

**CITY OF NILES  
BERRIEN COUNTY, MICHIGAN  
ORDINANCE NO. 492**

**AN ORDINANCE TO AMEND THE CITY OF NILES ZONING ORDINANCE; TO AMEND SECTION 213 TO ADD NEW DEFINITIONS PERTAINING TO RECREATIONAL MARIHUANA ESTABLISHMENTS; TO AMEND SECTION 325 PERTAINING TO NONCONFORMING PROVISIONS FOR RECREATIONAL MARIHUANA ESTABLISHMENTS; TO AMEND SECTION 405, TABLE 4-2 TO INCLUDE NEW LAND USES PERTAINING TO RECREATIONAL MARIHUANA ESTABLISHMENTS; TO AMEND SECTIONS 504, 506, 507 AND 508 TO PERMIT RECREATIONAL MARIHUANA ESTABLISHMENTS AS A SPECIAL LAND USE, AND TO AMEND ARTICLE 8 TO PROVIDE REGULATIONS FOR RECREATIONAL MARIHUANA ESTABLISHMENTS.**

**THE CITY OF NILES, BERRIEN COUNTY MICHIGAN, ORDAINS:**

**Amendment of Section 213** Section 213 of the City of Niles Zoning Ordinance is amended to include the following subsection, which reads as follows:

Marihuana Establishment – Grower	As Defined By: <a href="#">MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT (MRTMA)</a> <a href="#">Initiated Law 1 of 2018</a>
Marihuana Establishment – Excess Grower	
Marihuana Establishment – Processor	
Marihuana Establishment – Retailer	
Marihuana Establishment – Safety Compliance	
Marihuana Establishment – Secure Transporter	
Marihuana Establishment – Microbusiness	
Marihuana Establishment – Designated Consumption Center	

**Amendment of Section 325.** Section 325 of the City of Niles Zoning Ordinance is amended to include the following subsection, which reads as follows:

**Marihuana Establishments.** The following provisions relate to marihuana establishments or other regulated activity authorized by the Rules promulgated by the State within the City of Niles. In instances where there is a conflict between this section and other applicable provisions of this Ordinance, the more restrictive regulations shall control.

- a. A property owner or operator of a marihuana establishment or other regulated activity authorized by the Rules promulgated by the State shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this ordinance or any applicable amendment thereto.
- b. Discontinuation of a State marihuana establishment or other regulated activity authorized by the Rules promulgated by the State license shall be also considered a discontinuance of a marihuana establishment, at which time any special land use granted by the City pursuant to

this Ordinance would be considered ineffective.

- c. In the event there is a lessee of the marihuana establishment premises or other regulated activity authorized by the Rules promulgated by the State, the owner and the lessee shall be jointly and severally liable for such conditions.

**Amendment of Section 405, Table 4-2.** Section 405, Table 4-2 “Uses Permitted by Right and as Special Land Uses” of the City of Niles Zoning Ordinance is amended to include the following land uses in alphabetical order:

USES	LDR	MDR	CB	NC	RC	OC	IND	OS
Marihuana Establishment – Grower							SLU	
Marihuana Establishment – Excess Grower							SLU	
Marihuana Establishment – Processor							SLU	
Marihuana Establishment – Retailer					SLU		SLU	
Marihuana Establishment – Safety Compliance					SLU		SLU	
Marihuana Establishment – Secure Transporter					SLU		SLU	
Marihuana Establishment – Microbusiness					SLU		SLU	
Marihuana Establishment- Designated Consumption Center			SLU		SLU	SLU	SLU	

**Amendment of Section 504, b.** Section 504,b of the City of Niles Zoning Ordinance is amended to include the following land use, in alphabetical order:

Marihuana Establishment – Designated Consumption Center- subject to **Section 845.**

**Amendment of Section 506, b.** Section 506,b of the City of Niles Zoning Ordinance is amended to include the following land use, in alphabetical order:

Marihuana Establishment – Retailer subject to **Section 845.**

Marihuana Establishment – Designated Consumption Center- subject to **Section 845.**

**Amendment of Section 507, b.** Section 507,b of the City of Niles Zoning Ordinance is amended to include the following land use, in alphabetical order:

Marihuana Establishment – Designated Consumption Center- subject to **Section 845.**

**Amendment of Section 508, b.** Section 508,b of the City of Niles Zoning Ordinance is amended to include the following land use, in alphabetical order:

Marihuana Establishment – Grower subject to **Section 845.**

Marihuana Establishment – Excess Grower subject to **Section 845.**

Marihuana Establishment – Processor subject to **Section 845.**

Marihuana Establishment – Retailer subject to **Section 845.**

Marihuana Establishment – Safety Compliance subject to **Section 845**

Marihuana Establishment – Secure Transporter subject to **Section 845.**

Marihuana Establishment – Microbusiness subject to **Section 845.**

Marihuana Establishment – Designated Consumption Center- subject to **Section 845**.

