

# City of Niles, Ohio

SPONSORED BY: Comm. Dev. And Neigh. Stabilization  
AUTHORIZED BY: All Members

DRAFT NO. 135-24

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

## **AN ORDINANCE IMPOSING A MORATORIUM UNTIL JANUARY 1, 2026, ON THE ISSUANCE OF ZONING PERMITS AND OTHER LICENSES OR PERMIT APPLICATIONS FOR SMALL BOX DISCOUNT STORES IN THE CITY OF NILES, OHIO; AND DECLARING AN EMERGENCY**

WHEREAS, under Ohio Constitution, Article XVIII, Section 3, municipalities are given broad authority to quote exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary, and other similar regulations, as are not in conflict with general law;” and

WHEREAS, “fresh food” as used herein means food for human consumption that is in its raw or unprocessed state or food that was quickly frozen while still fresh and has not deteriorated; and

WHEREAS, “produce” as used herein means fruits and vegetables that have not been processed in any way, but does not include herbs, wild rice, dried fruits and vegetables, raw nuts, popcorn, meat, cheese, eggs, or seafood; and

WHEREAS, “small box discount stores” as used herein means a retail store between 3,000 and 15,000 square feet that sells directly to consumers a limited assortment of physical goods, products, or merchandise, personal grooming and health products, household goods, and other consumer products, including food or beverages for off-premise consumption, most of which are sold for \$10.00 or less, and that does not dedicate at least 15% of shelf space to fresh food and produce; and

WHEREAS, City Council desires to foster businesses that improve access to a healthy diet by selling affordable fresh food and produce and to protect the economic viability of neighborhoods by ensuring a diversity of businesses with sufficient opportunities for independent owners; and

WHEREAS, there is a proliferation of small box discount stores in the City, and small box discount stores continue to announce plans to expand in urban areas where they cater to low and moderate-income customers looking for discounted goods and where there are often no neighborhood grocery stores; and

WHEREAS, although small box discount stores may fulfill a need in places that lack basic retail services, growing evidence demonstrates that small box discount stores not only are a byproduct of economic distress but also are a cause of it; and

WHEREAS, there is no or very limited shelf space devoted to produce in small box discount stores and most have only a limited selection of fresh foods; and

WHEREAS, small box discount stores sell packaged foods in single serving quantities that have lower price points, but are in actuality more expensive per ounce; and

WHEREAS, small box discount stores employ fewer people at lower wages than grocery stores, often face class action lawsuits for violating fair Labor Standards, and lean heavily upon taxpayers to subsidize their employees’ health care; and

WHEREAS, profits from small box discount stores inure to their corporate office, while local business profits return to the community they serve; and

WHEREAS, there are concerns about safety and security surrounding small box discount stores because of the often high incidences of crime and theft in and around them, often due to a lack of security; and

WHEREAS, this Ordinance constitutes an emergency measure for the immediate preservation of the public peace, property, health, safety, or welfare and that a moratorium on the issuance of certain zoning permits and other licenses or permit applications for small box discount stores is necessary while the City considers reasonable restrictions and regulations for such stores in the City; and

WHEREAS, a moratorium will allow the City time to accomplish this goal.

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

### SECTION 1

That, notwithstanding and as an exception to any provisions of the Codified Ordinances of the City of Niles, and for the reasons stated in the preamble, **the City Council hereby imposes a moratorium on the issuance of zoning permits and other licenses or permit applications to establish a small box discount store as a new use until January 1, 2026**, or until such time as the City has established regulations regarding review and issuance of zoning permits and other licenses or permit applications to establish small box discount stores whichever is earlier. "Small box discount stores" means a retail store between 3,000 and 15,000 square feet that sells directly to consumers a limited assortment of physical goods, products, or merchandise, personal grooming and health products, household goods, and other consumer products, including food or beverages for off-premise consumption, most of which are sold for \$10.00 or less, and that does not dedicate at least 15% of shelf space to fresh food and produce.

### SECTION 2

City Council finds that a moratorium until January 1, 2026, is reasonable to protect the health, safety, welfare, peace, and comfort of the citizens of the City more effectively than will allow for adequate research into these types of retail stores.

### SECTION 3

The City's code enforcement officers, law enforcement, or any other person authorized to enforce county ordinances in the City may enforce the provisions of this Ordinance. Any person violating any provision of this Ordinance shall be punished for each offense according to the law. Each day such violation continues shall be deemed a separate offense. The minimum fine for such an offense shall be One Hundred Dollars (\$100.00). Nothing contained herein shall prevent the City from taking such other lawful action in law and equity as may be necessary to remedy any violation of, or refusal to comply with, any part of this Ordinance, including but not limited to the following; enforcement action pursuant to Codified Ordinances of the City of Niles; pursuit of injunctive and declaratory relief in a court of competent jurisdiction; initiating an action to recover any and all damages that may result from a violation of, or a refusal to comply with, any part of this Ordinance; or utilizing any other action or enforcement method allowable by law.

### SECTION 4

All Ordinances or parts of Ordinances in conflict herewith are repealed to the extent of such conflict.

### SECTION 5

If any section, subsection, sentence, clause, phrase, or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such

holding shall not be construed to render the remaining provisions of this Ordinance invalid or unconstitutional.

