

# City of Niles, Ohio

SPONSORED BY: FINANCE COMMITTEE  
AUTHORIZED BY: SMITH

DRAFT NO. 111-19

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AUTHORIZING MONTHLY CASH TRANSFERS; AND,  
DECLARING AN EMERGENCY

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NILES, STATE OF OHIO:

SECTION 1: Authorizing the cash transfer of Six Hundred Seventy Thousand dollars and zero cents (\$670,000.00) from the General Fund Account Transfer Account, No. 101-1090-59000 to the following Funds:

Monthly Cash Transfers	
From General Fund TRANSFER Account 101-1090-59000 To:	
FUND 215	Police Pension \$50,000.00
FUND 216	Fire Pension \$50,000.00
FUND 217	Police & Fire 1% \$500,000.00
FUND 221	Park \$50,000.00
FUND 255	Cemetery \$20,000.00
	\$670,000.00

SECTION 2: This Resolution is hereby declared to be an emergency measure in the interest of the public health, safety and welfare for the reason that these funds are to be transferred on a regular basis. As such an emergency measure, this Resolution shall take effect immediately upon passage by Council and approval by the Mayor.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
PRESIDENT OF COUNCIL

ATTEST: \_\_\_\_\_

CLERK OF COUNCIL

Filed with the Mayor of the City of Niles, Ohio on the \_\_\_\_\_ day of \_\_\_\_\_, 2019 and signed by me as such Mayor on this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
MAYOR

# City of Niles, Ohio

SPONSORED BY: FINANCE COMMITTEE  
AUTHORIZED BY: SMITH

DRAFT NO. 112-19

RESOLUTION NO. \_\_\_\_\_

## A RESOLUTION ADOPTING THE ALTERNATIVE TAX BUDGET FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2020; AND DECLARING AN EMERGENCY

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NILES, STATE OF OHIO:

SECTION 1: That the Alternative Tax Budget for the fiscal year beginning January 1, 2020, attached hereto as Exhibit "A", is hereby adopted by the Niles City Council.

SECTION 2: That the Niles City Auditor is hereby authorized and directed to submit copies of this budget to the Trumbull County Auditor.

SECTION 3: This Resolution is hereby declared to be an emergency measure in the interest of the public health, safety and welfare for the reason that failure to submit the budget in a timely manner may result in a loss of government funds. As such an emergency measure, this Resolution shall take effect upon passage by Council and approval by the Mayor.

\_\_\_\_\_  
PRESIDENT OF COUNCIL

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
CLERK OF COUNCIL

Filed with the Mayor of the City of Niles, Ohio on the \_\_\_\_ day of \_\_\_\_\_, 2019 and signed by me as such Mayor on this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
MAYOR

**ALTERNATIVE TAX BUDGET INFORMATION**

**TRUMBULL COUNTY**

**Name of City** CITY OF NILES

**For the Fiscal Year Commencing January 1, 2020**

**Fiscal Officer Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

NILES

CITY

Schedule 1

**STATEMENT OF FUND ACTIVITY**(Complete only for General Fund, Bond Retirement Fund  
and any other funds requesting general property tax revenue)**FUND: GENERAL**

DESCRIPTION	Actual Jan 1-Dec. 31 2018	Budgeted FY Jan 1-Dec. 31 2019 Estimate	Budgeted FY Jan 1-Dec. 31 2020 Estimate
Beginning Unencumbered Fund Balance	\$2,186,468.28	\$4,651,180.94	\$5,073,789.10
<b>Revenues:</b>			
Health Department	\$0.00	\$0.00	\$0.00
Property Taxes	\$554,208.18	\$561,964.17	\$561,964.17
Local Government	\$214,248.38	\$217,419.24	\$217,419.24
All Other Receipts	\$12,022,101.33	\$11,602,500.00	\$11,602,500.00
Total Resources	\$14,977,026.17	\$17,033,064.35	\$17,455,672.51
Total Expenditures & Encumbrances	\$10,325,845.23	\$11,959,275.25	\$12,000,000.00
Ending Unencumbered Fund Balance	\$4,651,180.94	\$5,073,789.10	\$5,455,672.51

**FUND: POLICE PENSION**

DESCRIPTION	Actual Jan. 1-Dec. 31 2018	Budgeted FY Jan 1-Dec. 31 2019 Estimate	Budgeted FY July 1-Dec. 31 2020 Estimate
Beginning Unencumbered Fund Balance	\$6,389.44	\$24,116.61	\$24,433.07
<b>Revenues:</b>			
Property Taxes	\$77,776.46	\$78,410.41	\$78,410.41
All Other Receipts	\$375,000.00	\$405,000.00	\$405,000.00
Total Resources	\$459,165.90	\$507,527.02	\$507,843.48
Total Expenditures & Encumbrances	\$435,049.29	\$483,093.95	\$485,000.00
Ending Unencumbered Fund Balance	\$24,116.61	\$24,433.07	\$22,843.48

**STATEMENT OF FUND ACTIVITY**

(Complete only for General Fund, Bond Retirement Fund  
and any other funds requesting general property tax revenue)

**FUND: FIRE PENSION**

DESCRIPTION	Actual Jan 1-Dec. 31 2018	Budgeted FY Jan 1-Dec 31 2019 Estimate	Budgeted FY Jan 1-Dec. 31 2020 Estimate
<b>Beginning Unencumbered Fund Balance</b>	\$4,663.35	\$37,536.84	\$38,068.97
<b>Revenues:</b>			
Property Taxes	\$77,776.45	\$78,410.41	\$78,410.41
All Other Receipts	\$413,000.00	\$391,000.00	\$391,000.00
Total Resources	\$495,439.80	\$506,947.25	\$507,479.38
Total Expenditures & Encumbrances	\$457,902.96	\$468,878.28	\$470,000.00
<b>Ending Unencumbered Fund Balance</b>	\$37,536.84	\$38,068.97	\$37,479.38

**FUND: PARK**

DESCRIPTION	Actual Jan. 1-Dec. 31 2018	Budgeted FY Jan 1-Dec. 31 2019 Estimate	Budgeted FY Jan. 1-Dec. 31 2020 Estimate
<b>Beginning Unencumbered Fund Balance</b>	\$6,418.87	\$28,955.68	\$4,407.88
<b>Revenues:</b>			
Property Taxes	\$252,750.23	\$256,670.67	\$256,670.67
All Other Receipts	\$467,621.45	\$734,055.00	\$740,000.00
Total Resources	\$726,790.55	\$1,019,681.35	\$1,001,078.55
Total Expenditures & Encumbrances	\$697,834.87	\$1,015,273.47	\$1,000,000.00
<b>Ending Unencumbered Fund Balance</b>	\$28,955.68	\$4,407.88	\$1,078.55

Reproduce this schedule as often as necessary

## STATEMENT OF FUND ACTIVITY

(Funds with Revenue Other Than Local Taxes)

Add Additional Funds as Necessary  
 Reproduce this Schedule as Necessary

FUND NAME	Beginning Estimated Uncumbered Fund Balance	2020 Total Estimated Receipts	Total Resources Available For Expenditure	Total Estimated Expenditures and Encumbrances
214 - Prisoner Transport	\$6,177.08	\$1,000.00	\$7,177.08	\$0.00
217 - Police and Fire 1/2%	\$156,725.41	\$6,900,000.00	\$7,056,725.41	\$7,000,000.00
218 - Permissive Tax	\$182,769.87	\$270,500.00	\$453,269.87	\$300,000.00
219 - Computer	\$57,461.74	\$70,000.00	\$127,461.74	\$60,000.00
222 - DUI	\$109,952.15	\$19,000.00	\$128,952.15	\$0.00
223 - Street	\$80,744.80	\$717,000.00	\$797,744.80	\$770,000.00
224 - State Highway	\$37,224.42	\$55,000.00	\$92,224.42	\$90,000.00
225 - Food Service	\$22,496.94	\$0.00	\$22,496.94	\$0.00
226 - Trailer Park	\$2,252.44	\$0.00	\$2,252.44	\$0.00
227 - Swimming Pool	\$28,134.50	\$0.00	\$28,134.50	\$0.00
228 - Community Development	\$183,964.10	\$900,000.00	\$1,083,964.10	\$1,083,964.10
229 - FEMA	\$6,086.95	\$72,114.00	\$78,200.95	\$78,200.95
233 - Special Projects	\$12,940.47	\$40,000.00	\$52,940.47	\$40,000.00
234 - Legal Research	\$28,497.94	\$9,000.00	\$37,497.94	\$7,000.00
235 - Police CPT	\$22,291.00	\$0.00	\$22,291.00	\$6,000.00
236 - Impound/Towing Fees	\$12,416.99	\$175,000.00	\$187,416.99	\$180,000.00
255 - Cemetery	\$10,588.32	\$275,000.00	\$285,588.32	\$285,000.00
266 - Probation	\$213,091.83	\$175,000.00	\$388,091.83	\$185,000.00
267 - Law Enforcement	\$2,051.84	\$500.00	\$2,551.84	\$1,000.00
268 - Drug Law Enforcement	\$5,875.77	\$2,000.00	\$7,875.77	\$2,500.00
269 - COPS	\$14,562.98	\$0.00	\$14,562.98	\$0.00
301 - General Obligation Bond Retirement	\$1,000.00	\$0.00	\$1,000.00	\$0.00
302 - Special Assessment Bond Retirement	\$0.00	\$0.00	\$0.00	\$0.00
401 - Capital Project	\$1,837.81	\$1,000,000.00	\$1,001,837.81	\$1,000,000.00
404 - Fire Truck Replacement	\$190,000.00	\$80,000.00	\$270,000.00	\$190,000.00
501 - Water	\$1,044,573.65	\$8,600,000.00	\$9,644,573.65	\$7,766,000.00
502 - Light	\$11,895,828.66	\$30,000,000.00	\$41,895,828.66	\$28,500,000.00
503 - Sewer	\$2,413,594.66	\$4,443,000.00	\$6,856,594.66	\$5,250,000.00
403 - WWTP D&I	\$0.00	\$0.00	\$0.00	\$0.00
303 - Sewer Debt Retirement	\$58,223.96	\$0.00	\$58,223.96	\$0.00
504 - Para Transit Bus	\$0.00	\$9,633.00	\$9,633.00	\$9,633.00
771 - Motor Fuel	\$15,002.44	\$270,000.00	\$285,002.44	\$285,000.00
772 - Hospital Self Insurance	\$398,230.37	\$3,100,000.00	\$3,498,230.37	\$3,100,000.00
661 - Endowment Principal	\$85,802.04	\$0.00	\$85,802.04	\$100.00
402 - BRT Clean-up	\$0.32	\$46,030.36	\$46,030.68	\$46,030.68
862 - Utility Trust	\$1,304,909.59	\$200,000.00	\$1,504,909.59	\$60,000.00
265 - Seizure	\$4,541.47	\$0.00	\$4,541.47	\$2,000.00
663 - Unclaimed Monies	\$32,747.65	\$0.00	\$32,747.65	\$0.00
664 - Fire Loss Claims	\$61,642.82	\$0.00	\$61,642.82	\$0.00
665 - Payroll Clearing	\$41,314.32	\$10,000,000.00	\$10,041,314.32	\$10,000,000.00
<b>TOTAL</b>	<b>\$18,745,557.30</b>	<b>\$67,429,777.36</b>	<b>\$86,175,334.66</b>	<b>\$66,297,428.73</b>



