administrator pursuant to this Section, an applicant for a special use permit shall prepare an Environmental Assessment in accordance with these guidelines. An Environmental Assessment is not an Environmental Impact Statement, but rather a summary review of the site in question considering the past and present land uses and the proposed development. The analysis is intended to determine how the proposed development will meet the goals of the community as they are expressed in the Master Plan. The complexity of the Environmental Assessment will depend on the scope of the project and the magnitude of the potential impact. In preparing the Environmental Assessment, judgment should be exercised to keep the form and extent of responses in proportion to the scope of the project. Each answer is to be as brief as practicable, although the Planning Commission

may request further elaboration. The Planning Commission or Zoning Administrator may waive elements of these guidelines as either not applicable or previously addressed in other submittals, on a case-by-case basis. All information must be submitted in the following format and shall not merely reference a study or report completed previously, rather whenever possible, the Environmental Assessment report shall incorporate a summary of the findings of such study or report in addition to such cross-references. In addition, any cross-referenced study or report shall be submitted with the Environmental Assessment.

3. Content. The following material shall be included and/or addressed in the Environmental Assessment, unless specifically waived by the Zoning Administrator or Planning Commission as not applicable:

   a. A description of the site in its current condition. This shall indicate any buildings to be preserved and those to be removed along with an indication of what will be done with the demolition debris. This must also include information on:

      1) Flora and fauna (be sure to list any endangered species on-site);

      2) General topography and drainage patterns including any regulated features such as wetlands, high risk erosion areas or other features;

      3) Adjacent waterways;

      4) Existing wells, approximate depth and use;

   b. A description of any asbestos abatement proposed for the site. If applicable, this shall include a description of the method to be sure this material does not get into the surrounding area.

   c. A description of any existing contamination on-site. This should include a description of the nature of the contamination on-site and what will be done on this project to mitigate or contain it, including the proposed methodology and any state or federal regulatory agency reviews that may apply. If the project includes work that may disturb or displace existing contaminated soils or water, this should include a description of proposed methods to contain and/or dispose of the generated waste.

   d. If the proposed project will impact any coastal areas or floodplain or involve riparian work along adjacent waterways, a description of the proposed work and the methodology proposed to protect waterways shall be provided.

   e. A description of the existing soils on-site and as to the suitability of these soils for the proposed use.

   f. A description of any historical or archeological significance associated with the site. If any such areas are present, this shall include a description of methods to protect and preserve any historic or archeological resources.

   g. A description of any emissions from the proposed development as it relates to air quality. If any emissions are proposed, this shall include a description of each constituent and the effects of each constituent to nature and human life.

   h. A description of any hazardous materials or waste to be stored on-site. This shall

include a description of proposed methods to contain such materials and prevent any migration into adjoining soils or groundwater or into the atmosphere.

i. A description of any storm water or process water discharges from the site. This shall include a characterization of such discharge in terms of the quantity, quality and chemical constituents and temperature and a description of the possible effects this discharge may have on the receiving waters.

j. If a Federal, State, or local regulatory authority has conducted an Environmental Assessment, Environmental Impact Statement, or a preliminary assessment/site inspection or environmental survey of the site, a brief description of the findings and provide a copy of the report or results.

k. A description of the anticipated noise levels to be generated at all property lines of the proposed use. This shall include a description of measures proposed to mitigate noise.

l. A description of the anticipated traffic to be generated by the proposed use.

m. A description of plans for site restoration after construction.

n. A description of methods to handle sanitary waste for the project both during construction and after completion.

o. A description of how potable water will be provided to the site. If any on-site wells are proposed or any lake-draw systems are proposed for the project, this shall include a description of the type of well or lake draw system, any regulatory requirements that may apply and the status of such regulatory approval.

p. A description of any additional items as needed to relay the potential environmental impacts of the proposed project.

4. The individual preparing the Environmental Assessment must sign and seal (if prepared by a registered engineer, land surveyor, community planner or landscape architect) the submitted document.

B. **Traffic Impact Study**. The Zoning Administrator or Planning Commission may require that a traffic impact study completed by a qualified professional be prepared as an attachment to a site plan submitted for any development in the Township meeting the requirements of this section. The purpose of this section is to set forth the standards to be used by the Zoning Administrator or Planning Commission in requiring the submission of such a traffic impact study, the required minimum content of such a study and the standards and procedures for the review of its findings.

1. Description. A traffic impact study shall include an analysis of the existing traffic conditions on the roadway network in the vicinity of a proposed project, including any accident history, average speeds, average daily and peak hour traffic volumes and levels of service of all key roadway segments and intersections. The study shall further indicate the effect of a proposed development on adjacent roadways and intersections and indicate the anticipated points of origin, direction and volume of traffic flow to and from the proposed development. The study shall be prepared by either a registered professional engineer (P.E.) or transportation planner with at least five (5) years of experience preparing traffic

impact studies in Michigan. The study shall include a summary of the qualifications and documented experience of the author and specifically describing experience in preparing traffic impact studies in Michigan. If the traffic impact study involves geometric design recommendations, the study shall be prepared or supervised by a registered engineer with a strong background in traffic engineering.

2. Criteria for Requiring a Traffic Impact Study. The Zoning Administrator or Planning Commission may require that a traffic impact study be prepared as an attachment to a site plan for any proposed commercial, industrial, residential or mixed use development which has the potential to significantly increase traffic volumes on the surrounding roadway network. In determining the level of potential impact, the Zoning Administrator or Planning Commission shall consult appropriate planning and engineering texts including, but not limited to, Trip Generation, published by the Institute of Transportation Engineers and may seek the counsel of other professionals with experience with developments similar to that proposed. A traffic impact study may be required under this section when, in the judgment of the Zoning Administrator or Planning Commission, the proposed development will result in an increase of either the average daily traffic or the peak hour traffic equal to or greater than ten percent (10%) of the current traffic volume on the adjoining roadway.

3. Required Study Content. In general, a required traffic impact study shall document existing conditions on the existing roadway network including all intersections within one (1) mile of the proposed development including average daily traffic and peak hour volumes in all directions, existing turning movements, levels of service, average traffic speeds and accident history. Existing pedestrian and non-motorized traffic volumes shall also be estimated. The traffic impact study shall project the impact of the proposed development on the roadway network including all intersections within one (1) mile of the proposed development including projected average daily traffic and peak hour volumes in all directions, anticipated turning movements and anticipated levels of service. Anticipated impacts on pedestrian and non-motorized traffic volumes shall also be projected. The following specific elements shall be addressed in a required traffic impact study, unless specifically waived by the Zoning Administrator or Planning Commission:

   a. A narrative summary at the beginning of the report, including, but not limited to:

      1) The applicant and project name.

      2) A location map.

      3) The size and type of development.

      4) Generated traffic volumes based on type and size of land use which are compatible with those listed in the Institute of Transportation Engineers publication, *Trip Generation* (current edition).

   b. Project phasing identifying the year of development activities per phase and proposed access plan for each phase.

   c. A transportation system inventory, which describes the physical, functional and

operational characteristics of the study area highway system and, where appropriate, locate transit services. The description should provide, where pertinent, data on:

1) peak-hour volumes (existing and projected)
2) number of lanes
3) cross-section
4) intersection traffic signals and configuration
5) traffic signal progression
6) percentage of heavy trucks
7) adjacent access point locations
8) jurisdiction
9) grades

d. Plan showing proposed roadway per phase for each access. Driveway design and roadway improvements shall meet Michigan Department of Transportation (MDOT) or Berrien County Road Commission standards and guides.

e. Capacity analysis shall be performed at each access point. The use of Highway Capacity Software, (HCS 2000), or a later version thereof, is required unless an alternative system acceptable to the Township Engineer is provided. Default values shall not be used when actual values are reasonably available or obtainable. The interaction of conflicting traffic movements shall be addressed in the traffic impact study. Any proposed signalized access within one (1) mile of an existing signalized intersection shall be analyzed in coordination with the existing signal timing. A time-space diagram should also be included.

f. A traffic impact study shall include an analysis of conditions with and without the proposed development on the existing system, and with the proposed development for both existing and projected traffic volumes. The traffic volumes for the development shall assume a total build out. The completed analysis shall be summarized in a table showing all the Measures of Effectiveness (MOE) for all of the above conditions.

g. Required operational changes shall be part of the site plan review and any access permit approval process.

4. Evaluation and Criteria. As general criteria, the existing roadway network and all access points to a proposed development shall be demonstrated to be fully capable of accommodating the increased average and peak hour traffic anticipated. In the event the anticipated level of service on any roadway segment or intersection is shown to decline, the traffic impact study shall present alternative approaches proposed to manage anticipated traffic without such decline.

5. The Zoning Administrator may request that the Township Engineer, Planner and/or an independent traffic engineer or transportation planner review and comment on any traffic impact study prepared pursuant to this Section. The cost of any such review shall be borne

by the applicant.

