

**City of Niles**  
BERRIEN COUNTY, MICHIGAN

**ZONING ORDINANCE**

Enacted: January 22, 2007

Effective: February 11, 2007

City of Niles  
Community Development Department

## TABLE OF CONTENTS

<u>Article and Section</u>	<u>Page No.</u>
<b>Article One: Title, Purpose and Intent</b> .....	<b>1-1</b>
100 Short Title .....	1-1
101 Purpose.....	1-1
102 City of Niles Master Plan .....	1-1
<b>Article Two: Definitions and Interpretation</b> .....	<b>2-1</b>
200 Rules of Interpretation.....	2-1
201 “A” .....	2-1
202 “B” .....	2-3
203 “C”.....	2-5
204 “D” .....	2-6
205 “E” .....	2-8
206 “F” .....	2-8
207 “G” .....	2-9
208 “H” .....	2-10
209 “I” .....	2-11
210 “J” .....	2-11
211 “K” .....	2-11
212 “L” .....	2-11
213 “M” .....	2-12
214 “N” .....	2-13
215 “O” .....	2-14
216 “P” .....	2-15
217 “Q” .....	2-16
218 “R” .....	2-16
219 “S” .....	2-17
220 “T” .....	2-22
221 “U” .....	2-22
222 “V” .....	2-22
223 “W” .....	2-23
224 “X” .....	2-23
225 “Y” .....	2-23
226 “Z” .....	2-24

**Article Three: General Provisions ..... 3-1**

- 300 Scope of Regulations ..... 3-1
- 301 Use Regulations and Dimensional Standards..... 3-1
- 302 Dwellings on Small Lots..... 3-1
- 303 Lot Coverage ..... 3-1
- 304 Access to Public Streets ..... 3-3
- 305 One Principal Building or Structure per Lot..... 3-3
- 306 Accessory Buildings ..... 3-3
- 307 Accessory Uses..... 3-3
- 308 Temporary Buildings..... 3-4
- 309 Home Occupations ..... 3-4
- 310 Uses Not Specifically Permitted in Districts ..... 3-6
- 311 Exterior Lighting ..... 3-6
- 312 Structure Height Measurement and Exceptions ..... 3-8
- 313 Swimming Pools ..... 3-9
- 314 Outdoor Storage in Residential Districts..... 3-9
- 315 Corner Lots and Through Lots..... 3-9
- 316 Landscaping Provisions ..... 3-10
- 317 Fences ..... 3-11
- 318 Stripping of Top Soil..... 3-12
- 319 Antennas ..... 3-13
- 320 Unlicensed or Inoperable Motor Vehicles..... 3-14
- 321 Division of a Zoning Lot..... 3-14
- 322 National Flood Insurance Program..... 3-14
- 323 Site Improvements: Drainage and Maintenance..... 3-15
- 324 Transitional Yards ..... 3-15
- 325 Nonconformities ..... 3-16
- 326 Essential Services ..... 3-20
- 327 Wellhead Protection Area..... 3-20

**Article Four: Zoning Districts, Uses Table and Zoning Map ..... 4-1**

- 400 Division into Districts ..... 4-1
- 401 Zoning Map ..... 4-1
- 402 Interpretation of District Boundaries ..... 4-2
- NEW ZONING MAP ..... 4-3
- 403 Zoning Vacated Areas ..... 4-5

**SUBJECT**

**Page No.**

404 Zoning District Regulations ..... 4-5

405 Land Uses..... 4-5

**Article Five: District Standards..... 5-1**

500 Residential District Uses ..... 5-1

501 Low Density Residential District, LDR..... 5-1

502 RESERVED ..... 5-5

503 Moderate Density Residential District, MDR..... 5-6

504 Central Business District, CB ..... 5-11

505 Neighborhood Center, NC..... 5-21

506 Regional Commercial, RC..... 5-26

507 Office/Commercial, OC..... 5-31

508 Industrial, IND..... 5-35

509 RESERVED ..... 5-39

510 Open Space, OS ..... 5-39

**Article Six: Off-Street Parking and Loading ..... 6-1**

600 Intent and Purpose..... 6-1

601 General Provision – Parking and Loading..... 6-1

602 Off-Street Parking Regulations..... 6-2

603 Location of Accessory Off-Street Parking..... 6-3

604 Schedule of Parking Requirements ..... 6-5

605 Exclusions..... 6-8

606 General Regulations – Off Street Loading..... 6-9

**Article Seven: Signs..... 7-1**

700 Signs ..... 7-1

701 Applicability ..... 7-1

702 Sign Permits ..... 7-1

703 Exempt Signs..... 7-1

704 Prohibited Signs ..... 7-3

705 General Sign Provisions ..... 7-3

706 Residential Districts Sign Regulations ..... 7-4

707 Central Business District (CB) Sign Regulations..... 7-5

708 Neighborhood Center District (NC) Sign Regulations ..... 7-7

709 Regional Commercial District (RC) Sign Regulations ..... 7-9

710 Office/Commercial District (OC) Sign Regulations ..... 7-11

**SUBJECT**

**Page No.**

711 Industrial District (IND) Sign Regulations ..... 7-12  
712 Open Space District (OS) Sign Regulations..... 7-13  
713 Billboards ..... 7-15  
714 Maintenance of Signs ..... 7-15  
715 Nonconforming Signs ..... 7-15

**Article Eight: Specific Standards and Requirements for Special Uses .....8-1**

800 Special Land Uses ..... 8-1  
801 Special Use Procedures ..... 8-1  
802 Accessory Buildings with Footprint Greater Than the Principal Structure..... 8-6  
803 Accessory Dwelling Unit ..... 8-7  
804 Airport..... 8-8  
805 Auditorium..... 8-9  
806 Bed and Breakfast ..... 8-10  
807 Billboards ..... 8-11  
808 Contractor’s Facility ..... 8-12  
809 Camps and Campgrounds ..... 8-13  
810 Car Wash ..... 8-14  
811 Cemeteries..... 8-14  
812 Combinations of Uses..... 8-15  
813 Commercial Establishments with Drive-Thru ..... 8-15  
814 Construction Equipment Sales and Supplies ..... 8-16  
815 Day Care, Group 7-12 Children ..... 8-17  
816 Day Care Center or Child Care Center..... 8-18  
817 Duplex (Two-Unit Structure) ..... 8-19  
818 Educational Institution ..... 8-19  
819 Foster Care, Adult (7-12 Residents) ..... 8-20  
820 Foster Care, Adult (13+ Residents)..... 8-21  
821 Funeral Home ..... 8-21  
822 Galleries and Museums ..... 8-22  
823 Gasoline Station..... 8-22  
824 Home Based Business ..... 8-23  
825 Hotels and Motels ..... 8-24  
826 Kennels and Animal Clinics ..... 8-25  
827 Laboratories..... 8-26  
828 Laundry and Dry Cleaning Establishment..... 8-26  
829 Mini-Warehouse, Self-Storage ..... 8-27

**SUBJECT**

**Page No.**

830 Nursing Home..... 8-27

831 Outdoor Storage, up to 4 Recreational Vehicles ..... 8-28

832 Places of Public Assembly..... 8-28

833 Planned Unit Development (PUD) ..... 8-29

834 Professional Offices ..... 8-34

835 Research, Development and Testing..... 8-35

836 Retail Business ..... 8-35

837 Sand and Gravel Mine ..... 8-36

838 Sexually Oriented Business ..... 8-41

839 Social Club ..... 8-43

840 Sports, Recreation and Entertainment Establishment ..... 8-44

841 Subdivision, Plat, or Condominium, Residential..... 8-44

842 Taverns and Lounges ..... 8-45

843 Vehicle Repair Facility ..... 8-45

844 Wireless Communications Tower..... 8-46

**Article Nine: RESERVED.....9-1**

**Article Ten: Site Plan Review..... 10-1**

1000 Purpose..... 10-1

1001 When Required..... 10-1

1002 Application Contents..... 10-1

1003 Application, Review Process, Approval..... 10-4

1004 Criteria for Review ..... 10-6

1005 Approved Site Plans ..... 10-7

1006 Conformity to Approved Site Plans..... 10-7

1007 Terms of Approval of the Site Plan..... 10-7

1008 Amendment to the Site Plan..... 10-7

1009 Performance Guarantee Requirements..... 10-8

**Article Eleven: Administration..... 11-1**

1100 Zoning Administrator ..... 11-1

1101 Duties, Limitations of the Zoning Administrator..... 11-1

1102 Zoning Compliance Permit..... 11-2

1103 Reapplication ..... 11-3

1104 Rehearing ..... 11-3

**SUBJECT**

**Page No.**

**Article Twelve: Zoning Board of Appeals ..... 12-1**

- 1200 Creation and Membership ..... 12-1
- 1201 Jurisdiction and Authorized Appeals ..... 12-1
- 1202 Zoning Board of Appeals has Powers of Zoning  
Administrator on Appeals; Reversals ..... 12-4
- 1203 Final Decisions and Rehearing ..... 12-4
- 1204 Hearings and Notice ..... 12-4
- 1205 Prohibited Appeals ..... 12-4
- 1206 Duties of Zoning Administrator, Zoning Board of Appeals, City Council,  
and Courts on Matters of Appeal ..... 12-5
- 1207 Fees ..... 12-5

**Article Thirteen: Municipal Civil Infractions ..... 13-1**

- 1300 Municipal Civil Infractions ..... 13-1
- 1301 Injunctive Relief ..... 13-1

**Article Fourteen: Fees, Charges and Escrow Accounts ..... 14-1**

- 1400 Fees ..... 14-1
- 1401 Applicant Escrow Fees ..... 14-1

**Article Fifteen: Separability, Repealer, Savings and Effective Date ..... 15-1**

- 1500 Separability ..... 15-1
- 1501 Repealer and Savings ..... 15-1
- 1502 Effective Date ..... 15-1

# CITY OF NILES, ZONING ORDINANCE

The City Council of the City of Niles hereby ordains:

An ordinance to establish zoning districts and regulations in accordance with the provisions of Act 207 of the Public Acts of 1921, as amended; to define certain terms used herein; to provide for regulations governing nonconforming uses and structures; to establish a Zoning Board of Appeals and define its duties and powers; to provide for the administration and enforcement of this Ordinance and to provide penalties for the violation of this Ordinance.

## ARTICLE ONE

### TITLE, PURPOSE AND INTENT

#### SECTION 100 SHORT TITLE

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

#### SECTION 101 PURPOSE

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

#### SECTION 102 CITY OF NILES MASTER PLAN

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

1. To promote and protect the public health, safety, morals, comfort and general welfare of the people of the City of Niles, Berrien County, Michigan;



2. To divide the City of Niles into zones or districts, restricting therein the location, erection, construction, reconstruction, alteration, and use of buildings, structures and land for residence, business, manufacturing and other specified uses;
3. To protect the character and stability of the residential, business, and manufacturing areas within the City of Niles and to promote the orderly and beneficial development of such areas;
4. To provide adequate light, air, privacy and convenience of access to property;
5. To regulate the intensity of use of lot areas and to determine the area of open spaces surrounding buildings, necessary to provide adequate light and air, and to protect the public health;
6. To establish building lines and the locations of buildings designed for residential, business and manufacturing or other uses within such areas;
7. To fix reasonable standards to which buildings or structures shall conform therein;
8. To prohibit uses, buildings or structures incompatible with the character of development or intended uses within specified zoning districts;
9. To prevent additions to or alterations of existing buildings or structures in such a way as to avoid the requirements established herein;
10. To limit congestion in the public streets and protect the public health, safety, convenience and general welfare by providing for the off-street parking of motor vehicles and the loading and unloading of commercial vehicles;
11. To facilitate adequate provision for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements;
12. To protect against fire, explosion, noxious fumes and other hazards in the interest of public health, safety, comfort and general welfare;
13. To prevent the overcrowding of land and undue concentration of structures, so far as is possible and appropriate in each district, by regulating the use and bulk of buildings in relation to the land surrounding them;
14. To conserve the taxable value of land and buildings throughout the City of Niles;
15. To conserve the natural resources and character of land throughout the City of Niles;
16. To provide for the gradual elimination of non-conforming uses of land, buildings, and structures which are adversely affecting the character and value of desirable development in each district;
17. To define and limit the powers and duties of the administrative officers and bodies as provided herein;
18. And to prescribe the penalties for the violation of the provisions of this Ordinance or any amendments thereto;

## ARTICLE TWO DEFINITIONS

### SECTION 200      RULES OF INTERPRETATION

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

1. Words used in the present tense shall include future;
2. Words in the singular number include the plural number and words in the plural number include the singular number;
3. The phrase “used for” shall include the phrases “arranged for”, “designed for”, “intended for”, “maintained for”, and “occupied for”.
4. The word “shall” is mandatory;
5. The word “may” is permissive;
6. All personal pronouns shall be interpreted to be gender neutral unless the context clearly indicates otherwise.

### SECTION 201      A

**ABANDONMENT:** Any action or inaction indicating an intent to give up one’s right or interest in property or intention to give up a particular use of such property.

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

**ACCESSORY BUILDING:** A subordinate building located on the same lot as the principal building, the use of which is naturally and normally incidental to the main use of the premises. A detached private garage shall be considered an accessory building (see Figure 2-2).

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

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

**AIRPORT:** Any area of land which is used or intended to be used for the landing and taking off of aircraft, and any appurtenant areas which are used or intended for use of airport building or other airport facilities located thereon.

**ALLEY:** A public way which affords a secondary means of access to abutting property.

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

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

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

**APARTMENT HOTEL:** See HOTEL APARTMENT

**AUDITORIUM:** A room, hall or building, made a part of a church, theater, school, recreation building or other building assigned to the gathering of people as an audience to hear lectures, plays and other presentations.

**AUTOMOBILE LAUNDRY (AUTOMATIC):** A building or portion thereof containing facilities for washing automobiles, using production line methods with a chain conveyor, blower, steam cleaning device or their mechanical devices.

**AUTOMOBILE REPAIR, MAJOR:** Engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers; collision service including body, frame or fender straightening or repair, and painting of vehicles.

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

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

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

**AWNING:** A retractable or fixed shelter constructed of materials on a supporting framework that projects from the exterior wall of a building. See figure 2-1.

Figure 2-1



## **SECTION 202            B**

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

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

**BASEMENT:** A story partly or wholly underground.

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

**BED & BREAKFAST ESTABLISHMENT:** A private residence that offers sleeping accommodations to tourists, is the innkeeper's residence in which the innkeeper resides while renting the rooms to tourists and other transient guests.

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

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

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

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

**BOARDING HOUSE:** A building other than a hotel or restaurant where lodging and meals are provided on a less than month-to-month basis for compensation to not more than twelve persons, who are not members of the keeper's family.

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

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

**BUFFER:** Natural, landscaped and open space areas or any combination thereof used to physically separate or screen one use, property or feature from another in order to visually shield or block views, noise, lights or other impacts or to filter stormwater runoff (see figure 2-2)

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

**BUILDING:** Any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind, and which is permanently affixed to the land.

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

**Figure 2-2**

**BUILDING, DETACHED:** A building surrounded by open space on the same lot.

**BUILDING, ELECTRICAL, MECHANICAL AND PLUMBING:** A parcel of land, building or structure or portion thereof used to store tools, trucks, equipment, supplies and materials used by building, electrical mechanical and plumbing contractors and subcontractors.

**BUILDING HEIGHT:** (See HEIGHT).

**BUILDING OFFICIAL:** The Official of the City of Niles designated to interpret and enforce the provisions of the Michigan Building Code.

**BUILDING LINE:** The line nearest the front of and across a zoning lot, establishing the front line of a building or structure (see Figure 2-2).

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

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

**BUILDING, PRINCIPAL:** A building which encloses the primary or principal use of the zoning lot on which it is located (see Figure 2-2).

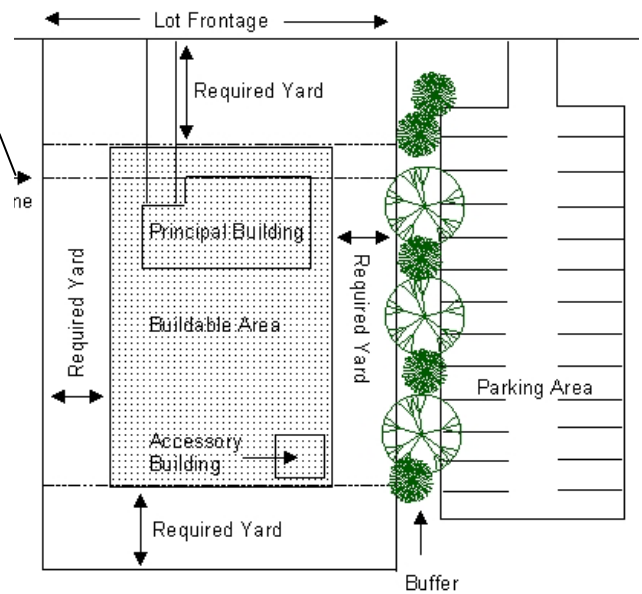
**BUILDING SETBACK LINE:** (See SETBACK)

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

**BULK:** (See DIMENSIONAL STANDARDS)

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

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



**BUSINESS AND PROFESSIONAL OFFICE:** The office of an engineer, doctor, dentist, attorney, real estate broker, insurance broker, architect, or other similar professional person and any office used primarily for accounting correspondence, research, editing or administration.

**SECTION 203 C**

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

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

**CAR WASH:** A building and equipment used for the commercial washing, waxing, detailed cleaning of the interior and exterior of automobiles and trucks for the general public. Such facilities shall include self-wash, automated and hand wash facilities, as well as any combination thereof.

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

**CITY:** The City of Niles, Michigan.

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

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

**CLUSTER SUBDIVISION:** A subdivision of land with a significant area of common open space (see Figure 2-3).

**COMBINATIONS OF USES:** Land, development, buildings, or structures with a variety of complementary, harmonious, and integrated uses.

**COMMERCIAL ESTABLISHMENTS WITH DRIVE THRU:** Activity involving the sale of goods or services for profit which allows customers to receive goods or services while remaining in their motor vehicles.

**CONDOMINIUM:** That portion of the condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended

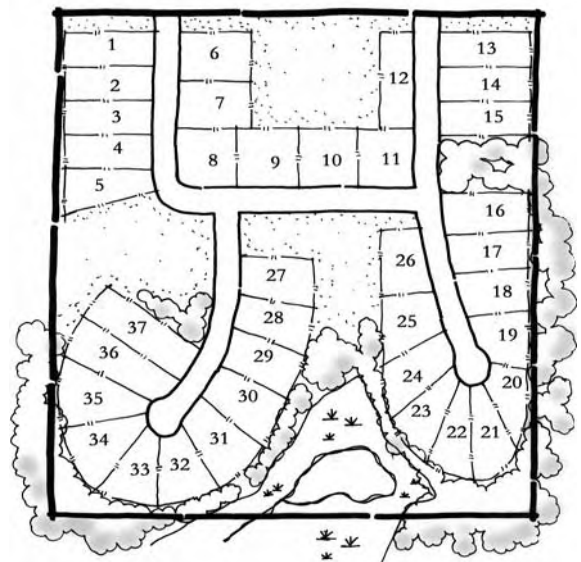


Figure 2-3

for residential, office, industrial, business, recreational used as a time-share unit, or any other type of use.

**CONDOMINIUM PROJECT:** A plan or project consisting of not less than two (2) condominium units established in conformance with P. A. 59 of 1978.

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

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

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

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

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

## **SECTION 204        D**

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

1. A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are in attendance for not more than 3 hours per day for an indefinite period, or not more than 8 hours per day for a period not to exceed 4 weeks during a 12-month period.
2. A facility operated by a religious organization where children are cared for not more than 3 hours while persons responsible for the children are attending religious services

**DAY CARE, FAMILY FACILITIES ACCOMMODATING UP TO SIX (6) CHILDREN\*:** A private home in which one (1) but not more than six (6) minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or legal

---

\* Definition from Act No. 116 of the Public Acts of 1973 As Amended

guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

**DAY CARE, GROUP FACILITIES ACCOMMODATING SEVEN (7) TO TWELVE (12) CHILDREN\*:** A private home in which more than seven (7) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

**DENSITY:** The number of families, dwellings, individuals or households per unit of land.

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

1. Size and height of buildings;
2. Location of exterior walls at all levels in relation to lot lines, street, or other buildings;
3. All open spaces allocated to the building;
4. Amount of lot area per dwelling unit;
5. Required parking areas.

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

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

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

**DUPLEX:** A structure containing two (2) attached dwellings.

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

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

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

---

\* Definition from Act No. 116 of the Public Acts of 1973 As Amended



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

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

**SECTION 205      E**

**EDUCATIONAL INSTITUTION:** Public or parochial schools, junior college, college or university, other than trade or business schools including instructional and such accessory uses as recreational uses with or without living quarters, dining rooms, restaurants, heating plants and other incidental facilities for students, teachers, and employees.

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

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

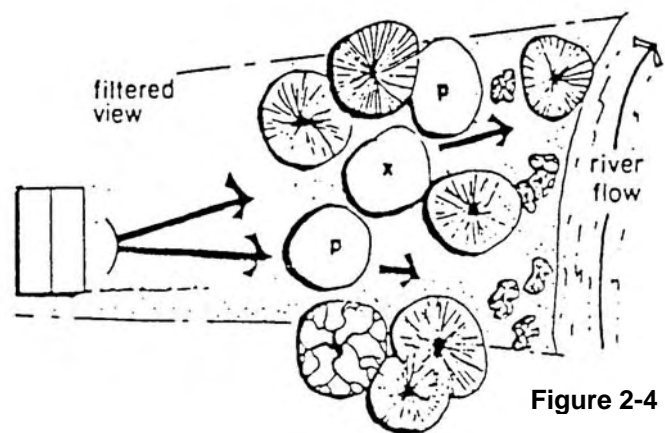
**SECTION 206      F**

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

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

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

**FILTERED VIEW OF WATER:** The maintenance or establishment of woody vegetation of sufficient density to screen development from a river or stream, to



**Figure 2-4**

provide for bank stabilization and erosion control, to serve as an aid in filtration of surface runoff, and to provide cover to shade the water. Vegetation need not be so dense as to completely block the view of the water, but shall not include clear cutting (see Figure 2-4).

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

**FLOOD INSURANCE RATE MAP (FIRM):** The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the City.

**FLOOD INSURANCE STUDY:** The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map and the water surface elevation of the base flood.

**FLOODPLAIN:** The area defined by the most current 100-year flood hazard elevation (1% chance of flooding in any given year) as described within the U.S. Department of Housing and Urban Development - Federal Insurance Administration, Flood Insurance Study for the City of Niles, Michigan.

**FLOODWAY:** The channel of a river or the water course and the adjacent lane areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than .01 foot.

**FLOOR AREA:** The area in square feet confined within the exterior walls of a building, but not including the area of the following: exterior walls, stairways, shafts, rooms housing building-operating equipment or machinery, parking areas, and basement storage areas.

**FLOOR AREA, GROSS:** The total area of all wholly enclosed floors in a building, above and below grade, measured from the exterior of the main walls at the level of each floor.

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

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

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

## **SECTION 207      G**

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

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

**GARAGE, PRIVATE:** Any accessory building or an accessory portion of the principal building which is intended for and used to store the private passenger vehicles of the family or families resident on the premises.

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

**GASOLINE STATION:** Any building, structure, or land, or portion thereof, and any associated appurtenances, intended and used for the retail sale, supply, and dispensing of fuels for motor vehicles, and, in some instances, the retail sale or supply of fuels for motor vehicles and the retail sale of tobacco, snack food and drinks, newspapers, and similar convenience goods.

**GOLF COURSE:** Public, semi-public, or private grounds over which the game of golf is played, including accessory buildings and land uses incidental thereto.

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

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

## **SECTION 208            H**

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

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

**HOME BASED BUSINESS:** A home occupation, as defined herein, which involves business activities generally conducted at other locations.

**HOME OCCUPATION:** An occupation or profession carried on by an occupant of a dwelling as a secondary use which is incidental to the use of the dwelling unit as a residence.

**HOSPITAL OR SANITARIUM:** An institution devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care for not less than twenty-four (24) hours in any week of three (3) or more non-related individuals suffering from illness, disease, injury, deformity or other abnormal physical or mental conditions.

**HOTEL, APARTMENT:** A hotel in which at least ninety percent (90%) of the hotel accommodation are for occupancy by the permanent guests.

**HOTEL, MOTEL, INN OR AUTO COURT:** An establishment providing temporary lodging accommodations to the public.

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

**SECTION 209            I**

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

**SECTION 210            J Reserved**

**SECTION 211            K**

**KENNELS AND ANIMAL CLINIC:** Any lot or premises or portion thereof on which more than four (4) dogs, cats or other household domestic animals over four (4) months of age are kept for compensation or kept for sale, or on which more than two (2) such animals are boarded, bred, or trained for compensation or kept for sale on a continuous basis, and may include a place where such animals are given medical care and the boarding of animals is limited to short-term care incidental to the medical care use.

**SECTION 212            L**

**LABORATORY, COMMERCIAL:** A place devoted to experimental study such as testing and analyzing in which manufacturing, assembly or packaging of products is not conducted as a routine part of normal activities.

**LAUNDRY AND DRY CLEANING ESTABLISHMENT:** A service business which provides washers and dryers and other facilities for rental use to the general public for cleaning garments, bedclothes, and other household and personal materials and a facility which provides cleaning and dry cleaning services to the general public.

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

**LODGING OR ROOMING HOUSE:** An owner-occupied residence in which overnight lodging and meals are provided for compensation to not more than five (5) guests on a month-to-month basis.

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

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

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

**LOT DEPTH:** The distance between the mid points of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

**LOT FRONTAGE:** The front of a lot shall be construed to be the portion(s) abutting the street rights-of-way. See Figure 2-2.

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

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

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

**LOT TYPES:** Figure 2-5 illustrates terminology used in this Ordinance with reference to corner lots, interior lots, flag lots and through lots :

1. **Corner Lot:** A lot located at the intersection of two (2) or more streets. A lot abutting on curved street or streets shall be considered a corner lot if a straight line drawn from the foremost points of the side lot lines to the foremost point of the lot meet on an interior angle or less than one hundred thirty (130) degrees.

2. **Interior Lot:** A lot other than a corner lot with frontage on only one (1) street.

3. **Through Lot:** A lot other than a corner lot with frontage on more than one (1) street. Through lots abutting two (2) streets may be referred to as double frontage lots.

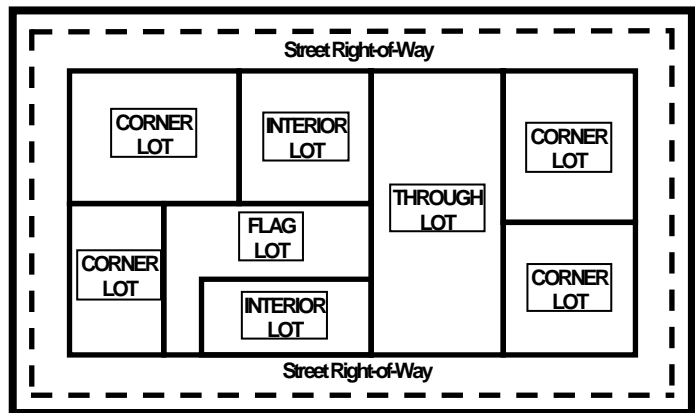


Figure 2-5

4. **Flag Lot:** A parcel of land separated from a road right-of-way by another parcel and may be accessed through an easement.

**LOT, WIDTH OF FRONTAGE:** The frontage width is that horizontal distance measured along the front lot line as a straight line connecting the two points where the front lot line intersects the two adjacent side lot lines.

**LOT, WIDTH OF MINIMUM:** The mean horizontal distance between the side lot lines of a lot measured at right angles to the depth; or the same distance measured at a point midway between the front and rear lot lines, on irregularly shaped lots.

## SECTION 213 M

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

**MANUFACTURED HOUSING:** 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 permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. This definition also includes the term “mobile home.”

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

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

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

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

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

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

**MOBILE HOME:** (see Manufactured Housing).

**MOBILE HOME PARK:** (see Manufactured Housing Community).

**MOBILE HOME SUBDIVISION:** A ‘subdivision’ as defined by the State Subdivision Control Act, being Act 288 of the Public Acts of 1967, as amended, which has been expressly established for the sole purpose of selling lots on which mobile homes may be used and occupied for residential purposes, and which has been established in full compliance with all applicable provision of the aforementioned Act and of all other applicable State, County, and City regulations.

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

## **SECTION 214            N**

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

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

**NON-CONFORMING BUILDING** (see Building, Nonconforming).

**NON-CONFORMING LOT** (see Lot, Nonconforming).

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

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

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

**NURSERY, CHILD-CARE:** (See Day Care, Family Facilities)

**NURSING HOME OR REST HOME:** A commercial establishment for the care of children, adults or the aged or infirm, or a place of rest for those suffering bodily disorders.

## SECTION 215      O

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

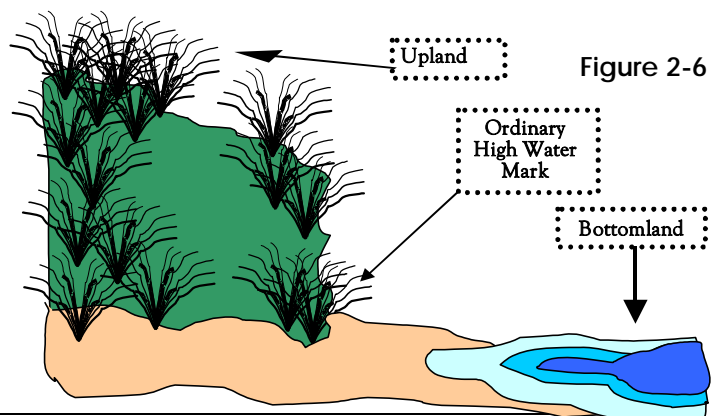
**OPEN SALES LOT:** A lot or parcel of land used or occupied for the purpose of buying, selling, or trading of all goods and commodities in an open air area and including the storage of same prior to sale or exchange.

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

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

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

**ORDINARY HIGH WATER MARK:** The line between upland and bottomland



which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation. See Figure 2-6.

**OUTDOOR STORAGE, UP TO 4 RECREATION VEHICLES:** An accessory use, as defined herein, which keeps in an unenclosed area, vehicles used for recreational purposes, including motorized and non-motorized campers, motor homes, motorcycles and motorbikes, motorized and non-motorized boats and other nautical equipment.

## **SECTION 216            P**

**PATIO:** (see Terrace)

**PARCEL:** (see Lot)

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

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

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

**PERSONAL SERVICE BUSINESS:** An establishment engaged primarily in providing services involving the care of a person or his or her personal goods or apparel.

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

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

**PLANNING COMMISSION:** The City of Niles Planning Commission.

**PLANNED UNIT DEVELOPMENT:** A tract of land which is planned as a whole for development under single ownership or control and which, by virtue of such unified planning and



development, provides greater amenities, convenience or other benefits than would otherwise be possible through conventional means.

**PRINCIPAL BUSINESS** (See Business, Principal)

**PRINCIPAL USE** (see Use, Principal).

**PROFESSIONAL OFFICE:** The office of a member of a recognized profession maintained for the conduct of that profession as a business.

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

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

**PUBLIC UTILITY:** Any person, firm or corporation duly authorized to furnish under public regulation to the public electricity, gas, steam, telephone, transportation or water.

**SECTION 217        Q Reserved**

**SECTION 218        R**

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

**RECREATIONAL VEHICLE:** A trailer, self-propelled motor home, pick-up camper and similar vehicle designed to be used primarily for recreational purposes, including temporary sleeping quarters and/or cooking facilities

**RETAIL BUSINESS:** An establishment engaged in selling goods or merchandise to the general public for personal or household use or consumption and rendering services incidental to the sale of such goods.

**RESEARCH, DEVELOPMENT AND TESTING:** An establishment or facility investigating the natural, physical, or social sciences, which may include engineering and product development.

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

**RESTAURANT, DRIVE-IN:** A Restaurant designed or operated to serve a patron while seated in an automobile parked in an off-street parking space.

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

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

1. The right of access to navigable water.

2. The right to build a pier out to the line of navigability.
3. The right to accretions.
4. The right to a reasonable use of the water for such general purposes as boating, swimming and fishing.

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

## SECTION 219        S

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

**SEXUALLY ORIENTED BUSINESS:** Establishments, which include but are not limited to:

1. **Adult Arcade:** Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion pictures machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of Specified Sexual Activities or Specified Anatomical Areas.
2. **Adult Bookstore or Adult Video Store:** A commercial establishment that, as one of its principal business purposes, offers for any form of consideration any one or more of the following:
  - a. Books, magazines, periodicals, or other printed matter or photographs, films, motion pictures, video cassettes or video reproductions, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; or
  - b. Instruments, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities.
  - c. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing Specified Sexual Activities or Specified Anatomical Areas and still be categorized as an Adult Bookstore or Adult Video Store. The sale of such material shall be deemed to constitute a principal business purpose of an establishment if it comprises thirty-five (35) percent or more of yearly sales volume or occupies more than thirty-five (35) percent or more of the floor area or visible inventory within the establishment.
3. **Adult Cabaret:** A nightclub, bar, restaurant or similar commercial establishment that regularly features:
  - a. Persons who appear in a state of semi-nudity or nudity;

- b. Live performances that are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities;
  - c. Films, motion pictures, video cassettes or video reproductions, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities of Specified Anatomical Areas; or
  - d. Persons who engage in lewd, lascivious or erotic dancing or performance that are intended for the sexual interests or titillation of an audience or customers.
4. **Adult Motel:** A hotel, motel or similar commercial establishment that:
- a. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes or video reproductions, slides, or other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas and has a sign visible from the public road right-of-way that advertises the availability of any of the above.
  - b. Offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or
  - c. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.
5. **Adult Motion Picture Theater:** A commercial establishment which for any form of consideration, regularly and primarily shows films, motion pictures, video cassettes or video reproductions, slides, or other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas.
6. **Adult Theater:** A theater, concert hall, auditorium, or similar commercial establishment that regularly features a person or persons who appear in a state of nudity or live performances that are characterized by exposure of Specified Sexual Activities or Specified Anatomical Areas.
7. **Escort:** A person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform striptease for another person.
8. **Escort Agency:** A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for any form of consideration.
9. **Nude Model Studio:** Any place where a person who displays Specified Anatomical Areas is provided to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons who pay money or any form of consideration, but does not include an education institution funded, chartered, or recognized by the State of Michigan.
10. **Sexual Encounter Center:** A commercial establishment that, as one of its principal business purposes, offers for any form of consideration.
- a. Physical contact in the form of wrestling or tumbling between persons of the opposite sex;  
or

- b. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

**SIGN:** Any display, drawing, emblem, figure, letter, painting, word, work, model, banner, balloon pennant, insignia, logo, placard poster, trade flag, or any other device, representation, identification, description or illustration, including any permanently installed merchandise or temporary sign which is designed/designated to advertise, identify, or convey information, and which is visible from any public place or is located on private property and exposed to the public and which directs attention to a product, object, service, place, activity, person, opinion, institution, organization, business or solicitation. This definition does not include goods displayed in a business window.

**SIGN, CHURCH BULLETIN BOARDS:** A sign attached to the exterior of a church or located elsewhere on the church premises, used to indicate the services or activities of the church and including its name.

**SIGN, FAÇADE:** (See Sign, Wall).

**SIGN FACE:** Each part of a sign structure which is used to graphically communicate a message or announcement including a border space outside any lettering or other graphic symbols or depictions.

**SIGN, FLASHING:** Any illuminated sign in which the artificial light is not maintained stationary or constant in intensity and/or color. For the purpose of this Ordinance, a revolving illuminated sign shall be considered a flashing sign.

**SIGN, GROUND:** A sign, other than a pole sign, mounted on its own structure and in which the bottom-most portion of the sign is not more than five (5) feet above the average grade of the site. See Figure 2-7

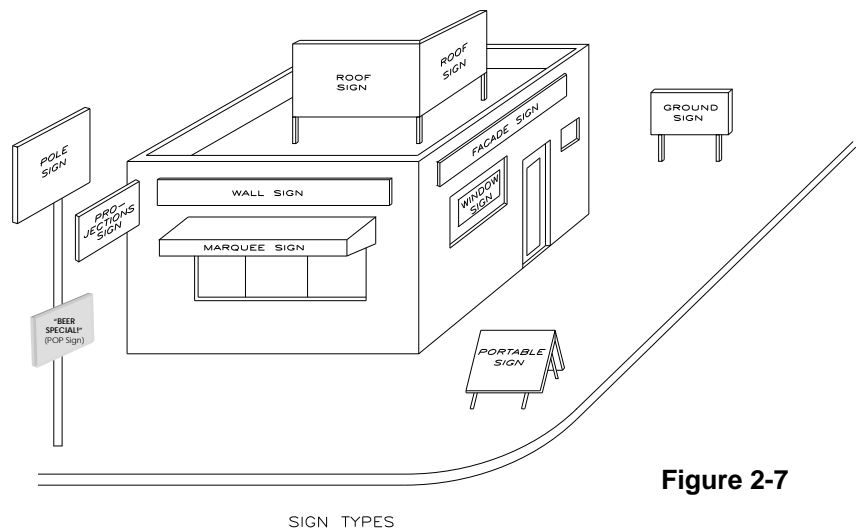
**SIGN, PROJECTING:** A sign that is wholly or partially dependent upon a building for support and that projects more than twelve (12) inches from such building. See Figure 2-7

**SIGN, MARQUEE:** A sign affixed or printed on any hood, canopy, awning or permanent construction that projects from a wall of a building.

**SIGN, MONUMENT:** A Ground Sign affixed to a permanent brick, stone, masonry, wood or other permanent structure.

**POINT OF PURCHASE SIGN:** Outdoor signage that advertises a product at its point of sale, or "point of purchase" location.

**SIGN, POLE:** A sign mounted on a freestanding pole or other support such that the bottom-most portion of the sign is mounted more than five (5)



**Figure 2-7**

feet above the average grade of the site. See Figure 2-7

**SIGN, ROOF:** A sign that is mounted on the roof of a building and that projects above the top walk or edge line of a building with a flat roof or above the eave line of a building with a gambrel, gable, or hip roof, or above the deck line of a building with a mansard roof. See Figure 2-7.

**SIGNS, TEMPORARY:** Signs which have one or more of the following characteristics:

1. Signs not securely affixed to a substantial non-portable structure, signs affixed to portable structures.
2. Signs of paper, cardboard or similar materials. Typically, Point-of-Purchase signs.
3. Signs of expected longevity or cost which would not qualify them for depreciation under normal accounting practices or would not have a useful life of more than one year in continuous use.
4. Political Signs. Signs relating to the election of a person to public office or relating to a political party, or to a matter to be voted at a general election called by a public body.

**SIGN, WALL:** A sign fastened to or painted on the exterior wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface or, the sign. See Figure 2-7.

**SIGN, WINDOW:** A sign placed on the inside of a window and intended to be viewed from the outside.

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

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

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

**SPECIFIED ANATOMICAL AREAS:** The male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.

**SPECIFIED SEXUAL ACTIVITIES:** Any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
3. Masturbation, actual or simulated; or,
4. Excretory functions as part of or in connection with any of the activities set forth in 1-3 above.

**SPORTS, RECREATION AND ENTERTAINMENT ESTABLISHMENT:** A building and premises used or intended to be used for the conduct of sports and/or leisure-time activities including, but not limited to, bowling alleys, racquet sports facilities, climbing facilities, paint-ball or laser-tag facilities, video arcades, and other similar establishments.

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

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

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

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

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

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

**STRUCTURAL ALTERATIONS:** See ALTERATIONS, STRUCTURAL.

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

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

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

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

## **SECTION 220            T**

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

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

**TOXIC MATERIAL:** A substance (liquid, solid or gaseous) which by reason of an inherent deleterious property, tends to destroy life or impair health.

**TRAILER:** A vehicle designed to be drawn behind a motor vehicle and used or adaptable for living, sleeping, business or storage purpose, having no foundation other than wheels and chassis.

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

**TRAILER, UTILITY:** See UTILITY, VEHICLES AND TRAILERS.

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

## **SECTION 221            U**

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

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

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

## **SECTION 222            V**

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

**VEHICLE REPAIR FACILITY:** Any establishment, building, premises, or land where commercial services are furnished involving automobile and truck repair, maintenance, and painting for the general public, and where rental, leasing, storage and salvage operations and parking services are incidental to the principal activities.

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

**SECTION 223            W**

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

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

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

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

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

**SECTION 224            X Reserved**

**SECTION 225            Y**

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



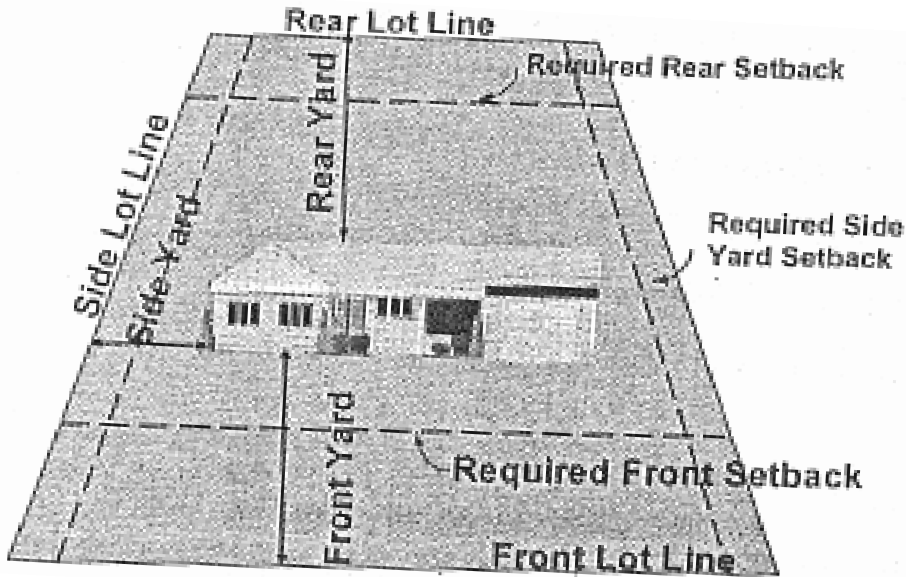


Figure 2-8

**YARD, FRONT:** A yard located between the side lot lines and situated between the front lot line to the nearest point of the building. See Figure 2-8.