# City of Niles, Ohio

SPONSORED BY: COUNCIL AS A WHOLE  
AUTHORIZED BY: ALL MEMBERS OF COUNCIL

DRAFT NO. 113-19

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION REPEALING RESOLUTIONS NOS. 30-19 AND 59-19 AND REPLACING WITH A RESOLUTION THAT THE CITY OF NILES WILL PICK UP THE STATUTORILY REQUIRED CONTRIBUTION TO THE OHIO PUBLIC EMPLOYEES RETIREMENT SYSTEM FOR THE EMPLOYEES OF THE CITY OF NILES PURSUANT TO INTERNAL REVENUE CODE SECTION 414(h)(2); AND, DECLARING AN EMERGENCY.**

**WHEREAS**, Resolution Number 30-19 was passed by this Council on April 3, 2019 and Resolution Number 59-19 was passed by this Council on June 19, 2019. These Resolutions were titled **“RESOLUTION THAT THE CITY OF NILES WILL PICK UP THE STATUTORILY REQUIRED EMPLOYEE CONTRIBUTION TO THE OHIO PUBLIC EMPLOYEES RETIREMENT SYSTEM FOR CERTAIN FULL TIME EMPLOYEES OF THE CITY OF NILES PURSUANT TO INTERNAL REVENUE SECTION 414(H) (2); AND, DECLARING AN EMERGENCY”**.

**WHEREAS**, pursuant to federal and Ohio laws, the federal and state income taxes on a portion of the wages or salaries of the employees of the City of Niles will be deferred if City of Niles “picks up” (assumes and pays) the contributions statutorily required to be made by such elected officials and covered employees to Ohio Public Employees Retirement System (OPERS); and

**WHEREAS**, City of Niles will not incur any additional costs in the picking up of such contributions.

**NOW THEREFORE BE IT RESOLVED BY THE CITY OF NILES, STATE OF OHIO, THAT:**

**SECTION 1:** Resolution Numbers 30-19 and 59-19 are hereby repealed in their entirety.

**SECTION 2:** Effective **July 1, 2019**, the full amount of the statutorily required employee contributions to OPERS shall be withheld from the gross pay of each person within any of the classes established in Section 2 herein and shall be “picked up” (assumed and paid to OPERS) by the City of Niles. This “pick up” by the City of Niles shall be designated as public employee contributions and shall be in lieu of contributions to OPERS by each person within any of the classes established in Section 2 herein. No person subject to this “pick up” shall have the option of choosing to receive the statutorily required contribution to OPERS directly instead of having it “picked up” by City of Niles or of being excluded from the “pick up”. The City of Niles shall, in reporting and making remittance to OPERS, report that the public employees contribution for each person subject to this “pick up” has been made as provided by the statute. Therefore, contributions, although designated as employee contributions, are employer-paid, and employees do not have the option to receive the contributions directly. All contributions are paid by the employer directly to the plan.

**SECTION 3:** The “pick up” by the City of Niles provided by this ordinance shall apply to all persons that are employees of the City of Niles who are or become contributing members of OPERS.

**SECTION 4:** The City of Niles method of payment of salary to employees who are participants in OPERS is hereby modified as provided in Section 4, in order to provide for a salary reduction pick up of employee contributions to OPERS.

**SECTION 5:** The total salary for each employee shall be the salary otherwise payable under the City of Niles policies. Such total salary of each employee shall be payable by the City of Niles in two parts: (a) deferred salary and (b) cash salary. An employee’s deferred salary shall be equal to



that percentage of that employee's total salary which is required from time to time by OPERS to be paid as an employee contribution by that employee, and shall be paid by the City of Niles to OPERS on behalf of that employee as a pick up and in lieu of the OPERS employee contribution otherwise payable by that employee. An employee's cash salary shall be equal to that employee's total salary less the amount of the pick up for that employee, and shall be payable, subject to applicable payroll deductions, to that employee. The City of Niles shall compute and remit its employer contributions to OPERS based upon an employee's total salary. The total combined expenditures of the City of Niles for such employees' total salaries payable under applicable City of Niles policies and the pick-up provisions of this resolution shall not be greater than the amounts it would have paid for those items had this provision not been in effect.

**SECTION 6:** This Resolution is hereby declared to be an emergency measure in the interests of the public health, safety and welfare for the reason that OPERS requires this Resolution. This Resolution will be effective as of the date of this signing. As such an emergency measure, it shall become effective upon passage by Council and approval by the Mayor.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
President of Council

Passed: \_\_\_\_\_

Attest: \_\_\_\_\_  
Clerk of Council

Received by the Mayor of the City of Niles this \_\_\_\_\_ day of \_\_\_\_\_, 2019, and approved by me as such Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Mayor

# City of Niles, Ohio

SPONSORED BY: FINANCE COMMITTEE  
AUTHORIZED BY: SMITH

DRAFT NO. 114-19

ORDINANCE NO. \_\_\_\_\_

## **AN ORDINANCE AUTHORIZING THE CITY TO PARTICIPATE IN THE 2019 RITA SUBPOENA PROGRAM TO COMPLY WITH THE PROGRAM DEADLINES; AND DECLARING AN EMERGENCY**

WHEREAS, the City has designated the Regional Income Tax Agency (RITA) as its duly appointed tax administrator; and

WHEREAS, RITA conducts a delinquent tax collection program that consists of multiple steps commencing with a letter campaign and moving forward with the issuance of subpoenas to those that do not respond to the letters; and

WHEREAS, the cost of the program stems from the issuance of subpoenas at the rate of eight dollars (\$8.00) each and the City of Niles has a large number of delinquent accounts that could be subject to the program.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NILES, STATE OF OHIO:

SECTION 1: That City Council hereby authorizes the Auditor and/or Treasurer to cooperate with RITA by participating in the delinquent account program by issuing a subpoena to any delinquent taxpayer that does not timely respond to the initial letter.

SECTION 2: That the Auditor and/or Treasurer are hereby authorized to have the costs of the City's participation on the program deducted from the monthly distribution check issued by RITA.

SECTION 3: That all formal actions of Council relating to the adoption to this Ordinance, and all deliberations of Council and any of its committees leading to such action, were in meetings open to the public as required by R.C. 121.22.

SECTION 4: This Ordinance is declared to be an emergency measure in the interest of the public health, safety and welfare and to allow for the participation in the program at the earliest possible date. As such an emergency measure, this Ordinance shall take effect upon passage by Council and approval by the Mayor.

PASSED: \_\_\_\_\_

PRESIDENT OF COUNCIL

ATTEST: \_\_\_\_\_

CLERK OF COUNCIL

Received by the Mayor of the City of Niles this \_\_\_\_\_ day of \_\_\_\_\_, 2019, and approved by me as such Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
MAYOR

# City of Niles, Ohio

SPONSORED BY: IMPROVEMENTS COMMITTEE  
AUTHORIZED BY: LASTIC

DRAFT NO. 115-19

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AUTHORIZING THE MAYOR AND/OR SERVICE DIRECTOR TO ADVERTISE FOR BIDS FOR THE NORTH ROAD WATERLINE REPLACEMENT PROJECT; AND, DECLARING AN EMERGENCY

WHEREAS, the City has received a grant from OPWC for the North Road Waterline Replacement project; and,

WHEREAS, the infrastructure improvement herein above described is considered to be a priority need for the community and is a qualified project under the OPWC programs; and,

WHEREAS, the engineer's estimate of the total of the project is approximately \$267,680.00 with \$144,547.00 covered by said OPWC grant.

WHEREAS, bidding will be conducted in accordance with the Ohio Revised Code.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NILES, STATE OF OHIO:

SECTION 1: That Council hereby authorizes the Mayor and/or Service Director, in cooperation with the Ohio Public Works Commission, to advertise for bids and enter into contract for the North Road Waterline Replacement project.

SECTION 2: This Resolution is declared to be an emergency measure in the interest of the public health, safety and welfare and to allow the bidding process to begin at the earliest possible date. As such an emergency measure, this Resolution shall take effect upon passage by Council and approval by the Mayor.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
PRESIDENT OF COUNCIL

ATTEST: \_\_\_\_\_  
CLERK OF COUNCIL

Filed with the Mayor of the City of Niles, Ohio on the \_\_\_\_ day of \_\_\_\_\_, 2019 and signed by me as such Mayor on this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
MAYOR

# City of Niles, Ohio

SPONSORED BY: FINANCE COMMITTEE  
AUTHORIZED BY: SMITH

DRAFT NO. 116-19

ORDINANCE NO. \_\_\_\_\_

## **AN ORDINANCE AMENDING CHAPTER 163, "EMPLOYEES GENERALLY" OF THE CODIFIED ORDINANCE OF THE CITY OF NILES, IN PART, TO UPDATE VARIOUS SECTIONS FOR THE NON-UNION, NON-ELECTED EMPLOYEES; AND DECLARING AN EMERGENCY**

SECTION 1: The various Sections of Chapter 163 are hereby amended and enacted to read as follows:

### **" 163.02 SICK LEAVE.**

(a) (1) ALL FULL TIME, NON-UNION, NON-ELECTED EMPLOYEES OF THE CITY WHO ARE PAID ON A BI-WEEKLY BASIS SHALL BE ENTITLED FOR EACH COMPLETED 80 HOURS OF SERVICE, TO SICK LEAVE OF 4.6 HOURS WITH PAY. ALL FULL TIME, NON-UNION, NON-ELECTED EMPLOYEES OF THE CITY WHO ARE PAID ON A BI-MONTHLY BASIS SHALL BE ENTITLED FOR EACH COMPLETED 86.67 HOURS OF SERVICE, TO SICK LEAVE OF 5 HOURS WITH PAY. Employees may use sick leave, upon approval of the responsible administrative officer of the employing unit, for absence due to personal illness, injury, exposure to contagious disease which could be communicated to other employees, and to illness, injury or death in the employee's immediate family. Unused sick leave shall be cumulative without limit.

