City of Niles, Ohio

SPONSORED BY: UTILITIES COMMITTEE
AUTHORIZED BY: ALL MEMBERS

DRAFT NO. 126-24

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE DIRECT HIRE OF PREMIER COLLECT PROFESSIONAL COLLECTION RECOVERY SERVICES FOR PAST DUE UTILITY ACCOUNTS, AND DECLARING AN EMERGENCY

Whereas, there are a substantial amount of past due utility accounts that warrant the engagement of a professional debt collection services,

Whereas, the contract only requires payment as a contingency on the amount collected. However, the potential for payment on the contingent amount exceeds the $75,000.00 threshold set out in Ohio Revised Code 735.05, and R.C. 9.17.

Whereas, pursuant to Ohio Supreme Court precedent, State Ex Rel Doria v Ferguson, professional personal services are not subject to the competitive bidding process.

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

SECTION 1: Council hereby authorizes the service director to engage Premier Collect for the recovery of past due utility accounts.

SECTION 2: This Ordinance is declared to be an emergency measure in the interest of the public health, safety and welfare and to allow the debt collection services to commence at the earliest possible date as statute of limitations for older accounts are beginning to run. 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 _____, 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. 127-24

ORDINANCE NO._____

AN ORDINANCE AUTHORIZING THE DISPOSAL OF OBSOLETE TURN MOWER BY INTERNET AUCTION ON GOV DEALS AS IT IS NO LONGER NEEDED FOR ANY MUNICIPAL PURPOSE BY THE CITY; AND DECLARING AN EMERGENCY

WHEREAS, Council has determined that the obsolete turn mower, a Hustler Fastrack 54in, Model No. 930149, Serial No. 13040815, is not needed for any municipal purpose.

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

SECTION 1: That Council finds that the obsolete turn mower is not needed for any municipal purpose.

SECTION 2: That pursuant to Ohio Revised Code Section 721.15, the City is authorized to sell or dispose of such property by internet auction or otherwise permitted by law.

SECTION 3: If an acceptable bid amount is not procured, then the administration may dispose of the property in accordance with the adopted disposal policy.

SECTION 4: That this Ordinance is hereby declared to be an emergency measure in the interests of the public health, safety, and welfare because the immediate sale of such obsolete municipal property is necessary in order to secure the most value for the property. 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

Received by the Mayor of the City of Niles this _____ day of _____, 2024, and approved by me as such Mayor this _____ day of _____, 2024.

_____
MAYOR

City of Niles, Ohio

SPONSORED BY: Comm. Dev. and Neighborhood Stab. DRAFT NO. 128-24
AUTHORIZED BY: ALL MEMBERS

ORDINANCE NO. _____

AN ORDINANCE PLACING A TEMPORARY MORATORIUM, NOT TO EXCEED ONE YEAR, ON THE ISSUANCE OF PERMITS THROUGH THE PLANNING, ZONING AND BUILDING DEPARTMENTS FOR APPROVAL OF STORAGE UNITS, STORAGE FACILITIES, STORAGE PODS AND SELF-STORAGE ESTABLISHMENTS IN THE CITY OF NILES, OHIO, AND DECLARING AN EMERGENCY.

WHEREAS, in accordance with the Constitution of the State of Ohio and the pertinent provisions of the Ohio Revised Code, the City of Niles has the power to enact planning and zoning laws that are intended to protect the health, welfare and safety of the citizens of the City;

WHEREAS, the City is authorized by Article 18, Section 3 of the Ohio Constitution to regulate land use in furtherance of the public health, safety, and welfare, including by establishing policies that control certain land uses in furtherance of sound urban development strategies;

WHEREAS, the City of Niles has enacted such a Comprehensive Zoning Plan; and

WHEREAS, Council wishes to reevaluate the current Comprehensive Zoning Plan in relation to the economic impact and saturation point of storage units, storage facilities, storage pods and self-storage establishments to protect the health, safety, welfare, peace and comfort for the citizens of the City of Niles if a moratorium is in place.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Niles, County of Trumbull, Ohio, that:

Section 1: As of the effective date of the ordinance, no building permits, site plan approvals, conditional use permits, zoning certificates, variances, or other land use regulatory approvals shall be granted or issues for any storage units, storage facilities, storage pods and self-storage establishments. This moratorium shall be in effect from the effective date of this ordinance for a period of one year; to allow the City to assess its policies and options and implement zoning changes as they relate to the existing Comprehensive Zoning Plan. This moratorium may be extended at the discretion of this Council.

Section 2: It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of tis Council and any of its committees that resulted in such formal actions were in meetings open to the public in compliance with Section 121.22 of the Ohio Revised Code.

Section 3: That this Ordinance is hereby declared an emergency measure and shall take effect immediately upon passage and approval by the Mayor for the reason that it is necessary for the health, safety, and welfare of the Citizens of the City of Niles, Ohio and for the additional reason to provide as early a review of the Comprehensive Zoning Plan as possible.

_____
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 on the _____ day of _____, 2024.

_____
MAYOR

City of Niles, Ohio

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

DRAFT NO. 132-24

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY OF NILES TO IMPLEMENT THE ATTACHED CITIZEN PARTICIPATION PLANS FOR PY2024; TO AUTHORIZE THE MAYOR OF NILES TO EXECUTE ANY AND ALL DOCUMENTS, AND DECLARING AN EMERGENCY

Whereas, the Citizen Participation Plan is a required document of the City's Community Development Block Grant (CDBG) Program. This policy will take effect on October 3, 2024, for program year 2024 and extends through August 31, 2025. The Citizen Participation Plan is an annual policy that is reviewed, revised and renewed each program year

Whereas, the City of Niles hired consultants are responsible for carrying out public outreach activities related to the CDBG program;

Whereas, the policy ensures that all persons living in the City of Niles have access to information pertaining to CDBG programs, particularly those programs that target low and moderate-income persons;

Whereas, a detailed procedural process is defined within the policy for registering citizen complaints. All of the referenced documents in the Citizen Participation Plan can be viewed at the offices of the City of Niles Engineering Department, 34 West State Street, basement level, Niles, Ohio 44446, between the hours of 8:30 a.m. and 4:30 p.m. daily, except on legal holidays and weekends.

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

SECTION 1: That Authorization is given to the Mayor to implement this plan/policy and share a copy of this approved resolution and plan/policy with the State of Ohio Department of Development, Community Services Division, Office of Community Development.

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 policy can be implemented as soon as possible. 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 on this _____ day of _____, 2024.

_____
MAYOR

City of Niles, Ohio

SPONSORED BY: Comm. Dev. and Neighborhood Stab. DRAFT NO. 133-24
AUTHORIZED BY: ALL MEMBERS

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE APPROPRIATION OF FUNDS FROM THE UNAPPROPRIATED GENERAL FUND ACCOUNT 101 TO THE GENERAL FUND MISCELLANEOUS ACCOUNT FOR THE CITY FUNDED BUSINESS GRANT APPROVED BY THE COMMUNITY IMPROVEMENT CORPORATION OF NILES AND DECLARING AN EMERGENCY.

WHEREAS, the Community Improvement Corporation of Niles requested applications for a City funded grant for improvement of businesses in the City of Niles.

WHEREAS, the City funded grant was for the purpose of installation of digital signs.

WHEREAS, the Community Improvement Corporation of Niles approved an application for the reimbursement grant intended for improvement of Ski Chalet, a business within the City of Niles.

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

SECTION 1: Council hereby authorizes the following appropriation from the Unappropriated General Fund Account 101 to the General Fund Miscellaneous Account for the Community Improvement Corporation reimbursement grant:

APPROPRIATION FROM UNAPPROPRIATED FUNDS		
General Fund 101		
Account Number	**Description**	**Appropriation**
101-1090-57050	Miscellaneous	$10,950.00
TOTAL GENERAL FUND		**$10,950.00**

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

Niles CIC Incentive Program Applications

Application submitted_____ CIC Approved_____ Niles City Council Approved_____

[redacted]

Business Name: Hoff's Realty

Applicant Name: Gary Hoff

Address: 1041 Youngstown Warren Rd.

City, State: Niles Ohio

Phone: 330-652-7913

E-Mail: Gskichalet@aol.com

Type of Business: Sporting Goods

Do you own or rent this property/space: ☒ Own ☐ Rent

Is this property a Landmark or in a Historic District: ☐ Yes ☒ No

Historic Building or District Name:_____

Property Owner Name (if leasing):_____

Owner Address:_____

City, State:_____ Zip:_____

Owner: Phones:_____

Tax Key Number:_____

Is this a commercial property: ☒ Yes ☐ No

Is this property tax delinquent: ☐ Yes ☒ No

Are there any outstanding liens or Building and/or Zoning Code Violations on this property: ☐ Yes ☒ No

Have you previously received a matching grant: ☐ Yes ☒ No

If so, what type and when:_____

Complete this section for Façade and/or Hardscaping Grant

Type of project (check all that apply)

☐ Façade Grant ☐ Hardscaping Grant

☐ Repair or replacement of original building's materials that are deteriorated or missing.

☐ Design and maintenance improvements of building elevations

☐ Tuck pointing/masonry repair of exterior surfaces

☐ Exterior Painting

Names of one (1) bidding contractor (copies of actual bids must be attached) and mark the check box next to the contractor you selected

☐ 1. Name_____ Cost:_____

Applications for Sidewalk or Sign program should also include photographs, a detailed scope of the project, paint colors, material samples. And any other relevant information

Project Start Date:_____ Completion Date:_____

Applications for Façade or Hardscaping program should also include photographs, a detailed scope of the project, paint colors, material samples. And any other relevant information.

Complete this section for Sidewalk and/or Sign Grant

Type of Project:

☐ Sidewalk Grant ☒ Sign Grant Landscape/Beautification

☐ Repair or replacement of existing sidewalk and/or Sign.

☒ Installation of new sidewalk and/or Sign

Names of one (1) bidding contractor (copies of actual bids must be attached) and mark the check box next to the contractor you selected

☒ 1. Name Wholesale Electric Signs Cost: $ 21,900

Project Start Date:_____ Completion Date:_____

8/20/24

*** Please note any work completed to the submission of these applications may be deemed ineligible and submissions for reimbursement beyond 30 days of the invoice date will deemed non reimbursable***

INVOICE

WHOLESALE DIGITAL SIGNS
Job #1526
08/16/2024

Dave Brown
Email: dbrownwdsigns@gmail.com

BILL TO
SKI CHALET
1041 YOUNGSTOWN ROAD
NILES, OHIO 44446
United States

JOB LOCATION
NILES OHIO

4885 McKnight Road Suite 286
Pittsburgh, PA 15237
United States
Websiter wholesaledigitalsigns.com
Safeswdsigns@Gmail.Com: 412-542-8300

QUANTITY	DESCRIPTION	UNIT COST	COST
1	INVOICE	$21,900	$21,900
	2 [4 × 6] 6MM FULL COLOR DISPLAYS $23,900		
	1 Spare Parts Kit - modules, ribbon cables, power supply, etc. $0		
	1 Cloud Set up $0		
	1 5 YR WARRANTY $0		
	1 INSTALL ESTIMATE BLAKELY SIGNS $2,800		
	1 TESTIMONIAL VIDEO ($4,800)		

THIS AGREEMENT IS ACCEPTED AND APPROVED BY:

Subtotal	$21,900
Total Tax	$0
TOTAL CONTRACT	**$21,900**
Required Deposit	$16,425
FINAL BALANCE	$5,475

SKI CHALET

Sign:_____

Print:_____

Date:_____

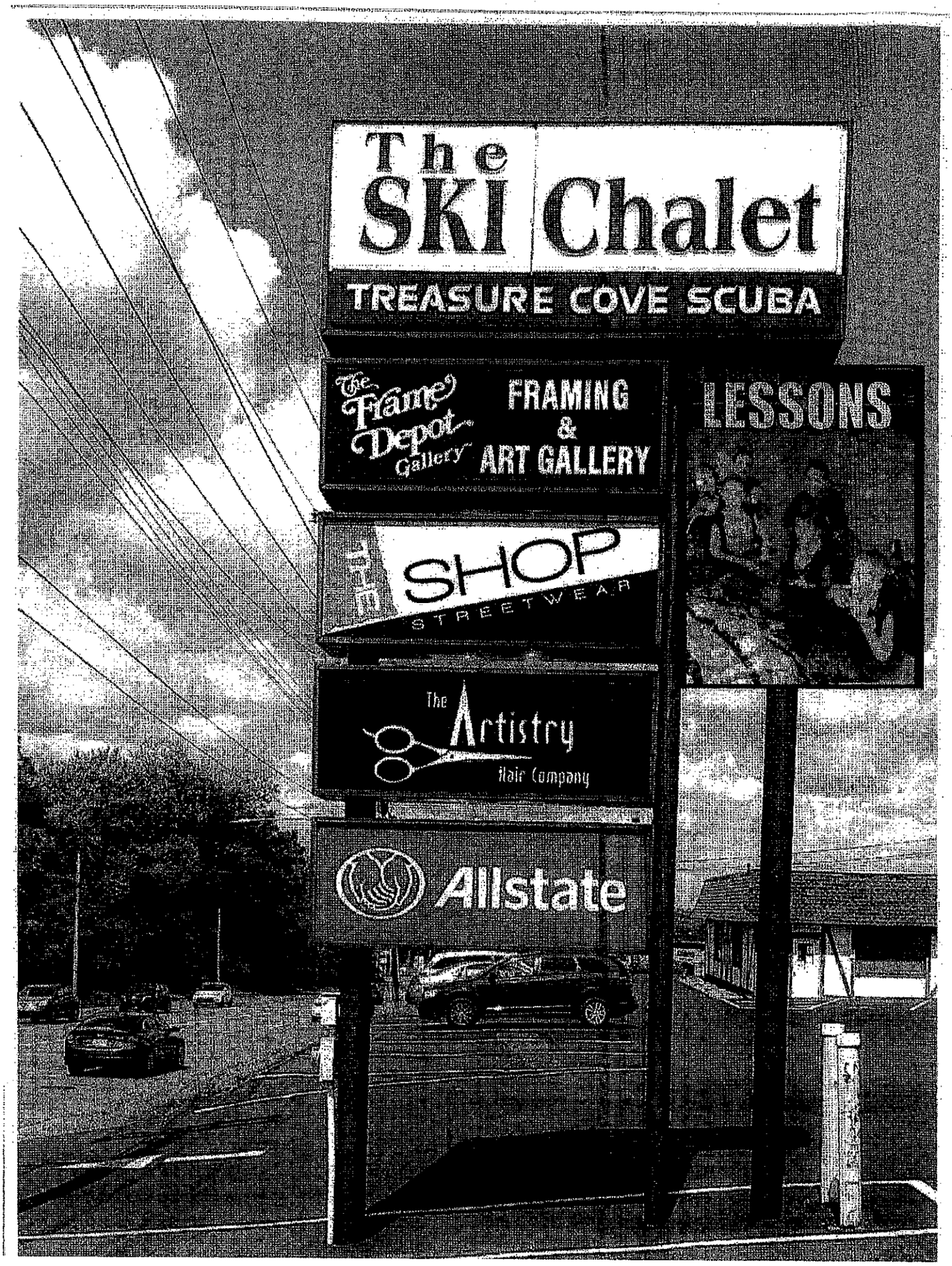
WHOLESALE DIGITAL SIGNS

Sign:_____

Print:_____

Date:_____

WDS is a manufacturer and does not install signs however have a network of approved installers you can utilize. WDS is not responsible for work done due to installation of your new electric sign or electronic message center and customer accepts full responsibility of who they choose to install their new sign. Initial here_____.
WDS is a manufacturer and does not acquire permits for new signs if required by any governing entity. WDS will assist customer on sign scale drawing if needed by municipality so customer can legally install their new sign. Initial here _____.
If Wholesale Digital Signs agrees to perform permit procurement, a $395.00 fee will be charged to customer. Procurement only covers completing documents submitted to municipality and DOES NOT COVER FEES TO MUNICIPALITY OR ANY OTHER FEE ASSOCIATED WITH ACQUIRING PERMIT INCLUDING ENGINEERED DRAWINGS.
Customer understands that due to the custom nature of every product we build, all deposits are non-refundable regardless of reason for cancellation.
If customer cancels their order for any reason and chose to finance their sign, customer understands that they are still responsible for monthly payment.
Please make all checks payable to: WHOLESALE DIGITAL SIGNS.
This proposal may be withdrawn if not accepted within 14 days. By signing, Customer accepts Company's proposal for the Job and agrees to all of the terms of the purchase contract.
Warranty EMC: 5-year manufacturer parts / 90 Day labor. After the 90-day labor warranty we do have technicians that can service your sign if needed. Labor fee will apply.
Due to shipping supply problems as well as a major software chip shortage, delays in receiving your product may occur. We will do our best to get your product to you in a timely manner.
Art Charges: Customer permitted three changes to initial design. Additional fee of $30.00 will apply for changes thereafter. No sign will be put in production without customer written approval.
FINAL PAYMENT DUE ON PRODUCTS WILL BE PAID TO WDS AFTER COMPLETION OF PRODUCT PURCHASED AND PRIOR TO SHIPPING VIA CERTIFIED CHECK, WIRE, OR CREDIT CARD.


The Ski Chalet
TREASURE COVE SCUBA
The Frame Depot Gallery
FRAMING & ART GALLERY
LESSONS
SHOP
STREETWEAR
The Artistry
Hair Company
Allstate

City of Niles, Ohio

SPONSORED BY: Comm. Dev. and Neighborhood Stab. DRAFT NO. 134-24
AUTHORIZED BY: ALL MEMBERS

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE APPROPRIATION OF FUNDS FROM THE UNAPPROPRIATED GENERAL FUND ACCOUNT 101 TO THE GENERAL FUND MISCELLANEOUS ACCOUNT FOR THE CITY FUNDED BUSINESS GRANT APPROVED BY THE COMMUNITY IMPROVEMENT CORPORATION OF NILES AND DECLARING AN EMERGENCY.

WHEREAS, the Community Improvement Corporation of Niles requested applications for a City funded grant for improvement of businesses in the City of Niles.

WHEREAS, the City funded grant was for the purpose of installation of digital signs.

WHEREAS, the Community Improvement Corporation of Niles approved an application for the reimbursement grant intended for improvement of Vernons, a business within the City of Niles.