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

**YARD, REAR:** A yard located between side lot lines and situated between the rear lot line and a line parallel to the nearest point of the building.

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

## SECTION 226      Z

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

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

**ZONING MAP:** The map incorporated herein as a part hereof, designating zoning districts.

## ARTICLE THREE GENERAL PROVISIONS

### SECTION 300 SCOPE OF REGULATIONS

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

### SECTION 301 USE REGULATIONS AND DIMENSIONAL STANDARDS

1. **Use:** No building, structure or land shall be used or occupied and no building or part thereof or other structure shall be erected, razed, moved, reconstructed, extended, enlarged or altered except in conformity with regulations herein specified for the district in which it is located.
2. **Dimensional Standards:** All new buildings and structures shall conform to the dimensional standards for building and parcels established herein for the district in which each building shall be located, except as such dimensional standards may be modified by the general provisions of this Article.
3. **Gross Floor Area:** The gross floor area of buildings shall include all area enclosed within the walls of a structure.

### SECTION 302 DWELLINGS ON SMALL LOTS

Two (2) or more parcels of land in common ownership, each of which lack adequate area or width to meet the minimum dimensional standards of the district, shall be considered one (1) zoning lot.

### SECTION 303 LOT COVERAGE

1. **Maintenance of Yards, Courts and other Open Space:** Required yards, courts and other open space shall be maintained as such and shall not be subsequently occupied by structures, except in conformance with this Ordinance. No legally required yards, courts, or other open space or minimum lot area allocated to any building shall by virtue of change of ownership or for any reason be used to satisfy yard, court or other open space or minimum lot area requirements for any other building.
2. **Location of Required Open Space:** All yards, courts and other open spaces allocated to a building or dwelling group shall be located on the same zoning lot as such building or dwelling group.
3. **Required Yards for Existing Buildings:** No yards now or hereafter provided for a building existing on the effective date of the Zoning Ordinance shall subsequently be reduced below the minimum yard requirements of this Ordinance unless as specified herein.

4. **Permitted Obstruction in Required Yards:** The following shall not be considered to be obstructions when located in the required yards:

a. In All Yards:

- 1) Open terraces not over three (3) feet above the average grade of the adjoining ground, but not including a permanently roofed-over terrace or porch;
- 2) Awnings and canopies but not projecting more than ten (10) feet and at least seven (7) feet above the average grade of the adjoining ground;
- 3) Steps, four (4) feet or less above grade which are necessary for access to a permitted building or for access to a zoning lot from a street or alley;
- 4) Chimneys projecting twenty (20) inches or less into the yard;
- 5) Arbors, trellises, flag poles, fountains, sculptures, plant boxes and other similar ornamental objects;
- 6) Fences and walls, pursuant to **Section 317**;
- 7) Handicap ramps.

b. In Front Yards: One story suspended bay windows projecting three (3) feet or less into the yards; and overhanging eaves and gutters projecting three (3) feet or less into the yard.

c. In Rear Yards: Enclosed, attached or detached off-street parking spaces, open off-street parking spaces, minor accessory building, tool rooms and similar buildings or structures for domestic or agricultural storage; balconies, breezeways and open porches; one story bay windows projecting three (3) feet or less into the yard.

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

5. **Vision Clearance:** No building, structure or planting material greater than three (3) feet in height and which may block clear vision shall be located or placed within twenty-five (25) feet of the intersection street right of way lines bordering corner lots. See Figure 3-1. Note: in zoning districts where zero foot (0) setbacks are permitted, this requirement does not apply.

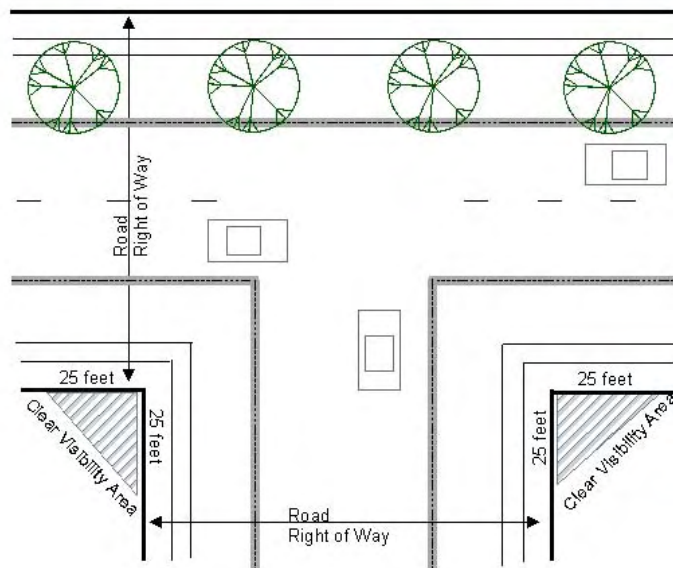


Figure 3-1

## **SECTION 304 ACCESS TO PUBLIC STREETS**

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

## **SECTION 305 ONE PRINCIPAL BUILDING OR STRUCTURE PER LOT**

Except in the case of a planned unit development pursuant to **Section 832**, not more than one (1) principal building or structure shall be located on a lot.

## **SECTION 306 ACCESSORY BUILDINGS**

1. **Location:** Accessory buildings shall be located on the same zoning lot with the principal building. Accessory buildings shall not be located in a front yard. No accessory building shall be located nearer than three (3) to the side or rear lot lines. In no instance shall any accessory building be located within a dedicated right-of-way or easement.
2. **Number:** Except in the case of a planned unit development pursuant to **Section 832**, not more than two (2) accessory buildings, including minor accessory buildings as defined herein, shall be located on a residential lot.
3. **Time of Construction:** Except for temporary buildings pursuant to **Section 308**, no accessory building or structure shall be constructed on any lot prior to the start of construction of the principal building to which it is accessory.
4. **Floor Area Limitations:** No accessory building and no combination of multiple accessory buildings, including minor accessory buildings, shall occupy more than twenty-five percent (25%) of a required rear yard nor forty percent (40%) of any non-required rear yard. In a residential district, the combined floor area of all accessory buildings shall not exceed the ground floor area of the principal building on a zoning lot.
5. **Height Limitations:** In a residential district no accessory building shall exceed eighteen (18) feet in height, however, the Building Official may allow an accessory building's roof pitch to match the roof pitch of the principal dwelling in order to maintain architectural uniformity.
6. **Attached Structures.** Accessory buildings that are structurally attached to the principal building shall be considered to be a part of said principal building.

## **SECTION 307 ACCESSORY USES**

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

underneath the umbrella of the permit issued for the principal use. For example, a swimming pool/tennis court complex is customarily associated with and integrally related to a residential subdivision or multi-family development and would be regarded as accessory to such principal uses, even though such facilities, if developed apart from a residential development, would require an independent approval process.

2. **Interpretation of Accessory Uses:** For purposes of interpreting accessory uses;
  - a. A use may be regarded as incidental or insubstantial if the viability of the principal use is not dependent in any significant way on the accessory use.
  - b. To be "commonly associated" with a principal use it is not necessary for an accessory use to be connected with such principal use more times than not, but only that the association of such accessory use with such principal use takes place with sufficient frequency that there is common acceptance of their relatedness.
  - c. An accessory use shall not generate any effects on neighboring properties, including, but not limited to, noise, parking, traffic, glare, or dust, greater or more burdensome than such impacts from the principal use on the property.

## **SECTION 308            TEMPORARY BUILDINGS**

1. Temporary buildings for construction purposes may be allowed in any district for a period not to exceed the completion date of such construction and only if located on the construction site.
2. Mobile homes, trailers, campers, recreational vehicles, (whether licensed or not as motor vehicles) or other transportable structures designated for temporary use and which are not designed primarily for permanent residence and connection to sanitary sewage, electrical power and public water utilities shall not be occupied for dwelling or lodging purposes. They may, however, be used as temporary office or storage space incidental to construction, only during the general period of construction and only if located on the construction site.

## **SECTION 309            HOME OCCUPATIONS**

Home occupations shall be considered an accessory use to the principal residential use in the LDR, MDR, NC and CB districts, subject to the standards of this Section. A home occupation shall require a Zoning Compliance Permit pursuant to **Section 1102**.

1. **Non-Intrusive Home Occupations.** Zoning Compliance Permits for home occupations meeting the following requirements shall be issued by the Zoning Administrator and shall not require Planning Commission review, providing the following conditions can be met.
  - a. No person other than members of the family residing on the premises shall be engaged in such home occupation.
  - b. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purpose by its occupants, and not more than twenty-

five percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation.

- c. There shall be no change in the exterior appearance of the building or premises or other visible evidence of the conduct of such home occupation other than one (1) sign, not to exceed one-hundred (100) square inches in area, non-illuminated, and mounted flat against the wall of the principal building.
- d. No traffic shall be generated by such home occupation in greater volume than would be normally expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard. Landscaping may be required as determined by the Zoning Administrator.
- e. No equipment or process shall be used in such home occupation, which creates noise, vibration, glare, fumes, or odors detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.
- f. There shall be no sales of goods on the premises in connection with the home occupation.

2. **Intrusive Home Occupations.** In the event the Zoning Administrator determines that a proposed home occupation will not meet the requirements of subparagraph 1 of this Section, the applicant may seek approval of the Planning Commission for an Intrusive Home Occupation pursuant to the following:

- a. No persons, other than members of the family residing on the premises, and one additional person, shall be engaged in the home occupation.
- b. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purpose by its occupants, and not more than twenty-five percent (25%) of the floor area of the dwelling unit and one (1) permitted accessory building. shall be used in the conduct of the home occupation. A site plan and/or floor plan shall be submitted which illustrates conformance to said regulation.
- c. There shall be no change in the exterior appearance of the building or premises or other visible evidence of the conduct of such home occupation other than one (1) sign, not to exceed one-hundred forty-four (144) square inches in area, non-illuminated, and mounted flat against the wall of the principal building.
- d. There shall be no material negative impact upon the public health, safety or quality of life in the City of Niles due to the home occupation, including, but not limited to, excessive use of streets and roads, change to the character of the area, blight, excessive noise, odors, or electrical interference. In case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any electronic device off the home occupation area, or causes fluctuation in line voltage off the premises.

- e. No traffic shall be generated by such home occupation in greater volume than would be normally expected given the future land use designation in the City of Niles Master Plan and the zoning district, and any need for parking generated by the conduct of such home occupation shall be met in an approved area other than in a required front yard. Landscaping may be required as determined by the Planning Commission.
  - f. No equipment or process shall be used in such home occupation, which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot.
  - g. The Planning Commission may impose additional conditions as necessary to preserve the home occupation area.
3. **Home Based Businesses.** An applicant seeking approval for a Home Based Business may seek approval of the Planning Commission as a special use pursuant to **Section 823**.

**SECTION 310 USES NOT SPECIFICALLY PERMITTED IN DISTRICTS**

When a use is not specifically listed in the sections devoted to Permitted Uses or Special Uses, it shall be assumed that such uses are hereby expressly prohibited unless the Zoning Administrator shall determine that said use is similar to and not more objectionable than uses listed. In reaching such a determination, the Zoning Administrator shall evaluate the proposed use in terms of the potential generation of traffic, congestion, noise, odors, dust, litter and similar impacts. In addition, the proposed use shall be evaluated to determine the degree to which it may support or conflict with other uses permitted by right or as special uses in the district. If the Zoning Administrator determines that such use is similar to the uses permitted by right, a report outlining the determination shall be provided to the Planning Commission with an evaluation of the required site plan and suggested approval standards pursuant to **Section 801, 10, c**.

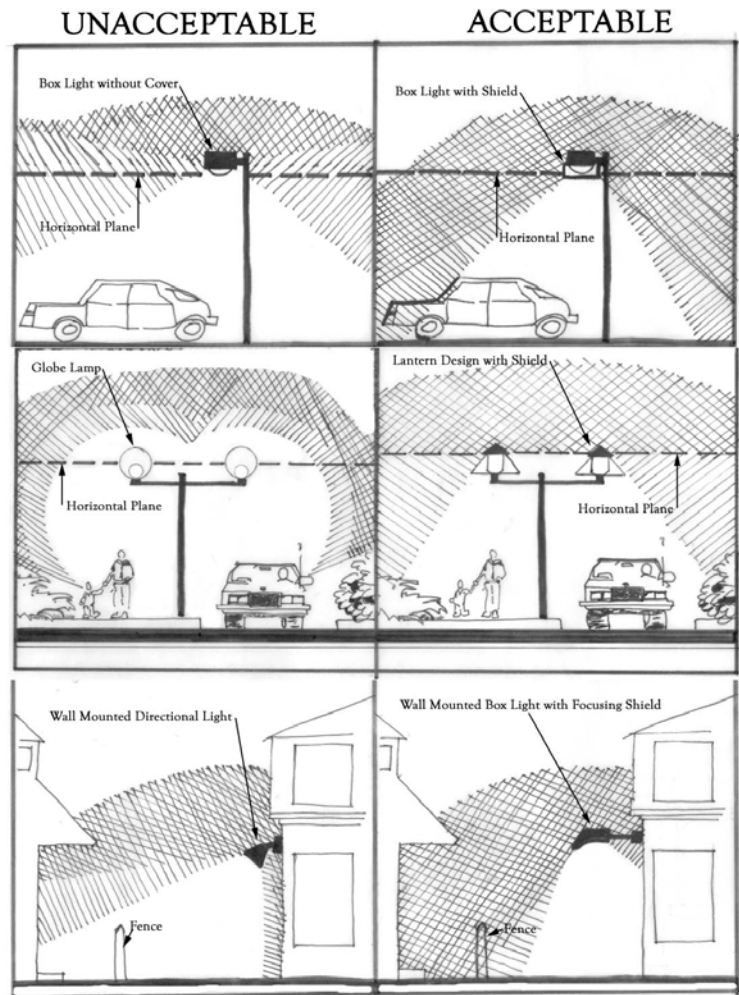
**SECTION 311 EXTERIOR LIGHTING**

- 1. **Intent and Purpose:** 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 plan or plot plans submitted for approval under the terms of this Zoning Ordinance.
- 2. **General Requirements:**
  - a. Exempted areas and types. The following types of outdoor lighting shall not be covered by this Ordinance:

- 1) 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.
  - 2) Sign lighting as regulated by **Article 7**.
  - 3) Lighting associated with detached single family housing.
- b. Regulated Lighting. The following types of lighting shall be regulated by this Ordinance:
- 1) Parking lot lighting and site lighting for commercial, industrial and institutional developments.
  - 2) Multiple Family Developments.
  - 3) Publicly and privately owned roadway lighting.
  - 4) Building facade lighting.
  - 5) Other forms of outdoor lighting which, in the judgment of the Planning Commission is similar in character, luminosity and/or glare to the foregoing.

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

- 1) Insure that direct or directly reflected light is confined to the development site.
- 2) 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.



**Figure 3-2**

- 3) 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.

- 4) 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 3-2). No light fixture shall be mounted higher than twenty (20) feet above the average grade of the site.
- 5) 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.
- 6) 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.
- 7) 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 312          STRUCTURE HEIGHT MEASUREMENT AND EXCEPTIONS**

1. **Measurement.** The height of structures shall be measured from the average finished grade of the parcel to the highest point on structure. Average finished grade shall be determined through the following alternate methods:
  - a. On parcels where there is less than five (5) feet difference in elevation across the buildable area, the average finished grade shall be the elevation at the midpoint of the front property line.
  - b. On parcels where there is five (5) or more feet of difference in elevation across the buildable area of the lot, the average finished grade shall be determined by subtracting the lowest elevation on the buildable area from the highest, dividing the result by two and adding that result to the lowest elevation.
2. **Exceptions.** The height limitations contained in this Ordinance shall not apply to spires, belfries, cupolas, water tanks, silos, ventilators, chimneys, or their appurtenances usually required to be placed above the roof level and not intended for human occupancy. Height requirements for antennas are set forth in **Section 844** of this Article.
3. **Height Measurement and Number of Stories.**
  - a. Basements. Where more than one-half (1/2) of the height of a basement area is above the average grade of the adjoining ground, a basement shall be counted as a story for the purpose of height measurement.
  - b. Any portion of a story exceeding fourteen (14) feet in height shall be considered as an additional story for each fourteen (14) feet, or fraction thereof.

- c. In the case of one-family dwellings less than three (3) stories in height, a half-story in a sloping room shall not be counted as a story.

### **SECTION 313 SWIMMING POOLS**

Swimming pools shall be considered an accessory use shall meet location requirements of an accessory structure and comply with the provisions of City Ordinances pertaining to Swimming Pools.

### **SECTION 314 OUTDOOR STORAGE IN RESIDENTIAL DISTRICTS**

The outdoor storage or parking of any airplane, antique or racing automobile, boat, float, raft, trailer, trailer coach, camping trailer, motorized home, pickup truck camper and other equipment or vehicles of similar nature shall be permitted in the LDR and MDR districts, provided the following minimum conditions are met:

1. All such vehicles or equipment shall be placed within an enclosed building or be located upon a driveway, but no closer than three (3) feet to any lot line.
2. Storage or parking shall be limited to vehicles or equipment owned by the occupant of the parcel and not more than two (2) vehicles or pieces of equipment shall be stored outdoors within the front yard.
3. Trailer coaches 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.
4. Inoperable motor vehicle shall be subject to the regulations contained in Section 1034 of the City's Code of Ordinances (Junk, Trash).

### **SECTION 315 CORNER LOTS AND THROUGH LOTS**

#### **1. Corner Lots.**

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

#### **2. Through Lots.** Unless, in the judgment of the Zoning Administrator, the prevailing

development pattern indicates an alternate configuration, front yards shall be required on portions of a through lot that abut a street; provided, however, that this does not reduce the buildable depth of any lot of record to less than sixty (60) feet.

## **SECTION 316            LANDSCAPING PROVISIONS**

1. All zoning lots of record shall be suitably landscaped and maintained so as not to create a nuisance or violate the provisions of this or any other City ordinance.
2. Whenever pursuant to this Ordinance a greenbelt or landscaped buffer is required under the terms of this ordinance, it shall be established in accord with the terms of this Section within six (6) months from the date of issuance of a certificate of occupancy.
  - a. A landscape plan required under the terms of this ordinance shall be prepared and submitted in conjunction with a site plan. Such landscape plan shall be prepared by a Registered Landscape Architect, professional engineer or by a qualified landscape designer. Such landscape plan shall provide, to the greatest extent possible, for the preservation and protection of existing natural features on the site.
  - b. The landscape plan shall include an inventory of existing trees, wood lots, streams, lakes, wetlands, view sheds and other natural features of the site and detail on the measures proposed to preserve and protect such features. All existing trees having five (5) inches or greater diameter breast height, shall be identified by common or botanical name. Trees proposed to remain, to be transplanted or to be removed shall be so designated. A cluster of trees standing in close proximity (5 feet or closer) may be designated as a "stand" of trees, and the predominant species, estimated number, and average size shall be indicated.
  - c. All proposed planting areas for grass, trees, shrubbery and other green space intended to protect the natural features and character of the site shall be illustrated in the landscape plan. Such illustration shall include the species proposed, the number of plantings, the size of such plantings including the caliber and height, irrigation measures proposed and related information.
  - d. The location and nature of lighting, signs, utility fixtures, earth changes, streetscape and any other matter that affect the appearance of the site shall be illustrated on the landscape plan or site plan.
  - e. Not less than thirty percent (30%) of the proposed landscaped area shall consist of woody vegetation, including trees and shrubbery. Landscaped open space shall not include driveways and parking areas. To the greatest extent possible, existing trees over five inches (5") diameter at breast height, shall be retained and protected. Areas of a site plan intended for stormwater detention or retention shall only be included in such required minimum landscaped area if formally landscaped with shrubbery and turf and contoured such that no fencing shall be required.

- f. The area between the edge of the street pavement and property line, with the exception of paved driveways and parking areas permitted by this ordinance, shall be used exclusively for the planting and growing of trees, shrubs, lawns, and other landscaping designed, planted and maintained to serve as a healthy and attractive amenity on the site.
- g. In the event a proposed development includes uses more intense in terms of noise, lighting, traffic, residential density or similar impacts than an existing adjoining use, the Planning Commission may require provision for plantings or other aesthetic screening to mitigate and lessen the potential impact on such adjoining land use.
- h. The applicant shall replace any trees, shrubbery or other plantings that fail to become established and remain viable for a period of two years following completion of all construction on the site. In accordance with **Section 1009**, the City shall require an irrevocable bank letter of credit, certified check or cash in an amount as determined by the City which shall be sufficient to assure the establishment of a viable landscaped area. In the event any of the landscaped materials do not become established and the applicant shall fail to provide a viable replacement, the City shall utilize such bond, irrevocable bank letter of credit or cash to install replacement landscaping materials. After two years of demonstrated viability of all landscape materials, the remaining balance, if any, of such bond, irrevocable bank letter of credit or cash shall be returned to the applicant.
- i. All landscaped areas that are required according to this section shall be equipped with a watering system capable of providing sufficient water to maintain plants in a healthy condition. Irrigation systems shall be maintained in good working order. This requirement only applies to areas within the NC, CB, OC, RC and IND Districts.

**SECTION 317            FENCES**

**1. Permitted in Residential Districts:**

- a. Front Yards.
  - 1) Any fence or wall erected for the purpose of enclosing a front yard shall be not more than fifty percent (50%) solid, and shall not exceed four (4) feet in height above natural grade. Vertical support members (posts) shall not exceed the fence height by more than four (4) inches.
  - 2) Any hedge erected for the purpose of enclosing a front yard shall not exceed four (4) feet in height above the natural grade.
  - 3) At no time shall a fence, wall or hedge obstruct the vision of a pedestrian or motor vehicle driver or non-motorized vehicle driver to the extent that a safety hazard exists in the opinion of the Zoning Administrator. This shall apply along street or highway right-of-way including ingress and egress facilities to real property (see Figure 3-1).
- b. Side and Rear Yards.:
  - 1) Fences erected for the purpose of enclosing a side or rear yard shall not exceed six (6) feet in height above the natural grade. Vertical support members (posts) shall not

exceed the fence height by more than four (4) inches.

**2. Permitted in Commercial and Industrial Districts.**

- a. Fences located adjacent to residential districts or residential uses shall not exceed six (6) feet in height above natural grade.
- b. Fences that are not located adjacent to a residential district or residential use shall not exceed sixteen (16) feet in height, subject to site plan review and any covenant restrictions that may apply.

**3. Fences Prohibited.** Fences incorporating spikes, barbed wire, razor wire, sharp pointed cresting or other features capable of injuring anyone coming in contact therewith, shall be prohibited in all districts except for properties located in the industrial district which do not abut lands zoned or used for residential purposes. No person shall erect an electric fence containing uninsulated electric conductors that may be exposed to human contact.

**4. Construction.** Construction of fences shall be completed within sixty (60) days from the start of construction.

**5. Supports.** All fences shall be constructed with any and all supporting structures or devices in the inside of the fence.

**6. Location.** Except as herein provided, fences may be located adjacent to a lot line, but shall be constructed and located entirely on the lot of the person(s) responsible for the construction, erection and maintenance of the fence. It shall not be the responsibility of the City of Niles to establish boundary lines for the location of fences. Fences requiring maintenance shall be located so they may be maintained entirely from the property of the owner. Fences shall be located in accord with **Section 303, 5** pertaining to clear vision areas.

**7. Maintenance.** Fences, walls and hedges constructed or erected in the City shall have a pleasing aesthetic appearance and shall be maintained in a safe and acceptable manner.

**8. Fences Around Swimming Pools and Ponds.** Private swimming pools and ponds having a water depth of two (2) or more feet shall be located within a fences enclosure at least four (4) feet and not more than six (6) feet in height. The protective enclosure shall be maintained by gates with a closing and latching device for keeping the gate or door securely closed at all times when not in actual use. Fences around swimming pools must comply with all applicable regulations regarding swimming pools.

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

**10. Double Frontage Lots.** On double frontage lots (through lots), the front yard fencing standards of this section shall apply to both portions of the parcel with street frontage.

**SECTION 318 STRIPPING OF TOP SOIL**

No person, firm or corporation shall strip, excavate, or otherwise remove top soil for sale, or for

use other than on the premises from which the same shall be taken except in connection with a development project on such premises and the excavation or grading incidental thereto.

## **SECTION 319           ANTENNAS**

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

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

**SECTION 320 UNLICENSED OR INOPERABLE MOTOR VEHICLES**

See Code of Ordinances - Article IV - Section 34-114, 4,5

**SECTION 321 DIVISION OF A ZONING LOT**

No land in the City shall be divided or partitioned except in accord with the terms of this ordinance and the Subdivision Control Act, as amended.

**SECTION 322 NATIONAL FLOOD INSURANCE PROGRAM**

1. The rules and regulations promulgated by the United States Department of Housing and Urban Development, Federal Register Volume 41, No. 207, Tuesday, October 26, 1976,

together with subsequent additions, amendments, and deletions made in accordance with the National Flood Program as constituted in accordance with the National Flood Insurance Act of 1968, are hereby ratified and approved.

2. A summary of rules and regulations pertaining to the National Flood Insurance Program Promulgated by the United States Department of Natural Resources prepared by the Building Official a copy of which is on file in the office of the City Clerk is hereby approved for distribution to the general public and enforcement by the Building Official.

**SECTION 323 SITE IMPROVEMENTS: DRAINAGE AND MAINTENANCE**

Any site improvements, including but not limited to structures, buildings and off street parking shall be graded to prevent storm water drainage from entering onto abutting property and/or into public streets and alleys. Leeching basins of a design and storage capacity approved by the Public Works Director shall be installed to collect and hold all storm water runoff unless adequate municipal storm sewers or drainage ditches are available. Leeching basins shall be cleaned as necessary to maintain the design storage capacity. These drainage provisions shall not be required where a different method of disposal of said runoff water is approved by the Public Works Director. The Public Works Director may require that a detailed drainage plan be prepared under the supervision of a Professional Engineer Licensed by the State of Michigan and sealed thereby.

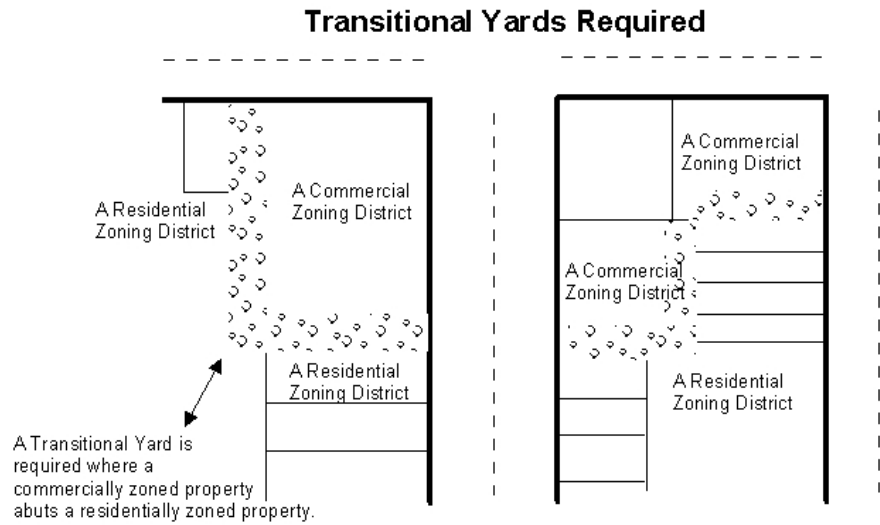
**SECTION 324 TRANSITIONAL YARDS**

Where a commercial district (CB, NC and RC) adjoins a residential district (LDR or MDR) or a Planned Unit Development incorporating residential uses, transitional yards shall be provided in accordance with the following standards:

1. Where lots in a commercial district front on the street and at least eighty percent (80%) of the frontage directly across the street and between two (2)

consecutive intersecting streets is in a residential district, the front yard regulations for the residence district shall apply to the lots in the commercial district.

2. In a commercial district, where a side lot line coincides with a side or rear lot line of property



**Figure 3-3**



in an adjacent residential district, a side yard shall be provided equal in dimension to the minimum side yard required in the adjacent residential district.

3. In a commercial district, where a rear lot line coincides with a side or rear lot line of property in an adjacent residential district, a rear yard shall be provided equal in dimension to the minimum rear yard required in the adjacent residential district.
4. Where a lot located in a commercial district adjoins a lot located in a residential district along a side yard, a front yard shall be provided equal in dimension to the minimum front yard required in the adjoining residential district. A corner lot located in a commercial district which abuts a residential district on its side street, shall have a minimum yard from said side street equal to the minimum required front setback of the adjoining residential district.

## SECTION 325 NONCONFORMITIES

1. **Purpose and Intent.** Nonconforming uses as defined herein which were lawful before this Ordinance was adopted may continue until they are discontinued, damaged or removed but shall not be encouraged to continue or be duplicated after a period of non-use. These nonconformities are declared by this Ordinance to be incompatible with the buildings and structures and uses of parcels, lots, buildings and structures permitted by this Ordinance. It is further the intent of this Ordinance that such nonconformities shall not be enlarged, expanded or extended except as provided herein nor shall such nonconformities be used as grounds for adding other buildings and structures and uses of parcels, lots, buildings and structures prohibited elsewhere in the same Land Use District.
2. **Classifications.** There shall be the following classes of nonconforming uses:
  - (a) **Class 1.** Those where the use of the building or land does not conform to the zoning district use regulations; and
  - (b) **Class 2.** Those where the use of the building or land does comply with the zoning district use regulations, but such use does not meet the dimensional or parking regulations of this Ordinance. Where the only reason for a nonconforming use being Class 2 is noncompliance with current off-street parking regulations, the provisions of this Ordinance regarding off-street parking and powers of the Zoning of Board Appeals shall take precedence over this section to the extent they are inconsistent. (See Article Six, *Off-Street Parking and Loading*.)
  - (c) **Class 3.** Those where the use of the building or land was a legal non-conforming use, but is later allowed only by special land use permit in the zone in which located.
3. **General Regulations.**
  - (a) **Enlargement or structural alterations.** Nonconforming uses of property shall be subject to the following regulations:

- (1) A Class 1 nonconforming use shall not be enlarged or structurally altered when such alteration requires a building permit, nor shall they be expanded or increased in intensity of use, unless the Zoning of Board Appeals or Zoning Administrator grants an exception as described in this Ordinance.
- (2) A Class 2 nonconforming use shall not be enlarged or structurally altered when such alteration requires a building permit, unless the resultant building creates no further violation of this Ordinance than lawfully existed at the time of the enlargement or alteration. However, upon approval of the Zoning Administrator, a Class 2 nonconforming use may be expanded to add floor space above the first floor level to the extent of the first floor encroachment, and a porch or other architectural feature which once existed and encroached in the required setback may be reconstructed, subject to the following conditions:
  - A. Prior to the issuance of a building permit, the building plans for the addition shall be approved by the Zoning Administrator, who will consider the relationship of the addition with the scale, materials and architectural style of the existing structure.
  - B. The addition shall not substantially degrade the light and air available to the neighboring properties.
  - C. The addition shall not include or utilize window or wall air conditioning units or other appliances or devices which may unnecessarily disturb neighbors due to their proximity to adjacent structures.
  - D. Ice, snow and stormwater from the addition shall be maintained within the boundaries of the subject property and shall not present a safety hazard to residents, guests or neighbors.
- (3) A Class 3 nonconforming use shall not be enlarged or structurally altered without first obtaining a special land use permit for the existing use and the alteration, if enlargement or alteration would result in any of the following:
  - A. An increase or decrease in the square footage of the building by more than ten per cent,
  - B. Introduction of a new use on the site which is anticipated to increase daily motor vehicle trip-ends,
  - C. Addition of a separate building or structure occupied on a regular basis,
  - D. Addition or deletion of parking spaces, or
  - E. Significant alteration of traffic patterns adjacent to the site.

(b) **Repairs and Maintenance of nonconforming buildings.** Nothing in this Ordinance shall prevent the repair, reinforcement, improvement or rehabilitation of nonconforming buildings, structures, or part thereof existing at the effective date of this Ordinance, rendered necessary by wear and tear, deterioration or depreciation; nor prevent compliance

with the provisions of the Michigan Construction Code, relative to the maintenance of buildings or structures; provided, however, that the cost of such repair, reinforcement, improvement, rehabilitation or compliance shall not exceed sixty (60) percent of the reproduction value of such building at the time such work is done; and provided, further, there shall be no change of use which would expand the nonconformity of such building at the time such work is done; and provided, further, there shall be no change of use of said building or part thereof.

(c) **Improvement of nonconforming buildings.** A nonconforming use may be improved provided that such repair or improvement to a Class 1 or Class 2 nonconforming use is approved by the Zoning Administrator and will do one or more of the following:

- (1) Improve the structure only to add an unenclosed porch or another similar architectural feature that is in keeping with the surrounding architectural style.
- (2) Improve the structure only to provide barrier free access or accommodation.
- (3) Improve the structure only to accomplish changes recommended by the Historic District Commission.
- (4) Clearly and convincingly improve the health, safety or welfare of the neighborhood.

(d) **Reconstruction and Restoration.** A nonconforming use damaged by fire, explosion, act of God or other similar causes may be restored or rebuilt, provided that such restoration for a Class 1 nonconforming use does not exceed fifty percent of its true cash value, exclusive of land and foundations, as determined for property tax assessment purposes.

- (1) Reconstruction, repair or restoration of the structure shall be completed within one (1) year following the damage and resumption of use shall take place within ninety (90) days of completion. The one (1) year timeframe may be extended by the Zoning Board of Appeals if it finds one of the following conditions to exist:
  - i. The delay was not avoidable due to weather;
  - ii. The delay was a result of an on-going criminal investigation;
  - iii. The delay was a result of a dispute between the owner and an insurance company concerning what is covered by insurance; and
  - iv. The delay was a result of property being held in probate.
- (2) Recognizing that many property owners are unable to obtain financing without authorization to permit reconstruction of a Class 2 non-conforming use, the City retains the ability to grant such authorization provided the following conditions are met:
  - i. An owner of record or the owner's agent must provide the Zoning Administrator with a written request for an authorization to reconstruct a non-conforming use.

- ii. The owner's prospective lending institution must provide the Zoning Administrator with a written explanation that explains why financing will not be available to an applicant without authorization to reconstruct a non-conforming use.

(e) **Nonconforming Land Uses.** The nonconforming uses of land, where no building is located, may be continued, provided that the nonconforming land use shall not in any way be expanded or extended either on the same property or adjoining property.

(f) **Nonconforming Use Certificate.** A nonconforming use certificate may be issued by the Zoning Administrator for a nonconforming use. The certificate shall specify the nature of the nonconformity and such other pertinent matters as may be deemed appropriate by the Zoning Administrator. Upon application for a nonconforming use certificate by all owners of record of the land in question, the Zoning Administrator shall issue or deny such certificate within thirty days or such greater time as may be mutually agreed upon. The application shall be in writing upon a form prepared by the Zoning Administrator and shall be accompanied by such information as the applicant deems pertinent or as the Zoning Administrator may request. If a nonconforming use certificate is not so obtained, the burden of proof of the lawful existence of a nonconforming use shall rest upon the owner of record.

4. **Completion.** Nothing in this Ordinance shall require any change in the construction or intended use of a building or structure, the construction of which shall have been diligently prosecuted prior to the passage of this Ordinance or any amendment thereto, and the construction of which shall have been completed within twelve (12) months after said date of adoption or amendment.

5. **Abandonment.** Any building, structure or land that has been used for nonconforming purposes but which has not been occupied by such nonconforming use for one (1) year or more shall not thereafter be used unless it conforms to the provisions of this Ordinance. An extension may be granted by the Zoning Board of Appeals for the following reasons:

- a. Property held in Probate;
- b. Insurance settlement in dispute; or
- c. Criminal investigation.

6. **Change of Ownership of Tenancy.** There may be change of tenancy, ownership or management of an existing nonconforming use, building or structure, provided there is no change in the nature or character of such nonconforming use, building or structure.

## SECTION 326 ESSENTIAL SERVICES

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

## SECTION 327 WELLHEAD PROTECTION AREA

1. **Intent and Purpose:** To protect groundwater quality in the delineated wellhead protection areas identified in the *City of Niles Wellhead Protection Plan*; to provide a mechanism which safeguards potable water supplies from existing and potential future sources of contamination; to prevent pollutants from entering surface and groundwater; and to ensure safe, potable, and plentiful water resources for current and future residents.
2. **Scope:** The standards in this **Section 327** shall apply to the whole of any parcel and land uses located within the Wellhead Protection Area as illustrated on the Wellhead Protection Area Map prepared by the City and approved by the Michigan Dept. of Environmental Quality. The regulations in this section are intended to augment and be in addition to any standard or rule concerning groundwater protection promulgated by federal, state, or local agencies. Where the requirements of this **Section 327** conflict with other regulations or requirements promulgated or followed by the City of Niles, the most restrictive standards shall apply.
3. **General Requirements.**
  - a. The following uses shall be permitted by right within the Wellhead Protection Area:
    - 1) Single-family residential uses.
    - 2) Parks and other recreational facilities.
  - b. Other uses, including all non-residential and non-recreational uses, shall be permitted as Special Uses, and in addition to the provisions of **Article Eight**, shall comply with the following standards:
    - 1) All uses shall connect to municipal sanitary sewer systems and public water supplies; unless the Zoning Administrator concludes that these utilities are not readily available or cannot be made readily available to serve the use.

- 2) Temporary outdoor storage areas shall be a minimum of one hundred (100) feet from any creek, stream, river, pond, or wetland; and any runoff shall be diverted away from such water body.
- 3) Garbage, trash, refuse, junk vehicles, junk appliances, toxic substances, and similar materials, shall not be dumped or stored outside a protected structure or container.
- 4) Exterior aboveground holding tanks shall include, at a minimum, the following: a monitoring system and secondary standpipe above the 100-year flood level; and an impervious dike above the 100-year flood level capable of containing 110% of the largest volume of storage, provided with an overflow recovery catchment area or sump.
- 5) Open liquid waste ponds shall be prohibited.
- 6) Loading and unloading areas where hazardous substances and waste materials are handled shall be enclosed or roofed with secondary containment isolated from floor drains. Loading and unloading areas shall have impervious surfaces and be designed to prevent releases onto the ground or into a water body or to groundwater.
- 7) The applicant shall demonstrate to the Zoning Administrator that on-site storm water will not have an adverse effect on groundwater, with respect to: the planned use of natural and man-made mechanisms to purify storm water through settling out solids, separation and capture of oil and grease, absorption of particulates, and uptake of dissolved solids. Storm water shall be treated prior to infiltration or controlled surface water discharge.
- 8) Storage of hazardous substances and waste materials shall be isolated in roofed or enclosed areas so as to prevent contact with precipitation. If exposure of storage areas is permitted, uncovered storage areas shall have a separate storm water collection system which discharges to a holding tank.

#### 4. Additional Site Plan Requirements.

- a. In addition to the stipulations of **Article Ten** and **Article Eight**, an application for a proposed Special Use shall demonstrate the following:
  - 1) Secondary containment, where land uses store, handle, or use hazardous or toxic substances.
  - 2) Proposed storm water management.
  - 3) Soil erosion control mechanisms, where buildings or structures are proposed within one hundred (100) feet of a water body or wetland.
  - 4) The reduction, to the maximum extent possible, in discharge of runoff and sediments and hazardous or toxic substances into groundwater from parking areas or other impervious surfaces.
  - 5) Identification of all storage areas containing chemicals, liquids, and underground facilities.

6) An *Environmental Checklist for Site Plan Review* shall be submitted with the application.

**5. Conditions and Modifications.**

- a. The Zoning Administrator and Planning Commission shall reserve the right to impose conditions on an applicant. Such conditions shall be related to minimizing adverse effects on groundwater within the Wellhead Protection Area, and may include, but not be limited to, the recommendations of the *City of Niles Wellhead Protection Plan*.
- b. After a site plan is approved or recommended for approval by the Planning Commission, no modifications to a site plan shall be made without review and approval as if the proposal were a new application.