C. **Market Study.** For unique development proposals, projects that may entail some financial expense or risk on the part of the Township and/or projects that may, in the judgment of the Planning Commission, fundamentally alter the character of the community, the Planning Commission may require a market study to demonstrate a reasonable expectation that a market exists for a proposed development. Such a study shall be prepared in accord with this Section.

1. Description. A market study shall be a detailed and documented analysis of the existing and projected economic conditions in the community that may impact both the proposed demand for the products or services to be generated on a site and the impact on other potentially competing businesses and services in the community that may result from the proposed development.

2. Content. Unless specifically waived by the Zoning Administrator or Planning Commission, a market study shall include the following elements:

   a. An executive summary which outlines the key findings of the study.

   b. The background for the study including both project background and the methodology and approach used.

   c. An overview of the market area including area demographic information and a description of the transportation and service infrastructure that would serve the proposed development.

   d. A trade area delineation describing the likely geographic area that may be influenced by the proposed development along with detail on the methodology used in defining the trade area.

   e. A market feasibility analysis that defines the supply of competing facilities existing and planned in the marketplace, the inventory of alternative sources of supply or services that may compete with the proposed development and the demand for the products and services to be provided by the proposed development. This shall include a supply/demand gap analysis and a description of the ways in which the proposed development may address the gap defined.

   f. The credentials of the author(s) of the market study.

3. Evaluation. The Zoning Administrator and Planning Commission shall review the market study to be satisfied that there is a reasonable expectation that the proposed development will meet with economic success without creating excessive dislocations within the existing marketplace.

Section 23.13 – Performance Guarantee Requirements

A. In the interest of insuring compliance with the requirements of this Zoning Ordinance and protecting the natural resources and health, safety and welfare of the residents of the Township, the Planning Commission, may require an applicant for site plan approval to

obtain a performance guarantee as set forth herein. The purpose of the performance guarantee is to:

1. Insure compliance with the Zoning Ordinance by completion of improvements including, but not limited to, roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls and landscaping;
2. Insure compliance with all conditions place on the approved land use; and
3. Restore the land to its condition prior to the approval of the special land use permit in the discretion of the Township if the approved land use is not completed.

B. Performance guarantee as used herein shall mean security of some sort, such as, but not limited to, a cash deposit, certified check, or irrevocable bank letter of credit to the benefit of the Township in a form approved by the Township Attorney and in an amount of the value of the improvements or construction permitted or called for in the approved site plan as determined by the Township.

C. By accepting a zoning compliance permit authorizing an approved development, the applicant/land owner irrevocably authorizes the Township to enter upon the subject property to complete the improvements authorized by the permit or to restore the land to its condition prior to the approval of the variance or aforementioned permits in the event of a default by the applicant/land owner under this Ordinance. This authorization expires upon the completion of all the required improvements as determined by the Township.

D Any performance guarantee posted in accordance with this Section 23.13, shall not be reduced until the Zoning Administrator confirms that not less than sixty percent (60%) of the required improvements have been completed. At that time, the amount of the performance guarantee shall be reduced by not more than seventy-five percent (75%) of the value of the improvements completed, as determined by the Zoning Administrator. In no event shall the amount of the performance guarantee be permitted to fall below twenty-five percent (25%) of the original total until all required improvements have been completed, including official approval for occupancy, as determined by the Zoning Administrator.

CHAPTER 24
PARKING REQUIREMENTS

Section 24.01 – Scope – Off-Street Parking

In all Zoning Districts, off-street parking facilities for the storage and parking of self-propelled motor vehicles for the use of occupants, employees, and patrons of buildings erected, altered, or extended after the effective date of this Ordinance, shall be provided as outlined in this Chapter. Such space shall be maintained and shall not be encroached upon so long as said building or structure remains, unless an equivalent number of such spaces are provided elsewhere in conformance with this Ordinance.

Section 24.02 – Location of Parking

The off-street parking required by this Chapter shall be provided in accordance with the following requirements:

A. Single and Two Family Dwellings. The off-street parking facilities required for single and two family dwellings shall be located on the same lot or parcel of land as the building they are intended to serve, but shall not be considered a parking lot under the provisions of this Chapter.

B. Multiple Dwellings. The off-street parking facilities for multiple family dwellings shall be located on the same lot or parcel of land as the dwellings they are intended to serve, and shall consist of a parking lot as defined in this Ordinance. In no event shall any uncovered parking space for any multiple family dwelling be located nearer than ten (10) feet to any main building.

C. Manufactured Housing Communities. The off-street parking required may be located on each manufactured home site, or in parking lots conveniently located and readily accessible to each site. Parking spaces must meet the minimum area requirements as outlined in this Chapter.

D. Other Land Uses. The off-street parking required may be located on each site or in parking lots within three hundred (300) feet of and readily accessible to each site.

Section 24.03 –Parking Lot Requirements

A. All parking facilities, access driveways, and business and industrial parking areas shall be constructed of a permanent, durable and dust-free surface. Such facilities shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area, and shall be completely constructed prior to a Certificate of Occupancy being issued, or a performance guarantee submitted in accordance with the procedures of Section 23.13.

B. In all Zoning Districts, the pavement surfacing of the portion of any driveway between the right-of-way, and the edge of the roadway surface shall be hard surfaced with a pavement having an asphalt or concrete binder, if the roadway is also hard surfaced with a pavement

having an asphalt or concrete binder.

C. Illumination for all parking lots in Business and Industrial Districts, non-residential uses, and multiple family developments shall be provided in accordance with Section 3.19 hereof.

D. When a non-residential parking lot is situated on a parcel which adjoins, or is directly across a roadway from a Residential District, the parking lot shall be set back twenty-five (25) feet excluding any parking or drives, from the property line or right-of way line, unless a greater setback is required by any other provision of this Ordinance. Such yard shall contain a greenbelt, as specified in Section 3.13, abutting the parking lot and designed to effectively screen the parking from neighboring residential districts and uses.

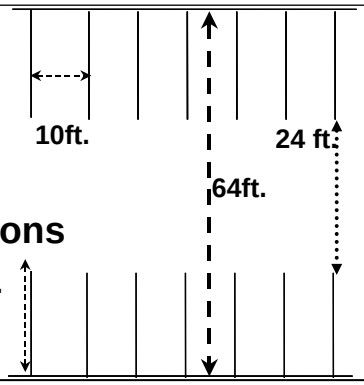
E. Adequate ingress and egress to the parking lot, by means of limited and clearly defined drives, shall be provided for all vehicles. Such drives shall be located so as to minimize traffic conflicts with adjoining uses and roadways.

F. Wheel stops shall be provided and so located as to prevent any vehicle from projecting over the lot or setback lines, or over a sidewalk. Such devices shall be securely anchored into the parking lot to ensure that they remain stationary.

G. Plans for the layout of off-street parking facilities shall be in accordance with the parking space dimensions of this Ordinance. The minimum parking space dimensions for a layout not provided for in the regulations shall be ten (10) feet in width, twenty (20) feet in length, and two hundred (200) square feet in area.

Parking Pattern	Aisle Width 2 way	Aisle Width 1 Way	Parking Space Width[1]	Parking Space Length[2]	Total Width[3] 1 Way	Total Width[3] 2 Way
Parallel	18 ft.	12 ft.	10 ft.	25 ft.	32 ft.	38 ft.
30-75 °	24 ft.	12 ft.	10 ft.	21 ft.	54 ft.	66 ft.
76-90 °	24 ft.	15 ft.	10 ft.	20ft.	55 ft.	64 ft.

1 Measured perpendicular to the longitudinal space centerline.
2 Measured along the longitudinal space centerline.
3 Total width of two tiers of parking maneuvering lane



Parking Space Dimensions

Section 24.04 – Parking Lot Plans

A. The construction of any parking lot shall be in accordance with the requirements of the provisions of this Ordinance. Such construction shall be completed and approved by the Zoning Administrator before actual use of the property as a parking lot, and before a Certificate of Occupancy is issued.

B. Plans for the development of any parking lot must be submitted and approved, in conformance with the site plan review requirements of Chapter 23.

Section 24.05 – Parking Restrictions

A. In any District, it shall be unlawful to use required off-street parking areas for the storage or parking of vehicles in excess of twenty four (24) hours, except as may be permitted for a business use.

B. It shall be unlawful for any person to park or store any motor vehicle without the express written consent of the owner, holder, occupant, lessee, agent, or trustee of such property. In no case shall vehicles be parked in any required off-street parking lot for the sole purpose of displaying such vehicle for sale, except in approved and licensed car sales lots.