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

SECTION 1: Council hereby authorizes the following appropriation from the Unappropriated General Fund Account 101 to the General Fund Miscellaneous Account for the Community Improvement Corporation reimbursement grant:

APPROPRIATION FROM UNAPPROPRIATED FUNDS		
General Fund 101		
Account Number	**Description**	**Appropriation**
101-1090-57050	Miscellaneous	$14,200.00
TOTAL GENERAL FUND		**$14,200.00**

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

Niles CIC Incentive Program Applications

Application submitted_____ CIC Approved_____ Niles City Council Approved_____

Business Name: Sia Mia Vernon's Cafe
Applicant Name: Vernon M. Cessna II
Address: 720 Youngstown Warren Rd
City, State: Niles Ohio 44446
Phone: 330-506-4029
E-Mail: Vern2@Vernonscafe.com
Type of Business: Restaurant / Banquet
Do you own or rent this property/space: ☒ Own ☐ Rent
Is this property a Landmark or in a Historic District: ☐ Yes ☒ No
Historic Building or District Name:_____

Property Owner Name (if leasing):_____
Owner Address:_____
City, State:_____ Zip:_____
Owner: Phones:_____
Tax Key Number:_____
Is this a commercial property: ☒ Yes ☐ No
Is this property tax delinquent: ☐ Yes ☒ No
Are there any outstanding liens or Building and/or Zoning Code Violations on this property: ☐ Yes ☒ No
Have you previously received a matching grant: ☐ Yes ☒ No
If so, what type and when:_____

Complete this section for Façade and/or Hardscaping Grant

Type of project (check all that apply)
☐ Façade Grant ☐ Hardscaping Grant

☐ Repair or replacement of original building's materials that are deteriorated or missing.
☐ Design and maintenance improvements of building elevations

☐ Tuck pointing/masonry repair of exterior surfaces

☐ Exterior Painting

Names of one (1) bidding contractor (copies of actual bids must be attached) and mark the check box next to the contractor you selected

☐ 1. Name_____ Cost:_____

Applications for Sidewalk or Sign program should also include photographs, a detailed scope of the project, paint colors, material samples. And any other relevant information

Project Start Date:_____ Completion Date:_____

Applications for Façade or Hardscaping program should also include photographs, a detailed scope of the project, paint colors, material samples. And any other relevant information.

Complete this section for Sidewalk and/or Sign Grant

Type of Project:
☐ Sidewalk Grant ☒ Sign Grant Landscape/Beautification

☒ Repair or replacement of existing sidewalk and/or Sign.

☐ Installation of new sidewalk and/or Sign

Names of one (1) bidding contractor (copies of actual bids must be attached) and mark the check box next to the contractor you selected
☐ 1. Name Wholesale Digital Signs Cost: $28,400

Project Start Date:_____ Completion Date:_____

REC'D 9/5/24

*** Please note any work completed to the submission of these applications may be deemed ineligible and submissions for reimbursement beyond 30 days of the invoice date will deemed non reimbursable***

INVOICE

WHOLESALE DIGITAL SIGNS
Job #1527
08/22/2024

Dave Brown
Email: dbrownwdsigns@gmail.com

BILL TO
VERNONS
720 YOUNGSTOWN ROAD
NILES, OHIO 44446
United States

JOB LOCATION
720 YOUNGSTOWN ROAD
NILE OHIO 44446

4885 McKnight Road Suite 286
Pittsburgh, PA 15237
United States
Website: wholesaledigitalsigns.com
Saleswdsigns@Gmail.Com; 412-542-8300

QUANTITY	DESCRIPTION	UNIT COST	COST
1	VERNONS	$28,400	$28,400
	2 [4X8] 6MM FULL COLOR DISPLAYS	$32,000	
	1 Spare Parts Kit - modules, ribbon cables, power supply, etc.	$0	
	1 FREE CLOUD PROGRAM	$0	
	1 5 YR PARTS	$0	
	1 ATLAS SIGNS	$2,800	
	1 6MM MFR DISCOUNT	($4,400)	
	1 TESTIMONIAL	($2,000)	

rcd. deposit CH#15538

THIS AGREEMENT IS ACCEPTED AND APPROVED BY:

VERNONS	**WHOLESALE DIGITAL SIGNS**
Sign: _____	Sign: _____
Print: _____	Print: _____
Date: _____	Date: _____

Subtotal	$28,400
Total Tax	$0
TOTAL CONTRACT	**$28,400**
Required Deposit	$21,300
FINAL BALANCE	$7,100

WDS is a manufacturer and does not install signs however have a network of approved installers you can utilize. WDS is not responsible for work done due to installation of your new electric sign or electronic message center and customer accepts full responsibility of who they choose to install their new sign. Initial here_____.
WDS is a manufacturer and does not acquire permits for new signs if required by any governing entity. WDS will assist customer on sign scale drawing if needed by municipality so customer can legally install their new sign. Initial here _____.
If Wholesale Digital Signs agrees to perform permit procurement, a $395.00 fee will be charged to customer. Procurement only covers completing documents submitted to municipality and DOES NOT COVER FEES TO MUNICIPALITY OR ANY OTHER FEE ASSOCIATED WITH ACQUIRING PERMIT INCLUDING ENGINEERED DRAWINGS.
Customer understands that due to the custom nature of every product we build, all deposits are non-refundable regardless of reason for cancellation.
If customer cancels their order for any reason and chose to finance their sign, customer understands that they are still responsible for monthly payment.
Please make all checks payable to: WHOLESALE DIGITAL SIGNS.
This proposal may be withdrawn if not accepted within 14 days. By signing, Customer accepts Company's proposal for the Job and agrees to all of the terms of the purchase contract.
Warranty EMC: 6-year manufacturer parts / 90 Day labor. After the 90-day labor warranty we do have technicians that can service your sign if needed. Labor fee will apply.
Due to shipping supply problems as well as a major software chip shortage, delays in receiving your product may occur. We will do our best to get your product to you in a timely manner.

City of Niles, Ohio

SPONSORED BY: UTILITIES
AUTHORIZED BY: ALL MEMBERS

DRAFT NO. 129-24

ORDINANCE NO. _____

ORDINANCE FOR ILLICIT DISCHARGE & ILLEGAL CONNECTION CONTROL

WHEREAS, illicit discharges to the City of Niles separate storm sewer system create water quality risks to public health, safety, and general welfare; and,

WHEREAS, illicit discharges may necessitate repair of storm sewers and ditches; damage to public and private property; and may damage water resources by reducing water quality; and,

WHEREAS, there are watershed-wide efforts to reduce illicit discharges to the Mahoning River and to protect and enhance the unique water resources of the Mahoning River watershed(s); and,

WHEREAS, 40 C.F.R. Parts 9, 122, 123, and 124, and Ohio Administrative Code 3745-39 require designated communities, including the City of Niles, a co-permittee with Trumbull County, to develop a Storm Water Management Program that, among other components, requires the City of Niles to prohibit illicit discharges to their storm water system and to implement appropriate enforcement procedures and actions to detect and eliminate such illicit discharges; and,

WHEREAS, Article XVIII, Section 3 of the Ohio Constitution grants municipalities the legal authority to 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 laws.

WHEREAS, Council desires to amend the existing Niles Codified Ordinance 922A

NOW, THEREFORE BE IT ORDAINED by the Council of City of Niles, county of Trumbull, State of Ohio, that:

SECTION 1: Codified Ordinance Niles Codified Ordinance Chapter 922A shall be amended and adopted as ***Chapter 922A Illicit Discharge and Illegal Connection Control*** to read in total as follows:

CHAPTER 922A
Illicit Discharge and Illegal Connection Control

922A.01 PURPOSE AND SCOPE

The purpose of this regulation is to provide for the health, safety, and general welfare of the citizens of the City of Niles through the regulation of illicit discharges to the municipal separate storm sewer system (MS4). This regulation establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process as required by the Ohio Environmental Protection Agency (Ohio EPA). The objectives of this regulation are:

A. To prohibit illicit discharges and illegal connections to the MS4.

B. To establish legal authority to carry out inspections, monitoring procedures, and enforcement actions necessary to ensure compliance with this regulation.

922A.02 APPLICABILITY

This regulation shall apply to all residential, commercial, industrial, or institutional facilities responsible for discharges to the MS4 and on any lands in the City of Niles, except for those discharges generated by the activities detailed in Title 3, Part Nine, Chapter 922.01 of this regulation.

922A.03 DEFINITIONS

The words and terms used in this regulation, unless otherwise expressly stated, shall have the following meaning:

A. Best Management Practices (BMPs): means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to storm water. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or

leaks, sludge or water disposal, or drainage from raw materials storage.

B. Community: means the City of Niles, its designated representatives, boards, or commissions.

C. Environmental Protection Agency or United States Environmental Protection Agency (USEPA): means the United States Environmental Protection Agency, including but not limited to the Ohio Environmental Protection Agency (Ohio EPA), or any duly authorized official of said agency.

D. Floatable Material: in general this term means any foreign matter that may float or remain suspended in the water column, and includes but is not limited to, plastic, aluminum cans, wood products, bottles, and paper products.

E. Hazardous Material: means any material including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

F. Illicit Discharge: as defined at 40 C.F.R. 122.26 (b)(2) means any discharge to an MS4 that is not composed entirely of storm water, except for those discharges to an MS4 pursuant to a NPDES permit or noted in Title 3, Part 9, Chapter 922A.07 of this regulation.

G. Illegal Connection: means any drain or conveyance, whether on the surface or subsurface, that allows an illicit discharge to enter the MS4.

H. Municipal Separate Storm Sewer System (MS4): as defined at 40 C.F.R. 122.26 (b)(8), municipal separate storm sewer system means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

1. Owned or operated by a State, city, town, borough, county, parish, district, municipality, township, county, district, association, or other public body (created by or pursuant to State law) having jurisdiction over sewage, industrial wastes, including special districts under State law such as a sewer district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the Clean Water Act that discharges to waters of the United States;

2. Designed or used for collecting or conveying storm water;

3. Which is not a combined sewer; and

4. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 C.F.R. 122.2.

I. National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit: means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general areawide basis.

J. Off-Lot Discharging Household Sewage Treatment System: means a system designed to treat household sewage on-site and discharges treated wastewater effluent off the property into a storm water or surface water conveyance or system.

K. Owner/Operator: means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or on the owner's behalf.

L. Pollutant: means anything that causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes, solvents, oil and other automotive fluids, non-hazardous liquid and solid wastes, yard wastes, refuse, rubbish, garbage, litter or other discarded or abandoned objects, floatable materials, pesticides, herbicides, fertilizers, hazardous materials, wastes, sewage, dissolved and particulate metals, animal wastes, residues that result from constructing a structure, and noxious or offensive matter of any kind.

M. Storm Water: any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

N. Wastewater: The spent water of a community. From the standpoint of a source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions.

922A.04 DISCLAIMER OF LIABILITY

Compliance with the provisions of this regulation shall not relieve any person from responsibility for

damage to any person otherwise imposed by law. The provisions of this regulation are promulgated to promote the health, safety, and welfare of the public and are not designed for the benefit of any individual or for the benefit of any particular parcel of property.

922A.05 CONFLICTS, SEVERABILITY, NUISANCES & RESPONSIBILITY

A. Where this regulation conflicts with other provisions of law or ordinance, the most restrictive provisions, as determined by the City of Niles, shall prevail.

B. If any clause, section, or provision of this regulation is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.

C. This regulation shall not be construed as authorizing any person to maintain a nuisance on their property, and compliance with the provisions of this regulation shall not be a defense in any action to abate such a nuisance.

D. Failure of the City of Niles to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the site owner from the responsibility for the condition or damage resulting therefrom, and shall not result in the City of Niles, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.

922A.06 RESPONSIBILITY FOR ADMINISTRATION

The City of Niles Water Department shall administer, implement, and enforce the provisions of this regulation. The City of Niles may collaborate with the Trumbull County Combined Health District, the Trumbull County Soil and Water Conservation District, and other City Departments to conduct inspections and monitoring and to assist with enforcement actions.

922A.07 DISCHARGE AND CONNECTION PROHIBITIONS

A. Prohibition of Illicit Discharges. No person shall discharge, or cause to be discharged, an illicit discharge into the MS4. The commencement, conduct, or continuance of any illicit discharge to the MS4 is prohibited except as described below:

1. Water line flushing; landscape irrigation; diverted stream flows; rising ground waters; uncontaminated ground water infiltration; uncontaminated pumped ground water; discharges from potable water sources; foundation drains; air conditioning condensate; irrigation water; springs; water from crawl space pumps; footing drains; lawn watering; individual residential car washing; flows from riparian habitats and wetlands; dechlorinated swimming pool discharges; street wash water; and discharges or flows from firefighting activities. These discharges are exempt until such time as they are determined by the City of Niles or the Ohio EPA to be significant contributors of pollutants to the MS4.

2. Discharges specified in writing by the City of Niles as being necessary to protect public health and safety.

3. Discharges from off-lot discharging household sewage treatment systems existing prior to January 1, 2007 and permitted by the Trumbull County Combined Health District for the purpose of discharging treated sewage effluent in accordance with Ohio Administrative Code 3701-29, or other applicable Trumbull County Board of Health regulations, until such time as the Ohio Environmental Protection Agency issues an NPDES permitting mechanism for household sewage treatment systems existing prior to January 1, 2007. These discharges are exempt unless such discharges are deemed to be creating a public health nuisance by the Trumbull County Board of Health. Discharges from new or replacement off-lot household sewage treatment systems installed after January 1, 2007 are not exempt from the requirements of this regulation.

   In compliance with the City of Niles and Trumbull County Storm Water Management Program, discharges from all off-lot discharging household sewage treatment systems must either be eliminated or have coverage under an appropriate NPDES permit issued and approved by the Ohio Environmental Protection Agency. When such permit coverage is available for systems existing prior to January 1, 2007, discharges from off-lot discharging household sewage treatment systems existing prior to January 1, 2007 will no longer be exempt from the requirements of this regulation.

B. Prohibition of Illegal Connections. The construction, use, maintenance, or continued existence of illegal connections to the MS4 is prohibited.

1. This prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

2. A person is considered to be in violation of this regulation if the person connects a line conveying illicit discharges to the MS4, or allows such a connection to continue.

922A.08 MONITORING OF ILLICIT DISCHARGES AND ILLEGAL CONNECTIONS

A. Establishment of an Illicit Discharge and Illegal Connection Monitoring Program: The City of Niles shall establish a program to detect and eliminate illicit discharges and illegal connections to the MS4. This program shall include the mapping of the MS4, including MS4 outfalls and household sewage treatment systems; the routine inspection of storm water outfalls to the MS4, and the systematic investigation of potential residential, commercial, industrial, and institutional facilities for the sources of any dry weather flows found as the result of these inspections.

B. Inspection of Residential, Commercial, Industrial, or Institutional Facilities.

1. The City of Niles shall be permitted to enter and inspect facilities subject to this regulation as often as may be necessary to determine compliance with this regulation.

2. The City of Niles shall have the right to set up at facilities subject to this regulation such devices as are necessary to conduct monitoring and/or sampling of the facility's storm water discharge, as determined by the City of Niles.

3. The City of Niles shall have the right to require the facility owner/operator to install monitoring equipment as necessary. This sampling and monitoring equipment shall be maintained at all times in safe and proper operating condition by the facility owner/operator at the owner/operator's expense. All devices used to measure storm water flow and quality shall be calibrated by the City of Niles to ensure their accuracy.

4. Any temporary or permanent obstruction to safe and reasonable access to the facility to be inspected and/or sampled shall be promptly removed by the facility's owner/operator at the written or oral request of the City of Niles and shall not be replaced. The costs of clearing such access shall be borne by the facility owner/operator.

5. Unreasonable delays in allowing the City of Niles access to a facility subject to this regulation for the purposes of illicit discharge inspection is a violation of this regulation.

6. If the City of Niles is refused access to any part of the facility from which storm water is discharged, and the City of Niles demonstrates probable cause to believe that there may be a violation of this regulation, or that there is a need to inspect and/or sample as part of an inspection and sampling program designed to verify compliance with this regulation or any order issued hereunder, or to protect the public health, safety, and welfare, the City of Niles may seek issuance of a search warrant, civil remedies including but not limited to injunctive relief, and/or criminal remedies from any court of appropriate jurisdiction.

7. Any costs associated with these inspections shall be assessed to the facility owner/operator.

922A.09 ENFORCEMENT

A. Notice of Violation. When the City of Niles finds that a person has violated a prohibition or failed to meet a requirement of this regulation, the City of Niles may order compliance by written Notice of Violation. Such notice must specify the violation and shall be hand delivered, and/or sent by registered mail, to the owner/operator of the facility. Such notice may require the following actions:

1. The performance of monitoring, analyses, and reporting;

2. The elimination of illicit discharges or illegal connections;

3. That violating discharges, practices, or operations cease and desist;

4. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; or

5. The implementation of source control or treatment BMPs.

B. If abatement of a violation and/or restoration of affected property is required, the Notice of Violation shall set forth a deadline within which such remediation or restoration must be completed. Said Notice shall further advise that, should the facility owner/operator fail to remediate or restore within the established deadline, a legal action for enforcement may be initiated.

C. Any person receiving a Notice of Violation must meet compliance standards within the time established in the Notice of Violation.

D. Administrative Hearing: If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, the City of Niles shall schedule an administrative hearing before the Service Director or their duly authorized representative to determine reasons for non-compliance and to determine the next enforcement activity. Notice of the administrative hearing shall be hand delivered and/or sent registered mail.

E. Injunctive Relief: It shall be unlawful for any owner/operator to violate any provision or fail to comply with any of the requirements of this regulation pursuant to O.R.C. 3709.211. If a owner/operator has violated or continues to violate the provisions of this regulation, the City of Niles may petition for a preliminary or permanent injunction restraining the owner/operator from activities that would create further violations or compelling the owner/operator to perform abatement or remediation of the violation.

922A.10 REMEDIES NOT EXCLUSIVE

The remedies listed in this regulation are not exclusive of any other remedies available under any applicable federal, state or local law and it is in the discretion of the City of Niles to seek cumulative remedies.

SECTION TWO: This Ordinance is hereby declared to be an emergency measure in the interests of the public health, safety and welfare for the reason that the Ohio EPA requires this new legislation to be in place. 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 at the earliest date permitted 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: UTILITIES **DRAFT NO. 130-24**
AUTHORIZED BY: ALL MEMBERS

AN ORDINANCE REPEALING AND RE-ENACTING NILES CODIFIED ORDINANCE CHAPTER 922, "STORM WATER MANAGEMENT CONTROL," TO ESTABLISH STANDARDS, PRINCIPLES AND PROCEDURES TO REGULATE THE QUALITY OF STORM WATER RUNOFF DURING AND AFTER SOIL DISTURBING ACTVITIES; AND, DECLARING AN EMERGENCY

WHEREAS, flooding is a significant threat to property and public health and safety and storm water management lessens flood damage by reducing and holding runoff and releasing it slowly; and,

WHEREAS, streambank erosion is a significant threat to property and public health and safety and storm water management slows runoff and reduces its erosive force; and,

WHEREAS, insufficient control of storm water can result in significant damage to receiving water resources, impairing the capacity of these areas to sustain aquatic systems and their associated aquatic life use designations; and,

WHEREAS, land development projects and associated increases in impervious cover alter the hydrologic response of local watersheds and increase storm water runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition; and,

WHEREAS, storm water runoff contributes to increased quantities of pollutants to water resources; and,

WHEREAS, storm water runoff, stream channel erosion, and nonpoint source pollution can be controlled and minimized through the regulation of runoff from land development projects; and,

WHEREAS, there are watershed-wide efforts to reduce flooding, erosion, and water quality problems in the *Mahoning River and Mosquito Creek* and to protect and enhance the water resources of the *Mahoning River and Mosquito Creek*; and,

WHEREAS, the ***City of Niles, Ohio*** finds that the lands and waters within its borders are finite natural resources and that their quality is of primary importance in promoting and maintaining public health and safety within its borders; and,

WHEREAS, the ***City of Niles, Ohio*** desires to *repeal its existing Codified Ordinance Chapter 922 and enact this new legislation to* establish standards, principles, and procedures for the regulation of soil disturbing activities that may increase flooding and erosion and may cause adverse impacts to water resources, resulting from storm water runoff; and,

WHEREAS, the ***City of Niles, Ohio*** is a member of the ***Ohio EPA and Trumbull Soil and Water Conservation District*** and recognizes its obligation as a part of these ***Ohio EPA and Trumbull Soil and Water Conservation District*** to manage storm water within its borders; and

WHEREAS, 40 C.F.R. Parts 9, 122, 123, and 124, and Ohio Administrative Code 3745-39 require designated communities, including the ***City of Niles, Ohio*** to develop a Storm Water Management Program that, among other components, requires the ***City of Niles, Ohio*** to implement standards, principles, and procedures to regulate the quality of storm water runoff during and after soil disturbing activities; and,

WHEREAS, Article XVIII, Section 3 of the Ohio Constitution grants municipalities the legal authority to 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 laws.