**6. Nonconforming Uses and Structures.**

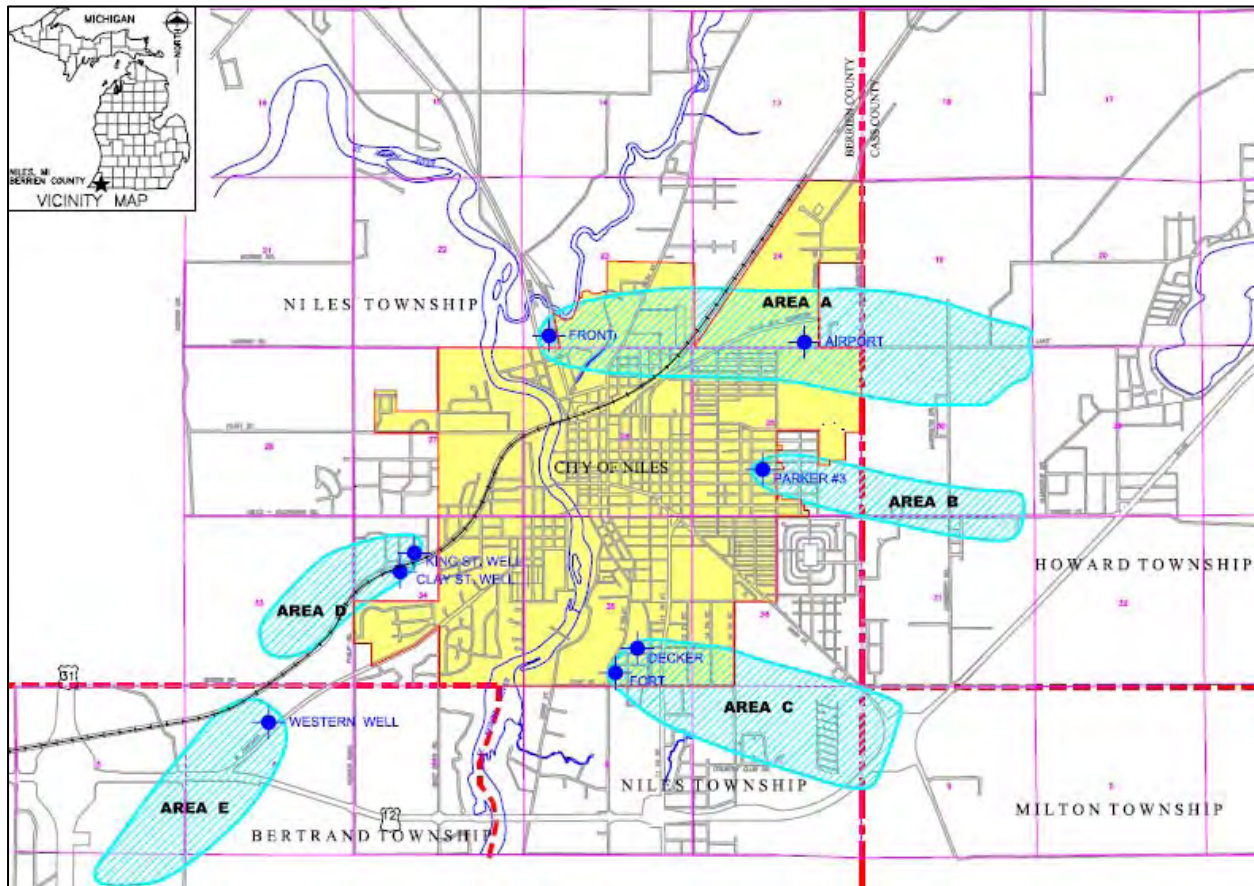
- a. If a land use, building, or structure, which conflicts with the standards of this Section, existed prior to the effective date of this Ordinance, then:
  - 1) Such nonconforming use, building, or structure shall not be moved in whole or in part, added to, extended or expanded, reconstructed, or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

## 7. Determination of Wellhead Protection Overlay Zone Boundaries.

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

- a. The Water Superintendent or Zoning Administrator shall have the authority to interpret the Wellhead Protection Overlay Zone Map and determine where the boundaries of the different zones fall, if in dispute. The interpretation of the map boundaries may be appealed to the Zoning Board of Appeals pursuant to Article 12 of this Ordinance.
- b. The Wellhead Protection Overlay Zone Map may be modified from time to time based on the recommendation of the City of Niles Wellhead Protection Committee. Modifications shall be based on revisions to the map and the 1-year, 5-year, and 10-year time of travel capture zones. The City Council shall approve any changes to the Wellhead Protection Overlay Zone Map.

Wellhead Protection Overlay Zone Map





**ARTICLE FOUR**  
**ZONING DISTRICTS, USES TABLE AND ZONING MAP**

**SECTION 400          DIVISION INTO DISTRICTS**

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

LDR	Low Density Residential	MDR	Moderate Density Residential
CB	Central Business District	NC	Neighborhood Center
RC	Regional Commercial	OC	Office/Commercial
IND	Industrial	OS	Open Space

**SECTION 401          ZONING MAP**

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

1. The Official Zoning Map shall be identified by the signature of the mayor, attested by the City Clerk and shall bear the seal of the City under the following words: “This is to certify that this is the Official Zoning Map referred to in Article 4, Section 401 of Zoning Ordinance of the City of Niles, Berrien County, Michigan”, together with the date of the adoption of this ordinance.
2. If in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map within ten (10) days after the amendment has been approved by the City Council with a notation of the changes made and the date of action of the City Council.
3. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance and punishable as provided in **Article 13**, hereof.
4. Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be published, the Official Zoning Map which shall be located in the City Hall shall be the final authority as to the current zoning status of land and water areas, buildings and other structures on the City.

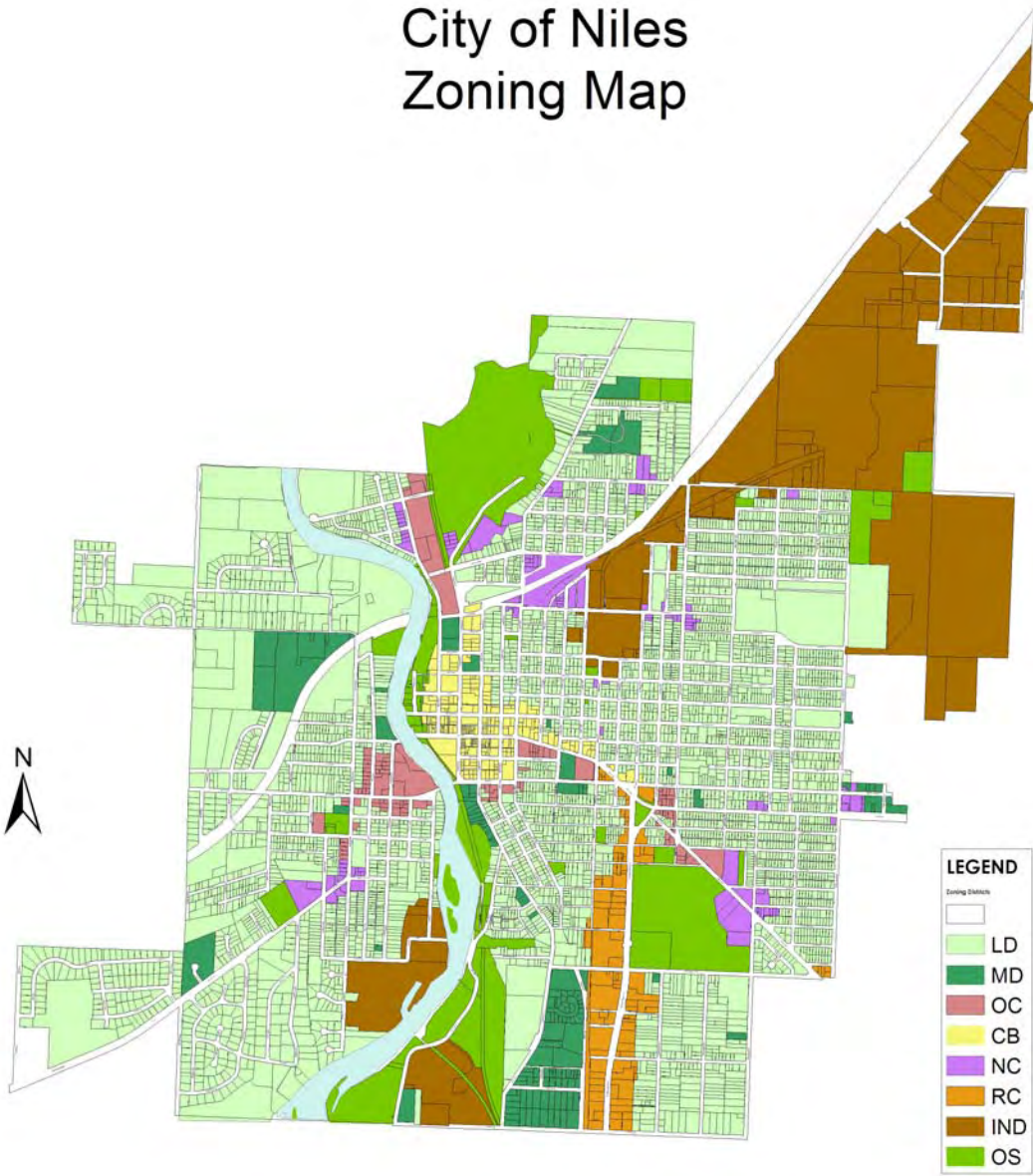
5. In the event the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the City Council may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning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

## **SECTION 402 INTERPRETATION OF DISTRICT BOUNDARIES**

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

1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed as following such centerlines.
2. Boundaries indicated as approximately following property, parcel, or lot lines shall be construed as following such lines.
3. Boundaries indicated as approximately following municipal boundaries shall be construed as following such boundaries.
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as following shorelines shall be construed to following such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.
6. Boundaries indicated as parallel to or extensions of features indicated in paragraphs 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by this Section 402, the Zoning Board of Appeals shall interpret the district boundaries.
8. Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, the entire lot shall be construed to be within the district which applies to the greater portion of the parcel.

# City of Niles Zoning Map





### **SECTION 403            ZONING VACATED AREAS**

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

### **SECTION 404            ZONING DISTRICT REGULATIONS**

The Schedule of District Regulations set forth as Table 4-1 provides an overview of the dimensional requirements of this Zoning Ordinance. It is provided for quick reference. However, it should not be substituted for a precise reference to the specific language of this Ordinance.

### **SECTION 405            LAND USES**

The Schedule of Land Uses set forth as Table 4-2 summarizes the applicable regulatory standards for the land uses governed under this Zoning Ordinance. It is provided for quick reference. However, it should not be substituted for careful reference to the specific language of this Ordinance.

*Table 4-1 – City of Niles  
Schedule of Regulations*

District	Minimum Lot Dimensions		Maximum Lot Coverage	Minimum Yard Requirements (feet)			Maximum Height		Minimum Floor Area Per Dwelling
	Area (sq. ft.)	Width (feet)	(%)	Front <sup>(a)</sup>	Side <sup>(h)</sup>	Rear	Stories	Feet	(Sq.Ft.)
LDR	8,000	50	35	30	10	20	2½	35	1,200
MDR									
1&2 Family	8,000	65	40	25 <sup>(d)</sup>	7 <sup>(c)</sup>	25	4	40	800
3+ Family	8,000+ <sup>(b)</sup>	70	50	25 <sup>(d)</sup>	7 <sup>(c)</sup>	25	4	40	1 Bdr. 400 2 Bdr. 500
Non-Res.	8,000	65	n/a	25 <sup>(d)</sup>	7 <sup>(c)</sup>	25	4	40	3+ Bdr. Add 100/Bdr.
CB	None	None	90	0	0	0	n/a	60	450 or 600
NC	6,000	60	50	15	Side Line or 7	15	n/a	35	800
3+ Family	8,000+ <sup>(b)</sup>								
RC	12,500	100	50	20	0	15	n/a	45	n/a
OC		n/a <sup>(e)</sup>	80	15	7	10	n/a	60	
IND		n/a <sup>(e)</sup>	75	40	25	30	n/a	60	
OS		n/a <sup>(e)</sup>	20	50	25	30	n/a	35	n/a

Notes to Schedule of Regulations:

- a. Required front yard shall be as set forth herein, except where, in the judgment of the Zoning Administrator or his/her designee, the predominate condition of the existing on the same block and on the same side of the street would dictate a lesser or greater setback.
- b. In addition to 8,000 square feet in parcel area, for residential uses of three (3) or more units, an additional 2,100 square feet shall be required for each efficiency or one-bedroom unit, and additional 2,400 square feet shall be required for each two-bedroom unit, an additional 2,700 square feet shall be required for each three-bedroom unit, an additional 3,000 square feet shall be required for each four-bedroom unit and an additional 4,000 square feet shall be required for each unit with more than four bedrooms.
- c. Plus one (1) foot for each two (2) feet in building height over fifteen (15) feet, and not less than fifteen (15) feet between adjacent buildings.
- d. Plus one (1) foot for each two (2) feet in building height over thirty (30) feet.
- e. Plus one (1) foot for each two (2) feet in building height over thirty (30) feet.
- f. Plus four (4) feet for each story in building height over two (2).
- g. No minimum, but all applicable provisions of the Zoning Ordinance shall be met
- h. Required side yard shall be as set forth herein, except where, in the judgment of the Zoning Administrator or his/her designee, the predominate condition of the existing on the same block and on the same side of the street would dictate a lesser or greater setback; provided in no instance shall the required side yard be less than three (3) feet, except where buildings are permitted to be located on the side lot line.

Table 4-2, 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.

**CITY OF NILES - TABLE OF LAND USES**

**Table 4-2 Uses Permitted by Right and as Special Land Uses**

(R=Use by Right; SLU=Use Permitted as Special Land Use; \* Indicates districts in which certain uses do not require site plan review)

<b>USES</b>	<b>LDR</b>	<b>MDR</b>	<b>CB</b>	<b>NC</b>	<b>RC</b>	<b>OC</b>	<b>IND</b>	<b>OS</b>
Accessory Bldg. ≤ footprint principal structure	R*	R	R	R*	R	R	R	R
Accessory Bldg. ≥ footprint principal structure			SLU	SLU	SLU		R	
Accessory Uses, related to uses permitted by right					R		R	
Accessory Dwelling Unit	SLU	SLU						
Airport							SLU	
Appliance, repair and sales				R	R			
Auditoriums	SLU	SLU	SLU	SLU	SLU	SLU		
Bank			R	R	R	R		
Bed & Breakfast	SLU	SLU	SLU	R		SLU		
Billboards					SLU		SLU	
Camps and Campgrounds								SLU
Car Wash					R	SLU	SLU	
Cemeteries	SLU							SLU
Combinations of Uses			R/SLU	R/SLU	R/SLU	SLU	R/SLU	R/SLU
Commercial Establishments w/ Drive-Thru			SLU	SLU	SLU	SLU	SLU	
Contractor's Facility						SLU	R	
Construction Equip. Sales & Supplies					SLU		SLU	



**Table 4-2 Uses Permitted by Right and as Special Land Uses**

(R=Use by Right; SLU=Use Permitted as Special Land Use; \* Indicates districts in which certain uses do not require site plan review)

<b>USES</b>	<b>LDR</b>	<b>MDR</b>	<b>CB</b>	<b>NC</b>	<b>RC</b>	<b>OC</b>	<b>IND</b>	<b>OS</b>
Day Care, Group 7-12 children	SLU	SLU	SLU	SLU		R		
Day Care Center or Child Care Center		SLU	SLU	SLU	SLU	SLU		
Duplex	SLU	R		R				
Dwelling, single family	R*	R*		R*		R		
Education Institution	SLU	SLU	SLU	SLU		SLU		
Fabrication & Assembly							R	
Foster Care, Adult (7-12 residents)	SLU	SLU		SLU				
Foster Care, Adult (13+ residents)		SLU		SLU		SLU		
Funeral Home		SLU	SLU	SLU	R			
Galleries and Museums			R	SLU		R		
Gasoline Station				SLU	R			
Golf Courses, and related accessory uses	R							R
Government Offices		R	R	R	R	R	R	
Greenhouses & Nurseries					R			
Home Based Business	SLU							
Home Occupation	R	R	R	R		R		
Hotels & Motels			R		R			
Industrial Sub-Division							R	
Kennels & Animal Clinic				SLU	R	R		
Laboratories						SLU	R	
Laundry & Dry Cleaning Establishment				SLU	SLU		SLU	

**Table 4-2 Uses Permitted by Right and as Special Land Uses**

(R=Use by Right; SLU=Use Permitted as Special Land Use; \* Indicates districts in which certain uses do not require site plan review)

<b>USES</b>	<b>LDR</b>	<b>MDR</b>	<b>CB</b>	<b>NC</b>	<b>RC</b>	<b>OC</b>	<b>IND</b>	<b>OS</b>
Lodging and Boarding House		R	R	R				
Manufactured Housing Community		R						
Mini-Warehouse, Self-Store					SLU		R	
Multifamily Structure		R	R	R				
Nursing Home	SLU	R		R	R			
Office Clustered Sub-Division						R	R	
Outdoor sales facilities					R			
Outdoor storage, up to 4 Recreation Vehicles					SLU		R	
Packaging, Canning & Bottling							R	
Personal Services			R	R	R	R		
Places of Public Assembly, Large	SLU	SLU	SLU	SLU	SLU			
Places of Public Assembly, Small	R	R	R	R				
Planned Unit Development	SLU	SLU	SLU	SLU	SLU	SLU	SLU	
Printing, Publishing & Allied Industries			R			R	R	
Processing and Manufacturing							R	
Professional Offices			R	R	R	R	R	
Public Open Space	R	R	R	R	R	R	R	R
Recreation Facilities							R	
Research, Development & Testing						SLU	R	
Restaurant			R	R	R	R		
Retail Business			R	R	R	R	SLU	
Sand and Gravel Mining Operation							SLU	SLU

**Table 4-2 Uses Permitted by Right and as Special Land Uses**

(R=Use by Right; SLU=Use Permitted as Special Land Use; \* Indicates districts in which certain uses do not require site plan review)

<b>USES</b>	<b>LDR</b>	<b>MDR</b>	<b>CB</b>	<b>NC</b>	<b>RC</b>	<b>OC</b>	<b>IND</b>	<b>OS</b>
Sexually Oriented Business					SLU			
Showroom for Office & Building Trades					R			
Social Club			SLU		SLU			SLU
Sports, Recreation and Entertainment Facility			SLU	SLU	SLU			R
Studio for performing and graphic arts			R	R	R	R		
Subdivision, Plat or Condominium - Residential	R	R		SLU				
Taverns and Lounges			R	SLU	R			
Uses Similar to Uses Permitted by Right or as Special Land Uses	R	R or SLU	R or SLU	R or SLU	R or SLU	R or SLU	R or SLU	R or SLU
Vehicle Repair Facilities				SLU	R			
Warehousing							R	
Wireless Telecommunication Tower					SLU		SLU	SLU
Wholesale Business					R	R	R	

**LDR**

**Article 5  
District Standards**

**Section 501 Low Density Residential District – LDR**

## ARTICLE 5 DISTRICT USES

### SECTION 500 RESIDENTIAL DISTRICT USES

Buildings and/or lots within Residential districts shall be used as follows;

### SECTION 501 LOW DENSITY RESIDENTIAL DISTRICT, LDR

1. INTENT. The LDR, Low Density Residential District is intended to provide for an environment of predominantly low density dwellings along with other residentially-related facilities which serve the residents in the district.

#### a. PERMITTED USES

- ◆ Accessory buildings with floor area less than or equal to the footprint of the principal structure \*
  - ◆ Dwelling, single family \*
  - ◆ Golf courses and related accessory uses
  - ◆ Government Offices
  - ◆ Home occupations
  - ◆ Places of Public Assembly - Small
  - ◆ Public Open Space
  - ◆ Subdivisions, and condominium subdivisions, clustered or traditional
  - ◆ Uses similar to uses permitted by right
- \* Denotes uses that do not require site plan review. All such uses shall, however, be subject to the requirements for the issuance of a Zoning compliance permit.

#### b. SPECIAL LAND USES

- ◆ Accessory Dwelling Unit
- ◆ Auditoriums
- ◆ Bed & Breakfast
- ◆ Cemeteries
- ◆ City Uses
- ◆ Duplex or Two Unit Residence
- ◆ Education Institution
- ◆ Foster Care, Adult (7-12 residents)
- ◆ Group Day Care (7-12 children)
- ◆ Home Based Business
- ◆ Places of Public Assembly - Large
- ◆ Planned Unit Developments,
- ◆ Professional Offices
- ◆ Uses similar to special land uses

#### c. ADDITIONAL STANDARDS

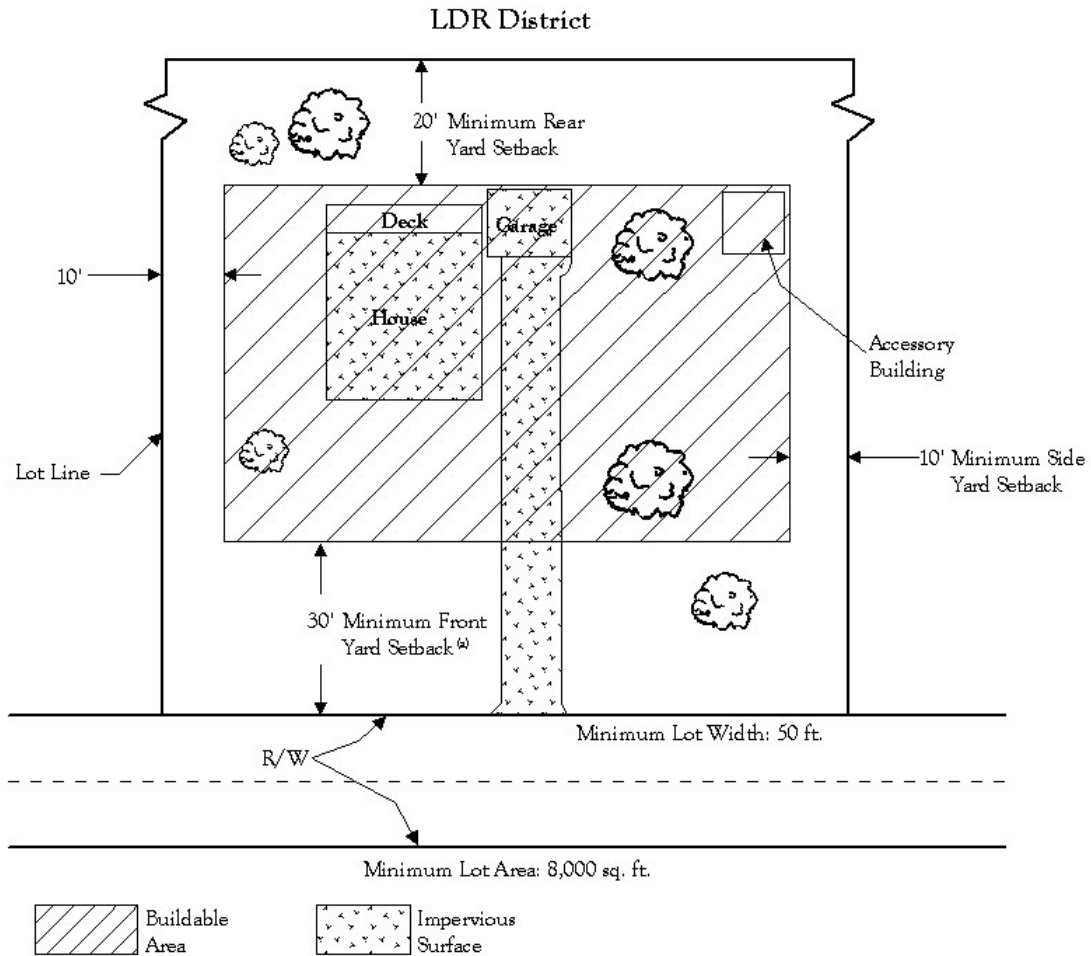
- ◆ Site Plan requirements subject to **Article 10** for all uses other than those indicated by asterisk (\*) above.
- ◆ Parking and Loading requirements subject to **Article 6**.
- ◆ Signage requirements subject to **Article 7**.
- ◆ Lighting requirements, subject to **Section 311**.
- ◆ Landscaping and Buffering requirements, subject to **Section 316**.

**d. DISTRICT REGULATIONS**

<b>Minimum Lot Area:</b>	8,000 sq. ft	<b>Minimum Lot Width</b>	50 ft.
<b>Max. Dwelling Units/Acre</b>	5	<b>Max. Building Height</b>	2½ stories, or 35'
<b>Minimum Building Setbacks<sup>(a)</sup></b>		<b>Maximum Lot Coverage</b>	35%
Front <sup>(a)</sup>	30 ft.	<b>Minimum Floor Area</b>	1,200
Side <sup>(b)</sup>	10 ft. (each side)		N/A
Rear	20 ft.		

(a) Required front yard shall be as set forth herein, except where, in the judgment of the Zoning Administrator, the predominate condition of the existing on the same block and on the same side of the street would dictate a lesser or greater setback.

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



2. USES PERMITTED BY RIGHT. A building or parcel within the LDR district shall be used for the following purposes only:
  - a. Accessory buildings with a footprint less than or equal to that of the principal structure. Such uses shall not require site plan review.
  - b. Dwelling, single family. Such uses shall not require site plan review.
  - c. Golf courses and related accessory uses.
  - d. Home occupations, subject to **Section 309**.
  - e. Places of public assembly, small.
  - f. Public open space.
  - g. Subdivisions (Plats), subject to the Subdivision Control Ordinance, and Condominium Subdivisions subject to **Section 841** and Cluster Subdivision, subject to the provisions of **Section 841**.
  - h. Uses similar to uses permitted by right in the LDR district, subject to **Section 310**.
3. SPECIAL LAND USES and ACTIVITIES ELIGIBLE for APPROVAL CONSIDERATION in accord with the provisions of **Article 8** of this Zoning Ordinance and subject to the requirements of **Article 10** Site Plan Review.
  - a. Auditoriums, subject to **Section 805**.
  - b. Bed & Breakfast, subject to **Section 806**.
  - c. Cemeteries, subject to the provisions of **Section 811**.
  - d. Day Care, group, for 7 to 12 children, subject to the provisions of **Section 815**.
  - e. Duplex, subject to **Section 817**.
  - f. Education Institutions, subject to **Section 818**.
  - g. Foster Care, Adult for 7 - 12 residents, subject to **Section 819**.
  - h. Home Based Business, subject to **Section 824**.
  - i. Nursing Home, subject to **Section 830**.
  - j. Places of public assembly, large, subject to **Section 832**.
  - k. Planned unit developments, subject to **Section 833**.
  - l. Uses similar to special land uses, permitted in the LDR district, subject to the provisions of **Sections 310, and 801, 10, c**.

4. DIMENSIONAL STANDARDS. Yard, structure height, lot area, minimum gross living area and minimum living space dimensions, and lot width shall conform to the requirements of **Article 5, Section 501, 1, d.**



**MDR**

**Article 5  
District Standards**

**Section 503 Moderate Density Residential District – MDR**

---

**SECTION 502            RESERVED**

**SECTION 503            MODERATE DENSITY RESIDENTIAL DISTRICT, MDR**

1. INTENT. The MDR, Moderate Density Residential District primary land use will be attached homes developed in clusters, in multi-unit buildings or in buildings mixed with commercial uses. The primary purpose of this designation is to establish human scale, walkable neighborhoods in close proximity to commercial and recreational services with amenities and design that works with the area’s natural features. These neighborhoods are scaled for public transit or for passenger car travel with good pedestrian connections to commercial and institutional land uses nearby.

- a. PERMITTED USES**
- ◆ Accessory buildings with floor area less than or equal to the footprint of the principal structure \*
  - ◆ Duplex
  - ◆ Dwelling, single family \*
  - ◆ Dwelling, multiple
  - ◆ Government Offices
  - ◆ Home occupations
  - ◆ Lodging and boarding house
  - ◆ Manufactured Housing Community
  - ◆ Multifamily Structure
  - ◆ Nursing Home
  - ◆ Places of Public Assembly, small
  - ◆ Public open space
  - ◆ Subdivisions, and condominium subdivisions, clustered or traditional.
  - ◆ Uses similar to uses permitted by right.
- \* Denotes uses that do not require site plan review. All such uses shall, however, be subject to the requirements for the issuance of a Zoning compliance permit.

- b. SPECIAL LAND USES**
- ◆ Accessory Dwelling Unit
  - ◆ Auditoriums
  - ◆ Bed & Breakfast
  - ◆ Day Care, Group and Center
  - ◆ Education Institution
  - ◆ Foster Care, Adult, Group and Center
  - ◆ Funeral Home
  - ◆ Places of Public Assembly, large
  - ◆ Planned Unit Developments
  - ◆ Professional Offices
  - ◆ Taverns and Lounges
  - ◆ Uses similar to defined special land uses

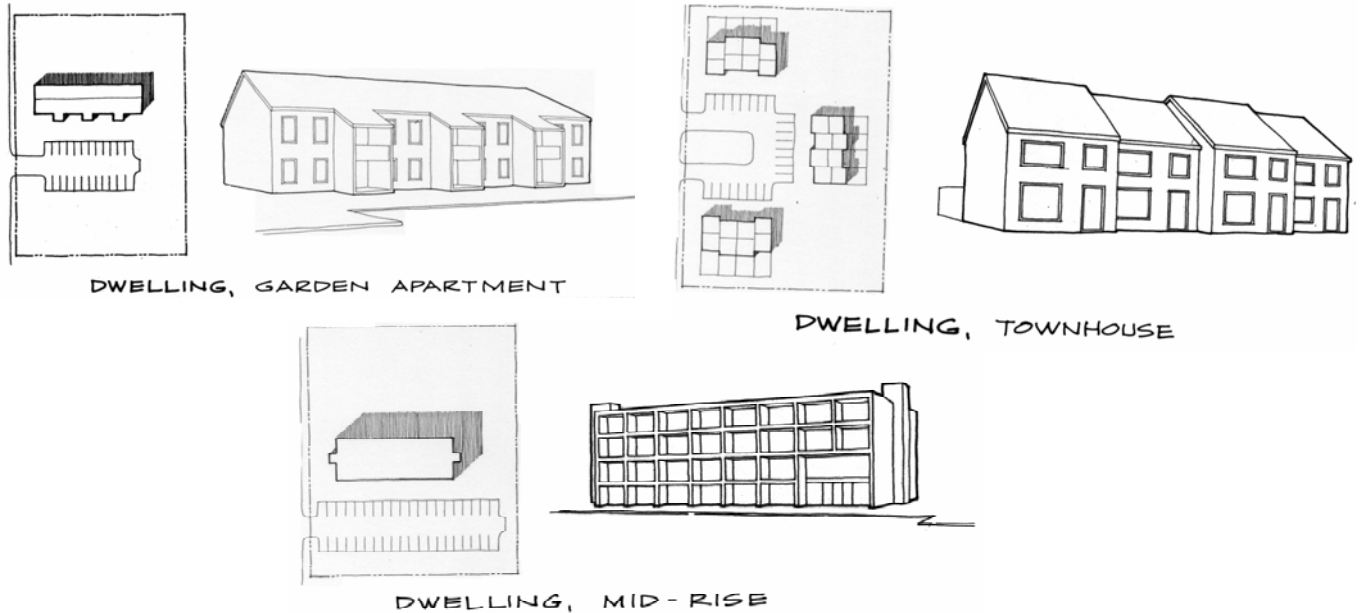
- c. ADDITIONAL STANDARDS**
- ◆ Site Plan requirements subject to **Article 10** for all uses other than those indicated by asterisk (\*) above.
  - ◆ Parking and Loading requirements subject to **Article 6**.
  - ◆ Signage requirements subject to **Article 7**.
  - ◆ Lighting requirements, subject to **Section 311**.
  - ◆ Landscaping and Buffering requirements, subject to **Section 316**.

**d. DISTRICT REGULATIONS**

<b>Minimum Lot Area</b>		<b>Minimum Lot Width</b>	
1 & 2 Family	8,000 sq. ft.		65 ft.
3+ Family	8,000 sq. ft <sup>(a)</sup>		70 ft.
Non-residential	8,000 sq. ft		65 ft.
<b>Maximum Lot Coverage</b>		<b>Minimum Building Setbacks</b>	
1 & 2 Family	40%	Front <sup>(b)</sup>	25 ft.
Non-Residential	n/a	Side <sup>(c)</sup>	7 ft.
<b>Maximum Building Height</b>	4 stories/40'	Rear	25 ft.
<b>Minimum Floor Area</b>	(d)		

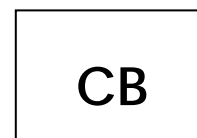
- (a) In addition to 8,000 sq. ft. in parcel area, for residential uses of three (3) or more units, an additional 2,100 sq. ft. shall be required for each efficiency or one-bedroom unit, and additional 2,400 sq. ft. shall be required for each two-bedroom unit, an additional 2,700 sq. ft. shall be required for each three-bedroom unit, an additional 3,000 sq. ft. shall be required for each four-bedroom unit and an additional 4,000 sq. ft. shall be required for each unit with more than four bedrooms.
- (b) Required front yard shall be as set forth herein, except where, in the judgment of the Zoning Administrator, the predominate condition of the existing on the same block and on the same side of the street would dictate a lesser or greater setback.
- (c) Required side yard shall be as set forth herein, except where, in the judgment of the Zoning Administrator, the predominate condition of the existing on the same block and on the same side of the street would dictate a lesser or greater setback; provided in no instance shall the required side yard be less than three (3) feet, except where buildings are permitted to be located on the side lot line.
- (d) See Table 4-1

**Examples of Multi-Family Structures**



2. USES PERMITTED BY RIGHT. A building or parcel within the MDR district shall be used for the following purposes only:
  - a. Accessory buildings provided the area of the footprint of the accessory building is less than or equal to that of the principal structure on the parcel. Such uses shall not require site plan review.
  - b. Duplex
  - c. Dwelling, single-family. Such uses shall not require site plan review.
  - d. Dwelling, multiple family.
  - e. Government offices
  - f. Home occupation, subject to **Section 309**.
  - g. Lodging and boarding house.
  - h. Manufactured housing community
  - i. Nursing home
  - j. Places of public assembly, small
  - k. Public open space
  - l. Subdivisions (Plats), subject to the Subdivision Control Ordinance, and Condominium Subdivisions subject to **Section 841** and Cluster Subdivision, subject to the provisions of **Section 841**.
  - m. Uses similar to uses permitted by right in the MDR district.
3. SPECIAL LAND USES and ACTIVITIES ELIGIBLE for APPROVAL CONSIDERATION in accord with the provisions of **Article 8** of this Zoning Ordinance and subject to the requirements of **Article 10** Site Plan Review.
  - a. Auditoriums subject to **Section 805**.
  - b. Bed & Breakfast, subject to **Section 806**.
  - c. Day Care, Group (7-12 children), subject to **Section 815**.
  - d. Day Care Center (13+ children), subject to **Section 816**.
  - e. Education Institution, subject to **Section 818**.
  - f. Foster care facilities for 7 to 12 adults, subject to **Section 819**.
  - g. Foster care center for over 13 residents, subject to **Section 820**.
  - h. Funeral Home, subject to **Section 821**.
  - i. Places of public assembly, large, subject to **Section 832**.

- j. Planned unit developments, subject to **Section 833**.
  - k. Professional Offices, subject to **Section 834**.
  - l. Taverns and Lounges, subject to **Section 842**.
  - m. Uses similar to special land uses permitted in the MDR District, subject to **Sections 310 and 801, 10, c**.
4. **DIMENSIONAL STANDARDS.** Yard, structure height, lot area, minimum gross living area and minimum living space dimensions, and lot width shall conform to the requirements of **Article 5, Section 503, 1, d4**.



**Article 5  
District Standards**

**Section 504 Central Business District – CB**

**SECTION 504            CENTRAL BUSINESS DISTRICT, CB**

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

- a. PERMITTED USES**
- ◆ Accessory buildings with floor area  $\leq$  the footprint of the principal structure
  - ◆ Banks and Financial Institutions
  - ◆ Combinations of Permitted Uses
  - ◆ Dwelling, Multiple family
  - ◆ Galleries, Libraries and Museums
  - ◆ Government Offices
  - ◆ Home Occupations
  - ◆ Hotels and Motels
  - ◆ Lodging and Boarding House
  - ◆ Personal Services
  - ◆ Places of Public Assembly, small
  - ◆ Printing, Publishing & Allied Industries
  - ◆ Professional Offices
  - ◆ Public Open Space
  - ◆ Restaurants
  - ◆ Retail Business
  - ◆ Studio for Performing and Graphic Arts
  - ◆ Taverns and Lounges
  - ◆ Uses similar to defined permitted uses subject to **Section 310**.

- b. SPECIAL LAND USES**
- ◆ Accessory buildings with floor area  $>$  the footprint of the principal structure
  - ◆ Auditoriums
  - ◆ Bed & Breakfast
  - ◆ Combinations of Special Land Uses
  - ◆ Commercial Establishments with drive-through facilities
  - ◆ Day Care, Group and Center
  - ◆ Educational Institution
  - ◆ Funeral Home
  - ◆ Places of Public Assembly, large
  - ◆ Planned Unit Development
  - ◆ Social Club
  - ◆ Sports, Recreation and Entertainment
  - ◆ Uses similar to defined special land uses

**c. ADDITIONAL STANDARDS**

- ◆ Site Plan requirements subject to **Article 10** for all uses other than those indicated by asterisk (\*) above.
- ◆ Parking and Loading requirements subject to **Article 6**.
- ◆ Signage requirements subject to **Article 7**.
- ◆ Lighting requirements, subject to **Section 311**.
- ◆ Landscaping and Buffering requirements, subject to **Section 316**.
- ◆ City Center Design Overlay District, subject to **Section 504, 4**

**d. DISTRICT REGULATIONS**

<b>Min. Lot Area:</b>	None	<b>Minimum Lot Width</b>	None
<b>Max. Dwelling Units/Acre</b>	50 units	<b>Max. Building Height</b>	60'
<b>Min. Building Setbacks</b> <sup>(1)</sup>		<b>Max. Lot Coverage</b>	90% <sup>(2)</sup>
Front	0 ft.	<b>Min. Floor Area</b>	N/A
Side	0 ft.	<b>Min. Living Space</b>	450 or 600 sq. ft. <sup>(3)</sup>
Rear	0 ft.		

1. Transitional yards shall be provided as required in **Section 324**.
2. In the CB District, uses that are exclusively residential shall be limited to 50% lot coverage.
3. Minimum living space shall be 450 sq. ft. for housing for the elderly and 600 sq. ft. for all other dwellings.

2. **USES PERMITTED BY RIGHT.** A building or parcel within the CB district shall be used for the following purposes only:
  - a. Accessory buildings with floor area less than or equal to that of the principal structure
  - b. Banks and financial Institutions
  - c. Combinations of uses permitted by right in the CB District.
  - d. Dwelling, multiple family, provided all dwellings shall be located above the ground floor.
  - e. Galleries and Museums
  - f. Government offices.
  - g. Home occupations, subject to **Section 309**.
  - h. Hotels and Motels
  - i. Lodging and Boarding Houses
  - j. Personal service establishments



- k. Places of public assembly, small
  - l. Printing, publishing and allied industries
  - m. Professional offices
  - n. Public open space
  - o. Restaurants
  - p. Retail businesses
  - q. Studio for the performing and graphic arts.
  - r. Taverns and lounges
  - s. Uses similar to defined permitted uses, subject to **Section 310**.
3. SPECIAL LAND USES. In accord with the provisions of **Article 8** of this Zoning Ordinance and subject to the requirements of **Article 10** Site Plan Review, the following land uses may be permitted in the CB District
- a. Accessory buildings with floor area greater than that of the principal building, subject to **Section 802**.
  - b. Auditoriums, subject to **Section 805**.
  - c. Bed & breakfast establishments, subject to **Section 806**.
  - d. Combinations of special land uses that may be permitted in the CB District, subject to **Section 812**.
  - e. Commercial establishments with drive-through facilities, subject to **Section 813**.
  - f. Day Care, Group and Day Care Centers, subject to **Sections 815 and 816**.
  - g. Educational institutions, subject to **Section 818**.
  - h. Funeral Home, subject to **Section 821**.
  - i. Places of public assembly, large, subject to **Section 832**.
  - j. Planned unit developments, subject to **Section 833**.
  - k. Social Clubs, subject to **Section 839**.
  - l. Sports, Recreation and Entertainment establishments, subject to **Section 840**.
  - m. Uses similar to defined special land uses, subject to **Sections 310 and 801, 10, c**.
3. DIMENSIONAL STANDARDS. Yard, structure height, lot area, minimum gross living area and minimum living space dimensions, and lot width shall conform to the requirements of **Article 4, and Section 504, 1, d** herein.

