

**NILES CHARTER TOWNSHIP
PLANNING COMMISSION**

BYLAWS

ADOPTED September 9, 2014

SECTION 1: PURPOSE

The Niles Charter Township Planning Commission hereby adopts these Bylaws in order to facilitate the performance of its duties as outlined in PA 33 of 2008, as amended, being the Michigan Planning Enabling Act, (MCL 125.3801 et seq.) and to facilitate the duties for the administration of the Township Zoning Ordinance as outlined in PA 110 of 2006, as amended, being the Michigan Zoning Enabling Act (MCL 125.3101 et seq.).

SECTION 2: MEMBERSHIP

- A. The Niles Charter Township Planning Commission shall be composed of 7 members.
- B. Members of the planning commission are appointed by the township supervisor with the concurrence of the township board pursuant to township ordinance.
- C. Each member of the planning commission shall represent and advocate what is best for the township government as a whole putting aside personal and special interests. Each member shall also represent an important segment of the community pursuant to the Planning Act.
- D. Members shall serve a 3-year term. Appointments will be staggered so that approximately one-third of the members' terms will expire annually. Any member completing his/her term is eligible for reappointment.
- E. The township board representative shall be the liaison between the planning commission and the township board and shall be responsible for presenting recommendations of the planning commission to the township board concerning the zoning ordinance, subdivision ordinance modifications and plat or condominium development proposals for township board final approval when applicable.
- F. The planning commission representative to the zoning board of appeals shall report the actions of the zoning board of appeals to the planning commission and update the zoning board of appeals on actions by the planning commission that relate to the functions and duties of the zoning board of appeals. This representative on the zoning board of appeals cannot be chairperson of the zoning board of appeals and is appointed by the township board. The planning commission may recommend such appointment to the township board.

SECTION 3: DUTIES OF THE PLANNING COMMISSION

The planning commission shall perform the following duties:

- A. Take such action on petitions, staff proposals and township board requests for amendments to the zoning ordinance as required.
- B. Take such action on petitions, staff proposals and township board requests for amendments to the master land use plan as required.
- C. Prepare an annual report to the township board.
- D. Prepare a suggested budget, to be included in the annual report.
- E. Take such actions as are required by the Michigan Zoning Enabling Act or Michigan Planning Enabling Act, as amended.
- F. Review subdivision and condominium proposals and recommend appropriate actions to the township board.
- G. Prepare special studies and plans, as deemed necessary by the planning commission or township board and for which appropriations of funds have been approved by the township board.
- H. Attend training sessions, conferences or meetings as needed to properly fulfill the duties of planning commissioners and for which appropriations of funds have been approved by the township board, either in the annual planning commission budget or otherwise.
- I. Perform other duties and responsibilities as requested by the township board or other authorized township official or agency.

SECTION 4: OFFICERS

- A. **Selection and Tenure.** At the first regular meeting each year, the planning commission shall select from its membership a chairperson and vice chairperson/secretary. Officers shall serve a term of one year, or until their successors are selected and assume office. All officers shall be eligible for reelection for consecutive terms for the same office.
- B. **Chairperson.** The chairperson shall preside at all meetings, appoint committees and perform such other duties as may be ordered by the planning commission.

- C. **Vice Chairperson/Secretary.** The vice chairperson/secretary shall act in the capacity of the chairperson in his/her absence. In the event the office of chairperson becomes vacant, the vice chairperson shall succeed to this office for the unexpired term, and the planning commission shall select a successor to the office of vice chairperson for the unexpired term. The vice chairperson/secretary shall execute documents in the name of the planning commission, perform the duties hereinafter listed below, and shall perform other duties as the planning commission may determine.
1. **Minutes.** The vice-chairperson/secretary shall be responsible for preparing or having prepared the minutes of each meeting and public hearing and shall arrange for their recording in a suitable permanent record maintained by the township clerk. The minutes shall contain a brief synopsis of the meeting, including a complete restatement of all motions and record of votes, conditions or recommendations made on any action and a record of attendance. Minutes of public hearings shall contain a synopsis of public comments.
 2. **Correspondence.** The vice-chairperson/secretary shall be responsible for issuing or having issued formal written correspondence with other groups or persons, as directed by the planning commission. All communications, petitions, reports or other written materials received by the vice-chairperson/secretary shall be brought to the attention of the planning commission.
 3. **Attendance.** The vice-chairperson/secretary shall be responsible for reporting the attendance record for each planning commission member to the township clerk.
 4. **Notices.** The vice-chairperson/secretary shall cause to be issued or have issued such notices as may be required by the planning commission.

SECTION 5: ABSENCES, REMOVALS, RESIGNATIONS AND VACANCIES

- A. All members are expected to attend all planning commission meetings. To be excused, members of the planning commission shall notify the planning commission chairperson, vice chairperson/secretary or Zoning Administrator when they intend to be absent from a meeting. Failure to make this notification prior to the meeting shall result in an unexcused absence.

- B. Members of the planning commission may be removed by the township board for misfeasance, malfeasance or nonfeasance in office upon written charges and after a public hearing on such removal.
- C. A member may resign from the planning commission by sending a letter of resignation to the township supervisor, township board or planning commission chairperson stating the date of such resignation.
- D. Vacancies shall be filled by the township board for the remainder of the unexpired term of the position being filled. Members terms shall be for three years and until their successor is appointed and has been qualified.
- E. A member having three unexcused absences within a twelve month period shall be deemed guilty of nonfeasance and subject to removal from the planning commission by the township board.

SECTION 6: CONFLICT OF INTEREST

- A. Planning commission members shall acknowledge and declare a conflict of interest and abstain from participating in a hearing or deliberations on a decision of the planning commission in which the conflict exists. Such a conflict exists under the following circumstances:
 - 1. A relative or other family member is involved in any request for which the planning commission is asked to make a decision;
 - 2. The planning commission member has a business or financial interest in the property involved in the request or has a business or financial interest in the applicant's company, agency or association;
 - 3. The planning commission member owns or has a financial interest in neighboring property. For purposes of this section, a neighboring property shall include any property falling within the notification radius for the proposed development, as required by the zoning ordinance or other applicable ordinance or statute; or
 - 4. There is a reasonable appearance of a conflict of interest, as determined by the planning commission member declaring such conflict or by a majority of the remaining planning commission members.
- B. The planning commission member declaring a conflict of interest should state the nature of the conflict and whether he or she believes he or she could impartially consider the request before the commission. He or she should individually decide to abstain from any discussion or votes relative

to the matter that is the subject of the conflict. If he or she decides not to abstain and a vote of the remaining members of the commission is called for by a planning commission member, a majority vote of such remainder shall determine whether or not the conflict is sufficient to require abstention. A member thus abstaining should remove himself or herself from the meeting room during the discussion and vote on the issue. A representative of the abstaining member could, however, present facts to the commission concerning said issue.

SECTION 7: MEETINGS

- A. **Regular Meetings.** The planning commission shall hold not less than four regular meetings each year and by resolution shall determine the time and place of such meetings. Other meetings may be held as necessary. When a regular meeting falls on a legal holiday or upon a day resulting in a conflict, the planning commission shall, if possible, select a suitable alternate meeting date in the same month as the originally scheduled meeting.

Notice of regular or scheduled planning commission meetings shall be posted at the principal township office within 10 days after the planning commission's first meeting in each fiscal year in accordance with the Open Meetings Act.

- B. **Special Meetings.** Special meetings may be called by the chairperson or upon written request to the vice-chairperson/secretary by at least two members of the planning commission. The business the planning commission may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act. All costs of special meetings held to consider requests of applicants for approvals under the zoning ordinance (or for such other purposes as may be necessary) shall be paid by the applicant for such requests.

Notice of special meetings shall be given to the members of the planning commission at least forty-eight hours prior to the meeting. Such notice shall state the purpose, time and location of the special meeting and shall be posted in accordance with the Open Meetings Act. If all members are present at a special meeting, the lack of the foregoing notice to members of the planning commission shall be waived.

- C. **Public Records.** All meetings, minutes, records, documents, correspondence and other materials of the planning commission shall be open to public inspection in accordance with the Freedom of Information Act, except as may otherwise be provided by law.

- D. **Quorum.** 4 members of the 7-member planning commission shall constitute a quorum for transacting business and taking official action for all matters except for those decisions required by statute to be made by a majority of the membership. When a quorum is not present, those present may adjourn the meeting to another time and day, in accordance with the provisions of the Open Meetings Act. No action shall be taken at a meeting at which a quorum is not present. If a meeting involves a scheduled public hearing and a quorum is not present, those present may accommodate the public present by listening and recording their comments for the information of those members not present and for review at the time of the rescheduled public hearing. The date of the rescheduled public hearing shall be publically determined and announced at the scheduled public hearing.
- E. **Voting.** An affirmative vote of the majority of the planning commission membership is required to adopt any part of the master plan or amendments to the plan. Unless required by statute, other actions or motions placed before the planning commission may be adopted by a majority vote of the membership in attendance, as long as a quorum is present. Voting shall be by voice vote; a roll call vote shall be required if requested by any commission member or directed by the chairperson. All planning commission members, including the chairperson, shall vote on all matters.
- F. **Agenda.** The chairperson shall be responsible for preparing an agenda for planning commission meetings. The order of business for meetings shall be as follows:
1. Call to Order
 2. Pledge of Allegiance
 3. Roll Call and Recognition of Visitors
 4. Approval of Minutes
 5. Approval of Agenda
 6. Scheduled Public Hearings
 7. Old Business
 8. New Business
 - a. Setting Public Hearing Dates
 - b. Other New Business
 9. Report of the Township Board Representative
 10. Report of the Zoning Board of Appeals Representative
- G. **Public Hearings.** All public hearings held by the planning commission shall be scheduled as part of a regular or special meeting of the planning commission. An applicant may ask the planning commission to schedule a different date for the public hearing on the applicant's request but if permitted, shall require the applicant to pay to the township at least 20 days before the scheduled hearing the full cost of publication and mailing of

notices of the hearing, the per diem fee of the planning commission members for a regular meeting of the commission, the township attorney and consultant fees estimated by said professionals pertaining to such special hearing, and the cost of any extra information or investigation required by the planning commission pertaining to the application.