**SECTION 6**

That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, welfare, and safety, the emergency being **the necessity to impose a moratorium until January 1, 2026, on the issuance of zoning permits and other licenses or permit applications to establish a small box discount store as a new use in the City**, as above described; and it shall take effect and be enforced immediately upon its passage and approval by the mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

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

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

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

Filed with the Mayor of the City of Niles, Ohio on the \_\_\_\_\_ day of \_\_\_\_\_, 2024 and signed by me as such Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
MAYOR

# City of Niles, Ohio

SPONSORED BY: FINANCE  
AUTHORIZED BY: ALL MEMBERS

DRAFT NO. 137-24

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

AN ORDINANCE AUTHORIZING THE APPROPRIATION OF FUNDS FROM THE UNAPPROPRIATED HOSPITAL SELF INSURANCE FUND 772 TO THE SELF INSURANCE ACCOUNT FOR THE COST OF HEALTHCARE AND DECLARING AN EMERGENCY.

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

SECTION 1: Council hereby authorizes the following appropriations of funds from the unappropriated Hospital Self Insurance Fund 772 to the Self Insurance Account listed below for the cost of Healthcare in the amount of Two Hundred Fifty Thousand Dollars and 00/100 (\$250,000.00):

APPROPRIATION FROM UNAPPROPRIATED FUNDS			
FUND	ACCOUNT NUMBER	DESCRIPTION	Appropriation
772 - Hospital Self Insurance	772-7272-53980	Self Insurance	\$250,000.00
Total Appropriation			<b>\$250,000.00</b>

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 these funds are immediately needed for the cost of Healthcare. 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

Filed with the Mayor of the City of Niles, Ohio on the \_\_\_\_\_ day of \_\_\_\_\_, 2024 and signed by me as such Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
MAYOR

# City of Niles, Ohio

SPONSORED BY: FINANCE COMMITTEE  
AUTHORIZED BY: ALL MEMBERS

DRAFT NO. 138-24

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

AN ORDINANCE AUTHORIZING THE AUDITOR TO ENTER INTO CONTRACT FOR LIABILITY INSURANCE WITH USI AGENT FOR PEP INSURANCE AND, DECLARING AN EMERGENCY

WHEREAS, the City of Niles requires liability insurance at all times.

WHEREAS, the contract for USI Agent for PEP Insurance must be in effect by January 1, 2025.  
NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NILES, STATE OF OHIO:

SECTION 1: Council hereby authorizes the Auditor to enter into a contract for liability insurance coverage for Auto, Elected Officials, Law Enforcement, and Comprehensive Liability.

SECTION 2: This Ordinance is declared to be an emergency measure in the interest of the public health, safety and welfare and to assure that the City of Niles maintains liability insurance at all times. 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

Filed with the Mayor of the City of Niles, Ohio on the \_\_\_\_\_ day of \_\_\_\_\_, 2024 and signed by me as such Mayor on this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
MAYOR

# City of Niles, Ohio

SPONSORED BY: Council as a Whole  
AUTHORIZED BY: All Members

DRAFT NO. 136-24

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

## **AN ORDINANCE REGARDING USE OF THE CITY SEAL FOR CAMPAIGN MATERIALS; CREATING NILES CODIFIED ORDINANCE 167: USE OF CITY SEAL; AND DECLARING AN EMERGENCY**

WHEREAS, a letter of support for Trumbull County Engineer Randy Smith created by the Friends of Randy Smith was recently circulated with signatures from several current and past elected officials and officers of the City of Niles. The correspondence also included a reproduction of the Official Seal of the City of Niles;

WHEREAS, this correspondence was not an official document of the City of Niles. In addition, this correspondence was not authorized or intended to be on behalf of the City of Niles but only represent the individual support of the signatories on the letter. Moreover, no member of the administration or legislative authority authorized the use of the reproduction of the City of Niles seal.

WHEREAS, Council desires to create Niles Codified Ordinance 167.01 to govern the limited occasions when the City of Niles Seal may be used.

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

**SECTION 1:** Council hereby creates Niles Codified Ordinance 167.01: Use of City Seal which states the following:

1. The design of the seal of the City of Niles shall not be reproduced, except as required by any provision of the Ohio Constitution and the Revised Code, unless permission to do so is first obtained from the mayor or the legislative authority of the City of Niles.
2. The reproduction of the design of the seal may be authorized when the purpose is to:
  - (A) Permit publication of a reproduction of the seal of the city of Niles;
  - (B) Aid educational or historical programs;
  - (C) Promote the economic or cultural development of the City in a manner deemed appropriate by the Mayor or Legislative Authority.
3. Reproduction of the Seal is not authorized for use in support of any candidates for election or in any campaign materials of any kind.
4. A permanent record shall be kept in the mayor's office or the Clerk of Council office of each permit to reproduce the design of the seal. Permits shall not be required for materials created on behalf of the City of Niles, including but not limited to, competitive bidding proposals, consultant documents, and other government agencies.
5. No person shall use or permit to be used any reproduction or facsimile of the seal or a counterfeit or nonofficial version of the seal for any purpose not authorized under this chapter.

Whoever violates section of the Revised Code shall be fined not more than five hundred dollars, or imprisoned not more than thirty days, or both.

SECTION 2: This Ordinance is hereby declared to be an emergency measure in the interest of the public health, safety, and welfare so that the grant may be funded for the reimbursement to the business for the improvements. 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 \_\_\_\_\_, 2024 and signed by me as such Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
MAYOR