(2) Employees eligible for sick leave pursuant to this chapter shall be required to furnish a satisfactory affidavit to justify the use of sick leave. If medical attention is required, a certificate stating the nature of the illness from a licensed physician shall be required to justify the use of sick leave. Falsification of either an affidavit or a physician's certificate shall be grounds for disciplinary action.

(3) A. In addition to the provisions set forth herein, full-time, non-union, non-elected City employees shall be entitled to paid bereavement leave in accordance with the following, provided the employee attends services the day of the funeral:

1. Five days in the instance of the death of the employee's spouse, mother, father, child, stepchild of a current marriage, step parent or legal guardian (Loco parentis).
2. Three days in the instance of the death of the employee's or employee's spouse's grandparents, grandchild, brother, sister, or an employee's mother-in-law, father-in-law, brother-in-law or sister-in-law.
3. One day in the instance of the death of the employee's or employee's spouse's aunt, uncle, niece or nephew.

B. Bereavement leave shall be granted to such employee with pay at the employee's regular straight time rate of pay and such leave shall have no effect upon the employee's accumulated sick leave credits, provided the member attends services the day of the funeral, except when special circumstances exist where this is not possible, upon notification and approval of the Auditor.

C. Upon application for such leave an affected employee shall present to the Auditor's Office a newspaper obituary or other acceptable documentation which identifies the applicable relative for whom such leave is sought.

(4) The previously accumulated sick leave of an employee who has been separated from public service shall be placed to his credit upon his re-employment in public service, provided such re-employment takes place within ten years of the date on which the employee was last terminated from public service. An employee who transfers from one public agency to another shall be credited with the unused balance of his accumulated sick leave.

(5) A. THE BENEFIT SET FORTH IN THIS SUBSECTION IS PROVIDED FOR ALL FULL TIME, NON-ELECTED, NON-UNION POSITIONS.

B. Should an employee regularly employed in the positions set forth in subsection (a)(5)A. above utilize no more than 8 hours of sick leave from January 1 to March 31 of any calendar year, he/she shall be entitled to a bonus of one hundred twenty-five dollars (\$125.00), which will be payable no later than 2 pay periods following the last day of that quarter of the year. This procedure shall continue for each remaining quarter of such calendar year (April 1 -

June 30; July 1 - September 30; October 1 - December 31). Absence due to a work related injury shall not disqualify an employee from utilization of this benefit; use of more than 5 consecutive days of work related injury pay, however, will disqualify the employee from receiving the attendance bonus for that quarter.

(b) (1) Full time, non-union, non-elected (other than the Police Chief and Fire Chief) employees who elect to retire outside the provisions of the City's Early Retirement Incentive Program established for non-union employees shall be entitled to severance pay, in a lump sum amount, equal to their accrued but unused sick leave, not to exceed 518 hours to a maximum of an additional 730 hours. This additional amount shall be calculated at the then current Federal minimum wage.

(2) If a retiring Police Chief or Fire Chief has been an employee of the City for at least ten full years, and retires according to the rules and regulations established by the Policeman's and Fireman's Disability and Pension Fund of Ohio Retirement Board, said retiring Chief shall be entitled to compensation in a lump sum for accumulated, unused sick leave based upon the following formula:  
"Unused sick leave compensation shall be paid at the retiring Chief's regular straight hourly rate of pay for the first 450 hours of accumulated, unused sick leave, and at the prevailing federal minimum wage rate for any additional unused sick leave hours in excess of 450, but less than 3,000 hours. In no event will such compensation be payable for accumulated, unused sick leave hours in excess of 3,000."

(3) Excessive use of sick leave without just cause during the twelve months prior to an employee's retirement date may disqualify the employee from receiving the benefit outlined in this section.

(c) (1) In the event a non-union employee (other than the Police Chief or Fire Chief) dies while actively employed by the City, the beneficiary designated by the employee in writing to the City shall receive a lump sum payment for the amount of accrued but unused sick leave of the employee, not to exceed 518 hours, to be paid by the City to the designated beneficiary on or before thirty days from the date of the employee's death.

(2) With respect to the Police Chief or Fire Chief, compensation at the deceased Chief's hourly rate of pay at his death shall be paid to the deceased Chief's widow, children, and/or estate for his accumulated, unused sick time that he would be entitled to receive if he had retired on the date of his death, subject to the formula set out in paragraph (b)(2) above.

(Ord. 16-07. Passed 4-18-07; Ord. 19-10. Passed 10-6-10.)

### **163.03 VACATIONS.**

(a) All full time, non-union, non-elected employees of the City HIRED PRIOR TO JANUARY 1, 2018, excepting hereinafter enumerated, shall be entitled to vacation in accordance with the following schedule:

- (1) Upon completion of six months service through three years: one week (forty hours)
- (2) Upon completion of 3 years of service through 6 years: THREE weeks (one hundred twenty hours)
- (3) Upon completion of six years of service through ten years: FOUR weeks (one hundred SIXTY hours)
- (4) Upon completion of ten years of service through fifteen years: FIVE weeks (TWO HUNDRED hours)
- (5) Upon completion of fifteen years of service through twenty years: SIX weeks (two hundred FORTY hours)
- (6) Upon completion of twenty years through of twenty-five years: SEVEN weeks (two hundred EIGHTY hours)
- (7) Upon completion of twenty-five years of service or more: EIGHT weeks (THREE HUNDRED TWENTY hours)

ALL FULL TIME, NON-UNION, NON-ELECTED EMPLOYEES OF THE CITY HIRED ON OR AFTER JANUARY 1, 2018:

- (1) AFTER SIX (6) MONTHS FROM HIRE DATE, 40 HOURS PER YEAR
- (2) AFTER TWO (2) YEARS OF SERVICE, 80 HOURS PER YEAR
- (3) AFTER FIVE (5) YEARS OF SERVICE 100 HOURS PER YEAR
- (4) AFTER TEN (10) YEARS OF SERVICE 120 HOURS PER YEAR
- (5) AFTER FIFTEEN (15) YEARS OF SERVICE 140 HOURS PER YEAR
- (6) AFTER TWENTY (20) YEARS OF SERVICE 160 HOURS PER YEAR

**(7) AFTER TWENTY-FIVE (25) YEARS OF SERVICE 200 HOURS PER YEAR**

Total credit for years of service, whether continuous or not, shall be given present employees for determination of their vacation.

All casual, part-time and summer employees shall not be entitled to a vacation as set forth herein and shall not be entitled to the benefits of this section.

No full time, non-union, non-elected employee hired prior to November 1, 1995, shall suffer a loss of a vacation allowance given under the previous "vacation ordinance" as a result of the passage of this subsection.

(b) As used in this section, six months of service shall accrue to a full time, non-union, non-elected employee upon completion of 750 hours of work for the benefit of the City.

(c) Upon termination of service of an employee of the City, entitled to receive vacation pay (with the exception of the Police Chief and the Fire Chief), such payment shall be made to the employee, or if such employee is deceased, to his surviving spouse, next of kin, or legal personal representative. Such earned vacation pay shall be determined by Council to be personal earnings to the extent earned and due.

(1) An employee eligible to receive vacation pursuant to this chapter who is separated or terminated from the City will be entitled to prorated vacation time.

(2) The Auditor is hereby authorized upon determination of vacation pay due, to draw an Auditor's warrant, and the Treasurer is authorized to make such payment as hereinbefore provided.

(d) (1) Upon the termination of service to the City by the Police Chief or Fire Chief, such terminating Chief shall be entitled to receive vacation pay which he has earned, but not yet taken.

(2) Upon the death of an incumbent Chief, compensation at the Chief's hourly rate of pay at the time of his death shall be paid to the Chief's widow, children, and/or estate for all unused vacation at the time of his death. His hourly rate shall be determined by dividing his annual salary by 2,080 hours.

(e) Employees shall be permitted to accumulate one week vacation leave from one year to the following year.

(F) ANY EMPLOYEE ENTITLED TO THREE WEEKS (120 HOURS) OR MORE OF VACATION MAY BE PAID AT HIS/HER REGULAR HOURLY RATE OF PAY FOR UP TO TWO WEEKS (80 HOURS) OF VACATION IN LIEU OF TIME OFF. ANY EMPLOYEE ENTITLED TO FIVE WEEKS (200 HOURS) OR MORE OF VACATION MAY BE PAID AT HIS/HER REGULAR RATE OF PAY FOR UP TO THREE WEEKS (120 HOURS) OF VACATION (IN 40 HOUR INCREMENTS ONLY) IN LIEU OF TIME OFF.

**163.04 HOLIDAYS.**

(a) Any City official or employee, other than members of employee bargaining units, who are in the employ of the City, shall not be required to work on days declared in this section to be holidays, unless in the opinion of the employee's responsible administrative superior, failure to work on such holidays would impair the public service.

(b) Any employee who has worked thirty consecutive eight hour working days, when required to work on any of the holidays designated, shall be paid at the rate of time and one half for hours worked on such day in addition to the holiday pay, unless such employee is one of the City employees hereinafter designated:

The following employees shall not be entitled to any premium rate pay for time worked on the holidays: Chief Clerk of Municipal Court; Deputy Auditor; Income Tax Director; Police Chief; Fire Chief; Building Inspector; Superintendent of Light; Superintendent of Water/Wastewater; Utilities Billing MANAGER; Park and Recreation Director; PROJECT MANAGER/PUBLIC UTILITIES INFRASTRUCTURE COORDINATOR AND, HOUSING AND ZONING CODE ENFORCEMENT OFFICER.

The following employees shall be paid at straight time rate for hours worked on such day in addition to the holiday pay, instead of being paid at the rate of time and one-half for hours so

worked: Street Department Foreman; Assistant Superintendent of Light; Light Foreman; Water Foreman; Sewage Foreman; and, the Light Department Assistant Foreman.

(c) For the purpose of computing holiday pay for hours worked, eight hours shall serve as the basis of such computation.

(d) The holidays are established as follows:

- (1) The first day of January, known as New Year's Day;
- (2) The third Monday in January, known as Martin Luther King Day;
- (3) Good Friday;
- (4) The last Monday in May, known as Decoration or Memorial Day;
- (5) The Fourth day of July, known as Independence Day;
- (6) The first Monday of September, known as Labor Day;
- (7) The second Monday of October, known as Columbus Day;
- (8) Veteran's Day;
- (9) The fourth Thursday of November, known as Thanksgiving Day;
- (10) The day after Thanksgiving;
- (11) The twenty-fifth day of December, known as Christmas Day.
- (12) The third Monday in February known as President's Day.