**Amendment of Article Eight.** Article Eight of the City of Niles Zoning Ordinance is amended to include a new Section 846, which reads as follows:

## **SECTION 846 RECREATIONAL MARIHUANA ESTABLISHMENTS**

### **General Regulations for all Recreational Marihuana Establishments**

It is the intent of this Section to authorize certain types of recreational marijuana establishments or other regulated activity authorized by the Rules promulgated by the State in the City of Niles and to provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; retain the character of neighborhoods and business districts; and mitigate potential impacts on surrounding properties and persons.

It is further the intent of this Section to implement the provisions of the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (MCL 333.27951 *et. seq.*) with respect to local zoning and land use, and to permit the growing, processing, sale, and distribution of marihuana consistent with applicable State statutes.

Nothing in this Chapter purports to permit activities that are otherwise illegal under State or local law, and nothing in this ordinance is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacturing, possession, use, sale, or distribution of marijuana, in any form, that is not in compliance with the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (MCL 333.27951 *et. seq.*); and all other applicable rules promulgated by the State of Michigan.

1. Marihuana establishments and other regulated activity authorized by the Rules promulgated by the State as defined by this Ordinance shall be subject to the following regulations:
  - a. Any uses or activities found by the State of Michigan or a court with jurisdiction to be unconstitutional or otherwise not permitted by State law may not be permitted by the City of Niles. In the event that a court with jurisdiction declares some or all of this Section invalid, the City of Niles may suspend the acceptance of applications for special land use permits for marihuana establishments or other regulated activity authorized by the Rules promulgated by the State pending the resolutions of the legal issue in question.
  - b. An operator of a marihuana establishment or other regulated activity authorized by the Rules promulgated by the State shall at all times have a valid Marihuana Establishment or other regulated activity authorized by the Rules promulgated by the State license issued by the City of Niles pursuant to Ordinance No. 491, as amended, and a State operating license as issued by LARA pursuant to the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (MCL 333.27951 *et. seq.*) or other regulated activity authorized by the Rules promulgated by the State.
  - c. All marihuana establishments or other regulated activity authorized by the Rules promulgated by the State formed pursuant to the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (MCL 333.27951 *et. seq.*) shall only be permitted upon receiving special land use approval in accordance with this Article.

2. **Separation of Licensed Premises.** One building may be used for one or more types of marihuana establishments or other regulated activity authorized by the Rules promulgated by the State, provided that the locational requirements and all other standards for each type of marihuana establishment are satisfied. *As allowed by law, a grower establishment and processor establishment are separate marihuana commercial entities requiring separate licenses and separate premises.* In addition to all other application requirements for separate premises, each business shall:
  - a. Have separate operations, ventilation, security, and fire suppression systems, and separate access from a public area.
  - b. Be divided within a building from floor to roof. Unless a more restrictive standard is required by applicable State law and/or the rules promulgated thereunder, there must be a minimum of a one-hour fire separation between a marihuana business and any adjacent business.
3. **Operation and Safety/Security Plans.** In addition to the materials required for Site Plan Review in Article 10, an application for a marihuana establishment or other regulated activity authorized by the Rules promulgated by the State shall also include a comprehensive establishment operation and safety plan meeting the following minimum standards:
  - a. A written safety/security plan indicating how the applicant will comply with the requirements of this Ordinance and any other applicable law, rule or regulation.
  - b. The safety/security plan shall include details of security arrangements and will be protected from disclosure as provided under Michigan Freedom of Information Act, MCL 15.231 *et seq.* If the City finds that such documents are subject to disclosure, it will attempt to provide at least two (2) business days' notice to the applicant prior to such disclosure.
  - c. To the extent that the law and rules promulgated allow, the security plan must include, at a minimum, the following security measures:
    - Cameras. The marihuana establishment or other regulated activity authorized by the Rules promulgated by the State shall install and use security cameras to monitor and record all areas of the premises (except in restrooms) where persons may gain or attempt to gain access to marihuana establishment or cash maintained by the marihuana establishment. Cameras shall record operations of the business to an off-site location, as well as all potential areas of ingress or egress to the business with sufficient detail to identify facial features and clothing. Recordings from security cameras shall be maintained for a minimum of forty-five (45) days in a secure offsite location in the City or through a service over a network that provides on- demand access, commonly referred to as a "cloud." The offsite location shall be included in the security plan submitted to the City and provided to the City of Niles Police Department upon request, and updated within seventy-two (72) hours of any change of such location.
    - Use of Safe for Storage. The marihuana establishment or other regulated activity authorized by the Rules promulgated by the State shall install and use a safe for storage of any processed marihuana and cash on the premises when the business is closed to the public. The safe shall be incorporated into the building and/or securely attached thereto.