The following rules of procedure shall apply to such public hearings:

1. Chairperson opens the public hearing and announces the subject.
2. Chairperson summarizes the procedures/rules to be followed during the hearing.
3. Township planner/engineer/other consultants present their report and recommendation.
4. Applicant presents the main points of the application.
5. Persons speaking in support of the application are recognized.
6. Persons speaking in opposition to the application are recognized.
7. Chairperson closes the public hearing and returns to the regular/special meeting.
8. Planning commission begins deliberation and arrives at a decision with specified reasons for the decision. A decision can be postponed by a vote of the commission for reasons identified in the motion for postponement.

Note: All comments by the public, staff and planning commission members shall be directed to the chairperson and shall relate to the subject of the public hearing; unrelated comments shall be ruled out-of-order by the chairman.

- H. **Motions:** All motions should be made and seconded before discussion can occur. Motions regarding zonings, special use permits, site plan review, planned unit developments and other applicable actions shall include a finding of fact listing what the commission determines to be relevant facts in order to make a decision and the action taken shall include reasons based on the facts for the commission's action.

SECTION 8: AMENDMENTS

These bylaws may be amended at any meeting of the planning commission by a majority vote of the membership of said commission. The proposed amendment shall be included on the agenda for the meeting at which it is to be discussed and decided which agenda shall include a summary of the content of such amendment.

CERTIFICATION

The foregoing bylaws were adopted by the Niles Charter Township Planning Commission at a regular meeting of said Commission held on September 9, 2014 by a majority vote of said planning commission membership.

**NILES CHARTER TOWNSHIP
PLANNING COMMISSION**

Vice Chairperson/Secretary

New Buffalo MI short term rental:

[City of New Buffalo, MI Short-Term Rental Units: Section 11-4 Short-term rental regulations. \(ecode360.com\)](http://ecode360.com)

Holland MI:

Short Term Rentals:

- **Short Term Rental** (aka "Airbnb") – A dwelling unit offered for rent in part or in its entirety for less than 30 consecutive days per occupant. A Short Term Rental Certificate of Compliance is required. Click on the links below for more information about Short Term Rentals.
 1. **Owner Occupied** - This is the owner's primary residence. One room may be rented while the owner lives there, or the entire home while they are away. This is allowed in any zone district.
 2. **Investor Owned** - The owner does not live here, and they rent the entire home to visitors. This is often a vacation home or second home. This is allowed:
 - In any Commercial, PRD, PUD zone district; OR
 - In a Residential zone (R-1, R-2, R-TRN) with a maximum of 25 properties, and a 500 foot separation distance. Call to see if your property qualifies.
 3. **Tulip Time** - A dwelling that is offered in part or in its entirety for not more than 10 days during the designated Tulip Time festival in May. No inspection or certificate are required.
 - [Short Term Rental Registration Form](#)
 - [Owner Occupied Short Term Rental Worksheet](#)
 - [Investor Owned Short Term Rental Worksheet](#)

Exempt:

- Residential Care Facilities – An adult foster care facility or residential facility for the care, treatment or rehabilitation of persons with physical, mental or social-emotional disorders, when licensed and inspected by the State of Michigan.
- Tulip Time Short Term Rentals

South Haven MI

ALL SHORT-TERM RENTALS MUST BE REGISTERED WITH THE CITY OF SOUTH HAVEN AND DESIGNATED AS A BUSINESS OR PERSONAL RENTAL UNIT.

This is per the Short-Term Rental Ordinance ([Code of Ordinances No. 1026](#)) adopted by the City Council on July 16, 2016 and amended Ordinance ([Code of Ordinances No. 1044](#)) adopted by the City Council on July 16, 2018 and amended Ordinance ([Code of Ordinances No. 1045](#)) adopted by the City Council on November 19, 2018 and amended Ordinance ([Code of Ordinances No. 1048](#)) adopted by the City Council on February 4, 2019.

[Short Term Rental Rule Reminder](#)

- [Frequently Asked Questions](#)
- [Short Term Rental Designation Letter and Form](#)
- [STR Reports](#)
- [Short-Term Rental Registration Form](#)
- [Local Agent Form](#)

What is a short-term rental?

The rental of a dwelling unit for compensation for a term of at least 2 nights to at most 29 nights.

What is not a short-term rental?

- Hotels
- Resorts
- Bed & Breakfasts
- Boarding House/Rooming House
- Transitional houses operated by a charitable organization
- Group homes such as nursing homes and adult-foster-care homes
- Substance-abuse rehabilitation clinics
- Mental-health facilities
- Other similar health-care related facilities

How do I register my Short-Term Rental?

- Complete the [Short-Term Rental Registration Application](#) and Designation (Business or Personal) Form, with a local agent affidavit.
- Submit forms via mail to City Hall Attn: Building Services or email forms to Carol Mezak at cmezak@southhavenmi.gov

What is a Short-term Rental Business Unit?

- A zoning use consisting of a residential dwelling unit that may be rented for more than 6 short-term rental terms and more than 28 days in a calendar year.

What is a Short-term Rental Personal Unit?

- A zoning use consisting of a residential dwelling unit that may be rented for no more than 6 short-term rental terms and not more than a total of 28 days in a calendar year.

What is a Short-term Rental Term?

- The duration of a rental contract (including any sublease) with a renter or group of renters. A rental term shall be deemed to end when there is a complete turnover in occupancy in the dwelling unit or when the individual on the rental contract vacates the dwelling unit.

Fees:

- Personal Short-term Rentals under the STR Program will cost **\$100 bi-annually** and be inspected bi-annually.
- Business Short-term Rental Units under the STR Program will cost **\$500** annually and will be inspected annually.
- All rental units will be inspected before a new Personal or Business STR certificate will be issued.
- [Inspection Checklist Document](#)

Other Requirements:

- Obtain the City issued Short-Term Rental Registration Certificate with the Zoning Administrator's signature and post it in a prominent first-floor window facing the street.
- Provide renters with the [Good Neighbor Guide](#) provided to you with your Certificate.
- Personal STRs must notify the City of and post the dates of rental contracts on their City-issued Rental Certificate.

What is the purpose of a Local Agent?

- Someone located within 45 miles from your short-term rental home. This person or company will be contacted by concerned neighbors or by emergency personnel if there is an issue at your property while renters are there.

How is the maximum renter occupancy determined?

- Newly rented, newly constructed or newly renovated houses: **12 people** (over 2 years of age) **OR** 2 people per bedroom plus 2 people per occupied finished floor, whichever is less. Example: 3 bedrooms and 2 floors = 6 + 4 = 10 people.
- STR Personal Units must be registered for maximum occupancy of no more than 12 persons, even in Formula in Chapter 10, Article X of City Code would allow greater occupancy.

- To qualify as a finished occupied floor, basement and attic bedrooms are required to have egress windows in each bedroom per Michigan building code.

What should I know about renting my home?

- The City-issued rental registration certificate in 24 point type including the name of the local agent, a 24-hour telephone number with which the agent may be contacted, and the maximum occupancy of the dwelling unit as permitted by this ordinance **must be posted** in a prominent first-floor window of all Short-term Rental units **at all times**.
- The address of the dwelling unit must be clearly marked outside the house, in the kitchen and near the pool area if applicable.
- Egress windows, doors, and stairs must meet Michigan Residential Code standards.
- Outdoor, kitchen and bathroom outlets must be connected to a GFCI (ground fault circuit interrupter) device: Circuit panels must be properly labeled.
- Smoke alarms must be located in each bedroom and carbon monoxide detectors located on each floor. They must be maintained at least every 90 days.
- Ordinance violations on three separate occasions result in fines of \$100, \$500, and \$1,500.
- A third violation will result in a notice to appear at a hearing and potential revocation of the rental certificate.
- Changes in occupancy, agent, owner, or contact information must be updated with the Building Services Department: (269) 637-0790.

How could I lose my Short-Term Rental Registration?

Three incidents occurring with three different rental groups per year that are violations of the following:

- Short-Term Rental Ordinance
- Chapter 30, Article II of the City Code - Noise
- Chapter 30, Article III of the City Code - Controlled Substances
- Chapter 30, Article IV of the City Code - Unwholesome Substances
- Chapter 54, Article V of the City Code - Offenses Against Public Peace
- Chapter 70, Article II of the City Code - Solid Waste
- Any violation of the Zoning Ordinance or any permit or approval issued pursuant to the Zoning Ordinance.

The City tracks all incidents and will contact the Property Owner and Local Agent to appeal the decision at a Hearing.

What should I do if I have a Short-Term Rental Complaint?

The best way to make a complaint is as an incident occurs.

Since these are generally after business hours, your best option is to call the non-emergency police number at **(269) 637-5151**. The Police and Fire Departments report all incidents to the Building Services Department.

The house is being rented, but a Certificate is not in the window. The rental certificate must be posted at all times.

