

AGENDA  
NITRO CITY COUNCIL  
JULY 17, 2018

CALL TO ORDER: Mayor Dave Casebolt  
Ward 1 Councilwoman Donna Boggs  
Ward 3 Councilwoman Laurie Elkins  
Councilman at Large Bill Javins  
Councilman at Large Andy Shamblin

Recorder Rita Cox  
Ward 2 Councilman Bill Racer  
Ward 4 Councilman Michael Hill  
Councilman at Large John Montgomery

INVOCATION/PLEDGE OF ALLEGIANCE

FUTURE DATES OF COUNCIL: August 7 and 21

APPROVAL OF COUNCIL MINUTES: July 3, 2018

OLD BUSINESS

REAPPOINTMENT OF JIM RIFFLE TO FIRE DEPARTMENT CIVIL SERVICE BOARD:  
Mayor Dave Casebolt

NEW BUSINESS

FIRST READING ORDINANCE PART 13-PLANNING AND ZONING RELATING TO  
ADDICTION TREATMENT CENTERS, FOOD DISTRIBUTION CENTERS, SOCIAL  
SERVICES AND SOCIAL SERVICE FACILITIES: Councilman John Young

FIRE DEPARTMENT TRUCK PURCHASE TO REPLACE WRECKED VEHICLE: Chief Jeff  
Elkins

POLICY TO WRITE OFF UNPAID MUNICIPAL SERVICE ACCOUNTS: John Young

BUDGET REVISION/GENERAL FUND: John Young

APPROVE FAIRS AND FESTIVAL BANK ACCOUNT: Mayor Dave Casebolt

APPROVE FAIRS AND FESTIVAL BUDGET: Mayor Dave Casebolt

RIVERFEST FIREWORKS PAYMENT \$2250: Mayor Dave Casebolt

PURCHASE OF COMMERCIAL PROPERTY: Mayor Dave Casebolt

ATTORNEY REPORT: Johnnie Brown

TREASURER REPORT: John Young

MAYOR COMMENTS

COUNCIL COMMENTS

PUBLIC COMMENTS

ADJOURNMENT

NITRO CITY COUNCIL  
MINUTES  
JULY 17, 2018

**CALL TO ORDER:** The meeting was called to order at 7:00 pm by Mayor Dave Casebolt. In attendance were Recorder Rita Cox, Ward 1 Councilwoman Donna Boggs, Ward 3 Councilwoman Laurie Elkins, Ward 4 Councilman Michael Hill, Councilmen at Large Bill Javins and John Montgomery, City Attorney Johnnie Brown and City Treasurer John Young. Ward 2 Councilman Bill Racer and Councilman at Large Andy Shamblin were absent.

**INVOCATION/PLEDGE OF ALLEGIANCE:** The Invocation was delivered by Jean Meadows and the Pledge of Allegiance was led by Councilman Bill Javins.

**FUTURE DATES OF COUNCIL:** Mayor Casebolt said the future dates of Council are August 7 and 21.

**APPROVAL OF COUNCIL MINUTES:** RECORDER COX MADE THE MOTION THAT COUNCIL APPROVE THE MINUTES OF JULY 3 WITH A SECOND BY COUNCILMAN MONTGOMERY. COUNCIL VOTED FOR THE MOTION.

**OLD BUSINESS**

**REAPPOINTMENT OF JIM RIFFLE TO FIRE DEPARTMENT CIVIL SERVICE BOARD:** COUNCILMAN BILL JAVINS MADE THE MOTION THAT JIM RIFFLE BE REAPPOINTED TO THE FIRE DEPARTMENT CIVIL SERVICE BOARD WITH COUNCILWOMAN LAURIE ELKINS MAKING A SECOND TO THE MOTION. VOTE WAS UNANIMOUS FOR THE MOTION.

**NEW BUSINESS**

**FIRST READING ORDINANCE PART 13-PLANNING AND ZONING RELATING TO ADDICTION TREATMENT CENTERS, FOOD DISTRIBUTION CENTERS, SOCIAL SERVICES AND SOCIAL SERVICE FACILITIES:** COUNCILMAN MONTGOMERY MADE THE MOTION THAT COUNCIL PASS ON FIRST READING ORDINANCE PART 13-PLANNING AND ZONING RELATING TO ADDICTION TREATMENT CENTERS, FOOD DISTRIBUTION CENTERS, SOCIAL SERVICES AND SOCIAL SERVICE FACILITIES. THERE WAS A SECOND BY COUNCILWOMAN BOGGS. Councilman Montgomery said that the purpose of the ordinance is to make sure the city can have these services in areas and neighborhoods that can meet the needs of the people and not have a negative impact on the surrounding neighborhood. Councilwoman Elkins said she had received calls from concerned people in Nitro and the goal is not to ban but to stipulate the property uses. Councilwoman Boggs recommended the distance be amended to 1000 feet between other such facilities. COUNCILMAN MONTGOMERY AMENDED THE MOTION TO INCLUDE THE DISTANCE BEING 1000 FEET BETWEEN SIMILAR TYPES OF FACILITIES WITH COUNCILWOMAN BOGGS MAKING A SECOND TO THE MOTION. VOTE WAS UNANIMOUS FOR THE MOTION.

**FIRE DEPARTMENT TRUCK PURCHASE TO REPLACE WRECKED VEHICLE:** RECORDER COX MADE THE MOTION THAT THE FIRE DEPARTMENT PURCHASE A 2018 DODGE RAM 2800 TRUCK FOR \$35,753.80. THERE WAS A SECOND BY COUNCILMAN JAVINS. Chief Elkins said that this is to replace a truck that was wrecked recently and the model is on the WV State Bid Contract. Treasurer John Young said the money will come from the Fire Equipment Fund. THE MOTION CARRIED WITH A UNANIMOUS VOTE.

POLICY TO WRITE OFF UNPAID MUNICIPAL SERVICE ACCOUNTS: RECORDER COX MADE THE MOTION THAT THE POLICY TO WRITE OFF UNPAID MUNICIPAL SERVICE ACCOUNTS BE TABLED. THERE WAS A SECOND BY COUNCILMAN MONTGOMERY. John Young said the Nitro Regional Wastewater Utility currently has a policy on this and he has reached out to the WV Public Service Commission for guidance. THE MOTION CARRIED.

BUDGET REVISION/GENERAL FUND: COUNCILMAN JAVINS MADE THE MOTION TO APPROVE THE RESOLUTION FOR THE BUDGET REVISION. COUNCILMAN MONTGOMERY SECONDED THE MOTION AND THERE WAS A UNANIMOUS VOTE FOR THE MOTION.

APPROVE FAIRS AND FESTIVAL BANK ACCOUNT: COUNCILWOMAN LAURIE ELKINS MADE THE MOTION TO TABLE THE APPROVAL OF FAIRS AND FESTIVAL BANK ACCOUNT. THERE WAS A SECOND BY COUNCILMAN BILL JAVINS. John Young said his concern is that if another account is opened it will require another audit. Johnnie Brown said that it could possibly be made a component part of an already existing account. THE VOTE WAS FOR THE MOTION.

APPROVE FAIRS AND FESTIVAL BUDGET: COUNCILWOMAN DONNA BOGGS MADE THE MOTION TO APPROVE THE BUDGET FOR THE FAIRS AND FESTIVAL COMMITTEE. THERE WAS A SECOND BY COUNCILMAN HILL AND A UNANIMOUS VOTE FOR THE MOTION.

RIVERFEST FIREWORKS PAYMENT \$2250: COUNCILMAN BILL JAVINS MADE THE MOTION THAT THE CITY PAY \$2250 FROM THE HOTEL-MOTEL TAX ACCOUNT FOR ONE HALF OF THE \$5000 COST OF FIREWORKS. COUNCILMAN MICHAEL HILL MADE A SECOND AND THE MOTION CARRIED.

PURCHASE OF COMMERCIAL PROPERTY: COUNCILWOMAN BOGGS MADE THE MOTION COUNCIL ENTER INTO EXECUTIVE SESSION TO DISCUSS THE PURCHASE OF COMMERCIAL PROPERTY WITH A SECOND BY COUNCILMAN MONTGOMERY. THE MOTION CARRIED.

EXECUTIVE SESSION BEGINS: 7:40 PM

EXECUTIVE SESSIONS ENDS: 8:00 PM

RECORDER COX MADE THE MOTION THAT THE COUNCIL REQUEST THAT THE NITRO BUILDING COMMISSION ENTER INTO A 120 DAY AGREEMENT TO EXPLORE THE PURCHASE OF PROPERTY OWNED BY HAIKAL BROTHERS' PROPERTY, LLC. THE SECOND WAS BY COUNCILWOMAN BOGGS. VOTING FOR THE MOTION WERE RECORDER COX, COUNCILWOMAN BOGGS, COUNCILMEN HILL, MONTGOMERY, AND JAVINS. COUNCILWOMAN ELKINS ABSTAINED.

ATTORNEY REPORT: Johnnie Brown did not have a report but said he would take questions from Council.

TREASURER REPORT: John Young said he did not have a report to present.

MAYOR COMMENTS: Mayor Casebolt said the Riverfest and Boomtown Bash will take place August 2 through 5.

COUNCIL COMMENTS: Councilwoman Donna Boggs said the Ridenour Regatta was a big success and she would like to see the lake be promoted and used in more ways.

Councilman John Montgomery said the roads in Brookhaven need to have holes filled in. Mayor Casebolt said this will be addressed.