(e) In the event that any of the aforesaid holidays should fall on Saturday, the Friday immediately preceding shall be observed as the holiday. In the event that any of the aforesaid holidays shall fall on Sunday, the Monday immediately succeeding shall be observed as the holiday.

(f) Any City official or employees not included in the bargaining units must work their scheduled days before and after the holiday in order to be paid for said holiday, unless the employee is on approved vacation or extended illness with the approval of the Service Director or the Director's designee.  
(Ord. 16-07. Passed 4-18-07.)

#### **163.06 TRAVEL AND SUBSISTENCE ALLOWANCES.**

(a) Travel Expenses. For payment on a mileage basis, mileage shall be supported by established mileage records and must be submitted on forms subscribed by the Auditor.

(1) For the use of a non-city owned vehicles, SHALL MATCH THE CURRENT FEDERAL IRS RATE AS BASIS FOR mileage computation.

(2) For the use of common carriers, the actual amount expended shall be reimbursed.

(3) Travel to and from work is expressly excluded.

(b) Subsistence Allowance. In addition to travel expense allowance, reimbursement for subsistence expenses shall be allowed.

For actual expenses supported by records and receipts required by the Auditor, a maximum of one hundred fifty dollars (\$150.00) per day for lodging and forty dollars (\$40.00) per day for meals shall be allowed. No reimbursements will be made for entertainment, tobacco, or alcoholic beverages.

(c) Local Travel. Authority for local travel shall be by the appropriate department head, but within the departmental budget for such expenses.

Any official or employee receiving or entitled to receiving a car allowance, car expense or mileage allowance while on official City business must submit his or her claim for reimbursement on a form subscribed and furnished by the Auditor, which form shall include the date, destination, number of miles and the reason or purpose for traveling. An official or employee who is furnished with a City car will be reimbursed for the actual cost of gasoline, oil, tolls and parking upon presentation of receipted bills or invoices. Such officials or employees must use the City car when available.

If on any officially authorized City trip, the mileage rate exceeds the current air coach fare, the current air coach fares will apply.

The provisions of Ohio R.C. 733.79 must be followed and complied with by all employees. (Ord. 16-07. Passed 4-18-07.)

#### **~~REPEAL- 163.07 RESIDENCY REQUIREMENT.~~**

#### **163.09 LIFE INSURANCE.**

Effective January 1, 2001, the City shall provide life and accident insurance coverage for full-time employees and officials in the sum of twenty thousand dollars (\$20,000). Upon retirement, such insurance coverage shall be reduced to the amount of five thousand dollars (\$5,000), THREE THOUSAND (\$3,000) OR ONE THOUSAND (\$1,000) AS DETERMINED BY THE CURRENT LIFE INSURANCE POLICY. NO ACCIDENT INSURANCE COVERAGE SHALL BE PAID AFTER THE DATE OF RETIREMENT. (Ord. 16-07. Passed 4-18-07.)

**163.17 ATTENDANCE POLICY FOR NON-ELECTED, NON-UNION EMPLOYEES.**

(a) It is Council's intent in establishing this policy to set forth the expectations with regard to the attendance of its non-elected, non-union employees, ("covered employee") and further provide a reasonable, fair and consistent mechanism for improving and maintaining an acceptable attendance level.

(b) A covered employee's attendance shall be considered unacceptable when such an employee has three (3) unexcused occurrences of absence, documented, or undocumented, in a three (3) month period.

(c) (1) An occurrence shall be defined as an incident of absence, documented or undocumented, which may be a portion of a day, a full day, or a succession of days, which are separated by at least one (1) workday. Occurrences shall also include:

A. Any continuous absence of more than one hour; and

B. Consecutive shifts of work missed on the same illness/injury.

(2) A doctor follow-up on the same injury/illness remains as only one (1) occurrence.

(d) The following absences shall be considered "excused absences" for purposes of this policy: jury duty; military duty; vacation time; compensatory time; bereavement leave; hospital stays; on the job injuries; FMLA qualifying events; absences where an employee provides a medical statement demonstrating that the employee was unable to perform his or her duties, or that the employee's presence and care was necessary for a family member.

(e) Employees who are absent from work for three or more consecutive workdays and/or FMLA qualifying events are required to have a doctor's excuse before returning to work.

(f) The following disciplinary actions may be taken against an Employee who does not meet the expectations of this policy:

(1) Three occurrences in 90 days will result in a meeting with the administration to discuss the employee's attendance. This meeting will be considered an oral reprimand, but there will be a written record of said meeting in employee's file;

(2) A fourth occurrence in 90 days will result in a written reprimand;

(3) A fifth occurrence in 90 days will result in a one day suspension, without pay;

(4) A sixth occurrence in 90 days will result in a three day suspension, without pay, and

may also result in termination of the employee;

(5) Each sixty calendar days of perfect attendance shall result in the reduction of the number of occurrences by one occurrence;

(6) For purposes of this policy, 90 days will be defined in quarters and there will be four quarters per calendar year.

(g) The following positions, which are on twenty-four hour call and are paid on a salary basis are hereby excluded from this section: CHIEF CLERK OF MUNICIPAL COURT, DEPUTY AUDITOR, INCOME TAX DIRECTOR, PARK AND RECREATION DIRECTOR, THE POLICE CHIEF, AND, THE FIRE CHIEF.

**163.18 TARDINESS POLICY FOR NON-ELECTED, NON-UNION EMPLOYEES.**

(a) It is Council's intent in establishing this policy to set forth the expectations with regard to the tardiness of its non-elected, non-union employees, ("covered employee") and further provide a reasonable, fair and consistent mechanism for improving and maintaining an acceptable attendance level. Occurrences of tardiness shall be treated separately from any occurrences of absence.

(b) All employees will report to work at their scheduled starting times. Late starts shall be deducted in 6 minute increments for pay purposes, up to one hour. Accumulated time shall be charged after one hour.



(c) When an employee is unable to report to work, he/she shall notify his immediate supervisor between one-half hour prior to and one-half hour after the time he/she is scheduled to report to work on each day of absence.

(d) An occurrence of tardiness is defined as an employee reporting for work late two times.

(e) The following disciplinary actions may be taken against an employee who does not meet the expectations of this policy:

- (1) Two occurrences within a 30 day period will result in a documented oral reprimand;
- (2) Four occurrences within a 60 day period will result in a written reprimand;
- (3) Six occurrences within a 90 day period will result in a one day suspension, without pay;
- (4) Eight occurrences within a 120 day period will result in a three day suspension, without pay, and may also result in termination of the employee;

(f) The following positions, which are on twenty-four hour call and are paid on a salary basis are hereby excluded from this section: CHIEF CLERK OF MUNICIPAL COURT, DEPUTY AUDITOR, INCOME TAX DIRECTOR, PARK AND RECREATION DIRECTOR, THE POLICE CHIEF, AND, THE FIRE CHIEF.

**REPEALED -- 163.19 PENSION PICK UP FOR CERTAIN EMPLOYEES. Now, pursuant to RESOLUTION NO.: \_\_\_\_\_ passed by this Council on July 10, 2019.**

~~---(a) Employees of the City affected by this section are as follows: Mayor's Secretary; Chief Clerk of the Municipal Court; Stenographer/Clerk; Deputy Clerks of Municipal Court; Temporary Clerk of Municipal Court; Bailiff; Deputy Auditor; Legal Assistant; Prosecutor; Income Tax Director; Service Director; Safety Director; Building Inspector; Street Department Superintendent; Superintendent of Light; Assistant Superintendent of Light; Light Foreman; Utilities Billing Department Manager; Sewage Foreman; Superintendent of Water and Sewage; Water Foreman; Cemetery Superintendent; Park and Recreation Director; PROJECT MANAGER/PUBLIC UTILITIES INFRASTRUCTURE COORDINATOR AND, HOUSING AND ZONING CODE ENFORCEMENT OFFICER.~~

~~---(b) Effective November 1, 1997, the City, in accordance with the requirements of Section 414(B)(2), Internal Revenue Code, shall withhold from the gross salary of wages of the employees subject to this section, 8.5% of said wage amount and "pick-up", i.e., assume and pay same, to P.E.R.S. Beginning May 1, 2007, the City shall increase said percentage to 9.0%. Beginning January 1, 2008, the City shall increase said percentage to 9.5%. Beginning July 1, 2008, the City shall increase said percentage to 10%.~~

~~---(c) Gross compensation of the employees affected by this section under such pick-up plan shall be reduced in amounts equal to the amount paid by the City in lieu of employee contributions to said pension system. For purposes of this section, gross compensation represents all compensation subject to contributions to said pension system pursuant to the Ohio Revised Code.~~

~~---(d) For all other purposes, including computation of employer contributions to the pension system, compensation shall be the reduced gross compensation, as determined in subsection (b) hereof, in the employer-picked up retirement contribution:~~

~~---(e) No employee affected by this section shall have the option of choosing to receive the contributed amounts directly instead of having them paid by the City to the pension system. (Ord. 16-07. Passed 4-18-07.)~~

### **163.21 RETIREMENT INCENTIVE PROGRAM.**

EMPLOYEES HIRED PRIOR TO JANUARY 1, 2018 WHO HAVE A MINIMUM OF TEN (10) YEARS OF CONTINUOUS EMPLOYMENT WITH THE CITY MAY ELECT TO RETIRE IN ACCORDANCE WITH THE RULES AND REGULATIONS ESTABLISHED BY THE APPROPRIATE RETIREMENT BOARD.

THE RETIREMENT INCENTIVE PROGRAM SHALL BE SUBJECT TO THE FOLLOWING CONDITIONS:

A. EMPLOYEES WHO QUALIFY FOR RETIREMENT UNDER THE OHIO POLICEMAN'S AND FIREMAN'S PENSION FUND AND/OR PUBLIC EMPLOYEES RETIREMENT SYSTEM OF OHIO SHALL BE OFFERED A LUMP SUM PAYMENT EQUIVALENT TO ONE WEEK'S SALARY FOR EACH YEAR OF ELIGIBLE SERVICE WITH THE PUBLIC EMPLOYEES RETIREMENT SYSTEM NOT TO EXCEED TWENTY-FIVE (25) YEARS. EFFECTIVE DECEMBER 31, 2017 EMPLOYEE'S ACCRUAL OF THIS BENEFIT SHALL BE FROZEN AT THE NUMBER OF YEARS OF COMPLETED SERVICE ACCRUED AS OF THAT DATE. NO ADDITIONAL YEARS OF SERVICE MAY BE ACCRUED FOR THIS BENEFIT BEYOND DECEMBER 31, 2017. SUCH PAYMENT SHALL BE CALCULATED BY MULTIPLYING THE EMPLOYEE'S CURRENT HOURLY RATE BY 40 AND THEN MULTIPLYING THAT PRODUCT BY THE YEARS OF ELIGIBLE SERVICE NOT TO EXCEED TWENTY-FIVE (25) YEARS.