C. Parking Restrictions. After the effective date of this Ordinance it shall be unlawful for the owner, holder, occupant, lessee, agent, or trustee of any lot in the R-1A, R-1B, R-2, or R-3 Residential Districts to permit or allow the open storage or parking, either day or night, thereon of trucks (over one (1) ton), semi-trucks and trailers, manufactured homes, construction equipment, or any other similar equipment or machinery used for business purposes. In all other Districts such parking shall be permitted for a period not exceeding forty eight (48) hours. However, the owner, tenant, or lessee of a farm may openly store the machinery and equipment used on his farm; and equipment necessary to be parked overnight on a lot, parcel or tract of land during construction work thereon shall be exempted from this restriction.

D. No vehicle storage or display shall be permitted within any road right-of-way. On-street parking is permitted in locations specifically designated by public authority for on-street parking. On-street parking spaces shall not be counted toward the required parking for any use.

Section 24.06 – Off-Street Parking Requirements

A. The minimum required number of off-street parking spaces required are noted in the table below for the uses listed. For those uses not specifically mentioned, the requirements for off-street parking shall be in accord with a use which the Zoning Administrator considers similar in type.

B. When units of measurement determining the number of required off-street parking spaces result in the requirement of a fractional space that fraction shall require one (1) parking space.

C. The Planning Commission may defer construction of a portion of the required number of parking spaces for nonresidential uses if the following conditions are met:

   1. Areas shown for deferred parking shall be shown on a site plan and shall be of sufficient area to permit the construction of the total number of parking spaces required by this Chapter. Such areas shall not be used for any other purpose required by this Ordinance and shall be kept open. Deferred parking areas, however, shall be landscaped and appropriately maintained until such time as they may be converted to parking.

   2. Alterations to the deferred parking area to add parking spaces may be initiated by the owner or required by the Zoning Administrator based on parking needs and shall require

the submission and approval of an amended site plan, as required by Chapter 23.

USE	MINIMUM PARKING REQUIRED
Residential	
Accessory Dwellings	One (1) for each dwelling unit
Assisted living, nursing homes	One (1) for each four (4) beds
Multiple family dwellings	Two (2) for each dwelling unit
Senior independent living	One (1) for each dwelling unit
Single family dwellings	Two (2) for each dwelling unit
Two family dwellings	Two (2) for each dwelling unit
Institutional	
Commercial Schools, Public and Parochial Secondary Schools	One (1) space for each eight (8) students based on maximum occupancy load established by local, state, or fire code; plus one (1) space for each classroom; plus amount required for auditorium or gymnasium seating
Day care center	One (1) space per each four (4) persons, based on licensed capacity; plus six (6) off-street queuing spaces
Group day care homes and group foster care homes	One (1) space for each four (4) clients
Hospitals	Four (4) spaces per bed
Municipal Buildings	One (1) space per four hundred (400) square feet of UFA
Places of Public Assembly	One (1) space for each four (4) seats or each six (6) feet of pew/bench length, or one (1) space for each four (4) persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater
Public and Parochial, Elementary and Middle Schools	Three (3) spaces per classroom, plus amount required for auditorium or gymnasium seating
Business	
Building Material Sales	One space per five hundred (500) square feet of GFA
Retail Business	One (1) space for each three hundred (300) square feet gross floor area
Health and Fitness Facility	One space per four hundred (400) square feet of GFA

USE	MINIMUM PARKING REQUIRED
Hotels and motels	One (1) space for each guest room, plus required spaces for any accessory uses
Indoor Commercial Recreational and Entertainment Facilities	For Bowling Alleys, four (4) spaces for each bowling lane plus required spaces for each accessory use. For all other uses, one (1) space for each three (3) persons based on maximum occupancy load established by local, state, or fire code.
Mortuaries and Funeral Homes	One (1) space for each fifty (50) square feet UFA
Open air businesses	One (1) space for each two hundred (200) square feet of indoor UFA plus one (1) space for each one thousand (1000) square feet of outdoor display area
Personal Service Establishment	Three (3) spaces for each chair, if applicable, or one (1) space for each three hundred (300) square feet UFA
Personal service establishments not otherwise specified	One (1) space for each three hundred (300) square feet UFA
Restaurants and other establishments (without drive-through facilities) serving food or beverages on the premises	One (1) space for each one hundred (100) square feet GFA or one (1) space for each three (3) persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater
Restaurants with drive-through facilities	One (1) space for each seventy-five (75) square feet of GFA or one (1) space for each one and one-half (1½) persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater
Vehicle service stations	One (1) space for each service stall; plus two (2) spaces for each pump island; plus requirement for retail, restaurant, car wash or other accessory uses
Vehicle wash establishments (automatic)	Three (3) spaces per one thousand (1,000) square feet of GFA; plus stacking space, as required for special use approval
Vehicle wash establishments (self service)	One (1) space: plus two (2) spaces for each stall, in addition to the stall itself
Veterinary hospitals and clinics and kennels	One (1) space per four hundred (400) square feet GFA

USE	MINIMUM PARKING REQUIRED
Offices	
Banks, credit unions, savings and loan associations and other similar uses	One (1) space for each four hundred and fifty (450) square feet UFA; plus three (3) spaces for each non-drive through automatic teller machine; plus stacking space as required for special use approval
Medical and dental offices and clinics	One (1) space for each seventy five (75) square feet of waiting room area; plus three (3) spaces for each examining room, dental chair, or similar use area
Offices not otherwise specified	One (1) space for each three hundred (300) square feet UFA
Industrial	
Manufacturing and Processing, and Research and Development establishments and Industrial uses not otherwise specified	One (1) space for each seven hundred fifty (750) square feet GFA; plus those spaces required for offices located on the premises
Warehouses and wholesale establishments	One (1) space for each two thousand (2000) square feet GFA plus; those spaces required for offices located on the premises

Section 24.07 – Scope – Off-Street Loading Requirements

A. On the same premises with every building or structure involving the receipt or distribution of vehicles, materials or merchandise there shall be provided and maintained on the lot adequate space for standing, loading and unloading. This space shall be placed so as to avoid undue interference with public use of dedicated rights-of-way and parking areas.

B. In the OS, LB, GB and HB Districts, all loading spaces shall be located in the rear yard in the ratio of at least ten (10) square feet per linear foot of building width, measured along the front building line. Such loading spaces shall be computed separately from off-street parking requirements.

C. Loading spaces for non-residential uses in Residential Districts shall be located in the rear yard in the ratio of at least five (5) square feet per linear foot of building width, measured along the front building line. Such loading spaces shall be computed separately from off-street parking requirements.

D. Industrial District

1. In the I District at least one (1) loading space shall be provided. All loading spaces shall be at least ten feet by fifty feet (10 x 50), or a minimum of five hundred (500) square feet in area. A minimum fourteen (14) foot clearance height shall be provided.

2. Loading spaces shall only be permitted off-street and in the rear yard or interior side yard.

E. All dedicated loading spaces shall be provided with a pavement having an asphalt or concrete binder so as to provide a permanent, durable and dustless surface.

F. Loading Space Deferral. The Planning Commission may defer construction of a portion of the required off-street loading space for nonresidential uses if the following conditions are met:

1. Areas shown for deferred loading space shall be shown on a site plan and shall be of sufficient area to permit the construction of the off-street loading space required by this Chapter. Such areas shall not be used for any other purpose required by this Ordinance and shall be kept open. Deferred loading space areas, however, shall be landscaped and appropriately maintained until such time as they may be converted to parking.

2. Alterations to the deferred loading space area to may be initiated by the owner or required by the Zoning Administrator based on building use and loading requirements and shall require the submission and approval of an amended site plan, as required by Chapter 23.

CHAPTER 25
SIGN REQUIREMENTS

Section 25.01 – Signs, Description and Purpose

The sign regulations of this Chapter are intended to protect and further the health, safety, and welfare of the residents of Niles Charter Township; to maintain and improve the appearance of the Township; to conserve community character; to prevent traffic hazards; to provide safer conditions for pedestrians; and to promote economic development by regulating the construction, alteration, repair, maintenance, size, location, and number of signs. It is further determined that to allow signs of excessive number and size in the Township would unduly distract pedestrians and motorists, create a traffic hazard, and reduce the effectiveness of signs needed to direct the public. These regulations are intended to provide reasonable identification of businesses and other uses within the community, but are not intended to serve as a means of advertising.

Section 25.02 – Prohibited Signs

The following types of signs are expressly prohibited:

A. Any sign that has flashing, moving, oscillating, or blinking lights or full-motion video images, but excluding time and temperature signs and barber pole signs, which are permitted and electronic message panels which may be permitted as provided herein.

B. Signs imitating or resembling official traffic or governmental signs or signals.

C. Any sign not expressly permitted by this Ordinance.

D. Balloons, strings of light bulbs, pennants, streamers, or flags (other than those of a governmental nature not used for the purpose of business advertisement or attraction) hung overhead to draw attention to a business or its merchandise on display.

E. No business vehicle or trailer, which in the opinion of the Zoning Administrator has the intended function of acting as a sign, shall be parked in any area abutting the street, unless no other parking area is available.