For marijuana-infused products that must be kept refrigerated or frozen, the business may lock the refrigerated container or freezer in a manner authorized by the City in place of use of a safe so long as the container is affixed to the building structure.

- 1) Alarm system. The marijuana establishment or other regulated activity authorized by the Rules promulgated by the State business shall install and use an alarm system that is monitored by a company that is staffed twenty-four (24) hours a day, seven (7) days a week. The security plan submitted to the City shall identify the company monitoring the alarm, including contact information, and updated within seventy-two (72) hours of any change of monitoring company.
- 2) For microbusinesses, growers, excess growers and processing establishments, a plan that specifies the methods to be used to prevent the growth of harmful mold and compliance with limitations on discharge into the wastewater system of the City;
- 3) A lighting plan showing the lighting outside of the marijuana establishment or other regulated activity authorized by the Rules promulgated by the State for security purposes and compliance with applicable City requirements;
- 4) A plan for disposal of any marijuana or marijuana-infused product, including any/all byproducts and/or waste products that is not sold in a manner that protects any portion thereof from being possessed or ingested by any person or animal.
- 5) A plan for ventilation of the marijuana establishment or other regulated activity authorized by the Rules promulgated by the State that describes the ventilation systems that will be used to prevent any odor of marijuana establishment or other regulated activity authorized by the Rules promulgated by the State off the premises of the business. For any marijuana establishments or other regulated activity authorized by the Rules promulgated by the State that grow marijuana plants, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the premises. For marijuana establishment or other regulated activity authorized by the Rules promulgated by the State that produce marijuana- infused products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process
- 6) A description of all toxic, flammable, or other materials regulated by a federal, State, or local authority that would have jurisdiction over the business if it was not a marijuana establishment or other regulated activity authorized by the Rules promulgated by the State business, that will be used or kept at the marijuana establishment or other regulated activity authorized by the Rules promulgated by the State business, the location of such materials, and how such materials will be stored.
- 7) A Statement of the amount of the projected daily average and peak electric load anticipated to be used by the business and certification from a licensed electrician that the premises are equipped to safely accept and utilize the required

- or anticipated electric load for the establishment.
- 8) Prior to making a modification to a structure that would require a building permit or which would alter or change items required by this subsection, the licensee shall submit to the City and have an approved completed application for modification of premises in the form provided by the City.
  - 9) Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation wall between a marihuana establishment or other regulated activity authorized by the Rules promulgated by the State and any adjacent business or residence.
  - 10) A description of the security plan shall be submitted with the application for a City operating license. The security system, shall be maintained in good working order and provide twenty-four hours per day coverage. A separate security system is required for each establishment.
  - 11) Parking shall comply with Article VI of this Ordinance.
  - 12) In order to be eligible for a special land use permit, the marihuana establishment or other regulated activity authorized by the Rules promulgated by the State must be in the licensing process with the State of Michigan, and then must be at all times in compliance with the laws of the State of Michigan including but not limited to the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (MCL 333.27951 *et. seq.*); and all other applicable rules promulgated thereunder. No marihuana establishment shall be operated, nor shall a certificate of occupancy be issued, until the appropriate State operating license is obtained from LARA and submitted to the City of Niles, and all fees related to the application are paid by the applicant.
  - 13) A marihuana establishment or other regulated activity authorized by the Rules promulgated by the State as defined by this ordinance, or activities associated with the licensed growing, processing, testing, transporting, or sales of marihuana, or a designated consumption center, shall not be permitted as a home occupation or accessory use, nor may they include accessory uses, except as otherwise provided in this ordinance and permitted by the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (MCL 333.27951 *et. seq.*).
  - 14) Pursuant to Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (MCL 333.27951 *et. seq.*), marihuana establishments or other regulated activity authorized by the Rules promulgated by the State shall not be located within 1,000 feet of a federally recognized K-12 public, private school or publicly funded preschool or library property.
  - 15) Unless otherwise provided or exempted by this Section, marihuana establishments and other regulated activity authorized by the Rules promulgated by the State shall comply with all other applicable standards of this Ordinance.
  - 16) The license required by Ordinance of the City of Niles and the State of Michigan shall be prominently displayed on the premises of a marihuana establishment or other regulated activity authorized by the Rules promulgated by the State.