The Certificate is in a second-floor window. Please take a picture from public property and email it to the Zoning Administrator.

There is a piece of paper in the window, but it isn't the Certificate. The rental certificate must be posted at all times.

There are more occupants in the house than stated on the Certificate. Call the non-emergency police number (269) 637-5151 after 11:00 PM and before 7:00 AM if you believe there are more occupants than listed on the Certificate. They will not be able to enter the rental house unless they have a warrant, but if there is a noise or parking concern, they can knock on the door to ask questions and attempt to ascertain the occupancy.

Smoke is coming into my home from their fire-pit. Call the non-emergency police number at (269) 637-5151. The fire department will come out and assess if the smoke is coming into your house or not.

The renters are being too loud. Call the non-emergency police number at (269) 637-5151 and state you are a neighbor and renters are being too loud. Provide the address and they will come out to investigate.

Please do not make false complaints. The police and fire departments will record unsubstantiated complaints and will provide that information to the Building Services Department.

South Bend, IN

Short Term Rentals (STR) are defined by the City of Bend as rentals of 29 days or fewer per tenant. All STR properties in Bend city limits are regulated through the Short Term Rental Program. Review code requirements here:

[Development Code Chapter 3.6.500](#) | [Bend Code Chapter 7.16](#)

3.6.500 Short-Term Rentals.

The purpose of this section is to protect the character of the City's residential neighborhoods by limiting and regulating short-term rental of dwelling units.

The following provisions apply to all short-term rentals (STRs) after April 15, 2015.

A. **Applicability.** No person shall occupy, use, operate or manage, nor offer or negotiate to use, lease or rent, a dwelling unit for short-term rental occupancy unless issued a short-term rental (STR) permit or exempted under this chapter. A permit is required for each dwelling unit even if located on the same legal lot. The standards of this section shall supersede the standards elsewhere in the Development Code, unless otherwise stated.

B. **Application Submittal Requirements.** The following information shall be submitted to the City along with a form approved by the City in order to apply for a STR permit.

1. The name, address, email address and telephone number of the owner of the short-term rental for which the permit is to be issued, and the same for the authorized representative if different than the owner. An application may be submitted by an owner with the buyer as the applicant and upon written request, the approval will be granted to both the owner and the buyer.
2. A floor plan identifying the number of bedrooms proposed for use.
3. A diagram and/or photograph of the premises showing and indicating the number, location and dimensions of designated on-site and abutting on-street parking spaces that meet the minimum required number of parking spaces and maneuvering per [BDC 3.3.300](#).
4. Acknowledgment by signature that the owner and authorized representative have read all the regulations relating to the operation of a short-term rental under [BC Chapter 7.16](#).
5. Certification of the accuracy of the information submitted and agreement to comply with the conditions of the permit.
6. Consent to inspection to ensure compliance with this section.

C. Review Type. Short-term rentals are permitted subject to the following permit processes, provided all other requirements of this section are met:

1. Other than as provided in subsection (C)(2) of this section, short-term rentals within Commercial Zoning Districts (CL, CG, CC, CB, CN), the Mixed Employment Zone (ME), the Mixed-Use Urban Zone (MU), the Mixed-Use Neighborhood Zone (MN), and the Mixed-Use Riverfront Zone (MR) within the Old Mill District boundary (noted as Type I in Figure 3.6.500.C) are:
 - a. Processed as a Type I application.
 - b. Exempt from the concentration limits in subsection (E) of this section.
2. Short-term rentals within Mount Bachelor Village, Deschutes Landing subdivision, and Courtyards at Broken Top Lots 1 through 8 and Lots 21 through 32, are:
 - a. Exempt from obtaining a STR permit (an annual STR operating license will still be required).
 - b. Exempt from the concentration limits for short-term rentals in subsection (E) of this section.
3. Infrequent short-term rentals that are available for rent fewer than 30 days total per calendar year are:
 - a. Processed as a Type I application.

b. Exempt from the concentration limits for short-term rentals in subsection (E) of this section.

c. Limited to no more than four rental periods per calendar year.

4. Other than as provided in subsections (C)(2) and (3) of this section, in residential zones (SR2-1/2, RL, RS, RM, RM-10, RH) and in the MR Zone outside of the Old Mill District boundary (noted as Type II in Figure 3.6.500.C), STRs are permitted subject to a Type II permit process provided all requirements of this section are met.

5. Owner-occupied short-term rentals are:

a. Processed as a Type I application.

b. Exempt from the concentration limits for short-term rentals in subsection (E) of this section.

c. Limited to renting up to two rooms to overnight guests for a period fewer than 30 consecutive days. The owner must occupy the dwelling unit during the overnight rental period. Only part of the dwelling unit is used for rental purposes. The room(s) for rent cannot include rooms within a detached or attached accessory dwelling unit or accessory structure where there is no internal access to the dwelling unit.

d. Not permitted to have a kitchen or a wet bar in the room for rent.

e. Subject to all other standards within this section for short-term rentals unless otherwise specified.

6. Modification of an approval for a short-term rental shall be:

a. Processed as a Type I application and exempt from the concentration limits in subsection (E) of this section if the expansion includes an increase in the number of bedrooms approved under the initial STR approval. If the expansion does not increase the number of bedrooms, no modification of approval is required.

b. Required to obtain a revised annual operating license to reflect the modification of approval.

c. Prior existing uses as defined in subsection (M) of this section are subject to the provisions of [BDC 5.2.100](#).

D. Short-Term Rental Development Designation Process. The purpose of this subsection is to provide a process to allow properties to be designated as short-term rental developments that, once approved, would allow dwelling units within the designated STR development to be used as short-term rentals without being subject to the concentration limits in subsection (E) of this section.

1. Designation Process. The City may approve by a Type III process designation of a property or group of adjacent properties as a short-term rental development. The Planning Commission shall be the decision-making body for a STR development designation application.

a. Submittal Requirements. An application for a short-term rental development designation must include:

- i. An application, on a City form. All owners of all property within the area proposed for short-term rental development designation must sign either the application or a consent to submit the application.
- ii. A map showing the area to be included in the short-term rental development, and properties within one-quarter mile. All existing and approved short-term rentals within the one-quarter-mile area shall be shown on the map.
- iii. An application fee in an amount established by Council resolution.
- iv. A narrative explaining how all applicable criteria are met.

b. Designation Criteria.

- i. The property must be in an RS, RM or MR Zone and be an entire subdivision or subdivision phase, including a minimum of one acre.
- ii. The short-term rental development must be compatible with the surrounding neighborhood.
- iii. Any negative impacts of the proposed use on adjacent properties and on the public can be mitigated through application of other code standards, or other reasonable conditions of approval.

c. Review Process. Short-term rentals within STR development shall be:

- i. Processed as a Type I application to ensure adequate parking is provided and occupancy limits are established.
- ii. Exempt from the concentration limits for short-term rentals in subsection (E) of this section.

E. Concentration Limits. There must be at least 250 feet of separation between properties zoned RL, RS, RM, RH, and MR outside of the Old Mill District boundary (noted as Type II in Figure 3.6.500.C) measured radially from the property boundary of the subject property as determined by the City of Bend Development Services Director or designee, which have a valid Type II short-term rental application or permit.

F. Limits on Permit Transfer. Notwithstanding [BDC 4.1.1330](#), any short-term rental application submitted after April 15, 2015, is specific to the owner of the dwelling unit or owner-authorized buyer for which the permit is issued. This means that the short-term rental permit shall not run with the land, but shall terminate and be void with no further proceedings on sale or transfer of the real property which was rented pursuant to the short-term rental permit.

Sale or transfer means any change of ownership during the lifetime of the permit holder, whether or not there is consideration, or after the death of the permit holder, except a change in ownership where title is held in survivorship with a spouse or domestic partner, or a transfer on the owner's death to a trust which benefits only a spouse, child(ren) or domestic partner for the lifetime of the spouse, child(ren) or domestic partner. The survivor may not sell or transfer title, except that title may transfer among the survivors. A sale or transfer also does not mean (1) the transfer of ownership from the owner(s) of the real property to or between the members of a limited liability company or partnership when the transfer involves the same owners, or (2) the transfer to a trustee, a corporation, a partnership, a limited partnership, a limited liability partnership, or other similar entity, if at least one owner is living at the time of transfer so long as that owner retains at least a 25 percent interest in the entity. The permit or nonconforming right shall terminate if the original owner ceases to own at least 25 percent interest in the entity. If the owner is a corporation, the shareholders of the corporation shall be considered the owners for purposes of this section.

G. Occupancy. The maximum occupancy for the dwelling shall be two persons per bedroom plus two additional persons. For example, a two-bedroom dwelling would have a maximum occupancy of six persons. For owner-occupied short-term rentals, the occupancy shall be two persons per rented bedroom, in addition to the long-term residents of the dwelling.

H. Parking. The following parking standards are required, in accordance with [BDC Chapter 3.3](#):

1. The parking requirement for STRs is one space per bedroom. In the case of an owner-occupied STR, the parking requirement is either one space per bedroom or two spaces for the owners occupying the dwelling unit plus one space per approved STR bedroom, whichever is less.
2. Each on-site parking space is required to be a minimum of 20 feet deep by nine feet wide. Parking spaces may be in a garage or in an otherwise approved parking space on the property, such as a driveway, provided the parking dimension for the spaces are met. New parking spaces are required to be paved and cannot be gravel. The entirety of the parking space must be accommodated on-site such that the space does not cross over the property line. Tandem parking is allowed.
3. If the garage is to be utilized to meet the parking requirement, a photo of the interior of the garage must be submitted to show the garage is available for parking. The garage must continually be available for guest parking as long as the STR permit is valid.
4. Where on-street parking abutting the site is allowed, up to 50 percent of the required parking may be met with approved on-street parking spaces in accordance with [BDC 3.3.300\(B\)](#).