4. CITY CENTER OVERLAY DESIGN STANDARDS AND DESIGN REVIEW BOARD.

- a. Intent. The City Center Overlay District is intended to accommodate “Main Street” human-scale developments in comfortable mixed-use patterns. The purpose of the district is to enhance the community core by providing for higher density residential uses, commercial uses serving the local area, and appropriate public and semi-public activities. Development within the City Center Overlay District shall:
- 1) Be designed in such a manner that will lead to compatible, efficient, and attractive uses of property in the City Center Overlay District.
  - 2) Encourage unique retail, office and residential use alternatives.
  - 3) Establish a design palate that will define the community character and generate an identity for the downtown.
  - 4) Facilitate pedestrian oriented development using design options such as sidewalk cafes, rear parking, and enhanced landscape criteria.
- b. Applicable Requirements and District Boundaries. The requirements of this overlay district are in addition to and shall supplement those imposed on the same lands by the provisions of CB District. To the extent that there are conflicts between this and other portions of the zoning ordinance, the more stringent shall apply. The City Center Overlay District shall affect the properties described as follows and as shown on the City Center Overlay District Boundaries Map:

Commencing at the centerline of Fifth St. and Main St.; thence south along the said centerline of Fifth St. to the intersection of Fifth St. centerline and the south property line of 11-72-4560-0053-00-4 extended; thence west along said property line to the east boundary of the former C.C.C. and St. L. Railroad right-of-way; thence south along said east boundary of said railroad to the south boundary of Lot No. 11-73-2700-0009-01-6; thence east to the west boundaries of the lots fronting on Third St. and on Bond St.; thence south along west lot boundaries to the former railroad right-of-way; thence south along the east boundary of said former railroad right-of-way to its intersection with the centerline of Michigan extended to the west; thence east along the centerline of Michigan St. to the east side of Bond St.; thence south along said east right-of-way boundary of Bond St. to its intersection with the centerline of Fort St.; thence west along said centerline of Fort St. to the east waterline of the St. Joseph River; thence north along the said east waterline of the St. Joseph River to the intersection of the centerline of the Broadway Bridge; thence southwesterly to the intersection of the centerline of Parkway; thence south to the intersection of the centerline of Parkway and the south property line of 11-74-0990-0001-00-9; thence west along said property line to the centerline of State St.; thence north along the centerline of State St. to the intersection of Main St. centerline and the Main St. Bridge centerline; thence northeast along the centerline of the Main St. Bridge to the intersection of the east waterline of the St. Joseph River; thence north along the said waterline of said River to the north south right-of-way line of Pokagon St. extended; thence

northeasterly along said right-of-way to the intersection of the centerline of Second St.; thence south to the centerline of Dey St.; thence east to the centerline of Fifth St.; thence north to the centerline of Pokagon St.; thence east to the east right-of-way line of Eighth St.; thence southeasterly to the centerline of Central St. and Eighth St.; thence south to the centerline of Wayne St.; thence west to the centerline of Fifth St.; thence south to the south property line of 11-71-4510-0105-01 extended; thence west along the south property line to the east property line of 11-71-4510-0085-00-2; thence south along the east property line to the south property line of 11-72-0750-0066-01-2; thence west along property line to the intersection with the westerly boundary extended of lot 63, H. B. Hoffman's Addition; thence south along said westerly boundaries to a point which is ten feet north of the southwest corner of lot 64, H. B. Hoffman's Addition; thence west to the centerline of Second St.; thence south along said centerline to the centerline of Cass St.; thence east along said centerline to the southeast corner extended of lot 11-72-3110-0023-01-9; thence south to the southeast corner of lot 11-72-0750-0001-01-6; thence east to the centerline of Fifth St.; thence south down said centerline to the intersection of the north lot line of 11-72-3050-0140-00-0 extended; thence east to the west right-of-way line of Eighth St.; thence south to the north property line of 11-72-3050-0224-00-9 extended; thence east along said property line to the northeast corner of 11-72-0840-0065-01-3; thence south to the north right-of-way line of Cedar St.; thence east to the west right-of-way line of Tenth St.; thence south to the north property line of 11-72-3050-0224-00-9 extended; thence east to the west right-of-way line of Eleventh St.; thence south to the south right-of-way line of Broadway extended; thence east to the west right-of-way line of Twelfth St.; thence southwesterly following the west right-of-way to the intersection of the north right-of-way of Main St. and the west right-of-way of Twelfth St.; thence southeasterly to the southeast right-of-way of Eleventh St.; thence southwesterly along said right-of-way to the north right-of-way line of Maple St.; thence west along said right-of-way to the southwest corner of 11-73-2730-0019-03-0; thence north along said lot line to the southeast corner of 11-73-0840-0007-01-8; thence easterly to the southeast corner of 11-73-0840-0154-01-1; thence west along said lot to the centerline of Ninth St.; thence north to the south right-of-way line of Main St.; thence northwesterly along said right-of-way to the point of beginning.

- c. Administration. In addition to the site plan review and approval standards of **Article 10**, the following procedural standards shall apply.
- 1) Design Review Board: The Mayor, with approval of the City Council, shall appoint a Design Review Board (DRB) consisting of five (5) members, including: Two members of the Niles Main Street Design Committee, one Planning Commission member, the Zoning Administrator, and one local business owner.
    - a) Members shall serve two-year terms. There is no limit to the number of consecutive terms a committee member may serve.
    - b) The DRB may contract and/or assign some of the DRB's administrative duties, but not decision authority, to qualified design professionals as needed. It will be the

duty of the DRB to consider and act upon such proposals or plans submitted to it in accordance with the design review procedures established by this section.

- c) The DRB will meet monthly or as needed to properly perform its duties. After a quorum is reached, the DRB actions on matters will be subject to a majority vote of members present. The DRB will keep and maintain a record of all actions taken, and shall be subject to Act 267 of 1976, The Open Meetings Act, as amended.
  - d) All development within the City Center Overlay District shall be subject to review by the Design Review Board as part of the site plan approval process. Applicants shall submit an application and an additional five copies of all site plans to the Zoning Administrator at least 14 days prior to the Design Review Board meeting.
  - e) The DRB shall review applications in accord with this section and shall present recommendations to the Planning Commission pertaining to site plan approval and potential conditions of approval. Final approval authority shall reside with the Planning Commission in accord with **Article 10**.
- d. Permitted and Special Uses. All uses permitted by right or as special land uses within the CB district may be permitted within the City Center Overlay District.
- e. Dimensional Standards: Development within the City Center shall meet the following general standards:
- 1) Building Area: Except for publicly-owned park property, each improved lot in the City Center shall contain a building area consisting of no less than fifty percent (50%) and no more than ninety (90%) of the total lot area. The development area may consist of buildings, structures, parking areas, sidewalks, plazas or patios, driveways, and any other man-made impervious surfaces.
  - 2) Open Area: Any part of a lot that is not a development area shall be deemed an open area. No above ground building, parking area, or driveway shall be located in an open area. Landscaping, signs, and utilities may be located in an open area.
  - 3) Floor Area: The gross floor area of any building in the City Center shall not exceed 40,000 sq. ft, of which the ground floor area shall not exceed 10,000 sq. ft. The building area may be divided into any number of retail or commercial units as long as the floor area of each unit shall not exceed 10,000 sq. ft. The DRB may approve structures with aggregate building area greater than 40,000 sq. ft. or ground floor area greater than 10,000 sq. ft. provided the building is so designed and constructed as to resemble, to a casual observer, a collection of smaller structures which would meet the intent of this paragraph. The DRB may allow phased projects that include a viable plan for the full development of the site even though initial phases may not achieve the 70% - 100% development area
  - 4) Building Setback Requirements: There shall be zero foot (0 ft.) setback requirement for buildings, structures, parking areas, sidewalks, driveways, and any other man-made impervious surface located within a development area for the front, side and rear yards.

When constructing away from the lot line, local fire department officials may impose additional side yard setback requirements. If a front setback is desired by the applicant, the DRB may approve up to fifteen (15) feet from the right-of-way for semi-public spaces such as seating areas, entry courts, plazas and similar facilities.

- 5) Height: Buildings facing Main Street, located between Front and Fifth streets, shall have a minimum height of the lesser of two and a half stories or thirty-five (35) feet and a maximum height of the greater of five stories or sixty (60) feet.
- f. Regulations and Conditions: Development within the City Center Overlay shall meet the following general standards:
- 1) Landscaping. Landscaping shall be provided in open spaces to create a pleasant pedestrian scale outdoor environment and buffer primary uses from parking areas, roadways and service facilities, such as dumpsters and loading docks. Landscaping should be designed to buffer service areas, parking or dumpsters. A mix of evergreen and deciduous plants and trees is preferred with summer floral plantings to add to the visual appeal of the City Center areas. An irrigation system shall be required. Temporary potted plants or flower boxes may be permitted to encroach no more than two feet (2 ft. measured from the building line) into the public right of way on the sidewalk; any further encroachment shall require a Sidewalk Permit per Section 74-1 of the City of Niles General Law Ordinances.
  - 2) Parking. All off-street parking shall be located at the rear of the primary use and provide landscape buffering to separate parking and mitigate the visual and environmental impacts of parking lots, unless there are site-specific features that prevent rear yard parking. Except for the area bounded by Cedar Street on the South, the St. Joseph River on the West, Sycamore Street on the North and 5<sup>th</sup> Street on the East, and the area West of Front Street, East of the St. Joseph River and South of Cass Street, the following minimum parking requirements shall be met in the City Center Overlay District. There shall be at least one (1) parking space per 400 sq. ft. of Retail building area in the City Center. There shall be a minimum of two (2) parking spaces for every five (5) seats of Restaurant use. In lieu of the provision of on-site parking, the Design Review Board may recommend and Planning Commission may approve a shared parking agreement with another property located within a reasonable waking distance of the property in question. Such agreement shall be in writing and shall assure satisfactory to the City that the parking needs of the proposed development shall be adequately met. For parking lots accommodating more than 25 parking spaces the following standards shall apply:
    - a) Parking lots shall provide shared access with adjoining uses where feasible.
    - b) Parking areas shall be designed, built, and screened so as to reasonably shield them from view from Main Street. Planter islands shall be provided.
    - c) Each parking area shall have not more than two (2) driveways connecting to other parking areas in the City Center Overlay District.

- 3) Sidewalks. Sidewalks should be a minimum of ten (10) feet in width and must maintain a minimum of five feet (5 ft.) of travel area. Outdoor seating or outdoor sales may encumber up to five feet of the ten-foot sidewalk with a Sidewalk Permit pursuant to Section 74-2 of the City of Niles General Law Ordinances. Larger seating areas, sidewalk sales or outdoor displays will require additional sidewalk width. Office, multi-family, public and quasi-public uses shall provide hard surface areas including plazas or courtyards for pedestrian use.
- 4) Sign Standards. In addition to the sign standards of **Article 7**, the following standards shall apply. Marquis signs may be allowed for theater and cinema uses and shall be permitted to extend above and overhang the public right-of-way by up to 12 feet, but no more than the width of sidewalk. Temporary signs not to exceed ten (10) sq. ft. per side may be placed in an area between the building line and 2 feet behind the street curb, provided a sidewalk use permit shall be obtained under Section 74-1 of the City of Niles General Law Ordinances.

All signs within the City Center Overlay shall be reviewed for consistency with the Design Guidelines developed through the Niles Main Street Initiative.

- 5) Architecture. Buildings shall be designed to relate well to other structures in the City Center area. All structures shall have exterior siding substantially constructed of brick, masonry, stone, wood or glass. Synthetic materials such as vinyl or aluminum siding shall be prohibited. All structures shall reflect and complement the traditional materials, aesthetic character, and construction techniques of Niles' historic architecture. Buildings shall be appropriately in scale and relation to existing structures. Display windows comprising 50% or more of the store façade are required for first floor retail and restaurant uses facing Main Street. Buildings shall be oriented to block parking lots from view from the street where possible. The dimension of width of window openings shall not exceed the dimension of the height of the window openings.

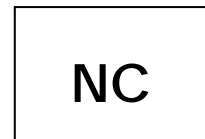
All new construction within the City Center Overlay shall be reviewed for consistency with the Design Guidelines developed through the Niles Main Street Initiative.

- 6) Lighting. Outdoor lighting should be designed to provide the least light necessary to increase pedestrian safety and comfort while incorporating measures should be taken to preserve dark skies and reduce glare. All outdoor lighting shall be cut-off shielded and directed so that no light is cast upward into the sky or outward onto adjoining properties.
- 7) Fencing. Permanent fencing may be used to separate commercial from residential uses or as a decorative feature to the rear or side yard of the properties only. Fencing shall not be used where cross-access between parking lots is required. Fencing shall be no taller than six feet (6 ft.) in height. Chain-link fencing shall be prohibited. Semi-permanent fencing may be used for outdoor seating areas and outdoor cafes at the

front of the building of no higher than 3 feet. Permanent and semi-permanent fencing shall be ornamental in design, similar to the municipal fencing located along the south side of the 100 block of Main Street. Opaque screening fences 6 feet tall shall be used to enclose any dumpsters and other waste receptacles.

- 8) Utility connections, dumpsters and service facilities - To the greatest extent possible, utility connections, dumpsters, loading bays and other service facilities shall be located to the rear of the building. In all cases, dumpsters shall be adequately screened from view by landscaping or architectural features.





**Article 5  
District Standards**

**Section 505 Neighborhood Center--NC**



## SECTION 505 NEIGHBORHOOD CENTER, NC

1. INTENT. The Neighborhood Center District is intended to provide commercial options at a scale and a distance that encourages walking with additional associated residential forms to create an urban village atmosphere.

### a. PERMITTED USES

- ◆ Accessory buildings with floor area  $\leq$  the footprint of the principal structure\*
- ◆ Appliance sales and service
- ◆ Banks and Financial Institutions
- ◆ Bed & Breakfast
- ◆ Combinations of Permitted Uses
- ◆ Duplex
- ◆ Dwelling, single family\*
- ◆ Dwelling, multiple family
- ◆ Government offices
- ◆ Home occupations
- ◆ Lodging and Boarding Houses
- ◆ Nursing home
- ◆ Personal services
- ◆ Places of public assembly, small
- ◆ Professional offices
- ◆ Public open space
- ◆ Restaurants
- ◆ Retail business
- ◆ Studio for performing and graphic arts
- ◆ Uses similar to defined permitted uses subject to **Section 310**.

### b. SPECIAL LAND USES

- ◆ Accessory buildings with floor area  $>$  the footprint of the principal structure
- ◆ Auditoriums
- ◆ Combinations of Special Land Uses
- ◆ Commercial establishments with drive-through facilities
- ◆ Day care, Group and Center
- ◆ Educational Institution
- ◆ Foster Care, Adult, Group and Center
- ◆ Funeral Home
- ◆ Galleries and Museums
- ◆ Gasoline Station
- ◆ Kennel, animal clinic
- ◆ Laundry & dry cleaner
- ◆ Places of public assembly, large
- ◆ Planned Unit Development
- ◆ Residential subdivision
- ◆ Sports, Recreation and Entertainment
- ◆ Taverns and Lounges
- ◆ Uses similar to defined special land uses Subject to **Sections 310 and 801, 10, c.**
- ◆ Vehicle Repair Facilities

### c. ADDITIONAL STANDARDS

- ◆ Site Plan requirements subject to **Article 10** for all uses other than those indicated by asterisk (\*)
- ◆ Parking and Loading requirements subject to **Article 6**.
- ◆ Signage requirements subject to **Article 7**.
- ◆ Lighting requirements, subject to **Section 311**.
- ◆ Landscaping and Buffering requirements, subject to **Section 316**.

**d. DISTRICT REGULATIONS**

<b>Minimum Lot Area:</b>	6,000 sq. ft.	<b>Minimum Lot Width</b>	60 ft.
3+ Family	8,000 sq. ft. <sup>(a)</sup>		
<b>Max. Dwelling Units/Acre</b>	12	<b>Maximum Building Height</b>	35'
<b>Minimum Building Setbacks</b> <sup>(b)</sup>		<b>Maximum Lot Coverage</b>	50%
Front <sup>(c)</sup>	15 ft.	<b>Minimum Floor Area</b>	N/A
Side <sup>(d)</sup>	Side Line, or 7 ft.	<b>Min. Living Space</b>	800 sq. ft.
Rear	15 Ft.		

- (a) In addition to 8,000 square feet in parcel area, for residential uses of three (3) or more units, an additional 2,100 square feet shall be required for each efficiency or one-bedroom unit, and additional 2,400 square feet shall be required for each two-bedroom unit, an additional 2,700 square feet shall be required for each three-bedroom unit, an additional 3,000 square feet shall be required for each four-bedroom unit and an additional 4,000 square feet shall be required for each unit with more than four bedrooms.
- (b) Transitional yards shall be provided as required in **Section 324**.
- (c) Required front yard shall be as set forth herein, except where, in the judgment of the Zoning Administrator, the predominate condition of the existing on the same block and on the same side of the street would dictate a lesser or greater setback.
- (d) Required side yard shall be as set forth herein, except where, in the judgment of the Zoning Administrator, the predominate condition of the existing on the same block and on the same side of the street would dictate a lesser or greater setback; provided in no instance shall the required side yard be less than three (3) feet, except where buildings are permitted to be located on the side lot line.

2. **USES PERMITTED BY RIGHT.** A building or parcel within the NC district shall be used for the following purposes only:
- a. Accessory buildings with floor area less than or equal to that of the principal structure
  - b. Appliance sales and service establishments
  - c. Banks and financial Institutions
  - d. Bed & Breakfast establishments
  - e. Combinations of uses permitted by right in the NC District.
  - f. Duplex
  - g. Dwelling, single family
  - h. Dwelling, multiple family
  - i. Government offices.
  - j. Home occupations, subject to **Section 309**.

- k. Lodging and Boarding Houses
  - l. Nursing home
  - m. Personal service establishments
  - n. Places of public assembly, small
  - o. Professional offices
  - p. Public open space
  - q. Restaurant
  - r. Retail businesses
  - s. Studio for performing and graphic arts
  - t. Uses similar to defined permitted uses, subject to **Section 310**.
3. SPECIAL LAND USES. In accord with the provisions of **Article 8** of this Zoning Ordinance and subject to the requirements of **Article 10** Site Plan Review, the following land uses may be permitted in the NC District
- a. Accessory buildings with floor area greater than that of the principal building, subject to **Section 802**.
  - b. Auditoriums, subject to **Section 805**.
  - c. Combinations of special land uses that may be permitted in the NC District, subject to **Section 812**.
  - d. Commercial establishments with drive-through facilities, subject to **Section 813**.
  - e. Day Care, Group and Day Care Centers, subject to **Section 815 and 816**.
  - f. Educational institutions, subject to **Section 818**.
  - g. Foster care facilities for 7 to 12 adults, subject to **Section 819**.
  - h. Foster care center for over 13 residents, subject to **Section 820**.
  - i. Funeral Homes, subject to **Section 821**.
  - j. Galleries and museums, subject to **Section 822**.
  - k. Gasoline Station, subject to **Section 823**.
  - l. Kennel and animal clinic, subject to **Section 826**.
  - m. Laundry and dry cleaner, subject to **Section 828**.
  - n. Places of public assembly, large, subject to **Section 832**.
  - o. Planned unit developments, subject to **Section 833**.
  - p. Sports, Recreation and Entertainment Facilities, subject to **Section 840**.
  - q. Residential subdivision, subject to **Section 841**.

- r. Taverns and Lounges, subject to **Section 842**.
  - s. Uses similar to defined special land uses, subject to **Sections 310 and 801, 10, c**.
  - t. Vehicle Repair Facilities, subject to **Section 843**.
4. **DIMENSIONAL STANDARDS.** Yard, structure height, lot area, minimum gross living area and minimum living space dimensions, and lot width shall conform to the requirements of **Article 4, and Section 505, 1, d** herein.

**RC**

**Article 5  
District Standards**

**Section 506 Regional Commercial--RC**

---

**SECTION 506 REGIONAL COMMERCIAL, RC**

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

- a. PERMITTED USES**
- ◆ Accessory buildings with floor area  $\leq$  the footprint of the principal structure
  - ◆ Accessory uses related to uses permitted by right, subject to **Section 307**
  - ◆ Appliance sales and service
  - ◆ Banks and Financial Institutions
  - ◆ Car wash
  - ◆ Combinations of Permitted Uses
  - ◆ Funeral home
  - ◆ Gasoline station
  - ◆ Government offices
  - ◆ Greenhouse and nursery
  - ◆ Hotel and motel
  - ◆ Kennel and animal clinic
  - ◆ Nursing home
  - ◆ Outdoor sales facilities
  - ◆ Personal service establishments
  - ◆ Professional offices
  - ◆ Public open space
  - ◆ Restaurants
  - ◆ Retail businesses
  - ◆ Showrooms - office and building trades
  - ◆ Studio for performing/graphic arts
  - ◆ Taverns and Lounges
  - ◆ Uses similar to defined permitted uses subject to **Section 310**.
  - ◆ Vehicle repair services
  - ◆ Wholesale businesses

- b. SPECIAL LAND USES**
- ◆ Accessory buildings with floor area  $>$  the footprint of the principal structure
  - ◆ Auditoriums
  - ◆ Billboards
  - ◆ Combinations of Special Land Uses
  - ◆ Commercial establishments with drive-through facilities
  - ◆ Construction equipment sales and service
  - ◆ Day care center
  - ◆ Laundry & dry cleaner
  - ◆ Mini-warehouse, self store
  - ◆ Outdoor storage, up to 4 RVs
  - ◆ Places of public assembly, large
  - ◆ Planned Unit Development
  - ◆ Sexually Oriented Business
  - ◆ Sports, Recreation and Entertainment
  - ◆ Uses similar to defined special land uses Subject to **Sections 310 and 801, 10, c.**
  - ◆ Wireless Telecommunication Tower

**c. ADDITIONAL STANDARDS**

- ◆ Site Plan requirements subject to **Article 10** for all uses other than accessory buildings with floor area less than or equal to the footprint of the principal structure
- ◆ Parking and Loading requirements subject to **Article 6.**
- ◆ Signage requirements subject to **Article 7.**
- ◆ Lighting requirements, subject to **Section 311.**
- ◆ Landscaping and Buffering requirements, subject to **Section 316.**

**d. DISTRICT REGULATIONS**

<b>Minimum Lot Area:</b>	12,500 sq. ft.	<b>Minimum Lot Width</b>	100 ft.
<b>Max. Dwelling Units/Acre</b>	n/a	<b>Maximum Building Height</b>	45 ft.
<b>Minimum Building Setbacks <sup>(a)</sup></b>		<b>Maximum Lot Coverage</b>	50%
Front	20 ft.	<b>Minimum Floor Area</b>	n/a
Side	0 ft.	<b>Min. Living Space</b>	n/a
Rear	15 Ft.		

a. Transitional yards shall be provided as required in **Section 324.**

2. **USES PERMITTED BY RIGHT.** A building or parcel within the RC district shall be used for the following purposes only:
  - a. Accessory buildings with floor area less than or equal to that of the principal structure
  - b. Accessory uses related to uses permitted by right, subject to **Section 307.**
  - c. Appliance sales and service establishments
  - d. Banks and financial Institutions
  - e. Car wash
  - f. Combinations of uses permitted by right in the RC District.
  - g. Funeral home
  - h. Gasoline Station

- i. Government offices
- j. Greenhouse and nursery
- k. Hotel and motel
- l. Kennel and animal clinic
- m. Nursing home
- n. Outdoor sales facilities
- o. Personal service establishments
- p. Professional offices
- q. Public open space
- r. Restaurants
- s. Retail businesses
- t. Showrooms for office and building trades
- u. Studio for performing and graphic arts
- v. Taverns and Lounges
- w. Uses similar to defined permitted uses, subject to **Section 310**.
- x. Vehicle repair services
- y. Wholesale businesses

3. SPECIAL LAND USES. In accord with the provisions of **Article 8** of this Zoning Ordinance and subject to the requirements of **Article 10** Site Plan Review, the following land uses may be permitted in the RC District
- a. Accessory buildings with floor area greater than that of the principal building, subject to **Section 802**.
  - b. Auditoriums, subject to **Section 805**.
  - c. Billboards, subject to **Section 807**.
  - d. Combinations of special land uses that may be permitted in the RC District, subject to **Section 812**.
  - e. Commercial establishments with drive-through facilities, subject to **Section 813**.
  - f. Construction equipment sales and service, subject to **Section 814**.
  - g. Day Care Centers, subject to **Section 816**.
  - h. Laundry and dry cleaner, subject to **Section 828**.



- i. Mini-warehouse, self storage facilities, subject to **Section 829**.
  - j. Outdoor storage of up to 4 Recreation Vehicles, subject to **Section 831**.
  - k. Places of public assembly, large, subject to **Section 832**.
  - l. Planned unit developments, subject to **Section 833**.
  - m. Sexually oriented businesses, subject to **Section 838**.
  - n. Sports, Recreation and Entertainment, subject to **Section 840**.
  - o. Uses similar to defined special land uses, subject to **Sections 310 and 801, 10, c**.
  - p. Wireless telecommunication tower, subject to **Section 844**.
4. **DIMENSIONAL STANDARDS.** Yard, structure height, lot area, minimum gross living area and minimum living space dimensions, and lot width shall conform to the requirements of **Article 4, and Section 506, 1, d** herein.



**Article 5**  
**District Standards**

**Section 507 Office/Commercial--OC**

---

**SECTION 507 OFFICE/COMMERCIAL, OC**

1. INTENT. The OC Office Commercial District is intended to accommodate office uses, office sales related commercial activities and certain basic personal services that generate relatively low traffic volumes and operate primarily during normal business hours.

- a. PERMITTED USES**
- ◆ Accessory buildings with floor area  $\leq$  the footprint of the principal structure\*
  - ◆ Bank/Financial, including drive through
  - ◆ Day Care, Group (7-12 children)
  - ◆ Dwelling, single family
  - ◆ Galleries and Museums
  - ◆ Government Offices
  - ◆ Home Occupation
  - ◆ Kennel and animal clinic
  - ◆ Office Clustered Sub-division
  - ◆ Personal service establishments
  - ◆ Printing, Publishing and Allied Industries
  - ◆ Professional offices
  - ◆ Public open space
  - ◆ Restaurants
  - ◆ Retail businesses
  - ◆ Studio for performing/graphic arts
  - ◆ Uses similar to defined permitted uses subject to **Section 310**.
  - ◆ Wholesale Business

- b. SPECIAL LAND USES**
- ◆ Accessory buildings with floor area  $>$  the footprint of the principal structure
  - ◆ Auditoriums
  - ◆ Bed & Breakfast
  - ◆ Building, Electrical, Mechanical, Plumbing
  - ◆ Car wash
  - ◆ Combinations of Special Land Uses
  - ◆ Commercial establishments with drive-through facilities
  - ◆ Day Care Center
  - ◆ Education Institution
  - ◆ Foster Care, Adult (13+ residents)
  - ◆ Hotels and Motels
  - ◆ Laboratories
  - ◆ Planned Unit Development
  - ◆ Research, Development and Testing
  - ◆ Uses similar to defined special land uses Subject to **Sections 310 and 801, 10, c**

- c. ADDITIONAL STANDARDS**
- ◆ Site Plan requirements subject to **Article 10** for all uses other than accessory buildings with floor area less than or equal to the footprint of the principal structure
  - ◆ Parking and Loading requirements subject to **Article 6**.
  - ◆ Signage requirements subject to **Article 7**.
  - ◆ Lighting requirements, subject to **Section 311**.
  - ◆ Landscaping and Buffering requirements, subject to **Section 316**.

<b>d. DISTRICT REGULATIONS</b>			
<b>Minimum Lot Area:</b>	N/A <sup>(a)</sup> .	<b>Minimum Lot Width</b>	N/A <sup>(a)</sup> .
<b>Max. Dwelling Units/Acre</b>	N/A	<b>Maximum Building Height</b>	60 ft.
<b>Minimum Building Setbacks</b>		<b>Maximum Lot Coverage</b>	80%
Front	15 ft.	<b>Minimum Floor Area</b>	N/A
Side	7 ft.	<b>Min. Living Space</b>	N/A
Rear	10 Ft.		
a. No minimum, except that all applicable provisions of this Ordinance must be met.			

2. **USES PERMITTED BY RIGHT.** A building or parcel within the OC district shall be used for the following purposes only:
  - a. Accessory buildings with floor area less than or equal to that of the principal structure
  - b. Bank and Financial Institutions, including drive through.
  - c. Day Care, Group (7-12 children)
  - d. Dwelling, single family
  - e. Galleries and Museums
  - f. Government Offices
  - g. Home Occupation, subject to **Section 309.**
  - h. Kennel and animal clinic
  - i. Office, Clustered Sub-divisions
  - j. Personal Service Establishments
  - k. Printing, Publishing and Allied Industries
  - l. Professional Offices
  - m. Public Open Space
  - n. Restaurants
  - o. Retail business
  - p. Studio for performing or graphic arts
  - q. Uses similar to defined permitted uses, subject to **Section 310.**
  - r. Wholesale Businesses

3. SPECIAL LAND USES. In accord with the provisions of **Article 8** of this Zoning Ordinance and subject to the requirements of **Article 10** Site Plan Review, the following land uses may be permitted in the OC District
  - a. Accessory buildings with floor area greater than that of the principal building, subject to **Section 802**.
  - b. Auditoriums, subject to **Section 805**.
  - c. Bed and Breakfast establishments, subject to **Section 806**.
  - d. Contractor's Facility, subject to **Section 808**.
  - e. Car wash, subject to **Section 810**.
  - f. Combinations of Special Land Uses, Subject to **Section 812**.
  - g. Commercial establishments with drive-through facilities, subject to **Section 813**.
  - h. Day Care Center, Child Care Center, subject to **Sections 816**.
  - i. Education Institution, subject to **Section 818**.
  - j. Foster Care, Adult (13+ residents), subject to **Section 820**.
  - k. Hotels and Motels, subject to **Section 825**.
  - l. Laboratories, subject to **Section 827**.
  - m. Planned unit developments, subject to **Section 833**.
  - n. Research, Development and Testing, subject to **Section 835**.
  - o. Uses similar to defined special land uses, subject to **310 and 801, 10, c**.
4. DIMENSIONAL STANDARDS. Yard, structure height, lot area, minimum gross living area and minimum living space dimensions, and lot width shall conform to the requirements of **Article 4**, and **Section 507, 1, d** herein.

**IND**

**Article 5  
District Standards**

**Section 508 Industrial—IND**

**SECTION 508 INDUSTRIAL, IND**

1. INTENT. The IND Industrial District is intended to primarily accommodate wholesale and warehouse activities and industrial operations whose external physical effects are restricted to the area of the districts without detrimental impacts on the surrounding districts. The IND District is structured to permit, along with any specified uses, the manufacturing, compounding, processing, packaging, assembly and/or treatment of finished or semi-finished products from previously prepared material.

- a. PERMITTED USES**
- ◆ Accessory buildings with floor area ≤ the footprint of the principal structure\*
  - ◆ Accessory buildings with floor area > the footprint of the principal structure
  - ◆ Accessory Uses, related to uses permitted by right.
  - ◆ Building, Electrical, Mechanical, Plumbing Contractors
  - ◆ Combinations of Permitted Uses
  - ◆ Fabrication and Assembly
  - ◆ Government Offices
  - ◆ Industrial Sub-division
  - ◆ Laboratories
  - ◆ Mini-warehouse, self store
  - ◆ Office Clustered Sub-division
  - ◆ Outdoor storage, up to 4 R.V.s
  - ◆ Packaging, Canning, Bottling
  - ◆ Printing, Publishing and Allied Industries
  - ◆ Processing and manufacturing
  - ◆ Professional offices
  - ◆ Public open space
  - ◆ Recreation Facilities,
  - ◆ Research, Development and Testing
  - ◆ Uses similar to defined permitted uses subject to **Section 310**.
  - ◆ Warehousing
  - ◆ Wholesale Businesses

- b. SPECIAL LAND USES**
- ◆ Airport
  - ◆ Billboards
  - ◆ Car wash
  - ◆ Combinations of Special Land Uses
  - ◆ Commercial establishments with drive-through facilities
  - ◆ Construction Equipment Sales and Service
  - ◆ Laundry and Dry Cleaning
  - ◆ Planned Unit Development
  - ◆ Retail Business
  - ◆ Sand and Gravel Mining
  - ◆ Uses similar to defined special land uses Subject to **Sections 310 and 801, 10, c**
  - ◆ Wireless Telecommunication Tower

**c. ADDITIONAL STANDARDS**

- ◆ Site Plan requirements subject to **Article 10** for all uses other than accessory buildings with floor area less than or equal to the footprint of the principal structure
- ◆ Parking and Loading requirements subject to **Article 6**.
- ◆ Signage requirements subject to **Article 7**.
- ◆ Lighting requirements, subject to **Section 311**.
- ◆ Landscaping and Buffering requirements, subject to **Section 316**.

**d. DISTRICT REGULATIONS**

<b>Minimum Lot Area:</b>	N/A <sup>(a)</sup> .	<b>Minimum Lot Width</b>	N/A <sup>(a)</sup> .
<b>Max. Dwelling Units/Acre</b>	N/A	<b>Maximum Building Height</b>	45 ft.
<b>Minimum Building Setbacks</b>		<b>Maximum Lot Coverage</b>	75%
Front	40 ft.	<b>Minimum Floor Area</b>	N/A
Side	25 ft.	<b>Min. Living Space</b>	N/A
Rear	30 Ft.		

a. No minimum, except that all applicable provisions of this Ordinance must be met.

2. USES PERMITTED BY RIGHT. A building or parcel within the IND district shall be used for the following purposes only:
  - a. Accessory buildings with floor area ≤ the footprint of the principal structure
  - b. Accessory buildings with floor area greater than that of the principal building, subject to **Section 802**.
  - c. Accessory Uses, related to uses permitted by right.
  - d. Building, Electrical, Mechanical, Plumbing Contractors
  - e. Combinations of Permitted Uses
  - f. Fabrication and Assembly
  - g. Government Offices
  - h. Industrial Sub-division
  - i. Laboratories
  - j. Mini-warehouse, self store
  - k. Office Clustered Sub-division



- l. Outdoor storage, up to 4 R.V.s
  - m. Packaging, Canning, Bottling
  - n. Printing, Publishing and Allied Industries
  - o. Processing and manufacturing
  - p. Professional offices
  - q. Public open space
  - r. Recreation Facilities,
  - s. Research, Development and Testing
  - t. Uses similar to defined permitted uses subject to **Section 310**.
  - u. Warehousing
  - v. Wholesale Businesses
3. SPECIAL LAND USES. In accord with the provisions of **Article Eight** of this Zoning Ordinance and subject to the requirements of **Article 10** Site Plan Review, the following land uses may be permitted in the IND District
- a. Airport, subject to **Section 804**.
  - b. Billboards, subject to **Section 807**.
  - c. Car wash, subject to **Section 810**.
  - d. Combinations of Special Land Uses, Subject to **Section 812**.
  - e. Commercial establishments with drive-through facilities, subject to **Section 813**.
  - f. Construction Equipment Sales and Service, subject to **Section 814**.
  - g. Laundry and Dry Cleaning, subject to **Section 828**.
  - h. Planned unit developments, subject to **Section 833**.
  - i. Retail Businesses, subject to **Section 836**.
  - j. Sand and Gravel Mining, subject to **Section 837**
  - n. Uses similar to defined special land uses, subject to **310 and 801, 10, c**.
  - o. Wireless Telecommunication Towers, subject to **Section 844**.
4. DIMENSIONAL STANDARDS. Yard, structure height, lot area, minimum gross living area and minimum living space dimensions, and lot width shall conform to the requirements of **Article 4**, and **Section 508, 1, d** herein.

**OS**

**Article 5  
District Standards**

**Section 510 Open Space, OS**

---

**SECTION 509            RESERVED**

**SECTION 510            OPEN SPACE, OS**

1. INTENT. The intent of the OS Open Space District is to provide recreational areas and to protect and preserve areas of scenic, scientific and cultural value. Such areas will provide for contact with nature in an urban area thus enhancing the quality of life for Niles residents and visitors.

**a. PERMITTED USES**

- ◆ Accessory buildings with floor area  $\leq$  the footprint of the principal structure
- ◆ Combinations of Permitted Uses
- ◆ Golf Courses, and related accessory uses
- ◆ Public Open Space
- ◆ Sports, Recreation and Entertainment Facilities, excluding carnivals
- ◆ Uses similar to defined permitted uses subject to **Section 310**.

**b. SPECIAL LAND USES**

- ◆ Camps and campgrounds
- ◆ Cemeteries
- ◆ Combinations of special land uses
- ◆ Sand and Gravel Mining
- ◆ Social Clubs
- ◆ Wireless Telecommunication Tower
- ◆ Uses similar to defined special land uses Subject to **Sections 310 and 801, 10, c**

**c. ADDITIONAL STANDARDS**

- ◆ Site Plan requirements subject to **Article 10** for all uses other than accessory buildings with floor area less than or equal to the footprint of the principal structure
- ◆ Parking and Loading requirements subject to **Article 6**.
- ◆ Signage requirements subject to **Article 7**.
- ◆ Lighting requirements, subject to **Section 311**.
- ◆ Landscaping and Buffering requirements, subject to **Section 316**.

**d. DISTRICT REGULATIONS**

<b>Minimum Lot Area:</b>	N/A <sup>(a)</sup> .	<b>Minimum Lot Width</b>	N/A <sup>(a)</sup> .
<b>Max. Dwelling Units/Acre</b>	N/A	<b>Maximum Building Height</b>	35 ft.
<b>Minimum Building Setbacks</b>		<b>Maximum Lot Coverage</b>	20%
Front	50 ft.	<b>Minimum Floor Area</b>	N/A
Side	25 ft.	<b>Min. Living Space</b>	N/A
Rear	30 Ft.		

a. No minimum, except that all applicable provisions of this Ordinance must be met

2. **USES PERMITTED BY RIGHT.** A building or parcel within the OS district shall be used for the following purposes only:
  - a. Accessory buildings with floor area  $\leq$  the footprint of the principal structure
  - b. Combinations of Permitted Uses
  - c. Golf Courses, and related accessory uses
  - d. Public Open Space
  - e. Sports, Recreation and Entertainment Facilities
  - f. Uses similar to defined permitted uses subject to **Section 310**.
  
3. **SPECIAL LAND USES.** In accord with the provisions of **Article Eight** of this Zoning Ordinance and subject to the requirements of **Article 10** Site Plan Review, the following land uses may be permitted in the OS District
  - a. Camps and campgrounds, subject to **Section 809**.
  - b. Cemeteries, subject to **Section 811**.
  - c. Combinations of Special Land Uses, Subject to **Section 812**.
  - d. Sand and Gravel Mining, subject to **Section 837**.
  - e. Social Clubs, subject to **Section 839**.
  - f. Wireless Telecommunication Tower, subject to **Section 844**
  - g. Uses similar to defined special land uses Subject to **Sections 310** and **801, 10, c**

2. CONDITIONS OF USE. Within the OS District, all uses shall be subject to the following additional conditions.
  - a. The permitted uses shall not involve the dumping, filling, cultivation, soil or peat removal or any other use that would disturb the natural flora, fauna, water course, water regiment or topography. Any drainage channel improvement plans shall be approved by the Director of Public Works and the Zoning Administrator, who shall certify in writing that satisfactory, adequate and safe improvements as contemplated are possible.
  - b. All outside storage of refuse shall be containerized in an impermeable container.
  - c. No buildings shall be permitted within the OS district except as accessory to the principal use. If accessory buildings are permitted the Zoning Administrator shall establish the setback, side yards, height of building and any other necessary protective measures necessary in order to preserve the intent of this district.

## ARTICLE SIX PARKING AND LOADING

### SECTION 600 INTENT AND PURPOSE

The purpose of this section is to establish standards to alleviate or prevent the congestion of the public streets, and so promote the safety and welfare of the public through minimum requirements for the off-street parking and loading and unloading of motor vehicles in accordance with the use of property.

### SECTION 601 GENERAL PROVISION – PARKING AND LOADING

1. **Scope of Regulations:** The off-street parking and loading provisions of this Ordinance shall apply as follows:
  - a. For all buildings and structures erected and all uses of land within the City, accessory parking and loading facilities shall be provided as required by the regulations of the district in which such buildings or uses are located. However, where a building permit has been issued prior to the effective date of the Ordinance and provided that construction is begun within three (3) months of such effective date and diligently prosecuted to completion, parking and loading facilities, as required hereinafter, need not be provided;
  - b. When the intensity of use of any building, structure or premises shall be increased through addition of dwelling units, gross floor area, seating capacity or other units of measurement specified herein for required parking or loading facilities, parking and loading facilities as required herein shall be provided for such increase in intensity of use.
  - c. When the intensity of use of any building, structure, or premises shall be decreased through the reduction of dwelling units, gross of floor area, seating capacity or other units of measurement specified herein, and when such decrease would result in a requirement for fewer parking or loading facilities, said parking and for loading facilities, as provided for herein, may be reduced accordingly.
  - d. Whenever the existing use of a building or structure shall hereafter be changed to a new use, parking or loading facilities shall be provided as required for such new use. However, if the building or structure was erected prior to the effective date of this Ordinance, additional parking or loading facilities are mandatory only in the amount by which the requirements for the new use would exceed those for the existing use.
2. **Existing Parking and Loading Facilities:** Off-street parking or loading facilities which are located on the same lot as the building or use served and which were in existence on, or before the effective date of this Ordinance shall not hereafter be reduced below the requirements of this Ordinance for a similar new building or use.
3. **Damage or Destruction:** If any conforming or legally non-conforming building or use, which was in existence on the effective date of this Ordinance, is damaged or destroyed by any cause,

any replacement building, structure or use that is subsequently established shall provide off-street parking or loading facilities in accordance with the provision of this Article.

4. **Control of Off-Site Parking and Facilities:** When required parking facilities are provided on land other than the zoning lot on which the building or use served by such facilities is located, they shall be and remain in the same possession or ownership as the zoning lot occupied by the building or use to which the parking facilities are accessory. No such off-site parking facilities shall be authorized where the plans call for parking facilities other than on the same zoning lot until and unless the Planning Commission has reviewed the plans and heard the applicant and made findings that the common ownership or possession of the zoning lot the and site of the parking facilities are reasonably certain to continue and that the off-site parking facilities will be maintained at all times during the life of the proposed use or building.
5. **Submission of Plot Plan:** Any application for a building permit or for a certificate of occupancy shall include therewith either a site plan in accord with **Article 10** hereof, or a plot plan, drawn to scale and fully dimensioned, and either shall show any parking or loading facilities to be provided in compliance with this Ordinance.

## **SECTION 602            OFF-STREET PARKING REGULATIONS**

1. **Off-Street Parking Facilities** shall consist of a parking strip, driveway, garage, or combination thereof which provides parking spaces accessory to a principal use. Said parking facility shall be surfaced in accordance with the requirements of **Section 602, 9, b** hereof.
2. **Use of Parking Facilities:**
  - a. Off-street parking facilities accessory to any residential use and developed in any residential district in accordance with the requirements of this section shall be used for the parking of vehicles owned by occupants of the dwelling structures to which such facilities are accessory or by guest of said occupants. Under no circumstances shall required parking facilities accessory to residential structures be used for the parking of automobiles belonging to the employees, owners, tenants, visitors or customers of business or manufacturing establishments.
  - b. Recreational Vehicles and Trucks may be parked on off-street parking facilities in accordance with the regulations of each zoning district. Provided, however, that recreation vehicles, campers, fifth-wheel campers, trailers and similar equipment shall not be used for human habitation for any duration of time while parked in any required off-street parking area.
  - c. Unlicensed or inoperable motor vehicles shall not be parked on any off-street parking facility in any district unless expressly permitted by this Ordinance, or unless stored in a completely enclosed building.
  - d. No commercial vehicle shall be parked or stored upon any residential property except for the period actually required in connection with the delivery of merchandise or materials, or the rendering of any services, or performance of any building construction.