Disposal of marihuana shall be accomplished in a manner that prevents its acquisition by any person who may not lawfully possess it and otherwise in conformance with State law;

- 17) All chemicals or hazardous substances used in the growing, processing, testing, or storage of marihuana shall be stored and used in strict compliance with manufacturer recommendations and all applicable federal, State or local regulations.
- 18) Signage for marihuana establishments or other regulated activity authorized by the Rules promulgated by the State shall comply with the requirements of Article 7, and the requirements of this subsection. All signage and advertising for a marihuana establishment or other regulated activity authorized by the Rules promulgated by the State shall comply with all applicable provisions of this Code and the City Zoning Code.
  - a) Where there is a conflict between the standards of Article 7 and the following standards, the more restrictive standards shall control.
  - b) Establishments or other regulated activity authorized by the Rules promulgated by the State may not use exterior signage or displays with neon, flashing lights, or similarly noxious or obtrusive lighting or effects.
  - c) Establishments or other regulated activity authorized by the Rules promulgated by the State are prohibited exterior signage or displays that contain an image of a marijuana leaf or other commonly recognized symbol for marijuana or which utilize any of the following words: marijuana, marihuana, weed, cannabis, blunt, doobie, joint, hooch, hash, or other similar slang term for marijuana or marijuana-related products; except that each marihuana vendor may display the universal green cross symbol.
    - i. Only two signs shall per permitted on a parcel containing a marihuana establishment or other regulated activity authorized by the Rules promulgated by the State.
    - ii. Signs located on lots containing marihuana establishments or other regulated activity authorized by the Rules promulgated by the State shall not be illuminated. Signs with flashing, oscillating or intermittent lights are prohibited.
    - iii. One wall sign affixed to a building containing a marihuana establishment or other regulated activity authorized by the Rules promulgated by the State is permitted and shall not exceed 50 square feet.
    - iv. One pole or monument sign located on a lot containing a marihuana establishment or other regulated activity authorized by the Rules promulgated by the State is permitted and shall not

exceed 32 square feet.

- v. Warning Signs: There shall be posted in a conspicuous location inside of each establishment or other regulated activity authorized by the Rules promulgated by the State at least one (1) legible sign containing the content of this section warning that:
  - 1. The possession, use or distribution of marihuana is a violation of federal law;
  - 2. It is illegal under State law to drive a motor vehicle or to operate machinery when under the influence of, or impaired by marihuana; and
  - 3. No one under the age of *twenty-one (21)* is permitted on the premises
- vi. In addition, it shall be unacceptable for any licensee to use signage or advertising with the word "marihuana", "marijuana" or "cannabis" or any other word, phrase or symbol commonly understood to refer to marihuana or any advertising material that would appeal to minors;

19) All marihuana establishments or other regulated activity authorized by the Rules promulgated by the State shall provide landscaping as required by Section 316 of this Ordinance.

20) The nonconforming provisions of Section 325(7) shall apply to all marihuana establishments or other regulated activity authorized by the Rules promulgated by the State.