I. Prohibited Use. No recreational vehicle, travel trailer, or tent or other temporary shelter shall be used in conjunction with the short-term rental.

J. Short-Term Rental Operating License. In addition to obtaining a STR permit under this section, persons operating short-term rentals must obtain a short-term rental operating license under [BC Chapter 7.16](#).

1. For existing permits submitted prior to the effective date of this code, and permits obtained prior to September 1, 2015, and uses that now require a permit under this chapter, an operating license must be obtained by September 1, 2015.

K. Abandonment of Use.

1. Notwithstanding [BDC Chapter 5.2](#), Nonconforming Uses and Developments, if the short-term rental ceases for a period of more than 12 months, the short-term rental permit shall be void with no further proceedings.

a. For existing permits submitted prior to the effective date of this code, the period of use shall be measured from the 12 months prior to the due date for the operating license (September 1, 2015). For permits obtained after September 1, 2014, and before September 1, 2015, and uses that now require a permit under this chapter, the 12-month duration shall be measured from one year beginning September 1, 2015. The period of use shall then be measured annually thereafter.

2. Failure to maintain the STR operating annual license as provided in that chapter shall be considered abandonment of use.

3. Temporary Hardship Exemption.

a. A temporary hardship exemption from this section may be granted by the Development Services Director or designee. The following hardships, including a submission of proof, may be acceptable to the City:

i. Medical condition of the owner, spouse, domestic partner or immediate family member that jeopardizes the ability of the owner to operate the short-term rental;

ii. Death of a spouse, domestic partner or immediate family member that jeopardizes the ability of the owner to operate the short-term rental; or

iii. Structural integrity of the short-term rental that deems it uninhabitable for tenants and is not self-imposed.

b. A time limit may be set by the Development Services Director or designee, but shall not exceed six months. A one-time extension may be approved upon request if one of the conditions of subsection (K)(3)(a) of this section still applies.

L. Expiration of Approval and Initiation of Use. Notwithstanding [BDC 4.1.1310](#) and [4.1.1315](#), Expiration of Approval and Initiation of Use, if the short-term rental does not initiate the use by renting the short-

term rental at least one night within the first 12 months of obtaining a short-term rental permit, the short-term rental permit shall be void with no further proceedings.

1. For existing permits submitted prior to the effective date of this code, and permit applications submitted after April 15, 2015, and prior to September 1, 2015, the 12-month initiation of use period shall begin September 1, 2015. For all permits submitted after that date, the initiation of use period begins upon final land use permit approval.

M. Prior Existing Use.

1. Existing Type I Permits. Any short-term rental approved and legally permitted under the former 2006 [BDC 3.6.200\(L\)](#) may continue as a legal nonconforming use provided:
 - a. That the use is not abandoned under subsection (K) of this section; and
 - b. That the owner obtains and renews the annual license as required by this section and [BC Chapter 7.16](#). The owner of the dwelling has the burden of establishing a valid prior approval when applying for a short-term rental license or license renewal.
2. Legal Nonconforming Uses. Any short-term rental that began operating prior to August 2006, when the initial short-term rental regulations were adopted, and has been lawfully and continually conducted since that time, may continue as a legal nonconforming use provided:
 - a. That the use is not abandoned under subsection (K) of this section; and
 - b. The owner obtains and renews the annual license required under this chapter and [BC Chapter 7.16](#). The owner of the dwelling has the burden of establishing a prior legal use when applying for a short-term rental license or license renewal.
3. Short-Term Room Rentals. Any short-term room rental that began operating prior to the effective date of the ordinance codified in this section (April 15, 2015), and submitted documentation to the City that only a single room in a dwelling was rented, may continue as a legal nonconforming use provided:
 - a. That the use is not abandoned under subsection (K) of this section; and
 - b. That the owner obtains and renews the annual license as required by this section and [BC Chapter 7.16](#). The owner of the dwelling has the burden of establishing a prior legal use when applying for a short-term rental license or license renewal.

N. Inspection. Any short-term rental applications submitted after April 15, 2015, shall be subject to inspection prior to commencement of the use by the City for compliance with this section.

1. The Development Services Director or designee may conduct a site visit upon an application for a short-term rental to confirm the number of bedrooms stated on the application and the

number, location and availability of on-site parking spaces. The site visit will be coordinated with the applicant and be conducted during normal business hours, and with reasonable notice.

2. The Development Services Director or designee may visit and inspect the site of a short-term rental on a prescribed schedule to ensure compliance with all applicable regulations, during normal business hours, and with reasonable notice and other procedural safeguards as necessary. Code violations shall be processed in accordance with [BDC Chapter 1.3](#), Enforcement. [Ord. NS-2314, 2018; Ord. NS-2303, 2018; Ord. NS-2297, 2017; Ord. NS-2258, 2015; Ord. NS-2251, 2015; Ord. NS-2240, 2015]

Articles on Short term rentals:

[Michigan Supreme Court Rules on Short-Term Rentals - Detroit Business Law - Resources for Metro-Detroit Businesses](#)

[Short Term Rentals, Long Term Consequences | Michigan Lakes & Streams Association, INC \(mymlsa.org\)](#)

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[Short Term Rentals, Long Term Consequences | Michigan Lakes & Streams Association, INC \(mymlsa.org\)](#)

City of St. Joseph MI

Short-term Rental: A commercial Use which is subordinate to the residential Principal Use of a Dwelling Unit, in which a tenant is allowed to lease the Dwelling Unit for periods of less than one calendar month in return for remuneration and which is not a Special Event Rental. If a tenant leases a Dwelling Unit for a period of at least one calendar month, this is not a Short-term Rental, but instead is a residential Use. A property authorized for a Short-term Rental Use may also be used for such residential Uses, but see 11.8.4 for limitations on such residential Use.

[Conditional Use Permit for Short Term Rental Application and Directions Feb 2020 with Noise Information - form FILL IN.pdf \(sjcity.com\)](#)

Conditional Use Permit – Short Term Rental Process, Instructions and Application

1. Contact Community Development Director (staff) regarding proposed request. Staff will review zoning ordinance regulations and determine which process is appropriate for your proposed request. Application forms will be distributed and staff will determine if a pre-submittal meeting is necessary. You may be required to complete the Site Plan Application or include the layout of your building space. The Zoning Ordinance provides for Short-Term Rental in the W Water Recreation District and R-3 Multiple Family Residence District. In each case additional requirements must be met.
2. Submission of Application. Complete applications may be submitted at any time.
 - a. You must complete both the Conditional Use Permit – Short Term Rental Application along with the Rental Registration – Short Term Rental Application at the same time and pay the applicable fees. You may need to complete a Site Plan Application or provide other information needed for proper review of your request.
 - b. It is suggested that you make an appointment with staff to submit the application.
 - c. All required applications, supplemental information and fees must be submitted at one time.
3. Acceptance of Application and Staff Review. Staff reviews the application and supplemental information for completeness and forwards the accepted application packet to the City Engineer, Director of Public Works, Director of Public Safety (Police/Fire) and Building Official for their review and comment. Incomplete applications will be returned with an explanation of missing information.
4. Scheduling of Required Inspection. Please review the process associated with the Rental Registration – Short Term Rental Application for this step.
5. Request for Additional Information. Based on comments received from the City departments, the applicant may need to provide additional information or drawings.
6. Staff Approval. If the request meets the requirements of the applicable zoning district and complies with all other local and state regulations, staff will approve the request. In some cases, conditions may be placed on the approval.
7. Conditional Use Permit Issued along with Short Term Rental Permit. Based on the property inspection, city staff determines the allowable Occupancy Load for the structure.
8. Advertising and Rental of Property. Once permits are issued, the property can be advertised for rent in accordance with approved sleeping rooms and occupancy calculations.

CITY OF ST. JOSEPH PLANNING & ZONING DEPARTMENT 700 Broad Street St. Joseph, MI 49085 Phone (269)983-1212 Fax (269) 985-0347 www.sjcity.com

CONDITIONAL USE – SHORT TERM RENTAL APPLICATION Please print legibly. All portions must be completed. Do not leave any section blank, use N/A. Incomplete forms will be returned. If additional space is needed, please use additional sheets of paper.

Property Information Property Address:

New Business Name: _____

Property Code Number(s) (Tax Number): 11-76- _____

Briefly Explain Request: _____

Applicant Information In case of trust, provide the name, address and telephone numbers of all trustees and beneficiaries of the trust. An LLC or corporation must provide a copy of Articles of Incorporation. In case the applicant is not the property owner, written permission from the property owner is required.

Name of Property Owner: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone: _____ E-mail Address: _____

Attorney or Responsible Party: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone: _____ E-mail Address: _____

Site Information General description or characteristics of the site:

Master Plan Designation: _____

Existing Zoning and Land Use: _____

Proposed Future Land Use: _____

Existing land use and zoning of adjacent parcels:

North: _____

South: _____

East: _____

West: _____

Is the property located in any of the following overlay districts found in the Zoning Ordinance?