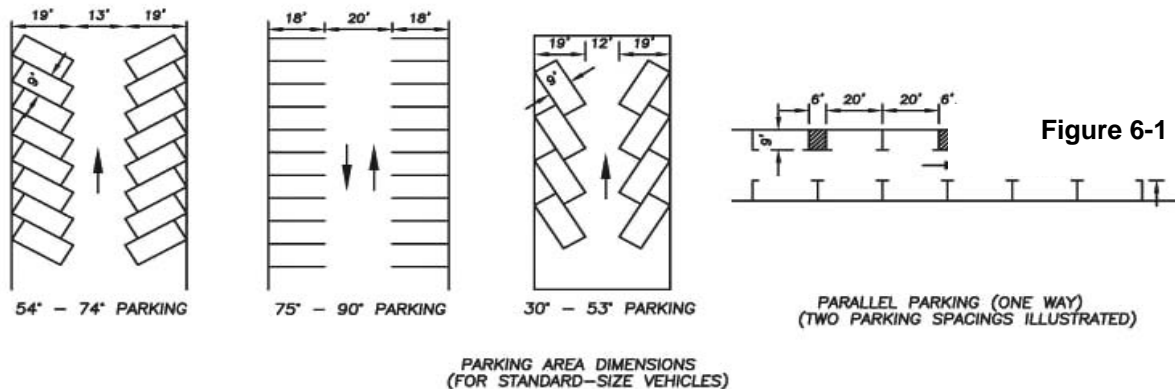
For the purposes of this section, the term “commercial vehicle” shall include any vehicle as defined within FMCSR 390.5 (Federal Motor Carrier Safety Regulations) **and** any stake truck, dump truck, highway tractor-trailer truck, semi-truck trailer, utility type trailer, storage container (portable or permanent), construction vehicle or equipment used for commercial purposes.

- e. **Wheel Block:** All off-street parking areas in commercial districts shall be provided with wheel block or bumper guards in cases where parking areas abut sidewalks so that no part of parked vehicles extends beyond the provided parking area or property line.
  - f. **Repair and Service:** No commercial, or for profit motor vehicle repair work of any kind shall be permitted in conjunction with accessory off-street parking facilities provided in a residential district.
3. **Joint Parking Facilities:** Off-street parking facilities for different buildings, structures or uses, or for mixed uses, may be provided collectively in any zoning district in which separate parking facilities for each constituent use would be permitted, provided that the total number of spaces so located together shall not be less than the sum of the separate requirements for each use, unless authorized by the Zoning Administrator.
  4. **Computation:** When determination of the number of off-street parking spaces required by this Ordinance results in a requirements of a fractional space, any fraction of one-half (1/2) or more shall be counted as one parking space.
  5. **Size:** A required off-street parking space and drive lane shall meet or exceed the dimensional requirements set forth below. Such space shall have a vertical clearance of at least seven (7) feet.

**Minimum Parking Space and Maneuvering Lane Standards**

Parking Pattern	Lane Width (ft)		Parking Space Dimensions (ft)		Total Width of Two Tiers Plus Lane (ft)	
	One-way	Two-way	Width <sup>(1)</sup>	Length <sup>(2)</sup>	One-way	Two-way
Parallel	11	18	9	23	40	36
30°-53°	12	18	9	19	50	56
54°-74°	13	19	9.5	19	51	57
75°-90°	15	20	9.5	18	51	56

(1) Measured Perpendicular to the space centerline. (2) Measured along the space centerline.





6. **Access:** Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space without having to pass over another space. All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movements. No driveway across public property and no curb cut shall exceed a width of thirty (30) feet.

7. **Location:**

a. In residential districts, parking may be located on one (1) side of a residence or directly in front of an attached or detached garage, provided that no portion of the required front yard outside of these areas is used for parking. Parking may be located within the side or rear yards; however, parking may be located within the front yard providing a permit is granted by the Building Department, based upon the following conditions:

1. For a horseshoe shape driveway on a lot with a minimum width of sixty (60) feet, a minimum front yard depth of thirty-five (35) feet, and a minimum front yard area of two thousand one hundred (2,100) square feet.
2. For a "T" shape driveway on a lot with a minimum width of fifty (50) feet, a minimum front yard depth of thirty (30) feet, and a minimum front yard area of one thousand five (1,500) square feet. The appendage of the "T" shape driveway which lies parallel to the street shall be located not less than fifteen (15) feet from the front lot line.

b. There shall be no more than one (1) driveway per residential dwelling., and be surfaced as required in Section 602,9,b. Parking may be located in front of multiple family dwellings, provided that no space is available on the side or rear of the multiple family dwelling.

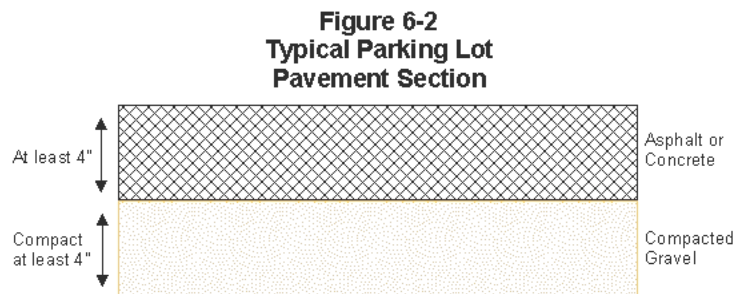
c. Where an industrial district abuts a residential district, off-street parking areas shall not be nearer than twenty-five (25) feet to the property line adjoining the residential district and such parking area shall be buffered as described in Section 602, 9, d below.

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

9. **Design and Maintenance:**

a. Open and enclosed parking spaces: Accessory parking spaces may be open to the sky or enclosed in a building.

b. Surfacing: All open off-street parking areas and driveways shall be improved with a compacted gravel or slag base, not less than four (4) inches thick, surfaced with asphalt or concrete (see Figure 6-2);



- c. Setback: All non-residential automobile parking facilities and spaces in the NC RC and OC districts and adjoining or fronting any property in a residential district shall be setback (5) feet from the front property line. All automobile parking facilities in the CB, NC RC and OC districts which abut rear property lines of a residential district shall be setback five (5) feet from said rear property line. Such setback, shall serve as a buffer and be screened and landscaped as specified herein.
- d. Screening and Landscaping: All parking areas containing more than four (4) parking spaces shall be effectively screened on each side adjoining or fronting on any property situated in a residence district or any institutional premises by a wall, fence or densely planted compact hedge not less than four (4) feet nor more than six (6) feet in height. If a screen planting is not practical or reasonable, a continuous solid masonry wall of specified height and materials may be substituted for buffer strips if approved by the Planning Commission. Such required screening shall conform with the front and side yard setback requirements of the district in which the parking area is located, or with the minimum setback requirements specified above;
- e. Lighting: Any lighting used to illuminate off-street parking areas shall conform to **Section 311** of this Zoning Ordinance;
- f. Signs: Signs in off street parking areas shall comply with the requirements of **Article 7** of this Zoning Ordinance;
- g. Maintenance: All off-street parking area(s) required by this Ordinance shall be properly graded for drainage, surfaced in accordance with paragraph b hereof, and maintained in good condition, free of dust, trash and debris.

### **SECTION 603 LOCATION OF ACCESSORY OFF-STREET PARKING**

For the following uses, accessory off-street parking spaces in relation to the use served shall be as prescribed hereinafter. All distances specified shall be walking distances between such parking spaces and a main entrance to the use served.

1. For Uses in the LDR, MDR, OS and IND Districts: Parking facilities and spaces accessory to principal uses shall be located on the same zoning lot as the use served.
2. For Uses in the CB, NC, RC and OC Districts: All required parking spaces shall be within three hundred (300) feet of the use served, but not within a residential district.

### **SECTION 604 SCHEDULE OF PARKING REQUIREMENTS**

For the following uses, accessory off-street parking spaces shall be provided as required hereinafter. Parking spaces required for employees on duty, or residing on premises, or both, at any one time shall be in addition to other parking requirements specified herein.

1. **Residential Uses:** As follows:

- a. One-family Dwellings and Two-Family Dwellings: Two (2) parking spaces shall be provided for each dwelling unit;
- b. Multiple-Family Dwellings: (Including Apartment Hotels) Two (2) parking spaces shall be provided for every dwelling unit. For lodging rooms located in an apartment hotel, one (1) parking space shall be provided for each two (2) lodging rooms, One (1) parking space shall be provided for each employee.
- c. Motels, Inns, and Auto Courts: One (1) parking space shall be provided for each sleeping room or suite, plus one (1) space for each employee;
- d. Hotel: One (1) parking space for each dwelling unit and/or lodging room shall be provided. One (1) parking space for each employee;
- e. Lodging, Rooming and Boarding Houses: One (1) parking space shall be provided for each lodging room plus one (1) space for the owner/manager and each employee;
- f. Private Clubs and Lodges: (With Sleeping Facilities for Guests) One (1) parking space shall be provided for each lodging room plus parking spaces equal in number to ten percent (10%) of the capacity in persons (exclusive of lodging room capacity) of such club or lodge. One (1) parking space shall be provided for each employee;

**2. Retail and Service Uses:** As follows:

- a. Retail Stores, Office, and Banks: One (1) parking space shall be provided for each three-hundred (300) square feet of floor area. Drive-in banks or other similar drive-in establishments shall provide three (3) stacking spaces per teller or customer service window. One (1) parking space shall be provided for each employee;
- b. Automobile Service Stations: One (1) parking space shall be provided for each employee;
- c. Automobile-Laundry: Fifteen (15) stacking spaces shall be provided for each wash rack. One (1) parking space for each employee;
- d. Bowling Alleys: Five (5) parking spaces shall be provided for each alley, plus such additional spaces as may be required herein for affiliated uses: bars, restaurants and the like. One (1) space shall be provided for each employee;
- e. Establishments Dispensing Food or Beverages for Consumption on the Premises: One (1) parking space shall be provided for each two-hundred (200) square feet of floor area. One (1) space shall be provided for each employee;
- f. Furniture and Appliance Stores, Household Equipment or Furniture Repair Shops: One (1) parking space shall be provided for each six-hundred (600) square feet of floor area. One (1) space shall be provided for each employee;
- g. Motor Vehicle Sales and Machinery Sales: One (1) parking space shall be provided for each six hundred (600) square feet of floor area. One (1) space shall be provided for each employee;

- h. Undertaking Establishment, Funeral Parlors: One (1) parking space for each fifty (50) square feet of gross floor area or part thereof. One (1) parking space for each employee and funeral vehicle kept on the premises.
- 3. **Office, Professional and Governmental:** The greater of either one (1) parking space for each four-hundred (400) square feet of floor area or three (3) parking space shall be provided for each four (4) employees.
- 4. **Medical or Dental Clinics:** One (1) parking space shall be provided for each two-hundred (200) feet of gross floor area. One (1) space shall be provided for each employee;
- 5. **Wholesale Establishments** (but not including warehouses and storage buildings): One (1) parking space shall be provided for each one-thousand (1,000) square feet of gross floor area. One (1) space shall be provided for each employee;
- 6. **Manufacturing Uses** or any establishment engaged in production, processing, cleaning, servicing, testing or of materials, goods or products: Three (3) parking spaces shall be provided for each four (4) employees. One (1) space shall be provided for each vehicle used in the conduct of the enterprise;
- 7. **Warehouse and Storage Buildings:** Three (3) parking spaces shall be provided for each four (4) employees. One (1) space shall be provided for each vehicle used in the conduct of the enterprise;
- 8. **Community Service Uses:** As follows:
  - a. Auditoriums: One (1) parking space shall be provided for each three (3) auditorium seats. Adequate space shall also be provided for buses used in connection with the activities of the institution, and all loading and unloading of passengers shall take place upon the premises;
  - b. Colleges, Universities, and Business, Professional and Trade Schools: One (1) parking space shall be provided for each three (3) employees and one (1) parking space shall be provided for each four (4) students based on the maximum number of students attending classes on the premises at any one time during any twenty-four (24) hour period;
  - c. Health Centers, Government Operated: Six (6) parking spaces shall be provided for each doctor or professional person, in addition one (1) parking space shall be provided for each employee.
  - d. Hospitals: One (1) parking space shall be provided for each four (4) hospital beds, plus one (1) parking space for each employee;
  - e. Libraries, Art Galleries and Museums - Public: One (1) parking space shall be provided for each one thousand (1,000) square feet of gross floor area;
  - f. High Schools, Public or Private - one (1) parking space for each seven (7) students based on the maximum number of students that can be accommodated with such design capacity of the building.

9. **Places of Assembly**, including stadiums, arenas, places of worship, and similar places of assembly; Parking spaces equal in number to forty percent (40%) of the approved occupancy shall be provided;

10. **Miscellaneous Uses**: As follows:

- a. Private Clubs, Lodges (Without Sleeping Facilities for Guest): Parking spaces equal in number to twenty-five percent (25%) of the approved occupancy;
- b. Rest Homes, Sanitariums, Convalescent Homes and Nursing Homes: One (1) parking space shall be provided for each six (6) beds plus one (1) parking space each for employees and staff doctors;
- c. For the following uses - parking spaces shall be provided in adequate number - as determined by the Zoning Administrator, to serve persons employed or residing on the premises as well as the visiting public:
  - a) Airports or aircraft landing fields, heliports,
  - b) Convents and monasteries,
  - c) Crematories or mausoleums,
  - d) Fraternal institutions,
  - e) Municipal or privately owned recreation buildings or community center,
  - f) Outdoor amusement establishments: fairgrounds; permanent carnivals; children's parks; and other similar amusement centers,
  - g) Rectories and parish houses,
  - h) Swimming pools,
  - i) Tennis Courts.

11. **Mixed Uses**: When two (2) or more uses are located on the same zoning lot within the same building, parking spaces equal in number to the sum of the separate requirements for each such use shall be provided. No parking spaces or portion thereof shall serve a required space for more than one (1) use unless otherwise authorized by the Zoning Administrator.

12. **Other Uses** For uses not listed heretofore in this schedule of parking requirements, parking spaces shall be provided on the same basis as required for the most similar listed use, or as determined by the Zoning Administrator.

## **SECTION 605            EXCLUSIONS**

The area bounded by Cedar Street on the South, the St. Joseph River on the West, Sycamore Street on the North and Fifth Street on the East and the area West of Front Street, East of the St. Joseph River and South of Cass Street, shall be excluded from the off-street parking and loading requirements of this Article, except that any off-street parking constructed in this area shall be subject to **Section 504, 4, f, 2.**

## SECTION 606                    GENERAL REGULATIONS – OFF-STREET LOADING

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

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

the site plan review process. The number of berths required for joint loading facilities shall be the sum of the separated floor area requirements.

7. **Screening and Landscaping:** Where loading spaces can be seen from a residential area or are located on the side of a building, screening and landscaping shall be required. The screen may be an opaque wall, berm or landscaping. Walls must have a finished surface and can be no higher than six (6) feet. Landscaping must be evergreens, opaque, and reach a height of six (6) feet within two (2) years of planting.
8. **Lighting:** If the loading area is illuminated, lighting shall comply with the provisions of **Section 311** of this Zoning Ordinance.
9. **Not in the Right-of-Way:** Except as provided in **Section 605** hereof, all uses whether specified in this Zoning Ordinance or not, shall provide off-street loading areas sufficient for their requirements. Such space shall be adequate so that no vehicle being loaded or unloaded in connection with normal operations shall stand in or project into a public street, walk, alley or way.
10. Space allocated to any off-street loading shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.
11. For special uses other than prescribed for herein, loading spaces adequate in number and size to serve such uses as determined by the Zoning Administrator, shall be provided.
12. Uses for which off-street loading spaces are required herein but which are located in buildings of less floor area than the minimum prescribed for such required facilities, shall be provided with adequate receiving facilities off any adjacent alley, service drive, or open space on the same lot which is accessible by motor vehicle.

## **ARTICLE SEVEN**

### **SIGNS**

#### **SECTION 700        SIGNS**

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

#### **SECTION 701        APPLICABILITY**

The provisions of this article regulate the size, placement, use and structural quality of signs. No sign shall be constructed, erected, enlarged structurally, altered or relocated without first obtaining a sign permit pursuant to **Section 702** of this Article, with the exception of exempt signs as set forth in **Section 703**. All non-exempt signs shall be reviewed and approved by the Zoning Administrator, except for signs considered as part of site plan review pursuant to **Article 10** and billboards, both of which require Planning Commission approval.

#### **SECTION 702        SIGN PERMITS**

Permits for signs shall be issued by the Zoning Administrator in accord with **Section 1102** pertaining to Zoning Compliance Permits. All sign permit applications shall be accompanied by the following:

1. Scaled drawings, indicating the dimensions, location, and structural design of the proposed sign, plot plan and sign easement, if applicable.
2. Upon application for a sign permit, every applicant shall pay an administrative fee as established by the City Council.
3. The Zoning Administrator shall review all properly filed applications for sign permits and issue permits only for those applicants fully meeting the criteria established in this Ordinance, including the requirements of **Article 10** pertaining to Site Plan approval, if applicable, and the State construction code.
4. The Zoning Board of Appeals may authorize a reduction, modification, or waiver of any of the requirements of this Article upon request and upon a finding that the standards set forth in **Section 1201, 4, d** of this Ordinance are fully met.

#### **SECTION 703        EXEMPT SIGNS**

The following signs shall not require the issuance of a sign permit or fee payment but must meet setback, size, height, and lighting requirements in the zoning district in which located:

1. Political Signs; provided such signs shall meet the following requirements:



- a. Such signs shall not be installed more than 30 days prior to a primary or general election date and must be removed within one (1) week of election date.
  - b. Within the LDR, MDR, CB and NC Districts such signs shall have a maximum sign display area of eight (8) square feet.
  - c. Within the OC, RC and IND Districts such signs shall have a maximum sign display area of thirty-two (32) square feet.
  - d. No political sign shall be placed within the public right of way.
  - e. There shall be a limit of two political signs per candidate or voting issue per address.
2. Signs expressing opinions regarding non-commercial topics.
    - a. Within the LDR and MDR Districts, such signs shall have a maximum sign display of four (4) square feet.
    - b. Within the CB, NC, OC, RC and IND Districts, such signs shall have a maximum sign display of eight (8) square feet.
    - c. A limit of one non-commercial sign per address is permitted.
    - d. No non-commercial topic sign shall be placed within the public right of way.
  3. On site Real Estate Signs, For Sale and/or For Rent Signs; provided such signs shall meet the following requirements:
    - a. Exempt real estate signs shall not be internally illuminated or contain flashing lights.
    - b. Within the LDR, MDR and OS Districts such signs shall have a maximum sign display area of eight (8) square feet.
    - c. Within the CB, NC, RC, OC and IND Districts, such signs shall have a maximum display area of thirty-two (32) square feet.
    - d. No Real Estate, For Sale/For Rent sign shall be placed within the public right of way.
  4. On site Address/Identification Signs, for one and two family dwellings, limited to one (1) per structure, per address, with a maximum sign display area of three (3) square feet.
  5. On site Building Construction Signs, limited to one (1) non-illuminated sign with a maximum sign display area of thirty-two (32) square feet and providing such sign shall be removed within twelve (12) months of its installation.
  6. On site Temporary Development Signs, limited to one (1) non-illuminated sign with a maximum sign display area of sixteen (16) square feet.
  7. Signs erected by the City, County, State or Federal government for street direction or traffic control or to designate hours of activity or conditions for parks, parking lots, public spaces or governmental buildings.
  8. Signs designating recognized by the State Historical Commission as historic landmarks.

9. Temporary signs designating garage or yard sales limited to one (1) non-illuminated sign with a maximum display area of six (6) square feet and providing such sign shall be removed within two (2) days of the last day of sale. Such signs shall not be placed within the public right of way.
10. Special decorative displays, signs, pennants, flags, banners or similar devices used for holidays, public demonstrations for promotion of civic welfare, or charitable purposes for periods not exceeding thirty (30) days.
11. Directional and traffic control signs located within an off-street parking area; provided such signs shall not individually exceed four (4) square feet in display area and shall not exceed eight (8) feet in height. Direction signs exceeding these dimensions shall be included in the total sign allocation determined for a parcel in accord with this Article.

## **SECTION 704            PROHIBITED SIGNS**

The following signs are prohibited in any district of this Ordinance:

1. A sign which is an imitation of an official traffic sign or signal or contain the words: “stop,” “caution,” “danger,” or any other words, phrases, symbols, lights or other devices which may interfere with, mislead, or confuse a vehicle driver.
2. Billboards located within two (200) feet of the LDR, MDR, CB or NC districts.
3. Billboards used for on-premise advertising.
4. Temporary Signs (excluding exempt signs in **Section 504(4)** and **Section 703**).
5. Off-premise signs of any type except for billboards subject to **Section 806** and subdivision or condominium entry signs located within a recorded easement and approved by the Planning Commission as a part of a site plan review pursuant to **Article 10** of this Zoning Ordinance.
6. Any sign which obstructs the ingress or egress from a required door, window or other required exit.
7. Signs located in the right-of-way of public streets or highways, or located on public property such as utility poles or streetlights.
8. Window signs located on the face of windows which cover more than fifty (50%) percent of the total window area on any side of the building.
9. Internally lighted signs in the LDR and MDR districts.

## **SECTION 705            GENERAL SIGN PROVISIONS**

1. **Sign Display Area:** All standards in this Article pertaining to sign display area shall be interpreted as cumulative area of all display faces of the sign, unless expressly stated otherwise.
2. **Prohibited Mounting:** No light pole, utility pole or other supporting member shall be used for the placement of any sign unless specifically designed and approved for such use.

3. **Maximum Display Area:** The display area shall be determined as the entire area within the smallest circle, triangle or rectangle containing all elements of the display including words, symbols, logos, graphics and other elements on all sign faces.
4. **Prohibited Locations:** The other provisions of this Article notwithstanding, no sign shall be so located as to partially obstruct clear vision of pedestrians and motorists.

## **SECTION 706 RESIDENTIAL DISTRICTS SIGN REGULATIONS**

1. **Permitted Signs:** The following signs may be permitted in the LDR and MDR districts subject to the issuance of a sign permit in accordance with this Article:
  - a. **Multifamily Address Sign:** One wall-mounted sign per multi-family structure with a maximum sign display area of four (4) square feet.
  - b. **Multifamily Development Identification Sign:** One monument sign per entrance identifying the multifamily development or housing project, with a maximum sign display area of twenty-five (25) square feet and shall not exceed eight (8') feet in height above existing grade. Said sign shall be designed and constructed with a decorative and/or landscaped base.
  - c. **Home Occupation Sign:** One wall mounted non-illuminated business identification sign per home occupation with a maximum sign display area of one hundred (100) square inches.
  - d. **Home Based Business Sign:** One non-illuminated business identification sign per home occupation with a maximum sign display area of eight (8) square feet.
  - e. **Neighborhood Identification Sign:** One monument sign per entrance to the neighborhood identifying the subdivision or housing project, with a maximum sign display area of twenty-five (25) square feet and a maximum height of eight (8') feet above existing grade. Said sign shall be designed and constructed with a decorative and/or landscaped base.
  - f. **Day Care or Child Care Center Sign:** One monument or wall-mounted sign identifying the childcare center with a maximum sign display area of eight (8) square feet.
  - g. **Family or Group Day Care Sign:** One wall-mounted sign non-illuminated identifying the licensed day care with a maximum sign display area of eight (8) square feet.
  - h. **Institutional Sign:** One monument or wall-mounted sign identifying the institution with a maximum sign display area of thirty-two (32) square feet.
2. **Sign Standards:** The following standards are required for signs in the LDR and MDR districts:
  - a. **Lighting:** Externally lit signs shall be permitted, subject to the following requirements:
    - 1) All externally lighted signs shall be illuminated from the top downward and have full-cutoff shielding to direct the light on the sign display area only and to shield the light source from view of vehicular and pedestrian traffic and adjacent property.

- 2) No signs with external illumination shall have lighting of a blinking, flashing, or fluttering nature, including changes to intensity, brightness or color.
  - 3) All signs with external illumination shall be required to have an electrical permit from the City of Niles Building Official for the particular sign under construction.
- b. General Setbacks: All signs, except those exempt under **Section 703**, shall be setback a minimum of one (1) foot from the established road right of way for every one (1) foot of sign height. In absence of road frontage, said signs shall be setback a minimum of one (1) foot from the established property line for every one (1) foot of sign height.
- c. Height: The maximum height for signs shall be eight (8) feet, unless the sign is a wall-mounted sign attached to a structure or as otherwise specified in this Article. No sign shall project above the first story. Roof signs shall be prohibited in the LDR and MDR districts.

## **SECTION 707            CENTRAL BUSINESS DISTRICT (CB) SIGN REGULATIONS**

The following signs are permitted in CB district:

1. Residential uses shall be permitted signage in accord with **Section 706** of this Article.
2. Business and Institutional Uses permitted by right and as Special Land Uses within the CB district shall be permitted with the following standards:
  - a. Wall Sign:
    - 1) Number: Not more than one (1) per side of the building facing a street right-of-way or public parking area.
    - 2) Area: No more than fifteen percent (15%) of the first story building wall area upon which the sign is affixed.
    - 3) Location: Wall signs shall be mounted above the window course on the side of the building facing the street right-of-way or public parking area, but not lower than eight (8) feet nor higher than sixteen (16) feet above the existing grade. Wall signs shall not project from the building face by more than one (1) foot. On multi-story buildings, wall signs shall be located below second story window sills.
  - b. Pole Sign:
    - 1) Number: Not more than one (1) per parcel, unless a monument sign is installed or proposed, in which case an additional pole sign shall be prohibited.
    - 2) Area: Not more than forty (40) square feet
    - 3) Location: Not less than six (6) feet from the front or side parcel line.
    - 4) Height: Not more than twenty (20) feet with under clearance of not less than eight (8) feet.
    - 5) Prohibited Locations: Pole signs shall not be permitted along Main Street between the St. Joseph River and 7<sup>th</sup> Street or along Front Street between Main and Wayne streets.

- c. Monument (ground) Sign:
  - 1) Number: Not more than one (1) per parcel, unless a pole sign is installed or proposed, in which case an additional monument sign shall be prohibited.
  - 2) Area: Not more than forty-eight (48) square feet
  - 3) Location: Not less than six (6) feet from the front or side parcel line.
  - 4) Height: Not more than six (6) feet.
  - 5) Prohibited Locations: None.
- d. Marquee Sign:
  - 1) Number: Not more than one (1) per street frontage.
  - 2) Area: Not more than thirty percent (30%) of the total vertical surface area of the marquee or awning or canopy to which it is affixed or applied.
  - 3) Location: Signs may be applied on the street frontage of the marquee and/or on its ends, provided that the cumulative area of the sign does not exceed the area requirements of this sub-section. The marquee structure shall not project closer than two (2) feet of the edge of the street right-of-way.
  - 4) Height: The topmost portion of the marquee structure shall not extend more than twenty (20) feet above the existing grade with under clearance of not less than eight (8) feet.
- e. Projecting and Suspended Signs:
  - 1) Number: Not more than one (1) per each twenty (20) feet of street frontage.
  - 2) Area: Not more than fourteen (14) square feet.
  - 3) Location: Signs may be applied on the street frontage side(s) of a building above the uppermost portion of windows or doors on the ground floor, but not above the uppermost portion of the second story windows. No part of a projecting or suspended sign shall extend from the building upon which it is mounted more than seven (7 ft.) feet and shall be mounted not less than eight feet (8 ft.) above the sidewalk.
- f. Business Center Signs for multiple occupant structures.
  - 1) Number: Not more than one (1) pole sign or monument sign per street frontage and any number of wall signs, provided the area requirements of this section are met.
  - 2) Area: Not more than fifty (50) square feet for pole sign or forty-eight (48) square feet for monument signs and the cumulative total of all wall signs shall not exceed twenty percent (20%) of the first story building wall area upon which the signs are affixed..
  - 3) Location: For pole and monument signs, not less than six (6) feet from the front or side parcel line. Wall signs shall be mounted above the window course on the side of the building facing the street right-of-way or public parking area, but not lower than

eight (8) feet nor higher than sixteen (16) feet above the existing grade. Wall signs shall not project from the building face by more than one (1) foot.

- 4) Height: Pole signs shall not exceed twenty (20) feet with under clearance of not less than eight (8) feet. Monument signs shall not exceed six (6) feet in height.
3. **Lighting:** In the CB district, internally and externally lit signs shall be permitted, subject to the following requirements:
    - a. All externally lighted signs shall be illuminated from the top downward and have full-cutoff shielding to direct the light on the sign display area only and to shield the light source from view of vehicular and pedestrian traffic and adjacent property.
    - b. No signs with internal or external illumination shall have lighting of a blinking, flashing, or fluttering nature, including changes to intensity, brightness or color.
    - c. All signs with external illumination shall be required to have an electrical permit from the City of Niles Building Official for the particular sign under construction.

## **SECTION 708 NEIGHBORHOOD CENTER DISTRICT (NC) SIGN REGULATIONS**

The following signs are permitted in NC district:

1. Residential uses shall be permitted signage in accord with **Section 706** of this Article.
2. Business and Institutional Uses permitted by right and as Special Land Uses within the NC district, shall be permitted any or all signs in accord with the following standards:
  - a. Wall Sign:
    - 1) Number: Not more than one (1) per side of the building facing a street right-of-way or public parking area.
    - 2) Area: No more than fifteen percent (15%) of the first story building wall area upon which the sign is affixed.
    - 3) Location: Wall signs shall be mounted above the window course on the side of the building facing the street right-of-way or public parking area, but not lower than eight (8) feet nor higher than twenty (20) feet above the existing grade. Wall signs shall not project from the building face by more than one (1) foot.
  - b. Monument (ground) Sign:
    - 1) Number: Not more than one (1) per parcel.
    - 2) Area: Not more than thirty-two (32) square feet
    - 3) Location: Not less than six (6) feet from the front or side parcel line.
    - 4) Height: Not more than six (6) feet.
  - c. Marquee Sign:
    - 1) Number: Not more than one (1) per street frontage.

- 2) Area: Not more than twenty percent (20%) of the total vertical surface area of the marquee or awning or canopy to which it is affixed or applied.
  - 3) Location: Signs may be applied on the street frontage of the marquee and/or on its ends, provided that the cumulative area of the sign does not exceed the area requirements of this sub-section. The marquee structure shall not project closer than two (2) feet from the edge of the street right-of-way.
  - 4) Height: The topmost portion of the marquee structure shall not extend more than fifteen (15) feet above the existing grade with under clearance of not less than nine (9) feet.
- e. Projecting and Suspended Signs:
- 1) Number: Not more than one (1) per each twenty (20) feet of street frontage.
  - 2) Area: Not more than twelve (12) square feet.
  - 3) Location: Signs may be applied on the street frontage side(s) of a building above the uppermost portion of windows or doors on the ground floor, but not above the uppermost portion of the second story windows. No part of a projecting or suspended sign shall extend from the building upon which it is mounted more than seven (7) feet.
- f. Business Center Signs for multiple occupant structures.
- 1) Number: Not more than one (1) monument sign per street frontage and any number of wall signs, provided the area requirements of this section are met.
  - 2) Area: Not more than thirty-two (32) square feet for monument signs and the cumulative total of all wall signs shall not exceed ten percent (10%) of the first story building wall area upon which the signs are affixed.
  - 3) Location: For monument signs, not less than six (6) feet from the front or side parcel line. Wall signs shall be mounted above the window course on the side of the building facing the street right-of-way or public parking area, but not lower than eight (8) feet nor higher than twenty (20) feet above the existing grade. Wall signs shall not project from the building face by more than one (1) foot.
  - 4) Height: Monument signs shall not exceed six (6) feet in height.
3. **Lighting:** In the NC district, internally and externally lit signs shall be permitted, subject to the following requirements:
- a. All externally lighted signs shall be illuminated from the top downward and have full-cutoff shielding to direct the light on the sign display area only and to shield the light source from view of vehicular and pedestrian traffic and adjacent property.
  - b. No signs with internal or external illumination shall have lighting of a blinking, flashing, or fluttering nature, including changes to intensity, brightness or color.
  - c. All signs with external illumination shall be required to have an electrical permit from the City of Niles Building Official for the particular sign under construction.

## SECTION 709 REGIONAL COMMERCIAL DISTRICT (RC) SIGN REGULATIONS

The following signs are permitted in RC district:

1. Residential uses shall be permitted signage in accord with **Section 706** of this Article.
2. Business and Institutional Uses permitted by right and as Special Land Uses within the RC district, shall be permitted any or all signs in accord with the following standards:

a. Wall Sign:

- 1) Number: Not more than one (1) per side of the building facing a street right-of-way or public parking area.
- 2) Area: The lesser of one hundred (100) square feet or twenty percent (20%) of the first story building wall area upon which the sign is affixed.
- 3) Location: Wall signs shall be mounted on the wall facing the street right-of-way or public parking area, but shall not be mounted higher than twenty (20) feet above the existing grade. Wall signs shall not project from the building face by more than one (1) foot.

b. Pole Sign:

- 1) Number: Not more than one (1) per parcel, except that parcels with a street frontage equaling or exceeding three hundred (300) feet shall be permitted any combination of two (2) pole signs or monument signs.
- 2) Area: Maximum pole sign display area shall be determined in accord with the following table:

Street Frontage	Maximum Display Area
Less than 100 feet	44 square feet
101 to 200 feet	64 square feet
201 to 300 feet	80 square feet
more than 300 feet	100 square feet

- 3) Location: Not less than ten (10) feet from the front or side parcel line.
- 4) Height: Not more than twenty-five (25) feet with under clearance of not less than ten (10) feet.

c. Monument (ground) Sign:

- 1) Number: Not more than one (1) per parcel, except that parcels with two (2) or more street frontages equaling or exceeding three hundred (300) feet of total street frontage shall be permitted any combination of two (2) pole signs or monument signs.
- 2) Area: Maximum monument sign display area shall be determined in accord with the following table:



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

- 3) Location: Not less than ten (10) feet from the front or side parcel line.
  - 4) Height: Not more than eight (8) feet.
- d. Marquee Sign:
- 1) Number: Not more than one (1) per street frontage.
  - 2) Area: Not more than thirty percent (30%) of the total vertical surface area of the marquee or awning or canopy to which it is affixed or applied.
  - 3) Location: Signs may be applied on the street frontage of the marquee and/or on its ends, provided that the cumulative area of the sign does not exceed the area requirements of this sub-section. The marquee structure shall not project closer to any property line than the setback line.
  - 4) Height: The topmost portion of the marquee structure shall not extend more than twenty (20) feet above the existing grade with under clearance of not less than ten (10) feet.
- e. Business Center Signs for multiple occupant structures.
- 1) Number and area: The standards of **Section 709, b and c** shall apply in determining the number and area of pole and monument signs for multiple occupant structures. The cumulative total of all wall signs shall not exceed the lesser of one hundred (100) square feet or twenty percent (20%) of the first story building wall area upon which such signs are affixed
  - 2) Height. Pole signs shall not exceed twenty-five (25) feet in height with under clearance of not less than ten (10) feet. Monument signs shall not exceed eight (8) feet in height.
3. **Lighting:** In the RC district internally and externally lit signs shall be permitted, subject to the following requirements:
- a. All externally lighted signs shall be illuminated from the top downward and have full-cutoff shielding to direct the light on the sign display area only and to shield the light source from view of vehicular and pedestrian traffic and adjacent property.
  - b. No signs with internal or external illumination shall have lighting of a blinking, flashing, or fluttering nature, including changes to intensity, brightness or color.
  - c. All signs with external illumination shall be required to have an electrical permit from the City of Niles Building Official for the particular sign under construction.

## **SECTION 710 OFFICE/COMMERCIAL DISTRICT (OC) SIGN REGULATIONS**

The following signs are permitted in OC district:

1. Residential uses shall be permitted signage in accord with **Section 706** of this Article.
2. Business and Institutional Uses permitted by right and as Special Land Uses within the OC district, shall be permitted any or all signs in accord with the following standards:
  - a. Wall Sign:
    - 1) Number: Not more than one (1) per side of the building facing a street right-of-way or public parking area.
    - 2) Area: No more than ten percent (10%) of the first story building wall area upon which the sign is affixed.
    - 3) Location: Wall signs shall be mounted on the wall facing the street right-of-way or public parking area, but shall not be mounted higher than twenty (20) feet above the existing grade. Wall signs shall not project from the building face by more than one (1) foot.
  - b. Monument (ground) Sign:
    - 1) Number: Not more than one (1) per parcel.
    - 2) Area: Not more than thirty-two (32) square feet
    - 3) Location: Not less than seven (7) feet from the front or side parcel line.
    - 4) Height: Not more than six (6) feet.
  - c. Marquee Sign:
    - 1) Number: Not more than one (1) per street frontage.
    - 2) Area: Not more than twenty percent (20%) of the total vertical surface area of the marquee or awning or canopy to which it is affixed or applied.
    - 3) Location: Signs may be applied on the street frontage of the marquee and/or on its ends, provided that the cumulative area of the sign does not exceed the area requirements of this sub-section. The marquee structure shall not project closer than two (2) feet of the edge of the street right-of-way.
    - 4) Height: The topmost portion of the marquee structure shall not extend more than fifteen (15) feet above the existing grade with under clearance of not less than nine (9) feet.
  - e. Business Center Signs for multiple occupant structures.
    - 1) Number: Not more than one (1) monument sign per street frontage and any number of wall signs, provided the area requirements of this section are met.

- 2) Area: Not more than thirty-two (32) square feet for monument signs and the cumulative total of all wall signs shall not exceed ten percent (10%) of the first story building wall area upon which the signs are affixed..
  - 3) Location: For monument signs, not less than seven (7) feet from the front or side parcel line. Wall signs shall be mounted above the window course on the side of the building facing the street right-of-way or public parking area, but not lower than eight (8) feet nor higher than twenty (20) feet above the existing grade. Wall signs shall not project from the building face by more than one (1) foot.
  - 4) Height: Monument signs shall not exceed six (6) feet in height.
3. **Lighting:** In the OC district, internally and externally lit signs shall be permitted, subject to the following requirements:
- a. All externally lighted signs shall be illuminated from the top downward and have full-cutoff shielding to direct the light on the sign display area only and to shield the light source from view of vehicular and pedestrian traffic and adjacent property.
  - b. No signs with internal or external illumination shall have lighting of a blinking, flashing, or fluttering nature, including changes to intensity, brightness or color.
  - c. All signs with external illumination shall be required to have an electrical permit from the City of Niles Building Official for the particular sign under construction.

## **SECTION 711 INDUSTRIAL DISTRICT (IND) SIGN REGULATIONS**

The following signs are permitted in IND district:

1. Residential uses shall be permitted signage in accord with **Section 706** of this Article.
2. Business and Institutional Uses permitted by right and as Special Land Uses within the IND district, shall be permitted any or all signs in accord with the following standards:
  - a. Wall Sign:
    - 1) Number: Not more than one (1) per side of the building facing a street right-of-way or public parking area.
    - 2) Area: The lesser of one hundred (100) square feet or twenty percent (20%) of the first story building wall area upon which the sign is affixed.
    - 3) Location: Wall signs shall be mounted on the wall facing the street right-of-way or public parking area, but shall not be so mounted as to extend above the roofline. Wall signs shall not project from the building face by more than one (1) foot.
  - b. Monument (ground) Sign:
    - 1) Number: Not more than one (1) per parcel.
    - 2) Area: Not more than forty-eight (48) square feet

- 3) Location: Not less than seven (7) feet from the front or side parcel line.
  - 4) Height: Not more than eight (8) feet.
- c. Marquee Sign:
- 1) Number: Not more than one (1) per street frontage.
  - 2) Area: Not more than twenty percent (20%) of the total vertical surface area of the marquee or awning or canopy to which it is affixed or applied.
  - 3) Location: Signs may be applied on the street frontage of the marquee and/or on its ends, provided that the cumulative area of the sign does not exceed the area requirements of this sub-section. The marquee structure shall not project closer to any property line than the setback line.
  - 4) Height: The topmost portion of the marquee structure shall not extend more than fifteen (15) feet above the existing grade with under clearance of not less than nine (9) feet.
- e. Business Center Signs for multiple occupant structures.
- 1) Number: Not more than one (1) monument sign per street frontage and any number of wall signs, provided the area requirements of this section are met.
  - 2) Area: Not more than forty-eight (48) square feet for monument signs and the cumulative total of all wall signs shall not exceed the total sign display area requirements of **Section 711, 2, a, (2)**.
  - 3) Location: For monument signs, not less than seven (7) feet from the front or side parcel line. Wall signs shall be mounted in accord with **Section 711, 2, a, (3)**.
  - 4) Height: Monument signs shall not exceed eight (8) feet in height.
3. **Lighting:** In the IND district internally and externally lit signs shall be permitted, subject to the following requirements:
- a. All externally lighted signs shall be illuminated from the top downward and have full-cutoff shielding to direct the light on the sign display area only and to shield the light source from view of vehicular and pedestrian traffic and adjacent property.
  - b. No signs with internal or external illumination shall have lighting of a blinking, flashing, or fluttering nature, including changes to intensity, brightness or color.
  - c. All signs with external illumination shall be required to have an electrical permit from the City of Niles Building Official for the particular sign under construction.