#### **4. Visibility of activities; control of emissions.**

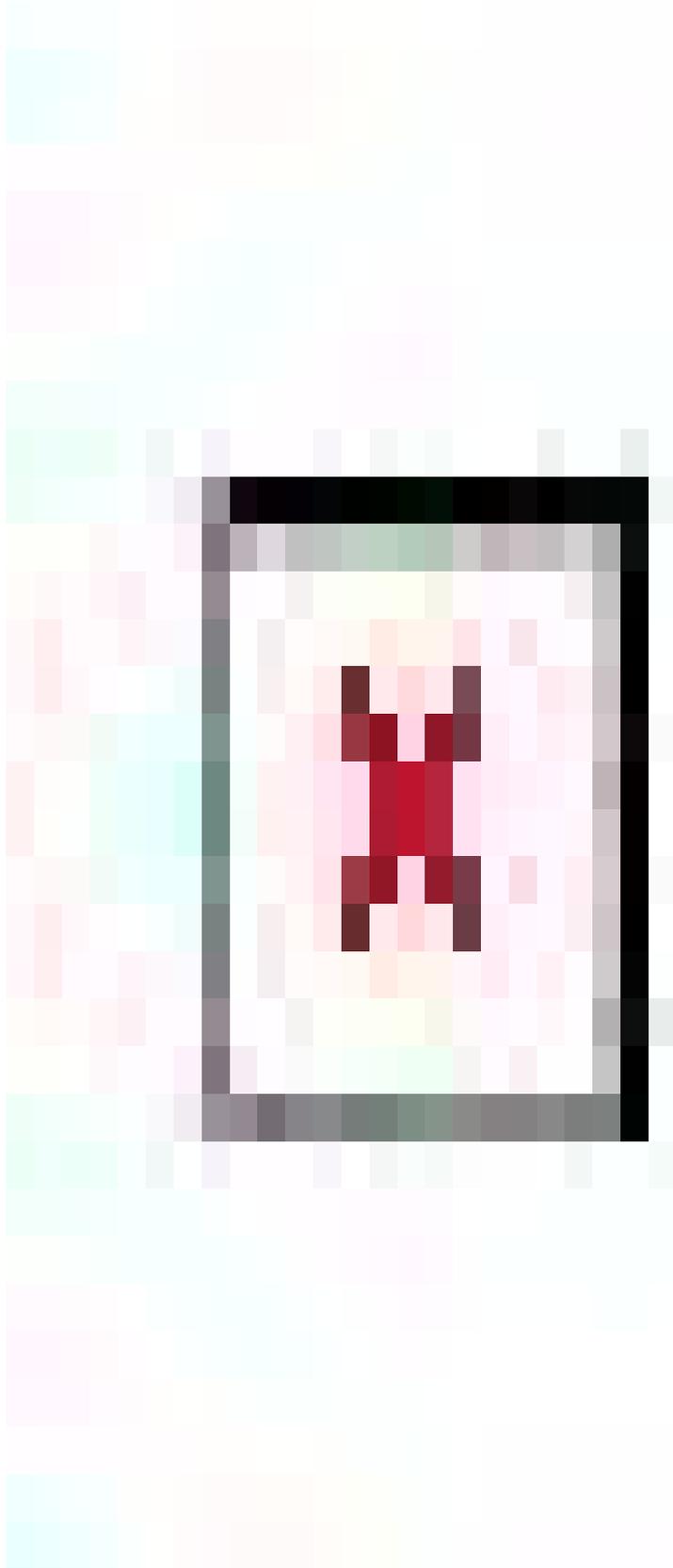
- a. Unless otherwise allowed for through State and local ordinance, all activities of marihuana establishments or other regulated activity authorized by the Rules promulgated by the State, including, without limitation, the cultivating, growing, processing, displaying, manufacturing, selling, and storage of marihuana and marihuana-infused products shall be conducted indoors and out of public view except those entities and/or events with an approved event permit by the State and City Council.
- b. Designated Consumption Centers may apply for a smoking deck or other protected outdoor smoking location that complies with all State requirements through Special Land Use, but local approval is not guaranteed and subject to a case by case approval by the Planning Commission.
- c. No marihuana or paraphernalia shall be displayed or kept so as to be visible from outside the licensed or specially permitted premises (the latter only in cases approved by the Niles City Council and State of Michigan as an event by an approved event vendor).
- d. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a marihuana establishment or other regulated activity

authorized by the Rules promulgated by the State must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a marihuana establishment or other regulated activity authorized by the Rules promulgated by the State, the owner of the establishment or other regulated activity authorized by the Rules promulgated by the State and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary, and secure manner and in accordance with all applicable federal, State and local laws and regulations.