NOW, THEREFORE, BE IT ORDAINED by the Council of the ***City of Niles, Ohio*** County of ***Trumbull,*** State of Ohio, that:

SECTION ONE: Codified Ordinance Chapter No. 922, **Storm Water Management**, is hereby adopted to read in total as follows:

COMPREHENSIVE STORM WATER MANAGEMENT

922.01 PURPOSE AND SCOPE

A. The purpose of this regulation is to establish technically feasible and economically reasonable storm water management standards to achieve a level of storm water quality and quantity control that will minimize damage to property and degradation of water resources and will promote and maintain the health, safety, and welfare of the citizens of the ***City of Niles, Ohio***:

B. This regulation requires owners who develop or re-develop their property within the ***City of Niles, Ohio*** to:

1. Control storm water runoff from their property and ensure that all storm water management practices are properly designed, constructed, and maintained.

2. Reduce water quality impacts to receiving water resources that may be caused by new development or redevelopment activities.

3. Control the volume, rate, and quality of storm water runoff originating from their property so that surface water and ground water are protected and flooding and erosion potential are not increased.

4. Minimize the need to construct, repair, and replace subsurface storm drain systems.

5. Preserve natural infiltration and ground water recharge, and maintain subsurface flow that replenishes water resources, except in slippage prone soils.

6. Incorporate storm water quality and quantity controls into site planning and design at the earliest possible stage in the development process.

7. Reduce the expense of remedial projects needed to address problems caused by inadequate storm water management.

8. Maximize use of storm water management practices that serve multiple purposes including, but not limited to, flood control, erosion control, fire protection, water quality protection, recreation, and habitat preservation.

9. Design sites to minimize the number of stream crossings and the width of associated disturbance in order to minimize the City of Niles, Ohio future expenses related to the maintenance and repair of stream crossings.

10. Maintain, promote, and re-establish conditions necessary for naturally occurring stream processes that assimilate pollutants, attenuate flood flows, and provide a healthy water resource.

C. This regulation shall apply to all parcels used or being developed, either wholly or partially, for new or relocated projects involving highways and roads; subdivisions or larger common plans of development; industrial, commercial, institutional, or residential projects; building activities on farms; redevelopment activities; grading; and all other uses that are not specifically exempted in Section Section.922.01.

D. Public entities, including the State of Ohio, Trumbull County, and the City of Niles, Ohio shall comply with this regulation for roadway projects initiated after March 10, 2006 and, to the maximum extent practicable, for projects initiated before that time.

E. This regulation does not apply to activities regulated by, and in compliance with, the Ohio Agricultural Sediment Pollution Abatement Rules.

F. This regulation does not require a Comprehensive Storm Water Management Plan for linear construction projects, such as pipeline or utility line installation, that do not result in the installation of impervious surface as determined by the City of Niles Engineer. Such projects must be designed to minimize the number of stream crossings and the width of disturbance. Linear construction projects must comply with the requirements of Chapter 923.08(e) Erosion and Sediment Control.

922.02 DEFINITIONS

For the purpose of this regulation, the following terms shall have the meaning herein indicated:

A. ACRE: A measurement of area equaling 43,560 square feet.

B. AS-BUILT SURVEY: A survey shown on a plan or drawing prepared by a Registered Surveyor indicating the actual dimensions, elevations, and locations of any structures, underground utilities, swales, detention facilities, and sewage treatment facilities after construction has been completed.

C. BEST MANAGEMENT PRACTICES (BMPs): Schedule of activities, prohibitions of practices, operation and maintenance procedures, treatment requirements, and other practices to reduce the pollution of water resources and to control storm water volume and rate.

D. CLEAN WATER ACT: Pub. L. 92-500, as amended Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, Pub. L. 97-117, and Pub. L. 100-4, 33 U.S.C. 1251 et. seq. Referred to as the Federal Water Pollution Control Act or the Federal Water Pollution Control Act Amendments of 1972.

E. City/ Community: The City of Niles and its designated representatives, boards, or commissions.

F. City Engineer: The *Professional Engineer* licensed in the State of Ohio, duly appointed by the Mayor of the City of Niles. This term shall also apply to any engineer or engineering firm retained by the City.

G. COMPREHENSIVE STORM WATER MANAGEMENT PLAN: The written document and plans meeting the requirements of this regulation that sets forth the plans and practices to minimize storm water runoff from a development area, to safely convey or temporarily store and release post-development runoff at an allowable rate to minimize flooding and stream bank erosion, and to protect or improve storm water quality and stream channels.

H. CRITICAL STORM: A storm that is calculated by means of the percentage increase in volume of runoff by a proposed development area. The critical storm is used to calculate the maximum allowable storm water discharge rate from a developed site.

I. DETENTION FACILITY: A basin, pond, oversized pipe, or other structure that reduces the peak flow rate of storm water leaving the facility by temporarily storing a portion of the storm water entering the facility.

J. DEVELOPMENT AREA: A parcel or contiguous parcels owned by one person or persons, or operated as one development unit, and used or being developed for commercial, industrial, residential, institutional, or other construction or alteration that changes runoff characteristics.

K. DEVELOPMENT DRAINAGE AREA: A combination of each hydraulically unique watershed with individual outlet points on the development area.

L. DISTURBED AREA: An area of land subject to erosion due to the removal of vegetative cover and/or soil disturbing activities.

M. DRAINAGE: The removal of excess surface water or groundwater from land by surface or subsurface drains.

N. EROSION: The process by which the land surface is worn away by the action of wind, water, ice, gravity, or any combination of those forces.

O. EXTENDED CONVEYANCE: A storm water management practice that replaces and/or enhances traditional open or closed storm drainage conduits by retarding flow, promoting percolation of runoff into the soil, and filtering pollutants during the storm water quality event.

P. EXTENDED DETENTION: A storm water management practice that replaces and/or enhances traditional detention facilities by releasing the runoff collected during the storm water quality event over at least 24 to 48 hours, retarding flow and allowing pollutants to settle within the facility.

Q. FINAL STABILIZATION: All soil disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of at least 80% coverage for the area has been established or equivalent stabilization practices, such as the use of mulches or geotextiles, have

been employed.

R. GRADING: The process in which the topography of the land is altered to a new slope.

S. HYDROLOGIC UNIT CODE: a cataloging system developed by the United States Geological Survey and the Natural Resource Conservation Service to identify watersheds in the United States.

T. IMPERVIOUS COVER: Any surface that cannot effectively absorb or infiltrate water. This may include roads, streets, parking lots, rooftops, sidewalks, and other areas not covered by vegetation.

U. INFILTRATION: A storm water management practice that does not discharge to a water resource during the storm water quality event, requiring collected runoff to either infiltrate into the groundwater and/or be consumed by evapotranspiration, thereby retaining storm water pollutants in the facility.

V. LARGER COMMON PLAN OF DEVELOPMENT: A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.

W. MAXIMUM EXTENT PRACTICABLE: The level of pollutant reduction that operators of small municipal separate storm sewer systems regulated under 40 C.F.R. Parts 9, 122, 123, and 124, referred to as NPDES Storm Water Phase II, must meet.

X. NPDES: National Pollutant Discharge Elimination System. A regulatory program in the Federal Clean Water Act that prohibits the discharge of pollutants into surface waters of the United States without a permit.

Y. NONSTRUCTURAL STORM WATER MANAGEMENT PRACTICE: Storm water runoff control and treatment techniques that use natural practices to control runoff and/or reduce pollution levels.

Z. PLAN PREPARTION: The Comprehensive Storm Water Management Plan shall be prepared by a registered professional engineer and include supporting calculations, plan sheets, and design details. To the extent necessary, as determined by the City Engineer, a site survey shall be performed by a Register Professional Surveyor to establish boundary lines, measurements, or land surfaces.

AA. POST-DEVELOPMENT: The conditions that exist following the completion of soil disturbing activity in terms of topography, vegetation, land use, and the rate, volume, quality, or direction of storm water runoff.

BB. PRE-CONSTRUCTION MEETING: Meeting prior to construction between all parties associated with the construction of the project including government agencies, contractors and owners to review agency requirements and plans as approved and submitted.

CC. PRE-DEVELOPMENT: The conditions that exist prior to the initiation of soil disturbing activity in terms of topography, vegetation, land use, and the rate, volume, quality, or direction of storm water runoff.

DD. PROFESSIONAL ENGINEER: A Professional Engineer registered in the State of Ohio with specific education and experience in water resources engineering, acting in conformance with the Code of Ethics of the Ohio State Board of Registration for Engineers and Surveyors.

EE. REDEVELOPMENT: A construction project on land where impervious cover has previously been developed and where the new land use will not increase the runoff coefficient. If the new land use will increase the runoff coefficient, then the project is considered to be a new development project rather than a redevelopment project. (Refer to Table 1 in Section 922.09)

FF. RIPARIAN AREA: Land adjacent to any brook, creek, river, or stream having a defined bed and bank that, if appropriately sized, helps to stabilize streambanks, limit erosion, reduces flood size flows, and/or filters and settles out runoff pollutants, or performs other functions consistent with the purposes of this regulation.

GG. RIPARIAN AND WETLAND SETBACK: The real property adjacent to a water resource on

which soil disturbing activities are limited, all as defined by the *[The City of Niles's riparian and wetland setback regulation].*

HH. RUNOFF: The portion of rainfall, melted snow, or irrigation water that flows across the ground surface and is eventually returned to water resources.

II. SEDIMENT: The soils or other surface materials that can be transported or deposited by the action of wind, water, ice, or gravity as a product of erosion.

JJ. SEDIMENTATION: The deposition of sediment in water resources.

KK. SITE OWNER/OPERATOR: Any individual, corporation, firm, trust, commission, board, public or private partnership, joint venture, agency, unincorporated association, municipal corporation, county or state agency, the federal government, other legal entity, or an agent thereof that is responsible for the overall construction site.

LL. SOIL DISTURBING ACTIVITY: Clearing, grading, excavating, filling, or other alteration of the earth's surface where natural or human made ground cover is destroyed and that may result in, or contribute to, increased storm water quantity and/or decreased storm water quality.

MM. STABILIZATION: The use of Best Management Practices that reduce or prevent soil erosion by storm water runoff, trench dewatering, wind, ice, gravity, or a combination thereof.

NN. STRUCTURAL STORM WATER MANAGEMENT PRACTICE: Any constructed facility, structure, or device that provides storage, conveyance, and/or treatment of storm water runoff.

OO. SURFACE WATERS OF THE STATE: All streams, lakes, reservoirs, marshes, wetlands, or other waterways situated wholly or partly within the boundaries of the state, except those private waters which do not combine or affect a junction with surface water. Waters defined as sewerage systems, treatment works or disposal systems in Section 6111.01 of the Ohio Revised Code are not included.

PP. TOTAL MAXIMUM DAILY LOAD: The sum of the existing and/or projected point source, nonpoint source, and background loads for a pollutant to a specified watershed, water body, or water body segment. A TMDL sets and allocates the maximum amount of a pollutant that may be introduced into the water and still ensures attainment and maintenance of water quality standards.

QQ. WATER QUALITY VOLUME: The volume of runoff from a contributing watershed that must be captured and treated, equivalent to the maximized capture volume as defined in the American Society of Civil Engineers (ASCE) Manual and Report on Engineering Practice No. 87 and Water Environment Federation Manual of Practice No. 23 titled *Urban Runoff Quality Management.*

RR. WATER RESOURCE: Any public or private body of water; including wetlands; the area within the ordinary high water level of lakes and ponds; as well as the area within the ordinary high water level of any brook, creek, river, or stream having a defined bed and bank (either natural or artificial) which confines and conducts continuous or intermittent flow.

SS. WATER RESOURCE CROSSING: Any bridge, box, arch, culvert, truss, or other type of structure intended to convey people, animals, vehicles, or materials from one side of a watercourse to another. This does not include private, non-commercial footbridges or pole mounted aerial electric or telecommunication lines, nor does it include below grade utility lines.

TT. WATERSHED: The total drainage area contributing storm water runoff to a single point.

UU. WETLAND: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas. (40 CFR, as amended)

922.03 DISCLAIMER OF LIABILITY

A. Compliance with the provisions of this regulation shall not relieve any person from responsibility for damage to any person otherwise imposed by law. The provisions of this regulation are promulgated to promote the health, safety, and welfare of the public and are not designed for the benefit of any individual or any particular parcel of property.

B. By approving a Comprehensive Storm Water Management Plan under this regulation, the City of Niles, Ohio or their designated representatives does not accept responsibility for the design, installation, and operation and maintenance of storm water management practices.

*922.*04 CONFLICTS, SEVERABILITY, NUISANCES & RESPONSIBILITY

A. Where this regulation is in conflict with other provisions of law or ordinance, the most restrictive provisions, as determined by the City Engineer shall prevail.

B. If any clause, section, or provision of this regulation is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.

C. This regulation shall not be construed as authorizing any person to maintain a nuisance on their property, and compliance with the provisions of this regulation shall not be a defense in any action to abate such a nuisance.

D. Failure of the City of Niles, Ohio to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the site owner from the responsibility for the condition or damage resulting therefrom, and shall not result in the City of Niles, Ohio, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.

*922.*05 DEVELOPMENT OF COMPREHENSIVE STORM WATER MANAGEMENT PLANS

A. This regulation requires that a Comprehensive Storm Water Management Plan be developed and implemented for soil disturbing activities disturbing one (1) or more acres of total land, or less than one (1) acre if part of a larger common plan of development or sale disturbing one (1) or more acres of total land, and on which any regulated activity of Section 922.01 (C) is proposed.

B. The City of Niles, Ohio shall administer this regulation, shall be responsible for determination of compliance with this regulation, and shall issue notices and orders as may be necessary. The City of Niles, Ohio may consult with the Trumbull County SWCD, private engineers, storm water districts, or other technical experts in reviewing the Comprehensive Storm Water Management Plan.

*922.*06 APPLICATION PROCEDURES

A. Pre-Design Meeting: The applicant shall attend a Pre-Design Meeting with the City of Niles, Ohio to discuss the proposed project, review the requirements of this regulation, identify unique aspects of the project that must be addressed during the review process, and establish a preliminary review and approval schedule.

B. Preliminary Comprehensive Storm Water Management Plan: The applicant shall submit three (3) sets of a Preliminary Comprehensive Storm Water Management Plan (Preliminary Plan) and the applicable fees to The of City of Niles, Ohio. The Preliminary Plan shall show the proposed property boundaries, setbacks, dedicated open space, public roads, water resources, storm water control facilities, and easements in sufficient detail and engineering analysis to allow the City Engineer to determine if the site is laid out in a manner that meets the intent of this regulation and if the proposed storm water management practices are capable of controlling runoff from the site in compliance with this regulation. The applicant shall submit three (3) sets of the Preliminary Plan and applicable fees as follows:

1. For subdivisions: Two (2) sets to the City Engineers Office and one (1) set to the Building and Zoning Department in conjunction with the City Subdivision Regulations.
2. For other construction projects: Two (2) sets to the City Engineers Office and (1) set to the Building and Zoning Department prior to the issuance of an occupancy permit.
3. For general clearing projects: Two (2) sets to the City Engineers Office and one set to the Building and Zoning Department.

C. Final Comprehensive Storm Water Management Plan: The applicant shall submit three (3) sets of a Final Comprehensive Storm Water Management Plan (Final Plan) and the applicable fees to The City of Niles, Ohio *in* conjunction with the submittal of the final plat, improvement plans, or application for a building or zoning permit for the site. The Final Plan shall meet the requirements of Section *922.*08 and shall be approved by the City Engineer prior to approval of the final plat and/or before issuance of a building permit by Building and Zoning Department.

D. SWCD Approval: The site owner shall submit a letter or report from the Trumbull County SWCD that states that the Soil Erosion and Sediment Control, Storm Water Management and Riparian Setback and Wetland Setback Plans appear to meet Ohio EPA and local regulations. The applicant or his or her designated representative will pay any costs associated with obtaining the report(s) from the Trumbull County SWCD. It should be noted that only the Ohio EPA or the local communities can state that any plans or activities meet their regulations or rules.

E. Review and Comment: The City Engineer shall review the Preliminary and Final Plans submitted, and shall approve or return for revisions with comments and recommendations for revisions. A Preliminary or Final Plan rejected because of deficiencies shall receive a narrative letter stating specific problems and the procedures for filing a revised Preliminary or Final Plan.

F. Approval Necessary: Land clearing and soil-disturbing activities shall not begin and zoning and/or building permits shall not be issued without an approved Comprehensive Storm Water Management Plan.

G. Valid for Two Years: Approvals issued in accordance with this regulation shall remain valid for two (2) years from the date of approval.

922.07 COMPLIANCE WITH STATE AND FEDERAL REGULATIONS

Approvals issued in accordance with this regulation do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from other federal, state, and/or county agencies. If requirements vary, the most restrictive shall prevail. These permits may include, but are not limited to, those listed below. Applicants are required to show proof of compliance with these regulations before the City of Niles Engineering Department will issue a building or zoning permit.

A. Ohio EPA NPDES Permits authorizing storm water discharges associated with construction activity or the most current version thereof: Proof of compliance with these requirements shall be the applicant's Notice of Intent (NOI) number from Ohio EPA, a copy of the Ohio EPA Director's Authorization Letter for the NPDES Permit, or a letter from the site owner certifying and explaining why the NPDES Permit is not applicable.

B. Section 401 of the Clean Water Act: Proof of compliance shall be a copy of the Ohio EPA Water Quality Certification application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 401 of the Clean Water Act is not applicable. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time of application of this regulation.

C. Ohio EPA Isolated Wetland Permit: Proof of compliance shall be a copy of Ohio EPA's Isolated Wetland Permit application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Ohio EPA's Isolated Wetlands Permit is not applicable. Isolated wetlands shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time of application of this regulation.

D. Section 404 of the Clean Water Act: Proof of compliance shall be a copy of the U.S. Army Corps of Engineers Individual Permit application, public notice, or project approval, if an Individual Permit is required for the development project. If an Individual Permit is not required, the site owner shall submit proof of compliance with the U.S. Army Corps of Engineer's Nationwide Permit Program. This shall include one of the following:

1. A letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 404 of the Clean Water Act is not applicable.

2. A site plan showing that any proposed fill of waters of the United States conforms to the general and special conditions specified in the applicable Nationwide Permit. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time of application of this regulation.

E. Ohio Dam Safety Law: Proof of compliance shall be a copy of the ODNR Division of Water permit application tracking number, a copy of the project approval letter from the ODNR Division of Water, or a letter from the site owner certifying and explaining why the Ohio Dam Safety Law is not applicable.