## **SECTION 712          OPEN SPACE DISTRICT (OS) SIGN REGULATIONS**

The following signs are permitted in OS district:

1. Residential uses shall be permitted signage in accord with **Section 706** of this Article.

2. Business and Institutional Uses permitted by right and as Special Land Uses within the OS district, shall be permitted any or all signs in accord with the following standards:
  - a. Wall Sign:
    - 1) Number: Not more than one (1) per side of the building facing a street right-of-way or public parking area.
    - 2) Area: No more than five percent (5%) of the first story building wall area upon which the sign is affixed.
    - 3) Location: Wall signs shall be mounted on the wall facing the street right-of-way or public parking area, but shall not be mounted higher than twenty (20) feet above the existing grade. Wall signs shall not project from the building face by more than one (1) foot.
  - b. Monument (ground) Sign:
    - 1) Number: Not more than one (1) per parcel.
    - 2) Area: Not more than thirty-two (32) square feet
    - 3) Location: Not less than seven (7) feet from the front or side parcel line.
    - 4) Height: Not more than six (6) feet.
  - c. Marquee Sign:
    - 1) Number: Not more than one (1) per street frontage.
    - 2) Area: Not more than twenty percent (20%) of the total vertical surface area of the marquee or awning or canopy to which it is affixed or applied.
    - 3) Location: Signs may be applied on the street frontage of the marquee and/or on its ends, provided that the cumulative area of the sign does not exceed the area requirements of this sub-section. The marquee structure shall not project closer to any property line than the setback line.
    - 4) Height: The topmost portion of the marquee structure shall not extend more than fifteen (15) feet above the existing grade with under clearance of not less than nine (9) feet.
  - e. Business Center Signs for multiple occupant structures.
    - 1) Number: Not more than one (1) monument sign per street frontage and any number of wall signs, provided the area requirements of this section are met.
    - 2) Area: Not more than thirty-two (32) square feet for monument signs and the cumulative total of all wall signs shall not exceed ten percent (10%) of the first story building wall area upon which the signs are affixed..
    - 3) Location: For monument signs, not less than seven (7) feet from the front or side parcel line. Wall signs shall be mounted above the window course on the side of the

building facing the street right-of-way or public parking area, but not lower than eight (8) feet nor higher than twenty (20) feet above the existing grade. Wall signs shall not project from the building face by more than one (1) foot.

4) Height: Monument signs shall not exceed six (6) feet in height.

3. **Lighting:** In the OC district, internally and externally lit signs shall be permitted, subject to the following requirements:
- a. All externally lighted signs shall be illuminated from the top downward and have full-cutoff shielding to direct the light on the sign display area only and to shield the light source from view of vehicular and pedestrian traffic and adjacent property.
  - b. No signs with internal or external illumination shall have lighting of a blinking, flashing, or fluttering nature, including changes to intensity, brightness or color.
  - c. All signs with external illumination shall be required to have an electrical permit from the City of Niles Building Official for the particular sign under construction.

### **SECTION 713 BILLBOARDS**

**Allowable Zoning Districts.** Billboards, poster boards and other non-accessory signs along a Highway, as defined in the Zoning Ordinance, shall be restricted to properties zoned in the RC Regional Business District and such billboards shall be regulated pursuant to **Section 806**, hereof.

### **SECTION 714 MAINTENANCE OF SIGNS**

It shall be unlawful for any person to retain or permit to be retained on any premises owned or controlled by said person any sign, which is in a damaged or deteriorated condition and constitutes a danger or hazard to public safety, or a visual blight.

### **SECTION 715 NONCONFORMING SIGNS**

Any sign or sign support structure existing at the time of the enactment of this Zoning Ordinance may be continued except as otherwise herein provided, although such sign does not conform to the provisions of this Article.

1. **Unsafe Signs.** Any nonconforming sign or sign support structure declared unsafe by the Building Official shall be removed.
2. A nonconforming sign may not be reconstructed or structurally altered to extend its normal useful life. Provided, however, that normal maintenance shall not be regarded as such reconstruction or structural alteration.
3. A nonconforming sign shall not be enlarged or extended in any way.
4. A nonconforming sign shall not be re-established after damage or destruction if the estimated cost of the reconstruction or renovation exceeds fifty percent of the replacement sign cost.

## ARTICLE EIGHT

### SPECIFIC STANDARDS AND REQUIREMENTS FOR SPECIAL LAND USES

#### SECTION 800 SPECIAL LAND USES

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

#### SECTION 801 SPECIAL USE PROCEDURES

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

1. **Submission of Application.** Applications shall be submitted through the Zoning Administrator to the Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the City Council to cover the costs of processing the application. No part of any fee shall be refundable. An application shall be submitted to the Zoning Administrator on a Special Use permit application form. A special application shall be placed on the agenda of the Planning Commission by the Zoning Administrator within thirty days of the submission of a complete application prepared in accordance with this Zoning Ordinance. An application, which is incomplete or otherwise not in compliance with this Ordinance, shall be returned to the applicant. No application shall be processed until properly prepared and submitted and all required fees paid in full.
2. **Data Required.** Ten (10) copies of an application for a Special Use permit shall be presented to the Zoning Administrator and accompanied by the following documents and information.
  - a. A complete Special Use permit application including the following information:
    - 1) Name and address of applicant.
    - 2) Legal description, property parcel number and street address of the subject parcel of land.
    - 3) Area of the subject parcel of land stated in acres, or if less than one (1) acre, in square feet.
    - 4) Present zoning classification of the parcel.
    - 5) Present and proposed land use.
    - 6) A letter or signed narrative describing in detail the proposed special use and detailing why the location selected is appropriate.

- 7) Applicant's statement of the expected effect on emergency service requirements, schools, storm water systems, automobile and truck circulation patterns, and local traffic volumes.
  - 8) Any additional material information necessary to consider the impact of the project upon adjacent properties and the general public as may be required by this Ordinance, by the City Zoning Administrator or the Planning Commission.
  - 9) A statement and other evidence or proof by the applicant of present and future compliance with the standards required for approval in this Article and other standards imposed by this Ordinance affecting the special use under consideration.
- b. A complete Site Plan containing all the applicable data required by **Article 10**, Site Plans, unless waived by the Zoning Administrator.
  - c. Supporting statements, evidence, information and exhibits that address the standards and requirements for evaluating Special Use permit applications as provided in this **Article 8**.
  - d. Any additional information deemed necessary for the Planning Commission to determine the impact of the proposed Special Use on the adjacent properties, public infrastructure, and community as a whole. Such information may take the form of, but is not limited to, traffic impact analysis, environmental impact assessments, or reports and/or testimony by officials representing state, county or local departments of public safety (police and fire), health, highways or roads, and/or environment.
  - e. The Zoning Administrator may, with the approval of the Planning Commission, waive the submission of materials outlined in this Section if such materials are determined to be not applicable to the proposed Special Use or relevant to the consideration of the Planning Commission.
3. **Special Use review procedures.** An application for Special Use Approval shall be processed as follows:
- a. **Planning Commission Work Session.** The Zoning Administrator shall forward a copy of the application for the special use request to the Planning Commission within thirty (30) days of receiving the request and completed application. At such meeting, the Planning Commission may review the application and question the applicant about the special use. Prior to the public hearing, the Planning Commission shall not render any judgments on the application. If the Planning Commission concurs with the Zoning Administrator that the application is complete, a public hearing shall be scheduled as set forth in this Section.
  - b. **Public Hearing Procedures.** Notice of a hearing to consider a Special Use application shall be given by mail or personal delivery to the property owners for which Special Use permit approval is being considered, all persons to whom real property is assessed within three-hundred (300) feet of the boundary of the property in question, and occupants of each dwelling unit owned or leased by different persons within three (300) hundred feet of the boundary of the property in question. Where the name of the occupant is not known, the term "occupant" may be used in making notification. Notice of the public hearing shall



also be published in a newspaper of general circulation in the City of Niles. Such notices shall be given not less than fifteen (15) days before the date of the public hearing. Such notice shall include:

- 1) Description of the Special Use request;
  - 2) General description of the property which is the subject of the Special Use Application;
  - 3) The date, time, and location of the Public Hearing on the Special Use Application; and,
  - 4) The time and location for written comments to be received concerning the Special Use application.
- c. **Planning Commission Action.** After the Public Hearing and upon review of the merits of the Special Use permit application, the Planning Commission shall review the application and any reports of City personnel, planning or engineering or other consultants and reach a decision to approve, approve with conditions or deny the application. Such decision shall be reached within forty (40) days following the date of the public hearing on the application, unless the applicant and the Planning Commission mutually agree to extend the time allowed for the Planning Commission to reach a decision. The Planning Commission's decision shall be incorporated in a motion containing conclusions reached relative to the proposed Special Use which motion shall provide the basis for the decision and any conditions imposed.
- d. **Basis for Action.** In arriving at its decision, the Planning Commission shall refer to and be guided by those standards set forth in this Article. If the facts regarding the Special Use do not establish by preponderance of the evidence that the standards and requirements set forth in the Article can and will be met by the proposed Special Use, the Planning Commission shall deny the Special Use permit application.
- e. **Attachment of Conditions.** Subject to the terms of **Section 801, 10, b**, the Planning Commission may prescribe conditions of approval deemed necessary for the protection of the general welfare, individual property rights, and to ensure that the purposes of this Ordinance are met.
4. **Issuance of a Special Use permit.** Upon approval by the Planning Commission, the Zoning Administrator shall issue the Special Use permit. It shall be the responsibility of the Zoning Administrator to monitor compliance with the terms, conditions and restrictions of any Special Use permit and take any enforcement action necessary in the event of a violation of the Special Use permit.
5. **Appeals.** No decision or condition related to a Special Use application, other than an interpretation of the terms of this Ordinance, shall be taken to the Zoning Board of Appeals. An appeal of a Special Use decision or condition may be taken to the Circuit Court.
6. **Duration of Approval.** The Special Use permit shall become effective when the Planning Commission has approved the application, provided the following are met:

- a. The Building Official shall not issue a Building Permit until approval of such Special Use permit and the satisfactions of any conditions pertaining to such approval are met.
  - b. Until a Building Permit has been granted pursuant to the Special Use permit, there shall be no construction or excavation of said land, nor shall there be any use of the land in anticipation of the Special Use unless such use is incorporated in the conditions of approval adopted by the Planning Commission.
  - c. Land subject to a Special Use permit may not be used or occupied for such special use until after a certificate of occupancy has been issued pursuant to the provisions of this Ordinance.
7. **Amendments.** Amendments to Special Use permits shall be handled in the same manner as the initial Special Use permit application. Minor non-substantive changes to a site plan may be made to an existing Special Use permit with the approval of the Zoning Administrator.
8. **Expiration.** A Special Use permit shall be valid for as long as the approved use continues in accordance with the terms and conditions of the approved permit. The Special Use permit will expire on the occurrence of one or more of the following conditions:
- a. If replaced or superseded by a subsequent permitted use or Special Use permit.
  - b. If the applicant requests the rescinding of the Special Use permit.
  - c. If a condition of approval included stipulation to expire the Special Use permit by a certain date.
  - d. If the use is abandoned, moved or vacated for a period of one year.
9. **Violations.** Any violation of the terms, conditions or limitations of a Special Use permit shall be cause for revocation or suspension of the permit. The Planning Commission may either revoke or suspend, pending correction of the violation, any Special Use permit. The act to revoke or suspend the permit shall occur after giving notice to the permit holder, specifying the alleged violation(s) and disclosing when a hearing will be held on the matter. The notice shall be delivered by registered mail. Any interested party may appear in person or by attorney at the hearing. The act to revoke or suspend the permit shall occur after, or at the hearing on the matter. Before revoking or suspending the permit, the Planning Commission shall make a finding that a material violation of the Special Use permit exists. The permit holder shall be given reasonable opportunity to correction the violation(s).
10. **Special Use Review Standards.** The following standards shall govern the review and approval of special uses in the City of Niles.
- a. **General Review Standards.** The Planning Commission, before acting on a Special Use permit application, shall employ and be guided by standards which shall be consistent with and promote the intent and purpose of this Zoning Ordinance, and ensure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use. The Planning Commission shall review each application and shall approve such Special

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

- 1) The Special Use shall be consistent with the adopted City of Niles Master Plan.
  - 2) The Special Use shall be designed, constructed, operated and maintained to be consistent with the existing or intended character of the general vicinity and such use will not change the essential character of the area in which it is proposed.
  - 3) The Special Use shall not be hazardous or disturbing to existing or future uses in the same general vicinity and in the community as a whole.
  - 4) The Special Use shall be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, storm water drainage, refuse disposal, water and sewage facilities and schools or persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately for such services.
  - 5) The Special Use shall not create excessive additional requirements at public cost for facilities and services and will not be detrimental to the economic welfare of the community.
  - 6) The Special Use shall not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any person, property or general welfare by reason of excessive production of traffic, noise, vibration, smoke, fumes, glare or odors.
  - 7) The Special Use shall meet the intent and purpose of the Zoning Ordinance; be related to the standards established in the Ordinance for the land use or activity under consideration; and will be in compliance with these standards.
- b. **Conditions and Approval Standards.** The Planning Commission may establish reasonable conditions of approval for a Special Use permit. The conditions may include, but are not limited to, conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Further, the Planning Commission may adopt specific review standards for any proposed Special Use if this Article 8 does not provide such specific review standards for such use. Any such conditions imposed or specific review standards employed shall meet all of the following requirements:
- 1) Be designed to protect natural resources, the health, safety, and welfare and the social

and economic well being of those who will use the land use or activity under consideration, residents and land owners immediately adjacent to the proposed land use or activity, and the community as a whole.

- 2) Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
  - 3) Be necessary to meet the intent and purpose of the Zoning Ordinance; be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.
- c. **Specific Review Standards.** In addition to the general review standards set forth in this **Section 801**, of this Zoning Ordinance, the Planning Commission, shall apply the specific review standards set forth in this **Article 8** for each named Special Use. In the event this **Article 8** does not set forth specific review standards for the Special Use under consideration, pursuant to **Section 310**, the Zoning Administrator may propose, and the Planning Commission may incorporate specific review standards for such use. Provided, however, that any such standards adopted and any such conditions applied shall conform with the requirements of **Section 801, 10, b** herein.

## **SECTION 802            ACCESSORY BUILDINGS WITH FOOTPRINT GREATER THAN THE PRINCIPAL STRUCTURE**

1. **Definition.** A subordinate building located on the same lot as the principal building, the use of which is naturally and normally incidental to the main use of the premises with a ground floor area or building footprint greater than the ground floor area or building footprint of the principal building on the parcel.
2. **Regulations and Conditions.**
  - a. In all zoning districts and on parcels of less than one (1) acre, the floor area of an accessory building as defined in this Section shall not exceed the ground floor area or building footprint of the principal building by more than fifty percent (50%).
  - b. In all zoning districts, except the IND district, the following standards shall be applied:
    - 1) On parcels of more than one (1) acre, but less than five (5) acres, the floor area of an accessory building as defined in this Section shall not exceed the ground floor area or building footprint of the principal building by more than one hundred percent (100%).
    - 2) On parcels of five (5) acres, or more, the floor area of an accessory building as defined in this Section shall not exceed the ground floor area or building footprint of the principal building by more than two hundred percent (200%).
  - c. Only within the IND district on parcels larger than one (1) acre, the ground floor area or footprint of accessory buildings may exceed the area of the principal building without limitation, providing all other provisions of this Zoning Ordinance are met.

- d. The floor area limitations of this Section shall be applied cumulatively for all accessory buildings on a parcel.
- e. Accessory buildings as defined in this Section shall comply with all yard, setback and building height standards of this Zoning Ordinance.

**SECTION 803            ACCESSORY DWELLING UNITS**

**1. Definition.** A separate, complete housekeeping unit with a separate entrance, kitchen, sleeping area, and full bathroom facilities, which is an attached or detached extension to an existing single-family structure; intended to accommodate the rising need of family members living upon a single parcel, but who desire separate quarters.

**2. Standards and Conditions.**

a. All structures designed and/or used for the temporary or permanent dwelling of a person or persons and not integrated into the primary residence on a lot shall be considered an accessory dwelling unit. Accessory dwelling units shall be permitted as special land use on lots of 5,000 square feet or more in the LDR and MDR districts, subject to the following standards:

- 1. The unit shall be connected to public water and wastewater systems.
- 2. The unit shall include, at a minimum, a kitchen, bathroom, and sleeping area separate from the primary residence, and shall meet all provisions of the Building Code and regulations of the City’s Housing Code.
- 3. The exterior design of an accessory unit, whether a detached structure or attached to the principal structure, including the primary dwelling unit, shall be compatible with the existing residence on the lot. The building form, height, construction materials, dimensions, and landscaping shall remain consistent with the principal structure and in harmony with the character and scale of the surrounding neighborhood.
- 4. The accessory dwelling shall not result in excessive traffic, parking congestion, or noise.
- 5. Where applicable, the accessory unit shall be located and designed to protect neighboring views of the lakeshore and scenic coastal areas.
- 6. No more than one accessory dwelling unit shall be permitted on a single parcel.

**b. Development Standards.**

- a. **Unit Floor Area.** Accessory dwelling units shall have a floor area no less than 500 square feet and no greater than 1,000 square feet. The floor area of an accessory dwelling unit shall not be greater than one-third that of the primary dwelling.
- b. **Lot Coverage.** The maximum lot coverage for a given district be not be exceeded by the combined footprint of the principal building and any accessory buildings, including the accessory dwelling unit. Provided, however when the accessory dwelling unit is

- adjacent to, and accessed from an alley, the lot coverage for the district may be exceeded by not more than 10%, but the combined footprint of all such structures.
- c. **Setbacks.** Accessory dwelling units shall be located in compliance with all setbacks for the zoning district, and in no instance shall any portion of an accessory dwelling unit be located less than three (3) feet from any property line.
  - d. **Owner Occupancy.** The property owner must occupy either the primary or accessory dwelling.
  - e. **Parking.** One (1) on-site parking space, in addition to the required parking for the primary residence, shall be provided for an accessory dwelling unit.
  - f. **Height.** A single story detached accessory dwelling unit shall not exceed fourteen (14) feet in height. A one-and-one-half to two-story detached accessory dwelling unit shall not exceed twenty-eight (28) feet in height.
  - g. **Window Orientation.** Windows facing an adjoining residential property must be aligned, oriented or screened with fencing or landscaping to protect the privacy of neighboring properties.
- c. **Deed Restrictions.** Before obtaining a building permit or occupancy permit, or making an accessory dwelling unit available for use, the property owner shall file with the zoning administrator a documentation of recorded deed restrictions which incorporating the following restrictions:
- a. The use permit for the accessory dwelling unit shall be in effect only so long as either the principal residence or the accessory dwelling unit is occupied as the homestead residence by the applicant, or the applicant's heirs and the accessory dwelling remains in compliance with the City of Niles Housing Code.
  - b. The accessory dwelling unit is restricted to the approved floor area, setbacks and height.
  - c. The accessory dwelling unit shall not be sold separately.
  - d. The deed restrictions shall run with the land, and are binding upon any successor in ownership.
  - e. The deed restrictions shall lapse upon the removal of the accessory dwelling unit.
- d. **Attached Accessory Dwelling Units.** All attached accessory dwelling units shall have an entrance/exit separate from that of the primary dwelling unit. Any interior passageways connecting the primary residence to the accessory unit shall be equipped with a solid core door which is locked from both sides.

## SECTION 804      AIRPORT

1. **Definition.** Any area of land which is used or intended to be used for the landing and taking off of aircraft, and any appurtenant areas which are used or intended for use of airport building or other airport facilities located thereon.

## 2. Regulations and Conditions.

- 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. Zoning compliance permits for public airports shall not be granted until the facility has been granted a Landing Area License pursuant to Part 5 of the Rules and Regulations of the Michigan Aeronautics Commission.
- 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.
- f. All signs shall be in accordance with Article Seven of this Zoning Ordinance.
- g. All parking shall be in accordance with Article Six of this Zoning Ordinance.

## SECTION 805 AUDITORIUM

1. **Definition.** A room, hall or building, made a part of a church, theater, school, recreation building or other building assigned to the gathering of people as an audience to hear lectures, plays and other presentations.
2. **Regulations and Conditions.**
  - a. An auditorium shall be effectively sited and designed to comport properly with the surrounding neighborhood. Auditoriums that are out of scale or excessively imposing in an area shall be prohibited.
  - b. As a condition of approval, the Planning Commission may establish hours of operation for an Auditorium if in the judgment of the Planning Commission such restrictions are needed to assure the compatibility of the facility with neighboring uses.
  - c. All signs shall be in accordance with **Article Seven** of this Zoning Ordinance.
  - d. All parking shall be in accordance with **Article Six** of this Zoning Ordinance.
  - e. Landscaping and Buffering shall be provided in accordance with **Section 316** of this Zoning Ordinance.

## SECTION 806           BED AND BREAKFAST

1. **Definition.** A private residence that offers sleeping accommodations to tourists, is the innkeeper's residence in which the innkeeper resides while renting the rooms to tourists and other transient guests.
2. **Regulations and Conditions.**
  - a. **Basic Standards.** It is the intent to establish reasonable standards for Bed and Breakfast Establishments to assure that:
    - 1) The property is suitable for transient lodging facilities.
    - 2) The use is not incompatible with other allowed uses.
    - 3) Lands in these districts shall not be subject to increased trespass.
    - 4) The impact of the establishment is no greater than that of a private home with house guests.
    - 5) A bed and breakfast shall maintain a smoke detector in proper working order in every sleeping room and a fire extinguisher in proper working order on every floor.
    - 6) All signs shall be in accordance with **Article Seven** of this Zoning Ordinance.
    - 7) All parking shall be in accordance with **Article Six** of this Zoning Ordinance.
    - 8) Landscaping and Buffering shall be provided in accordance with **Section 316** of this Zoning Ordinance.
    - 9) The number of sleeping rooms rented to transient guests within a Bed and Breakfast Establishment shall not exceed the following standards:

Within the LDR District:	5 sleeping units
Within the MDR District:	6 sleeping units
Within the CB and OC Districts:	6 sleeping units
  - b. **Specific Standards.** The following requirements together with compliance with the City of Niles Bed and Breakfast Ordinance and any other applicable requirements of this Ordinance shall be complied with:
    - 1) The minimum lot size shall be consistent with the District minimum for Single Family Dwellings.
    - 2) Parking; One (1) off-street space per rental sleeping room plus one (1) per owner occupant.
    - 3) One (1) sign identifying the establishment not to exceed six (6) square feet in area may be placed not closer to the street line than six (6) feet.
    - 4) The establishment shall have at least two (2) exits to the outdoors.



- 5) The establishment shall be the principal dwelling unit on the property and shall be owner-occupied at all times.
- 6) The rooms utilized for sleeping shall be a part of the primary residential use and not specifically constructed for rental purposes.
- 7) The rental sleeping rooms shall have a minimum size of one hundred-fifty (150) square feet for one (1) or two (2) occupants with an additional thirty (30) square feet for each occupant to a maximum of four (4) occupants per room.
- 8) The keeping of domestic pets of traveling tourists shall be prohibited.
- 9) Special Use approval shall not be granted if the essential character of the lot or structure in terms of traffic generation or appearance will be changed substantially.
- 10) A site plan shall include a floor plan layout of the proposed structure drawn to a scale of not less than 1" = 16' that shows the specific layout of the proposed facility in accord with the provisions of this Zoning Ordinance.

## **SECTION 807 BILLBOARDS**

1. **Definition.** A Billboard is an outdoor sign advertising services or products, activities, persons, or events which are not made, produced, assembled, stored, distributed, leased, sold, or conducted upon the premises upon which the billboard is located.
2. **Regulations and conditions.**
  - a. A Billboard shall be considered a principal structure on a parcel of land pursuant to **Section 305** hereof.
  - b. Not more than two (2) billboards may be located per one-quarter linear mile of highway/roadway regardless that such billboards may be located on different sides of the highway. The one-quarter linear mile measurement shall not be limited to the boundaries of the City of Niles where the road extends beyond such boundaries. Double-faced billboard structures (i.e., structures having back-to-back billboard faces) and V-type billboard structures saving only one face visible to traffic proceeding from any given direction on a highway shall be considered as one billboard. Otherwise, billboard structures having more than one billboard face, including billboard structures with tandem (side-by-side) or stacked (one above the other) billboard faces, shall be considered as two billboards and shall be prohibited in accordance with the minimum spacing requirement set forth in subparagraph b below.
  - c. No billboard shall be located within five hundred (500) feet of another billboard abutting either side of the same highway.
  - d. No billboard shall be located within two hundred (200) feet of a residential zone and/or existing residence.

- e. No billboard shall be located closer than the required front yard setback from the street right-of-way or a side yard setback from any interior boundary lines of the premises on which the billboard is located.
- f. The surface display area (sign face) of any side of a billboard may not exceed one hundred (100) square feet.
- g. The height of a billboard shall not exceed twenty (20) feet above the natural grade of the ground on which the billboard is established.
- h. No billboard shall be placed on top of, cantilevered or otherwise suspended above the roof of any building.
- i. A billboard may be illuminated, provided such illumination is confined to the surface of the sign and is so located as to avoid glare, upward light or reflection onto any portion of an adjacent street or highway property, landscaping, etc., the path of on-coming vehicles, or any adjacent premises. In no event shall any billboard have flashing or intermittent lights, nor shall the lights be permitted to rotate or oscillate.
- j. A billboard must be constructed in such a fashion that it will withstand all wind and vibration forces which can normally be expected to occur in the vicinity. A billboard must be maintained so as to assure proper alignment of structure, continued structural soundness, and continued readability of message.
- k. A billboard established within a business, commercial, or industrial area, as defined in the "Highway Advertising Act of 1972" (PA 106 of 1972, as amended) bordering interstate highway, freeways or primary highways as defined in said Act shall, in addition to complying with the above conditions, also comply with all applicable provisions of said Act and the regulations promulgated thereunder, as such may from time to time be amended.
- l. No person, firm or corporation shall erect a billboard within the City of Niles without first obtaining a Zoning Compliance Permit from the Zoning Administrator, which permit shall be granted upon a showing of compliance with the provisions of this Ordinance and payment of a fee. As with other fees, the amount of the billboard permit fee required shall be established by resolution of the City of Niles City Council and shall bear a reasonable relationship to the cost and expense of administering this permit.

## **SECTION 808            CONTRACTOR'S FACILITY**

1. **Definition.** A facility, building, structure, grounds, or portion thereof used to store tools, trucks, equipment, supplies, resources and materials used by building construction professionals, contractors, and subcontractors. Such facilities typically will include outdoor storage, assembly or staging areas.
2. **Regulations and Conditions.**
  - a. The applicant shall provide documentation acceptable to the Planning Commission that the proposed use shall meet the following standards:

- 1) Uses shall produce no detectable objectionable dust, fumes or odors at any property line.
  - 2) All travel surfaces shall be paved as a condition of approval.
  - 3) No exterior fixture shall cast light off the property and no light source shall be visible from any surrounding residential land uses.
  - 4) No off-site discharge of storm water except to approved drainage system in accord with the requirements of the City's Department of Public Works.
  - 5) Noise generated on site from any source shall not exceed 40 decibels measured at any property line.
- b. The Planning Commission may establish hours of operation for such uses consistent with the character of the land uses in the vicinity.
  - c. All signs shall be in accordance with **Article Seven** of this Zoning Ordinance.
  - d. All parking shall be in accordance with **Article Six** of this Zoning Ordinance.
  - e. Landscaping and Buffering shall be provided in accordance with **Section 316** of this Zoning Ordinance.

## **SECTION 809 CAMPS AND CAMPGROUNDS**

1. **Definition.** An establishment to accommodate an organized, supervised recreational program of outdoor activities for children or families, normally housed in tents or cabins, usually operated during the summer, and complying will all requirements of the Berrien County Department of Public Health, and other state and local regulatory agencies.
2. **Regulations and Conditions.** The applicant shall provide documentation acceptable to the Planning Commission that the proposed use shall meet the following standards:
  - a. An application for a Special Use permit for a camp or campground shall include evidence of proper licensure by all state and local regulatory agencies.
  - b. The application shall include a clear definition of the sponsoring agency or organization, including names and resumes of owners/operators and/or officers of the camp. Any affiliation with regional or national organizations shall be disclosed.
  - c. The applicant shall provide a detailed description of the proposed camping program to be carried out at the facility. Such description shall include the times of the year when the camp is proposed to be occupied, the nature of any instruction or educational program that may be provided, the numbers, ages and gender of campers to be accommodated, the ratio of camp staff to campers, and other information which in the judgment of the Zoning Administrator is necessary to provide a complete presentation of the proposed facility.
  - d. The site plan presented as part of the Special Use application shall indicate the location of temporary and permanent structures proposed.

- e. All signs shall be in accordance with **Article Seven** of this Zoning Ordinance.
- f. All parking shall be in accordance with **Article Six** of this Zoning Ordinance.
- g. Landscaping and Buffering shall be provided in accordance with **Section 316** of this Zoning Ordinance.

## **SECTION 810 CAR WASH**

1. **Definition.** A building and equipment used for the commercial washing, waxing, detailed cleaning of the interior and exterior of automobiles and trucks for the general public. Such facilities shall include self-wash, automated and hand wash facilities, as well as any combination thereof.
2. **Regulations and Conditions.**
  - a. All such facilities shall be connected to a public sewer system.
  - b. All washing activities shall be carried out within a building.
  - c. No vacuum equipment shall be located closer than one hundred (100) feet from any property line which abuts a property zoned or used for residential purposes.
  - d. Noise generated on site from any source shall not exceed 40 decibels measured at any property line.
  - e. All parking areas shall comply with the provisions of **Article Six** of this Zoning Ordinance.
  - f. All signs shall comply with **Article Seven** of this Ordinance.
  - g. Landscaping and Buffering shall be provided in accordance with **Section 316** of this Zoning Ordinance.

## **SECTION 811 CEMETERIES**

1. **Definition.** Public or private facilities for the internment of human remains or customary household pets in graves, crypts, mausoleums and related grounds and facilities.
2. **Regulations and Conditions.**
  - a. Cemeteries shall be established in compliance with Public Act 368 of 1978, as amended, Public Act 88 of 1875, as amended, and other applicable state laws.
  - b. A proposed cemetery that provides a chapel or other enclosure for graveside, internment and committal services shall be appropriately designed to accommodate occasional gatherings, including necessary restroom facilities and utilities.
  - c. All parking areas shall comply with the provisions of **Article Six** of this Zoning Ordinance.
  - d. All signs shall comply with **Article Seven** of this Ordinance.

## SECTION 812 COMBINATIONS OF USES

1. **Definition.** Land, development, buildings, or structures with a variety of complementary, harmonious, and integrated uses.
2. **Regulations and Conditions.**
  - a. Combinations of uses shall be compatible with adjacent uses and the capacities of affected public services and facilities, and such combinations of uses shall be amenable to the public health, welfare, and safety of Niles residents.
  - b. In the review of site plans and/or special use applications for uses involving combinations of uses otherwise permitted by right or by special use approval, the Planning Commission shall find that all such uses shall be mutually compatible with one another and that all special land standards applicable to any such component use in a combined land use shall be met.
  - c. All parking areas shall comply with the provisions of **Article Six** of this Zoning Ordinance, provided, the Planning Commission may approve joint parking arrangements to serve such combined uses upon acceptable documentation of alternate parking demand among the uses.
  - d. All signs shall comply with **Article Seven** of this Ordinance.
  - e. Landscaping and Buffering shall be provided in accordance with **Section 316** of this Zoning Ordinance.
  - f. The Planning Commission may establish hours of operation for nonresidential uses consistent with the character of the land uses in the vicinity.

## SECTION 813 COMMERCIAL ESTABLISHMENTS WITH DRIVE THRU

1. **Definition.** Activity involving the sale of goods or services for profit which allows customers to receive goods or services while remaining in their motor vehicles.
2. **Regulations and Conditions.**
  - a. All automobile queuing for a drive-through window shall be separated from other on-site traffic patterns.
  - b. Pedestrian areas shall be clearly marked.
  - c. The drive-through lane(s) shall be designed to accommodate a full-size passenger vehicle pulling a recreation-vehicle trailer.
  - d. The applicant shall demonstrate to the satisfaction of the Planning Commission that vehicle stacking areas for the drive-through facility are adequate to handle the highest volume likely at the facility without encroaching on the public right-of-way or the drive aisles, parking or pedestrian areas on site.

- e. All parking areas shall comply with the provisions of **Article Six** of this Zoning Ordinance.
- f. All signs shall comply with **Article Seven** of this Ordinance.
- g. Landscaping and Buffering shall be provided in accordance with **Section 316** of this Zoning Ordinance.

## **SECTION 814            CONSTRUCTION EQUIPMENT SALES AND SUPPLIES**

1. **Definition.** A parcel of land, building, structure, or portion thereof used for any activity involving the sale or leasing of construction related supplies, resources, and equipment shall be considered construction equipment sales and supplies.
2. **Regulations and Conditions.**
  - a. Building any outdoor storage area shall conform to the yard, setback and height standards of the zoning district in which it is located.
  - b. Uses shall produce no detectable objectionable dust, fumes or odors at any property line.
  - c. All travel surfaces shall be paved.
  - d. No exterior fixture shall cast light off the property and no light source shall be visible from any surrounding residential land uses. Building surface reflectivity shall be no greater than one (1) foot candle.
  - e. Interior site circulation shall be planned in such a manner that any trucks, tractors, cranes, or any other large construction related vehicles shall not protrude into any road right of way during ingress and egress from the site.
  - f. No off-site discharge of storm water except to approved drainage system in accord with the requirements of the City's Department of Public Works.
  - g. Noise generated on site from any source shall not exceed 50 decibels measured at any property line.
  - h. The Planning Commission may establish hours of operation for such uses consistent with the character of the land uses in the vicinity.
  - i. All signs shall be in accordance with **Article Seven** of this Zoning Ordinance.
  - j. All parking shall be in accordance with **Article Six** of this Zoning Ordinance.
  - k. Landscaping and Buffering shall be provided in accordance with **Section 316** of this Zoning Ordinance.

## SECTION 815 DAY CARE, GROUP 7-12 CHILDREN

1. **Definition.** A private home in which at least seven (7) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.
2. **Regulations and Conditions.**
  - a. All required state and local licensing shall be maintained at all times.
  - b. All outdoor areas used for the care and supervision of patrons shall have appropriate fencing for the safety of the children in the group day-care home; consisting of a 6-foot high privacy fence along the area adjoining another residence, and a minimum 4-foot high fence in the remaining area devoted to the day-care area.
  - c. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate.
  - d. Such facilities shall be located at least 1,500 feet from any one of the following:
    - 1) A licensed or pre-existing operating group day-care home.
    - 2) An adult care small group home (1-12 adults), per **Section 819**.
    - 3) An adult foster care large group home (13-20 adults), per **Section 820**.
    - 4) A facility offering substance abuse treatment and rehabilitation service to 7 or more people.
    - 5) A community correction center resident home halfway house or similar facility under jurisdiction of the Department of Corrections.
  - e. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding neighborhood.
  - f. Hours of operation shall not exceed sixteen (16) hours during a 24-hour period. The Planning Commission shall not prohibit evening operations completely, but may establish limitations on hours of operation and/or activities between the hours of 10PM and 6AM.
  - g. All parking areas shall comply with the provisions of **Article Six** of this Zoning Ordinance.
  - h. All signs shall comply with **Article Seven** of this Ordinance.
  - i. Landscaping and Buffering shall be provided in accordance with **Section 316** of this Zoning Ordinance.

## SECTION 816 DAY CARE CENTER OR CHILD CARE CENTER

1. **Definition.** A facility, other than a private residence, receiving one (1) or more preschool or school age children for care for periods of less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. Child care center or day care center includes a facility that provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. Child care center or day care center does not include any of the following:
  - a. A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are in attendance for not more than 3 hours per day for an indefinite period, or not more than 8 hours per day for a period not to exceed 4 weeks during a 12-month period.
  - b. A facility operated by a religious organization where children are cared for not more than 3 hours while persons responsible for the children are attending religious services.
2. **Regulations and Conditions.**
  - a. All required state and local licensing shall be maintained at all times.
  - b. All outdoor areas used for the care and supervision of patrons shall have appropriate fencing for the safety of the children. Such fencing shall consist of a 6-foot high privacy fence along the area adjoining another residence, and a 4-foot to 6-foot high fence in the remaining area devoted to the day-care area.
  - c. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate.
  - d. Such facilities shall be located at least 1,500 feet from any one of the following:
    - 1) A licensed or pre-existing operating group day-care home.
    - 2) An adult care small group home (1-12 adults).
    - 3) An adult foster care large group home (13-20 adults).
    - 4) A facility offering substance abuse treatment and rehabilitation service to 7 or more people.
    - 5) A community correction center resident home halfway house or similar facility under jurisdiction of the Department of Corrections.
  - e. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding neighborhood.



- f. Hours of operation shall not exceed sixteen (16) hours during a 24-hour period. The Planning Commission shall not prohibit evening operations completely, but may establish limitations on hours of operation and/or activities between the hours of 10PM and 6AM.
- g. All parking areas shall comply with the provisions of **Article Six** of this Zoning Ordinance.
- h. All signs shall comply with **Article Seven** of this Ordinance.
- i. Landscaping and Buffering shall be provided in accordance with **Section 316** of this Zoning Ordinance.

## **SECTION 817            DUPLEXES (TWO UNIT STRUCTURES)**

### **1. Definitions.**

- a. Duplex: A structure containing two (2) attached dwellings.

### **2. Regulations and Conditions.** Within the LDR district and any other zoning districts where duplexes are treated as special uses, the following standards shall be met.

- a. The parcel area shall not be less than 8,000 square feet.
- b. New duplexes shall be architecturally compatible with existing residential structures in the vicinity in terms of building scale, exterior finishes and roof type.
- c. An existing structure located in the LDR district and originally designed as a detached dwelling shall not be converted to a duplex or multiple dwelling except in accord with this **Section 817**. Each dwelling unit resulting from such conversion shall comply with the City of Niles Rental Registration and Certificate of Occupancy Code (**City of Niles Codes, Chapter 18, Article IV**) and shall be licensed in accord with said Code. Any exterior attachment or renovation of an existing residential building necessitated by the conversion to a duplex shall be designed and constructed to be architecturally compatible with the original structure and the character of existing residential structures in the vicinity. To the greatest extent possible, such exterior attachment or renovation shall be placed on the rear or side of the structure, and shall be screened from view from neighboring properties or the roadway with landscaping.
- d. All signs shall be in compliance with the provisions of **Article Seven** of this Ordinance.
- e. All off-street parking shall be in compliance with **Article Six** of this Ordinance.
- f. Landscaping and Buffering shall be provided in accordance with **Section 316** of this Zoning Ordinance.

## **SECTION 818            EDUCATIONAL INSTITUTION**

- 1. **Definition.** Public or parochial schools, junior college, college or university, other than trade or business schools including instructional and such accessory uses as recreational uses with or

without living quarters, dining rooms, restaurants, heating plants and other incidental facilities for students, teachers, and employees.

**2. Regulations and Conditions.**

- a. An education facility shall have its primary access directly from a paved, all-season road.
- b. If an education facility incorporates any gymnasium, theater, auditorium or large meeting space, it shall also comply with the requirements pertaining to Auditoriums, **Section 805** hereof.
- c. All outdoor play areas shall be enclosed with a durable fence six (6) feet in height.
- d. All required state and local licenses, charters, permits and similar approvals shall be issued prior to occupancy for any educational purposes.
- e. All exterior lighting shall be equipped with cut-off fixtures to prevent light from casting off the site. Exterior lighting devices shall be no higher than twenty (20) feet.
- f. All signs shall be in compliance with the provisions of **Article Seven** of this Ordinance.
- g. All off-street parking shall be in compliance with **Article Six** of this Ordinance.
- h. Landscaping and Buffering shall be provided in accordance with **Section 316** of this Zoning Ordinance.

**SECTION 819 FOSTER CARE, ADULT (7-12 RESIDENTS)**

1. **Definition.** A governmental or non-governmental establishment having as its principal function the receiving of adults for foster care. It includes facilities and foster care family homes for adults who are aged, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. Adult Foster Care Homes shall not include nursing homes.

**2. Regulations and Conditions.**

- a. Adult Foster Care homes serving seven (7) to twelve (12) residents shall not be considered a single family dwelling and shall be subject to the requirements of this **Section 819**.
- b. Adult Foster Care homes shall, as a condition of Special Use approval, at all times maintain all valid state and local licenses.
- c. An adult foster care home serving seven (7) to twelve (12) residents shall not be located within fifteen hundred (1,500) feet of any other adult foster care home.
- d. All exterior lighting shall be equipped with cut-off fixtures to prevent light from casting off the site. Exterior light standards shall be no higher than twenty (20) feet.
- e. All signs shall be in compliance with the provisions of **Article Seven** of this Ordinance.
- f. All off-street parking shall be in compliance with **Article Six** of this Ordinance.

- g. Landscaping and Buffering shall be provided in accordance with **Section 316** of this Zoning Ordinance.

## **SECTION 820            FOSTER CARE, ADULT (13+ RESIDENTS)**

1. **Definition.** A facility as defined in **Section 818** herein, but serving thirteen or more residents.
2. **Regulations and Conditions.**
  - a. Adult Foster Care homes serving more than twelve (12) residents shall not be considered a single family dwelling and shall be subject to the requirements of this **Section 820**.
  - b. Adult Foster Care homes shall, as a condition of Special Use approval, at all times maintain all valid state and local licenses.
  - c. An adult foster care home serving more than twelve (12) residents shall not be located within fifteen hundred (1,500) feet of any other adult foster care home.
  - d. All exterior lighting shall be equipped with cut-off fixtures to prevent light from casting off the site. Exterior light standards shall be no higher than twenty (20) feet.
  - e. All signs shall be in compliance with the provisions of **Article Seven** of this Ordinance.
  - f. All off-street parking shall be in compliance with **Article Six** of this Ordinance.
  - g. Landscaping and Buffering shall be provided in accordance with **Section 316** of this Zoning Ordinance.