- e. No person, tenant, occupant, or property owner shall permit the emission of marihuana odor from any source to result in detectable odors that leave the premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of another's property.
- f. The City of Niles may use a field olfactometer to measure and quantify odor strength in the ambient air.
  - 1) Field olfactometry calculates the "Dilution-to-Threshold" (D/T) ratio as:
    - a. **Volume of Carbon-Filtered Air**  
$$D/T = \frac{\text{Volume of Carbon-Filtered Air}}{\text{Volume of Odorous Air}}$$
  - 2) All establishments or other regulated activity authorized by the Rules promulgated by the State that keep marihuana onsite shall maintain a D/T ratio of seven (7) D/T or less at the property line
  - 3) Any property found out of compliance will be required to remediate the odor within 72 hours. If the D/T ratio remains noncompliant, the license will be revoked until the odor level is compliant with this Section.
- g. Whether or not a marihuana odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity.
- h. All marihuana establishments or other regulated activity authorized by the Rules promulgated by the State shall install and maintain in operable condition a system which precludes the emission of marihuana odor from the premises to the satisfaction of the City.
- i. All marihuana establishments or other regulated activity authorized by the Rules promulgated by the State must comply with the Michigan Department of Environment, Great Lakes, and Energy (EGLE) Air Quality guidance for the marijuana industry which can be found online at the web address below.  
[https://www.michigan.gov/documents/lara/egle-tou-MarijuanaProcessing-EnvironmentalComplianceGuidance\\_663706\\_7\\_663868\\_7.pdf](https://www.michigan.gov/documents/lara/egle-tou-MarijuanaProcessing-EnvironmentalComplianceGuidance_663706_7_663868_7.pdf)

## **5. Additional requirements**

- a. No marihuana establishment or other regulated activity authorized by the Rules promulgated by the State may use metals, butane, propane, or other flammable product, or produce flammable vapors, to process marihuana unless the process used and the premises are verified as safe and in compliance with all applicable codes by a qualified industrial hygienist.
- b. The City may require the business to obtain verification from a qualified industrial hygienist that the manner in which the business is producing marihuana complies with all applicable laws and does not produce noxious or dangerous gases or odors or otherwise create a danger to any person or entity in or near the establishment.
- c. Siting Criteria. Marihuana establishments or other regulated activity authorized by the Rules promulgated by the State shall be only permitted by special land use in accordance with the following map.



## **6. Marihuana Cultivation/Growers & Excess Growers.**

- a. Cultivation, generally.
  - 1) No marihuana cultivation shall be conducted openly or publicly.
  - 2) Marihuana cultivation shall comply with all applicable requirements of the laws and regulations of the City and the State.
  - 3) Marihuana cultivation shall not occur in detached accessory buildings or outbuildings.
  - 4) All marihuana cultivation shall take place in a locked and enclosed space.
- b. All marihuana products kept on premises where marihuana plants are grown shall be stored in a locked and enclosed space.
- c. The use of any lighting for indoor marihuana cultivation shall be limited to light-emitting diodes (LEDs), compact fluorescent lamps (CFLs) or other fluorescent lighting. All high-density (HID) lighting, including but not limited to, mercury-vapor lamps, metal-halide (MH) lamps, ceramic MH lamps, sodium-vapor lamps, high-pressure sodium (HPS) lamps and xenon short-arc lamps, may only be allowed with permission of the City of Niles Utilities Director or his/her designee.
- d. No marihuana cultivation activity shall result in the emission of any gas, vapors, odors, smoke, dust, heat or glare that is noticeable at or beyond the property line of the structure (including dwellings) at which the cultivation occurs. Sufficient measures and means of preventing the escape of such substances from a dwelling must be provided at all times. In the event that any gas, vapors, odors, smoke, dust, heat or glare or other substances exit a dwelling, the owner of the subject premises shall be liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The owner shall properly dispose of all such materials, items and other substances in a safe, sanitary, and secure manner and in accordance with all applicable federal, State and local laws and regulations. In the event there is a lessee of the subject premises, the owner and the lessee shall be jointly and severally liable for such conditions.
- e. Growers shall only be permitted on parcels within the IND – Industrial district and within the permissible areas as illustrated on the map above.
- f. Excess Growers are further limited to only the parcel(s) located at 901 East Wayne with the parcel ID of 11-71-0026-0039-00-3 or within any of the parcels located within the City of Niles Industrial Park located north of Lake St. in the City of Niles.
- g. Light cast by fixtures within the building shall not be visible from outside the building.
- h. The building shall be equipped with an activated carbon filtration system or other comparable odor control system to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter. The establishment shall not emanate odors at any time that are readily detectible at the property line.
- i. Doors and windows to a growing establishment shall remain closed, except for the minimum length of time needed to allow people to reasonably enter or exit the building.
- j. In instances where a grower is within a building containing multiple principal uses, all