Councilman Michael Hill said he was pleased with the results of the recent audit and commended City Treasurer John Young.

PUBLIC COMMENTS: Bob Schamber said the Seniors are having a Western Dance Saturday night.

ADJOURNMENT: COUNCILWOMAN BOGGS MADE THE MOTION FOR ADJOURNMENT WITH A SECOND BY RECORDER COX. THE MOTION CARRIED.

  
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DAVE CASEBOLT, MAYOR

  
\_\_\_\_\_  
RITA COX, RECORDER

## ORDINANCE \_\_\_\_\_

An ordinance to amend Part Thirteen, section 1305.1 of the Codified Ordinances of the City of Nitro, West Virginia, as amended, by enacting a new paragraph designated 1305.1(l); and to amend section 1305.2 of said Codified Ordinances by enacting a new paragraph designated 1305.2(l); and to amend section 1305.3 of said Codified Ordinances by enacting a new paragraph designated 1305.3(b); and to amend sections 1302.2, 1306.1(d), 1306.2(c), 1307.1(c), 1308.1(c), and 1309.1(c), all relating to restricting certain property uses within a designated distance from schools, play grounds, libraries, athletic fields or parks, senior citizen living facilities, public swimming pools, and city parks.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA, that Part Thirteen of the Codified Ordinances of the City of Nitro, West Virginia, as amended, be amended by enacting paragraphs 1305.1(l), 1305.2(l) and 1305.3(b) of Chapter 1305, by amending section 1302.2 of Chapter 1302, by amending paragraphs 1306.1(d) and 1306.2(c) of Chapter 1306, by amending paragraph 1307.1(c) of Chapter 1307, by amending paragraph 1308.1(d) of Chapter 1308, by amending paragraph 1309.1(d) of Chapter 1309, all to read as follows:

### Part Thirteen - Planning and Zoning CHAPTER 1302 DEFINITIONS

#### SECTION 1302.2 - TERMS DEFINED

"Abandonment" means the relinquishment of property or a cessation of the use of the property by the owner or lessee without any intention of transferring rights to the property to another owner or resuming the nonconforming use of the property for a period of one year.

"Above-ground/on ground pool". See "Private swimming Pool."

"Accessory building" means an incidental subordinate building customarily incidental to and located on the same lot occupied by the main use or building, such as a detached garage.

"Accessory use" means a use conducted on the same lot as the primary use of the structure to which it is related; a use which is clearly incidental to, and customarily found in connection with, such primary use.

"Addiction treatment center" means any outpatient or inpatient service providing diagnostic or therapeutic services for alcoholism, drug abuse, or similar conditions. Clinics and professional offices or similar uses that provide addiction treatment counseling to individuals as part of a larger practice are not addiction treatment centers.

"Adult day care center" means a use providing supervised care and assistance primarily to persons who are over age 60, mentally retarded or physically handicapped who need such daily assistance because of their limited physical abilities, Alzheimer disease or mental retardation. This use shall not include persons who need oversight because of behavior that is criminal or violent. This use may involve occasional overnight stays, but shall not primarily be a residential use. The use shall involve typical stays of less than a total of 60 hours per week.

"Adult bookstore" means any commercial establishment in which is offered for sale as a substantial or significant portion of its stock in trade cassettes, movies, books, magazines or other periodicals or other media which are distinguished or characterized by their emphasis on nudity or sexual conduct or on activities which if presented in live presentation would constitute adult entertainment.

"Adult business" means an adult bookstore, commercial movie theater or movie house, or other adult entertainment as defined herein. In the event that an activity or business which might fall under a use category other than adult

business is combined with and/or includes activities which constitute an adult bookstore, adult movie or movie house or adult entertainment as defined herein, then such activity or business shall constitute an adult business and shall be governed by those provisions in this Part Thirteen applicable to any other use category.

"Adult entertainment" means a commercial establishment providing, either as a sole use or in connection with or in addition to other uses, entertainment consisting of any exhibition, display, or dance which involves the exposure to view of any portion of the female breast below the top of the areola, male genitals, female genitals, or the pubic hair, anus, or cleft of the buttocks of any person or male genitals in a discernibly turgid state even if completely and opaquely covered.

"Adult movie theater" or "adult movie house" (including Adult Mini-Theaters or Adult arcades) means any commercial establishment to which the public is permitted or invited, where for any form of consideration, films, motion pictures, video cassettes, slides or similar photograph reproductions are regularly shown depicting actual acts of masturbation, sexual intercourse, oral copulation, sodomy or displaying human genitals in a state of sexual stimulation, arousal, or tumescence, or depicting excretory functions as part of or in connection with any of the activities set forth in this definition.

"Amusement attraction" means any building, structure or open area around, over or through which people may move or walk without the aid of any moving device integral to the building, structure or open area that provides amusement, pleasure, thrills or excitement by use of stationary amusement rides and kiddie rides. The term may include any concession stand or booth for the selling of food or drink or souvenirs that is located within the building, structure or open area.

"Aggrieved" or "aggrieved person" means a person who:

1. Is denied by the planning commission or the board of zoning appeals, in whole or in part, the relief sought in any application or appeal; or
2. Has demonstrated that he or she will suffer a peculiar injury, prejudice or inconvenience beyond that which other residents of the county or municipality may suffer.

"Agriculture" means the tilling of the soil, raising of crops, animals, horticulture, gardening, beekeeping and aquaculture.

"Alley" means any public way or thoroughfare more than 10 feet, but less than 16 feet, in width which has been dedicated to the public for public use and designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

"Alteration" means any change, addition or modification in construction, occupancy or use.

"Amusement center" means an establishment offering five or more amusement devices, including, but not limited to, coin-operated electronic games, shooting gallery, table games and similar recreational diversions within an enclosed building.

"Amusement ride" means a mechanical device which carries or conveys passengers along, around or over a fixed or restricted route or course for the purpose of giving its passengers amusement, pleasure, thrills or excitement. The term includes an amusement ride or amusement attraction that is erected in a single physical location for a period of more than twelve consecutive months, but may not be construed to mean or include any mechanical device which is coin operated.

"Animated sign" means a sign employing actual motion or the illusion of motion. animated signs, which are differentiated from changeable signs as defined and regulated by this Part Thirteen, include the following types:

1. Electrically activated. Animated signs producing the illusion of movement by means of electronic,

electrical or electro-mechanical input and/or illumination of movement by simulating movement through employment of the characteristics of one or both of the classifications noted below:

a. Flashing. Animated signs or animated portions of signs whose illumination is characterized by a repetitive cycle in which the period of illumination is either the same as or less than the period of non-illumination. For the purposes of this Part Thirteen, flashing will not be defined as occurring if the cyclical period between on-off phases of illumination exceeds 4 seconds.

b. Patterned illusionary movement. Animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion.

2. Environmentally activated. Animated signs or devices motivated by wind, thermal changes or other natural environmental input, and includes spinners, pinwheels, pennant strings, and/or other devices or displays that respond to naturally occurring external motivation.

3. Mechanically activated. Animated signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.

"Apartment house" means a residential building designed or used for three or more dwelling units.

"Applicant" or "developer" means the owner of the land proposed to be subdivided or his representative. Consent shall be required from the legal owner of the premises.

"Architectural projection" means any projection that is not intended for occupancy and that extends beyond the face of an exterior wall of a building, but that does not include signs as defined herein. See also "awning"; "backlit awning"; and "canopy, attached and freestanding".

"Automobile parking space" means a space within a building or private or public parking lot, exclusive of driveways, ramps, columns, office and work areas, for the parking of an automobile.

"Automotive self-service station" means that portion of property where flammable or combustible liquids or gases used as fuel are stored and dispersed from fixed equipment into the fuel tanks of motor vehicles. Such an establishment shall be permitted to offer for sale at retail other convenience items as a clearly secondary activity and shall be permitted also to include a free-standing automatic car wash.

"Automotive service station" means that portion of property where flammable or combustible liquids or gases used as fuel are stored and dispersed from fixed equipment into the fuel tanks of motor vehicles. Accessory activities shall be permitted to include automotive repair and maintenance, car wash service and food sales.

"Awning" means an architectural projection or shelter projecting from and supported by the exterior wall of a building and comprised of a covering of rigid or nonrigid materials and/or fabric on a supporting framework that may be either permanent or retractable, including such structures that are internally illuminated by fluorescent or other light sources.

"Awning signs" means a sign displayed on or attached flat against the surface or surfaces of an awning. See also "wall or fascia sign."

"Backlit awning" means an awning with a translucent covering material and a source of illumination contained within its framework.

"Banner" means a flexible substrate on which copy or graphics may be displayed.

"Banner sign" means a sign utilizing a banner as its display surface.



"Barrier" means a fence, a wall, a building wall, the wall of an above-ground swimming pool or a combination thereof, which completely surrounds the swimming pool and obstructs access to the swimming pool.

"Basement" means any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement unless such floor level qualifies as a first story as defined herein.

"Bed and breakfast facility" means a limited commercial activity, conducted within a structure, which includes dining and bathroom facilities with sleeping rooms for short-term guest lodging.

"Billboard". See "off-premise sign" and "outdoor advertising sign."

"Block" means land, or a group of lots, bounded by streets or other rights-of-way, or by a combination of streets and public parks, cemeteries, railroad rights of way, shorelines or waterways, or boundary lines of municipalities other than an alley, or land which is designated as a block on any recorded subdivision tract.