## **SECTION 821            FUNERAL HOME**

1. **Definition.** A public or private facility used for the preparation of the deceased for display of the deceased and rituals in connection therewith prior to burial or cremation.
2. **Regulations and Conditions.**
  - a. The applicant shall illustrate to the Planning Commission the estimated necessity of off-street parking and stacking room for motor vehicles lined for funeral procession, and shall demonstrate how the site plan for the funeral home meets these requirements.
  - b. All exterior lighting shall be equipped with cut-off fixtures to prevent light from casting off the site. Exterior light fixtures shall be no higher than twenty (20) feet.
  - c. All signs shall be in compliance with the provisions of **Article Seven** of this Ordinance.
  - d. All off-street parking shall be in compliance with **Article Six** of this Ordinance.
  - e. Landscaping and Buffering shall be provided in accordance with **Section 316** of this Zoning Ordinance.

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

## **SECTION 822            GALLERIES AND MUSEUMS**

1. **Definition.** Repositories of objects connected with literature, art, history, culture, or science collected and displayed for the edification, amusement, entertainment, or education of patrons and consumers.
2. **Regulations and Conditions.**
  - a. The Planning Commission may establish hours of operation for such uses consistent with the character of the land uses in the vicinity.
  - b. All exterior lighting shall be equipped with cut-off fixtures to prevent light from casting off the site. Exterior light fixtures shall be no higher than fifteen (15) feet from the average surrounding grade.
  - c. All signs shall be in compliance with the provisions of **Article Seven** of this Ordinance.
  - d. All off-street parking shall be in compliance with **Article Six** of this Ordinance.
  - e. Landscaping and Buffering shall be provided in accordance with **Section 316** of this Zoning Ordinance.

## **SECTION 823            GASOLINE STATION**

1. **Definition.** Any building, structure, or land, or portion thereof, and any associated appurtenances, intended and used for the retail sale, supply, and dispensing of fuels for motor vehicles, and, in some instances, the retail sale or supply of fuels for motor vehicles and the retail sale of tobacco, snack food and drinks, newspapers, and similar convenience goods.
2. **Regulations and Conditions.**
  - a. The Planning Commission may establish hours of operation for gasoline stations which include the retail sale of goods other than the sale or supply of fuels for motor vehicles to protect the character of the land uses in the vicinity.
  - b. The applicant shall demonstrate to the Planning Commission proper design and licensing measures as required by State and federal statutory and regulatory authority.
  - c. All buildings, pump islands and other facilities shall be located in conformance with the yard and setback requirements of the zoning district.
  - d. Dismantled, wrecked, or immobile vehicles shall be not be kept outdoors.
  - e. No vehicles shall be parked on site for the purpose of selling or renting such vehicles.

- f. All exterior lighting shall be equipped with cut-off fixtures and other approved mechanisms to prevent light from casting off the site. All exterior lighting shall be buffered from neighboring parcels. Exterior light fixtures shall be no higher than twenty (20) feet above the average grade and shall be oriented downward.
- g. All signs shall be in compliance with the provisions of **Article Seven** of this Ordinance.
- h. All off-street parking shall be in compliance with **Article Six** of this Ordinance.
- i. Landscaping and Buffering shall be provided in accordance with **Section 316** of this Zoning Ordinance.

## **Section 824            HOME BASED BUSINESSES**

1. **Definition.** A home occupation, as defined herein, which involves business activities generally conducted at other locations.
2. **Regulations and Conditions.**
  - a. The use of the dwelling unit for the home based business shall be clearly incidental and subordinate to its use for residential purpose by its occupants, and not more than twenty-five percent (25%) of the floor area of the dwelling unit and one (1) permitted accessory building shall be used in the conduct of the home based business. A floor plan shall be submitted which illustrates conformance to said regulation.
  - b. No person, other than the resident occupants and one employee or independent contractor who need not be a resident, shall be working in the operation of the home based business. This does not preclude the use of additional employees who may be employed by the home based business who work in other locations off the home based business site. A resident occupant of the home based business site who is not employed by the home based business shall not be considered an employee or independent contractor of the home based business.
  - c. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home based business other than one (1) sign, not to exceed eight (8) square feet in area, non-illuminated, and mounted flat against the wall of the principal building.
  - d. A home based business shall not have a material negative impact upon the public health, safety or welfare of the City of Niles or areas immediately surrounding the home based business, including, but not limited to, overuse of streets and roads, change to the character of the area, blight, excessive noise, odors, or electrical interference. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio of television receivers off the premises or causes fluctuations in line voltage off the premises.
  - e. No traffic shall be generated by such home based business in greater volume than would be normally expected given the master planned and zoned district.

- f. No equipment or process shall be used in connection with the home based business, which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot.
- g. Customer, employee, or other vehicles must be parked off-street in a designated parking area at all times. The designated parking area shall be on the property of the dwelling which will accommodate the home based business. Such designated parking area shall be designed for no more than three (3) vehicles, and shall not be located in the required front yard area. Landscaping may be required as determined by the Planning Commission.
- h. Outside storage of material, equipment, scrap, and other goods relating to the home based business is prohibited, and any storage shall take place within an enclosed area. One (1) vehicle used in the conduct of the home based business may be stored on the site of the home based business, subject to site plan approval by the Planning Commission, per Article Ten. Said storage area for one (1) vehicle is not in addition to the two (2) vehicle parking area mentioned in subparagraph g., above.
- i. Hours of operation shall be reasonable and customary for the type of home based business approved and in the zoning district in which the home based business exists.
- j. The Planning Commission may impose additional conditions as necessary to preserve the home based business area.

## **SECTION 825            HOTELS AND MOTELS**

1. **Definition.** Buildings or groupings of buildings offering transient lodging accommodations to the general public, and usually providing additional services, such as meeting rooms, entertainment, recreational facilities, and restaurants, and distinguished from boarding houses, lodging houses, apartment hotels, and apartments.
2. **Regulations and Conditions.**
  - a. The property shall be suitable for transient lodging facilities with overnight lodgers staying typically not longer than seven (7) nights.
  - b. A hotel that includes auditorium space shall be further regulated under the provisions of **Section 805**.
  - c. The use shall be compatible with other allowed uses in the vicinity and the impact of the establishment in terms of parking, traffic, noise and odors.
  - d. All exterior lighting shall be equipped with cut-off fixtures to prevent light from casting off the site. Exterior light fixtures shall be no higher than fifteen (15) feet from the average surrounding grade.
  - e. All signs shall be in compliance with the provisions of **Article Seven** of this Ordinance.
  - f. All off-street parking shall be in compliance with **Article Six** of this Ordinance.

- g. Landscaping and Buffering shall be provided in accordance with **Section 316** of this Zoning Ordinance.
- h. Any failure on the part of the operator to maintain proper licensing shall be grounds for the revocation of a special use permit for a hotel or motel.

## **SECTION 826           KENNELS AND ANIMAL CLINIC**

1. **Definition.** Any lot or premises or portion thereof on which more than four (4) dogs, cats or other household domestic animals are kept for compensation or kept for sale, or on which more than two (2) such animals are boarded, bred, or trained for compensation or kept for sale on a continuous basis, and may include a place where such animals are given medical care and the boarding of animals is limited to short-term care incidental to the medical care use.
2. **Regulations and Conditions.**
  - a. Animal wastes, bio hazard materials or byproducts shall be disposed of as required by the Medical Waste Law of the State of Michigan and kennel operations shall be subject to inspection by the Michigan Department of Public Health as that law requires. All other wastes shall be contained in leak-proof and odor proof containers removed not less frequently than once per week. No animal wastes, bio hazard materials or byproducts shall be buried or incinerated on site. Any failure on the part of the operator to maintain proper licensing shall be grounds for the revocation of a special use approval for an Animal Clinic.
  - b. Said use shall be located on not less than one-third (1/3) acre of land, provided all operations and the housing of animals are contained in one or more completely enclosed buildings.
  - c. Only small animals (household pets) shall boarded on the premises.
  - d. There shall be sufficient sound proofing to prevent any noise disturbance beyond the property boundaries.
  - e. All outdoor exercise areas for animals shall be adequately fenced to prevent both escape and entry by wild animals into the facility.
  - f. All signs shall be in compliance with the provisions of **Article Seven** of this Ordinance.
  - g. All off-street parking shall be in compliance with **Article Six** of this Ordinance.
  - h. Landscaping and Buffering shall be provided in accordance with **Section 316** of this Zoning Ordinance.
  - i. All exterior lighting shall be equipped with cut-off fixtures to prevent light from casting off the site. Exterior light fixtures shall be no higher than fifteen (15) feet from the average surrounding grade.
  - j. Approval of a kennel or animal clinic permitted under this section shall be conditioned upon continued compliance with the City of Niles Animal Ordinance.

## SECTION 827            LABORATORIES

1. **Definition.** A place devoted to experimental study such as testing and analyzing in which manufacturing, assembly or packaging of products is not conducted as a routine part of normal activities.
2. **Regulations and Conditions.**
  - a. Uses shall be designed to prevent the discharge or emission of hazardous, contaminated or toxic gases, liquids or particulate matter in any quantity that may perceptible at lot lines.
  - b. All experimentation and storage shall take place inside a secure building or structure.
  - c. The laboratory shall be designed in accord with all required state and federal licensing and permitting requirements. All wastes produced within the facility shall be properly characterized and documented and disposed of in accord with applicable statutory and regulatory requirements. Any failure to comply with any federal or state licensing or permitting requirement shall be grounds for the revocation of any special use permitted issued pursuant to this section.
  - d. All signs shall be in compliance with the provisions of **Article Seven** of this Ordinance.
  - e. All off-street parking shall be in compliance with **Article Six** of this Ordinance.
  - f. Landscaping and Buffering shall be provided in accordance with **Section 316** of this Zoning Ordinance.

## SECTION 828            LAUNDRY AND DRY CLEANING ESTABLISHMENT

1. **Definition.** A service business which provides washers and dryers and other facilities for rental use to the general public for cleaning garments, bedclothes, and other household and personal materials and a facility which provides cleaning and dry cleaning services to the general public.
2. **Regulations and Conditions.**
  - a. All storage tanks or other facilities used to store hazardous, toxic, explosive or flammable substances shall be equipped with appropriate containment structures or equipment to prevent any migration of such substances into the groundwater or surface waters of the City.
  - b. All signs shall be in compliance with the provisions of **Article Seven** of this Ordinance.
  - c. All off-street parking shall be in compliance with **Article Six** of this Ordinance.
  - d. Landscaping and Buffering shall be provided in accordance with **Section 316** of this Zoning Ordinance.



## SECTION 829 MINI-WAREHOUSE, SELF-STORAGE

1. **Definition.** A building or structure containing separate, individual, and personal storage spaces leased or rented on individual leases to the general public, including residential and commercial establishments, for varying periods of time.
2. **Regulations and Conditions.**
  - a. The area of the proposed site shall be at least one (1) acre.
  - b. The use shall be established and maintained in accordance with all applicable Local, State and Federal laws.
  - c. All storage shall be inside an enclosed building; no outdoor storage is allowed.
  - d. Parking shall be provided as needed for the office uses as provided in **Article Seven** of this Ordinance.
  - e. All parking, maneuvering and drive lane areas shall be provided with a paved surface and all drive aisles shall be twenty-five (25) feet in width. The Planning Commission shall approve the circulation pattern within the site, which shall be clearly marked.
  - f. Each storage unit shall have an individual door to the outdoors and shall be accessible by the owner of the storage items in accordance with hours of operation approved by the Planning Commission. Such hours of operation shall be posted at the entrance to the facility.
  - g. All exterior light fixtures shall be oriented downward and shielded from neighboring uses.
  - h. All signs shall be in compliance with the provisions of **Article Seven** of this Ordinance.
  - i. Landscaping and Buffering shall be provided in accordance with **Section 316** of this Zoning Ordinance.

## SECTION 830 NURSING HOME

1. **Definition.** A long-term care facility or a distinct part of a facility licensed or approved as a nursing home, infirmary unit of a home for the aged or a governmental medical institution.
2. **Regulations and Conditions.**
  - a. A nursing home proposed to be located within the LDR 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. All exterior lighting shall be equipped with cut-off fixtures to prevent light from casting off the site. Exterior light fixtures shall be no higher than fifteen (15) feet.
- f. All signs shall be in compliance with the provisions of **Article Seven** of this Ordinance.
- g. All off-street parking shall be in compliance with **Article Six** of this Ordinance.
- h. Landscaping and Buffering shall be provided in accordance with **Section 316** of this Zoning Ordinance.

## **SECTION 831            OUTDOOR STORAGE, UP TO 4 RECREATION VEHICLES**

- 1. **Definition.** An accessory use, as defined herein, which keeps in an unenclosed area, vehicles used for recreational purposes, including motorized and non-motorized campers, motor homes, motorcycles and motorbikes, motorized and non-motorized boats and other nautical equipment.
- 2. **Regulations and Conditions.**
  - a. Advertisements of any kind are prohibited.
  - b. Landscaping and Buffering shall be provided in accordance with **Section 316** of this Zoning Ordinance.
  - c. Lighting of the use is prohibited.
  - d. The premises shall be regularly maintained to prevent weeds and debris from affecting neighboring uses.

## **SECTION 832            PLACES OF PUBLIC ASSEMBLY**

- 1. **Definition.** A place of public assembly shall be considered a large facility if it has either five thousand (5,000) square feet or more in gross floor area, total seating capacity of more than three hundred (300) in the largest room intended for public assembly, or the capability to expand to meet these standards in the future.
- 2. **Regulations and Conditions.**
  - a. A Large Place of Public Assembly shall front on and be accessed from a major or arterial street, as defined herein.
  - b. A Large Place of Public Assembly that includes facilities for the service of food or beverages for commercial purposes may be required to meet the standards of **Section 842**, hereof pertaining to taverns and lounges.
  - c. The Zoning Administrator may recommend and the Planning Commission may require the completion of a traffic impact study under the terms of **Section 801, 2, d** of this

Zoning Ordinance if the proposed large place of public assembly expected to generate significant levels of traffic that may create excessive congestion. The results of such traffic study may be considered by the Planning Commission in its decision to grant, grant with conditions or deny the special land use application.

- d. All signs shall be in compliance with the provisions of **Article Seven** of this Ordinance.
- e. All exterior lighting shall be in accordance with **Section 311** hereof.
- f. All off-street parking shall be in compliance with **Article Six** of this Ordinance.
- g. Landscaping and Buffering shall be provided in accordance with **Section 316** of this Zoning Ordinance.

### **SECTION 833 PLANNED UNIT DEVELOPMENT (PUD)**

1. **Definition.** A tract of land which is planned as a whole for development under single ownership or control and which, by virtue of such unified planning and development, provides greater amenities, convenience or other benefits than would otherwise be possible through conventional means.
2. **Statement of Intent.** It is the purpose of this section to permit flexibility in the regulation of land development, and to encourage innovation and variety in land use and design of projects. The basic provisions concerning Planned Unit Development are the subdivision, development, and use of land as an integral unit, combining more than one primary land use and which may provide for single-family residential, multi-family residential, education, business, commercial, industrial, recreation, park and common use areas, which are compatible with one another and provide for efficient use of land. The objectives of these Planned Unit Development standards shall be to:
  - a. To permit flexibility in the regulation of land development.
  - b. To encourage innovation in land use and variety in design, layout, and type of structures constructed.
  - c. To achieve economy and efficiency in the use of land, natural resources, energy, and the providing of public services and utilities.
  - d. To encourage useful open space; to provide improved housing, employment, and shopping opportunities particularly suited to the needs of the residents of the State and City.
  - e. To encourage the innovative use, re-use, and improvement of existing sites and buildings.
3. **Regulations and Conditions:** In its establishment and authorization as a special use, in addition to the foregoing provision, the following procedures, requirements, restrictions, standards and conditions shall be observed. Where the Planning Commission determines it is necessary to allow a more flexible and innovative development to occur, terms of the Niles Zoning Ordinance and Subdivision Regulations may be adjusted in accordance with the

provisions of this Section. Planned Unit Developments shall meet the following general standards:

- a. The use will be compatible with adjacent land use, the natural environment, and the capacities of affected public services and facilities, and that such use is consistent with the public health, safety and welfare of the residents of the City of Niles and the benefits of the development are not achievable under any single zoning classification.
  - b. The use shall be consistent with the City of Niles Master Plan.
  - c. The use and development is warranted by the design and additional amenities made possible with and incorporated by the development proposal.
  - d. The development consolidates and maximizes usable open space.
  - e. Landscaping is provided to insure that proposed uses will be adequately buffered from one another and from surrounding public and private property and to create a pleasant pedestrian scale outdoor environment.
  - f. Vehicular and pedestrian circulation, allowing, safe convenient, non-congested and well-defined circulation within and access to the development shall be provided.
  - g. Existing important natural, historical and architectural features within the development shall be preserved.
4. **Dimensional and Use Standards:** In acting upon the application, the Planning Commission may alter lot size limits, required facilities, buffers, open space areas, setback requirements, height limits, building size limits, off-street parking regulations, landscaping rules, and miscellaneous regulations, where such regulations or changes are consistent with the intent, objectives, and standards set forth in **Section 832, 2**. Further, the Planning Commission may also alter residential density limits, providing they do not exceed recommended maximums set forth in the City's Master Plan.

The Planning Commission may also authorize principal and other uses not permitted in the district where the land is located, provided that such are consistent with the intent of this section, the standards set forth herein. Dimensional and parking use restrictions of the underlying zoning shall not apply to the area within an approved PUD unless expressly retained in the permit.

5. **PUD Application.** A planned unit development application shall be submitted to the Planning Commission for review, analysis, and hearing process. An application fee is required and shall be non-refundable. The City Council shall by resolution establish the amount of the application fee. All land for which application is made must be owned by, or under the control of, the applicant, and the parcel must be capable of being planned and developed as one integral land use unit including any non-contiguous parcels. The application must be signed by all applicants and must contain the materials described in this Section. Failure of the applicant to provide such requested information in a timely manner may delay the process of review.

- a. Developer's intent and objectives (physical, social and environmental)
- b. A certified boundary survey and legal description of the property.
- c. A statement of present ownership of all land contained in the PUD.
- d. A population profile for the development.
- e. Proposed financing.
- f. Development staging.
- g. Soil types and ability of soils to accommodate the proposed development.
- h. Estimated impact of the proposed development on roads, schools, and utilities, including water and sewer, fire protection and emergency services.
- i. Estimated impact of the proposed development on the environment which includes;
  - 1) A written assessment and analysis of the proposed development regarding the water, air and natural features.
  - 2) Any adverse environmental effects which cannot be avoided if the proposal is implemented.
  - 3) Mitigation measures proposed to minimize the impact.
  - 4) Any irreversible environmental changes which would be involved in the proposed action should it be implemented.
- j. Waste emissions and methods of handling smoke, dust, noise, odors, liquids, solids and vibrations, if applicable.
- k. Market and economic feasibility.
- l. Such other information pertinent to the development or use.
- m. Ten (10) copies of a Preliminary Site Plan, that includes;
  - 1) A scale drawing of the site and proposed development thereon, including the date, name and address of the preparer, a certified boundary survey and legal description of the property.
  - 2) Property parcel number (from the Assessment Roll of the City).
  - 3) Topography of the site at two (2) foot contour intervals, its relationship to adjoining land, and proposed changes in topography, or in lieu of, existing and proposed elevations.
  - 4) Itemization of existing human-made features, existing land use and zoning for the entire site and surrounding area within one hundred (100) feet.
  - 5) Show all water features; springs, streams and creeks, lakes and ponds, wetlands, flood plains.
  - 6) Proposed setbacks from property lines and building separations distances.

- 7) Locations, heights and sizes of existing and proposed structures and other important features. A rendering of the exterior elevation of the proposed buildings and structures, on-site parking, sidewalks and travel lanes.
- 8) A land use tabulation summary shall be provided in the margin of the plan indicating types of uses, acreage for each land use, number of units, densities and land use intensities.
- 9) Also include percentage of land covered by buildings, parking and landscape open space, or reserved for open space.
- 10) Dwelling unit density where pertinent.
- 11) Location of public and private rights-of-way and easements contiguous to and within the proposed development which are planned to be continued, created, relocated or abandoned, including grades and types of construction of those upon the site.
- 12) Curb-cuts, driving lanes, parking and loading areas.
- 13) Location and type of drainage, sanitary sewers, storm sewers and other facilities.
- 14) Location and nature of fences, landscaping and screening. Also show proposed landscape massing, open spaces and their intended use, active and passive recreation facilities pursuant to the landscaping and buffering standards of **Section 316**.
- 15) Proposed earth changes.
- 16) Signs and on-site illumination.
- 17) The location of all existing trees having five (5) inches or greater diameter breast height, identified by common or botanical name. Trees proposed to remain, to be transplanted or to be removed shall be so designated. Cluster of trees standing in closed proximity (3-5 feet or closer) may be designated as a "stand" of trees, and the predominant species, estimated number and average size shall be indicated.
- 18) Any additional material information necessary to consider the impact of the project upon adjacent properties and the general public as may be requested by the Planning Commission.

## 6. Procedure

- a. A public hearing by the Planning Commission shall be held on each planned unit development request properly filed under the terms of this ordinance. Notice of the public hearing shall be given not less than fifteen (15) days before the date of the public hearing. Notice shall be published in a newspaper of general circulation in the City and shall be mailed or personally delivered to:
  - 1) The owners of the property for which approval is being considered.
  - 2) All persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question.

- 3) At least one occupant of each dwelling unit or spatial unit owned or leased by different persons within three hundred (300) feet of the boundary of the property in question. Where a single structure contains more than four (4) dwelling units or other distinct spatial units, notice may be given to the manager or owner of the structure with a request to post the notice at the primary entrance to the structure. Where the name of the occupant is not known, the term "occupant" may be used in making notification.
  - b. The notice of the public hearing shall contain the following:
    - 1) Description of the nature of the planned unit development request.
    - 2) Description of the property which is the subject of the planned unit development.
    - 3) Time and place of consideration of and public hearing on the planned unit development request.
    - 4) When and where written comments will be received concerning the request.
7. **Decisions.**
- a. If the Planning Commission determines that the PUD application is consistent with the intent of this Section and with the other standards and requirements herein contained, it shall adopt a resolution approving the proposed PUD in accordance with the application and material submitted, or approving the proposed PUD in accordance with the application and material submitted and subject to any conditions that the Planning Commission believes are necessary to carry out the intent and standards of this ordinance. Such conditions of approval shall:
    - 1) Be designed to protect natural resources, the health, safety and welfare of the community, including those who will use the proposed development,
    - 2) Be related to the valid exercise of the police power and purposes which are affected by the proposed PUD,
    - 3) Be necessary to meet the intent and purpose of this Ordinance, the standards established for planned unit development and be necessary to assure compliance with this Ordinance.
  - b. If the Planning Commission determines that the PUD application is not consistent with the intent of this Section, it shall adopt a resolution denying the application.
  - c. In either event, the decision of the Planning Commission shall recite the findings of fact and the reasons upon which it is based.
8. **Effect.** After approval of a PUD, the land to which it pertains shall be developed and used in its entirety only as authorized and described in the order approving the PUD or only as authorized by the provisions of this Ordinance which would apply if the PUD order had not been issued.

9. **Phased PUD.** Each phase of a PUD shall be planned, developed and approved to exist as a complete development able to stand on its own in the event subsequent phases are not implemented.
10. **Amendments.** An order approving a PUD may be amended as follows:
  - a. **Minor amendments.** Minor amendments are those which will have no foreseeable effect beyond the property boundary such as minor changes in the location of buildings, the alignment of utilities, and the alignment of interior roadways and parking areas. Minor amendments for good cause may be authorized by the Zoning Administrator provided no such changes shall increase the size or height of structures, reduce the efficiency or number of public facilities serving the PUD, reduce usable open space, or encroach on natural features proposed by the plan to be protected.
  - b. **Major amendments.** Any amendment not qualifying as a minor amendment is considered to be a major amendment and must be approved by the Planning Commission according to the procedures authorized by this section for approval of a planned unit development.
11. **Termination.** The PUD order shall expire two years from date of final approval if the applicant has not commenced substantial construction and is diligently proceeding to completion. Upon written request stating the reasons therefore, the Planning Commission, may extend an order. An order may be canceled by written agreement executed by the owner of the land to which it pertains and the Zoning Administrator at any time when the development and use of the land is in conformance with all provisions of this ordinance which would apply if such order had not been issued. The order may be rescinded at any time by the Planning Commission for violation of the order by the applicant, its successors, agents or assigns after notice to the current owners and occupiers of the PUD area and after a hearing on the violation. Upon termination of an order the zoning requirements shall revert to the current requirements for the zoning district designated for the property prior to the order.
12. **Ordinance Amendment.** A planned unit development approval shall not be considered an ordinance amendment.

## **SECTION 834            PROFESSIONAL OFFICES**

1. **Definition.** The office of a member of a recognized profession maintained for the conduct of that profession as a business.
2. **Regulations and Conditions.** Professional offices proposed within a residential district shall be subject to the following requirements.
  - a. The minimum parcel area shall be not less than the required minimum parcel area for a single-family dwelling in the district.
  - b. An office building shall be setback not less than 15 feet from any adjoining property zoned or used for residential purposes.



- c. All parking areas that abut property zoned or used for residential purposes shall be effectively screened with landscaping or an approved fencing and all landscaping and buffering shall be provided in accordance with **Section 316** of this Ordinance.
- d. Special land use approval shall not be granted for an office building proposed to be located within an existing structure in a residential district if the essential character of the lot or structure in terms of traffic generation or appearance will be changed substantially.
- e. All signs shall be in compliance with the provisions of **Article 7** of this Ordinance.
- f. All parking shall be in accordance with **Article 6** of this Ordinance.

**SECTION 835 RESEARCH, DEVELOPMENT AND TESTING**

- 1. **Definition.** An establishment or facility investigating the natural, physical, or social sciences, which may include engineering and product development.
- 2. **Regulations and Conditions.**
  - a. Uses shall be designed to prevent the discharge or emission of hazardous, contaminated or toxic gases, liquids or particulate matter in any quantity that may perceptible at lot lines.
  - b. Within one hundred (100) feet of a LDR or MDR district, 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 evergreens and fencing up to the height limitations of the zoning district.
  - c. 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.
  - d. All signs shall be in compliance with the provisions of **Article Seven** of this Ordinance.
  - e. All off-street parking shall be in compliance with **Article Six** of this Ordinance.
  - f. Landscaping and Buffering shall be provided in accordance with **Section 316** of this Zoning Ordinance.

**SECTION 836 RETAIL BUSINESS**

- 1. **Definitions.** An establishment engaged in selling goods or merchandise to the general public for personal or household use or consumption and rendering services incidental to the sale of such goods.
- 2. **Regulations and Conditions.**

- a. All exterior lighting shall be equipped with cut-off fixtures to prevent light from casting off the site. Exterior light fixtures shall be no higher than fifteen (15) feet.
- b. The Planning Commission shall determine whether the proposed retail special use will be essentially compatible with the character of the proposed site and the existing uses in the vicinity.
- c. The Planning Commission shall approve site circulation patterns and access locations.
- d. All signs shall be in compliance with the provisions of **Article Seven** of this Ordinance.
- e. All off-street parking shall be in compliance with **Article Six** of this Ordinance.
- f. Landscaping and Buffering shall be provided in accordance with **Section 316** of this Zoning Ordinance.

## **SECTION 837 SAND AND GRAVEL MINE**

- 1. **Definitions.** A business involved in the excavation, processing, stockpiling and removal of soil, gravel, sand, minerals and other materials from the earth.
- 2. **Regulations and Conditions.**
  - a. In General. To provide for the prior approval by the Planning Commission of a Special Use Permit for earth removal, quarrying, gravel processing, mining and related mineral extraction businesses in any area of the City, said commission shall be satisfied the following conditions and limitations are, or shall be, strictly complied with, in addition to any other requirements contained in this zoning ordinance or in any other ordinance controlling such operations.
  - b. Location. All such operations shall be located on a paved, all-season road, as defined by the Director of Public Works, for ingress and egress thereto, or on a road, which does not create traffic through an area, developed primarily for residential purposes. Where necessary, the Planning Commission may require the applicant to repair any roads that are damaged by truck travel to the specifications of the Director of Public Works.
  - c. Setback. The following setback limits shall be observed.
    - 1) Sufficient setbacks shall be provided from all property lines and public highways to assure adequate lateral support for adjacent public and private property.
    - 2) No such excavation operation shall be permitted closer than one hundred fifty (150) feet from the boundary lines of the property or such larger setback as may be required by the Planning Commission to adequately protect adjoining properties. However, if the adjoining property is also used for such mining and excavation operation, then the Planning Commission may reduce or eliminate the required setback from that interior boundary line. In addition, such setback may be temporarily reduced to 50 feet if reclamation of the land is promptly effected to increase the setback to at least 150 feet

in accordance with the reclamation plan approved by the Planning Commission and adequate lateral support is at all times maintained.

- 3) No excavation operation shall be permitted within fifty (50) feet of adjoining public rights-of-way except for the lowering of land adjoining said rights-of-way to the grade level of said rights-of-way. Such excavation businesses shall at no time be permitted where adequate lateral support for the maintenance of adjoining lands is not maintained.
  - 4) Any permanent processing plant and accessory structures shall be located no closer than two hundred fifty (250) feet from any parcel boundary, and shall, where practicable, be located at a lower elevation than the surrounding terrain to lessen visual and noise impact. In addition, the foregoing shall apply to the digging or excavating apparatus and to the stockpiling or loading of materials and to the location of transportation equipment.
  - 5) No such excavation operation shall be 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 commission having jurisdiction thereof. No such mining operations shall interfere with the natural established flow of surface waters to the detriment or damage of adjoining public or private properties.
- d. Screening. Sight barriers shall be provided along all boundaries of the site where quarrying, gravel processing, mining and related mineral extraction is proposed, which lack natural screening conditions through existing contours or evergreen growth. Such barriers shall consist of one or more of the following:
- 1) Earth berms constructed to a height of six above the mean elevation of the centerline of the adjacent public highway or six (6) feet above the general level of terrain along interior property lines, as the case may be. Such berms shall have slopes that are not in excess of one (1) foot vertical to three (3) feet horizontal and shall be planted with grass, trees or shrubs.
  - 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 sufficiently spaced to provide effective sight barriers when six (6) feet in height.
  - 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.
- e. Nuisance Abatement. Noise and vibration shall be minimized in their effect upon adjacent properties by the utilization of modern equipment designed to accomplish such minimization and by the proper use of berms, walls, and natural planting screens. All equipment shall be maintained and operated in such a manner so as to eliminate, as far as practicable, excessive noise and vibrations which are not necessary in the operation of such equipment. Air pollution in the form of dust and dirt shall also be kept to a minimum by the use of modern equipment and methods of operation designed to avoid any excessive

dust or dirt or other air pollution injuries or substantially annoying to adjoining property owners. Interior and adjoining roads used in the operations shall have their surface treated to minimize any such nuisance.

- f. Hours. The operation shall be restricted to the hours of 7 o'clock a.m. until 7 o'clock p.m. and no operations shall be allowed on Sundays.
- g. Fencing. All dangerous excavations, pits, and pond areas, banks or slopes shall be fenced and posted with signs around the perimeter thereof and maintained to prevent injury to children or others, and shall be eliminated as expeditiously as possible.
- h. Reclamation of Mined Areas or Excavated Areas. Reclamation and rehabilitation of mined areas shall be accomplished as soon as practicable following the mining or excavation of an area. Rehabilitation and reclamation shall be commenced immediately upon the termination of the mining or excavation operations in any area consisting of one acre or more. Substantial completion of reclamation and rehabilitation shall be effected within one (1) year after termination of mining or excavation activity. Inactivity for a twelve (12) month consecutive period shall constitute, for this purpose, termination of mining activity. The following standards shall control reclamation and rehabilitation:
  - 1) All excavation shall be either to a water-producing depth of not less than five (5) feet below the average summer level of water in the excavation, or shall be graded or back-filled with non-noxious, non-inflammable and non-combustible solids to insure:
    - (a) That the excavated areas shall not collect stagnant water and not permit the same to remain therein; or,
    - (b) That the surface of such area which is not permanently submerged is graded or backfilled as necessary to produce a gently rolling surface that will minimize wind and water erosion, and which will be generally compatible with the adjoining land area.
  - 2) The banks of all excavations shall be sloped to the waterline in a water-producing excavation, and to the pit floor in a dry operation at a slope, which shall not be steeper than one foot vertical to three feet horizontal. Topsoil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water, except where streets, beaches or other planned improvements are to be completed within a one-year period. Where used, topsoil shall be applied to a minimum depth of four inches sufficient to support vegetation.
  - 3) Vegetation shall be restored by the appropriate seeding of grasses or the planting of trees and shrubs to establish a permanent vegetative cover on the land surface and to minimize erosion.
  - 4) Upon cessation of mining operations by abandonment or otherwise, the operating company, within a reasonable period of time not to exceed twelve (12) months thereafter, shall remove all plant structures, foundations, buildings, stockpiles and equipment, provided that buildings and structures which have a function under the

reclamation plan and which can be lawfully used under the requirements of the zoning district in which they will be located under such plan may be retained.

- i. Performance Bond. A performance bond, irrevocable bank letter of credit or cash shall be furnished to the Finance Director insuring the proper rehabilitation and reclamation of the mined and excavated areas prior to the commencement of any such mining or excavating operations. The amount of guarantee shall be not less than five thousand (\$5,000) dollars per acre proposed to be mined or excavated in the following twelve (12) months' period and which has previously been mined or excavated during any preceding period and not reclaimed and rehabilitated in accordance with this ordinance and the applicant's filed plan.
- j. Submission of Operational and Reclamation Plans. No earth removal, quarrying, gravel processing, mining and related mineral extraction businesses shall be allowed or commenced until a plan has been submitted to the Planning Commission and approved. Such plan shall set forth measures to be taken to assure compliance with all of the provisions of this section. Such plans shall include, among other things, the following:
  - 1) A contour map of the tract of land involved in the operations, including dimensions of the same, access thereto abutting public streets, and whether or not the same are "paved, all-season" roads, additional roads, if any, to be constructed, and the location and nature of abutting improvements on adjoining property.
  - 2) The number of acres and the location of the same proposed to be operated upon within the following twelve (12) months period after commencement of operations. Not more than three (3) acres of any site shall be open for active mining operations at any one time unless the applicant has demonstrated to the satisfaction of the Planning Commission that appropriate measures will be in place to control erosion, prevent slope failure, prevent unauthorized access to the site and prevent blowing of sand and dust onto neighboring premises or onto the adjoining roadway.
  - 3) The type of mining or processing proposed to be conducted and the nature of the equipment to be used.
  - 4) The location of the principal processing plant and the distance of any proposed excavation or mining from the boundaries of the site.
  - 5) Soil boring tests shall be made around the perimeter of the excavation site in the event excavation or activities are to be conducted closer than one hundred fifty (150) feet from the boundaries of the site, said boring tests shall disclose conditions satisfactory for lateral support of adjacent premises as determined by the Director of Public Works. The written consent of the owners of adjoining premises and of the Planning Commission shall be required if mining operations shall be closer than specified in the ordinance to the boundaries of the site.
  - 6) A map or plan disclosing the final grades and elevations to be established following the completion of the mining operations, including the proposed uses then contemplated for the land, future lakes and roads and such other matters as may evidence the bona

- vide nature of the reclamation and rehabilitation plans and the fact that the land will not be devastated and rendered unusable by the proposed mining activities. The Planning Commission may consult with mining or engineering consultants to evaluate the proposed mining plan and any cost associated with such review shall be the responsibility of the applicant.
- 7) Soil boring tests shall be submitted to provide the depth of the groundwater table of the proposed site.
  - 8) The Planning Commission may require an environmental impact statement, concerning the existing environmental conditions in the proposed area to be excavated, which should include statements concerning, but not limited to: land, vegetation, water, etc.
- k. Basis for Decisions. Following a special use hearing in accord with **Section 801** hereof, the Planning Commission shall grant, deny or table the application and set forth its reasons for its decision. Such decision shall be based upon the criteria set forth in this Ordinance and shall be based, in addition, on a consideration of the following:
- 1) The most advantageous use of the land, resources and property.
  - 2) The character of the area in question and its peculiar suitability, if any, for particular uses.
  - 3) Conservation of property values, as well as natural resources and the general and appropriate trend and character of development in the subject area.
  - 4) The protection and preservation of the general health, safety and welfare of the residents of the City.
  - 5) The scarcity or value of the minerals sought to be mined as compared with the effect upon the adjacent community of the proposed operations.
  - 6) Whether or not the operations were previously in existence prior to the adoption of this section and the extent and character of such previous operations.
- l. Conditions. In making any decision, the Planning Commission shall have the right and authority to impose such additional conditions and safeguards as it deems necessary for the protection of the health, safety and general welfare of the neighborhood and of the adjoining residents and property owners. It may also limit the length of time its Special Land Use Permit is to be effective and may provide for a periodic review of the proposed operations to ascertain compliance with the conditions and limitations imposed upon the same.
- m. Extension, Renewal, Revocation. The Planning Commission shall be empowered to renew or extend a Special Use permit issued under this Section where all standards and conditions are complied with and may revoke or refuse to renew the same where noncompliance exists. No revocation or failure to renew or extend a permit shall release the applicant from the duty of rehabilitation and reclamation of said mined or disturbed

area. No permit shall be revoked or not renewed until the operator has been given written notice of any violation forming the basis of such revocation or denial of renewal and not less than thirty (30) days have elapsed to correct the said violation. The Zoning Administrator shall review all permits annually and report to the Planning Commission. The operator shall be required to pay an annual fee to cover the cost of inspections and additional meetings of the Planning Commission as may be established by the City Council.

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

## **SECTION 838           SEXUALLY ORIENTED BUSINESS**

1. **Definition.** Establishments, which include but are not limited to:

- a. **Adult Arcade:** Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion pictures machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of Specified Sexual Activities or Specified Anatomical Areas.
- b. **Adult Bookstore or Adult Video Store:** A commercial establishment that, as one of its principal business purposes, offers for any form of consideration any one or more of the following:
  - 1) Books, magazines, periodicals, or other printed matter or photographs, films, motion pictures, video cassettes or video reproductions, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; or
  - 2) Instruments, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities.
  - 3) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing Specified Sexual Activities or Specified Anatomical Areas and still be categorized as an Adult Bookstore or Adult Video Store. The sale of such material shall be deemed to constitute a principal business purpose of an establishment if it comprises thirty-five (35) percent or more of yearly sales volume or occupies more than thirty-five (35) percent or more of the floor area or visible inventory within the establishment.

- c. **Adult Cabaret:** A nightclub, bar, restaurant or similar commercial establishment that regularly features:
  - 1) Persons who appear in a state of semi-nudity or nudity;
  - 2) Live performances that are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities;
  - 3) Films, motion pictures, video cassettes or video reproductions, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities of Specified Anatomical Areas; or
  - 4) Persons who engage in lewd, lascivious or erotic dancing or performance that are intended for the sexual interests or titillation of an audience or customers.
- d. **Adult Motel:** A hotel, motel or similar commercial establishment that:
  - 1) Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes or video reproductions, slides, or other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas and has a sign visible from the public road right-of-way that advertises the availability of any of the above.
  - 2) Offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or
  - 3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.
- e. **Adult Motion Picture Theater:** A commercial establishment which for any form of consideration, regularly and primarily shows films, motion pictures, video cassettes or video reproductions, slides, or other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas.
- f. **Adult Theater:** A theater, concert hall, auditorium, or similar commercial establishment that regularly features a person or persons who appear in a state of nudity or live performances that are characterized by exposure of Specified Sexual Activities or Specified Anatomical Areas.
- g. **Escort:** A person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform striptease for another person.
- h. **Escort Agency:** A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for any form of consideration.
- i. **Nude Model Studio:** Any place where a person who displays Specified Anatomical Areas is provided to be observed, sketched, drawn, painted, sculpted, photographed, or similarly



depicted by other persons who pay money or any form of consideration, but does not include an education institution funded, chartered, or recognized by the State of Michigan.

j. **Sexual Encounter Center:** A commercial establishment that, as one of its principal business purposes, offers for any form of consideration.

1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

2. **Regulations and Conditions.** A proposed Sexually Oriented Business shall fully conform with the requirements of the City of Niles Sexually Oriented Business Ordinance. Failure to continually maintain compliance with said ordinance shall be grounds for the revocation of any special use permit issued hereunder.

## **SECTION 839 SOCIAL CLUB**

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

2. **Regulations and Conditions.** Social Clubs shall be subject to the following standards:

a. Social clubs shall maintain, at all times, all required state and local licenses and permits.

b. Social clubs serving alcoholic beverages shall also meet the requirements of **Section 842** pertaining to taverns and lounges.

c. Social clubs shall be located and designed such that no objectionable noise shall be carried onto adjoining property zoned for, or occupied by residential uses.

d. The Planning Commission may require that any or all of the property of a club facility be fenced to contain any debris or materials used or discarded on site and/or to prevent unauthorized access to the grounds.

e. All exterior lighting shall meet the requirements of **Section 311** of this Ordinance.

f. All signs shall be in compliance with the provisions of **Article 7** of this Ordinance.

g. All parking shall be in compliance with the provisions of **Article 6** of this Ordinance.

## **SECTION 840           SPORTS, RECREATION AND ENTERTAINMENT ESTABLISHMENT**

1. **Definition.** A building and premises used or intended to be used for the conduct of sports and/or leisure-time activities including, but not limited to, bowling alleys, racquet sports facilities, climbing facilities, paint-ball or laser-tag facilities, video arcades, and other similar establishments.
2. **Regulations and Conditions.** Sports, Recreation and Entertainment Establishments, whether open to the public or by private membership, shall be subject to the following standards:
  - a. Such facilities shall maintain, at all times, all required state and local licenses and permits.
  - b. Any such facilities serving alcoholic beverages shall be located on a major street.
  - c. Such facilities serving alcoholic beverages shall also meet the requirements of **Section 842** pertaining to taverns and lounges.
  - d. Such facilities that include paintball, archery and or shooting ranges shall employ effective physical barriers and isolation distances to assure that no projectile shall carry beyond the property limit,
  - e. Such facilities shall be located and designed such that no objectionable noise shall be carried onto adjoining property zoned for, or occupied by residential uses.
  - f. The Planning Commission may require that any or all of the property of a club facility be fenced to contain any debris or materials used or discarded on site and/or to prevent unauthorized access to the grounds.
  - g. All exterior lighting shall meet the requirements of **Section 311** of this Ordinance.
  - h. All signs shall be in compliance with the provisions of **Article 7** of this Ordinance.
  - i. All parking shall be in compliance with the provisions of **Article 6** of this Ordinance.