922.08 COMPREHENSIVE STORM WATER MANAGEMENT PLANS

A. Comprehensive Storm Water Management Plan Required: The applicant shall develop a Comprehensive Storm Water Management Plan describing how the quantity and quality of storm water will be managed after construction is complete for every discharge from the site and/or into a water resource. The Plan will illustrate the type, location, and dimensions of every structural and non-structural storm water management practice incorporated into the site design, and the rationale for their selection. The rationale must address how these storm water management practices will address flooding within the site as well as flooding that may be caused by the development upstream and downstream of the site. The rationale will also describe how the storm water management practices minimize impacts to the physical, chemical, and biological characteristics of on-site and downstream water resources and, if necessary, correct current degradation of water resources that is occurring or take measures to prevent predictable degradation of water resources.

B. Preparation by Professional Engineer: The Comprehensive Storm Water Management Plan shall be prepared by a registered professional engineer and include supporting calculations, plan sheets, and design details. To the extent necessary, as determined by the City Engineer, a site survey shall be performed by a Registered Professional Surveyor to establish boundary lines, measurements, or land surfaces.

C. Community Procedures: The City of Niles Engineering Department shall prepare and maintain procedures providing specific criteria and guidance to be followed when designing the storm water management system for the site. These procedures may be updated from time to time, at the discretion of the City Engineer based on improvements in engineering, science, monitoring, and local maintenance experience. The City Engineer shall make the final determination of whether the practices proposed in the Comprehensive Storm Water Management Plan meet the requirements of this regulation. The City Engineer may also maintain a list of acceptable Best Management Practices that meet the criteria of this regulation to be used in The City of Niles, Ohio.

D. Contents of Comprehensive Storm Water Management Plan: The Comprehensive Storm Water Management Plan shall contain an application, narrative report, construction site plan sheets, a long-term Inspection and Maintenance Agreement, and a site description with the following information provided:

1. Site description:

   a. A description of the nature and type of the construction activity (e.g. residential, shopping mall, highway, etc.).

   b. Total area of the site and the area of the site that is expected to be disturbed (i.e. grubbing, clearing, excavation, filling or grading, including off-site borrow areas).

   c. A description of prior land uses at the site.

   d. An estimate of the impervious area and percent of imperviousness created by the soil-disturbing activity at the beginning and at the conclusion of the project.

   e. Existing data describing the soils throughout the site, including the soil series and association, hydrologic soil group, porosity, infiltration characteristics, depth to groundwater, depth to bedrock, and any impermeable layers.

   f. If available, the quality of any known pollutant discharge from the site such as that which may result from previous contamination caused by prior land uses.

   g. The location and name of the immediate water resource(s) and the first subsequent water resource(s).

   h. The aerial (plan view) extent and description of water resources at or near the site that will be disturbed or will receive discharges from the project.

   i. Describe the current condition of water resources including the vertical stability of stream channels and indications of channel incision that may be responsible for current or future sources of high sediment loading or loss of channel stability.

2. Site map showing:

a. Limits of soil-disturbing activity on the site.

b. Soils types for the entire site, including locations of unstable or highly erodible soils.

c. Existing and proposed two foot (2') contours. This must include a delineation of drainage watersheds expected before, during, and after major grading activities as well as the size of each drainage watershed in acres.

d. Water resource locations including springs, wetlands, streams, lakes, water wells, and associated setbacks on or within 200 feet of the site, including the boundaries of wetlands or streams and first subsequent named receiving water(s) the applicant intends to fill or relocate for which the applicant is seeking approval from the Army Corps of Engineers and/or Ohio EPA.

e. Existing and planned locations of buildings, roads, parking facilities, and utilities.

f. The location of any in-stream activities including stream crossings.

3. Contact information: Company name and contact information as well as contact name, addresses, and phone numbers for the following:

   a. The Professional Engineer who prepared the Comprehensive Storm Water Management Plan.

   b. The site owner.

4. Phase, if applicable, of the overall development plan.

5. List of sublot numbers if project is a subdivision.

6. Ohio EPA NPDES Permit Number and other applicable state and federal permit numbers, if available, or status of various permitting requirements if final approvals have not been received.

7. Location, including complete site address and sublot number if applicable.

8. Location of any easements or other restrictions placed on the use of the property.

9. A site plan sheet showing:

   a. The location of each proposed post-construction storm water management practice.

   b. The geographic coordinates of the site AND each proposed practice in North American Datum Ohio State Plan North.

   It is preferred that the entire site be shown on one plan sheet to allow a complete view of the site during plan review. If a smaller scale is used to accomplish this, separate sheets providing an enlarged view of areas on individual sheets should also be provided.

10. An Inspection and Maintenance Agreement. The Inspection and Maintenance Agreement required for storm water management practices under this regulation shall be a stand alone document between the City of Niles, Ohio and the applicant and shall contain the following information and provisions:

    a. The location of each storm water management practice, including those practices permitted to be located in, or within 50 feet of, water resources, and identification of the drainage area served by each storm water management practice.

    b. A schedule for regular maintenance for each aspect of the storm water management system and description of routine and non-routine maintenance tasks to ensure continued performance of the system as is detailed in the approved Comprehensive Storm Water Management Plan. This schedule may include additional standards, as required by The City of Niles, Ohio Engineer, to ensure continued performance of storm water management practices permitted to be located in, or within 50 feet of, water resources.

c. The location and documentation of all access and maintenance easements on the property.

d. Identification of the landowner(s), organization, or municipality responsible for long-term maintenance, including repairs, of the storm water management practices.

e. The landowner(s), organization, or municipality shall maintain storm water management practices in accordance with this regulation.

f. The City of Niles, Ohio has the authority to enter upon the property to conduct inspections as necessary to verify that the storm water management practices are being maintained and operated in accordance with this regulation.

g. The City of Niles, Ohio shall maintain public records of the results of site inspections, shall inform the landowner(s), organization, or municipality responsible for maintenance of the inspection results, and shall specifically indicate any corrective actions required to bring the storm water practices into proper working condition.

h. If the City of Niles, Ohio notifies the landowner(s), organization, or municipality responsible for maintenance of the maintenance problems that require correction, the specific corrective actions shall be taken within a reasonable time frame as determined by the City of Niles, Ohio

i. The City of Niles, Ohio is authorized to enter upon the property and to perform the corrective actions identified in the inspection report if the landowner(s), organization, or municipality responsible for maintenance does not make the required corrections in the specified time period. The City of Niles, Ohio shall be reimbursed by the landowner(s), organization, or municipality responsible for maintenance for all expenses incurred within 10 days of receipt of invoice from the City of Niles, Ohio.

j. The method of funding long-term maintenance and inspections of all storm water management practices.

k. A release of The City of Niles, Ohio from all damages, accidents, casualties, occurrences, or claims that might arise or be asserted against The City of Niles, Ohio from the construction, presence, existence, or maintenance of the storm water management practices.

Alteration or termination of these stipulations is prohibited. The applicant must provide a draft of this Inspection and Maintenance Agreement as part of the Comprehensive Storm Water Management Plan submittal. Once a draft is approved, a recorded copy of the Agreement must be submitted to The City of Niles, Ohio to receive final inspection approval of the site.

11. Calculations required: The applicant shall submit calculations for projected storm water runoff flows, volumes, and timing into and through all storm water management practices for flood control, channel protection, water quality, and the condition of the habitat, stability, and incision of each water resource and its the floodplain, as required in Section 922.09 of this regulation. These submittals shall be completed for both pre- and post-development land use conditions and shall include the underlying assumptions and hydrologic and hydraulic methods and parameters used for these calculations. The applicant shall also include critical storm determination and demonstrate that the runoff from upper watershed areas have been considered in the calculations.

12. List of all contractors and subcontractors before construction: Prior to construction or before the pre-construction meeting, provide the list of all contractors and subcontractors names, addresses, and phones involved with the implementation of the Comprehensive Storm Water Management Plan including a written document containing signatures of all parties as proof of acknowledgment that they have reviewed and understand the requirements and responsibilities of the Comprehensive Storm Water Management Plan.

13. Existing and proposed drainage patterns: The location and description of existing and proposed drainage patterns and storm water management practices, including any related storm water management practices beyond the development area and the larger common

development area.

14. For each storm water management practice to be employed on the development area, include the following:

    a. Location and size, including detail drawings, maintenance requirements during and after construction, and design calculations, all where applicable.

    b. Final site conditions including storm water inlets and permanent nonstructural and structural storm water management practices. Details of storm water management practices shall be drawn to scale and shall show volumes and sizes of contributing drainage areas.

    c. Any other structural and/or non-structural storm water management practices necessary to meet the design criteria in this regulation and any supplemental information requested by the City Engineer.

922.09 PERFORMANCE STANDARDS

A. General: The storm water system, including storm water management practices for storage, treatment and control, and conveyance facilities, shall be designed to prevent structure flooding during the 100-year, 24-hour storm event; to maintain predevelopment runoff patterns, flows, and volumes; and to meet the following criteria:

1. Integrated practices that address degradation of water resources. The storm water management practices shall function as an integrated system that controls flooding and minimizes the degradation of the physical, biological, and chemical integrity of the water resources receiving storm water discharges from the site. Acceptable practices shall:

    a. Not disturb riparian areas, unless the disturbance is intended to support a watercourse restoration project and complies with City of Niles' Riparian Setback Requirements.

    b. Maintain predevelopment hydrology and groundwater recharge on as much of the site as practicable.

    c. Only install new impervious surfaces and compact soils where necessary to support the future land use.

    d. Compensate for increased runoff volumes caused by new impervious surfaces and soil compaction by reducing storm water peak flows to less than predevelopment levels.

    Storm water management practices that meet the criteria in this regulation, and additional criteria required by the City of Niles Engineering Department, Ohio shall comply with this regulation.

2. Practices designed for final use: Storm water management practices shall be designed to achieve the storm water management objectives of this regulation, to be compatible with the proposed post-construction use of the site, to protect the public health, safety, and welfare, and to function safely with minimal maintenance.

3. Storm water management for all lots: Areas developed for a subdivision, as defined in The City of Niles Subdivision Regulations, shall provide storm water management and water quality controls for the development of all subdivided lots. This shall include provisions for lot grading and drainage that prevent structure flooding during the 100-year, 24-hour storm; and maintain, to the extent practicable, the pre-development runoff patterns, volumes, and peaks from the lot.

4. Storm water facilities in water resources: Storm water management practices and related activities shall not be constructed in water resources unless the applicant shows proof of compliance with all appropriate permits from the Ohio EPA, the U.S. Army Corps, and other applicable federal, state, and local agencies as required in Section.07 of this regulation, and the activity is in compliance with Chapter 923.08(e) [The City of Niles erosion and sediment control requirements] and the City of Niles' Riparian Setback requirements, all as determined by The City Engineer.

5. Storm water ponds and surface conveyance channels: All storm water pond and surface conveyance designs must provide a minimum of one (1) foot freeboard above the projected peak stage within the facility during the 100-year, 24-hour storm. When designing storm water ponds and conveyance channels, the applicant shall consider public safety as a design factor and alternative designs must be implemented where site limitations would preclude a safe design.

6. Maintenance: All storm water management practices shall be maintained in accordance with Inspection and Maintenance Agreements approved by the City Engineer as detailed in Section.922.08.

7. Ownership: Unless otherwise required by the City of Niles, Ohio storm water management practices serving multiple lots in subdivisions shall be on a separate lot held and maintained by an entity of common ownership or, if compensated by the property owners, by the City of Niles. Storm water management practices serving single lots shall be placed on these lots, protected within an easement, and maintained by the property owner.

8. Preservation of Existing Natural Drainage. Practices that preserve and/or improve the existing natural drainage shall be used to the maximum extent practicable. Such practices may include minimizing site grading and compaction; protecting and/or restoring water resources, riparian areas, and existing vegetation; and maintaining unconcentrated storm water runoff to and through these areas.

9. Preservation of Wetland Hydrology: Concentrated storm water runoff from BMPs to wetlands shall be converted to diffuse flow before the runoff enters a wetland in order to protect the natural hydrology, hydroperiod, and wetland flora. The flow shall be released such that no erosion occurs down slope. Practices such as level spreaders, vegetative buffers, infiltration basins, conservation of forest covers, and the preservation of intermittent streams, depressions, and drainage corridors may be used to maintain the wetland hydrology.

If the applicant proposes to discharge to natural wetlands, a hydrological analysis shall be preformed to demonstrate that the proposed discharge matches the pre-development hydroperiods and hydrodynamics.

B. Storm Water Conveyance Design Criteria: All storm water management practices shall be designed to convey storm water to allow for the maximum removal of pollutants and reduction in flow velocities. This shall include but not be limited to:

1. Stream relocation or enclosure: The City Engineer may allow the enclosure or relocation of water resources only if the applicant shows proof of compliance with all appropriate permits from the Ohio EPA, the U.S. Army Corps, and other applicable federal, state, and local agencies as required in Section .07 of this regulation, and the activity is in compliance with Section 923.08(e) [The of City of Niles erosion and sediment control requirements] and Trumbull County's setback requirements all as determined by the City Engineer. At a minimum, stream relocation designs must show how the project will minimize changes to the vertical stability, floodplain form, channel form, and habitat of upstream and downstream channels on and off the property

2. Off-site storm water discharges: Off-site storm water runoff that discharges to or across the applicant's development site shall be conveyed through the storm water conveyance system planned for the development site at its existing peak flow rates during each design storm. Off-site flows shall be diverted around storm water quality control facilities or, if this in not possible, the storm water quality control facility shall be sized to treat the off-site flow. Comprehensive Storm Water Management Plans will not be approved until it is demonstrated to the satisfaction of the City Engineer that off-site runoff will be adequately conveyed through the development site in a manner that does not exacerbate upstream or downstream flooding and erosion.

3. Sheet flow. The site shall be graded in a manner that maintains sheet flow over as large an area as possible. The maximum area of sheet flow shall be determined based on the slope, the uniformity of site grading, and the use of easements or other legally-binding mechanisms that prohibit re-grading and/or the placement of structures within sheet flow areas. In no case shall the sheet flow length be longer than 300 feet, nor shall a sheet flow area exceed 1.5 acres. Flow shall be directed into an open channel, storm sewer, or other storm water management practice from areas too long and/or too large to maintain sheet flow, all as

determined by the City of Niles.

4. Open channels: Unless otherwise allowed by the City Engineer, drainage tributary to storm water management practices shall be provided by an open channel with landscaped banks and designed to carry the 10-year, 24-hour storm water runoff from upstream contributory areas.

5. Open drainage systems: Open drainage systems shall be preferred on all new development sites to convey storm water where feasible. Storm sewer systems shall be allowed only when the site cannot be developed at densities allowed under City of Niles zoning or where the use of an open drainage system affects public health or safety, all as determined by the City of Niles Engineering Department. The following criteria shall be used to design storm sewer systems when necessary:

   a. Storm sewers shall be designed such that they do not surcharge from runoff caused by the 5-year, 24-hour storm, and that the hydraulic grade line of the storm sewer stays below the gutter flow line of the overlying roadway, or below the top of drainage structures outside the roadway during a 10-year, 24-hour storm. The system shall be designed to meet these requirements when conveying the flows from the contributory area within the proposed development and existing flows from offsite areas that are upstream from the development.

   b. The minimum inside diameter of pipe to be used in public storm sewer systems is 12 inches. Smaller pipe sizes may be used in private systems, subject to the approval of the City Engineer.

   c. All storm sewer systems shall be designed taking into consideration the tailwater of the receiving facility or water resource. The tailwater elevation used shall be based on the design storm frequency. The hydraulic grade line for the storm sewer system shall be computed with consideration for the energy losses associated with entrance into and exit from the system, friction through the system, and turbulence in the individual manholes, catch basins, and junctions within the system.

   d. The inverts of all curb inlets, manholes, yard inlets, and other structures shall be formed and channelized to minimize the incidence of quiescent standing water where mosquitoes may breed.

   e. Headwalls shall be required at all storm sewer inlets or outlets to and from open channels or lakes.

6. Water Resource Crossings. The following criteria shall be used to design structures that cross a water resource in the City of Niles, Ohio:

   a. Water resource crossings other than bridges shall be designed to convey the stream's flow for the minimum 25-year, 24-hour storm.

   b. Bridges, open bottom arch or spans are the preferred crossing technique and shall be considered in the planning phase of the development. Bridges and open spans should be considered for all State Scenic Rivers, coldwater habitat, exceptional warmwater habitat, seasonal salmonid habitat streams, and Class III headwater streams. The footers or piers for these bridges and open spans shall not be constructed below the ordinary high water mark.

   c. If a culvert or other closed bottom crossing is used, twenty-five (25) percent of the cross-sectional area or a minimum of 1 foot of box culverts and pipe arches must be embedded below the channel bed.

   d. The minimum inside diameter of pipes to be used for crossings shall be 12 inches.

   e. The maximum slope allowable shall be a slope that produces a 10-fps velocity within the culvert barrel under design flow conditions. Erosion protection and/or energy dissipaters shall be required to properly control entrance and outlet velocities.

   f. All culvert installations shall be designed with consideration for the tailwater of the

receiving facility or water resource. The tailwater elevation used shall be based on the design storm frequency.

g. Headwalls shall be required at all culvert inlets or outlets to and from open channels or lakes.

h. Streams with a drainage area of 5 square miles or larger shall incorporate floodplain culverts at the bankfull elevation to restrict head loss differences across the crossing so as to cause no rise in the 100-year storm event.

i. Bridges shall be designed such that the hydraulic profile through a bridge shall be below the bottom chord of the bridge for either the 100-year, 24-hour storm, or the 100-year flood elevation as determined by FEMA, whichever is more restrictive.

7. Overland flooding: Overland flood routing paths shall be used to convey storm water runoff from the 100-year, 24-hour storm event to an adequate receiving water resource or storm water management practice such that the runoff is contained within the drainage easement for the flood routing path and does not cause flooding of buildings or related structures. The peak 100-year water surface elevation along flood routing paths shall be at least one foot below the finished grade elevation at the structure. When designing the flood routing paths, the conveyance capacity of the site's storm sewers shall be taken into consideration.

8. Compensatory flood storage mitigation: In order to preserve floodplain storage volumes and thereby avoid increases in water surface elevations, any filling within flood plains approved by the City of Niles, Ohio must be compensated by removing an equivalent volume of material. First consideration for the location(s) of compensatory floodplain volumes should be given to areas where the stream channel will have immediate access to the new floodplain within the limits of the development site. Consideration will also be given to enlarging existing or proposed retention basins to compensate for floodplain fill if justified by a hydraulic analysis of the contributing watershed. Unless otherwise permitted by the City of Niles, Ohio ***reductions*** in volume due to floodplain fills must be mitigated within the legal boundaries of the development. Embankment slopes used in compensatory storage areas must reasonably conform to the natural slopes adjacent to the disturbed area. The use of vertical retaining structures is specifically prohibited.

~~NOTE: The Section #8 above should be coordinated with the community's riparian setback ordinance. The requirement for compensatory floodplain storage is only in effect when the riparian setback does not include the entire 100-year floodplain, when the community grants a variance that allows filling in the floodplain due to site constraints, or when the Community Engineer determines that stream or floodplain restoration is needed to meet the objectives of this regulation.~~

9. Velocity dissipation: Velocity dissipation devices shall be placed at discharge locations and along the length of any outfall to provide non-erosive flow velocity from the structure to a water resource so that the natural physical and biological characteristics and functions of the water resource are maintained and protected.