"Board" means the Zoning Board of Appeals created in Article 1307 of this Part Thirteen.

"Boarding house" means a dwelling containing a single dwelling unit and not more than ten guest rooms or suites of rooms, where lodging is provided with or without meals, for compensation for more than thirty days.

"Bond" means any form of security including a cash deposit, surety bond, collateral, property or instrument of credit in an amount and form satisfactory to the Governing Body.

"Building" means any structure built for the support, shelter or enclosure of persons, animals, chattels or movable property of any kind, and includes any structure.

"Building Code" means the International Building Code promulgated by the International Code Council, as adopted by the City.

"Building elevation" means the entire side of a building, from ground level to the roofline, as viewed perpendicular to the walls on that side of the building.

"Building height" means the vertical distance above the average existing grade measured to the highest point of the building, The height of a stepped or terraced building shall be the maximum height of any segment of the building.

"Building line" means the perimeter of that portion of a building or structure nearest a property line, but excluding open steps, terraces, cornices and other ornamental features projecting from the walls of the building or structure.

"Building permit" means a permit issued by a municipality or county, in accordance with this Part Thirteen, for the construction, erection, installation, placement, rehabilitation or renovation of a structure or development of land, and for the purpose of regulating development within flood-prone areas.

"Business or financial services" means an establishment intended for the conduct or service or administration by a commercial enterprise, or offices for the conduct of professional or business service.

"Canopy (attached)" means a multisided overhead structure or architectural projection supported by attachments to a building on one or more sides and either cantilevered from such building or also supported by columns as additional points. The surface(s) and/or soffit of an attached canopy may be illuminated by means of internal or external sources of lights. See also "marquee."

Canopy (free standing)" means a multisided overhead structure supported by columns, but not enclosed by walls.

The surface(s) and or soffit of a free-standing canopy may be illuminated by means of internal or external sources of light.

"Canopy sign" means a sign affixed to the visible surface(s) of an attached or free-standing canopy.

"Carport" means a roofed structure open on at least two sides and used for the storage of private or pleasure-type vehicles.

"Cemetery" means land used for the burial of the dead and dedicated for cemetery purposes, including columbariums, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

"Central sewerage system" means a community sewer system including collection and treatment facilities established by the developer to serve a new subdivision in an outlying area.

"Central water system" means a private water company formed by a developer to serve a new community development in an outlying area. It includes water treatment and distribution facilities.

"Changeable sign" means a sign with the capability of content change by means of manual or remote input, including signs which are:

1. Electrically activated. Changeable sign whose message copy or content can be changed by means of remote electrically energized on-off switching combinations or alphabetic or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices; or it may be from an external light source designed to reflect off the changeable component display. See "electronic message sign or center."

2. Manually activated. Changeable sign whose message copy or content can be changed manually.

"Change of use" means the change within the classified use of a structure or premise.

"City" means the City of Nitro, West Virginia.

"City Attorney" means the licensed attorney designated by Council to furnish legal assistance for the administration of these Regulations.

"City Council" means the governing body of the City.

"City Engineer" means the licensed engineer designated by Council to furnish engineering assistance for the administration of these Regulations.

"Club" means buildings or lands owned or operated by a corporation, association, fraternal organizations or persons for a social, education, or recreational purpose, but not primarily for profit or to render a service that is customarily carried out as a business.

"Code" or "this Code" means the Codified Ordinances of the City of Nitro, West Virginia.

"Code Official" means the building inspector authorized in Article 1705 of this Code, and includes his or her designee.

"Collector road" means a road intended to move traffic from local roads to secondary arterials. A collector road serves a neighborhood or large subdivision and should be designed so that no residential properties face onto it.

"Combination sign" means a sign that is supported partly by a pole and partly by a building structure.

"Columbarium" means

"Commercial" means engaging in a business, commerce, enterprise, activity, or other undertaking for a profit.

"Commercial parking garage" means a building other than a private garage, used for the parking of automobiles with or without a fee.

"Community Commercial Center" means a completely planned and designed commercial development providing for the sale of general merchandise and/or convenience goods and services. A community commercial center shall provide for the sale of general merchandise, and may include a variety store, discount store or supermarket.

"Commercial retail sales and services" means establishments which engage in the sale of general retail goods and accessory services. Businesses within this definition include those which conduct sales and storage entirely within an enclosed structure (with the exception of occasional outdoor "sidewalk" promotions); businesses specializing in sale of either general merchandise or convenience goods.

"Commercial school" means a school establishment to provide for the teaching of industrial, clerical, managerial or artistic skills. This definition applies to schools that are owned and operated privately for profit and that do not offer a complete educational curriculum (e.g., beauty school, modeling school).

"Community sign" means temporary, on- or off-premises signs, generally made of a woven material or durable synthetic materials primarily attached to or hung from light poles or on buildings. These signs are solely of a decorative, festive and/or informative nature announcing activities, promotions or events with seasonal or traditional themes having broad community interest, and which are sponsored or supported by a jurisdiction-based nonprofit organization.

"Comprehensive plan" means a plan for physical development, including land use, adopted by the City Council, setting forth guidelines, goals and objectives for all activities that affect growth and development in the governing body's jurisdiction.

"Conditional use" means a use which because of special requirements or characteristics may be permitted in a particular zoning district only after review by the board of zoning appeals and upon issuance of a conditional use permit, and subject to the limitations and conditions specified in the zoning ordinances.

"Condominium" means a common interest community in which portions of the real estate are designated for separate ownership and the remainder of the real estate is designated for common ownership solely by the owners of those portions. A common interest community is not a condominium unless the undivided interest in the common elements are vested in the owners.

"Construction plan" means the maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the Planning Commission as a condition of the approval of the plat.

"Contiguous" means lots, parcels, municipal boundaries or county boundaries that are next to, abutting and having a boundary, or portion thereof, that is coterminous. Streets, highways, roads or other traffic or utility easements, streams, rivers, and other natural topography are not to be used to determine lots, parcels, municipal boundaries or county boundaries as contiguous.

"Convalescent center" means a facility which is publicly or privately operated and intended for long-term patient care due to human illness or infirmity, including the elderly and developmentally disabled, normally employing the services

of skilled and licensed practitioners, excluding hospitals.

"Convenience commercial center" means a completely planned and designed commercial development providing for the sale of general merchandise and/or convenience goods and services. A convenience commercial center shall provide a small cluster of convenience shops or services.

"Copy" means those letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a sign, excluding numerals identifying a street address only.

"Corner lot" means a lot abutting on two intersecting or intercepting streets, where the interior angle of intersection or intercept on does not exceed 135 degrees.

"Court" means a space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three or more sides by walls of a building.

"Cul-de-sac" means a local street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

"Dance hall" or "discotheque" means an establishment intended primarily for dancing and entertaining within an enclosed building, using either live or electronically produced music, either open to the public or operated as a private club open to members only.

"Density" means the number of dwelling units which are allowed on an area of land, which area of land shall be permitted to include dedicated streets contained within the development.

"Destination tourism center" means an area containing a minimum of two hundred thousand square feet of buildable space adjacent or complementary to a tourism attraction, and which provides a variety of entertainment and leisure options.

"Development complex sign" means a free-standing sign identifying a multiple-occupancy development, such as a shopping center or planned industrial park, which is controlled by a single owner or landlord, approved in accordance with this chapter.

"Directional sign" means any sign that is designed and erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic.

"Dog racing" means the activity licensed under the authority of Article 23, Chapter 19 of the Code of West Virginia of 1931, as amended.

"Double faced sign" means a sign with two faces, back to back.

"Driveway" means a private access road, the use of which is limited to persons residing, employed, or otherwise using or visiting the parcel in which it is located.

"Duplex dwelling" means a building designed or arranged to be occupied by two families living independently, the structure having only two dwelling units.

"Dwelling unit" means any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, as required by this Part Thirteen, for not more than one family, or a congregate residence for six or less persons.

"Easement" means that portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on, or above said lot or lots.

"Educational institution" means public or parochial pre-primary, primary, grade, high, preparatory school or academy, junior college, college or university, if public or founded or conducted by or under the sponsorship of a religious or charitable organization.

"Electric sign" means any sign activated or illuminated by means of electrical energy.

"Electronic message sign or center" means an electrically activated changeable sign whose variable message capability can be electronically programmed.

"Escrow" means a deposit of cash with the City in lieu of an amount required and still in force on a performance or maintenance bond. Such escrow funds shall be deposited by the Commission in a separate account.

"Essential utilities and equipment" means underground or overhead electrical, gas, communications not regulated by the federal communications commission, water and sewage systems, including pole structures, towers, wires, lines, mains, drains, sewers, conduits, cables, fire alarm boxes, public telephone structures, police call boxes, traffic signals, hydrants, regulating and measuring devices and the structures in which they are housed, and other similar equipment accessories in connection therewith. Essential utility equipment is recognized in three categories:

1. Local serving;
2. Nonlocal or transmission through the county or municipality; and
3. Water and sewer systems, the activities of which are regulated, in whole or in part, by one or more of the following state agencies:

- a. Public service commission;
- b. Department of environmental protection; or
- c. The department of health and human resources.

"Existing use" means use of land, buildings or activity permitted or in existence prior to the adoption of a zoning map or ordinances by the county or municipality. If the use is nonconforming to Part Thirteen and lawfully existed prior to the adoption of the Part Thirteen, the use may continue to exist as a nonconforming use until abandoned for a period of one year: Provided, That in the case of natural resources, the absence of natural resources extraction or harvesting is not abandonment of the use.