Downtown Height Overlay District (Section 9.4)? Yes: ___ No: ___

Lake Bluff Scenic View Protection Overlay District (Section 9.5)? Yes: ___ No: ___

Floodplain Overlay District (Section 9.6)? Yes: ___ No: ___

Edgewater Beach Overlay District (Section 9.7)? Yes: ___ No: ___

Are you proposing any changes to the building or property as part of this use? Please explain:

Are you required to have a license from the State of Michigan to operate your business? Yes: ___ No: ___
If yes, provide license type, number and attach a copy of your current license:

How do you pay the required sales tax on the rental of the property?

Additional Specific Standards for Short Term Rental Below are the conditions that must be met before to a Conditional Use Permit for Short Term Rental can be issued (Sections 11.12.11.C and 11.12.11.D Lodging/Accommodations – Short Term Rental of the Zoning Ordinance have been combined for this application).

In addition, excerpts from Chapter 8 Building and Building Regulations from the City Code of Ordinance have also been included. Both documents in their entirety are available for review on the City’s website www.sjcity.com.

1. Does the Short-Term Rental occupy one or more Dwelling Units authorized under this Ordinance or existing as Nonconformities. Yes: No:

2. For proposed locations in the R3 Residential District, the subject Parcel cannot be adjacent to one or more residentially zoned or used Parcels. Determine what the adjacent (or across streets) parcels are zoned:

North: _____ South: _____

East: _____ West: _____

3. On-site parking must be provided as required in Article XVIII. Table 18-1 Parking Standards states “Short-term Rental shall provide one (1) space per Dwelling Unit, plus one-half (1/2) space per sleeping room in excess of one (1) in each Dwelling Unit, rounding fractions up for each Dwelling Unit (example: a dwelling unit with four sleeping rooms would require: one (1) space (first sleeping room) + ½ (each additional sleeping room). Four sleeping rooms would require = 1 + 1.5 = 2.5 which rounds up to 3.0 on-site parking spaces required.

All parking must be located on a hard surface in accordance with all City Codes. Calculate your required on-site parking: _____

4. The Applicant shall provide a scaled floor plan of the premises as part of the application (no larger than 11” x 17”). Is there an attached scaled floor plan of the entire dwelling unit? Yes: ___ No: ___

Is there an attached scaled floor plan for the entire building (if multiple units are in the structure) – show hallways and exits? Yes: ___ No: ___ N/A: ___

5. The exterior appearance of the Structure shall be harmonious with the character of the surrounding District. Explain how the exterior of the building is harmonious with the surrounding area:

6. A fire escape plan shall be developed and graphically displayed in each Dwelling Unit (no larger than 11” x 17”). Is the required fire escape plan attached? Yes: ___ No: ___

7. A minimum of one (1) appropriate fire extinguisher, in proper working order, shall be located in each Dwelling Unit, in a place readily accessible to guests. What is the age and location of the required fire extinguisher(s)? _____

8. Each Dwelling Unit, and the establishment, shall be provided with means of egress as described in the Michigan Residential Code or Michigan Building Code, adopted in Chapter 8, Article V of the Code of Ordinances of the City of St. Joseph, as appropriate. A Fire Escape Plan/Drawing must be completed. Is the required Fire Escape Plan/Drawing attached? Yes: ___ No: ___

9. No sleeping room shall be located in a Basement or cellar. Are there any sleeping rooms in the basement or cellar? Yes: ___ No: ___

10. Lavatories and bathing facilities shall be available to all Persons using the premises. Are lavatories and bathing facilities available to all persons using the premises? Yes: ___ No: ___

11. Retail sales are not permitted beyond those activities serving the registered overnight patrons. Will there be any retail sales taking place on the premises? Yes: ___ No: ___

12. The outdoor storage of trash or rubbish shall be screened. Where is the trash container stored?
_____ How are trash containers screened?
_____ Who is responsible for moving the trash container for pick up?

13. The establishment meets all requirements of Chapter 8, Article VI of the Code of Ordinances of the City of St. Joseph.

Chapter 8 – Buildings and Building Regulations of the Code of Ordinances provides additional rules and regulations for Short Term Rental. You should review this information to fully understand all aspects of Short Term Rental.

1. Have you completed the Short-Term Rental Registration Application? Yes: ___ No: ___

2. Copy of lease form containing the following: a. Required disclosure (“Safe Haven language”) b. Maximum number of residents/guests c. Number of sleeping rooms d. Maximum number of vehicles allowed on the property e. The active local landline telephone number for the dwelling unit f. Copy of existing City of St. Joseph noise regulations (Chapter 19, Article 9) g. Term of the rental (daily, weekend, weekly, etc.) h. The name, address, telephone number(s) (both local and cell phone number), electronic mail address of the designated local rental agent or property owner Is a copy of the lease that includes the above mentions items attached? Yes: ___ No: ___

3. Section 8-105 Inspections. Below is a list of items that are reviewed as part of the biennial inspection (please note this list is not comprehensive, but lists the main items): a. Verification that the landline telephone is working and can receive and send local calls; b. The Short-Term Rental Occupancy Certificate is properly displayed in its original format (8 ½ x 11) c. The fire escape plan is properly displayed; d. Calculation of the allowed occupancy load (based on number and size of sleeping rooms and required on-site parking); e. Determination of approved sleeping rooms is completed and properly documented on plans submitted; f. Verification of required on-site parking – must be on a hard surface; g. All required smoke and carbon monoxide detectors are working. All detectors/alarms shall be UL

approved. Smoke detectors shall be located in each sleeping room; outside each sleeping areas in the immediate vicinity of the bedrooms; on each additional story of the rental unit. Carbon monoxide detector must be located outside of sleeping areas (can be a combination smoke-carbon monoxide unit); h. Lights in common areas and stairways are properly working; i. Egress doors and railings are in safe and working condition; j. Interior finishes: e.g. handrails; holes/breaks; infestations; trip hazards – floor coverings/stair geometry/extension cord miss-use; k. Proper egress: e.g. exits unlock without key from the inside; egress and all operable windows remain open without support; l. Mechanical: e.g. natural and/or mechanical ventilation in bathroom; no storage within three feet of gas appliances/furnace; PRV and drop pipe on water heater; m. Electrical: e.g. common areas illuminated; covers on all junction box, outlets, switches; excessive extension cord use; proper receptacle grounding (GFCI protection); service panel accessible for all occupants; two receptacles per room; n. Plumbing: e.g. proper fixture operation without leaks (fill/drain, flush); proper water temperature; o. Exterior: e.g., principal and accessory structures in good repair; foundation/chimney; guard rails and exterior stairs; peeling paint and/or broken windows; screens on windows during season (April-October); self-closing screen doors; no standing water; vehicles parked legally; inoperable vehicles; enclosed rubbish storage; grass/weeds less than 6 inches high; street and unit numbers properly displayed; p. Other items as deemed appropriate.

4. Section 8-106 Recordkeeping. If requested by the City the following information must be available for review: a. All documents shall be maintained a minimum of two (2) years for the City of St. Joseph, including the following; i. The name, address and other contact information of a responsible tenant as well as the document signed by that tenant acknowledging the maximum occupancy load of the rental unit and applicable city regulations; ii. Between each short-term rental to a different tenant, the local agent shall inspect the premises and shall ensure that all smoke detectors, lights in common areas and stairways, egress doors, and railings are in a safe and working condition. Any defects discovered shall be corrected promptly. Upon inspection, the agent shall sign and date a log of the completed inspection findings. Do you agree to keep the required records as described above? Yes: ____ No: ____

9 CONDITIONAL USE SHORT TERM RENTAL APPLICATION CERTIFICATION The Applicant certifies and acknowledges and agrees that: A. The statements contained in this application are true and correct to the best of the Applicant's knowledge and belief. The owner of the subject property, if different from the applicant, states that he or she consents to the filing of the application and that all information contained is true and correct to the best of his or her knowledge; B. The Applicant understands that an incomplete or nonconforming application will not be considered. In addition, the Applicant understands that the City may require additional information prior to the consideration of this application; C. The Applicant shall make the property that is subject of this application available for inspection by the City at reasonable times; D. If any information provided in this application changes or becomes incomplete or inapplicable for any reason following submission of this application, the Applicant shall submit a supplemental application or other acceptable written statement containing the new or corrected information as soon as practicable but not less than five (5) days following the change, and failure to do so shall be grounds for denial of the application; E. The Applicant understands that if the application is approved with conditions, those conditions will need to be met as part of any permit issued; and F. The Applicant understands that he/she is responsible for all application fees. Fees are nonrefundable and there is no guarantee the application will be approved or permits issued. There should be no outstanding monies owed to the City (i.e., water bill or taxes).

On the _____, day of _____, 20_____, I/We have read the above certification, understand it, and agree to abide by its conditions.

Signature of Applicant or Authorized Agent Name of Applicant or Authorized Agent

SUBSCRIBED AND SWORN To before me this _____ day of _____
_____, 20_____ Notary Public

OFFICIAL CITY USE: Date Received: _____ Fee: _____ Completed: 10 CITY OF ST. JOSEPH INSPECTION DEPARTMENT 700 Broad Street St. Joseph, MI 49085 Phone (269)983-1212 Fax (269) 985-0347 www.sjcity.com

Local Agent Designation and Authorization – Short-Term Rental Please print legibly Rental Property

Information Property Address: _____

Unit Number: _____

Line Telephone Number for Unit: _____

Property Code Number (Tax Number): 11-76-_____

Owner Information Name: _____

Local Agent Information If the Local Agent is handling properties approved for Short-Term Rental, the Local Agent must have an address in any of the following: Cities of Benton Harbor, Coloma or St. Joseph; the Townships of Benton, Coloma, Hagar, Lincoln, Royalton, Sodus, or St. Joseph; or the Villages of Shoreham or Stevensville.