C. Storm Water Quality Control:

1. Direct runoff to a BMP: The site shall be designed to direct runoff to one or more of the following storm water management practices. These practices are listed in Table 2 of this regulation and shall be designed to meet the following general performance standards:

a. Extended conveyance facilities that slow the rate of storm water runoff; filter and biodegrade pollutants in storm water; promote infiltration and evapotranspiration of storm water; and discharge the controlled runoff to a water resource.

b. Extended detention facilities that detain storm water; settle or filter particulate pollutants; and release the controlled storm water to a water resource.

c. Infiltration facilities that retain storm water; promote settling, filtering, and biodegradation of pollutants; and infiltrate captured storm water into the ground. The City Engineer may require a soil engineering report to be prepared for the site to demonstrate that any proposed infiltration facilities meet these performance standards.

d. For sites less than five (5) acres, but greater than one (1) acre and not part of a

common plan of development, where 5 or more acres are disturbed, the City of Niles Engineer may approve other BMPs if the applicant demonstrates to the City of Niles Engineer's satisfaction that these BMPs meet the objectives of this regulation as stated in Section.09.C.6.

e. For sites greater than five (5) acres, or less than five (5) acres but part of a larger common plan of development or sale which will disturb five (5) or more acres, the City of Niles Engineer may approve other BMPs if the applicant demonstrates to the City of Niles Engineer's satisfaction that these BMPs meet the objectives of this regulation as stated in Section.09.C.6, and has prior written approval from the Ohio EPA.

f. For the construction of new roads and roadway improvement projects by public entities (i.e. the state, counties, townships, cities, or villages), the City of Niles Engineer may approve BMPs not included in Table 2 of this regulation, but must show compliance with the current version of the Ohio Departments of Transportations "*Location and Design Manual, Volume Two Drainage Design*".

NOTE: In Section (2) below the size of the water quality volume (WQv) orifice can be limited to 2.5 inches in extended detention ponds when drainage areas are too small to allow a practical WQv orifice size.

2. Criteria applying to all storm water management practices. Practices chosen must be sized to treat the water quality volume (WQv) and to ensure compliance with Ohio Water Quality Standards (OAC Chapter 3745-1).

a. The WQv shall be equal to the volume of runoff from a 0.75 inch rainfall event and shall be determined according to one of the following methods:

(1) Through a site hydrologic study approved by the City Engineer that uses continuous hydrologic simulation; site-specific hydrologic parameters, including impervious area, soil infiltration characteristics, slope, and surface routing characteristics; proposed best management practices controlling the amount and/or timing of runoff from the site; and local long-term hourly records, or

(2) Using the following equation:

$$WQ_V = C*P*A/12$$

where terms have the following meanings:

WQv = water quality volume in acre-feet
C = runoff coefficient appropriate for storms less than 1 in.
P = 0.75 inch precipitation depth
A = area draining into the storm water practice, in acres.

Runoff coefficients required by the Ohio Environmental Protection Agency (Ohio EPA) for use in determining the water quality volume can be determined using the list in Table 1 or using the following equation to calculate the runoff coefficient, if the applicant can demonstrate that appropriate controls are in place to limit the proposed impervious area of the development:

$C=0.858i^3 - 0.78i^2 + 0.774i+0.04$, where:
i = fraction of the drainage area that is impervious

Table 1: Runoff Coefficients Based on the Type of Land Use

Land Use	Runoff Coefficient
Industrial & Commercial	0.8
High Density Residential (>8 dwellings/acre)	0.5
Medium Density Residential (4 to 8 dwellings/acre)	0.4
Low Density Residential (<4 dwellings/acre)	0.3
Open Space and Recreational Areas	0.2
Where land use will be mixed, the runoff coefficient should be calculated using a weighted average. For example, if 60% of the contributing drainage area to the storm water treatment structure is Low Density Residential, 30% is High Density Residential, and 10% is Open Space, the runoff coefficient is calculated as follows (0.6)(0.3)+(0.3)(0.5)+(0.1)(0.2) = (0.35)	

b. An additional volume equal to 20% of the WQv shall be incorporated into the storm water practice for sediment storage. This volume shall be incorporated into the sections of storm water practices where pollutants will accumulate.

c. Storm water quality management practices shall be designed such that the drain time is long enough to provide treatment and protect against downstream bank erosion, but short enough to provide storage available for successive rainfall events as defined in Table 2.

Table 2: Draw Down Times for Storm Water Management Practices

Best Management Practice	Drain Time of WQv
Infiltration Facilities*	24 - 48 hours
Extended Conveyance Facilities (Vegetated Swales, Filter Strips)	
▪ Vegetated Filter Strip with Berm	24 hours
▪ Enhanced Water Quality Swale	24 hours
▪ Flow Through Design	**
Extended Detention Facilities	
▪ Extended Dry Detention Basins***	48 hours
▪ Wet Detention Basins +	24 hours
▪ Pocket Wetland^	24 hours
▪ Constructed Wetlands (above permanent pool)	24 hours
▪ Bioretention*	40 hours
▪ Sand and other Media Filtration	40 hours

* The WQv shall completely infiltrate within 48 hours so there is no standing or residual water pool.
** Sized to pass a hydrograph with a volume equal to the WQv, a duration of 2 hours, peak rainfall intensity of 1 inch/hour at a depth of no more than 3 inches and have a minimum hydraulic residence time of 5 minutes. The use of this criterion is limited to sites where the total area disturbed is 5 acres or less. Prior approval from the City Engineer is necessary to use this practice. For sites greater than five (5) acres or less than five (5) acres but part of a larger common plan of development or sale which will disturb five (5) or more acres, prior written approval is required from the Ohio EPA.
*** The use of a forebay and micropool is required on all extended dry detention basins. Each is to be sized at a minimum 10% of the WQv.
+Provide both a permanent pool and an extended detention volume above the permanent pool, each sized with at least 0.75*WQv.
^Pocket wetland must have a wet pool equal to the WQv, with 25% of the WQv in a pool and 75% in marshes. The EDV above the permanent pool must be equal to the WQv.

NOTE: This table is similar to that found in the Ohio EPA Construction General Permit. It has been re-ordered to match CRWP's recommended BMP categories and additional description of the "drain time" for vegetated swales and filter strips has been added. The "Flow Through Design" BMP is an Ohio EPA alternative practice and does require additional approvals from the Community Engineer and Ohio EPA depending the development site size, and can be removed from the table if necessary.

d. Each practice shall be designed to facilitate sediment removal, vegetation management, debris control, and other maintenance activities defined in the Inspection and Maintenance Agreement for the site.

3. Additional criteria applying to infiltration facilities.

a. Infiltration facilities shall only be allowed if the soils of the facility fall within hydrologic soil groups A or B, if the seasonal high water table is at least three (3) feet below the final grade elevation, and any underlying bedrock is at least six feet below the final grade elevation.

b. All runoff directed into an infiltration basin must first flow through a pretreatment practice such as a grass channel or filter strip to remove coarser sediments that could cause a loss of infiltration capacity.

c. During construction, all runoff from disturbed areas of the site shall be diverted away from the proposed infiltration basin site. No construction equipment shall be allowed within the infiltration basin site to avoid soil compaction.

4. Additional criteria applying to extended conveyance facilities.

a. Facilities shall be lined with fine turf-forming, flood tolerant grasses.

b. Facilities designed according to the extended conveyance detention design drain time shall:

(1) Not be located in areas where the depth to bedrock and/or seasonal high water table is less than 3 feet below the final grade elevation.

(2) Only be allowed where the underlying soil consists of hydrologic soil group (HSG) A or B, unless the underlying soil is replaced by at least a 2.5 foot deep layer of soil amendment with a permeability equivalent to a HSG A or B soil and an underdrain system is provided.

c. Facilities designed according to the flow through design drain time shall:

(1) Only be allowed on sites where:
   a. The total area disturbed is 5 acres or less
   b. The discharge rate from the BMP will have negligible hydrologic impacts to received waters as described in Chapter 922.09.C. 6.b.
   c. Prior written approval is given by the City Engineer; and
   d. For sites greater than five (5) acres or less than five (5) acres but part of a larger common plan of development or sale which will disturb five (5) or more acres, prior written approval has been given by the Ohio EPA.

(2) Be designed to slow and filter runoff flowing through the turf grasses with a maximum depth of flow no greater than 3 inches.

(3) Be designed to have a minimum hydraulic residence time of 5 minutes.

d. Concentrated runoff shall be converted to sheet flow, or a diffuse flow using a plunge pool, flow diffuser or level spreader, before entering an extended conveyance facility designed according to the flow through drain time.

5. Additional criteria for extended detention facilities:

a. The outlet shall be designed to not release more than the first half of the water quality volume in less than 1/3rd of the drain time. A valve shall be provided to drain any permanent pool volume for removal of accumulated sediments. The outlet shall be designed to minimize clogging, vandalism, maintenance, and promote the capture of floatable pollutants.

b. The basin design shall incorporate the following features to maximize multiple uses, aesthetics, safety, and maintainability:

(1) Basin side slopes above the permanent pool shall have a run to rise ratio of 4:1 or flatter.

(2) The perimeter of all permanent pool areas deeper than 4 feet shall be surrounded by an aquatic bench that extends at least 8 feet and no more than 15 feet outward from the normal water edge. The 8 feet wide portion of the aquatic bench closest to the shoreline shall have an average depth of 6 inches below the permanent pool to promote the growth of aquatic vegetation. The remainder of the aquatic bench shall be no more than 15 inches below the permanent pool to minimize drowning risk to individuals who accidentally or intentionally enter the basin, and to limit growth of dense vegetation in a manner that allows waves and mosquito predators to pass through the vegetation. The maximum slope of the aquatic bench shall be 10 (H) to 1 (V). The aquatic bench shall be planted with hearty plants comparable to wetland vegetation that are able to withstand prolonged inundation.

(3) A fore-bay designed to allow larger sediment particles to settle shall be placed at basin inlets. The fore-bay and micro-pool volume shall be equal to at least 10% of the water quality volume (WQv).

Note: The section below identifies the criteria that are currently be used by the Ohio EPA to assess the equivalency of alternative practices that are not listed in Table 2.

6. Criteria for the Acceptance of Alternative post-construction BMPs: The applicant may request approval from the City Engineer for the use of alternative structural post-construction BMPs if the applicant shows to the satisfaction of the City Engineer that these BMPs are equivalent in pollutant removal and runoff flow/volume reduction effectiveness to those listed in Table 2. If the site is greater than five (5) acres, or less than five (5) acres but part of a larger common plan of development or sale which will disturb five (5) or more acres, prior approval from the Ohio EPA is necessary. To demonstrate the equivalency, the applicant must show:

   a. The alternative BMP has a minimum total suspended solid (TSS) removal efficiency of 80 percent, using the Level II Technology Acceptance Reciprocity Partnership (TARP) testing protocol.

   b. The water quality volume discharge rate from the selected BMP is reduced to prevent stream bed erosion, unless there will be negligible hydrologic impact to the receiving surface water of the State. The discharge rate from the BMP will have negligible impacts if the applicant can demonstrate one of the following conditions:
      (1) The entire water quality volume is recharged to groundwater.

      (2) The development will create less than one acre of impervious surface.

      (3) The development project is a redevelopment project with an ultra-urban setting, such as a downtown area, or on a site where 100 percent of the project area is already impervious surface and the storm water discharge is directed into an existing storm sewer system.

      (4) The storm water drainage system of the development discharges directly into a large river of fourth order or greater or to a lake, and where the development area is less than 5 percent of the water area upstream of the development site, unless a Total Maximum Daily Load (TMDL) has identified water quality problems in the receiving surface water of the State.

D. Storm Water Quantity Control: The Comprehensive Storm Water Management Plan shall describe how the proposed storm water management practices are designed to meet the following requirements for storm water quantity control for each watershed in the development:

1. The peak discharge rate of runoff from the Critical Storm and all more frequent storms occurring under post-development conditions shall not exceed the peak discharge rate of runoff from a 1-year, 24-hour storm occurring on the same development drainage area under pre-development conditions.

2. Storms of less frequent occurrence (longer return periods) than the Critical Storm, up to the 100-year, 24-hour storm shall have peak runoff discharge rates no greater than the peak runoff rates from equivalent size storms under pre-development conditions. The 1, 2, 5, 10, 25, 50, and 100-year storms shall be considered in designing a facility to meet this requirement.

3. The Critical Storm for each specific development drainage area shall be determined as follows:

   a. Determine, using a curve number-based hydrologic method that generates hydrographs, or other hydrologic method approved by the City Engineer, the total volume (acre-feet) of runoff from a 1-year, 24-hour storm occurring on the development drainage area before and after development. These calculations shall meet the following standards:

      (1) Calculations shall include the lot coverage assumptions used for full build out as proposed.

      (2) Calculations shall be based on the entire contributing watershed to the development area.

(3) Curve numbers for the pre-development condition must reflect the average type of land use over the past 10 years and not only the current land use.

(4) To account for future post-construction improvements to the site, calculations shall assume an impervious surface such as asphalt or concrete for all parking areas and driveways, regardless of the surface proposed in the site description.

b. From the volume determined in Section.09 (D)(3)(a), determine the percent increase in volume of runoff due to development. Using the percentage, select the 24-hour Critical Storm from Table 3.

Table 3: 24-Hour Critical Storm

If the Percentage of Increase in Volume of Runoff is:		**The Critical Storm will be:**
Equal to or Greater Than:	and Less Than:	
----	10	1 year
10	20	2 year
20	50	5 year
50	100	10 year
100	250	25 year
250	500	50 year
500	---	100 year

For example, if the percent increase between the pre- and post-development runoff volume for a 1-year storm is 35%, the Critical Storm is a 5-year storm. The peak discharge rate of runoff for all storms up to this frequency shall be controlled so as not to exceed the peak discharge rate from the 1-year frequency storm under pre-development conditions in the development drainage area. The post-development runoff from all less frequent storms need only be controlled to meet pre-development peak discharge rates for each of those same storms.

E. Storm Water Management on Redevelopment Projects: Comprehensive Storm Water Management Plans for redevelopment projects shall reduce existing site impervious areas by at least 20 percent. A one-for-one credit towards the 20 percent net reduction of impervious area can be obtained through the use of pervious pavement and/or green roofs.

1. Where site conditions prevent the reduction of impervious area, stormwater management practices shall be implemented to provide storm water quality control facilities for at least 20 percent of the site's impervious area.

2. When a combination of impervious area reduction and storm water quality control facilities are used, the combined area shall equal or exceed 20 percent of the site.

3. Where projects are a combination of new development and redevelopment, the total water quality volume that must be treated shall be calculated by a weighted average based on acreage, with the new development at 100 percent water quality volume and redevelopment at 20 percent.

Where conditions prevent impervious area reduction or on-site stormwater management for redevelopment projects, practical alternatives as detailed in Section.922.10 may be approved by the City Engineer.

922.10 ALTERNATIVE ACTIONS

A. When the City of Niles, Ohio determines that site constraints compromise the intent of this regulation, off-site alternatives may be used that result in an improvement of water quality and a reduction of storm water quantity. Such alternatives shall meet the following standards:

1. Shall achieve the same level of storm water quantity and quality control that would be achieved by the on-site controls required under this regulation.

2. Implemented in the same Hydrologic Unit Code (HUC) 14 watershed unit as the proposed development project.

3. The mitigation ratio of the water quality volume is 1.5 to 1 or the water quality volume at the point of retrofit, whichever is greater.

4. An inspection and maintenance agreement as described in Section.922.08.D.10 is established to ensure operations and treatment in perpetuity.

5. Obtain prior written approval from Ohio EPA.

B. Alternative actions may include, but are not limited to the following. All alternative actions shall be approved by the City Engineer:

1. Fees, in an amount specified by the City of Niles, Ohio to be applied to community-wide storm water management practices.

2. Implementation of off-site storm water management practices and/or the retrofit of an existing practice to increase quality and quantity control.

3. Stream, floodplain, or wetland restoration.

4. Acquisition or conservation easements on protected open space significantly contributing to storm water control such as wetland complexes.

*922.*11 EASEMENTS

Access to storm water management practices as required by the City Engineer for inspections and maintenance shall be secured by easements. The following conditions shall apply to all easements:

A. Easements shall be included in the Inspection and Maintenance Agreement submitted with the Comprehensive Storm Water Management Plan.

B. Easements shall be approved by the City of Niles, Ohio prior to approval of a final plat and shall be recorded with the Trumbull County Auditor and on all property deeds.

C. Unless otherwise required by the City of Niles Engineer access easements between a public right-of-way and all storm water management practices shall be no less than 20-feet wide. The easement shall also incorporate the entire practice plus an additional 20-foot wide band around the perimeter of the storm water management practice.

D. The easement shall be graded and/or stabilized as necessary to allow maintenance equipment to access and manipulate around and within each facility, as defined in the Inspection and Maintenance Agreement for the site.

E. Easements to structural storm water management practices shall be restricted against the construction therein of buildings, fences, walls, and other structures that may obstruct the free flow of storm water and the passage of inspectors and maintenance equipment; and against the changing of final grade from that described by the final grading plan approved by the City of Niles, Ohio. Any re-grading and/or obstruction placed within a maintenance easement may be removed by the City of Niles, Ohio at the property owners' expense.

*922.*12 MAINTENANCE AND FINAL INSPECTION APPROVAL

To receive final inspection and acceptance of any project, or portion thereof, the following must be completed and provided to the City of Niles Engineer:

A. Final stabilization must be achieved and all permanent storm water management practices must be installed and made functional, as determined by the City of Niles Engineer and per the approved Comprehensive Storm Water Management Plan.

B. An As-Built Certification, including a Survey and Inspection, must be sealed, signed and dated by a Professional Engineer and a Professional Surveyor with a statement certifying that the storm

water management practices, as designed and installed, meet the requirements of the Comprehensive Storm Water Management Plan approved by the City of Niles Engineer. In evaluating this certification, the City of Niles Engineer may require the submission of a new set of storm water practice calculations if he/she determines that the design was altered significantly from the approved Comprehensive Storm Water Management Plan. The As-Built Survey must provide the location, dimensions, and bearing of such practices and include the entity responsible for long-term maintenance as detailed in the Inspection and Maintenance Agreement. The approved As-Built Certification must be on file with the City Engineer and Building Inspector prior to the issuance of an Occupancy Permit.

C. A copy of the complete and recorded Inspection and Maintenance Agreement as specified in Section .08 must be provided to the City of Niles Engineer.

*922.*13 ON-GOING INSPECTIONS

The City of Niles, Ohio shall inspect storm water management practices periodically. Upon finding a malfunction or other need for maintenance, the City of Niles, Ohio shall provide written notification to the responsible party, as detailed in the Inspection and Maintenance Agreement, of the need for maintenance. Upon notification, the responsible party shall have five (5) working days, or other mutually agreed upon time, to makes repairs or submits a plan with detailed action items and established timelines. Should repairs not be made within this time, or a plan approved by the City of Niles, Ohio for these repairs not be in place, the City of Niles, Ohio may undertake the necessary repairs and assess the responsible party.

*922.*14 FEES

The Comprehensive Storm Water Management Plan review, filing, and inspection fee is part of a complete submittal and is required to be submitted to the City of Niles, Ohio before the review process begins. The City of Niles fee schedule for providing these services is attached hereto and incorporated in this Ordinance.