F. Off-premise signs, except billboards, political signs and community special event signs permitted pursuant to this Chapter.

Section 25.03 – Exempted Signs

The following signs shall be exempt from the provisions of this Chapter.

A. Governmental signs, on government property.

B. Signs for essential services.

C. Historical markers.

D. Memorial signs or tablets.

E. Political signs, except that such signs shall be removed within the time stated in Section 25.06.

F. Signs with an address and name of the owner or occupant, of not more than one (1) square foot in area, attached to a mailbox, light fixture, or exterior wall.

G. Temporary yard and garage sale signs of four (4) square feet in size or less, located on the property on which the sale is conducted. Temporary yard and garage sale signs may not be placed any earlier than five (5) days before the sale to which they refer and must be removed within one (1) day after the sale is completed.

H. Window signs provided the total area of all signs within one (1) foot of the window shall not obscure more than fifty (50) percent of the window area.

I. Flags or insignia of any nation, state, local government, community organization, or educational institution.

J. Real estate for sale or lease signs not exceeding six (6) square feet for residential properties and sixteen (16) square feet for commercial or industrial properties; provided the number of such signs is limited to one (1) per street frontage and provided further that such signs are removed within thirty (30) days after completion of the sale or lease of the property.

Section 25.04 – Measurement of Signs

A. The area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo and any other figure of similar character. The sign area shall also include any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed. Only the structure necessary to support the sign, shall be excluded from the sign area calculation.

B. The area of a free-standing or ground sign having 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 of equal size, the area of the sign shall be considered to be the area of one (1) face. If the two (2) back to back faces are of unequal size, the area of sign shall be considered to be the area of the larger of the two (2) faces.

C. The height of a sign shall be measured as the vertical distance from the highest point of the sign to the grade of the adjacent street, or the average grade of the ground immediately beneath the sign (excluding any artificially constructed earthen berms), whichever is less.

D. For buildings with multiple tenants, the sign areas for wall signs and projecting signs shall be determined by taking that portion of the front wall of the building applicable to each tenant and computing sign requirements for that portion of the total wall.

Section 25.05 – Sign Application and Permits

A. A sign permit shall be required for the erection, use, construction or alteration of all signs, except for those exempted by the terms of this Chapter. For purposes of this Section, alteration of a sign shall mean any substantial change therein, but shall not include normal maintenance or repair thereof. For proposed signs to be reviewed as part of a site plan, a zoning compliance permit issued for the site plan shall include the sign permit.

B. An application for a sign permit shall be made to the Zoning Administrator, and shall include submission of such fee as established by the Township Board. The application shall include the following:

   1. Name, address, and telephone number of the applicant, and the person, firm, or corporation erecting the sign.
   2. Address and permanent parcel number of the property where the sign will be located.
   3. A sketch showing the location of the building, structure, or parcel of land upon which the sign is to be attached or erected, and showing the proposed sign in relation to buildings and structures, setback from lot lines, and any trees or other natural features proposed to be removed for the installation of the sign.
   4. Two (2) scaled drawings of the plans and specifications for the sign and information on the method of construction and attachment to structures or the ground.
   5. Any application for building or electrical permits, if required.
   6. Identification of the Zoning District in which the sign is to be located, and any other information which the Zoning Administrator may require in order to determine compliance with this Chapter.
   7. A sign application shall disclose the land use and business to be identified by the sign.

C. All signs requiring electrical service shall be reviewed for compliance with the Township electrical code.

D. The Zoning Administrator shall issue a sign permit if all provisions of this Chapter and other provisions of this Ordinance and other applicable Township ordinances are satisfied. A sign authorized by such a permit shall be installed or shall be under construction within six (6) months of the date of issuance of the sign permit, or the permit shall expire. A new permit may be issued upon the filing of a new application and payment of the required fee.

Section 25.06 – Sign Regulations Applicable to all Districts

A. All signs shall be appropriately constructed and structurally sound and all signs shall be properly maintained to be neat in appearance.

B. It shall be unlawful for any person to erect, place, maintain, or continue a sign upon any lands in the Township except in accordance with the provisions of this Ordinance.

C. All signs shall be stationary, securely anchored or fastened to the ground or structure and shall be designed and constructed to withstand a 90 mile per hour ground wind load.

D. Signs shall pertain only to the business or activity conducted on the premises, except for political signs, community special event signs, and billboards.

E. Political signs shall not exceed thirty-two (32) square feet. Political signs may only be placed within thirty (30) days before and must be removed within five (5) days after the election or referendum to which the sign refers.

F. No sign shall be placed in, or extend into, or obstruct clear vision in any public right-of-way.

G. Construction signs are permitted subject to the following restrictions:

1. One (1) construction sign may be erected on the site where work is scheduled to begin
2. Construction signs shall not be larger than thirty two (32) square feet and shall not exceed eight (8) feet in height.
3. Construction signs shall not be erected until a building permit has been issued for the building or project which is the subject of the proposed sign and construction activity has begun.
4. Construction signs shall be removed within fifteen (15) days after the issuance of any occupancy permit for the building or structure which is the subject of the construction sign.

H. Community special event signs shall not exceed thirty-two (32) square feet and may be permitted for a period not to exceed thirty (30) days. No more than five (5) such signs shall be permitted for any single event. Such signs shall be removed within two (2) days of the end of the event. In all cases, such signs shall not be placed in the right-of-way and shall not be located so as to obstruct clear vision of drivers or pedestrians.

I. Directional signs shall not exceed four (4) square feet in area per sign, shall not be higher than three (3) feet., and shall not be located closer than five (5) feet to any right-of-way line.

J. No wall sign shall project above the roof line.

K. Temporary signs are permitted subject to the following restrictions:

1. A temporary sign shall only be displayed upon receipt of a permit issued by the Zoning Administrator.
2. No temporary sign shall be displayed on any one (1) lot or parcel for more than thirty (30) consecutive days for any one permit period and no more than two (2) permits shall be issued for any lot or parcel during any calendar year.
3. Upon expiration of the permit, the sign shall be removed by the permit holder.
4. No temporary sign shall exceed thirty-two (32) square feet.
5. No temporary sign shall be closer than five (5) feet from any right-of-way or property line.
6. All temporary signs shall be designed and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot of area.

L. Flashing, moving or intermittently illuminated signs are prohibited. If externally illuminated, the source of the light shall be enclosed and directed to prevent light from shining directly onto traffic and neighboring property. For the purposes of this section, illumination shall be considered flashing, moving or intermittent if it changes in intensity, luminosity, color or message, or if the message text or image shifts on the sign face, more frequently than once every eight (8) seconds. This section shall apply to all illuminated signs, including but not limited to, changeable copy signs, electronic message panels, light emitting diode (LED) or liquid crystal display and other video-type display signs, lighted marquee signs, and any other internally or externally lit signs. Illumination of signs shall be directed or shaded so as not to interfere with adjacent highways or adjacent property and shall not exceed either ten (10) foot candles measured four (4) feet perpendicular to any point on the sign face or one-half (1/2) foot candles measured at any property line.

M. Incidental signs pertaining to any conforming accessory activity being conducted on the premises are permitted in any District; provided only one (1) such sign shall be permitted, shall be mounted flat against a building wall, and shall not exceed three (3) square feet in area.

N. No sign shall be erected where, in the judgment of the Planning Commission or Zoning Administrator, an unreasonable amount of land clearing or alteration is required. The Planning Commission or Zoning Administrator may require a change in the location to avoid such unnecessary or unreasonable clearing or alteration.

O. Freestanding signs shall have a clear space of at least eight (8) feet between the grade and the bottom of the sign to permit an unobstructed view for motorists and pedestrians. For a sign to be considered a free-standing or pole sign hereunder, not less than 60% of the space between the sign and the ground shall be unobstructed by any elements of the sign structure to allow motorists and pedestrians to have clear vision beneath the sign.

P. Real Estate Development signs are permitted subject to the following restrictions:

1. Such sign shall not exceed an area of thirty–two (32) square feet.
2. It shall be set back from the road right-of-way at least one-half (1/2) the required setback distance for the district in which it is located
3. It shall be located on some portion of the development being advertised for sale.
4. It shall be removed upon the sale of all lots or sites within the development.

Section 25.07 – Nonconforming Signs

A. Every permanent sign in existence at the time of adoption of this Ordinance which does not conform to the height, size, area, or location requirements of this Chapter, but which legally conformed to the previous zoning ordinance, is deemed to be nonconforming.

B. Nonconforming signs may not be expanded, enlarged, or extended, but they may be maintained and repaired so as to continue their useful life.

C. A nonconforming sign may be diminished in size or dimension, or the copy on the sign may be amended or changed, without adversely affecting the status of the sign as a nonconforming sign.