B. THE INCENTIVE SHALL BE OFFERED TO ALL ELIGIBLE EMPLOYEES COMMENCING WITH THE EMPLOYEE WHO HAS THE MOST SERVICE CREDIT AND CONTINUING IN DESCENDING ORDER OF SERVICE CREDIT UNTIL SUCH TIME AS A MAXIMUM OF THREE (3) OF THE ELIGIBLE EMPLOYEES AVAIL THEMSELVES OF THE INCENTIVE OR UNTIL SUCH TIME AS THE LIST IS EXHAUSTED, WHICHEVER IS FIRST.

C. EMPLOYEES WHO ARE OFFERED THE RETIREMENT INCENTIVE SHALL DETERMINE WHETHER OR NOT TO AVAIL THEMSELVES OF THE PROGRAM WITHIN THIRTY (30) CALENDAR DAYS OF THE OFFER. TO ACCEPT THE OFFER, THE EMPLOYEE SHALL PROVIDE THE AUDITOR WITH A TENTATIVE RETIREMENT DATE FOR THE UPCOMING CALENDAR YEAR. THE DECISION OF THE EMPLOYEE SHALL BE IRREVOCABLE AT THE END OF THIRTY (30) CALENDAR DAYS AFTER THE OFFER IS EXTENDED. IN THE EVENT ANY EMPLOYEE WITHDRAWS THEIR OPTION FOR THE RETIREMENT INCENTIVE, THE NEXT ELIGIBLE EMPLOYEE WILL BE AFFORDED THE OPTION.

D. TOTAL SERVICE TIME FOR THE PURPOSES OF THIS ORDINANCE IS DEFINED AS TIME ACTUALLY IN THE EMPLOY OF THE CITY OF NILES NOT INCLUDING ANY TIME OF EMPLOY PRIOR TO A BREAK IN SERVICE OF EMPLOYMENT WITH THE CITY OF NILES, INCLUDING ANY PREVIOUS MILITARY TIME.

E. THIS INCENTIVE IS NOT AVAILABLE TO ANY RETIRANT PURSUANT TO THE RETIRANT POLICY ADOPTED BY THE CITY OF NILES."

F. NOT WITHSTANDING SECTION (A) ABOVE, IF THE POLICE CHIEF OR FIRE CHIEF HAVE BEEN EMPLOYED BY THE CITY FOR AT LEAST TEN FULL YEARS, AND IS ELIGIBLE TO RETIRE UNDER THE RULES AND REGULATIONS OF THE OHIO POLICEMAN'S AND FIREMAN'S PENSION FUND (INCLUDING ITS DROP PROGRAM), AND RETIRE IN ACCORDANCE WITH THE REQUIREMENTS OF SAID FUND AND ITS PROGRAMS, HE/SHE SHALL BE ENTITLED TO A RETIREMENT INCENTIVE PAYMENT. THIS INCENTIVE PAYMENT SHALL CONSIST OF THE PAYMENT OF ONE WEEK'S SALARY FOR EACH YEAR OF SERVICE IN THE PENSION SYSTEM, NOT TO EXCEED 25 YEARS OF SERVICE. THE WEEKLY SALARY SHALL BE CALCULATED BY TAKING THE CHIEF'S CURRENT ANNUAL SALARY AND DIVIDING SAID SALARY BY 52 WEEKS. SAID PAYMENT SHALL BE MADE OVER A THREE YEAR PERIOD, WITH ONE-THIRD OF THE TOTAL INCENTIVE PAYMENT BEING PAID EACH YEAR.

SECTION 2: Existing Sections 163.02, 163.03, 163.04, 163.06 163.07, 163.09, 163.19 and 163.21 are hereby repealed.

SECTION 3: This Ordinance is hereby declared to be an emergency measure in the interest of the public health, safety and welfare, and for the reason that these changes may be made prior to the end of the year. As such an emergency measure, this Ordinance shall take effect upon passage by Council and approval by the Mayor.

\_\_\_\_\_  
PRESIDENT OF COUNCIL

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
CLERK OF COUNCIL

Filed with the Mayor of the City of Niles, Ohio on the \_\_\_\_\_ day of \_\_\_\_\_, 2019 and signed by me as such Mayor on the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
MAYOR

# City of Niles, Ohio

SPONSORED BY: IMPROVEMENTS and FINANCE COMMITTEES      DRAFT NO. 117-19  
AUTHORIZED BY: LASTIC and SMITH

---

RESOLUTION NO. \_\_\_\_\_  
**FINAL RESOLUTION**

The following Final Resolution enacted by the City of Niles, Ohio, hereinafter referred to as the Legislative Authority/Local Public Agency or "LPA", in the matter of the stated described project.

WHEREAS, on the **20th day of March, 2019**, the LPA enacted legislation proposing cooperation with the Director of Transportation for the described project:

**The project consists of resurfacing Robbins Avenue (S.R. 169) between Cleveland Avenue and the Niles Eastern Corporation Limit, including pavement markings, lying within the City of Niles; and**

WHEREAS, the LPA shall cooperate with the Director of Transportation in the above described project as follows:

**The City agrees to assume and bear one hundred percent (100%) of the entire cost of the improvement within the city limits, less the amount of Federal-Aid funds set aside by the Director of Transportation for the financing of this improvement from funds allocated by the Federal Highway Administration, U. S. Department of Transportation.**

The share of the cost of the LPA is now estimated in the amount of **Forty-Eight Thousand Eight Hundred Seventy and 00/100 Dollars, (\$48,870.00)**, but said estimated amount is to be adjusted in order that the LPA's ultimate share of said improvement shall correspond with said percentages of actual costs when said actual costs are determined; and

WHEREAS, The Director of Transportation has approved said legislation proposing cooperation and has caused to be made plans and specifications and an estimate of cost and expense for improving the above described highway and has transmitted copies of the same to this legislative authority; and

WHEREAS, The LPA desires the Director of Transportation to proceed with the aforesaid highway improvement.

NOW, THEREFORE, be it resolved:

- I. That the estimated sum, of **Forty-Eight Thousand Eight Hundred Seventy and 00/100 Dollars, (\$48,870.00)** is hereby appropriated for the improvement described above and the fiscal officer is hereby authorized and directed to issue an order on the treasurer for said sum upon the requisition of the Director of Transportation to pay the cost and expense of said improvement. We hereby agree to assume in the first instance, the share of the cost and expense over and above the amount to be paid from **Federal** funds.
- II. That the LPA hereby requests the Director of Transportation to proceed with the aforesaid highway improvement.

III. That the LPA enter into a contract with the State, and that **Mayor and/or Service Director** be, and is hereby authorized to execute said contract, providing for the payment of the LPA the sum of money set forth herein above for improving the described project.

PID No. 98509

IV. That the LPA transmit to the Director of Transportation a fully executed copy of this Resolution.

This is to certify that we have compared the foregoing copy of Resolution with the original record thereof, found in the record of the proceedings of the LPA, and which Resolution was duly passed by the LPA on the 20<sup>th</sup> day of March, 2019, and that the same is a true and correct copy of the record of said Resolution and the action of said LPA thereon.

We further certify that said Resolution and the action of said LPA thereon is recorded in the journal of said LPA in Volume \_\_\_\_\_, at Page \_\_\_\_\_, and under date of March 20, 2019.

Legislative Authority of the  
City of Niles, Ohio

**Mayor and/or Service Director**

SEAL  
(If Applicable)

Clerk (Secretary Ex-Officio)

\_\_\_\_\_  
PRESIDENT OF COUNCIL

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_

CLERK OF COUNCIL

Filed with the Mayor of the City of Niles, Ohio on the \_\_\_\_\_ day of \_\_\_\_\_, 2019 and signed by me as such Mayor on the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
MAYOR

**FISCAL OFFICER'S CERTIFICATE**  
(Chapter 5521 and Section 5705.41, Ohio Revised Code)

I hereby certify to that the money, to wit: **\$48,870.00** required for the payment of the cost other than that thereof assumed by the Federal Government, for the improvement of that portion of **S.R. 169**, lying within the corporate limits of the City of Niles, more particularly described as follows:

**The project consists of resurfacing Robbins Avenue (S.R. 169) between Cleveland Avenue and the Niles Eastern Corporation Limit, including pavement markings, lying within the City of Niles; and**

has been lawfully appropriated for such purpose and is in the treasury to the credit of, or has been levied placed on the duplicate and in process of collection for the appropriate fund, and not appropriated for any other purpose; or is being obtained by sale of bonds issued on account of said improvement, which bonds are sold and in process of delivery.

I further certify that this certificate was made, sealed and filed with the legislative authority of the City of Niles, Ohio, after said legislative authority passed the final resolution in connection with the within described project; and that this certificate was forthwith recorded in the record of the proceedings of said legislative authority, namely:

Legislative Authority's Journal, Volume \_\_\_\_\_, at Page \_\_\_\_\_,

IN WITNESS WHEREOF, I have hereunto set my hand and official seal as said fiscal officer, this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

(Fiscal Officer's Seal)  
(If Applicable)

\_\_\_\_\_  
Fiscal Officer of the City of  
Niles, Ohio



**C O N T R A C T**  
(Chapter 5521, Ohio Revised Code)

This contract is made by and between the State of Ohio, Department of Transportation, acting through its director (hereinafter referred to as the "STATE"), 1980 West Broad Street, Columbus, Ohio 43223, and the City of Niles, (hereinafter referred to as the legislative authority/Local Public Agency or "LPA").