## **SECTION 841           SUBDIVISION, PLAT OR CONDOMINIUM- RESIDENTIAL**

1. **Definition.** The division of land by conventional plat, subdivision as set forth in the Land Division Act (Act 288 of the Public Acts of 1967, as amended; or by condominium subdivision pursuant to the Condominium Act (Act 59 of the Public Acts of 1978, as amended).
2. **Regulations and Conditions.**
  - a. In the NC district where a residential subdivision, plat or condominium is treated as a special use, the applicant shall demonstrate to the satisfaction of the Planning Commission that such use shall be compatible with and supportive of the character of the existing uses in the vicinity.
  - b. Any proposed residential subdivision, plat or condominium shall be required to incorporate effective buffering and screening from neighboring commercial uses such that any off-site impacts either on the proposed occupants of the subdivision, plat or condominium or business uses shall be mitigated.

- c. All residential subdivisions, plats or condominiums shall fully comply with the City of Niles subdivision control ordinance and site condominium ordinance.

## **SECTION 842 TAVERNS AND LOUNGES**

1. **Definition:** A building where liquors are sold to be consumed on the premises but not including restaurants where the principal business is serving food.
2. **Regulations and Conditions.**
  - a. Such facilities shall maintain, at all times, all required state and local licenses and permits.
  - b. A restaurant that includes a hotel or motel shall be required to meet the standards of **Section 825**.
  - c. Such facilities shall be located and designed such that no objectionable noise shall be carried onto adjoining property zoned for, or occupied by residential uses.
  - d. Such facilities shall be located and designed such that no odor or fumes shall be carried onto adjoining property zoned for, or occupied by residential uses.
  - e. The Planning Commission may require that some or all of the property be fenced to contain any debris or materials used or discarded on site and/or to prevent unauthorized access to the grounds.
  - f. All exterior lighting shall meet the requirements of **Section 311** of this Ordinance.
  - g. All signs shall be in compliance with the provisions of **Article 7** of this Ordinance.
  - h. All parking shall be in compliance with the provisions of **Article 6** of this Ordinance.
  - i. Landscaping and Buffering shall be provided in accordance with **Section 316** of this Zoning Ordinance.

## **SECTION 843 VEHICLE REPAIR FACILITY**

1. **Definition.** Any establishment, building, premises, or land where commercial services are furnished involving automobile and truck repair, maintenance, and painting for the general public, and where rental, leasing, storage and salvage operations and parking services are incidental to the principal activities.
2. **Regulations and Conditions.**
  - a. Dismantled, wrecked, inoperable, or immobile vehicles shall not be kept outdoors where they are visible from any lot line. The Planning Commission may require an opaque fence up to eight (8) feet in height and/or an evergreen landscape buffer not less than eight (8) feet in height at time of planting to screen from view any vehicles from neighboring uses or passers-by.
  - b. No vehicles shall be parked on site for the purpose of selling or renting such vehicles.
  - c. All exterior lighting shall conform to the requirements of **Section 311** hereof.

- d. All vehicle parts and scrap shall be stored entirely within an enclosed structure.
- e. All equipment including hydraulic hoists, pits, lubrication and repair facilities shall be entirely enclosed within a building. No outdoor storage of merchandise or equipment shall be permitted.
- f. All repair and maintenance activities shall be performed entirely within an enclosed building.
- g. The Planning Commission may establish hours of operation for such uses consistent with the character of the land uses in the vicinity.
- h. All signs shall be in accordance with **Article 7** of this Zoning Ordinance.
- i. All parking shall be in accordance with **Article 6** of this Zoning Ordinance.
- j. Landscaping and Buffering shall be provided in accordance with **Section 316** of this Zoning Ordinance.
- k. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from lot lines.

#### **SECTION 844 WIRELESS TELECOMMUNICATION TOWER**

1. **Definition.** A structure intended to support equipment used to transmit and/or receive telecommunication signals including but not limited to monopoles, freestanding lattice structures and guyed lattice structures.
2. **Purpose and Intent.** The Telecommunications Act of 1996 as amended on February 6, 1996 sets forth provisions concerning placement, location and construction of towers and related facilities for personal wireless services. The purpose of this section is to establish general guidelines for the siting of personal wireless service facilities, which include antenna structures (towers). In order that such towers not cause visual pollution or create a safety hazard or reduce property values on adjacent properties, reasonable regulations for the location, use of existing structures (e.g., water towers, school and church steeples, tall buildings), design of structures and towers, is appropriate. Wireless Telecommunication Towers are specifically determined to NOT be essential services nor to be public utilities as such terms are used in this Ordinance. The intent of these provisions is to encourage users of towers and antennas to:
  - a. Protect residential areas and land uses from potential adverse impacts of towers.
  - b. Place the location of towers in non-residential-zoned areas.
  - c. Minimize the total number of towers throughout the community.
  - d. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers.
  - e. Locate them on City-owned water towers where feasible and to the satisfaction of the City Council.
  - f. Locate them, to the extent possible, in areas where the adverse impact on the community is

minimal.

- g. Configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques.
  - h. Use monopole-type towers and establish them at zoning district height limits where possible so as to maintain property values on surrounding properties, not impair scenic views, and provide reasonable service to City of Niles residents. It is not the intent to create "antennae farms" with a number of monopoles and antennae in a small area. Taller towers may be allowed only if it is proven to the satisfaction of the City that monopole towers using zoning district height limits cannot provide reasonable service to City of Niles residents.
  - i. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.
  - j. Consider the public health and safety of personal wireless service facilities.
  - k. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.
  - l. In furtherance of these goals, the City of Niles shall give due consideration to natural features, the St. Joseph River and its resources, the City of Niles Comprehensive Master Plan and zoning map, existing land uses, and other characteristics and policies of the City in approving sites for the location of towers and antennas. It is not the intent to regulate ham radio antennae under this section.
3. **Administratively Approved Uses.** The following uses may be approved by the Zoning Administrator after conducting an administrative review:
- a. Antennas on Existing Structures: Compact platform-type, omni directional, or singular-type antenna which is not attached to a tower may be approved by the Zoning Administrator as an accessory use to any commercial, industrial, professional, institutional, or multi-family structure of eight or more dwelling units, provided:
    - 1) The antenna does not extend more than 15 feet above the highest point of the structure;
    - 2) The antenna complies with all applicable FCC and FAA regulations; and
    - 3) The antenna complies with all applicable building codes.
    - 4) This section is not applicable to the proposed location of antennas or other personal wireless service facilities on existing towers.
  - b. Microcell Networks: Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

3. **Antenna Placement on City Owned Water Towers.** Wireless Telecommunication Towers only, their accessory equipment and shelters, may be installed on City of Niles-owned water towers, in any zoning district, with an approved lease from the City of Niles, and subject to the requirements of the Site Plan Review provisions of **Article 10** and with review and approval by the City Planning Commission. In addition to Site Plan Review, the following subsections will be applicable to the review by the Planning Commission, although the Planning Commission may waive or reduce the burden on the applicant of one or more of the criteria of each subsection if the Planning Commission concludes that the goals of this ordinance are better served.
4. **Review Provisions and Zoning Districts Allowed.** Wireless Telecommunication Towers and their accessory equipment and shelters as defined will be considered as a listed Special Use and activities eligible for approval consideration, subject to all the provisions within each district as allowed and specified, and also subject to the requirements of the Site Plan Review provisions of **Article 10** , after review and approval by the City Planning Commission.

Zoning Districts which will be applicable to this land use are Regional Commercial (RC), Industrial (IND) and Open Space (OS).

5. **Special Use Review Procedures.**
  - a. Applications for Special Use under this Section shall be subject to the procedures and requirements of the zoning district, except as modified in this Section.
  - b. In granting a Special Use, the Planning Commission may impose conditions that are necessary to minimize any adverse effect of the proposed tower on adjoining properties.
  - c. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.
  - d. Applicants for Special Uses shall submit the information described in this Section and a non-refundable fee as established by Resolution of the City of Niles, to reimburse the City of Niles for the costs of reviewing the application.
6. **Additional Information Required for Review.** In addition to the standard requirements of information requested of all uses under Special Uses and Site Plan Review, Wireless Telecommunication Towers will be required to provide additional information as follows:
  - a. Evidence of ownership of the property on which the facility is to be placed.
  - b. Name and address of the proposed owner and/or operator of the site.
  - c. Engineering requirements for the service to be provided at the site.
  - d. Name and address, including phone number of the person responsible for determining feasibility of co-location as provided in this section.
  - e. Preliminary design of all proposed structures.
  - f. Registered Engineer's certification of the design and safety of the proposed tower to withstand winds of 85 miles per hour.

- g. A landscape plan showing specific landscape materials.
  - h. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
  - i. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
  - j. Each applicant shall provide an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the City of Niles, or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The Zoning Administrator may share such information with other applicants applying for approvals under this ordinance or other organizations seeking to locate antennas within the City, provided, that the Zoning Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
  - k. The separation distance from other towers described in the inventory of existing sites shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
  - l. Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the City and surrounding area.
  - m. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
  - n. A description of the feasible location(s) of future towers or antennas within the City of Niles or within two miles of the borders of the City of Niles based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
7. **Factors Considered in Granting Special Uses for Towers.** In addition to any standards for Special Uses in each zoning district that applies, the Planning Commission shall consider the following factors in determining whether to issue an approval, although the Planning Commission may waive or reduce the burden on the applicant of one or more of these criteria if the Planning Commission concludes that the goals of this ordinance are better served:
- a. Height of the proposed tower.
  - b. Proximity of the tower to residential structures and residential district boundaries.
  - c. Nature of uses on adjacent and nearby properties.
  - d. Surrounding topography.
  - e. Surrounding tree coverage and foliage.

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



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

The intent is not to allow for additional buildings on one site.

- l. The tower itself is strongly preferred to be of a monopole design. If the applicant proposes to use a guyed or lattice tower, the applicant shall demonstrate why a monopole design cannot be used.
- m. The City may require landscape screening of the service building and fencing.
  - 1) Landscaping shall consist of a 5-foot wide buffer of plant materials that effectively screens the view of the tower compound from adjacent parcels. This buffer shall be located outside the perimeter of the compound.
  - 2) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
  - 3) Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.
- n. Lighting shall be limited to that absolutely necessary and required by appropriate agency.
- o. All lighting shall be shielded and directed downwards; light sources shall be located and designed so as to prevent light from being directed outside the boundaries of the property.
  - 1) Light poles and fixtures shall be located as low as practical; a greater number of low "area" lights are favored over higher lights. Dark Sky-type lighting fixtures shall be used only for land base area.
  - 2) Strobe lights shall not be allowed except as required by FAA.
- p. The City Planning Commission may, at its sole discretion, require that the tower be camouflaged to resemble a tree or otherwise be made to be less obtrusive.
- q. Signs; No signs shall be allowed on an antenna or tower.
- r. Security fencing; Towers shall be enclosed by a locked gate and security fencing at least 6 feet in height, and shall be equipped with an appropriate anti-climbing device; provided however, that the Planning Commission may waive such requirements, as it deems appropriate.
- s. Emergency Provider Use; The applicant is encouraged to provide at no cost, co-location space for public emergency service providers, should the need exist.
- t. Towers may exceed district height limits, providing they comply with the following standards, in addition to the previous listed standards:
  - 1) In order to maximize the efficiency of the provision of telecommunication services, while also minimizing the impact of such facilities on the City of Niles, co-location, or the provision of more than one antenna on a single tower may/will be allowed and/or required by the City.
    - (a) The Applicant shall be required to provide information regarding the feasibility of co-location at proposed sites. Factors to be considered in determining feasibility of

co-sharing include available space on existing towers, the tower owner's ability to lease space, the tower's structural capacity, radio frequency interference, geographic service area requirements, mechanical or electrical incompatibilities, the comparative costs of co-location and new construction, and any FCC limitations on tower sharing.

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

company. The amount of the bond shall be established by the City Council, and may be adjusted from time to time on an annual basis to reflect changing costs and expenses of dismantling and moving the personal wireless service facility.

## 12. Nonconforming Uses.

- a. No Expansion of Nonconforming Use; Antennas that are installed in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.
- b. Pre-existing towers; Pre-existing towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a pre-existing tower shall comply with the requirements of this ordinance; however, modifications to height and type of construction of pre-existing towers shall not be permitted.
- c. Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas; Notwithstanding Subparagraph b, hereof, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain a Special Use approval having to meet the separation requirements of this Ordinance. The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility approval. Zoning compliance permits to rebuild the facility shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in **Section 844, 10**.

**ARTICLE NINE  
RESERVED**

## ARTICLE TEN

### SITE PLAN REVIEW

#### SECTION 1000      PURPOSE

The intent of this section is to provide for consultation and cooperation between the applicant and the Planning Commission in order that the applicant may accomplish his/her objectives in the utilization of land within the regulations of this Ordinance, with minimum adverse effect on the land, shores, roadways, natural features, infrastructure, and on existing and future uses of property in the immediate vicinity. It is further the intent to assist City personnel and officials in encouraging and assisting applicants of land development to design and implement land use proposals that foster orderly, efficient, compatible and aesthetic uses of land in the City of Niles.

#### SECTION 1001      WHEN REQUIRED

A site plan shall be prepared and submitted in accordance with the requirements of this Ordinance with any application for a special land use, building permit for any residential, commercial or industrial building or project, and with any application for a planned unit development. Provided, however, that a site plan may not be required if the application involves the use, construction, alternation, enlargement, repair, placement, or replacement of only an individual single-family dwelling or for an accessory use or structure which, in the judgment of the Zoning Administrator, will not significantly alter existing conditions on a parcel or in a neighborhood.

1. The Zoning Administrator may further require a site plan for applications otherwise exempted from a site plan requirement, where in his opinion a site plan is necessary to ensure compliance with this ordinance.
2. The Zoning Administrator may upon written request of an applicant and after conversation with appropriate City staff, waive or modify the required contents of the Site Plan, provided, however, that all applicable requirements of this and other City ordinances and State laws are met.

#### SECTION 1002      APPLICATION CONTENTS

1. **Request for Review.** Request for site plan review shall be made by filing with the Zoning Administrator the required filing fee, the application form and a detailed site plan, together with any special studies required. The Zoning Administrator may waive any site plan submittal requirement upon a finding that the required information is not applicable to the site. An application fee will be determined by resolution of the City Council.
2. **Application and Site Plan Contents.** A site plan shall be required for all uses other those specified by this Ordinance. Site plans shall include eleven (11) copies of all required information, including application form, as well as one disk with .pdf file and .dwg of the site plan, and one 11" x 17" reduced copy of the site plan. It shall be prepared by an Engineer,

Architect, Landscape Architect or Planner licensed to work in Michigan and shall include and illustrate the requirements found within sections below, unless deemed unnecessary by the Zoning Administrator.

- a. The applicant's name, address, phone number and email address in full.
- b. Proof of property ownership, and whether there are any options on the property, or any liens against it.
- c. A signed statement that the applicant is the owner of the property or officially acting on the owner's behalf.
- d. The name and address of the owner(s) of record if the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land), and the signature of the owner(s).
- e. The address and or parcel number of the property.
- f. Name and address of the developer (if different from the applicant).
- g. Name and address of the engineer, architect, landscape architect or planner.
- h. Project title.
- i. Project description, including the total number of structures, units, bedrooms, offices, square feet, total and usable floor area, parking spaces, carports or garages, employees by shift, amount of recreation and open space, type of recreation facilities to be provided, and related information as pertinent or otherwise required by the ordinance.
- j. A vicinity map drawn at a scale of 1" = 2000' with northpoint indicated.
- k. The gross acreage of all parcels in the project.
- l. Land uses, zoning classification and existing structures on the subject parcel and adjoining parcels.
- m. Project completion schedule/development phases.
- n. Written statements relative to project impacts on existing infrastructure (including traffic capacity of streets, schools, and existing utilities) and on the natural environment of the site and adjoining lands.

The site plan shall consist of an accurate, reproducible drawing at a scale of 1" = 100' or less, showing the site and all land within 150' of the site. If multiple sheets are used, each shall be labeled and the preparer identified. Each site plan shall depict the following:

- a. Location of proposed and/or existing property lines, dimensions, legal descriptions, setback lines and monument locations.
- b. Existing topographic elevations at two foot intervals, proposed grades and direction of drainage flows.
- c. The location and type of existing soils on the site and any certification of borings.

- d. Location and type of significant existing vegetation.
- e. Location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, floodplains and wetlands.
- f. Location of existing and proposed buildings and intended uses thereof, as well as the length, width and height of each building and elevation views of proposed structures.
- g. Location and partial elevations of neighboring structures to show scale of proposed structure(s) in relation to existing structures.
- h. Proposed location of accessory structures, buildings and uses, including but not limited to all flagpoles, lightpoles, bulkheads, docks, storage sheds, transformers, air conditioners, generators and similar equipment, and the method of screening where applicable.
- i. Location of existing public roads, right-of-way and private easements of record and abutting streets.
- j. Location and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes (if any) serving the development. Details of entryway and sign locations should be separately depicted with an elevation view.
- k. Location, design, and dimensions of existing and/or proposed curbing, barrier free access, carports, parking areas (including indication of all spaces), detail of surfacing method, fire lanes and all lighting thereof.
- l. Location, size and characteristics of all loading and unloading areas.
- m. Location and design of all sidewalks, walkways, bicycle paths and areas for public use.
- n. Location of water supply lines, including fire hydrants and shut off valves, and the location and design of storm sewers, retention or detention ponds, waster water lines, cleanout locations, connection points and treatment systems.
- o. Location of all other utilities on the site including but not limited to natural gas, electric, cable TV, telephone and steam.
- p. Proposed locations, dimensions and details of common open spaces and common facilities such as community buildings or swimming pools if applicable.
- q. Location, size and specifications of all signs and advertising features with cross sections.
- r. Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used.
- s. Location and specifications for all fences, walls and other screening features with cross sections.
- t. Location and specifications for all proposed perimeter and internal landscaping and other buffering features. For each new landscape material the proposed size at the time of planting must be indicated. All vegetation to be retained on the site must all be indicated.



- u. Location, size and specifications for screening of all trash receptacles and other solid waste disposal features.
- v. Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials as well as any containment structures or clear zones required by government authorities.
- w. Identification of any significant site amenities or unique natural features.
- x. Identification of any significant views onto or from the site to or from adjoining areas.
- y. North arrow, scale and date of original submittal and last revision.
- z. Seal of the registered engineer, architect, landscape architect or planner who prepared the plan.

### **SECTION 1003      APPLICATION, REVIEW PROCESS, APPROVAL**

1. The Zoning Administrator shall examine the site plan as to proper form and content and particularly as to compliance with **Section 1004, Criteria for Review**, of this Ordinance. Upon a determination that the application and all required materials are complete, the Zoning Administrator shall prepare a report including findings of fact and recommendations. Prior to preparation of such report, the Zoning Administrator shall disseminate the application and site plan to appropriate City personnel, including but not limited to the Director of Public Works, Utilities Manager, Police Chief, Fire Chief, Building Official, Code Enforcement Officer, and other agencies such as the County Health Department, County Drain Commission, Michigan Department of Transportation, Michigan Department of Environmental Quality, and the Michigan Department of Natural Resources, when applicable, for their review and comment.
2. Upon completion of the report and recommendation, the site plan and all accompanying documents shall be forwarded to the Planning Commission for consideration at the next regular meeting, or within not more than forty-five (45) days of receipt of a complete application.
3. If the proposed development requires the issuance of a Special Use Permit, the Planning Commission shall follow the Special Use procedure as provided in Article 8. Provided, however, that an applicant may submit an application for special use permit and site plan approval for concurrent processing.
4. If the proposed development requires the issuance of a variance by the Zoning Board of Appeals, the Planning Commission shall table the application until the Zoning Board of Appeals has ruled on the variance request.
5. The Planning Commission shall examine the site plan and accompanying documents as to proper form and content and particularly as to compliance with all applicable requirements of this Ordinance, and consider the findings of fact and the report and recommendation of the

Zoning Administrator. If the proposed development does not require the issuance of a variance, rezoning of land, special use permit or is not located in the Central Business District (CB), the Planning Commission shall approve or deny the site plan. Within ten (10) days of the decision of the Planning Commission, the Zoning Administrator shall notify the applicant in writing of the decision of the Planning Commission.

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

#### **Procedures for Review of Major Projects**

**Major Projects.** All developments greater than a single-family home, and all PUD's are major projects which require preliminary site plan review by the City of Niles pursuant to the requirements below. All other projects are either minor projects subject to review and approval by the Community Development Department or amendments to existing site plans.

**Submission Requirement.** The applicant shall complete and submit the required number of copies of an application for site plan approval. Compliance with the requirements of the Zoning Ordinance is mandatory. The applicant or his/her representative must be present at each scheduled review or the matter will be tabled for a maximum of two consecutive meetings due to a lack of representation. The procedure for processing major project site plans includes three phases: 1) conceptual review via a preapplication conference, 2) preliminary site plan review and 3) final site plan approval.

**Preapplication Conference.** During this conceptual review phase, a generalized site plan is presented by a prospective applicant for consideration of the overall idea of the development. Basic questions of use, density, integration with existing development in the area and impacts on and the availability of public infrastructure are discussed. This conference is scheduled by a prospective applicant with the Zoning Administrator, Building Official and such other City personnel as appropriate. At this meeting the applicant or his/her representative is also presented with the applicable procedures required by the Ordinance, and with any special steps that might have to be followed, such as requests to the Zoning Board of Appeals for a variance. There is no charge or fee to the applicant for this meeting.

**Preliminary Site Plan Review.** The second phase is called Preliminary Site Plan Approval. At this step a preliminary site plan meeting the submittal requirements of this Ordinance is reviewed by the Community Development Department, Utilities Department, Department of Public Works, Police Department, and Fire Department, and the changes necessary, if any, for final site plan approval are indicated in writing to the applicant.

**Final Site Plan Review.** Once the Preliminary Site Plan has been reviewed by all appropriate City departments, the Final Site Plan shall be forwarded to the Planning Commission. Final Site Plan approval shall be by the Planning Commission.

**SECTION 1004      CRITERIA FOR REVIEW:**

In the process of reviewing a site plan, the Planning Commission or Zoning Administrator shall consider;

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

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

#### **SECTION 1005 APPROVED SITE PLANS**

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

#### **SECTION 1006 CONFORMITY TO APPROVED SITE PLAN**

Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan and any amendments thereto which have received the approval of the Planning Commission. If construction and development does not conform with such approved plans, the approval shall be revoked by the Zoning Administrator by written notice of such revocation posted upon the premises involved and mailed to the developer at the last known address. Upon revocation of such approval, all construction activities shall immediately cease upon the site, other than for the purpose of correcting the violation. However, the Planning Commission may, upon proper application, approve a modification in the site plan, provided such modification complies with the criteria contained in the site plan approval provisions in **Section 1008**.

#### **SECTION 1007 TERMS OF APPROVAL OF THE SITE PLAN**

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

#### **SECTION 1008 AMENDMENT TO THE SITE PLAN**

No changes shall be made to an approved Site Plan prior to or during construction except upon application to the Zoning Administrator according to the following procedures;

1. The Zoning Administrator may approve minor amendments to a site plan including:
  - a. Reduction in the number of parking spaces.
  - b. Changes in the building size, up to five percent of the gross floor area.
  - c. Movement of buildings or other structures by no more than ten (10) feet.
  - d. Replacement of plant material specified in the landscape pla with comparable materials of an equal or greater size and/or number.

- e. Changes to building materials to a comparable or higher quality.
  - f. Changes in floor plans that do not alter the character of the use.
  - g. Changes required or requested by the City, or other County, State or Federal regulatory agency in order to conform to other laws or regulations.
2. Major changes or amendments to an approved site plan involving a change of use, change in the number and location of accesses to public streets and alleys, a major relocation of a building, increase in the gross floor area or heights of buildings, a reduction in open space, and similar major changes as determined by the Zoning Administrator, shall require the approval of the Planning Commission, in the same manner as the original application was submitted, reviewed and approved.

## **SECTION 1009      PERFORMANCE GUARANTEE REQUIREMENTS**

In the interest of insuring compliance with the Zoning Ordinance provisions, protecting the natural resources and the health, safety and welfare of the residents of the City of Niles, and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the Planning Commission or Zoning Board of Appeals, may require the applicant to deposit a performance guarantee as set forth herein. The purpose of the performance guarantee is to insure completion of improvements connected with the proposed use as required by this Ordinance, including but not limited to, roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls, and landscaping.

1. Performance guarantee as used herein shall mean a cash deposit, certified check, or irrevocable bank letter of credit in the amount of the estimated cost of the improvements to be made as determined by the applicant and verified by the City of Niles.
2. When a performance guarantee is required, said performance guarantee shall be deposited with the City Treasurer prior to the issuance of a Zoning compliance permit by the Zoning Administrator for the development and use of the land. Upon the deposit of the performance guarantee, when in the form of a cash deposit or certified check, the City shall deposit it in an interest-bearing account.
3. In the event a performance guarantee is required, the applicant shall also furnish such authorization as is required by the City to permit the City to enter upon the subject property to complete the improvements in the event of default by the applicant.
4. An approved site plan or project shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of the issuance of the Zoning compliance permit.
5. In the event the performance guarantee deposited is a cash deposit or certified check, the City shall return to the applicant fifty (50) percent of the deposited funds when sixty (60) percent of the required improvements are completed as confirmed by the Zoning Administrator, and the remaining fifty (50) percent of the deposited funds when one-hundred (100) percent of the required improvements are completed as confirmed by the Zoning Administrator.

6. Upon the satisfactory completion of the improvement for which the performance guarantee was required, as determined by the Zoning Administrator, the Finance Director shall return to the applicant the performance guarantee deposited and any interest earned thereon.
7. In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the Planning Commission, the City shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements. If the performance guarantee is not sufficient to allow the City to complete the improvements for which it was posted, the applicant shall be required to pay the City the amounts by which the costs of completing the improvements exceeds the amount of the performance guarantee deposited. In the event the City uses the performance guarantee or a portion thereof, to complete the required improvements, any amounts remaining after said completion shall be applied first to the City's administrative costs in completing the improvement with any balance remaining being returned to the applicant. At the time the performance guarantee is deposited with the City and prior to the issuance of a zoning compliance permit, the applicant shall enter an agreement incorporating the provisions of this Section.

## **ARTICLE ELEVEN**

### **ADMINISTRATION**

#### **SECTION 1100 ZONING ADMINISTRATOR**

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

#### **SECTION 1101 DUTIES AND LIMITATIONS OF THE ZONING ADMINSTRATOR**

1. The Zoning Administrator shall have the authority to grant Zoning Compliance Permits and to make inspection of buildings or premises necessary to carry out his duties in the enforcement of this Ordinance.

It shall be unlawful for the Zoning Administrator to approve any plans or issue a Zoning Compliance Permit for any excavation or construction or use until such plans have been reviewed in detail and are found to be in compliance with this Ordinance. To this end, the Zoning Administrator shall require that an application for a Zoning Compliance Permit for excavation, construction, moving, alteration, or change in type of use or type of occupancy, shall, where required by this Ordinance, be accompanied by a site plan, in accordance with Article Ten hereof.

2. If the proposed excavation, construction, moving or alteration, or use of land as set forth in the application, and site plan, when required, is in conformity with the provisions of this Ordinance, the Zoning Administrator shall issue a Zoning Compliance Permit. If an application for such permit is not approved, the Zoning Administrator shall state in writing the cause for such disapproval.
3. The Zoning Administrator may, but shall not be required to, accept a preliminary application and an incomplete submittal where a basic clarification is desired prior to proceeding with further technical work; and the Zoning Administrator may on such preliminary submittal take the formal action of tentative denial or tentative approval. Provided, that the applicant shall be advised, in writing, that such tentative denial or approval may be overturned by the Planning Commission.
4. Issuance of a Zoning Compliance Permit shall in no case be construed as waiving any provisions of this Ordinance. The Zoning Administrator is under no circumstances permitted

to grant exceptions to the actual meaning of any clause, order, or regulation contained in this Ordinance to any person making application to excavate, construct, move, alter, or use buildings, structures, or land. The Zoning Administrator is under no circumstance permitted to make changes to this Ordinance or to vary the terms of this Ordinance in carrying out his duties.

5. The Zoning Administrator shall not refuse to issue a Zoning Compliance Permit when the applicant has complied with all applicable conditions required by this Ordinance. Violations of contracts such as covenants or private agreements which may result upon the granting of said permit are not cause for refusal to issue a permit.

## **SECTION 1102      ZONING COMPLIANCE PERMIT**

1. It shall be unlawful to commence the excavation for or the construction of any building or other structure, including an accessory building, or to commence the moving, or structural alteration, including an accessory building, costing more than one-hundred dollars (\$100.00) or exceeding one-hundred (100) square feet in floor area, until the Zoning Administrator has issued for such work a Zoning Compliance Permit including a certification of his opinion that plans, specifications, and intended use of such structure do in all respects conform to the provisions of this Ordinance.
2. It shall be unlawful to alter the contour of land, or to change the type of use or type of occupancy of any building, or to extend any use on any lot on which there is a nonconforming use, until the Zoning Administrator has issued for such intended use a Zoning Compliance Permit.
3. In all cases where a building permit is required, application for a Zoning Compliance Permit shall be made coincidentally with the application for a building permit and in all other cases shall be made not less than ten (10) days prior to the time when a new or enlarged use of a building or premises or part thereof is intended to begin. This application shall be made in writing to the Zoning Administrator and shall provide all relevant project information. A record of all such applications shall be kept on file by the Zoning Administrator.
4. Any Zoning Compliance Permit issued under the provisions of this Ordinance shall be valid only for a period of one (1) year following the date of issuance thereof. Any project which has not commenced within the one (1) year period will require the re-issuance of extension of the Zoning Compliance Permit.
5. When the Zoning Administrator receives an application for a Zoning Compliance Permit, which requires a special land use approval, variance, or other approval, he shall so inform the applicant.
6. Before any Zoning Compliance Permit shall be issued, an application and inspection fee and any required escrow fees shall be paid. The amount of such fees and escrows shall be fixed by a schedule established by resolution of the City Council.
7. No building or structure or use for which a Zoning Compliance Permit has been issued shall be used or occupied until after a final inspection has been performed which indicates that all



the provisions of this Ordinance are met with and a Certificate of Occupancy has been issued by the Building Official. The issuance of a Certificate of Occupancy shall in no case be construed as waiving any provisions of this Ordinance.

### **SECTION 1103 REAPPLICATION**

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

### **SECTION 1104 REHEARING**

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

completed before the Planning Commission or Zoning Board of Appeals holds a hearing at which it considers whether to grant a rehearing.

3. If the Planning Commission or Zoning Board of Appeals grants a rehearing, then the rehearing on the merits shall not be held until all notice requirements for the type of decision being reheard have been satisfied.

## ARTICLE TWELVE

### ZONING BOARD OF APPEALS

#### SECTION 1200 CREATION AND MEMBERSHIP

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

#### SECTION 1201 JURISDICTION AND AUTHORIZED APPEALS

Except as otherwise provided, the Zoning Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by the Zoning Administrator or Planning Commission, or other official administering or enforcing the provisions of this Ordinance as provided herein. Within this capacity, the Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination.

1. Administrative Review. The Zoning Board of Appeals shall hear and decide appeals where it is alleged by the appellant that there is a factual error in any order, requirement, permit, or decision made by the Zoning Administrator or Planning Commission in the administration or enforcement of this Ordinance.
2. Ordinance Interpretation. The Zoning Board of Appeals shall hear and decide upon the following requests:

- a. Interpret the provisions of this Ordinance when it is alleged that certain provisions are not clear or that they could have more than one meaning. In deciding upon such request, the Zoning Board of Appeals shall ensure that its interpretation is consistent with the intent and purpose of this Ordinance, the Article in which the language is contained, and all relevant provisions of this Ordinance.
  - b. As provided in **Section 402**, determine the precise location of the boundary line between zoning districts when there is uncertainty with respect to the location of district boundaries.
3. Appeal Procedure.
- a. Filing: Appeals to the Zoning Board of Appeals concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by any office, department, board or bureau of the City, County, or State affected by any decision of the Zoning Administrator. Appeals shall be filed on forms as provided by the Zoning Administrator and shall include the appropriate filing fee. Such appeal shall be taken within sixty (60) days of the aggrieved action by filing with the Zoning Board of Appeals a Notice of Appeal specifying the grounds thereof. The Zoning Administrator from whom the appeal is taken shall forthwith transmit for presentation to the Board all materials constituting the record upon which the action appealed from was taken.
  - b. Hearing: The Zoning Board of Appeals shall fix a reasonable time of the hearing of the appeal and give due notice to the parties in accordance with **Section 1204** hereof and decide the appeal within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.
  - c. Stay of Proceedings: An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator from whom the appeal is taken certifies to the Zoning Board of Appeals after the Notice of Appeals is filed with him, that by reason of facts stated in the Certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by a court record.
4. Variances. The Zoning Board of Appeals shall decide variances from the provisions of this Ordinance in harmony with its general purpose and intent, and shall vary then only in the specific instances hereinafter set forth where the Board shall have made a finding of fact based upon the standards hereinafter prescribed that there are practical difficulties or particular hardship in the way of carrying out the strict letter of the regulations of this Ordinance.
- a. Initiation - An application for a variation may be made by any person, firm or corporation, office, department, boards, bureau or commission requesting or intending to request application for a building permit, zoning compliance permit or occupancy certificate.
  - b. Processing - An application for a variance shall be filed with the Zoning Administrator, who shall process and present said application to the Board in accordance with applicable statutes of the State of Michigan and the provisions of this Ordinance. No variances shall

be made by the Board except after a public hearing in accordance with **Section 1204**, hereof.

- c. Decisions – All final decisions of the Zoning Board of Appeals on variances arrived at after the hearing shall be accompanied by findings of facts specifying the reasons for approval/disapproval of the variance. Said decision shall be final and subject to judicial review only in accordance with applicable statutes of the State of Michigan. All variances granted shall be the minimum variance that will make possible a reasonable use of the land, building or structure.
- d. Standards. The Zoning Board of Appeals shall not vary the provisions of this Ordinance unless it finds, based on evidence presented, that the request meets each six (6) of the following standards.
  - 1) That the need for the variance is due to unique circumstances or physical conditions, such as narrowness, shallowness, shape, water or topography, of the property involved and that the practical difficulty is not due to the applicant’s personal or economic hardship.
  - 2) That the need for the variance is not the result of actions of the property owner or previous property owners.
  - 3) That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirement will unreasonably prevent the property owner from using the property for permitted purpose, or will render conformity with those regulations unnecessarily burdensome. Potential additional costs required in complying with this Ordinance shall not be deemed to made compliance unnecessarily burdensome.
  - 4) That the variance will do substantial justice to the applicant as well as to other property owners in the district, or a lesser relaxation than applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
  - 5) That the variance will not cause adverse impacts on surrounding property, or the use and enjoyment of property in the neighborhood.
  - 6) That the variance shall not permit the establishment within a district any use which is not permitted by right, or any use for which a special land use or temporary use permit is required.
- e. Conditions. The Zoning Board of Appeals may impose conditions upon a variance approval. The conditions may include those necessary to protect the natural environment and conserve natural resources, to ensure compatibility with adjacent land uses, and to promote the use of land in a socially and economically desirable manner. Conditions imposed upon a variance approval shall be stated in the record or order and shall remain unchanged except upon application to the Zoning Board of Appeals by the property owner. Similarly, any changes in conditions shall be reflected in the record or order.

- e. Effect of Approval. The variance shall expire at the end of 12 months, unless a zoning compliance permit authorizing the construction has been obtained and construction has started and proceeds to completion in accordance with the terms of the permit, or other tangible evidence of implementation of the variance shall have been presented to the Zoning Administrator.

## **SECTION 1202 ZONING BOARD OF APPEALS HAS POWERS OF ZONING ADMINISTRATOR ON APPEALS; REVERSALS:**

1. In exercising the powers set forth in this Article, the Zoning Board of Appeals may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed from. The Board may make such order, requirement, decision or determination as ought to be made, and to that end shall have the powers of the Zoning Administrator or Planning Commission in reference to special use decisions from whom the appeal is taken under appellate jurisdiction.
2. The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or Planning Commission, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to effect any variance in the application of this Ordinance.

## **SECTION 1203 FINAL DECISIONS AND REHEARING**

1. Final Decisions. Except as provided in this Article, a decision of the Zoning Board of Appeals shall be final.
2. Reapplication.
3. Rehearing. A reapplication or rehearing concerning an action of the Zoning Board of Appeals shall be governed by **Sections 1103 and 1104** of this Ordinance, respectively.
4. Appeals from final decisions of the Zoning Board of Appeals shall be subject to judicial review in accordance with the applicable statutes of the State of Michigan.

## **SECTION 1204 HEARINGS AND NOTICE**

The Zoning Board of Appeals shall fix a reasonable time of the hearing of an appeal or a request for a variance, upon the receipt of a complete application. The Zoning Board of Appeals shall give due notice to the party requesting the interpretation not less than 15 days before the public hearing and publish a notice of the hearing in a newspaper of general circulation not more than fifteen (15) nor less than five (5) days before such hearing. In addition, if the request for an interpretation or appeal of an administrative decision involves a specific parcel, written notice stating the nature of the interpretation request and the time, date, and place of the public hearing on the interpretation request shall be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used.

**SECTION 1205      PROHIBITED APPEALS**

The Zoning Board of Appeals shall not alter or change the zoning district classification of any property or take any actions that have the effect of a legislative action. The Zoning Board of Appeals shall not have authority to hear appeals related to any decision or conditions attached to any decision pertaining to a special land use or planned unit development.

**SECTION 1206      DUTIES OF ZONING ADMINISTRATOR, ZONING BOARD OF APPEALS, CITY COUNCIL, AND COURTS ON MATTERS OF APPEAL**

1. It is the intent of this Ordinance that all questions under appellate jurisdiction shall be presented to the Zoning Board of Appeals only on appeal from the decision of the Zoning Administrator. Requests for Variances shall be considered to be under the original jurisdiction of the Board and shall be filed with the Board via the Zoning Administrator. Requests for variances shall not be construed as an appeal from the decision of the Zoning Administrator.
2. It is further the intent of this Ordinance that the duties of the City Council in connection with this Ordinance shall not include hearing and deciding questions of interpretation and enforcement Under this Ordinance, the City Council shall have only the duties of;
  - a. Considering and adopting or rejecting proposed amendments or the repeal of this Ordinance, as provided by law;
  - b. Establishing a schedule of fees and charges as stated in this Ordinance; and
  - c. Appointing members of the Zoning Board of Appeals and the Zoning Administrator.

**Section 1207      FEES.**

Fees for appeals to the Zoning Board of Appeals shall be established by resolution of the City Council.

**ARTICLE THIRTEEN**  
**CIVIL INFRACTIONS**

**SECTION 1300      CIVIL INFRACTIONS**

Any person, corporation or firm who disobeys, omits, neglects or refuses to comply with any provision of this Ordinance or any permit, license or exception granted hereunder, or any lawful order of the Zoning Administrator, Planning Commission, Zoning Board of Appeals or the City Council issued in pursuance of this Ordinance shall be in violation of this Ordinance. Any person who violates this Ordinance is responsible for a civil infraction.

**SECTION 1301      INJUNCTIVE RELIEF**

The penalties provided herein shall not prohibit the City from seeking injunctive relief against a violator or such other appropriate relief as may be provided by law.



## ARTICLE FOURTEEN

### FEEES, CHARGES AND ESCROW ACCOUNTS

#### SECTION 1400 FEES

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

#### SECTION 1401 APPLICANT ESCROW ACCOUNTS

If the Planning Commission or Zoning Board of Appeals determines that the basic fees provided under **Section 1400** hereof, will not cover the actual costs of the application review or appeal, or if the Planning Commission or Zoning Board of Appeals determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary, then the applicant shall deposit with the City Treasurer such additional zoning fees in an amount determined by the Planning Commission or Zoning Board of Appeals equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten percent (10%) of the initial escrow deposit or less than ten percent (10%) of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Zoning Administrator may require the applicant to deposit additional fees into escrow in an amount determined by the Zoning Administrator to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete or the appeal procedurally defective thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the City in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal.

## ARTICLE FIFTEEN

### SEPARABILITY, REPEALER, SAVINGS AND EFFECTIVE DATE

#### SECTION 1500 SEPARABILITY

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

#### SECTION 1501 REPEALER AND SAVINGS

1. Repeal of Former Ordinance. City of Niles Zoning Ordinance No. 355 adopted July 25, 1994, including amendments and additions thereto, and specifically Section 6, Article VII, former Ordinance No. 224, are hereby repealed as of the effective date of this Ordinance. The provisions of City of Niles Ordinance No. 293 ("Bed-and-Breakfast Ordinance"), except as modified herein, are retained.
2. Savings Clause. The repeal of the City of Niles Zoning Ordinance No. 355 originally adopted July 25, 1994, shall not release any penalty or liability incurred under said Ordinance, and such Ordinance shall be treated as still remaining in force for the purpose of instituting or sustaining any proper action for the enforcement of such penalty or liability.

#### SECTION 1502 EFFECTIVE DATE

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