Section 25.08 – Signs In Residential Districts

In addition to the requirements in Section 25.06, the following signs are permitted in Residential Districts:

AP, RP, R-1A, R-1B, R-2, R-3 Districts	
Subdivision identification sign	
Number	One (1) non-illuminated per entrance road for a subdivision, multifamily or manufactured housing development, not exceeding two (2) such signs per development
Size	Thirty-two (32) square feet
Location	Setback minimum of fifteen (15) feet from any right-of-way or property line
Height	Maximum six (6) feet.
Signs for non-residential uses in Residential Districts	
Number	One (1) ground sign and one (1) wall sign per lot or parcel (illuminated).
Size	Ground sign: maximum thirty-two (32) square feet; wall sign: ten (10) percent of wall area, not exceeding fifty (50) square feet
Location	Ground sign setback minimum fifteen (15) feet from any right-of-way or property line.
Height	Ground sign: maximum six (6) feet.
Wall signs for home occupations – See Section 3.20	
Signs indicating sale of produce grown on the premises or providing agricultural information	
Number	One (1) non-illuminated sign per parcel
Size	Twelve (12) square feet
Location	Minimum setback of fifteen (15) feet from any right-of-way or property line
Height	Maximum four (4) feet

Section 25.09 – Signs in Business and Industrial Districts

In addition to the requirements in Section 25.06, the following signs are permitted in the Business Districts:

A. OS District	
Ground Sign (Freestanding Signs shall be prohibited)	
Number	One (1) per lot or parcel
Size	Maximum forty-eight (48) square feet
Location	Minimum setback equal to half the required setback distance for the District.
Height	Maximum four (4) feet above grade
Wall Signs	
Number	One (1) per business; provided that any business which has frontage on more than one (1) street shall be permitted to have one (1) wall sign per street frontage, subject to the following size restrictions.
Size	No greater than ten (10) percent of the ground floor wall area to which it is affixed on the front and no greater than five (5) percent of the ground floor wall area on any side or rear face which abuts a street, not to exceed thirty (30) square feet per sign. Where two (2) or more businesses occupy a single building, the ground floor wall area shall be limited to that portion of the building occupied by the respective business.
Location	Mounted flat against the wall facing the street.

B. LB, GB, HB Districts	
Ground Sign or Freestanding Sign	
Number	One (1) per street frontage, but not more than two (2) signs, provided that lots with two street frontages shall have a minimum width at each right-of-way line of at least fifty (50) feet in order to have a second sign. No freestanding or ground sign shall be permitted for individual businesses within a Business Center.
Size	Maximum forty-eight (48) square feet for ground signs or sixty (60) square feet for freestanding.
Location	Minimum setback equal to half the required setback distance for the District.
Height	Maximum six (6) feet for ground sign or twenty-five feet for freestanding
Wall Signs	
Number	One (1) per business; provided any business with frontage on more than one (1) street may have one (1) sign per street frontage, subject to the size restrictions stated herein. No more than one (1) sign shall be permitted per wall face.
Size	Maximum ten (10) percent of the wall area to which it is affixed, not exceeding one hundred (100) square feet.
Location	Mounted flat against the wall facing the street.

B. LB, GB, HB Districts	
Business Center Sign	
Number	One (1) per street frontage, but not more than two (2) signs, provided that lots with two street frontages shall have a minimum width at each right-of-way line of at least seventy-five (75) feet in order to have a second sign. No freestanding or ground sign shall be permitted for individual businesses within a Business Center.
Size	Maximum sixty (60) square feet for ground signs or eighty (80) square feet for freestanding signs
Location	Minimum setback equal to half the required setback distance for the District
Height	Maximum six (6) feet for ground sign or twenty-five (25) feet for freestanding.
Billboard (within the GB and HB Districts only)	
Number	One (1) per parcel
Size	Maximum four hundred (400) square feet provided the vertical dimension shall not exceed twelve (12) feet and the horizontal dimension shall not exceed forty-two (42) feet.
Location	Minimum setback equal to the required setback distance for the District and a minimum separation from any other billboard of one thousand (1,000) feet.
Height	Maximum forty (40) feet.

In addition to the requirements in Section 25.06, the following signs are permitted in the Industrial District:

I, Industrial District	
Ground Sign (Freestanding Signs are prohibited)	
Number	One (1) per lot or parcel
Size	Maximum forty-eight (48) square feet
Location	Minimum setback fifteen (15) feet from any right-of-way or property line
Height	Maximum six (6) feet
Wall Sign	
Number	One (1) per street frontage
Size	Maximum ten (10) percent of wall area to which the sign is affixed, not exceeding one hundred (100) square feet
Location	Mounted flat against wall facing street
Billboard	
Number	One (1) per parcel

Size	Maximum four hundred (400) square feet provided the vertical dimension shall not exceed twelve (12) feet and the horizontal dimension shall not exceed forty-two (42) feet.
Location	Minimum setback equal to the required setback distance for the District and a minimum separation from any other billboard of one thousand (1,000) feet.
Height	Maximum forty (40) feet.

CHAPTER 26
PRIVATE STREETS

Section 26.01 – Purpose.

The purpose of this Chapter is to provide specific requirements applicable to private roads within Niles Charter Township.

Section 26.02 – Minimum Requirements

When private street development occurs in Niles Charter Township and is not subject to the standards established under the Subdivision Control Act P.A. 288 of 1967, MCLA 560.101 et seq., (as amended) and the requirements of the Niles Charter Township Subdivision Control Ordinance, the following minimum private road standards shall apply. No person, firm, or corporation shall hereafter divide any land as hereinafter described without providing for public or permanent private easements for access to such divided lands with said private easements to conform to the following minimum requirements.

A. All lots must be on a public or private street frontage and meet all Ordinance requirements, and with access to the road to provide safe, convenient access for serving fire protection and any required off-street parking. No resultant lot from any land division shall have road frontage less than that required for the zoning district it is located in.

B. All private streets constructed shall be accessible, usable, and constructed in a good and workmanlike manner upon and parallel to and centered with the centerline of a permanent right-of-way easement duly recorded with the Berrien County Register of Deeds. Rights-of-way or easements while not required to be dedicated, will be reserved for future dedication and preclude any development within the designated area. All plans as submitted for approval must show the private street easement including a legal description, the grades for the roads, and any drainage facilities and structures.

C. All private streets shall have names approved by the Niles Charter Township Board. Lots fronting on a private street shall be assigned address numbers consistent with the Berrien County address numbering system and the County Road Commission requirements.

D. There shall be a clear view area at all corners of intersecting roads, or road junctions as illustrated in Figure 3-3. Provided, however, that on private streets, the clear view area shall consist of a triangular area defined by the point of intersection of the right-of-way lines and the two points extending along such lines a distance of twenty-five (25) feet from the point of intersection, and within which area no obstruction to vision shall be permitted. This section shall not prohibit the requirement of a greater clear vision area where such is necessary in view of permitted traffic, anticipated traffic violations, or geographic conditions.

E. All private street easements shall meet the following requirements:

1. Unless otherwise specified in the Ordinance and the Niles Charter Township Subdivision Control Ordinance, easements shall be a minimum of sixty-six (66) feet wide. The Planning Commission or its designated agent may require additional width to the right-of-way easement to allow for adequate construction where deemed necessary.

2. The right-of-way easement width on curved portions of roads shall be the same as for the straight portions of the road.

F. A drainage plan shall be submitted on a topographic map, with a minimum of two (2) foot contour intervals, indicating the manner in which surface drainage is to be dispersed. In no case shall runoff from a private street be diverted beyond the limits of that private street easement onto adjacent streets or property unless appropriate drainage easements are secured.

G. All streets constructed in Niles Charter Township shall be constructed so as to sufficiently control storm water runoff and permit effective storm water drainage and prevent soil erosion and shall have all required storm water and soil erosion control permits. No runoff shall be discharged to lakes, streams, or wetlands without proper permits.

H. A private easement serving not more than three (3) lots or condominium units shall be considered a shared driveway and shall not be subject to the requirements of this Article.

I. A private street serving or to serve a minimum of four (4) and a maximum of twenty-five (25) lots or condominium units shall be designed to meet following minimum standards:

1. A granular soil base of not less than twelve (12) inches in depth of which the top six (6) inches in depth shall be at minimum road grade processed gravel.