"Exterior sign" means any sign placed outside a building.

"Factory-built home". See, "Modular and manufactured homes".

"Family" means an individual or two or more persons related by blood, marriage or adoption, or a group not to exceed six unrelated persons living together as a single housekeeping unit.

"Family day care" means the keeping for part-time care and /or instruction, whether or not for compensation, of six or less children at any time within a dwelling, not including members of the family residing on the premises.

"Farm animals" means animals other than household pets that shall be permitted to, where permitted, be kept and maintained for commercial production and sale and/or family food production, education, or recreation. Farm animals are identified by these categories: large animals, e.g., horses and cattle; medium animals, e.g., sheep, goats; or small animals, e.g., rabbits, chinchillas, chickens, turkeys, pheasants, geese, ducks and

ons: Provided, That the term "farm animals" shall not include any animals prohibited by State law or this Code from

being kept and maintained.

"Fascia sign". See, "wall or fascia sign."

"Final plat" means the map or plan or record of a subdivision and any accompanying material, as described in the Subdivision Regulations.

"Flag lot" means a lot so shaped and designed that the main building site is set back from the street on which it fronts and includes an access strip connecting the main building site with the frontage street.

"Flashing sign". See "animated sign, electrically activated."

"Flea market" means an occasional or periodic sales activity held within a building, structure, or open area where groups of individual sellers offer goods, new and used, for sale to the public, not to include private garage sales.

"Flood prone area" means any land area susceptible to repeated inundation by water from any source.

"Floor area ratio" means the numerical value obtained by dividing the gross floor area of a building by the area of the lot on which the building is constructed.

"Food distribution center" means any location or site used to prepare and/or furnish meals to members of the public without cost or at a very low cost as a social service as defined herein; a food distribution center may perform its activities wholly within a structure, wholly outside of a structure, or any combination thereof. A food distribution center shall not be considered a restaurant.

"Free standing sign" means a sign principally supported by a structure affixed to the ground, and not supported by a building, including signs supported by one or more columns, poles or braces placed in or upon the ground.

"Front yard" means a yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto.

"Frontage (Building)" means the length of an exterior building or structure of a single premise oriented to the public way or other properties that it faces.

"Frontage (Property)" means the length of the property line(s) of any single premise along either a public way or other properties on which it borders.

"Frontage street" means any street to be constructed by the developer or any existing street in which development shall take place on both sides.

"Gambling establishment" means an establishment that offers any form of gambling or games of chance that is regulated under the provisions of the Limited Video Lottery Act codified in section 101, Article 22B, Chapter 29 of the Code of West Virginia or 1931, as amended.

"General plan" means the declaration of purposes, policies and programs for the development of the City.

"Grade (Adjacent Ground Elevation)" means the lowest point of elevation of the existing surface of the ground, within the area between the building and a line 5 feet (1524 mm) from the building.

"Graffiti" means unauthorized marking on a structure.

"Gross acreage" means the overall total area of real property.

"Gross floor area" means the sum of the horizontal areas of floors of a building measured from the exterior face of exterior walls or, if appropriate, from the center line of dividing walls; this includes courts and decks or porches when covered by a roof.

"Gross leasable area (GLA)" means the total floor area of a commercial building designed for tenant occupancy and exclusive use, including basements, mezzanines and upper floors, expressed in square feet as measured from the center line of joint partitions and from outside wall faces.

"Ground sign". See "free-standing sign."

"Group care facility" means a facility, required to be licensed by the state, which provides training, care, supervision, treatment and/or rehabilitation to the aged, disabled, those convicted of crimes or those suffering the effects of drugs or alcohol; this does not include day-care centers, family day-care homes, foster homes, schools, hospitals, jails or prisons.

"Group day care" means an establishment for the care and/or instruction, whether or not for compensation, of seven or more persons at any one time. Child nurseries, preschools and adult care facilities are included in this definition.

"Guest room" means any room or rooms used or intended to be used by a guest for sleeping purposes. Every 100 square feet of superficial floor area in a dormitory shall be considered to be a guest room.

"Habitable space (Room)" means space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space.

"Heavy commercial" means an establishment or business which generally uses open sales yards, outside equipment storage, or outside activities that generate noise or other impacts considered incompatible with less-intense uses. Typical businesses in this definition are lumber yards, construction specialty services, heavy equipment suppliers or building contractors.

"Heavy manufacturing" means all other types of manufacturing not included in the definitions of light manufacturing and medium manufacturing.

"Highway, limited access" means a freeway or expressway, providing a trafficway for through traffic, in respect to which owners or occupants of abutting property on lands and other persons have no legal right to access to or from the same, except at such points and in such manner as may be determined by the public authority having jurisdiction over such trafficway.

"Heliport" means an area, either at ground level or elevated on a structure, licensed or approved for the landing, unloading, loading and takeoff of helicopters, and including auxiliary facilities such as parking, waiting room, and maintenance equipment.

"Historic district" means a geographically definable area, designated as historic on a national, state or local register, possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united historically or aesthetically by plan or physical development.

"Historic landmark" means a site, building, structure or object designated as historic on a national, state or local register.

"Historic site" means the location of a significant event, a prehistoric or historic occupation or activity, or a building or

structure whether standing, ruined or vanished, where the location itself possesses historical, cultural or archaeological value regardless of the value of any existing structure and designated as historic on a national, state or local register.

"Home occupation" means the partial use of a dwelling unit for commercial or nonresidential uses by a resident thereof which is subordinate and incidental to the use of the dwelling for residential purposes.

"Homeless person" means an individual who, or family which, lacks a fixed, regular and/or adequate nighttime residence.

"Homeless shelter" means a facility providing emergency housing with minimal supportive services for homeless persons whether they be individuals or families, that is intended for occupancy by the respective homeless person of thirty (30) days or less in a given 12 month period.

"Hospital" means an institution designed for the diagnosis, treatment and care of human illness or infirmity and providing health services, primarily for inpatients, and including as related facilities, laboratories, outpatient departments, training facilities and staff offices.

"House trailer" means any licensed or unlicensed trailer or other vehicle designed or used for living or sleeping purposes regardless of whether the wheels are attached or unattached, or a permanent or semi-permanent foundation is constructed underneath or any structures of a permanent nature are attached thereto.

"Hot tub". See "Private swimming pool."

"Household pets" means dogs, cats, rabbits, birds, and other animals, maintained for family use only (noncommercial) with cages, pens, etc.

"Illuminated sign" means a sign characterized by the use of artificial light, either projecting through its surface(s) (internally illuminated), or reflecting off its surface(s) (externally illuminated).

"Individual sewage disposal system" means a septic tank, seepage tile sewage disposal system or any other approved sewage treatment device. (26) "Joint ownership" means among persons, the same owner; "constructive ownership" for the purpose of imposing Subdivision Regulations.

"Indoor private swimming pool" means any private swimming pool that is totally contained within a private structure and surrounded on all four sides by walls of said structure.

"Indoor recreation" means an establishment providing completely enclosed recreation activities. Accessory uses shall be permitted to include the preparation and serving of food and/or the sale of equipment related to the enclosed uses. Included in this definition shall be bowling, roller skating or ice skating, billiards, pool, motion picture theatres, and related amusements.

"Industrial or research park" means a tract of land developed according to a master site plan for the use of a family of industries and their related commercial uses, and that is of sufficient size and physical improvement to protect surrounding areas and the general community and to assure a harmonious integration into the neighborhood.

"Infill development" means to fill in vacant or underused land in existing communities with new development that blends in with its surroundings.

"In-ground pool". See "Private swimming pool."



"Interior lot" means a lot other than a corner lot.

"Interior sign" means any sign placed within a building, but not including window signs. Interior signs, with the exception of window signs, are not regulated by this chapter.

"Irregular lot" means a lot whose opposing property lines are generally not parallel, such as a pie-shaped lot on a cul-de-sac, or where the side property lines are not parallel to each other.

"Kennel" means any lot or premises on which five or more dogs or cats over four months of age are kept, for compensation or not.

"Kiddie ride" means an amusement ride or amusement attraction that is expressly designed for or offered to: (1) Children age 12 or less; (2) Persons who are forty-two inches in height or less; and (3) Persons who are ninety pounds in weight or less.

"Kitchen" means any room or portion of a room within a building designed and intended to be used for the cooking or preparation of food.

"Landscaping" means the finishing and adornment of unpaved yard areas. Materials and treatment generally include naturally growing elements such as grass, trees, shrubs and flowers. This treatment shall be permitted also to include the use of logs, rocks, fountains, water features and contouring of the earth.

"Light commercial" means an establishment or business which generally has retail or wholesale sales, office uses or services that do not generate noise, or other impacts considered incompatible with less-intense uses. Typical businesses in this definition are retail stores, offices, catering services or restaurants.

"Light manufacturing" means the manufacturing, compounding, processing, assembling, packaging or testing of goods; or equipment, including research activities, conducted entirely within an enclosed structure, with no outside storage, serviced by a modest volume of trucks or vans and imposing a negligible impact on the surrounding environment by noise, vibration, smoke, dust or pollutants.

"Limited video lottery/keno" means the lottery activity licensed under the authority of Article 22B, Chapter 29 of the Code of West Virginia of 1931, as amended.

"Livestock" means, but is not limited to, horses, bovine animals, sheep, goats, swine, reindeer, donkeys, mules and any other hoofed animals.