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Telephone Number: _____ Emergency Number: _____

E-mail: _____

I designate and authorize the Local Agent named above to act on my behalf with regard to all duties imposed upon me by the City of St. Joseph's ordinances and rules regulating the Short Term Rental unit identified above, including accepting service of notices, process or other legal documents issued by the City in such matters. I also agree to that I will notify the City and the Local Agent, in writing, should I ever revoke this appointment, and no such revocation shall be effective until received by the City.

Owner's signature Date

I accept the designation and authority noted above, I certify that the contact information is correct, and I agree that I will notify the Owner and the City in writing in the event of any changes in that information or if I am no longer serving as Local Agent for this Short Rental unit.

Local Agent's signature Date

Code of Ordinances – Chapter 19 ARTICLE IX. –

NOISE

Sec. 19-120. - Excessive noise; restricted generally. It shall be unlawful for any person to make, continue, or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of the general public, including but not limited to the noises enumerated in this article. (Ord. of 1-7-08)

Sec. 19-121. - Exemptions. The provisions of this article shall not apply to: (1) Law enforcement or governmental agencies when engaged in activities authorized by law. (2) Emergency work performed for the safety, welfare and public health of the citizens of the city. "Emergency work" is work made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from an imminent exposure to danger or potential danger; however, no person shall intentionally or negligently create the necessity for such work. (3) Devices emitting sound for warning purposes, as authorized by law. (4) Sounds made solely for the purpose of attracting attention or summoning assistance in order to protect persons or property. (5) Parades, fairs, circuses and other similar and sanctioned public entertainment events, sanctioned sporting events, sporting activities taking place in areas set aside for such activities, community events approved by the city, or any activities normally associated with any of the above. (Ord. of 1-7-08)

Sec. 19-122. - Musical instruments; amplified sound. It shall be unlawful to play any musical instrument or allow any electrically or electronically produced, reproduced or otherwise amplified sound to emanate from any place or premises between the hours of 10:00 p.m. and 7:00 a.m., so as to be heard more than 100 feet from the property line of such place or premises or so as to annoy or disturb the quiet, comfort or repose of persons in any office, dwelling or other residence, or other place of employment or repose. (Ord. of 1-7-08)

Sec. 19-123. - Shouting and whistling. Yelling, shouting, hooting, whistling or singing or the making of any other loud noise on the public streets between the hours of 10:00 p.m. and 7:00 a.m., or the making of any such noise at any time so as to unreasonably annoy or disturb the quiet, comfort or repose of the general public is unlawful. (Ord. of 1-7-08)

Sec. 19-124. - Animal and bird noises. 2 The keeping of any animal or bird which, by causing frequent or continued noise, shall disturb the comfort or repose of any person of reasonable sensibilities is unlawful. (Ord. of 1-7-08)

Sec. 19-125. - Construction noise. To erect, excavate, demolish, alter or repair any structure, or excavate any street or highway, other than between the hours of 7:00 a.m. and 7:00 p.m., without first obtaining permission from the city manager or his designee, is unlawful. (Ord. of 1-7-08)

Sec. 19-126. - Devices to attract attention. The use of any drum, loudspeaker, amplifier, or other instrument or device which creates noise for the purpose of attracting attention to commercial enterprises is unlawful. (Ord. of 1-7-08)

Sec. 19-127. - Penalty. A violation of any provision of this article, by any person, is a municipal civil infraction which shall, upon a determination of responsibility, be punishable by a fine of not less than \$100.00 nor more than \$500.00, plus the costs of prosecution. (Ord. of 1-7-08)

Sec. 19-128. - Violations as nuisances. In addition to the penalty imposed for a violation of this article, the operation or maintenance of any noise source which causes discomfort or annoyance to the reasonable sensibility of the general public or which endangers the comfort, repose, health, or peace of the general public, shall be deemed and is declared to be a public nuisance, and may be subject to abatement in accordance with Chapter 18, Article I, of this Code. (Ord. of 1-7-08)

GENERAL OFFICES / PARK DEPT.
269/684-0870 FAX 269/684-1996

DEPARTMENT of PUBLIC WORKS
269/684-5647 FAX 269/684-5979

FIRE DEPARTMENT

SOUTH 269/683-3311
FAX 269/683-1633
NORTH 269/683-9440

www.nilestwpmi.gov

NILES CHARTER TOWNSHIP

320 BELL ROAD, NILES, MICHIGAN 49120



OFFICIAL NILES CHARTER TOWNSHIP TREE – ASHWOOD BURR OAK

BUILDING DEPARTMENT
269/687-2741 FAX 269/687-2726

PLANNING and ZONING
269/684-0870 x 20 FAX 269/684-1996

CODE ENFORCEMENT

269/684-0870 x 17 FAX 269/684-1996

POLICE SERVICES

1-866-630-7679

ASSESSOR

269/684-0870 FAX 269/684-1996

PLANNING COMMISSION

7:00 P.M.

February 9, 2021

PROPOSED AGENDA

1. CALL TO ORDER
2. PLEDGE OF ALLIGENCE
3. ROLL CALL
4. APPROVE AGENDA
5. COMMENTS FROM THE PUBLIC ON AGENDA (3 Minute Limit)
6. CORRESPONDENCE/ANNOUNCEMENTS
7. APPROVAL OF MINUTES
 1. January 12, 2021 Minutes
8. UNFINISHED BUSINESS
 1. Resort Ordinance (Discussion – Twp Board Suggested Changes)
 2. Short Term Rental Ordinance (Discussion)
9. NEW / OTHER BUSINESS
 1. Bylaw Review (Meeting Time Change)
10. COMMENTS FROM THE PUBLIC (3 Minute Limit)
 11. BOARD REPRESENTATIVE REPORT
 12. ZONING ADMINISTRATORS REPORT
 13. ADJOURN



NILES CHARTER TOWNSHIP
PLANNING AND ZONING DEPARTMENT
NILES MICHIGAN



**Niles Charter Township Planning Commission
Zoom Meeting Invite
Tuesday February 9, 2021
7:00 PM**

Topic: Niles Charter Township's Planning Commission Zoom Meeting

Time: Feb 9, 2021 07:00 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://zoom.us/j/92869347998?pwd=M3QvdVdSQ0ZTeVJVUFVSWDFjNFlixUT09>

Meeting ID: 928 6934 7998

Passcode: 447525

One tap mobile

+13126266799,,92869347998#,,,,*447525# US (Chicago)

+16465588656,,92869347998#,,,,*447525# US (New York)

Dial by your location

- +1 312 626 6799 US (Chicago)
- +1 646 558 8656 US (New York)
- +1 301 715 8592 US (Washington DC)
- +1 346 248 7799 US (Houston)
- +1 669 900 9128 US (San Jose)
- +1 253 215 8782 US (Tacoma)

Meeting ID: 928 6934 7998

Passcode: 447525

Find your local number: <https://zoom.us/u/acvfrZ6CzT>

**NILES CHARTER TOWNSHIP
320 BELL ROAD, NILES MICHIGAN
PLANNING COMMISSION
JANUARY 12, 2021
REGULAR MEETING**

Chairman McNelis called the January 12, 2021 Planning Commission meeting to order at 7:00 p.m. The Pledge of Allegiance was recited.

Board members present: Clevenger, Cooper, Strefling, Bellina, McNelis, and Hartman.

Absent: None

Others present: Zoning Administrator: Kasprzak, Recorder:Floor, and Nathan Mehmed, Williams & Works Representative.

Agenda:

Cooper motioned to amend the January 12, 2021 agenda by moving #9 Unfinished Business to where #8 New Business is on the agenda. Bellina seconded the motion.

All voting in favor

Motion Carried

Comments from the Public on Agenda (3 Minute Limit): McNelis opened up comments from the public on the agenda at 7:03pm as well as reading over the agenda for the meeting.

Ann Gaines, 205 Morris Dr Niles, MI, referenced the email she submitted to the board. Her concerns are the traffic and speed limit on Morris Dr.

Gregory Kil, Kil Architecture & Planning, 1126 Lincoln Way E, South Bend, IN 46601, asked if they will be given time to speak tonight and Chairman McNelis informed him they will be given an opportunity to speak when we reach the “Unfinished Business” section of the agenda. He thanked the Chairman and the comments from the public on the agenda continued.

William Brenski, 1215 Morris Dr Niles, MI, spoke to reserve his right to speak later.

Hartman let the public know that at the December 29, 2020 meeting a public hearing was held for the public to express their opinions and concerns for the Morris Estate Resort-Special Land Use Application. The board did not feel like enough information was provided at that meeting to make a determination. She let the public know that meeting was their time to express their opinions and concerns. Tonight will be the time the board will deliberate and determine if a decision will be made.

William and Martha Brenski, 1215 Morris Dr Niles, MI, stated they reviewed the Morris Estate plans on their website and had some concerns. He read the letter that was submitted to the Township for consideration.

ZA Kasprzak informed the public and board that she received letters late this afternoon which were not included in the packets as the packets were put together in advance for the board to review. She advised the public that they can reference those letters at this time.

**NILES CHARTER TOWNSHIP
320 BELL ROAD, NILES MICHIGAN
PLANNING COMMISSION
JANUARY 12, 2021
REGULAR MEETING**

Braden Janowski, 2003 Morris Drive Niles, MI, spoke to some of the concerns presented. They plan to preserve the rural agriculture. He stated that the Lavender Farm increases the traffic in that area as well. There will be some increased noise, but they want to respect the neighborhood. He informed the public and the board that he appreciates the comments and can follow-up with after the meeting if needed.