2. A roadbed and shoulders consistent with the following minimum requirements:

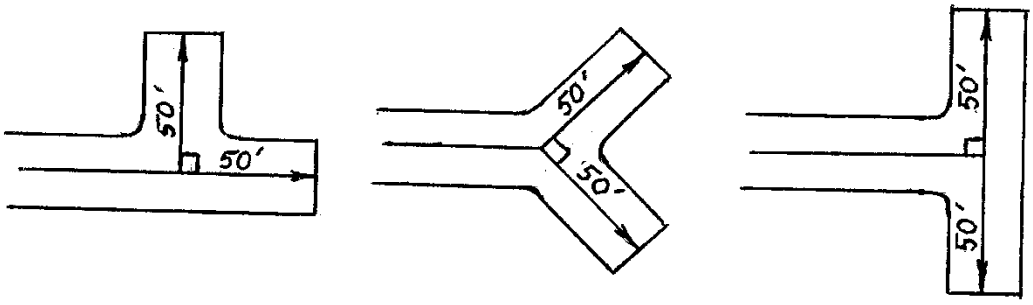
Maximum of 6 Lots Served		Maximum of 12 Lots Served		Maximum of 25 Lots Served	
Road Bed	Shoulders	Road Bed	Shoulders	Road Bed	Shoulders
16' in width	2' in width	20' in width	2' in width	24' in width	2' in width

3. Adequate culverts shall be provided as necessary.

4. No portion of the road grades shall exceed six percent (6%) for unpaved roads and ten percent (10%) for paved roads, if provided with proper curbing.

5. Where cul-de-sacs shall be employed, the minimum radius shall be sixty (60) feet. Hammer head, wye, or other acceptable alternative road end configurations require fifty (50) feet of roadway measured from the intersection of the centerlines. (see Figure 26.1 below)

Figure 26-1 Alternative Road End Configurations



J. If more than twenty-five (25) lots or condominium units have access to a private street, then a second means of access meeting the requirements of the Ordinance (either a public street or an approved private street) shall be provided. Developments of twenty-five (25) or more lots or condominium units must include roads which are constructed to meet Berrien County Road Commission subdivision street specifications.

Section 26.03 – Agency Permits

Construction permits from the Berrien County Road Commission shall be required for connection to County roads. Permits shall be required from the Berrien County Soil Erosion Control Officer under the Soil Erosion and Sedimentation Control Act P.A. 347 of 1974, MCLA 282.101, et seq., when applicable. No land use permit shall be issued on any private street until such private street county permits are reviewed and approved by the Zoning Administrator.

Section 26.04 – Site Plan

The applicant/developer shall prepare a general property development plan and a site plan complying with the requirements of Chapter 23. Prior to review by the Zoning Administrator, the applicant will prepare and provide eleven (11) sets of the following material:

A. Engineered road construction plans.

B. Drainage plan.

C. Road maintenance agreement and deed restrictions satisfactory to the Township Attorney, signed by applicant/owner, providing for:

1. A method of initiating and financing of such road and/or easements in order to keep the road in a reasonably good and stable condition.

2. A workable method of apportioning the costs of maintenance and improvements to current and future users. Including, a method for reapportioning costs for improvements and maintenance to the road in the event that land divisions occur on the road.
3. A notice that no public funds of Niles Charter Township are to be used to initially build, and thereafter repair, or maintain the private street.
4. Easements to the public for purposes of emergency and other public vehicles for whatever public services are necessary.
5. A provision that the owners of any and all of the property using the road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include use by family members, guests, invitees, vendors, trade persons, delivery persons, and others bound to or returning from any of the properties having a need to use the road.
6. The agreement must address how capital costs will be paid when those costs are required because of the addition of new lots on the street.

Section 26.05 – Other Requirements

A. A Licensed Civil Engineer shall be retained by the Township with professional fees paid through the developer's application escrow account, pursuant to Section 23.06. When the Planning Commission has approved the private street plans pursuant to Chapter 23, the Zoning Administrator shall issue a land use permit upon receipt of documentation that any applicable conditions of approval have been met. The Engineer will inspect and review the road during construction. Upon completion of construction of the road, a site inspection of the road will be made by the Engineer who shall forward his/her recommendation to the Township Zoning Administrator who shall then grant a final approval.

B. All private streets shall be designated as such and have a sign and name approved by the Niles Charter Township Board which meets county sign standards, be approved by the Berrien County Road Commission, and be erected by the property owner. In addition to road identification, private street signs shall also include the wording Private Street in a minimum of four (4) inch letters and Not Maintained by the Berrien County Road Commission in a minimum of two (2) inch high letters.

C. A private street application fee may be established by the Niles Charter Township Board from time to time. Before final approval, the cost of review of plans and inspections by the Township Zoning Administrator of the private street and drainage shall be paid for by the Applicant/Developer.

D. All purchasers of property where a private street provides access to the premises shall, prior to closing of the sale, receive from the Seller a notice of easement, in recordable form, substantially conforming to the following:

> "This parcel of land has private street access across a permanent_____(insert size of easement) foot easement which is a matter of record and a part of the deed. This

notice is to make the Purchaser aware that this parcel of land has ingress and egress over this easement only."

"Seller advises Purchaser that said parcel of land abuts a private street that has not been accepted for maintenance by the Berrien County Road Commission or any other public body."

Section 26.06 –Exceptions and Departures from the Standards.

Exception to the standard and provisions of this Chapter may be granted by the Planning Commission as follows:

A. Land Divisions. A land division shall be approved on an existing substandard easement width provided:

1. The private street was legally created prior to the adoption of this Chapter;
2. The road surface width and shoulders meets all requirements of this Ordinance;
3. There are fewer than twenty-five (25) lots or condominium units served exclusively by the private street;
4. The proposed land division meets all other dimensional standards of the zoning district in which it is located;
5. All other requirements of this Article are met.

B. Road Standards. The Planning Commission may allow a departure from the standards of this Article relating to easement width, roadway width and surface grade, radius, or other standards in this Section for a private street, provided the Planning Commission makes the following findings:

1. The proposed departure from the standards of this Article will allow preservation of significant trees, prevent excessive grading, or otherwise preserve natural features and rural character.
2. The private street maintenance agreement and deed restrictions restrict the maximum number of lots or condominium units to be served by the private street to no more than twenty-five (25).
3. Future connection to other existing or future roadways is not anticipated.
4. The Township Fire Department has provided written approval of the proposed departure or exceptions from the standards of this Article.

CHAPTER 27
RESERVED

CHAPTER 28
ZONING BOARD OF APPEALS

Section 28.01 – Authorization

In order that the objectives of the Ordinance may be more fully and equitably achieved, that there shall be provided a means of competent interpretation of this Ordinance, that adequate but controlled flexibility be provided in the application of this Ordinance, that the health, safety, and welfare of the public be secured, and that justice be done, there is hereby established a Township Zoning Board of Appeals (ZBA).

Section 28.02 – Membership and Term of Office

A. The Township ZBA shall consist of five (5) members.

   1. The first member of the ZBA shall be a member of the Township Planning Commission; the second member may be a member of the Township Board but shall not serve as chairperson of the ZBA; the additional members shall be selected from the electors residing in the Township.
   2. All members shall be appointed by the Township Board. The additional members shall not be elected officers of the Township or employees of the Township Board. The additional members shall be appointed for three (3) year terms.
   3. The Planning Commission and Township Board representatives, who shall not be the same member, shall only serve on the ZBA, while holding office on those respective bodies.

B. The Township Board may appoint up to two (2) alternate members with the same qualifications as regular members for the same terms as the regular members.

   1. An alternate may be called to serve as a regular member:
      a. in the absence of a regular member if the regular will be unable to attend one (1) or more meetings; and
      b. for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest.
   2. The alternate member shall serve in the case until a final decision is made, and shall have the same voting rights as a regular member.

C. A member of the ZBA may be removed by the Township Board for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

D. Any vacancies on the ZBA shall be filled by appointment by the Township Board not more than one (1) month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term.

SECTION 28.03 – Duties and Powers

The ZBA shall have the following specified duties and powers:

A. Appeals. The ZBA shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Administrator or other administrative officer or body of the Township in the administration and enforcement of this Ordinance.

B. Interpretation. The ZBA shall have the power to:

   1. Hear and decide upon requests for the interpretation of the provisions of this Ordinance; and

   2. Determine the precise location of boundary lines between Zoning Districts upon appeal from a decision by the Zoning Administrator.

C. Variances. The ZBA shall have the power to authorize specific variances from the requirements of this Ordinance.

D. The ZBA shall not have the authority to hear or act upon any request for a use variance within a Zoning District.

E. The ZBA shall not have the authority to approve any sign type which is not permitted within a Zoning District.

Section 28.04 - Meetings

Meetings shall be open to the public, and shall be held at the call of the Chairman, and at other times as the ZBA shall specify in its rules of procedure.

Section 28.05 – Applications and Hearings

A. An application to the **ZBA** shall consist of:

   1. A completed application form, provided by the Township,

   2. A fee and escrow deposit as established by the Township Board, paid to the Township Clerk at the time of filing, and

   3. A scaled drawing, a minimum of eleven inches by seventeen inches (11" x 17") with sufficient detail to indicate the nature and necessity of the request.

   4. The ZBA or the Zoning Administrator may request additional detail on the drawing or other information which they deem necessary to make a decision on the application.