other uses requiring a marihuana license within shall be subject to special land use review pursuant to Article Eight of this Ordinance.

**7. Marihuana Processing Establishments**

- a. Processors shall only be permitted on parcels within the IND – Industrial district and within the permissible areas as illustrated on the map above.
- b. Light cast by fixtures within the building shall not be visible from outside the building.
- c. The building shall be equipped with an activated carbon filtration system or other comparable odor control system to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter. The establishment shall not emanate odors at any time that are readily detectible at the property line.
- d. Doors and windows to a growing establishment shall remain closed, except for the minimum length of time needed to allow people to reasonably enter or exit the building.
- e. The City may require security cameras which shall record the subject property and may be directed to other areas normally visible to the general public as applicable, unless otherwise required to comply with licensing requirements of the State of Michigan.
- f. In instances where a processing establishment is within a building containing multiple principal uses, all other uses within shall be subject to special land use review pursuant to Article Eight of this Ordinance.

**8. Microbusinesses**

- a. Microbusiness shall only be permitted in buildings located on parcels within the IND – Industrial, or RC Regional Commercial district and within the permissible areas as illustrated on the map in subsection (2) above.
- b. Microbusinesses must adhere to all provisions located in the Marihuana Cultivation/Growers section.
- c. Microbusinesses must adhere to all provisions located in the Marihuana Processing Establishments of this section.
- d. Microbusiness must adhere to all provisions for Marihuana Retailers of this section.

**9. Marihuana Retailers**

- a. Marihuana Retailers shall only be permitted in buildings located on parcels within the IND – Industrial, or RC Regional Commercial district and within the permissible areas as illustrated on the map in subsection (2) above.
- b. All activities of a provisioning center, including all sales/transfers of marihuana, shall be conducted within the structure and out of public view. A marihuana retailer shall not have a walk-up window or a drive-thru window service.
- c. Unless otherwise permitted, public or common areas of the marihuana retailer must be separated from restricted or non-public areas of the provisioning center by a permanent barrier. No marihuana is permitted to be stored, displayed, or transferred in an area accessible to the general public.
- d. Marihuana products shall not be smoked, ingested, or otherwise be consumed in the building or on the property occupied by the marihuana retailer.

- e. The exterior appearance of a provisioning center shall remain compatible with the exterior appearance of buildings already constructed or under construction within the immediate area. The exterior shall be maintained as to prevent blight or deterioration or substantial diminishment or impairment of property values within the immediate area. New buildings shall be constructed in accordance with the adopted plans and policies of the City of Niles.
- f. Marihuana retailers shall be equipped with an activated carbon filtration system or other comparable odor control system to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter. The establishment shall not emanate odors at any time that are readily detectible at the property line.
- g. requiring In instances where a provisioning center is within a building containing multiple principal uses, all other uses a marihuana license within shall be subject to special land use review pursuant to Article Eight of this Ordinance.

**10. Safety Compliance Establishments**

- a. Safety Compliance Establishments shall only be permitted in buildings located on parcels within the IND – Industrial, or RC Regional Commercial district and within the permissible areas as illustrated on the map in subsection (2) above.
- b. Marihuana products shall not be smoked, ingested, or otherwise be consumed in the building or on the property occupied by the safety compliance establishment.
- c. Doors and windows to a safety compliance establishment shall remain closed, except for the minimum length of time needed to allow people to reasonably enter or exit the building.
- d. In instances where a safety compliance establishment is within a building containing multiple principal uses, all other uses requiring a marihuana license within shall be subject to special land use review pursuant to Article Eight of this Ordinance.