"Local road" means a road intended to provide access to other roads from individual properties and to provide right of way beneath it for sewer, water and storm drainage pipes.

"Lot" means a single parcel of land.

"Lot area" means the horizontal area within the lot lines of a lot.

"Lot, corner" means a lot situated at the intersection of two streets, the interior angle of such intersection not exceeding 135 degrees.

"Lot depth" means the mean horizontal distance between the front and rear lot lines.

"Lot improvement" means any building, structure, place, work of art, or other object, or improvement of the land on which it is situated constituting a physical betterment of real property, or any part of such betterment. Certain lot

improvements shall be properly bonded as provided in the Subdivision Regulations.

"Lot width" means the mean horizontal distance across the lot between the side lot lines measured at right angles to the depth.

"Main building" means a structure in which is conducted the principal use of the lot on which it is situated.

"Major automotive repair" means an establishment primarily engaged in the repair or maintenance of motor vehicles, trailers and similar large mechanical equipment, including paint, body and fender and major engine and engine part overhaul, which is conducted within a completely enclosed building.

"Major subdivision" means all subdivisions not classified as minor subdivisions, including but not limited to the subdivision of four or more lots, or any size subdivision requiring any new street or extension of the local governmental facilities, or the creation of any public improvements.

"Mansard" means an inclined decorative roof-like projection that is attached to an exterior building facade.

Manufactured home (mobile home)" means a structure, transportable in one or more sections, which in the traveling mode is 8 body feet (2438 mm) or more in width or 40 body feet (12 192 mm) in length, or when erected on site is 320 square feet (29.7 m2) or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein.

"Marina" means a facility for storing, servicing, fueling, berthing, and securing and launching of private pleasure craft, including tour boats and river boats, that may include the sale of fuel, food and incidental supplies for the boat owners, crews, passengers and guests.

"Marquee". See "canopy (attached)."

"Marquee sign". See "canopy sign."

"Medium manufacturing" means the manufacturing, compounding, processing, assembling, packaging or testing of good: or equipment within an enclosed structure or an open yard that is capable of being screened from neighboring properties, serviced by a modest volume of trucks or other vehicles.

"Menu board" means a free-standing sign oriented to the drive-through lane for a restaurant that advertises the menu items available from the drive-through window, and which has no more that 20 percent of the total area for such a sign utilized for business identification.

"Minor automotive repair" means an establishment primarily engaged in the repair or maintenance of motor vehicles, trailers and similar mechanical equipment, including brake, muffler, upholstery work, tire repair and change, lubrication, tune ups and transmission work, which is conducted within a completely enclosed building, but not including activities specified under "automotive repair, major."

"Minor subdivision" means any subdivision containing not more than three lots fronting on an existing street, not involving any new street or road, or the extension of Municipal facilities, or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the Comprehensive Plan or Part Thirteen of this Code.

"Mobile home park" means a tract of land developed and operated as a unit with individual sites and facilities to accommodate two or more mobile homes.

"Model home" means a dwelling temporarily used as a sales office for a residential development under construction; said home being used for on-site sales and not for general real estate business.

"Modular home" means a factory-built home, other than a manufactured home, which meets all of the following requirements:

1. Is designed only for erection or installation on a site-built permanent foundation;
2. Is not designed to be moved once so erected or installed;
3. Is designed and manufactured to comply with a nationally recognized model building Code or an equivalent local ordinance, or with a state or local modular building ordinances recognized as generally equivalent to building ordinances for site-built housing; or
4. To the manufacturer's knowledge, is not intended to be used other than on a site-built permanent foundation.

"Mortuary, funeral home" means an establishment in which the dead are prepared for burial or cremation. The facility shall be permitted to include a chapel for the conduct of funeral services and spaces for funeral services and informal gatherings, and/or display of funeral equipment.

"Motel, hotel or inn" means a building or buildings including rooms rented out to persons as clearly transient and temporary living quarters. Any such use that customarily involves the housing of persons for periods of time longer than 30 days shall be considered a "boarding house" and shall meet the requirements of that use. A hotel, motel or inn may include a restaurant, nightclub, newsstand or tavern, provided that such uses are clearly accessory to the principal use of overnight accommodations.

"Multiple faced sign" means a sign containing three or more faces.

"Multiple unit dwelling" means a building or portion thereof designed for occupancy by three or more families living independently in which they may or may not share common entrances and/or other spaces. Individual dwelling units may be owned as condominiums, townhouses, or offered for rent.

"Natural waterways" means those areas, varying in width along streams, creeks, springs, gullies or washes, which are natural drainage channels as determined and identified by the City.

"Neighborhood commercial center" means a completely planned and designed commercial development providing for the sale of general merchandise and/or convenience goods and services. A neighborhood commercial center shall provide for the sales of convenience goods and services, with a supermarket as the principal tenant.

"Neighborhood Park and Recreation Improvement Fund" means a special fund established by the City Council to retain moneys contributed by developers in accordance with the "money in lieu of land" provisions of the Subdivision Regulations within reasonable proximity of the land to be subdivided so as to be of local use to the future residents of the subdivision.

"Net acreage" means the remaining area after all deductions are made; with deductions including streets, easements for access, street dedications and similar areas.

"Net floor area" means the gross floor area exclusive of vents, shafts, courts, elevators, stairways, exterior walls and similar facilities.

"Nonconforming lot" means a lot whose width, area or other dimension did not conform to the regulations when this Part Thirteen became effective.

"Nonconforming sign" means a sign or sign structure or portion thereof lawfully existing at the time this Part Thirteen became effective, which does not now conform.

"Nonconforming structure" means a building or structure or portion thereof lawfully existing at the time this Part Thirteen became effective, which was designed, erected or structurally altered for a use that does not conform to the zoning regulations of the zone in which it is located.

"Nonconforming use" means a use which lawfully occupied a building or land at the time this Part Thirteen became effective, which has been lawfully continued and which does not now conform with the use requirements of this Part Thirteen.

"Nonresidential subdivision" means a subdivision whose intended use is other than residential, such as commercial or industrial. Such subdivision shall comply with the applicable provisions of the Subdivision Regulations.

"Off-premises sign". See "outdoor advertising sign."

"Off-site" means any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant for subdivision approval.

"On-premises sign" means a sign erected, maintained or used in the outdoor environment for the purpose of the display of messages appurtenant to the use of products sold on, or the sale or lease of, the property on which it is displayed.

"Open space" means land areas that are not occupied by buildings, structures, parking areas, streets, alleys or required yards. Open space shall be permitted to be devoted to landscaping, preservation of natural features, patios, and recreational areas and facilities.

"Ordinance" or "This Ordinance" means the City of Nitro, West Virginia Planning and Zoning Code, Part Thirteen.

"Outdoor advertising sign" means a permanent sign erected, maintained or used in the outdoor environment for the purpose of the display of commercial or noncommercial messages not appurtenant to the use of products sold on, or the sale or lease of the property on which it is displayed.

"Outdoor private swimming pool" means any private swimming pool that is not an indoor swimming pool.

"Outdoor recreation" means an area free of buildings except for restrooms, dressing rooms, equipment storage, maintenance buildings, open-air pavilions, and similar structures used primarily for recreational activities.

"Owner" means any person, group of persons, firm or corporation, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under the Subdivision Regulations.

"Parapet" means the extension of a building facade above the line of the structural roof.

"Pari-mutual wagering" means the system of wagering occurring at a racing association licensed under the authority of Article 23, Chapter 19 of the Code of West Virginia of 1931, as amended, and includes pari-mutuel wagering on interstate and intrastate horse and dog racing as authorized in the said Article 23.

"Park" means a public or private area of land, with or without buildings, intended for outdoor active or passive recreational uses.

"Park and ride facilities" means parking lots or structures located along public transit routes designed to encourage

transfer from private automobile to mass transit or to encourage carpooling for purposes of commuting, or for access to recreation areas.

"Parking lot" means an open area, other than a street, used for the parking of automobiles.

"Part Thirteen" means Part Thirteen of the Code .

"Perimeter street" means any existing street to which the parcel of land to be subdivided abuts on only one side.

"Permitted use" means any use allowed within a zoning district, subject to the restrictions applicable to that zoning district and is not a conditional use.

"Person" means a natural person, heirs, executors, administrators or assigns, and includes a firm, partnership or corporation, limited liability company, limited liability partnership, S-corporation, or any other form of business organization, its or their successors or assigns, or the agent of any of the aforesaid.

"Plan" means a written description for the development of land.

"Planned group dwelling" means two or more detached buildings used as dwelling units located on a lot that is in single ownership having yards, courts or facilities in common.

"Planned unit development (PUD)" means a residential or commercial development guided by a total design plan in which one or more of the zoning or subdivision regulations, other than use regulations, shall be permitted to be waived or varied to allow flexibility and creativity in site and building design and location, in accordance with general guidelines.

"Planning Commission" means the Nitro Planning Commission for the City of Nitro, West Virginia.

"Plat" means a map of the land development.

"Plot map" means a plat of a lot, drawn to scale, showing the actual measurements, the size and location of any existing buildings or buildings to be erected, the location of the lot in relation to abutting streets, and other such information.

"Pole sign". See "free-standing sign."

"Political sign" means a temporary sign intended to advance a political statement, cause or candidate for office. A legally permitted outdoor sign shall not be considered a political sign.

"Power safety cover" means a pool cover which is placed over the water area, and is opened and closed with a motorized mechanism activated by a control switch.

