

**NILES CHARTER TOWNSHIP**

**BERRIEN COUNTY, MICHIGAN**

**ORDINANCE NO. 72 Amended**

**ORDINANCE TO CONFIRM THE ESTABLISHMENT OF A  
PLANNING COMMISSION WITH ZONING AUTHORITY**

**ADOPTED: December 1, 2014**

**EFFECTIVE: January 23, 2015**

An ordinance to confirm the establishment of the Niles Charter Township Planning Commission pursuant to the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., provide for the composition of that Planning Commission; provide for the powers, duties and limitations of that Planning Commission; and repeal any ordinance or parts of ordinances or resolutions in conflict with this ordinance.

**THE TOWNSHIP OF NILES**

**BERRIEN COUNTY, MICHIGAN**

**ORDAINS:**

**SECTION I**

**SCOPE, PURPOSE AND INTENT**

This ordinance is adopted pursuant to the authority granted the Township Board to confirm the establishment of a Planning Commission under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., and the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101, et seq., with the powers, duties and limitations provided by those Acts and subject to the terms and conditions of this ordinance and any future amendments to this ordinance.

**SECTION II**

**ESTABLISHMENT**

The Township Board hereby confirms the establishment of the Niles Charter Township Planning Commission, under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., formerly established under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq. The Niles Charter Township Planning Commission shall be composed of 7 members. As of the effective date of this Ordinance, members of the Niles Charter Township Planning Commission shall continue to serve for the remainder of their existing terms so long as they continue to meet all of the eligibility requirements for Planning Commission membership set forth within the Michigan Planning Enabling Act, Public Act 33 of

2008, except for an ex officio member whose remaining term on the Planning Commission shall be limited to his or her term on the Township Board.

### **SECTION III**

#### **APPOINTMENTS AND TERMS**

- A. The Township Supervisor shall appoint all Planning Commission members, including the ex officio member, with the approval of the Township Board by a majority vote of the members elected and serving.
- B. The Planning Commission members, other than an ex officio member, shall serve for terms of 3 years each. Terms shall be staggered so that, as nearly as possible, one-third of all terms will expire each year.
- C. A Planning Commission member shall hold office until his or her successor is appointed. Vacancies shall be filled for the unexpired term in the same manner as the original appointment.
- D. Planning Commission members shall be qualified electors of the Township except that one Planning Commission member may be an individual who is not a qualified elector of the Township. The membership of the Planning Commission shall be representative of important segments of the community, such as the economic, governmental, educational, and social development of the Township, in accordance with the major interests as they exist in the Township, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce. The membership shall also be representative of the entire geography of the Township to the extent practicable. Planning Commission members may be compensated for their service as provided by the Township Board by resolution.

### **SECTION IV**

#### **REMOVAL**

The Township Board may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.

### **SECTION V**

#### **CONFLICT OF INTEREST**

Before casting a vote on a matter on which a Planning Commission member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Planning Commission. Failure of a member to disclose a potential conflict of interest as required by this ordinance constitutes malfeasance in office. The Planning Commission shall further define conflict of interest in its bylaws.

## **SECTION VI**

### **OFFICERS AND COMMITTEES**

The Planning Commission shall elect a chairperson, vice-chairperson and a secretary from its members, and may create and fill other offices as it considers advisable. An ex officio member of the Planning Commission is not eligible to serve as chairperson. The term of each office shall be 1 year, with opportunity for reelection as specified in the Planning Commission bylaws. The Planning Commission may also appoint advisory committees whose members are not members of the Planning Commission.

## **SECTION VII**

### **BYLAWS, MEETINGS AND RECORDS**

- A. The Planning Commission shall adopt bylaws for the transaction of business.
- B. The Planning Commission shall hold at least 4 regular meetings each year, and shall by resolution determine the time and place of the meetings.
- C. Unless otherwise provided in the Planning Commission's bylaws, a special meeting of the Planning Commission may be called by the chairperson or by 2 other members, upon written request to the secretary. Unless the bylaws otherwise provide, the secretary shall send written notice of a special meeting to Planning Commission members at least 48 hours before the meeting.
- D. The business that the Planning Commission may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act, Public Act 267 of 1976, MCL 15.261, et seq.
- E. The Planning Commission shall keep a public record of its resolutions, transactions, findings, and determinations. A writing prepared, owned, used, in the possession of, or retained by a Planning Commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.