**11. Secure Transporters**

- a. Secure Transporters shall only be permitted in buildings located on parcels within the IND – Industrial, or RC Regional Commercial district and within the permissible areas as illustrated on the map in subsection (2) above.
- b. Marihuana products shall not be smoked, ingested, or otherwise be consumed in the building or on the property occupied by the secure transporter.
- c. Doors and windows to a secure transporter shall remain closed, except for the minimum length of time needed to allow people to reasonably enter or exit the building.
- d. In instances where a secure transporter is within a building containing multiple principal uses, all other uses requiring a marihuana license within shall be subject to special land use review pursuant to Article Eight of this Ordinance.

**12. Designated Consumption Centers**

- a. While there is a limit of three (3) Designated Consumption Center Licenses, the following shall also apply at all times.
  - 1) All Designated Consumption Centers must be at least 1,000 feet away from

any school, library or publicly funded preschool.

- 2) Designated Consumption Centers may only be located in the Central Business (CB), Office Commercial (OC), Industrial (IND) and/or Regional Commercial (RC) Zones.
- b. Designated consumption centers may not be in a private residence or any other places meant for permanent human habitation.
- c. Designated consumption centers may only operate between the hours of seven o'clock a.m. (0700 hours) and midnight (2400 hours)
- d. All activities of a designated consumption center, shall be conducted within the structure and out of public view. Provided however, that designated consumption centers may apply for a smoking deck or other protected outdoor smoking location that complies with all State requirements, but local approval is not guaranteed and subject to a case by case approval by the City's Zoning Administrator with input from the Police Chief, City Attorney, City Administrator and Fire Chief.
- e. No marihuana is permitted to be bought, sold, stored, displayed, or transferred in an area accessible to the general public.
- f. A designated consumption center shall not have a walk-up window or a drive-thru window service.
- g. Unless otherwise permitted, public or common areas of the designated consumption center must be separated from restricted or non-public areas of by a permanent barrier.
- h. All Designated Consumption Centers must employ or otherwise retain onsite security personnel during all business hours.
- i. The exterior appearance of a designated consumption center shall remain compatible with the exterior appearance of buildings already constructed or under construction within the immediate area. The exterior shall be maintained as to prevent blight or deterioration or substantial diminishment or impairment of property values within the immediate area. New buildings shall be constructed in accordance with the adopted plans and policies of the City of Niles.  
Designated consumption center shall be equipped with an activated carbon filtration system or other comparable odor control system to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter. The establishment shall not emanate odors at any time that are readily detectible at the property line.
- j. In instances where a designated consumption center is within a building

containing multiple principal uses, all other uses requiring a marihuana license within shall be subject to special land use review pursuant to Article Eight of this Ordinance.

- k. No activity shall result in the emission of any vapors, odors, smoke, or heat that is noticeable at or beyond the property line of the structure at which the designated consumption center exists. Sufficient measures and means of preventing the escape of such substances from an establishment must be provided at all times. A designated consumption center shall have a ventilation system that directs air from the consumption area to the outside of the building through a filtration system sufficient to remove visible smoke, consistent with all applicable building codes and ordinances and adequate to eliminate odor at the property line, if consumption by inhalation is permitted. In the event that any gas, vapors, odors, smoke, dust, heat or glare or other substances exit an establishment, the owner of the subject establishment and premises shall be liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition.
- l. A designated consumption center shall have a product destruction and waste management plan for the destroying and disposal of any waste left at the consumption center. The owner shall properly dispose of all such materials, items and other substances in a safe, sanitary, and secure manner and in accordance with all applicable federal, State and local laws and regulations.
- m. Designated consumption centers must have a smoke free area for employees to monitor the marihuana consumption area.
- n. A location physically separated from areas where smoking is prohibited and where smoke does not infiltrate into nonsmoking areas or buildings.

### **13. Severability**

- a. If any Section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity and enforceability of the remaining portions of this ordinance.

### **14. Effective Date**

This ordinance shall take effect seven (7) days after publication thereof.

**Repeal:** All ordinances and resolutions and parts thereof, insofar as the same conflict with the provisions of this Ordinance, are hereby repealed.

1<sup>st</sup> Reading/Introduction: September 23, 2019  
2<sup>nd</sup> Reading/Enactment: October 7, 2019  
Published: October 14, 2019 *Niles Daily Star*  
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