"Preliminary plat" means the preliminary drawing or drawings, described in these Regulations, indicating the proposed manner or layout of the subdivision to be submitted to the Commission for approval.

"Primary arterial" means a road intended to move through traffic to and from such major attractors as central business districts, regional shopping centers, colleges and/or universities, military installations, major industrial areas, and similar traffic generators within the governmental unit; and/or as a route for traffic between communities or large areas.

"Primary face of building" means the wall of a building fronting on a street or right-of-way, excluding any

appurtenances such as projecting fins, columns, pilasters, canopies, marquees, showcases or decorations.

"Private garage" means a building or a portion of a building not more than 1,000 square feet (in area, in which only private or pleasure-type motor vehicles used by the tenants of the building or buildings on the premises are stored or kept.

"Private street" means a right-of-way or easement in private ownership, not dedicated or maintained as a public street, which affords the principal means of access to two or more sites.

"Private swimming pool" means any structure that contains water over 24 inches in depth and which is used, or intended to be used, for swimming or recreational bathing in connection with an occupancy in Use Group R-3 and which is available only to the family and guests of the householder. This includes in-ground, above-ground and on-ground swimming pools, hot tubs and spas.

"Public improvement" means any drainage ditch, roadway, parkway, sidewalk, pedestrianway, treelawn, off-street parking area, lot improvement or other facility for which the City may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which City responsibility is established. All such improvements shall be properly bonded.

"Public swimming pool" means any swimming pool other than a private swimming pool.

"Portable sign" means any sign not permanently attached to the ground or to a building or building surface.

"Preferred development area" means a geographically defined area where incentives may be used to encourage development, infill development or redevelopment in order to promote well designed and coordinated communities.

"Principal use" means a use which fulfills a primary function of a household, establishment, institution or other entity.

"Private club" means a business activity licensed under the authority of Article 7, Chapter 60 of the Code of West Virginia of 1931, as amended, where alcoholic beverages are dispensed for consumption on the premises and in which dancing or other forms of entertainment, excluding adult entertainment, are permitted and includes the term "cabaret."

"Professional office" means any office or business conducted that has been determined by the West Virginia Legislature to provide professional services.

"Projecting sign" means a sign other than a wall sign that is attached to or projects more than 18 inches from a building or wall or from a structure whose primary purpose is other than the support of a sign.

"Public improvement" means any drainage ditch, storm sewer or drainage facility, sanitary sewer, water main, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement or other facility for which the City may ultimately assume the responsibility for maintenance and operation or for which the City responsibility is established.

"Public place" means any lots, tracts or parcels of land, structures, buildings or parts thereof owned or leased by a governing body or unit of government.

"Public services" means uses operated by a unit of government to serve public needs, such as police (with or without jail), fire service, ambulance, judicial court or government offices, but not including public utility stations or maintenance facilities.

"Public utility station" means a structure or facility used by a public or quasi-public utility agency to store, distribute, or generate electricity, gas, telecommunications, and related equipment, or to pump or chemically treat water. This does not include storage or treatment of sewage, solid waste or hazardous waste.

"Public way" means any street, alley or similar parcel of land essentially unobstructed from the ground to the sky which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

"Quasi-public" means essentially a public use, although under private ownership or control.

"Quorum" means a majority of the authorized members.

"Real estate sign" means a temporary sign advertising the sale, lease or rental of the property or premises upon which it is located.

"Rear yard" means a yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line or ordinary high water line and a line parallel thereto.

"Recreational vehicle" means a vehicular unit as defined in Chapter 17A of the West Virginia Code, other than a mobile home, whose gross floor area is less than 320 square feet, which is designed as a temporary dwelling for travel, recreational and vacation use, and which is either self-propelled, mounted on or pulled by another vehicle. Examples include, but are not limited to, a travel trailer, camping trailer, truck camper, motor home, fifth-wheel trailer or van.

"Recycling facility" means any location whose primary use is where waste or scrap materials are stored, bought, sold, accumulated, exchanged, packaged, disassembled or handled, including, but not limited to, scrap metals, paper, rags, tires and bottles, and other such materials.

"Regional commercial center" means a completely planned and designed commercial development providing for the sale of general merchandise and/or convenience goods and services. A regional center shall provide for the sale of general merchandise, apparel, furniture, home furnishings, and other retail sales and services, in full depth and variety.

"Registered engineer" means an engineer properly licensed and registered in the State.

"Registered land surveyor" means a land surveyor properly licensed and registered in the State.

"Rehabilitation center (Halfway house)" means an establishment whose primary purpose is the rehabilitation of persons. Such services include drug and alcohol rehabilitation, assistance to emotionally and mentally disturbed persons, and halfway houses for prison parolees and juveniles. Customary uses and customary accessory uses for rehabilitation center activity do not include medical clinic, homeless shelter, food distribution, or social services.

"Religious, cultural and fraternal activity" means a use or building owned or maintained by an organized religious organization or nonprofit association determined by the Internal Revenue Service as qualified under Section 501(c)(3) or (4) of the Internal Revenue Code, and used for social, civic or philanthropic purposes, or the purpose for which persons regularly assemble for worship. Customary uses and customary accessory uses for religious, cultural and fraternal activity do not include medical clinic, homeless shelter, food distribution, rehabilitation center, or social services.

"Renovation" means interior or exterior remodeling of a structure, other than ordinary repair.

"Required yard" means the minimum setback from the property line as stated within this Part Thirteen.

"Restaurant" means an establishment which sells prepared food for consumption. Restaurants shall be classified as follows:

1. Fast food restaurant which is an establishment which sells food already prepared for consumption, packaged in paper, Styrofoam or similar materials, and may include drive-in or drive-up facilities for ordering.
2. General restaurant which is an establishment which is used primarily for the on-site preparation, sale, serving and consumption of food and non-alcoholic beverages, and, if also licensed as a private club, where alcoholic beverages by the drink may also be served for consumption on the premises as an accessory to the principal use as a restaurant.
3. Take-out restaurant which is an establishment which sells food only for consumption off the premises.

"Resubdivision" means a change in a map of an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved thereon for public use, or any lot line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

"Revolving sign" means a sign that revolves 360 degrees about an axis. See also "animated sign, mechanically activated."

"Right of way" means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees or for another special use. "Right of way" for landplating purposes means that every right of way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right of way and not included within the dimensions or areas of such lots or parcels. Rights of way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, shade trees or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right of way is established.

"Road, classifications" means the classification of each street, highway, road and right of way, based upon its location in the respective zoning districts of the City and its present and estimated future traffic volume and its relative importance and function as specified in the Comprehensive Plan of the City.

"Road, dead-end" means a road or a portion of a street with only one vehicular traffic outlet.

"Road right-of-way width" means the distance between property lines measured at right angles to the centerline of the street.

"Roof line" means the top edge of a peaked roof or, in the case of an extended facade or parapet, the uppermost point of said facade or parapet.

"Roof sign" means a sign mounted on, and supported by, the main roof portion of a building, or above the uppermost edge of a parapet wall of a building and which is wholly or partially supported by such a building. Signs mounted on mansard facades, pent eaves and architectural projections such as canopies or marquees shall not be considered to be roof signs.

"Sale or lease" means any immediate or future transfer of ownership, or any possessory interest in land, including contract of sale, lease, devise, interstate succession, or transfer, of an interest in a subdivision of part thereof, whether by metes and bound, deed, contract, plat, map, lease, devise, interstate succession or other written instrument.

"Same ownership" means ownership by the same person, corporation, firm entity, partnership or unincorporated association; or ownership by different corporations, firms, partnerships, entities or unincorporated associations, in which a stockholder, partner or associate, or a member of his family owns an interest in each corporation, firm,



partnership, entity or unincorporated association.

"Salvage yard" means any location whose primary use is where waste or scrap materials are stored, bought, sold, accumulated, exchanged, packaged, disassembled or handled, including, but not limited to, materials such as scrap metals, paper, rags, tires and bottles.

"Secondary arterial" means a road intended to collect and distribute traffic in a manner similar to primary arterials, except that these roads service minor traffic-generating areas such as community-commercial areas, primary and secondary educational plants, hospitals, major recreational areas, churches and offices, and/or are designed to carry traffic from collector streets to the system of primary arterials.

"Secondary social services" means social services such as counseling, education and referral, training, indoor recreational facilities and similar services supportive to the primary social services offered at a social service facility. Secondary social services may only be provided during day and evening hours and shall not include overnight accommodations.

"Setback" means the minimum required distance between the property line and the building line.

"Shade tree" means a tree in a public place, street, special easement or right of way adjoining a street as provided in the Subdivision Regulations.

Shelter" or "mission" means a facility whose general purpose is to provide temporary food, clothing, or sleeping accommodations to persons, families, or parts of families on a temporary occupancy who are homeless or displaced. Short term counseling during stay may also be provided. The shelter shall have appropriate supervisory personnel. Such facility must meet all applicable standards of the Department of health, State Fire Marshall, and any other federal, state, county or city agency which has regulatory power over said facility.

"Shopping center" means a group of three or more retail business and service uses on a single site with common parking facilities.

"Side yard" means an open, unoccupied space on the same lot with the building and between the building line and the side lot line, or to the ordinary high water line.

"Sign" means any device visible from a public place that displays either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial symbols or representations. Noncommercial flags or any flags displayed from flagpoles or staffs will not be considered to be signs.