**WITNESSETH:**

**WHEREAS**, Chapter 5521 of the Ohio Revised Code provides that the legislative authority may cooperate with the STATE in a highway project made by and under the supervision of the Director of Transportation; and

**WHEREAS**, through the enactment of preliminary legislation, the LPA and the STATE have agreed to cooperate in the highway project described below; and

**WHEREAS**, through the enactment of final legislation, the LPA has committed to pay an estimated amount of money as its share of the total estimated cost and expense of the highway project described below; and

**WHEREAS**, the fiscal officer of the LPA has filed with the LPA a certificate stating that sufficient moneys are available, as required by Chapter 5521 and Section 5705.41 of the Ohio Revised Code. A duplicate certificate is attached hereto; and

**WHEREAS**, in accordance with the final legislation, the LPA hereby enters into this contract with the STATE to provide for payment of the agreed portion of the cost of the highway project and any additional obligations for the highway project described below.

**NOW, THEREFORE**, in consideration of the premises and the performances of mutual covenants hereinafter set forth, it is agreed by parties hereto as follows:

**SECTION I: RECITALS**

The foregoing recitals are hereby incorporated as a material part of this contract.

**SECTION II: PURPOSE**

The purpose of this contract is to set forth requirements associated with the highway project described below (hereinafter referred to as the "PROJECT") and to establish the responsibilities for the administration of the PROJECT by the LPA and the STATE.



**SECTION III: LEGAL REFERENCES**

This contract is established pursuant to Chapter 5521 of the Ohio Revised Code.

**SECTION IV: SCOPE OF WORK**

The work to be performed under this contract shall consist of the following:

**The project consists of resurfacing Robbins Avenue (S.R. 169) between Cleveland Avenue and the Niles Eastern Corporation Limit, including pavement markings, lying within the City of Niles.**

**SECTION V: FINANCIAL PARTICIPATION**

1. The STATE agrees to provide the necessary funds as enumerated in this section and allowed by law for the financing of this project.
2. The STATE may allocate the money contributed by the LPA in whatever manner it deems necessary in financing the cost of construction, right-of-way, engineering, and incidental expenses, notwithstanding the percentage basis of contribution by the LPA.
3. The total cost and expenses for the project are only an estimate and the total cost and expenses may be adjusted by the STATE. If any adjustments are required, payment of additional funds shall correspond with the percentages of actual costs when said actual costs are determined, and as requested, by the Director of Transportation.
4. The LPA agrees to pay to the STATE its share of the total estimated cost expense for the above highway project in the amount of **Forty-Eight Thousand Eight Hundred Seventy and 00/100 Dollars, (\$48,870.00)**.
5. **The City agrees to assume and bear one hundred percent (100%) of the entire cost of the improvement within the city limits, less the amount of Federal-Aid funds set aside by the Director of Transportation for the financing of this improvement from funds allocated by the Federal Highway Administration, U. S. Department of Transportation.**
6. The LPA agrees to assume and bear One Hundred Percent (100%) of the cost of any construction items required by the LPA on the entire project, which are not necessary for the improvement, as determined by the State and Federal Highway Administration.
7. The LPA agrees that change orders and extra work contracts required fulfilling the construction contracts shall be processed as needed. The STATE shall not approve a change order or extra work contract until it first gives notice, in writing, to the LPA. The LPA shall contribute its share of the cost of these items in accordance with other sections herein.

**SECTION VI: RIGHT-OF-WAY AND UTILITIES**

1. The LPA agrees that all right-of-way required for the described project will be acquired and/or made available in accordance with current State and Federal regulations. The LPA also understands that right-of-way costs include eligible utility costs.
2. The LPA agrees that all utility accommodation, relocation, and reimbursement will comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual, including that:
  - A. Arrangements have been or will be made with all utilities where facilities are affected by the described PROJECT, that the utilities have agreed to make all necessary removals and/or relocations to clear any construction called for by the plans of this PROJECT, and that the utilities have agreed to make the necessary removals and/or relocations after notification by the LPA or STATE.
  - B. The LPA shall, at its own expense, make all removals and/or relocations of publicly-owned utilities which do not comply with the reimbursement provisions of the ODOT Utilities Manual. Publicly-owned facilities which do comply with the reimbursement provisions of the ODOT Utilities Manual will be removed and/or relocated at project expense, exclusive of betterments.
  - C. The removals and/or relocation of all utilities shall be done in such a manner as not to interfere with the operation of the contractor constructing the PROJECT and that the utility removals and/or relocations shall be approved by the STATE and performed in accordance with the provisions of the ODOT Construction and Materials Specifications.

**SECTION VII: ADDITIONAL PROJECT OBLIGATIONS**

1. The STATE shall initiate the competitive bid letting process and award the PROJECT in accordance with ODOT's policies and procedures.
2. The LPA agrees:
  - A. To keep said highway open to traffic at all times;
  - B. To maintain the PROJECT in accordance with the provisions of the statutes relating thereto,
  - C. To make ample financial and other provisions for such maintenance of the PROJECT after its completion;
  - D. To maintain the right-of-way and keep it free of obstructions in a manner satisfactory to the STATE and hold said right-of-way inviolate for public highway purposes;

- E. To place and maintain all traffic control devices conforming to the Ohio Manual on Uniform Traffic Control Devices on the project in compliance with the provisions of Section 4511.11 of the Ohio Revised Code;
- F. To regulate parking in accordance with Section 4511.66 of the Ohio Revised Code, unless otherwise controlled by local ordinance or resolution.

**SECTION VIII: DISPUTES**

In the event that any disputes arise between the STATE and LPA concerning interruption of or performance pursuant to this contract, such disputes shall be resolved solely and finally by the Director of Transportation.

**SECTION IX: NOTICE**

Notice under this contract shall be directed as follows:

**City of Niles  
34 West State Street  
Niles, Ohio  
44446**

**Ohio Department of Transportation  
Office of Estimating  
1980 West Broad Street, 1st Floor  
Columbus, Ohio 43223**

**SECTION X: FEDERAL REQUIREMENTS**

1. In carrying out this contract, LPA shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, disability, or age. LPA will ensure that applicants are hired and that employees are treated during employment without regard to their race, religion, color, sex, national origin (ancestry), disability, genetic information, or age (40 years or older), sexual orientation, or military status (past, present, future). Such action shall include, but not be limited to, the following: Employment, Upgrading, Demotion, or Transfer; Recruitment or Recruitment Advertising; Layoff or Termination; Rates of Pay or other forms of Compensation; and Selection for Training including Apprenticeship.
2. To the extent necessary under Ohio law, LPA agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. LPA will, in all solicitations or advertisements for employees placed by or on behalf of LPA, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin (ancestry), disability, genetic information, age (40 years or older), sexual orientation, or military status (past, present, future). If applicable, the LPA shall incorporate the foregoing requirements of this paragraph in all of its contracts for any of the work prescribed herein (other than subcontracts for standard commercial supplies or raw materials) and will require all of its subcontractors for any part of such work to incorporate such requirements in all subcontracts for such work.

3. LPA agrees to fully comply with Title VI of the Civil Rights Act of 1964, 42 USC Sec. 2000. LPA shall not discriminate on the basis of race, color, or national origin in its programs or activities. The Director of Transportation may monitor the Contractor's compliance with Title VI.

**SECTION XI: GENERAL PROVISIONS**

1. This contract constitutes the entire contract between the parties. All prior discussions and understandings between the parties are superseded by this contract.
2. Neither this contract nor any rights, duties or obligations described herein shall be assigned by either party hereto without the prior express written consent of the other party.
3. Any change to the provisions of this contract must be made in a written amendment executed by both parties.
4. This contract and any claims arising out of this contract shall be governed by the laws of the State of Ohio. Any provision of this contract prohibited by the law of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this contract or the performance thereunder shall be brought only in the courts of Ohio, and the LPA hereby irrevocably consents to such jurisdiction. To the extent that the STATE is a party to any litigation arising out of or relating in any way to this contract or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.
5. All financial obligations of the State of Ohio, as provided in this contract, are subject to the provisions of Section 126.07 of the Ohio Revised Code. The financial obligations of the State of Ohio shall not be valid and enforceable unless funds are appropriated by the Ohio General Assembly and encumbered by the STATE. Additionally, it is understood that this financial obligation of the LPA shall not be valid and enforceable unless funds are appropriated by the LPA's legislative body.
6. This contract shall be deemed to have been substantially performed only when fully performed according to its terms and conditions and any modification thereof.
7. LPA agrees that it is currently in compliance and will continue to adhere to the requirements of Ohio Ethics law as provided by Section 102.03 and 102.04 of the Ohio Revised Code.

**SECTION XI: SIGNATURES**

Any person executing this contract in a representative capacity hereby warrants that he/she has been duly authorized by his/her principal to execute this contract on such principal behalf.

Any party hereto may deliver a copy of its counterpart signature page to this Agreement via fax or e-mail. Each party hereto shall be entitled to rely upon a facsimile signature on any other party delivered in such a manner as if such signature were an original.

IN WITNESS THEREOF, the parties hereto have caused this contract to be duly executed in duplicate.

SEAL  
(If Applicable)

OHIO DEPARTMENT OF  
TRANSPORTATION

LOCAL PUBLIC AGENCY  
City of Niles

\_\_\_\_\_  
Director of Transportation

\_\_\_\_\_  
Mayor and/or Service Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Approved:  
Dave Yost  
Attorney General of Ohio

By: \_\_\_\_\_  
Stephen H. Johnson  
Chief, Transportation Section

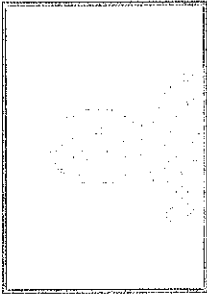
Date: \_\_\_\_\_



# Signature Certificate

Document Reference: FNNLJ8JLGIKXHR9S8YP39D

**RightSignature**  
Easy Online Document Signing



## Joe Anthony

Party ID: 49V7UYIHJEGMPJG9ISSW3

IP Address: 156.63.133.86

VERIFIED EMAIL: joseph.anthony@dot.ohio.gov

Electronic Signature

Multi-Factor  
Digital Fingerprint Checksum

16a68c8038adf6c2d4a64219a86e94e610bfea037



## Timestamp

2019-06-17 09:56:07 -0700

2019-06-17 09:56:07 -0700

2019-06-17 09:56:00 -0700

2019-06-17 09:54:45 -0700

## Audit

**All parties have signed document. Signed copies sent to: Joe Anthony and George Rysavy.**

**Document signed by Joe Anthony (joseph.anthony@dot.ohio.gov) with drawn signature. - 156.63.133.86**

**Document viewed by Joe Anthony (joseph.anthony@dot.ohio.gov). - 156.63.133.86**

**Document created by George Rysavy (george.rysavy@dot.ohio.gov). - 156.63.133.86**



This signature page provides a record of the online activity executing this contract.