*922.*15 BOND

A. If a Comprehensive Storm Water Management Plan is required by this regulation, soil-disturbing activities shall not be permitted until a $5,000 bond has been submitted with the City of Niles Engineering Department. This bond shall be posted for the City of Niles, Ohio to perform the obligations otherwise to be performed by the owner of the development area as stated in this regulation and to allow all work to be performed as needed in the event that the applicant fails to comply with the provisions of this regulation. The stormwater bond will be returned, less The City of Niles, Ohio administrative fees as detailed in Chapter 922 of the City of Niles, Ohio Codified Ordinances, when the following three criteria are met:

1. After 80% of the lots of the project have been complete or 100% of the total project has been permanently stabilized or three (3) years from the time of permanent stabilization have passed.

2. An As Built Inspection of all water quality practices is conducted by the ***City of Niles Engineer or Trumbull County Soil and Water Conservation District***

3. An Inspection and Maintenance Agreement signed by the developer, the contractor, the ***City of Niles, Ohio*** and the private owner or homeowners association who will take long term responsibility for these BMPs, is accepted by the ***City Engineer.***

Once these criteria are met, the applicant shall be reimbursed all bond monies that were not used for any part of the project. If all of these criteria are not met after three years of permanent stabilization of the site, the ***City of Niles, Ohio*** may use the bond monies to fix any outstanding issues with all storm water management structures on the site and the remainder of the bond shall be given to the private lot owner/ homeowners association for the purpose of long term maintenance of the project.

922.16 INSTALLATION OF WATER QUALITY BEST MANAGEMENT PRACTICES

The applicant may not direct runoff through any water quality structures or portions thereof that would be degraded by construction site sediment until the entire area tributary to the structure has reached final stabilization as determined by the City of Niles Engineer. This occurs after the completion of the final grade at the site, after all of the utilities are installed, and the site is subsequently stabilized with vegetation or other appropriate methods. The developer must provide documentation acceptable to the City of Niles Engineer to

demonstrate that the site is completely stabilized. Upon this proof of compliance, the water quality structure(s) may be completed and placed into service. Upon completion of installation of these practices, all disturbed areas and/or exposed soils caused by the installation of these practices must be stabilized within 2 days.

*922.*17 VIOLATIONS

No person shall violate or cause or knowingly permit to be violated any of the provisions of this regulation, or fail to comply with any of such provisions or with any lawful requirements of any public authority made pursuant to this regulation, or knowingly use or cause or permit the use of any lands in violation of this regulation or in violation of any permit granted under this regulation.

*922.*18 APPEALS

Any person aggrieved by any order, requirement, determination, or any other action or inaction by the City of Niles, Ohio in relation to this regulation may appeal to the court of common pleas. Such an appeal shall be made in conformity with *Chapter 2506 of the Ohio Revised Code.*

*922.*19 PENALTY

A. Any person, firm, entity or corporation; including but not limited to, the owner of the property, his agents and assigns, occupant, property manager, and any contractor or subcontractor who violates or fails to comply with any provision of this regulation is guilty of a misdemeanor of the third degree and shall be fined no more than five hundred dollars ($500.00) or imprisoned for no more than sixty (60) days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

The imposition of any other penalties provided herein shall not preclude the City of Niles, Ohio instituting an appropriate action or proceeding in a Court of proper jurisdiction to prevent an unlawful development, or to restrain, correct, or abate a violation, or to require compliance with the provisions of this regulation or other applicable laws, ordinances, rules, or regulations, or the orders of the City of Niles, Ohio

SECTION TWO: Existing Chapter 922 of the Codified Ordinances is hereby repealed.

SECTION THREE: This Ordinance is hereby declared to be an emergency measure in the interests of the public health, safety and welfare for the reason that the Ohio EPA requires this new legislation to be in place. 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 at the earliest date permitted 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 on the _____ day of _____, 2024.

_____
MAYOR

City of Niles, Ohio

SPONSORED BY: UTILITIES **DRAFT NO. 131-24**
AUTHORIZED BY: ALL MEMBERS

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING NEW STANDARDS FOR EROSION AND SEDIMENT CONTROL DURING SOIL DISTURBING ACTIVITIES WITHIN THE CITY; AND, DECLARING AN EMERGENCY

WHEREAS, soil is most vulnerable to erosion by wind and water during soil disturbing activities and this eroded soil necessitates repair of sewers and ditches and dredging of rivers, harbors, and lakes; accelerates downstream bank erosion and damage to public and private property; damages water resources and wetlands by reducing water quality; and causes the siltation of aquatic habitat; and

WHEREAS, communities throughout the watershed(s) in which the ***City of Niles, Ohio*** is located have experienced and continue to experience costs associated with inadequate erosion and sediment control and increased State and Federal regulation; and

WHEREAS, there are watershed-wide efforts to reduce sedimentation in the ***Mahoning River and Mosquito Creek*** and to protect and enhance the unique water resources and wetlands of the ***Mahoning River and Mosquito Creek*** watershed***(s)***;

WHEREAS, the ***City of Niles, Ohio*** is a member of the ***Trumbull County Soil and Water Conservation District and Ohio EPA*** and recognizes its obligation to reduce sedimentation and to protect water quality by controlling soil disturbing activities within its borders; and

WHEREAS, 40 C.F.R. Parts 9, 122, 123 and 124, referred to as NPDES Storm Water Phase II, require designated communities, including the ***City of Niles, Ohio*** to develop and implement a Storm Water Management Program to address, among other components, erosion and sediment control during soil disturbing activities; and

WHEREAS, Article XVIII, Section 3 of the Ohio Constitution grants municipalities the legal authority to adopt rules to abate soil erosion and water pollution by soil sediments; and

NOW, THEREFORE BE IT ORDAINED by the Council of ***City of Niles, Ohio***, county of ***Trumbull*** State of Ohio, that:

SECTION 1: Codified Ordinance 922B ***Erosion and Sediment Control,*** is hereby adopted to read in total as follows:

EROSION AND SEDIMENT CONTROL

01 PURPOSE AND SCOPE

(a) The purpose of this regulation is to establish technically feasible and economically reasonable standards to achieve a level of erosion and sediment control that will minimize damage to property and degradation of water resources and wetlands, and will promote and maintain the health and safety of the citizens of City of Niles, Ohio

(b) This regulation will:

(1) Allow development while minimizing increases in erosion and sedimentation.

(2) Reduce water quality impacts to receiving water resources and wetlands that may be caused by new development or redevelopment activities.

(c) This regulation applies to all parcels used or being developed, either wholly or partially, for new or relocated projects involving highways, underground cables, or pipelines; subdivisions or larger common plans of development; industrial, commercial, institutional, or residential projects; building activities on farms; redevelopment activities; general clearing; and all other uses that are not specifically exempted in Section.01 (d).

(d) This regulation does not apply to activities regulated by, and in compliance with, the Ohio Agricultural Sediment Pollution Abatement Rules.

02 DEFINITIONS

For purpose of this regulation, the following terms shall have the meaning herein indicated:

(a) ABBREVIATED STORM WATER POLLUTION PREVENTON PLAN (ABBREVIATED SWP3): The written document that sets forth the plans and practices to be used to meet the requirements of this regulation.

(b) ACRE: A measurement of area equaling 43,560 square feet.

(c) BEST MANAGEMENT PRACTICES (BMPs): Schedule of activities, prohibitions of practices, maintenance procedures, and other management practices (both structural and non-structural) to prevent or reduce the pollution of water resources and wetlands. BMPs also include treatment requirements, operating procedures, and practices to control facility and/or construction site runoff, spillage, or leaks; sludge or waste disposal; or drainage from raw material storage.

(d) COMMUNITY: Throughout this regulation, this shall refer to City of Niles, Ohio, its designated representatives, boards, or commissions.

(e) CONSTRUCTION ENTRANCE: The permitted points of ingress and egress to development areas regulated under this regulation.

(f) DEVELOPMENT AREA: A parcel or contiguous parcels owned by one person or persons, or operated as one development unit, and used or being developed for commercial, industrial, residential, institutional, or other construction or alteration that changes runoff characteristics.

(g) DISTURBED AREA: An area of land subject to erosion due to the removal of vegetative cover and/or soil disturbing activities.

(h) DRAINAGE: (1) The area of land contributing surface water to a specific point. (2) The removal of excess surface water or groundwater from land by surface or subsurface drains.

(i) EROSION: The process by which the land surface is worn away by the action of wind, water, ice, gravity, or any combination of those forces.

(j) EROSION AND SEDIMENT CONTROL: The control of soil, both mineral and organic, to minimize the removal of soil from the land surface and to prevent its transport from a disturbed area by means of wind, water, ice, gravity, or any combination of those forces.

(k) FINAL STABILIZATION: All soil disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of at least 80% coverage for the area has been established or equivalent stabilization measures, such as the use of mulches or geotextiles, have been employed.

(l) LANDSCAPE ARCHITECT: A Professional Landscape Architect registered in the State of Ohio.

(m) LARGER COMMON PLAN OF DEVELOPMENT OR SALE: A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.

(n) MAXIMUM EXTENT PRACTICABLE: The level of pollutant reduction that site owners of small municipal separate storm sewer systems regulated under 40 C.F.R. Parts 9, 122, 123, and 124, referred to as NPDES Storm Water Phase II, must meet.

(o) NPDES: National Pollutant Discharge Elimination System. A regulatory program in the Federal Clean Water Act that prohibits the discharge of pollutants into surface waters of the United States without a permit.

(p) PARCEL: Means a tract of land occupied or intended to be occupied by a use, building or group of buildings and their accessory uses and buildings as a unit, together with such open spaces and driveways as are provided and required. A parcel may contain more than one contiguous lot individually identified by a 'Permanent Parcel Number' assigned by the Trumbull County Auditor's Office.

(q) PERSON: Any individual, corporation, firm, trust, commission, board, public or private partnership, joint venture, agency, unincorporated association, municipal corporation, county or state agency, the federal government, other legal entity, or an agent thereof.

(r) PHASING: Clearing a parcel of land in distinct sections, with the stabilization of each section before the clearing of the next.

(s) PLAN PREPARTION: The Comprehensive Storm Water Management Plan shall be prepared by a registered professional engineer and include supporting calculations, plan sheets, and design details. To the extent necessary, as determined by the City Engineer, a site survey shall be performed by a Register Professional Surveyor to establish boundary lines, measurements, or land surfaces.

(t) PROFESSIONAL ENGINEER: A Professional Engineer registered in the State of Ohio.

(u) QUALIFIED INSPECTION PERSONNEL: A person knowledgeable in the principles and practice of erosion and sediment controls, who possess the skills to assess all conditions at the construction site that could impact storm water quality and to assess the effectiveness of any sediment and erosion control measure selected to control the quality of storm water discharges from the construction activity.

(v) RAINWATER AND LAND DEVELOPMENT: Ohio's standards for storm water management, land development, and urban stream protection. The most current edition of these standards shall be used with this regulation.

(w) RUNOFF: The portion of rainfall, melted snow, or irrigation water that flows across the ground surface and is eventually conveyed to water resources or wetlands.

(x) SEDIMENT: The soils or other surface materials that are transported or deposited by the action of wind, water, ice, gravity, or any combination of those forces, as a product of erosion.

(y) SEDIMENTATION: The deposition or settling of sediment.

(z) SETBACK: A designated transition area around water resources or wetlands that is left in a natural, usually vegetated, state so as to protect the water resources or wetlands from runoff pollution. Soil disturbing activities in this area are restricted by this regulation.

(aa) SOIL DISTURBING ACTIVITY: Clearing, grading, excavating, filling, or other alteration of the earth's surface where natural or human made ground cover is destroyed and that may result in, or contribute to, erosion and sediment pollution.

(bb) SOIL & WATER CONSERVATION DISTRICT: An entity organized under Chapter 1515 of the Ohio Revised Code referring to either the Soil and Water Conservation District Board or its designated employee(s). Hereafter referred to as Trumbull SWCD.

(cc) STABILIZATION: The use of BMPs, such as seeding and mulching, that reduce or prevent soil erosion by water, wind, ice, gravity, or a combination of those forces.

(dd) STORM WATER POLLUTION PREVENTION PLAN (SWP3): The written document that sets forth the plans and practices to be used to meet the requirements of this regulation.

(ee) SURFACE WATERS OF THE STATE: All streams, lakes, reservoirs, marshes, wetlands, or other waterways situated wholly or partly within the boundaries of the state, except those private waters which do not combine or affect a junction with surface water. Waters defined as sewerage systems, treatment works or disposal systems in Section 6111.01 of the Ohio Revised Code are not included.

(ff) UNSTABLE SOILS: A portion of land that is identified by the City of Niles, Ohio Engineer as prone to slipping, sloughing, or landslides, or is identified by the U.S. Department of Agriculture Natural Resource Conservation Service methodology as having a low soil strength.

(gg) WATER RESOURCE: Any public or private body of water including lakes and ponds, as well as any brook, creek, river, or stream having banks, a defined bed, and a definite direction of flow, either continuously or intermittently flowing.

(hh) WETLAND: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas (40 CFR 232, as amended).

03 DISCLAIMER OF LIABILITY

Compliance with the provisions of this regulation shall not relieve any person from responsibility for damage to any person otherwise imposed by law. The provisions of this regulation are promulgated to promote the health, safety, and welfare of the public and are not designed for the benefit of any individual or for the benefit of any particular parcel of property.

04 CONFLICTS, SEVERABILITY, NUISANCES AND RESPONSIBILITY

(a) Where this regulation is in conflict with other provisions of law or ordinance, the most restrictive provisions shall prevail.

(b) If any clause, section, or provision of this regulation is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.

(c) This regulation shall not be construed as authorizing any person to maintain a private or public nuisance on their property, and compliance with the provisions of this regulation shall not be a defense in any action to abate such a nuisance.

(d) Failure of the City of Niles, Ohio to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the site owner from the responsibility for the condition or damage resulting therefrom, and shall not result in the City of Niles, Ohio, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.

05 DEVELOPMENT OF STORM WATER POLLUTION PREVENTION PLANS

(a) This regulation requires that a Storm Water Pollution Prevention Plan be developed and implemented for all soil disturbing activities of one (1) acre or more or are part of a larger common plan of development or sale disturbing one (1) acre or more. Additionally an Ohio EPA Construction Site General Permit and a Trumbull County SWCD approval are required.

(b) The following activities shall submit an Abbreviated Storm Water Pollution Prevention Plan:

(1) New single-family residential construction for parcels less than one acre.

(2) Additions or accessory buildings for single-family residential construction for parcels less than one acre.

(3) All non-residential construction for parcels less than one acre.

(4) General clearing activities not related to construction for parcels less than one acre.

(c) Activities disturbing less than one acre are not required to submit a Storm Water Pollution Prevention Plan but are required to submit an Abbreviated Storm Water Pollution Prevention Plan, except for those listed on the City of Niles Erosion and Sedimentation Control Plan Exemption List attached hereto. All these activities must comply with all other provisions of this regulation.

06 APPLICATION PROCEDURES

(a) SOIL DISTURBING ACTIVITIES SUBMITTING A STORM WATER POLLUTION PREVENTION PLAN: The applicant shall submit three (3) sets of the SWP3 and the applicable fees to the City of Niles, Ohio and three (3) sets of the SWP3 and the applicable fees to the Trumbull County SWCD as follows:

(1) <u>For subdivisions:</u> Two (2) sets to the City Engineers Office and one (1) set to the Building and Zoning Department in conjunction with City Subdivision Regulations.

(2) For other construction projects: Two (2) sets to the City Engineers Office and one (1) set to the Building and Zoning Department prior to issuance of an occupancy permit.

(3) For general clearing projects: Two (2) sets to the City Engineers Office and one (1) set to the Building and Zoning Department.

(b) SOIL DISTURBING ACTIVITIES SUBMITTING AN ABBREVIATED STORM WATER POLLUTION PREVENTION PLAN: The applicant shall submit three (3) sets of the Abbreviated SWP3 and the applicable fees to the City of Niles, Ohio and three (3) sets of the Abbreviated SWP3 and the applicable fees to the Trumbull County SWCD as follows:

For single-family home construction: Two (2) sets to the City Engineers Office and one (1) set to the Building and Zoning Department in conjunction with City Subdivision Regulations.

For other construction projects: Two (2) sets to the City Engineers Office and one (1) set to the Building and Zoning Department prior to issuance of an occupancy permit.

For general clearing projects: Two (2) sets to the City Engineers Office and one (1) set to the Building and Zoning Department.

The City of Niles, Ohio and the Trumbull County SWCD shall review the plans submitted under Section.06 (a) or (b) for conformance with this regulation and approve, or return for revisions with comments and recommendations for revisions. A plan rejected because of deficiencies shall receive a narrative letter stating specific problems and the procedures for filing a revised plan.

(c) Soil disturbing activities shall not begin and building permits shall not be issued without an approved SWP3 or Abbreviated SWP3, NOI submittal to the Ohio EPA and NPDES permit coverage issuance, and physical marking of protected and/or critical areas. Erosion & sediment controls should be installed per the construction sequence in the SWPPP. Trumbull County SWCD will conduct an initial inspection to verify that erosion and sediment controls have been installed before other soil disturbing activities are permitted to begin.

(d) SWP3 for individual sublots in a subdivision will not be approved unless the larger common plan of development or sale containing the sublot is in compliance with this regulation.

(e) Approvals issued in accordance with this regulation shall remain valid for one (1) year from the date of approval.

07 COMPLIANCE WITH STATE AND FEDERAL REGULATIONS

Approvals issued in accordance with this regulation do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from the Ohio EPA, the US Army Corps of Engineers, and other federal, state, and/or county agencies. If requirements vary, the most restrictive requirement shall prevail. These permits may include, but are not limited to, those listed below. All submittals required to show proof of compliance with these state and federal regulations shall be submitted with Storm Water Pollution Prevention Plans or Abbreviated Storm Water Pollution Prevention Plans.

(a) Ohio EPA NPDES Permits authorizing storm water discharges associated with construction activity or the most current version thereof: Proof of compliance with these requirements shall be the applicant's Notice of Intent (NOI) number from Ohio EPA, a copy of the Ohio EPA Director's Authorization Letter for the NPDES Permit, or a letter from the site owner certifying and explaining why the NPDES Permit is not applicable.

(b) Section 401 of the Clean Water Act: Proof of compliance shall be a copy of the Ohio EPA Water Quality Certification application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 401 of the Clean Water Act is not applicable. Wetlands, and other waters of the United States, shall be delineated by

protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this regulation.

(c) Ohio EPA Isolated Wetland Permit: Proof of compliance shall be a copy of Ohio EPA's Isolated Wetland Permit application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Ohio EPA's Isolated Wetlands Permit is not applicable. Isolated wetlands shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this regulation.

(d) Section 404 of the Clean Water Act: Proof of compliance shall be a copy of the U.S. Army Corps of Engineers Individual Permit application, public notice, or project approval, if an Individual Permit is required for the development project. If an Individual Permit is not required, the site owner shall submit proof of compliance with the U.S. Army Corps of Engineer's Nationwide Permit Program. This shall include one of the following:

(1) A letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 404 of the Clean Water Act is not applicable.

(2) A site plan showing that any proposed fill of waters of the United States conforms to the general and special conditions specified in the applicable Nationwide Permit. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this regulation.