"Sign area" means the area of the smallest geometric figure, or the sum of the combination of regular geometric figures, which comprise the sign face. The area of any double-sided or "V" shaped sign shall be the area of the largest single face only. The area shall be computed as the area of the circle. The area of all other multiple-sided signs shall be computed as 50 percent of the sum of the area of all faces of the sign.

"Sign copy" means those letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a sign, exclusive of numerals identifying a street address only.

"Sign face" means the surface upon, against or through which the sign copy is displayed or illustrated, not including structural supports, architectural features of a building or sign structure, nonstructural or decorative trim, or any areas that are separated from the background surface upon which the sign copy is displayed by a distinct delineation, such as a reveal or border.

1. In the case of panel or cabinet type signs, the sign face shall include the entire area of the sign panel, cabinet or face substrate upon which the sign copy is displayed or illustrated, but not open space between separate

panels or cabinets.

2. In the case of sign structures with routed areas of sign copy, the sign face shall include the entire area of the surface that is routed, except where interrupted by a reveal, border or a contrasting surface or color.

3. In the case of signs painted on a building, or individual letters or graphic elements affixed to a building or structure, the sign face shall comprise the sum of the geometric figures or combination of regular geometric figures drawn closest to the edge of the letters or separate graphic elements comprising the sign copy, but not the open space between separate groupings of sign copy with the color of the building or structure.

4. In the case of sign copy enclosed within a painted or illuminated border, or displayed on a background contrasting in color with the color of the building or structure, the sign face shall comprise the area within the contrasting background, or within the painted or illuminated border.

"Sign structure" means any structure supporting a sign.

"Sightline" means a three and one-half (3-1/2) foot vertical zone, eye level of the driver of a vehicle, above the finished grade level of the cartway at the center-line of the right-of-way.

"Sight triangle area" means a triangle, two (2) sides of which are formed by the intersection of street centerlines and the third side by the sight line.

"Single-family dwelling" means detached dwelling unit with kitchen and sleeping facilities, designed for occupancy by one family.

"Site plan" means a plan which outlines the use and development of any tract of land.

"Sketch plat" means a sketch preparatory to the preparation of the preliminary plat (or subdivision plat in the case of minor subdivisions) to enable the subdivider to save time and expense in reaching general agreement with the Commission as to the form of the plat and the objectives of the Subdivision Regulations.

"Social services" means any service regularly provided to the public to address public welfare and health such as, but not limited to, the provision of food and hygiene care.

"Social service facility (SSF)" means a facility, whether operated by a charitable organization or a church, that regularly provides social services and secondary social services as defined herein, and includes those services provided by an addiction treatment center, and/or a food distribution center. Medical uses such as physical therapy or similar uses are not provided by a social service facility.

"Spa". See "Private swimming pool."

"Special care manufactured home" means a home used as a temporary dwelling for a family member who is in need of special, frequent and routine care by reason of advanced age or ill health.

"Sporting event" means any event licensed under the authority of the State Athletic Commission in Article 5A, Chapter 29 of the Code of West Virginia of 1931, as amended, or licensed under the authority of another agency of the State of West Virginia.

"Sprawl" means poorly planned or uncontrolled growth, usually of a low-density nature, within previously rural areas, that is land consumptive, auto-dependent, designed without respect to its surroundings, and some distance from existing development and infrastructure.

"Story" means that portion of building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface

of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than 6 feet above grade as defined herein for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined herein at any point, such usable or unused underfloor space shall be considered as a story.

"Street" means a dedicated thoroughfare or public way such as a street, avenue, boulevard, highway, road, lane, alley and is not less than 16 feet in width.

"Street line" means the line defining the edge of the legal width of a dedicated street right-of-way.

"Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

"Subdivider" means any person who:

- A. Having an interest in land, causes it, directly or indirectly, to be divided into a subdivision; or
- B. Directly or indirectly, sells, leases or develops, or offers to sell, lease or develop, or advertises for sale, lease or development, any interest, lot, parcel site, unit or plat in a subdivision; or
- C. Engages directly or through an agent in the business of selling, leasing, developing or offering for sale, lease or development a subdivision or any interest, lot, parcel site, unit or plat in a subdivision; and
- D. Is directly or indirectly controlled by, or under direct or indirect common control with any of the foregoing.

"Subdivision" means any land, vacant or improved, which is divided or proposed to be divided into two or more lots, parcels, sites, unit, plots or interests for the purpose of offer, sale, lease or development, either on the installment plan or upon any and all other plans, terms and conditions, including resubdivision. "Subdivision" includes the division or development of residential and nonresidential zoned land, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat or other recorded instrument.

"Subdivision agent" means any person who represents, or acts for or on behalf of, a subdivider or developer, in selling, leasing or developing, or offering to sell, lease or develop any interest, lot, parcel, unit, site or plat in a subdivision, except an attorney-at-law whose representation of another person consists solely of rendering legal services.

"Subdivision plat" means the final map or drawing, described in the Subdivision Regulations, on which the subdivider's plan of subdivision is presented to the Planning Commission for approval and which, if approved, may be submitted to the County Clerk for filing.

"Swimming pool". See, public swimming pool or private swimming pool.

"Temporary building" means a building used temporarily for the storage of construction materials and equipment incidental and necessary to on-site permitted construction of utilities, or other community facilities, or used temporarily in conjunction with the sale of property within a subdivision under construction.

"Temporary improvement" means improvements built and maintained by a subdivider during construction of the subdivision and prior to release of the performance bond.

"Temporary sign" means a sign intended to display either commercial or noncommercial messages of a transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, are not considered temporary signs.

"Temporary use" means a use that is authorized by this Part Thirteen to be conducted for a fixed period of time. Temporary uses are characterized by such activities as the sale of agricultural products, contractors' offices and

equipment sheds, fireworks, carnivals, flea markets, and garage sales.

“Theater” means a building used primarily for the presentation of live stage productions, performances or motion pictures.

“Tourism attraction” means a cultural or historical site, a recreation or entertainment facility, an area of natural phenomena or scenic beauty, a West Virginia crafts or products center or a tourism destination center, but shall not include only a lodging facility unless the lodging facility constitutes a portion of a tourism destination center.

“Town house” means a type of dwelling unit normally having two, but sometimes three, stories, usually connected to a similar structure by a common wall, and commonly sharing and owning in common the surrounding grounds.

“Trailer” means a licensed or unlicensed piece of mobile equipment designed or constructed to be towed by a motor vehicle, on or off the public highways.

“Trailer park” means a lot or premises occupied or designed for occupancy by two (2) or more mobile homes.

“Under canopy sign” or “under marquee sign” means a sign attached to the underside of a canopy or marquee.

“Urban area” means all lands or lots within the jurisdiction of a the Planning Commission.

“Use” means the activity occurring on a lot or parcel for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied, including all accessory uses.

“Utility” means a public or private distribution service to the public that is regulated by the West Virginia Public Service Commission.

“V sign” means a signs containing two faces of approximately equal size, erected upon common or separate structures, positioned in a “V” shape with an interior angle between faces of not more than 90 degrees with the distance between the sign faces not exceeding 5 feet at their closest point.

“Variance” means a deviation from the height, bulk, setback, parking or other dimensional requirements established by this Part Thirteen.

“Vocation school” or “trade school” means a secretarial or business school or college when not publicly owned or conducted by or under the sponsorship of a religious, charitable or non-profit organization, or a school conducted as a business enterprise for teaching instrumental music, dancing, barbering or hair styling, drafting, or for the teaching of industrial or technical arts.

“Wall sign” or “fascia sign” means a sign that is in any manner affixed to any exterior wall of a building or structure and that projects not more than 18 inches from the building or structure wall, including signs affixed to architectural projections from a building provided the copy area of such signs remains on a parallel plane to the face of the building facade or to the face or faces of the architectural projection to which it is affixed.

“Wholesale warehouse” or “Storage warehouse” means a building or premises in which goods, merchandise or equipment are stored for eventual distribution.

“West Virginia Lottery table games” means the games authorized under Article 22C, Chapter 29 of the Code of West Virginia of 1931, as amended.

“Window sign” means a sign affixed to the surface of a window with its message intended to be visible to and

readable from the public way or from adjacent property.

“Wrecking yard” means any place where damaged, inoperable or obsolete machinery such as cars, trucks and trailers, or parts thereof, are stored, bought, sold, accumulated, exchanged, disassembled or handled.

“Yard” means an open, unoccupied space on a lot, other than a court, which is unobstructed from the ground upward by buildings or structures, except as otherwise provided in this Part Thirteen.

“Zero lot line development” means single-family dwellings arranged on individual lots as either detached structures with one or more side walls on a side property line.

“Zoning” means the division of a municipality into districts which specify permitted and conditional uses and development standards for real property within the districts .

“Zoning map” means a map that geographically illustrates all zoning district boundaries within the City, as described within the zoning Part Thirteen, and which is certified as the official zoning map for the municipality or county.

## **CHAPTER 1305 RESIDENTIAL ZONES**

1305.1(l) Prohibited Uses. On and after August 8, 2018, rehabilitation center activities, addiction treatment center activities, food distribution center activities, social service activities, secondary social service activities, or homeless shelter activities may not be provided at any structure, whether operated as a social services facility, church, or similar charity, within 1,000 feet of a school, playground, library, athletic field or park, senior citizen living facility, public swimming pool, or city park.