# City of Niles, Ohio

SPONSORED BY: FINANCE COMMITTEE  
AUTHORIZED BY: SMITH

DRAFT NO. 118-19

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION APPROVING THE AGREEMENT BETWEEN THE CITY AND THE FRATERNAL ORDER OF POLICE LODGE (FOP) NO. 27 REGARDING A NEW LABOR CONTRACT; AND, DECLARING AN EMERGENCY**

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NILES, STATE OF OHIO:

SECTION 1: That the agreement between the City and the Fraternal Order of Police (FOP) regarding a new labor contract is hereby approved.

SECTION 2: That the Mayor, Service Director and Auditor are hereby authorized to execute any agreements and perform all functions necessary to implement the terms of said agreement.

SECTION 3: This Resolution is hereby declared an emergency measure in the interest of the public health, safety and welfare, for the reason that the current labor agreement is or has expired. As such an emergency measure, this Resolution shall take effect upon passage by Council and approval by the Mayor.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
PRESIDENT OF COUNCIL

ATTEST: \_\_\_\_\_  
CLERK OF COUNCIL

Filed with the Mayor of the City of Niles, Ohio on the \_\_\_\_ day of \_\_\_\_\_, 2019 and signed by me as such Mayor on this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
MAYOR

# City of Niles, Ohio

SPONSORED BY: FINANCE COMMITTEE  
AUTHORIZED BY: SMITH

DRAFT NO. 119-19

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AUTHORIZING THE APPROPRIATION OF FUNDS FROM THE UNAPPROPRIATED SEWER FUND 503 TO THE SEWER DEBT REPAYMENT ACCOUNT; AND DECLARING AN EMERGENCY

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NILES, STATE OF OHIO:

SECTION 1: Council hereby authorizes the appropriation of Two Hundred Twenty One Thousand and no/100 dollars (\$221,000.00) from the Unappropriated Sewer Fund 503 to the Sewer Debt Repayment Account, Account No. 503-5353-59200.

SECTION 2: This Resolution is hereby declared to be an emergency measure in the interest of the public health, safety and welfare and for the reason that the funds are needed in the recipient account at the earliest possible date to provide funds. As such an emergency measure, this Resolution shall take effect upon passage by Council and approval by the Mayor.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
PRESIDENT OF COUNCIL

ATTEST: \_\_\_\_\_

CLERK OF COUNCIL

Filed with the Mayor of the City of Niles, Ohio on the \_\_\_\_ day of \_\_\_\_\_, 2019 and signed by me as such Mayor on this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
MAYOR



# City of Niles

SPONSORED BY: FINANCE COMMITTEE  
AUTHORIZED BY: SMITH

DRAFT NO. 120-19

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AUTHORIZING THE APPROPRIATION OF FUNDS FROM THE UNAPPROPRIATED CAPITAL PROJECT FUND 401 AND FROM THE UNAPPROPRIATED GENERAL FUND 101 TO THE FOLLOWING FUND ACCOUNTS; AND, DECLARING AN EMERGENCY

WHEREAS, funds are needed for the Robbins Avenue Street Resurfacing Project.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NILES, STATE OF OHIO:

SECTION 1: Council hereby authorizes the appropriation from the Unappropriated Capital Project Fund 401 and from the Unappropriated General Fund 101 to the following fund accounts:

Appropriations		
CAPITAL PROJECTS FUND 401		
401-4646-56560	GRANTS	\$244,350.00
401-4646-55400	STREET RESURFACING	\$48,870.00
GENERAL FUND 101		
101-1090-59000	TRANSFER	\$48,870.00

SECTION 2: This Resolution is hereby declared to be an emergency measure in the interest of the public health, safety and welfare. As such an emergency measure, this Resolution shall take effect upon passage by Council and approval by the Mayor.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
PRESIDENT OF COUNCIL

ATTEST: \_\_\_\_\_  
CLERK OF COUNCIL

Filed with the Mayor of the City of Niles, Ohio on the \_\_\_\_\_ day of \_\_\_\_\_, 2019 and signed by me as such Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
MAYOR

# City of Niles, Ohio

SPONSORED BY: UTILITIES COMMITTEE  
AUTHORIZED BY: McNAUGHTON

DRAFT NO. 121-19

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE PROVIDING THAT THE OWNER OF THE PROPERTY IS RESPONSIBLE FOR THE LATERAL TIE IN AS PREVIOUSLY ESTABLISHED BY THE OHIO COMMON LAW OF OHIO AND DECLARING AN EMERGENCY

WHEREAS, the intention of this Ordinance is to codify the common law in Ohio regarding lateral tie-in's or tap-in's. Specifically, the Eleventh District Court of appeals established in *Fatobene v. Warren (11<sup>th</sup> Dist., 1996)* and *Ensell v. Mortgage Service Corp. (11<sup>th</sup> Dist., 2000)*, that the owner of the property is responsible for the lateral tie-in repair and maintenance regardless whether the City was involved in the original tie-in or if the actual repair of the line takes place on City property.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NILES, STATE OF OHIO:

SECTION 1: That this Council hereby codifies the common law in Ohio that repair and maintenance of the "lateral" are the responsibility of the property owner.

SECTION 2: This Ordinance is hereby declared to be an emergency measure in the interest of the public health, safety and welfare for the reason that this matter needs codified to the common law of Ohio. As such an emergency measure, this Ordinance shall take effect immediately upon passage by Council and approval by the Mayor.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
PRESIDENT OF COUNCIL

ATTEST: \_\_\_\_\_  
CLERK OF COUNCIL

Filed with the Mayor of the City of Niles, Ohio on the \_\_\_\_\_ day of \_\_\_\_\_, 2019 and signed by me as such Mayor on this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
MAYOR

# City of Niles, Ohio

SPONSORED BY: SAFETY COMMITTEE  
AUTHORIZED BY: MARCHESE

DRAFT NO. 122-19

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CODIFIED ORDINANCE NO. "1301.05, "APPLICATION FOR PERMIT" AND CODIFIED ORDINANCE NO. "1301.06, "PERMITS", AND, DECLARING AN EMERGENCY

Whereas, Codified Ordinance Section 1301.05 establishes a procedure whereby you may make application for a permit; and

Whereas, Codified Ordinance Section 1301.06 establishes a procedure whereby you may obtain a permit; and

Whereas, Council has amended these ordinances; and,

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NILES, STATE OF OHIO:

SECTION ONE: Codified Ordinance No. 1301.05 is hereby amended to read as follows:

## **1301.05 APPLICATION FOR PERMIT.**

### **(a) Requirement.**

(1) Whoever desires to construct, excavate for, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure; or to install, alter or repair wiring, plumbing, fire extinguishing apparatus, elevators, escalators, engines or dynamos; or to install a steam boiler, furnace, heater, incinerator or other heat producing apparatus, erection and connection of radio and television antenna, or other appurtenances the installation of which is regulated by this Code; or to cause any such work to be done, shall first make application to the Building Inspector and obtain the required permit therefor.

(2) Ordinary minor repairs where the cost of the work shall not exceed twenty-five dollars (\$25.00) may be made without filing an application or obtaining a permit, provided that such repairs shall not violate any of the provisions of this Code.

(3) Whoever desires to demolish any building or structure shall comply with all requirements, including all safety requirements, as set forth in the demolition permit application provided by City Building officials, which may be amended from time to time. In addition, whoever desires to demolish any building or structure shall deposit with the City cash or surety in an amount equal to the cost of demolition before any permit will be issued. The cost of demolition for purposes of determining the cash or surety amount shall be determined by City Building Officials. The cost of demolition will be an estimated amount. In the event the City demolishes the building or structure, in accordance with this section, the permit holder is responsible for all direct and indirect costs incurred by the City for the demolition. The City will first apply to the demolition costs the cash or surety on deposit with the City and the permit holder will be responsible for any additional amounts still due. In the event all direct and indirect costs to the City of the demolition are less than the amount on deposit with the City then the permit holder shall receive the difference.

(4) Whoever desires to rehabilitate a condemned building or structure, shall also deposit cash or surety in the amount equal to the cost of demolition as determined by City Building Officials. The cash or surety will be used by the City to demolish the property should the permit holder fail to complete the project in compliance with all City requirements.

(5) In the event that the permit holder fails to comply with the requirements as outlined in the permit application, including but not limited to any safety procedures and/or timeframe limitations as set for in NCO 1301.06 (b), the City will have the right to execute on the cash or surety that is required pursuant to a(3)

(b) Form.

(1) Each application for a permit, with the required fee, shall be filed with the Building Inspector, on a form furnished by him, and shall contain a general description of the proposed work and its location. The application shall be signed by the owner. If a person or agent other than the owner desires to file an application, the Building Inspector shall have the discretionary authority to require such person or agent to submit at the time of filing such application written authorization and proof of such applicant's authority.

(2) Each application for a permit shall indicate the proposed occupancy of all parts of the building and of that portion of the site or lot, if any, not covered by the building, and shall contain such other information as may be required by the Building Inspector.

(c) Plans. When required by the Building Inspector, two or more copies of specifications, and plans drawn to scale with sufficient clarity and detail to indicate the nature and character of the work, shall accompany every application. Such plans and specifications shall contain information, in the form of notes or otherwise, as to the quality of materials, where quality is essential to conformity with this Code. Such information shall be specific, and this Code shall not be cited as a whole, or in part, nor shall the term "legal" or its equivalent be used, as a substitute for specific information. Such plans and specifications shall be retained only until completion of the work and will be disposed of unless called for by owner.

No department, bureau, board, commission, officer or agent of the City shall accept, file or approve any plans and specifications for any building work or improvements in the City, or issue or grant any permit pursuant thereto, unless such plans and specifications have been prepared by a person legally qualified by registration to prepare plans and specifications for buildings, works and improvements under the laws of the State of Ohio. Any acceptance, filing and/or approving of plans and specifications for buildings, works or improvements or the issuing or granting of any permit contrary to the provisions of this regulation shall be void. All plans surveys and specifications shall bear the professional seal of the person responsible for the preparation of the same, such as structural engineer or architect.

Nothing in this section shall be held or construed as applying to the construction, repair or remodeling of any of the following:

(1) Single dwellings and the auxiliary buildings thereto, where the cubical content of such dwellings, exclusive of detached auxiliary buildings, do not exceed in total volume 30,000 cubic feet.

(2) Two-family dwellings and the auxiliary buildings thereto, where the cubical content of such dwellings, exclusive of detached auxiliary buildings, does not exceed in total volume 40,000 cubic feet.

(3) Additions to single or two-family dwellings of less than 10,000 cubic feet in volume.