Mark Lamarre, 1728 Harrah Rd Niles, MI, stated his residency is across the road from the proposed site of the large parking lot and tent events center. He submitted a letter to the board for deliberation today, which was not placed in the board packet. He asked if those who support the project would still be okay with it if they lived where he does? The last thing he wants to see is a commercial venue with a 100 car parking lot along with crowds of people, loud music and partying not to mention all the associated traffic. He stated they tolerate the terrible condition of this road because of the pleasure of the natural setting that comes with it. He believes the road system is overtaxed and there is not enough space for two cars to pass in certain areas of the road. He stated he does not see this as a good situation for him or his nearby neighbors.

Janine Frizzo 1826 Platt St, Niles, MI, expressed her concerns of the environmental effects to the aquifer. She asked if the letters were read by the board that were received as well as if this opens up opportunities for other businesses in that zoning area.

McNelis closed the comments from the public on the agenda at 7:25 pm

Correspondence/Announcements: None

Approval of Minutes:

December 29, 2020: Hartman asked that the following proposed change be made to the minutes:

- December 8th changed to December 9th on the line where the proposed changes were.

Hartman motioned to approve the December 29, 2020 minutes with the change. Bellina second the motion.

All voting in favor

Motion Carried

Unfinished Business:

Morris Estate Resort-Special Land Use Application

Gregory Kil, Kil Architecture & Planning, 1126 Lincoln Way E, South Bend, IN 46601 working with Morris Estate presented the revised site plan. An updated site plan was presented to ZA Kasprzak and Nathan Mehmed, Williams & Works Representative. The Chapel and Event Area,

which redacted the 3½ +/- acre parcel number 11-14-0020-0007-00-7 from the Special Use Application. The existing use for that parcel (Chapel and Tent Event Venue) is to remain as is.

NILES CHARTER TOWNSHIP
320 BELL ROAD, NILES MICHIGAN
PLANNING COMMISSION
JANUARY 12, 2021
REGULAR MEETING

The Morris Estate plans to apply for a Special Resort Use for this redacted parcel at a future date. Mr. Stack from the Road Commission was contacted and they are okay with the site plan using the same curb cuts that currently exist on the site. Preliminaries have been submitted to the drain commissioner for review. The Health Department, Niles Township Fire Department, and Berrien County Sanitation Department were all spoken to. Mr. Kil expressed that they are looking for the proposal to be approved contingent on detailed designs and engineering to follow. Signage and lighting would be provided at a later time but do meet the township lighting ordinance. Main rural character and feel to remain the same. Storm drainage will be consistent with the required swells and catch basin. An approval from the State would have to be obtained before any discharge could be released into the river. Parking on the site plan has been modified to meet the occupancy requirement. The silo site has been revised to include parking for 44 cars, tent structure, and to the left a solid fence around the dumpster area. The maximum capacity at this location is 150 guests. The proposed wedding pavilion structure near the current wedding chapel would not have construction begin until the summer of 2022. The Road Commission suggested that they have a signal crosswalk to ensure guests' safety, which they agree with to keep their guests safe. There is a solid fence with a storage area located NE of the restaurant barn as well as further to the North (Building W marked on site plan) used as storage. Hours of operation have been submitted and clarified for the restaurant so that the wedding party is able to use the upper room of the restaurant until 2 am.

Clevenger clarified that the wedding party would not be at the tent south of the chapel or near the silos until 2 am. Mr. Kil responded that the wedding party would not be in those areas until 2 am. They would be in the upper part of the restaurant until 2 am with a max capacity of 75 people, but they assume there may be more like 15-25 guests in that area. Braden Janowski, 2003 Morris Drive Niles, MI stated that guests would leave by 11 am at the tent south of the chapel and near the silos. Mr. Kil then continued on with the site plan after that question was addressed. Lot P1 marked on the site plan has a one-way circulation pattern with parking spots at an angle. Guests would enter on the east side and exit across from River Pines Dr which is centered between the two residential structures. He confirmed that the letter from the resident south of the chapel was received and reviewed. They have minimized as much noise as possible but acknowledge that it will not be completely eliminated. Hartman clarified that the redacted area from the Special Land Use application includes letters A (Existing Chapel), B (Proposed Wedding Pavillion), and C (School House). Braden Janowski confirmed that the redacted area is the yellow circled area on the site plan presented, and includes the Existing Chapel, Proposed Wedding Pavilion, and School House.

Hartman listed off the areas that are included in the site plan for review so the board is all aware. Buildings D, E, G, I, J, Fisher Barn, 8 proposed cabins, River House, Garage Apartment, Existing Rustic Cabins U & V, Pole Barn W, X (Gazebo), Parking Lots P1-P7.

NILES CHARTER TOWNSHIP
320 BELL ROAD, NILES MICHIGAN
PLANNING COMMISSION
JANUARY 12, 2021
REGULAR MEETING

Bellina asked what the hours of operation at the silo site would be? Mr. Kil responded that it would be until 11 pm as it is part of the wedding event venue. Braden Janowski responded it would be a few hours after dinner, DJs would wind down around 10:45pm. It would have a max capacity of 150 people and be a secondary location with a rustic wedding feel.

Hartman asked what months would host at the silo site? Braden Janowski responded it would be May through October. Mr. Kil did chime in that the Niles Township Fire Department did request that ladder guards be placed on the silos to keep guests safe.

Clevenger asked Braden Janowski about corporate events and what is the plan for those. He responded that it would be rare when they would host one.

Strefling asked what the difference is on the proposed silo area presented? Braden Janowski responded that the silos currently hold grain. They currently have power from the infrastructure already at that site. It would be a good backdrop for a small rustic wedding. It is in close proximity to other locations on the property and the closest house is over 600 ft away. He explained this area with 50 or less cars arriving around 4pm and leaving around 11pm or so. Mr. Kil chimed in that the parking lot would be constructed with crushed gravel for this area parking and the west parking.

Hartman asked if the weight of the machinery going back to the silos is supported by the driveway. She stated that the ordinance requires it to be a dust free area. The Fire Chief Report, signed by Lt. Rainwater, states that the road should be able to support 70,000 lbs. Hartman wants to make sure the driveways can hold that much weight to enter and exit the area in case of an emergency. Mr. Kil responded that he spoke with Lt. Rainwater about the requirements. He stated that the specs would be resubmitted for review by the civil engineer. They will be using crushed limestone to meet the ordinance requirements for a dust free area. Braden Janowski stated that the driveway supports something larger than a fire truck, but he is not sure how much the farm equipment weighs.

Hartman asked if the silos are accessed by Harrah Rd only? Braden Janowski responded that yes they only use that road to access the silos. Hartman visited Harrah Road area and provided pictures to the Planning Commission. Upon her observation she discovered only 2 parcels were visible from Harrah Rd, 4 parcels visible closer to Morris Dr, and 10 parcels visible closer to

Philip Dr. She would like the board to discuss a landscape buffer along Harrah Rd to help with the noise. She wants it to be maintained and created from evergreens or Arborvitae. Braden Janowski responded that this area would be a seasonal tent. He echoed the landscape buffer concerns and would be fine with this being a condition for approval.

Hartman stated that Harrah Rd is a dirt road and likes the usage dates of May-October as it should not have a lot of traffic in the winter months. She confirmed the 1:4 ratio used for the parking lot for 150 people. She confirmed the drawing shows the 4 handicap spots with a total of

NILES CHARTER TOWNSHIP
320 BELL ROAD, NILES MICHIGAN
PLANNING COMMISSION
JANUARY 12, 2021
REGULAR MEETING

44? Mr. Kil responded yes on the measurements of 10 by 20 for regular parking spaces with aisle ways 24 ft apart. The larger parking areas would be van accessible parking spots.

Hartman asked about the capacity and parking lot for Building D on the site plan. Mr. Kil responded parking would be lot P3 with any overflow parking directed to P4. Braden Janowski responded that this is a 2-bedroom house plus an in-law suite. It would be used for a bridal party of 7-8 people. The Terra Suites and Cabins would be used for smaller groups of people.

Hartman asked if Building E of the existing offices would all be used as resort offices? Amber Janowski responded that the current office space will become the Morris Estate offices. It would have a receptionist/ lobby area, General Manager Office, Event Coordinator Offices, Spa Services located in the back with all parking in P3. Hartman stated she wanted to clarify as the ledger on the site plan has this area listed as office/commons/breakfast/spa area and wanted to clarify that it is all related to the Resort and not commercial space for rent.

Hartman asked about parking for Building F. Braden and Amber Janowski stated parking would be P3 with overflow to P4. Hartman stated she is concerned they may run out of parking space. Amber Janowski clarified that parking for working employees would be in lot P4.

Hartman asked for more details on the activity center. Braden Janowski responded that it would be an area with lawn games, ping pong tables, games on-site for guests to use that are staying at the resort.

Hartman asked about Building I and the short term rental use? Braden Janowski responded that it will become his home office which is currently the Fisher House and the parking is in lot P4.

Hartman asked about Building J (Old Fire Station) if it is being used as a long-term rental property? Braden Janowski responded that the Butler family is renting this and will continue to rent it in the future. There are 8 cabins with 2 parking spots each, two-way traffic coming in and once they hit the round about it would go to one-way traffic. The River House will become the Janowski residence. Building U and V are currently rustic cottages that will continue to be rentals. There is a gravel lot at Building U for parking and any overflow parking would be directed to P6. Building W is currently a pole barn that is storing farm equipment. There is fencing for outdoor storage near this area that can store seasonal wedding equipment.