(e) Ohio Dam Safety Law: Proof of compliance shall be a copy of the ODNR Division of Water permit application tracking number, a copy of the project approval letter from the ODNR Division of Water, or a letter from the site owner certifying and explaining why the Ohio Dam Safety Law is not applicable.

(f) ODNR's Surface Mining Permit: This permit is required to for projects involving excavation of 5' or more. Proof of compliance shall be a copy of permit application and project approval letter from the ODNR's Division of Mineral Resources Management.

08 STORM WATER POLLUTION PREVENTION PLAN

(a) In order to control sediment pollution of water resources and wetlands, the applicant shall submit a SWP3 in accordance with the requirements of this regulation.

(b) The SWP3 shall be certified by a professional engineer, a registered surveyor, certified professional erosion and sediment control specialist, or a registered landscape architect.

(c) The SWP3 shall incorporate measures as recommended by the most current edition of Rainwater and Land Development as published by the Ohio Department of Natural Resources and shall include the following information:

(1) Site description: The SWP3 shall provide:

A. A description of the nature and type of the construction activity (e.g. residential, shopping mall, highway, etc.).

B. Total area of the site and the area of the site that is expected to be disturbed (i.e., grubbing, clearing, excavation, filling or grading, including off-site borrow areas).

C. An estimate of the impervious area and percent of imperviousness created by the soil-disturbing activity.

D. Existing data describing the soil and, if available, the quality of any known pollutant discharge from the site such as that which may result from previous contamination caused by prior land uses.

E. A description of prior land uses at the site.

F. An implementation schedule which describes the sequence of major soil-disturbing operations (i.e., grubbing, excavating, grading, utilities and infrastructure installation) and the implementation of erosion and sediment controls to be employed during each operation of the sequence.

G. The location and name of the immediate receiving stream or surface water(s) and the first subsequent receiving water(s).

H. The aerial (plan view) extent and description of wetlands or other special aquatic sites at or near the site which will be disturbed or which will receive discharges from disturbed areas of the project.

I. For subdivided developments where the SWP3 does not call for a centralized sediment control capable of controlling multiple individual lots, a detail drawing of a typical individual lot showing standard individual lot erosion and sediment control practices.

J. Location and description of any storm water discharges associated with dedicated asphalt and dedicated concrete plants associated with the development area and the best management practices to address pollutants in these storm water discharges.

K. Site map showing:

i. Limits of soil-disturbing activity of the site, including off site spoil and borrow areas.

ii. Soils types should be depicted for all areas of the site, including locations of unstable or highly erodible soils.

iii. Existing and proposed two-foot (2') contours.—This must include a delineation of drainage watersheds expected during and after major grading activities as well as the size of each drainage watershed in acres.

iv. Surface water locations including springs, wetlands, streams, lakes, water wells, etc., on or within 200 feet of the site, including the boundaries of wetlands or stream channels and first subsequent named receiving water(s) the applicant intends to fill or relocate for which the applicant is seeking approval from the Army Corps of Engineers and/or Ohio EPA.

v. Existing and planned locations of buildings, roads, parking facilities, and utilities.

vi. The location of all erosion and sediment control practices, including the location of areas likely to require temporary stabilization during the course of site development.

vii. Sediment ponds, including their sediment settling volume and contributing drainage area.

viii. Areas designated for the storage or disposal of solid, sanitary and toxic wastes, including Dumpster areas, areas designated for cement truck washout, and vehicle fueling.

ix. The location of designated stoned construction entrances where the vehicles will ingress and egress the construction site.

x. The location of any in-stream activities including stream crossings.

(2) A soils engineering report. The ***City of Niles, Ohio*** Engineer may require the SWP3 to include a Soils Engineering Report based upon his/her determination that the conditions of the soils are unknown or unclear to the extent that additional information is required to protect against erosion or other hazards. This report shall be based on adequate and necessary test borings, and shall contain all the information listed below. Recommendations included in the report and approved by the ***City of Niles, Ohio*** Engineer shall be incorporated in the grading plans and/or other specifications for site development.

A. Data regarding the nature, distribution, strength, and erodibility of

existing soils.

B. If applicable, data regarding the nature, distribution, strength, and erodibility of the soil to be placed on the site.

C. Conclusions and recommendations for grading procedures.

D. Conclusions and recommended designs for interim soil stabilization devices and measures, and for permanent soil stabilization after construction is completed.

E. Design criteria for corrective measures when necessary.

F. Opinions and recommendations covering the stability of the site.

09 PERFORMANCE STANDARDS

The SWP3 must contain a description of the controls appropriate for each construction operation and the applicant must implement such controls. The SWP3 must clearly describe for each major construction activity the appropriate control measures; the general sequence during the construction process under which the measures will be implemented; and the contractor responsible for implementation (e.g., contractor A will clear land and install perimeter controls and contractor B will maintain perimeter controls until final stabilization). The SWP3 shall identify all subcontractors engaged in activities that could impact storm water runoff. The SWP3 shall contain signatures from all of the identified subcontractors indicating that they have been informed and understand their roles and responsibilities in complying with the SWP3.

The controls shall include the following minimum components:

(a) NON-STRUCTURAL PRESERVATION MEASURES: The SWP3 must make use of practices that preserve the existing natural condition to the maximum extent practicable. Such practices may include preserving riparian areas, preserving existing vegetation and vegetative buffer strips, phasing of construction operations in order to minimize the amount of disturbed land at any one time, and designation of tree preservation areas or other protective clearing or grubbing practices.

(b) EROSION CONTROL PRACTICES: The SWP3 must make use of erosion controls that are capable of providing cover over disturbed soils. A description of control practices designed to restabilize disturbed areas after grading or construction shall be included in the SWP3. The SWP3 must provide specifications for stabilization of all disturbed areas of the site and provide guidance as to which method of stabilization will be employed for any time of the year. Such practices may include: temporary seeding, permanent seeding, mulching, matting, sod stabilization, vegetative buffer strips, phasing of construction operations, the use of construction entrances, and the use of alternative ground cover.

Erosion control practices must meet the following requirements:

(1) Stabilization. Disturbed areas must be stabilized as specified in Tables 1 and 2 below.

Table 1: Permanent Stabilization

Area requiring permanent stabilization	Time frame to apply erosion controls
Any area that will lie dormant for one year or more.	Within 7 days of the most recent disturbance.
Any area within 50 feet of a stream and at final grade.	Within 2 days of reaching final grade.
Any area at final grade.	Within 7 days of reaching final grade within that area.

Table 2: Temporary Stabilization

Area requiring temporary stabilization	Time frame to apply erosion controls
Any disturbed area within 50 feet of a stream and not at final grade.	Within 2 days of the most recent disturbance if that area will remain idle for more than 21 days.
For all construction activities, any disturbed area, including soil stockpiles that will be dormant for more than 21 days but less than one year, and not within 50 feet of a stream.	Within 7 days of the most recent disturbance within the area.

Disturbed areas that will be idle over winter.	Prior to November 1.
Note: Where vegetative stabilization techniques may cause structural instability or are otherwise unobtainable, alternative stabilization techniques must be employed. These techniques may include mulching or erosion matting.	

(2) Permanent stabilization of conveyance channels. Applicants shall undertake special measures to stabilize channels and outfalls and prevent erosive flows. Measures may include seeding, dormant seeding, mulching, erosion control matting, sodding, riprap, natural channel design with bioengineering techniques, or rock check dams, all as defined in the most recent edition of Rainwater and Land Development or the Field Office Technical Guide available at www.nrcs.usda.gov/technical/efotg/.

(c) RUNOFF CONTROL PRACTICES. The SWP3 shall incorporate measures that control the flow of runoff from disturbed areas so as to prevent erosion. Such practices may include rock check dams, pipe slope drains, diversions to direct flow away from exposed soils and protective grading practices. These practices shall divert runoff away from disturbed areas and steep slopes where practicable.

(d) SEDIMENT CONTROL PRACTICES. The SWP3 shall include a description of, and detailed drawings for, all structural practices that shall store runoff, allowing sediments to settle and/or divert flows away from exposed soils or otherwise limit runoff from exposed areas. Structural practices shall be used to control erosion and trap sediment from a site remaining disturbed for more than 14 days. Such practices may include, among others: sediment settling ponds, silt fences, storm drain inlet protection, and earth diversion dikes or channels which direct runoff to a sediment settling pond. All sediment control practices must be capable of ponding runoff in order to be considered functional. Earth diversion dikes or channels alone are not considered a sediment control practice unless used in conjunction with a sediment settling pond.

Sediment control practices must meet the following requirements:

(1) Timing. Sediment control structures shall be functional throughout the course of earth disturbing activity. Sediment basins and perimeter sediment barriers shall be implemented prior to grading and within seven (7) days from the start of grubbing. They shall continue to function until the up slope development area is restabilized. As construction progresses and the topography is altered, appropriate controls must be constructed or existing controls altered to address the changing drainage patterns.

(2) Sediment settling ponds. A sediment settling pond, or equivalent best management practice upon approval from the ***City of Niles, Ohio*** Engineer and/or the ***Trumbull*** SWCD, is required for any one of the following conditions, as determined in Table 3 below:

A. Concentrated storm water runoff.

B. Runoff from drainage areas that exceeds the design capacity of silt fence or inlet protection.

C. 10-acres of disturbed drainage.

The sediment-settling pond shall provide both a sediment storage zone and a dewatering zone. The volume of the dewatering zone shall be at least 67 cubic yards of storage per acre of total contributing drainage area and have a minimum of 48-hour drain time for sediment basins serving a drainage area over 5 acres.

The volume of the sediment storage zone shall be calculated by one of the following methods:

A. The volume of the sediment storage zone shall be $1000ft^3$ per disturbed acre within the watershed of the basin.

B. The volume of the sediment storage zone shall be the volume necessary to store the sediment as calculated with a generally accepted erosion prediction model.

When determining the total contributing drainage area, off-site areas and areas which remain undisturbed by construction activity must be included unless runoff from these areas is diverted away from the sediment settling pond and is not co-

mingled with sediment-laden runoff. The depth of the dewatering zone must be less than or equal to five (5) feet. The configuration between the inlets and the outlet of the basin must provide at least two units of length for each one unit of width (> 2:1 length:width ratio), however a length to width ration of 4:1 is recommended. Sediment must be removed from the sediment-settling pond when the design capacity has been reduced by 40 percent. This limit is typically reached when sediment occupies one-half of the basin depth. When designing sediment settling ponds, the applicant must consider public safety, especially as it relates to children, as a design factor for the sediment basin and alternative sediment controls must be used where site limitations would preclude a safe design. The use of a combination of sediment and erosion control measures in order to achieve maximum pollutant removal is encouraged.

(3) Silt fence and diversions. Sheet flow runoff from denuded areas shall be intercepted by silt fence or diversions to protect adjacent properties, water resources, and wetlands from sediment transported via sheet flow. Where intended to provide sediment control, silt fence shall be placed on a level contour and shall be capable of temporarily ponding runoff. The relationship between the maximum drainage area to silt fence for a particular slope range is shown in Table 3 below. Storm water diversion practices shall be used to keep runoff away from disturbed areas and steep slopes. Such devices, which include swales, dikes or berms, may receive storm water runoff from areas up to 10 acres. Placing silt fence in parallel does not extend the permissible drainage area to the silt fence.

Table 3: Maximum Drainage Area to Silt Fence

Maximum Drainage Area (acres) to 100 linear feet of silt fence	Range of Slope for a drainage area (%)
0.5	<2%
0.25	≥ 2% but < 20%
0.125	≥ 20% but < 50%

(4) Inlet protection. Erosion and sediment control practices, such as boxed inlet protection, shall be installed to minimize sediment-laden water entering active storm drain systems. All inlets receiving runoff from drainage areas of one or more acres will require a sediment settling pond. Straw or hay bales are not acceptable forms of inlet protection.

(5) Off-site tracking of sediment and dust control. Best management practices must be implemented to ensure sediment is not tracked off-site and that dust is controlled. These best management practices must include, but are not limited to, the following:

A. Construction entrances shall be built and shall serve as the only permitted points of ingress and egress to the development area. These entrances shall be built of a stabilized pad of aggregate stone or recycled concrete or cement sized greater than 2" in diameter, placed over a geotextile fabric, and constructed in conformance with specifications in the most recent edition of the Rainwater and Land Development Manual.

B. Streets directly adjacent to construction entrances and receiving traffic from the development area, shall be cleaned daily to remove sediment tracked off-site. If applicable, the catch basins on these streets nearest to the construction entrances shall also be cleaned weekly.

Based on site conditions, City of Niles, Ohio Engineer and/or the Trumbull County SWCD may require additional best management practices to control off site tracking and dust. These additional BMPs may include:

C. Silt fence or construction fence installed around the perimeter of the development area to ensure that all vehicle traffic adheres to designated construction entrances.

D. Designated wheel-washing areas. Wash water from these areas must be directed to a designated sediment trap, the sediment-settling pond, or to a sump pump for dewatering in conformance of this regulation.

E. Applicants shall take all necessary measures to comply with applicable regulations regarding fugitive dust emissions; including obtaining necessary permits for such emissions. The City of Niles, Ohio Engineer and/or the Trumbull SWCD may require dust controls including the use of water trucks to wet disturbed areas, tarping stockpiles, temporary stabilization of disturbed areas, and regulation of the speed of vehicles on the site.

(6) Surface Waters of the State protection Construction vehicles shall avoid water resources and wetlands. If the applicant is permitted to disturb areas within 50 feet of a water resource or wetland, the following conditions shall be addressed in the SWP3:

A. All BMPs and stream crossings shall be designed as specified in the most recent edition of the Rainwater and Land Development Manual.

B. Structural practices shall be designated and implemented on site to protect water resources or wetlands from the impacts of sediment runoff.

C. No structural sediment controls (e.g., the installation of silt fence or a sediment settling pond in-stream) shall be used in a water resource or wetland.

D. Where stream crossings for roads or utilities are necessary and permitted, the project shall be designed such that the number of stream crossings and the width of the disturbance are minimized.

E. Temporary stream crossings shall be constructed if water resources or wetlands will be crossed by construction vehicles during construction.

F. Construction of bridges, culverts, or sediment control structures shall not place soil, debris, or other particulate material into or close to the water resources or wetlands in such a manner that it may slough, slip, or erode.

(7) Modifying controls. If periodic inspections or other information indicates a control has been used inappropriately or incorrectly, the applicant shall replace or modify the control for site conditions.

(e) NON-SEDIMENT POLLUTANT CONTROLS: No solid or liquid waste, including building materials, shall be discharged in storm water runoff. The applicant must implement site best management practices to prevent toxic materials, hazardous materials, or other debris from entering water resources or wetlands. These practices shall include but are not limited to the following:

A. Waste Materials: A covered Dumpster shall be made available for the proper disposal of garbage, plaster, drywall, grout, gypsum, and other waste materials.

B. Concrete Truck Wash Out: The washing of concrete material into a street, catch basin, or other public facility or natural resource is prohibited. A designated area for concrete washout shall be made available.

C. Fuel/Liquid Tank Storage: All fuel/liquid tanks and drums stored on-site shall in a marked storage area. Secondary containment is required for fuel/liquid storage areas and/or tanks and must have one of the following regardless of size:

i. An earthen dike constructed around the containment area with a capacity equal to 110% of the volume of all containers in the storage area.

ii. A self contained structural dike with a minimum capacity equal to 110% of the volume of all containers in the storage area. The plug for these systems must be kept in the dike tank at all times.

iii. A properly functional double walled tank for all fuel/liquid storage containers.

D. Toxic or Hazardous Waste Disposal: Any toxic or hazardous waste shall be disposed of properly.

E. Contaminated Soils Disposal and Runoff: Contaminated soils from redevelopment sites shall be disposed of properly. Runoff from contaminated soils shall not be discharged from the site. Proper permits shall be obtained for development projects on solid waste landfill sites or redevelopment sites.

(f) COMPLIANCE WITH OTHER REQUIREMENTS. The SWP3 shall be consistent with applicable State and/or local waste disposal, fire code, spill prevention, control and countermeasure (SPCC) regulations, sanitary sewer, or septic system regulations, including provisions prohibiting waste disposal by open burning, and shall provide for the proper disposal of contaminated soils located within the development area.

(g) TRENCH AND GROUND WATER CONTROL. There shall be no sediment-laden or turbid discharges to water resources or wetlands resulting from dewatering activities. If trench or ground water contains sediment, it must pass through a sediment-settling pond or other equally effective sediment control device, prior to being discharged from the construction site. Alternatively, sediment may be removed by settling in place or by dewatering into a sump pit, filter bag or comparable practice. Ground water dewatering which does not contain sediment or other pollutants is not required to be treated prior to discharge. However, care must be taken when discharging ground water to ensure that it does not become pollutant-laden by traversing over disturbed soils or other pollutant sources.

(h) INTERNAL INSPECTIONS. All controls on the site shall be inspected at least once every seven calendar days and within 24 hours after any storm event greater than one-half inch of rain per 24 hour period. The inspection frequency may be reduced to at least once every month if the entire site is temporarily stabilized or runoff is unlikely due to weather conditions (e.g., site is covered with snow, ice, or the ground is frozen). A waiver of inspection requirements is available until one month before thawing conditions are expected to result in a discharge if prior written approval has been attained from the ***City of Niles*** Engineer and/or the ***Trumbull County*** SWCD and all of the following conditions are met:

A. The project is located in an area where frozen conditions are anticipated to continue for extended periods of time (i.e. more than one (1) month).

B. Land disturbance activities have been suspended, and temporary stabilization is achieved.

C. The beginning date and ending dates of the waiver period are documented in the SWP3.

The applicant shall assign qualified inspection personnel to conduct these inspections to ensure that the control practices are functional and to evaluate whether the SWP3 is adequate, or whether additional control measures are required. Qualified inspection personnel are individuals with knowledge and experience in the installation and maintenance of sediment and erosion controls.

These inspections shall meet the following requirements:

(1) Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of or the potential for, pollutants entering the drainage system.

(2) Erosion and sediment control measures identified in the SWP3 shall be observed to ensure that they are operating correctly. The applicant shall utilize an inspection form provided by the City of Niles, Ohio or an alternate form acceptable to the City of Niles Engineer. The inspection form shall include:

A. The inspection date.

B. Names, titles and qualifications of personnel making the inspection.

C. Weather information for the period since the last inspection, including a best estimate of the beginning of each storm event, duration of each storm event and approximate amount of rainfall for each storm event in inches, and whether any discharges occurred.

D. Weather information and a description of any discharges occurring at the time of inspection.

E. Locations of:

1. Discharges of sediment or other pollutants from site.

2. BMPs that need to be maintained.

3. BMPs that failed to operate as designed or proved inadequate for a particular location.

4. Where additional BMPs are needed that did not exist at the time of inspection.

F. Corrective action required including any necessary changes to the SWP3 and implementation dates.

(3) Discharge locations shall be inspected to determine whether erosion and sediment control measures are effective in preventing significant impacts to the receiving water resource or wetlands.

(4) Locations where vehicles enter or exit the site shall be inspected for evidence of off-site vehicle tracking.

(5) The applicant shall maintain for three (3) years following final stabilization the results of these inspections, the names and qualifications of personnel making the inspections, the dates of inspections, major observations relating to the implementation of the SWP3, a certification as to whether the facility is in compliance with the SWP3, and information on any incidents of non-compliance determined by these inspections.