(4) Repairs and alterations of buildings which do not affect health, safety or structural stability.

(5) Single dwellings and the auxiliary buildings thereto designed and constructed by the owner thereof for his own use as his home.

However, drawings for all such exempt buildings shall clearly designate the true author thereof and the true ownership of the property and shall state under which of the above provision's exemption is claimed.

The method of calculating cubical content shall be the method approved by the American Institute of Architects.

Any acceptance, filing and/or approval of plans, surveys and specifications for building, works or improvements, or the issuing or the granting of any permit, contrary to the provisions of this section shall be void.

(d) Plot Diagram. The Building Inspector may require details, computations, stress diagrams and other data necessary to describe the construction and basis of calculations. He may also require plans showing the location of the proposed building or structure and of every existing building or structure on the site or lot, in accordance with a boundary line survey prepared by a registered surveyor. He shall require structural plans and computations to bear the signature and seal of the architect or engineer in charge of the structural design.

(e) Limitation. An application for a permit for any proposed work shall be deemed to have been abandoned six months after the date of filing, unless a permit has before then been issued; provided that, for cause, one or more extensions of time for periods not exceeding 90 days each may be allowed by the Building Inspector.

(f) Examination of Plans. The Building Inspector shall examine or cause to be examined each application for a permit and the plans and computations filed therewith and shall ascertain by such examination whether the construction indicated and described is in accordance with the requirements of this Code and all other pertinent laws or ordinances. If the plans submitted conform to the laws as to egress, type of construction and general arrangement and are

accompanied by drawings showing the structural design and by a statement that the plans and design conform to the requirements of law as to strength, stresses, strains, loads and stability and are filed and sworn to by a registered architect or engineer, the Building Inspector may, without further examination, accept such affidavit, provided that the registered architect or engineer who made such affidavit agrees to submit to the Building Inspector, on the completion of the structure, a certification that the structure has been erected in accordance with the requirements of this Code.

SECTION TWO: Codified Ordinance No. 1301.06 is hereby amended to read as follows:

#### **1301.06 PERMITS.**

(a) Action On Application.

(1) If the Building Inspector is satisfied that the work prescribed in an application for permit and the plans filed therewith conform to the requirements of this Code and other pertinent laws and ordinances, he shall issue a permit therefor to the applicant.

(2) If the application for a permit and the plans filed therewith describe work which does not conform to the requirements of this Code or other pertinent laws or ordinances, including any cash or surety requirements as set forth in 1301.05, the Building Inspector shall not issue a permit, but shall return the plans to the applicant with his refusal to issue such permit. Such refusal shall, when requested, be in writing and shall contain the reasons therefor.

(b) Permit Authority. A permit issued shall be construed to be a license to proceed with the work and shall not be construed as authority to violate, cancel, alter, or set aside any of the provisions of this Code, nor shall issuance of a permit prevent the Building Inspector from thereafter requiring a correction of errors in plans or construction, or of violations of this Code. Any permit issued shall become invalid if any of the following circumstances occurs:

- (1) The work authorized by the permit is not commenced within 60 days;
- (2) The exterior portion of the work authorized by the permit is not completed within six months; or
- (3) The work authorized by the permit is suspended or abandoned for a period of six months after the time the work is commenced.

(c) Permit for Demolition

(1) A permit issued for demolition of a residential building or structure shall require completion of the project within 30 calendar days from issuance of the permit.

(2) A permit issued for demolition of a commercial structure shall require completion of the project no later than 120 days from the date of issuance of the permit. The Building Inspector may provide one extension only upon written application by the permit holder detailing any bona fide extraordinary, unforeseen, or exigent circumstances that prohibited the completion of the project. Any such extension shall not exceed an additional 60 calendar days. The failure to comply with this section shall result in forfeiture of the cash or surety deposited pursuant to NCO 1301.05 (a)(3).

(3) In the event that the demolition of any building or structure, regardless of type or status, presents extraordinary or unique circumstances that require extended timeframes than those that are provided for in (c)(1) and (2) of this section, then the legislative authority may approve by resolution extended timeframes. The Building Inspector shall certify that the applicant has provided a written detailed explanation as to the circumstances that exist that prohibit completion of the project within the standard timeframes outlined in (c)(1) and (2). The Building Inspector shall also certify that at least one other professional in the field confirms that the specific project cannot be completed within the time frames outlined in (c)(1) and (2).

Once a permit has become invalid, a new permit must be issued by the Building Inspector before any new or further work may proceed.

SECTION THREE: This Ordinance is hereby declared to be an emergency measure in the interest of the public health, safety and welfare. As such an emergency measure, this Ordinance shall take effect upon passage by Council and approval by the Mayor. If not so passed as an emergency measure, it shall take effect from and after the earliest time provided by law.

\_\_\_\_\_  
President of Council

Passed: \_\_\_\_\_

Attest: \_\_\_\_\_  
Clerk of Council

Filed with the Mayor of the City of Niles, Ohio on the \_\_\_\_ day of \_\_\_\_\_, 2019 and signed by me as such Mayor on the \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Mayor

# City of Niles, Ohio

SPONSORED BY: SAFETY COMMITTEE  
AUTHORIZED BY: MARCHESE

DRAFT NO. 123-19

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CODIFIED ORDINANCE NO. "1109.02, "OCCUPANCY AND USE PERMITS", AND, DECLARING AN EMERGENCY

Whereas, Codified Ordinance Section 1109.02 establishes a procedure whereby you apply and receive a permit of occupancy; and

Whereas, Council has amended this ordinance; and,

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NILES, STATE OF OHIO:

SECTION ONE: Codified Ordinance No. 1109.02 is hereby amended to read as follows:

## **1109.02 OCCUPANCY AND USE PERMITS.**

(a) No vacant land and no building hereafter erected or altered shall be occupied or used in whole or in part, nor shall any owner or tenant of any land or building hereafter change the use classification or enlarge the use in any building or on any premises without a permit of occupancy and use from the Building Inspector, stating that the use of the building or premises complies with the provisions of this Zoning Ordinance.

(b) Application for a permit of occupancy and use shall be made with the application for a building permit or may be directly applied for where no building permit is necessary and shall be issued or refused in writing within five days after the Building Inspector has been notified in writing that the building or premises is ready for occupancy.

(c) The fee for the zoning permit shall be charged at a rate of twenty-five cents (\$0.25) per square foot, with a minimum fee of twenty-five dollars (\$25.00). The fee for any above ground pool shall be charged at a flat fee of \$50.00. This fee is in addition to any other permit fees required under the Code.

SECTION TWO: This Ordinance is hereby declared to be an emergency measure in the interest of the public health, safety and welfare. As such an emergency measure, this Ordinance shall take effect upon passage by Council and approval by the Mayor. If not so passed as an emergency measure, it shall take effect from and after the earliest time provided by law.

Passed: \_\_\_\_\_

\_\_\_\_\_  
President of Council

Attest: \_\_\_\_\_

\_\_\_\_\_  
Clerk of Council

Filed with the Mayor of the City of Niles, Ohio on the \_\_\_\_\_ day of \_\_\_\_\_, 2019 and signed by me as such Mayor on the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Mayor

# City of Niles, Ohio

SPONSORED BY: SAFETY COMMITTEE  
AUTHORIZED BY: MARCHESE

DRAFT NO. 124-19

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CODIFIED ORDINANCE NO. "1131.02, "REGULATIONS FOR ACCESSORY BUILDINGS", AND, DECLARING AN EMERGENCY

Whereas, Codified Ordinance Section 1131.02 establishes procedures regarding regulations for accessory buildings; and

Whereas, Council has amended this ordinance; and,

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NILES, STATE OF OHIO:

SECTION ONE: Codified Ordinance No. 1131.02 is hereby amended to read as follows:

## **1131.02 REGULATIONS FOR ACCESSORY BUILDINGS.**

Accessory buildings shall be subject to the following regulations:

- (a) No accessory building shall be used for the conduct of a business or industry therein.
- (b) Accessory buildings shall be permitted for the following purposes:
  - (1) Detached private garage on the same lot as the principal building. No part of any such private garage shall be used for residence purposes.
  - (2) Storage building or structure, including a green house, pool house, gazebo and similar structures.
  - (c) Accessory buildings may only be located in the rear yard.
  - (d) The area occupied by all permitted accessory uses shall not exceed the lesser of twenty-five percent (25%) of the rear yard, or 1,152 square feet. In no instance shall the floor area of any accessory building exceed the ground floor area of the principal building of the lot.
  - (e) Any permitted accessory use must be located at least two feet from any lot line.
  - (f) Private garages (attached or detached) are further limited, so that total garage area shall not exceed 1,152 square feet in floor area.
  - (g) Storage buildings or other permitted structures are further limited so that only one such structure can be placed per residential parcel, except that one additional structure may be added provided it is not used for storage and its purpose is part of landscaping or recreational use, such as a patio, hot tub, gazebo, green house or similar structure. Metal storage buildings permitted under this subsection may not exceed 100 square feet. Other building or structure permitted under this subsection may contain a metal roof but may not exceed 200 square feet.
  - (h) The minimum pitch for the roof of an accessory building shall be 4/12. The maximum height of any accessory building shall not exceed 15 feet from floor level to the roof peak.
  - (i) In the case of a corner lot, no wall of an accessory building shall be nearer to the side street line than the side wall of the main building. If the rear of a corner lot abuts on a lot with the principal frontage on the side street, the accessory building on such corner lot shall be setback from the side street line a distance of not less than twenty-five feet.
  - (j) Swimming pools shall not be considered an accessory use, but shall remain five feet from any property line, and a five foot "green area" shall be maintained around them. No swimming pools may be placed in front of the building setback line.
  - (k) Canvas free standing structures other than for extraordinary uses as permitted by zoning officials shall be prohibited as accessory buildings. No new metal free standing structure other than a metal storage building not exceeding 100 square feet shall be permitted as an accessory building. Existing canvas free standing structures in violation of this subsection must be removed within one year of the effective date of this section.



SECTION TWO: This Ordinance is hereby declared to be an emergency measure in the interest of the public health, safety and welfare. As such an emergency measure, this Ordinance shall take effect upon passage by Council and approval by the Mayor. If not so passed as an emergency measure, it shall take effect from and after the earliest time provided by law.

\_\_\_\_\_  
President of Council

Passed: \_\_\_\_\_

Attest: \_\_\_\_\_  
Clerk of Council

Filed with the Mayor of the City of Niles, Ohio on the \_\_\_\_ day of \_\_\_\_\_, 2019 and signed by me as such Mayor on the \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Mayor