Hartman asked about Building X (Gazebo) and confirmed the parking for the events and small weddings would be lot P1, which is the larger parking lot and seating of about 75 people. Braden Janowski stated that guests could be shuttled or would walk over from lot P4. Mr. Kil responded as well that the grass area along the edge of the pond would be an addition for the Row House residential rentals.

Hartman reminded them that the maximum building height of 35 ft and minimum square footage of 1,100 sq ft. are requirements per the Ordinance for that district. Nathan Mehmed, Williams & Works Representative, clarified that a guest unit covers hotels, cottages, and

NILES CHARTER TOWNSHIP
320 BELL ROAD, NILES MICHIGAN
PLANNING COMMISSION
JANUARY 12, 2021
REGULAR MEETING

therefore guest accommodations are not dwelling units. They are considered as guest units and therefore the 1,100 sq ft minimum requirement would not apply.

Bellina asked about the setback for the guard shack/check-in area as he thought the 6x12 could make it difficult for drivers. Mr. Kil responded that it is set back 33 ft from the center line right away. He stated that they will have this reviewed by the Road Commissioner. It was expressed that further to the east could be a concern.

Hartman stated the dumpsters must be a minimum of 5ft from any structure per ordinance. She also read the loading area ordinance so the applicants are aware of these. Mr. Kil thanked her and responded that the restaurant dumpster is located north of the barn which will have an asphalt or concrete binder for the hard paved area it will be sitting on.

Hartman asked if there will be the maximum of 4 RVs on the property with the hook up area already on the property. She asked what is the normal length of stay for these. Braden and Amber Janowski stated the length of stay is a maximum of a week and they expect relatives of the wedding party to be using these spaces. They currently have two on the property with electric and a pump area for their discharges. Hartman suggested the Health Department review this area and Braden and Amber Janowski agreed. Mr. Kil replied these are an accessory use and not a primary use.

Hartman asked if any other board members had questions raised from the public letters they received? She stated she read every letter submitted from the public. She agrees with the speed consideration as she believes 50mph is high for that area. She stated she would be happy to take the lead on the speed study if the board wanted her to.

Darlene responded she would like Hartman to take the lead on the speed study and stated she also read all of the letters received from the public.

McNelis let the public know all of the letters received from the public up to this afternoon will be part of the public records.

Hartman let the public know we posted the Public Hearing with a timeline for correspondences to be submitted. She encouraged the public to not wait until the last minute to weigh in on the issues being discussed. Nathan Mehmed, Williams & Works Representative, let the board know

that Condition 11 and 12 of the Williams & Works Report dated January 7, 2021 has been met and Condition 17 is no longer relevant to the application as a result of the property redaction from the Special Use Application previously submitted.

Motion:

Hartman motioned to approve the application of AKCD Land Holdings LLC for parcels (#11-14-0021-0002-13-5, #11-14-0021-0003-09-3, and #11-14-0021-0003-18-2 for a Resort-Special Land Use permit with the following conditions:

NILES CHARTER TOWNSHIP
320 BELL ROAD, NILES MICHIGAN
PLANNING COMMISSION
JANUARY 12, 2021
REGULAR MEETING

- Prior to issuance of any Township permits, the applicant shall have paid all application, permit, reimbursable escrow, and other fees related to the request.
- The applicant shall comply with any requirements from the Township Fire Department, Township Engineer, County Drain Commission, County Health Department, County Road Commission, or other Township or County officials.
- The site plan shall conform to all applicable requirements of County, State, Federal, and Township statutes and ordinances and receives all necessary County, State, Federal, and Township permits before site plan approval or an occupancy permit is granted.
- The applicant shall submit an updated site plan to the Zoning Administrator containing all site plan requirements listed in Section 23.03 of the Zoning Ordinance, unless specifically waived or determined unnecessary.
- The applicant shall comply with minimum parking requirements of Section 24.06 E for each resort use on the property, unless a decrease is specifically authorized by the Planning Commission in accordance with Section 24.06 D or E.
- Any modification of, or addition to the drives on the property should comply with the stipulations of the Fire Department and Road Commission. Any modification or addition to the drives within the right-of-way shall meet the commercial drive standard as required by the Road Commission.
- The applicant shall comply with all landscape standards of Section 3.13 unless specifically waived or modified by the Planning Commission.
- The applicant shall comply with all signage requirements of Chapter 25 of the Zoning Ordinance and shall submit any signage plans for review and approval by the Zoning Administrator. Additional signage may only be approved by the Planning Commission in accordance with Section 21.03 K.
- Silos shall be equipped with ladder guards for the safety of patrons at the silo event space as recommended by the Fire Department.
- All parking spaces associated with buildings erected, altered, or extended shall comply with Section 24.03 of the Zoning Ordinance, including but not limited
 - to parking space dimensional standards and maneuvering aisles.
- The applicant shall receive approval from the Berrien County Road Commission to create a pedestrian crosswalk across Morris Road, or a similarly acceptable crossing over Morris.
- The applicant shall submit detailed stormwater plans to the County Drain Commission and Township Engineer for subsequent review and approval. The applicant shall comply with any resulting stipulations of the County Drain Commission and Township Engineer after review.
- The applicant shall comply with all lighting requirements of Section 3.19 of the Zoning Ordinance and submit a photometric plan for review and approval by the Zoning Administrator or Township Planner.
- All loading/unloading areas shall be indicated on the site plan and shall comply

NILES CHARTER TOWNSHIP
320 BELL ROAD, NILES MICHIGAN
PLANNING COMMISSION
JANUARY 12, 2021
REGULAR MEETING

with Section 24.07 of the Zoning Ordinance.

- Restaurants shall maintain, at all times, all required state and local licenses and permits.
- Restaurants shall be located and designed such that no objectionable noise in excess of sixty (60) decibels and no objectionable vibration shall be carried onto adjoining property zoned for, or occupied by, residential uses.
- Restaurants shall be located and designed such that no objectionable odor or fumes shall be carried onto property located in the residential districts
- The resort's hours of operation shall be as follows, unless otherwise modified by the Planning Commission through discussion with the applicant:

Restaurant: 4pm to 11pm

Sunday brunch: early morning to 1pm

Corporate Events: 4pm to 11pm

Wedding Rehearsal Dinners: 4pm to 11pm

Wedding "After Party": 11pm to 2am

Bellina stated that the corporate hours of 4 pm to 11pm do not match what Mr. Kil proposed earlier from 11 am-11pm. Hartman amended corporate event time to 11am-11pm instead of previously stated of 4pm-11pm. Braden Janowski asked if the corporate event times can be changed to 8am-11pm instead of 4pm-11pm as previously stated. Hartman amended the corporate event times to reflect 8am-11pm.

Hartman referenced "The applicant shall comply with all landscape standards of Section 3.13 and read Section 3.13. Bellina asked if we should identify where it should be placed. Hartman stated that the 10ft is fine but the length on Harrah Rd will need to be determined. She indicated it should be at least 30 feet wide and 10 ft in depth. Bellina asked 30 ft wide from what area off of Harrah Rd. Hartman stated it should be at least 15ft in both directions (East and West) from Mr. Lamarre's driveway and not the silo driveway. ZA Kasprzak suggested it be from the East side of the driveway to the silos covering Mr. Lamarre's driveway and then the same on the West side. McNelis stated 15ft East to Mr. Lamarre's driveway to silo driveway and then West to silo. Hartman stated from the silo driveway entrance to 15ft East of Mr. Lamarre's driveway. Bellina advised that the power lines may cause an issue with that. Mr. Kil stated they will shift it North and coordinate with the Utilities Company.

Bellina seconded the motion as amended with the Corporate Events Hours: 8am-11pm and the landscape barrier as defined from the silo driveway entrance to 15ft East of Mr. Lamarre's driveway.

Roll Call Ayes: Cooper, Bellina, Clevenger, Hartman, McNelis, and Strefling.

Nays: None

Motion Carried.

**NILES CHARTER TOWNSHIP
320 BELL ROAD, NILES MICHIGAN
PLANNING COMMISSION
JANUARY 12, 2021
REGULAR MEETING**

Resort Ordinance (Discussion): Hartman motioned to postpone the discussion on the Resort Ordinance until the February 9, 2021 meeting. Bellina seconded this motion.

All voting in favor

Motion Carried

New Business:

Election of Officers for 2021:

- **Chairman:** Cooper motioned Peg Hartman as Chairman. McNelis seconded this motion. Hartman accepted the nomination.

All voting in favor

Motion Carried

- **Vice Chair/ Secretary:** McNelis respectively declined this position. Cooper motioned Joe Bellina as Vice Chair/Secretary. Hartman supported this motion. Bellina accepted the nomination.

All voting in favor

Motion Carried

Approval of 2021 Meeting Schedule:

Cooper motioned to approve the 2021 meeting schedule. Bellina supported the motion. **Roll Call Ayes:** Cooper, Bellina, Clevenger, Hartman, McNelis, and Strefling.

Nays: None

Motion Carried.

Board Representative Report: N/A

Additional Comments from the public: N/A

Zoning Administrators Report: ZA Kasprzak stated that Terry Eull, Township Clerk, would like to set up a brainstorm meeting with the Niles Charter Township Board and the Planning Commission Board on the resort ordinance and short-term rentals.

Meeting adjourned at 9:04pm

Prepared by: Brittany Floor, Recorder

Approved by Joe Bellina, Secretary, on

Joe Bellina, Secretary