## **SECTION VIII**

### **ANNUAL REPORT**

The Planning Commission shall make an annual written report to the Township Board concerning its operations and the status of the planning activities, including recommendations regarding actions by the Township Board related to planning and development. If the Township ever operates a water supply system or sewage disposal system, then the Planning Commission shall prepare a capital improvements program.

## **SECTION IX**

### **AUTHORITY TO MAKE MASTER PLAN**

- A. Under the authority of the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., and other applicable planning statutes, the Planning Commission shall make a master plan as a guide for development within the Township's planning jurisdiction.
- B. Final authority to approve a master plan or any amendments thereto shall rest with the Planning Commission unless the Township Board passes a resolution asserting the right to approve or reject the master plan.
- C. Unless rescinded by the Township, any plan adopted or amended under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq., need not be readopted under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq.

## **SECTION X**

### **ZONING POWERS**

- A. The Township Board hereby confirms the transfer of all powers, duties, and responsibilities provided for zoning boards or zoning commissions by the former Township Zoning Act, Public Act 184 of 1943, MCL 125.271, et seq.; the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101, et seq.; or other applicable zoning statutes to the Niles Charter Township Planning Commission formerly established under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq.
- B. Any existing zoning ordinance shall remain in full force and effect until otherwise amended or repealed by the Township Board.

## **SECTION XI**

### **SUBDIVISION AND LAND DIVISION RECOMMENDATIONS**

- A. The Planning Commission may recommend to the Township Board provisions of an ordinance or rules governing the subdivision of land. Before recommending such an ordinance or rule, the Planning Commission shall hold a public hearing on the proposed ordinance or rule. The Planning Commission shall give notice of the time and place of the public hearing not less than 15 days before the hearing by publication in a newspaper of general circulation within the Township.
- B. The Planning Commission shall review and make recommendations on a proposed plat before action thereon by the Township Board under the Land Division Act, Public Act 288 of 1967, as amended, MCL 560.101, et seq. Before making its recommendation, the Planning Commission shall hold a public hearing on the proposed plat. A plat submitted to the Planning Commission shall contain

the name and address of the proprietor or other person to who notice of a hearing shall be sent. Not less than 15 days before the date of the hearing, notice of the date, time and place of the hearing shall be sent to that person at that address by mail and shall be published in a newspaper of general circulation in the Township. Similar notice shall be mailed to the owners of land immediately adjoining the proposed platted land.

- C. The Planning Commission shall have 63 days from receipt of the plat to issue its recommendation of approval, approval with conditions or disapproval, default of which shall be considered approved.

## **SECTION XII**

### **SEVERABILITY**

The provisions of this ordinance are hereby declared to be severable, and if any part is declared invalid for any reason by a court of competent jurisdiction, it shall not affect the remainder of the ordinance, which shall continue in full force and effect.

## **SECTION XIII**

### **REPEAL**

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. The resolution or ordinance establishing the Niles Charter Township Planning Commission under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq., is hereby repealed.

## **SECTION XIV**

### **EFFECTIVE DATE**

This ordinance shall take effect 63 days after the ordinance is published.

### **NILES CHARTER TOWNSHIP**

Terry E. Eull, Clerk  
320 Bell Road  
Niles, Michigan 49120  
269-684-0870

## **CERTIFICATE**

The undersigned, as the duly elected and acting clerk of the Township, hereby certifies that this ordinance was duly adopted by the Township Board at a regular meeting of said Board, at which a quorum was present, held on December 1, 2014, and that copies of the ordinance were transmitted and published as directed.

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Terry E. Eull, Clerk