B. Upon receipt of a complete application at least thirty (30) days prior to the meeting at which the request will be heard, the Zoning Administrator shall publish a notice as provided by Section 29.08. The notice shall state the nature of the application to be considered and shall be mailed to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the

property or occupant is located in the zoning jurisdiction, as required pursuant to Section 29.08.

C. The ZBA may recess the hearings from time to time, and no further notice shall be required.

Section 28.06 - Decisions

A. The concurring vote of a majority of the full membership of the ZBA shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator; to decide in favor of any application on any matter upon which the ZBA is required to pass under this Ordinance; or to effect any variance in this Ordinance.

B. The ZBA shall return a decision upon each case within a reasonable time after the scheduled hearing has been held. The reasoning supporting its decision shall be documented by stating on the record the grounds and/or findings to support it.

C. In granting any variance, the ZBA may prescribe appropriate and reasonable conditions and safeguards, which shall be in conformity with all of the following requirements:

1. The condition or safeguard must 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 or activity under consideration; residents and landowners immediately adjacent to the proposed activity; and the community as a whole.
2. The condition or safeguard must be related to the valid exercise of the police power and to the purposes that are affected by the proposed activity.
3. The condition or safeguard must be necessary to meet the intent and purposes of this Ordinance; be related to the standards established in this Ordinance for the activity under consideration; and be necessary to ensure compliance with those standards.

D. The ZBA may find the immediate effect of the order is necessary for the preservation of property or personal rights; immediate effect shall so be certified on the record.

E. The decision of the ZBA shall be final; however, any person having an interest affected by any decision shall have the right of appeal to the Circuit Court on questions of law and fact.

F. Each decision entered under the provisions of this Chapter shall become null and void unless the construction or other action authorized by the decision has been started within one (1) year after the decision was made and is being carried forward to completion or occupancy of land, premises, or buildings.

G. No application which has been denied wholly or in part by the ZBA shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of changed conditions that would significantly change the nature of the request or affect the reasons for denial first ordered by the ZBA.

Section 28.07 – Appeals

A. Appeals to the ZBA may be taken by any person aggrieved, or by any officer, department or Board of the Township.

   1. Applications for appeals shall be filed within twenty one (21) days after the date of the decision which is the basis of the appeal. The appellant must file with the Zoning Administrator a notice of appeal specifying the nature and grounds for the appeal.

   2. The Zoning Administrator shall transmit to the ZBA all the papers constituting the record upon which the action appealed from was taken.

B. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the ZBA after the notice of the appeal has been filed with him that, for reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. Proceedings shall not be stayed, unless by a restraining order, which may be granted by the ZBA or, on application, by the Circuit Court when due cause can be shown.

Section 28.08 – Review Standards for Variances

A non-use/dimensional variance may be allowed by the ZBA only in cases where there is reasonable evidence presented by the applicant that ALL of the following conditions are met:

A. Granting the variance will not be contrary to the public interest and will ensure that the spirit of this Ordinance is observed.

B. Granting the variance will not cause a substantial adverse effect to property or improvements in the vicinity or in the district in which the subject property is located.

C. The variance request is not one where the specific conditions pertaining to the property are so general or recurrent in nature as to make the formulation of a general regulation for those conditions reasonably practicable.

D. That there are practical difficulties in the way of carrying out the strict letter of these regulations which are caused by exceptional or extraordinary circumstances or conditions applying to the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the vicinity in the same Zoning District. Exceptional or extraordinary circumstances or conditions include:

   1. Exceptional narrowness, shallowness or shape of a specific property on the effective date of this Ordinance;

   2. Exceptional topographic conditions;

   3. By reason of the use or development of the property immediately adjoining the property in question; or

   4. Any other physical situation on the land, building or structure deemed by the ZBA to be extraordinary.

E. That granting the variance is necessary for the preservation of a substantial property right possessed by other properties in the vicinity in the same Zoning District.

F. That the variance is not necessitated as a result of any action or inaction of the applicant.

G. The variance, if granted, would be the minimum departure necessary to afford relief.

CHAPTER 29
ADMINISTRATION AND ENFORCEMENT

Section 29.01 – Interpretation

A. In the interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience, or general welfare.

B. It is not intended by this Ordinance to repeal, abrogate, annul, or in any other way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this Ordinance. Further, it is not intended by this Ordinance to repeal, abrogate, annul, or in any other way impair or interfere with any private restrictions placed upon property by covenant, deed, or other private agreement. However, where any provision of this Ordinance imposes more stringent requirements, regulations, restrictions, or limitations upon the erection or use of land and buildings, upon the height of buildings and structures, upon safety and sanitary measures, or requires larger yards or open spaces than are imposed or required by the provisions of any other law or ordinance, or any said rules, regulations, permits, or easements, then the provisions of this Ordinance shall govern.

C. Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety, and welfare.

Section 29.02 – Remedies and Enforcement

A. A violation of this Ordinance is a municipal civil infraction, for which the fine shall be in accordance with the following:

   1. For violation of the provisions of this Ordinance governing the approval, operation, or maintenance of Special Land Uses in any Zoning District:

      a. First violation: five hundred dollars ($500.00);

      b. Second violation within a three (3) year period from the date of the first violation: one thousand dollars ($1,000.00);

      c. Third violation within a three (3) year period from the date of the first violation: two thousand dollars ($2,000.00);

      d. Fourth and any subsequent violations within a three (3) year period from the date of the previous violation: five thousand dollars ($5,000.00);

   2. For violation of any other provision of this Ordinance in any Zoning District:

      a. First violation: one hundred-fifty dollars ($150.00);

      b. Second violation within a three (3) year period from the date of the first violation:

three hundred dollars ($300.00);

c. Third violation within a three (3) year period from the date of the first violation: six hundred dollars ($600.00);

d. Fourth and any subsequent violations within a three (3) year period from the date of the previous violation: fifteen hundred dollars ($1,500.00);

3. In addition to said fines, the guilty party is subject to all other costs, damages, and expenses provided by law.

B. Each day that a violation continues shall constitute a separate violation of this Ordinance.

Section 29.03 – Public Nuisance, Per Se

Any building or structure which is moved, erected, repaired, altered, or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this Ordinance, and in violation of any of the provisions thereof, is hereby declared to be a public nuisance per se. The nuisance may be abated by order of any court of competent jurisdiction.

Section 29.04 – Zoning Compliance Permits and Survey Requirements

A. No permit or approval shall be issued by any municipal, County, Township, state, official, or agency for any use, building, construction, work, alteration, addition, or improvement to land or land division, as above described, until a Zoning Compliance Permit has been issued by the Zoning Administrator under the terms and provisions of this Ordinance.

B. The issuance of any other approval or certification of a site plan, variance, special land use permit, planned unit development, or other discretionary permit by any board or body under this Ordinance, shall not supersede or lessen compliance with this Ordinance and that any use, development, construction, improvement or work allowed under the discretionary permit, shall in all cases be further conditioned on compliance with this Ordinance and shall not be allowed until the issuance of the Zoning Compliance Permit in accordance with this Chapter.

C. An application for a Zoning Compliance Permit shall be signed by the owner of the land, or the owner's duly authorized agent and be accompanied by a site plan, where required under other provisions of this Ordinance, or a drawing, that provides the following information:

1. Scale, date and north point.
2. Location, shape and dimensions of the lot.
3. Legal description, tax parcel number and address of the lot.
4. Location, outline and dimensions of all existing and proposed structures and the location and extent of all uses not involving structures.
5. A clear description of existing and intended uses of all structures.
6. Additional information as required by the Zoning Administrator for purposes of determining compliance with this Ordinance.

D. A Zoning Compliance Permit shall be signed and issued by the Zoning Administrator.

1. The application and all supporting documentation shall be considered a part of the permit.
2. Any alteration, false statement, change or other variation between the application and its supporting documents, and the use, construction, work, development, alteration, addition, or improvement authorized by the permit, shall render the permit null and void.
3. Any change, variation or alteration of the application and supporting documents, shall require resubmission to the Zoning Administrator and the re-issuance of a new Zoning Compliance Permit.

E. All fees due under this Ordinance, or under other Ordinances or policies of the Township for municipal services and development of the work, must be paid in full prior to the issuance of the Zoning Compliance Permit, unless exception is made by the appropriate board authorized to waive or delay the payment of the fees. The applicant shall furnish to the Zoning Administrator, upon request, a title insurance policy or other acceptable evidence of ownership.

F. The Zoning Administrator is authorized to prepare and furnish to the public, from time to time forms for application for a Zoning Compliance Permit.

G. The Zoning Administrator is authorized to affix to the face of any Zoning Compliance Permit any condition authorized by the Ordinance or under any discretionary permit issued by any Board under this Ordinance, or under other Ordinances or promulgated policies of the Township, pertaining to the use, work or occupancy of the land and premises. Failure to comply with any condition shall render the Zoning Compliance Permit null and void.