(i) MAINTENANCE. The SWP3 shall be designed to minimize maintenance requirements. All control practices shall be maintained and repaired as needed to ensure continued performance of their intended function until final stabilization. All sediment control practices must be maintained in a functional condition until all up slope areas they control reach final stabilization. The applicant shall provide a description of maintenance procedures needed to ensure the continued performance of control practices and shall ensure a responsible party and adequate funding to conduct this maintenance, all as determined by the City of Niles Engineer.

When inspections reveal the need for repair, replacement, or installation of erosion and sediment control BMPs, the following procedures shall be followed:

(1) When practices require repair or maintenance. If an internal inspection reveals that a control practice is in need of repair or maintenance, with the exception of a sediment-settling pond, it must be repaired or maintained within three (3) days of the inspection. Sediment settling ponds must be repaired or maintained within ten (10) days of the inspection.

(2) When practices fail to provide their intended function. If an internal inspection reveals that a control practice fails to perform its intended function as detailed in the SWP3 and that another, more appropriate control practice is required, the SWP3 must be amended and the new control practice must be installed within ten (10) days of the inspection.

(3) When practices depicted on the SWP3 are not installed. If an internal inspection reveals that a control practice has not been implemented in accordance with the schedule, the control practice must be implemented within ten (10) days from the date of the inspection. If the internal inspection reveals that the planned control practice is not needed, the record must contain a statement of explanation as to why the control practice is not needed.

FINAL STABLIZATION Final stabilization shall be determined by the City of Niles Engineer. Once a definable area has achieved final stabilization, the applicant may note this on the SWP3 and no further inspection requirement applies to that portion of the site.

10 ABBREVIATED STORM WATER POLLUTION PREVENTION PLAN.

(a) In order to control sediment pollution of water resources and wetlands, the applicant shall submit an Abbreviated SWP3 in accordance with the requirements of this regulation.

(b) The Abbreviated SWP3 shall be certified by a professional engineer, a registered surveyor, certified professional erosion and sediment control specialist, or a registered landscape architect.

(c) The Abbreviated SWP3 shall include a minimum of the following BMPs. City of Niles, Ohio may require other BMPs as site conditions warrant.

(1) Construction Entrances: Construction entrances shall be built and shall serve as the only permitted points of ingress and egress to the development area. These entrances shall be built of a stabilized pad of aggregate stone or recycled concrete or cement sized greater than 2" in diameter, placed over a geotextile fabric, and constructed in conformance with specifications in the most recent edition of the Rainwater and Land Development Manual.

(2) Concrete Truck Wash Out: The washing of concrete material into a street, catch basin, or other public facility or natural resource is prohibited. A designated area for concrete washout shall be made available.

(3) Street Sweeping: Streets directly adjacent to construction entrances and receiving traffic from the development area, shall be cleaned daily to remove sediment tracked off-site. If applicable, the catch basins on these streets nearest to the construction entrances shall be cleaned weekly.

(4) Stabilization. The development area shall be stabilized as detailed in Table 4.

Table 4: Stabilization

Area requiring stabilization	Time frame to apply erosion controls
Any disturbed area within 50 feet of a stream and not at final grade.	Within 2 days of the most recent disturbance if that area will remain idle for more than 21 days
For all construction activities, any disturbed area, including soil stockpiles that will be dormant for more than 21 days but less than one year, and not within 50 feet of a stream.	Within 7 days of the most recent disturbance within the area
Disturbed areas that will be idle over winter	Prior to November 1.
Note: Where vegetative stabilization techniques may cause structural instability or are otherwise unobtainable, alternative stabilization techniques must be employed. These techniques may include mulching or erosion matting.	

(5) Inlet Protection. Erosion and sediment control practices, such as boxed inlet protection, shall be installed to minimize sediment-laden water entering active storm drain systems. Straw or hay bales are not acceptable forms of inlet protection.

(6) Internal Inspection and Maintenance. All controls on the development area shall be inspected at least once every seven calendar days and within 24 hours after any storm event greater than one-half inch of rain per 24 hour period. Maintenance shall occur as detailed below:

A. When practices require repair or maintenance. If the internal inspection reveals that a control practice is in need of repair or maintenance, with the exception of a sediment-settling pond, it must be repaired or maintained within three (3) days of the inspection. Sediment settling ponds must be repaired or maintained within ten (10) days of the inspection.

B. When practices fail to provide their intended function. If the internal inspection reveals that a control practice fails to perform its intended function and that another, more appropriate control practice is required, the Abbreviated SWP3 must be amended and the new control practice must be installed within ten (10) days of the inspection.

C. When practices depicted on the Abbreviated SWP3 are not installed. If the internal inspection reveals that a control practice has not been implemented in accordance with the schedule, the control practice must be implemented within ten (10) days from the date of the inspection. If

the inspection reveals that the planned control practice is not needed, the record must contain a statement of explanation as to why the control practice is not needed.

(7) Final Stabilization: Final stabilization is achieved when the site has reached 70% cover and the ~~shall be determined by the~~ City of Niles Engineer and/or designee approves the site condition.

11 FEES

The Storm Water Pollution Prevention Plan and Abbreviated Storm Water Pollution Plan review, filing, and inspection fee is part of a complete submittal and is required to be submitted to the City of Niles, Ohio and the Trumbull County SWCD before the review process begins. Please see the City of Niles current fee schedule attached hereto.

There will be a $1000.00 flat fee for any plan review for Storm Water Management Plans for development sited greater than one (1) acre. The fee for sites less than one (1) acre is $500. On sites greater than (5) five acres, an acreage-based fee of will be added to the flat fee:

DISTURBED ACREAGE OF PLANNED PHASE	FEE
5.01- 24.99 acre site	$ 1500
25-74.99 acre site	$2500
75-149.99 acre site	$3500
150 or Greater	$5000

These fees cover site plan review and comment, Storm Water Management Plan review and sign-off, pre-construction meeting with site mgr/owner, routine inspections and correspondence, site meetings and close-out meetings. Fees are payable upon submission of Storm Water Management Plans to the City of Niles Engineering Department. Fee payable to The City of Niles Engineering Department.

12 BOND

(a) If a Storm Water Pollution Prevention Plan or Abbreviated Storm Water Pollution Prevention Plan is required by this regulation, soil-disturbing activities shall not be permitted until a cash bond has been deposited with the City of Niles Finance Department. The bond amount shall be [$1,500] for the first acre and an additional [$1,000] paid for each subsequent acre or fraction thereof. The bond will be used for the City of Niles, Ohio to perform the obligations otherwise to be performed by the owner of the development area as stated in this regulation and to allow all work to be performed as needed in the event that the applicant fails to comply with the provisions of this regulation. The cash bond shall be returned, less City of Niles, Ohio administrative fees as detailed in Section 12 of the City of Niles, Ohio Codified Ordinances, after all work required by this regulation has been completed and final stabilization has been reached, all as determined by the City of Niles, Ohio Engineer.

(b) No project subject to this regulation shall commence without a SWP3 or Abbreviated SWP3 approved by the City of Niles, Ohio Engineer.

13 ENFORCEMENT

(a) All development areas may be subject to external inspections by City of Niles, Ohio and/or the Trumbull County SWCD to ensure compliance with the approved SWP3 or Abbreviated SWP3.

(b) After each external inspection, City of Niles, Ohio and/or the Trumbull County SWCD shall prepare and distribute a status report to the applicant.

(c) If an external inspection determines that operations are being conducted in violation of the approved SWP3 or Abbreviated SWP3, City of Niles, Ohio may take action as detailed as per City of Niles Enforcement Escalation Plan, attached hereto and incorporated herein.

14 VIOLATIONS

(a) No person shall violate or cause or knowingly permit to be violated any of the provisions of this regulation, or fail to comply with any of such provisions or with any lawful requirements of any public authority made pursuant to this regulation, or knowingly use or cause or permit the use of any lands in violation of this regulation or in violation of any permit granted under this regulation.

(b) Upon notice, the Mayor of City of Niles, Ohio and/or designee City of Niles Engineer and Development Coordinator may suspend any active soil disturbing activity for a period not to exceed ninety (90) days, and may require immediate erosion and sediment control measures whenever he or she determines that such activity is not meeting the intent of this regulation. Such notice shall be in writing, shall be given to the applicant, and shall state the conditions under which work may be resumed. In instances, however, where the Mayor of City of Niles, Ohio and/or designee City of Niles Engineer and Development Coordinator finds that immediate action is necessary for public safety or the public interest, he or she may require that work be stopped upon verbal order pending issuance of the written notice.

15 APPEALS

Any person aggrieved by any order, requirement, determination, or any other action or inaction by the City of Niles, Ohio in relation to this regulation may appeal to the court of common pleas. Such an appeal shall be made in conformity with *Chapter 2506 of the Ohio Revised Code.* A copy of the written notice of appeal shall be provided to the Trumbull County SWCD.

16 PENALTY

(a) Any person, firm, entity or corporation; including but not limited to, the owner of the property, his agents and assigns, occupant, property manager, and any contractor or subcontractor who violates or fails to comply with any provision of this regulation is guilty of a misdemeanor of the third degree and shall be fined no more than five hundred dollars ($500.00) or imprisoned for no more than sixty (60) days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) The imposition of any other penalties provided herein shall not preclude the City of Niles, Ohio instituting an appropriate action or proceeding in a Court of proper jurisdiction to prevent an unlawful development, or to restrain, correct, or abate a violation, or to require compliance with the provisions of this regulation or other applicable laws, ordinances, rules, or regulations, or the orders of the City of Niles, Ohio.

SECTION 2: Ordinance No. 24-06, codified as Section 923.08(e), is hereby repealed.

SECTION 3: This Ordinance is hereby declared to be an emergency measure in the interests of the public health, safety and welfare for the reason that the Ohio EPA requires this new legislation to be in place. 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 at the earliest date permitted 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 on the _____ day of _____, 2024.

_____
MAYOR

City of Niles Erosion and Sediment Control Enforcement Escalation Plan

1.0 Introduction:

The City of Niles Erosion and Sediment Control Enforcement Escalation Plan is supplement to City Ordinance _____ and is a part of the City of Niles Storm Water Pollution and Prevention Plan (SWP3) or Abbreviation Storm Water Pollution and Prevention Plan.

This Plan outlines the Enforcement Escalation Plan, in case the external inspection determines that operations are being conducted in violation of approved SWP3 or Abbreviation SWP3. The City of Niles may take action as detailed in this Plan and in fulfillment of the requirements of Ohio Environmental Protection Agency (Ohio EPA) National Pollutant Discharge Elimination System (NPDES) Phase II General Permit #3 GQ00002*BG.

2.0 Inspection Protocol

City of Niles enforcement mission is to ensure compliance with the ESC Rules in order to conserve and protect the environment and public health. The City of Niles primary goal is to take enforcement actions that require violators to comply with the law and also to remedy any harmful environment impact caused by the noncompliance.

The City of Niles enforcement actions will be timely, predictable and include penalties when appropriate. The City of Niles recognizes that its goals may be accomplished in most cases through informal means or inspection letters. Nonetheless, Niles will use full range of it enforcement authority outlined in this document to ensure its mission.

Every active or idling site, which falls under the City of Niles ESC Rules, shall be inspected once every two (2) weeks, unless the ESC inspector deems that the site does not warrant inspections on that frequency. Sites that have received "informal verbal warnings", "finding of violation", "notice of non-compliance" or "notice of violation" may be inspected more than once per week. The degree of noncompliance, off-site or on-site impacts will result in the frequency the site may be inspected or the method of enforcement utilized.

The ESC Inspector will use a notebook, inspection checklist and/or inspection report for documenting compliance, noncompliance or failing to implement best management practices on-site. The ESC Inspector will carry the SWP3 on-site if they are not familiar with the SWP3 or project site. The inspector will photo document failed best management practices to explain non-compliance to the contractor(s), developer and consulting engineers. Photos for the enforcement cases should only state time, date and direction. Inspection reports will be used to record findings on-site and build future enforcement cases. An inspection letter will be derived from the inspection report and be mailed to the owner, developer, contractor(s) and zoning inspector of the community.

In the event that an inspection cannot be properly conducted due to snow cover, safety concerns (i.e. severe thunderstorms, hazardous road conditions), or any other limiting circumstances, the inspector should perform the follow up inspection as soon as the conditions allow the inspector to make thorough site observations or safety issues are no longer a concern.

3.0 Description of Enforcement Escalation Protocol

Starting project without approval of ESC Plan:
If earth moving or clearing occurs on a project site proposing disturbance of one acre or greater , within the City of Niles, without approval of an Erosion and Sediment Control Plan, no matter how small of an area is cleared or disturbed, the inspector will issue a "Notice of Violation" (NOV). The NOV shall contain the section(s) of the City of Niles ESC Rules that have been violated and factual data supporting the violation. At this point the inspector will schedule a meeting with the owner, developer, contractor(s), Trumbull SWCD, Niles Engineering Office (NEO) and/ the Niles Service Director. At this meeting the individuals will be informed of the

reasoning behind the violation(s) and the process they will follow to obtain approval for construction activity, if not corrected within Two (2) weeks Niles Engineering Office with consultation of Niles Service Director may issue Stop Work Order.

Project started with all proper federal, state, local and zoning permits:

First noncompliant inspection (Finding of Violation):
The ESC inspector will perform an inspection of the project site. If the inspection shows noncompliance, the inspector will provide an inspection letter to the owner, developer, contractor and the Niles City Engineers Office explaining the actions needed to correct the deficiencies. This Finding of Violation letter will outline the violations and explain that if the site does not work to achieve compliance, then it will be issued a NOV. The inspector will perform a follow up inspection no later than two (2) weeks after the date of the first inspection. This will be used at the inspectors' discretion, if he/she feels the site requires work but is not posing a large threat to water quality.

Second noncompliant inspection, issuing and posting a NOV on-site:
If a second noncompliance inspection occurs, the ESC inspector will post a NOV on-site and the owner/developer will be provided a copy of the NOV. The City of Niles will be contacted to schedule a meeting with all responsible parties. It is recommended that no work continue until the site is in compliance with their outlined violations.

The report shall be of the same nature as the previous noncompliance report but will specify which Sections of the City of Niles ESC Rules are being violated due to site deficiencies. It is recommended that a call be placed to the owner, developer and contractor to explain the seriousness of the report and findings. The ESC inspector will then continually perform follow up inspections, reports and letters throughout the thirty (30) day time frame of the first NOV to monitor any progress in correcting the deficiencies. Each inspection will be performed no later than two (2) weeks after the previous inspection.

Second NOV letter and posting on-site:
Before a second NOV may be issued on-site thirty (30) days must lapse from the issuance of the first NOV. Fifteen (15) days must lapse from the issuance of the second NOV before proceeding with formal administrative enforcement. Egregiousness of the violation must exist and be described for administrative enforcement to continue.

Formal Administrative Enforcement for continuous noncompliance:
When the ESC inspector's with the approval of City Engineer's professional judgment, circumstances surrounding an enforcement action warrant an escalated response, the Engineer will present documented evidence to the Service Director detailing the violations and requesting the issuance of a Stop Work Order " SWO "

If the Niles City Service Director issues an SWO with detailed violations and Penalties the inspector should Post the SWO on site until all violations have been corrected after Service Director receives a written report from the City Engineer, Service Director Directs to remove the ISWO then inspector will remove the SWO.

3.1 Non-traditional Methods of Enforcement
The inspector may inform or request in writing the City of Niles Planning Commission for enforcement action due to violations of the City of Niles County Subdivision Regulations.

The inspector can request the City of Niles Planning Commission to hold all acts of recording the subdivision plat until compliance is achieved.

The ESC inspector may request all permits to be withheld (i.e. zoning or building permits) until the site is in compliance with the ESC rules.

Informal administrative enforcement, meaning verbal warning on-site or through phone conversations may be utilized when noncompliance can be corrected within a reasonably short time. It is recommended that they provide a schedule on correcting the specific problems.

3.2 Individual Lot Inspections
The policy for individual lot will be the same as any other construction site for the time length between inspections. Enforcement for individual lots will be through the Niles Engineering

Office and The City of Niles Building and Zoning Department, which may require the Service Director to issue a stop work order or not issuing any other permits to that builder until they achieve compliance. The ESC inspector may withhold on any approval of individual lot ESC plans until that builder achieves compliance on their other existing sites that have been previously approved.

4.1 Penalty:

(c) Any person, firm, entity or corporation; including but not limited to, the owner of the property, his agents and assigns, occupant, property manager, and any contractor or subcontractor who violates or fails to comply with any provision of this regulation is guilty of a misdemeanor of the third degree and shall be fined no more than five hundred dollars ($500.00) or imprisoned for no more than sixty (60) days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(d) The imposition of any other penalties provided herein shall not preclude the City of Niles, Ohio instituting an appropriate action or proceeding in a Court of proper jurisdiction to prevent an unlawful development, or to restrain, correct, or abate a violation, or to require compliance with the provisions of this regulation or other applicable laws, ordinances, rules, or regulations, or the orders of the City of Niles, Ohio.

FIRST FINDING OF VIOLATION AND ISSUE NOTICE OF VIOLATION

DATE:

NAME OF PERMITTEE:

PROJECT NAME AND LOCATION:

PERMIT/APPROVAL DATE:

EXPLAIN VIOLATION:

YOU ARE REQUESTED TO CORRECT THE VIOLATION WHITHIN TWO (2) WEEKS OF ISSUE OF THIS NOTICE, IF YOU DO NOT AGREE WITH THIS VIOLATION FILE WRITTEN OBJECTION WITHIN TWO (2)WEEKS ADDRESS GIVEN BELOW.

Signed by authorized Inspector:
City of Niles Engineering Department
34 W. state Street, Niles OH 44446
330-544-9000 Ex. 181

SECOND NONCOMPLIANCE NOTICE

POSTED ON SITE

DATE;

NAME OF PERMITTEE:

PROJECT NAME AND LOCATION:

PERMIT/APPROVAL DATE:

COPY OF VIOLATION ATTACHED:

YOU ARE REQUESTED TO CORRECT THE VIOLATION WHITHIN TWO (2) WEEKS OF ISSUE OF THIS NOTICE, IF YOU DO NOT AGREE WITH THIS VIOLATION FILE WRITTEN OBJECTION WITHIN TWO (2)WEEKS ADDRESS GIVEN BELOW ,if not corrected within Two (2)Weeks, a Stop Work Order may be issued

Signed by authorized Inspector:
City of Niles Engineering Department
34 W. state Street, Niles OH 44446
330-544-9000 Ex. 181

Approved by City Engineer

CITY OF NILES, OHIO

EROSION & SEDIMENTATION CONTROL PLAN EXEMPTION LIST

All construction projects MUST control sediment and dust.
However, an Abbreviated Storm Water Pollution Prevention Plan and Erosion and Sediment Control (ESC) plan is NOT required for the following Activities:

- ☐ **Minor Land Disturbance** activities performed by property owner and/or their contractor on a single lot in which soil disturbing activities are less than 10,000 sq. feet.
- ☐ **Utility Work**
- ☐ **Post and Pole Installation**
- ☐ **Parking Lot and Driveway Repair**

(If your project is NOT exempt, use the City's Erosion and Sediment Control (ESC) Guidance documents to develop your ESC Plans)