H. Boundary Surveys

1. In all Zoning Districts, when a setback variance has been granted by the Zoning Board of Appeals, any application must be supported by a boundary survey prepared by a registered land surveyor showing the lot lines. Location of proposed footings shall be added to a copy of the survey and submitted to the Zoning Administrator.
2. Where a survey is required under this Section, the surveyor shall certify the boundary survey, showing that all new construction and structures are set as originally proposed in the application for a zoning permit, and the owner shall deliver said certified survey to the Zoning Administrator within ten (10) days after the footing or final location of the structure is set. Failure to comply with this section shall render the zoning permit null and void.

Section 29.05 – Ordinance Amendments

A. Amendments. The Township Board may, from time to time by Ordinance, amend, supplement or change the boundaries of districts, designation of districts, or regulations herein established, in accordance with the State law.

B. Initiation of Amendments. Amendment to this Ordinance will be directed to the Planning Commission for review and may be initiated by the Township Board by resolution; by the Planning Commission, by motion; or by any interested person or persons by petition to the

Zoning Administrator.

C. Amendment Petition. All petitions for amendment to this Ordinance shall be in writing, signed and filed with the Zoning Administrator for presentation to the Planning Commission. A fee shall be paid in accordance with the schedule of fees established by the Township Board. Such petitions shall include the following:

1. The petitioner's name, address and interest in the petition, as well as the name, address, and interest of every person having a legal or equitable interest in any land which is to be rezoned;
2. The nature and effect of the proposed amendment;
3. If the proposed amendment would require a change in the Zoning Map:
   a. A fully dimensioned map, drawn to a minimum scale of one inch to one hundred feet (1" = 100'), showing the land which would be affected by the proposed amendment;
   b. A legal description of such land;
   c. The present zoning district of the land;
   d. The zoning district of all abutting lands, and
   e. All public and private right-of-way easements bounding and intersecting the land to be rezoned.
4. The alleged error in the Ordinance which would be corrected by the proposed amendment, with a detailed explanation of such alleged error and detailed reason why the proposed amendment will correct the same.
5. The changed or changing conditions in the area or in the Township that make the proposed amendment reasonably necessary to the promotion of the public health, safety and general welfare.
6. All other circumstances, factors, and reasons which the petitioner offers in support of the proposed amendment.

D. Notice. The Planning Commission shall hold at least one (1) public hearing on all Zoning Ordinance amendments, supplements, changes to the boundaries of districts, designation of districts, or regulations in accordance with Section 29.08.

E. Review Standards for Rezoning Requests. The Planning Commission and Township Board shall review a rezoning request and evaluate whether the facts presented allow appropriate responses to the following standards:

1. Is the requested zoning consistent with the Niles Township Master Plan?
2. Would the re-zoning be compatible with existing uses in the immediate area?
3. Are there substantial reasons why the property cannot be reasonably used as currently zoned?
4. Are adequate comparable sites available elsewhere properly zoned?

5. Would the re-zoning constitute a spot zoning?
6. Has there been a change of conditions in the area that would support the request?
7. Would the change severely impact traffic, public facilities or the natural characteristics of the area?
8. Are all uses permitted by the proposed district appropriate in this location?

F. Procedure.

1. The Planning Commission shall recommend to the Township Board approval or denial of such amendment. The Planning Commission shall reduce its action to a written summary recommendation to the Township Board. This written summary recommendation shall:
   a. Indicate the vote of each member upon this question;
   b. Summarize the pertinent facts particular to the issue; and
   c. List any recommended changes to the proposed change or amendment as presented.
2. The recommendation of the Planning Commission shall be transmitted to the Berrien County Planning Commission, unless such review authority is specifically waived by the County, and to the Township Board.
3. The Township Board, upon receipt of the Planning Commission's recommendation and that of the County Planning Commission (if applicable), shall act upon the proposed change or amendment by Ordinance. If a recommendation is not received from the County within thirty (30) days of its receiving the request, the Board shall presume the County does not have any comments. In any event, the County review is advisory only.
4. The Township Board may hold additional hearings if it considers it necessary. Notice of such hearing shall be given in the same manner as required under section 29.08 for any other text amendment or rezoning. The Township Board shall grant a hearing on a proposed ordinance provision to a property owner who requests a hearing by certified mail, addressed to the Township Clerk.
5. If the Township Board considers any amendments to the text forwarded by the Planning Commission, it may refer the proposed amendments back to the Planning Commission for a report thereon within a time specified by the Township Board.
6. After the public hearing, if held as allowed under this section, the Township Board shall consider and vote upon the adoption of the Ordinance, with or without amendments. A majority vote of the members of the Township Board shall be required to adopt any Ordinance or amendment.
7. Amendments shall be effective seven (7) days after publication, or at such later date after publication as may be specified by the Township Board.
8. A notice of ordinance adoption shall be published in a newspaper of general circulation in the Township within fifteen (15) days after adoption, and shall be mailed to the airport manager of an airport entitled to notice under section 29.08. Said notice shall include the following:

a. In the case of a newly adopted zoning Ordinance, the following statement: "A zoning Ordinance regulating the development and use of land has been adopted by the Niles Township Board."

b. In the case of an amendment to an existing Zoning Ordinance, either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.

c. The effective date of the Ordinance.

d. The place and time where a copy of the Ordinance may be purchased or inspected.

G. Referendum Petition. Within seven (7) days after publication of the notice of adoption, a registered elector may file with the Township Clerk a notice of intent to file a petition for referendum.

1. If a notice of intent is filed, then within thirty (30) days following publication of the notice of adoption, a petition signed by a number of registered electors equal to not less than fifteen (15) percent of the total vote cast for all candidates for governor at the last preceding general election, may be filed with the Township Clerk requesting submission of the amendment to the electors for their approval.

2. Upon the filing of a notice of intent, the ordinance or amendment adopted by the Township Board shall not take effect until one of the following occurs:

a. The expiration of thirty (30) days after publication of the Ordinance, if a petition is not filed within that time.

b. If a petition is filed within thirty (30) days after publication of the amendment and the Township Clerk determines that the petition is inadequate.

c. If a petition is filed within thirty (30) days after publication of the amendment and is determined by the Township Clerk to be adequate; an election is held; and the electors approve or reject the ordinance or amendment.

Section 29.06 – Rights and Remedies

The rights and remedies provided herein are cumulative, and in addition to other remedies provided by law.

Section 29.07 – Reserved

Section 29.08 – Public Hearing Procedures

A. Where this ordinance requires the Township to provide notice and hearing for any decision or action permitted, authorized or required hereunder, the Zoning Administrator shall publish notice of the hearing in a newspaper of general circulation in the Township.

B. The notice shall be given not less than fifteen (15) days, nor more than thirty (30) days before the date the matter will be considered for approval. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection. The notice

shall do all of the following:

1. Describe the nature of the request.
2. Indicate the property that is the subject of the request. If the request involves ten (10) or fewer properties, the notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification shall be used.
3. State when and where the request will be considered.
4. Indicate when and where written comments will be received concerning the request.

C. If the request involves ten (10) or fewer adjacent properties, or if the request is for a Zoning Board of Appeals interpretation of the Zoning Ordinance or appeal from an administrative decision regarding a specific parcel, the notice shall also be sent by mail or personal delivery to:

1. The owners of property for which approval is being considered,
2. All persons to whom real property is assessed within 300 feet of the property and,
3. The occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction.

D. If any application fee or escrow deposit account required to be paid by the applicant and pertaining to the subject matter of the public hearing, is in arrears at the time of the hearing, the Chairman of the Planning Commission shall so notify those in attendance and the hearing shall be tabled without public comment or action on the request until the next regularly scheduled meeting of the Planning Commission when the Planning Commission has been advised by the Zoning Administrator or Township Treasurer that any arrearage has been corrected.

Section 29.09 – Severability

The Ordinance and various Chapters, sections, paragraphs, and clauses thereof, are hereby declared to be severable. If any Chapter, section, paragraph, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be affected thereby.

Section 29.10 – General Responsibility

A. The Township Board or its duly authorized representative is hereby charged with the duty of enforcing this Ordinance.

B. Further, said Township Board is hereby empowered, in the name of Niles Charter Township, to commence and pursue any and all necessary and appropriate actions and proceedings in the Circuit Court of Berrien County, Michigan, or any other Court having jurisdiction, to restrain and prevent any non-compliance with, or violation of, any of the provisions of this Ordinance, and to correct, remedy and abate the non-compliance or violation.

C. It is further provided that any person aggrieved or adversely affected by a non-compliance or

violation may institute suit and join the Township Board in a suit to abate the same.

Section 29.11 – Enactment

The provisions of this Ordinance are hereby declared to be immediately necessary for the preservation of the public peace, health, safety, and welfare of the people and are hereby ordered to become effective seven (7) days following publication of a "Notice of Ordinance Adoption" in a newspaper circulating within Niles Charter Township. The effective date of this Zoning Ordinance is January 6, 2016.