1305.2(l) Prohibited Uses. On and after August 8, 2018, rehabilitation center activities, addiction treatment center activities, food distribution center activities, social service activities, secondary social service activities, or homeless shelter activities may not be provided at any structure, whether operated as a social services facility, church, or similar charity, within 1,000 feet of a school, playground, library, athletic field or park, senior citizen living facility, public swimming pool, or city park.

1305.3(b) Prohibited Uses. On and after August 8, 2018, rehabilitation center activities, addiction treatment center activities, food distribution center activities, social service activities, secondary social service activities, or homeless shelter activities may not be provided at any structure, whether operated as a social services facility, church, or similar charity, within 1,000 feet of a school, playground, library, athletic field or park, senior citizen living facility, public swimming pool, or city park.

## **CHAPTER 1306 BUSINESS ZONES**

### **1306.1(d). Prohibited Uses.**

1306.1(d)(1). Any residential or industrial use except that which is clearly necessary for and incidental to the conduct of a permitted retail business or service of the premises.

1306.1(d)(2). Gambling establishments.

1302(d)(2)(A). On and after the effective dates of this paragraph in January, 2010, gambling establishments shall not be located within 3,000 feet of each other.

1306.1(d)(2)(B). On and after the effective dates of this paragraph in January, 2010, no gambling establishment shall be located within 3,000 feet of any church, place of worship, library, school, community center, or publicly owned property designated as a playground, park and under the control of the City.

1306.1(d)(3) On and after August 8, 2018, rehabilitation center activities, addiction treatment center

activities, food distribution center activities, social service activities, secondary social service activities, or homeless shelter activities may not be provided at any structure, whether operated as a social services facility, church, or similar charity, within 1,000 feet of a school, playground, library, athletic field or park, senior citizen living facility, public swimming pool, or city park.

**1306.2(c). Prohibited Uses.** In any Central Business Zone, the following uses and buildings are prohibited.

1306.2(c)(1). Except for uses permitted in Section 1306.2(a) of this Part Thirteen, all uses prohibited in "B-1" Local or Neighborhood Business Zones.

1306.2(c)(2). Any residential commercial or industrial use, which in the opinion of the Board of Appeals may become noxious or offensive in a "B-2" Central Business Zones.

1306.2(c)(3). Gambling establishments.

1306.2(c)(3)(A). On and after the effective dates of this paragraph in January, 2010, gambling establishments shall not be located within 3,000 feet of each other.

1306.2(c)(3)(B). On and after the effective dates of this paragraph in January, 2010, no gambling establishment shall be located within 3,000 feet of any church, place of worship, library, school, community center, or publicly owned property designated as a playground, park and under the control of the City.

1306.2(c)(4). On and after August 8, 2018, rehabilitation center activities, addiction treatment center activities, food distribution center activities, social service activities, secondary social service activities, or homeless shelter activities may not be provided at any structure, whether operated as a social services facility, church, or similar charity, within 1,000 feet of a school, playground, library, athletic field or park, senior citizen living facility, public swimming pool, or city park.

#### CHAPTER 1307 HEAVY COMMERCIAL ZONE

**1307.1(c). Prohibited Uses.** Any residential, commercial or industrial use which, in the opinion of the Board of Appeals, may become offensive or noxious in a "C-1" Heavy Commercial Zone.

1307.1(c) On and after August 8, 2018, rehabilitation center activities, addiction treatment center activities, food distribution center activities, social service activities, secondary social service activities, or homeless shelter activities may not be provided at any structure, whether operated as a social services facility, church, or similar charity, within 1,000 feet of a school, playground, library, athletic field or park, senior citizen living facility, public swimming pool, or city park.

#### CHAPTER 1308 INDUSTRIAL ZONE

**1308.1(c). Prohibited Uses.** Any residential, commercial, or industrial use, which in the opinion of the Board of Appeals may become offensive or noxious in an I-1 Light Industrial Zone.

1308.1(c) On and after August 8, 2018, rehabilitation center activities, addiction treatment center activities, food distribution center activities, social service activities, secondary social service activities, or homeless shelter activities may not be provided at any structure, whether operated as a social services facility, church, or similar charity, within 1,000 feet of a school, playground, library, athletic field or park, senior citizen living facility, public swimming pool, or city park.

#### CHAPTER 1309 DESTINATION TOURISM ZONE

**1309.1(c). Prohibited Uses.** Any residential or industrial use except that which is clearly necessary for and incidental to the conduct of a permitted business or service of the premises.

1309.1(c) On and after August 8, 2018, rehabilitation center activities, addiction treatment center activities,

food distribution center activities, social service activities, secondary social service activities, or homeless shelter activities may not be provided at any structure, whether operated as a social services facility, church, or similar charity, within 1,000 feet of a school, playground, library, athletic field or park, senior citizen living facility, public swimming pool, or city park.

Passed on First Reading \_\_\_\_\_

Passed on Second Reading \_\_\_\_\_

\_\_\_\_\_  
Rita Cox, Recorder

\_\_\_\_\_  
Dave Casebolt, Mayor

Ora Ash, Deputy State Auditor  
 West Virginia State Auditor's Office  
 153 West Main Street, Suite C  
 Clarksburg, WV 26301  
 Phone: 627-2415 ext. 5114  
 Fax: 627-2417

**REQUEST FOR REVISION TO APPROVED BUDGET**

Subject to approval of the state auditor, the governing body requests that the budget be revised prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists. (§ 11-8-26a)

CONTROL NUMBER  
 Fiscal Year Ending: 2019  
 Fund: General  
 Revision Number: 1  
 Pages: 1

City of Nitro  
 GOVERNMENT ENTITY  
 PO Box 308  
 STREET OR PO BOX  
 Nitro 25143  
 CITY ZIP CODE

Municipality  
 Government Type

Person To Contact Regarding Request:  
 Name: John H Young, CPA  
 Phone: 304 755-0702  
 Fax: 304 755-7502

**REVENUES: (net each acct.)**

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
296	Restricted Fund Balance		240,539		240,539
297	Committed Fund Balance		160,687		160,687
298	Assigned Fund Balance	52,000		52,000	
299	Unassigned Fund Balance	448,095		2,345	445,750
	#N/A				
	#N/A				

NET INCREASE/(DECREASE) Revenues (ALL PAGES) 346,881

Explanation for Account # 378, Municipal Specific:   
 Explanation for Account # 369, Contributions from Other Funds:

**EXPENDITURES: (net each account category)**

(WV CODE 7-1-9)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
410	City Council	45,220	91,749		136,969
700	Police Department	1,919,085	88,160		2,007,245
706	Fire Department	1,641,417	100,805		1,742,222
916	Library	181,680	6,285		187,965
979	Culture and Recreation	406,416	59,882		466,298
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				

NET INCREASE/(DECREASE) Expenditures 346,881

APPROVED BY THE STATE AUDITOR

BY:  Date   
 Deputy State Auditor, Local Government Services Division

AUTHORIZED SIGNATURE  
 OF ENTITY

APPROVAL  
 DATE



# Instructions for Budget Revision File

The state auditor, by uniform regulations, provides for the revision of the levy estimate - budget of the county commission to permit expenditures for purposes for which no appropriation or an insufficient appropriation was made. **The revision must be made prior to the obligation and expenditure of funds and with the prior written approval of the state auditor.** *WV Code §11-8-26a*

## TOP SECTION

### Person to Contact Regarding Budget Revision

Add name, phone number and fax number of the person to contact about this revision. This is very important in case of questions, or missing information.

### Government Entity -

Add name of the County or City submitting the budget revision.

### Street or PO Box City, State, Zip Code -

This is the mailing address of the County or City. Approved budget revisions will be sent back to this address.

### Control Number FY

The ending fiscal year that this budget applies. Example for the fiscal year ending on June 30, 2012, the box should show 2012.

### FUND

The fund number of the fund that this revision applies, either 01 General, or 02 Coal.

### REV. NO.

The number of this revision for this fiscal year. Revision Number 1 would be the first revision made on or after July 1 of that fiscal year.

### PG. OF NO.

Number of pages to this revision.

### Government Type

This line should say County or Municipality. If the form reflects the wrong government type, the account description below will not match your chart of accounts. Therefore, make sure that you have the right type selected in this box.

# Instructions for Budget Revision File

## REVENUES: (net each account category)

This section of the form is used to enter revisions for fund balance and revenue accounts. If you have two or more entries to be made to one account number, please combine these entries into one 'net change' amount.

### Column 1 - Account Number

From the drop down box you can pick the account number or you can type in the account number. This number must be either a fund balance number or a revenue number. If you type in an expenditure number, a error box will appear and say "The value you entered is not valid. A user has restricted values that can be entered into this cell." From the choices, choose retry and enter a correct number or cancel to remove the entry.

### Column 2 - Account Description

This box will fill in when you enter the account number in column 1, unless it is not a valid number. If you enter a number that is not acceptable, this box will say " not a valid number". This number must be assigned by the State Auditor's Office before the budget revision will be approved.

### Column 3 - Previously Approved Amount

The amount in this column must be the last approved amount for this account number. At the beginning of the fiscal year, the amount on the approved budget would be used. After the first revision, the amount in this column would be the most recent approved revised amount for the account number.

### Column 4 - Increase

If you want to increase the amount of the fund balance or revenue account, enter the amount of the increase here.

### Column 5 - Decrease

If you want to decrease the amount of the fund balance or revenue account, enter the amount of the decrease here.

### Column 6- Revised Amount

This is the total of Column 3 plus Column 4 minus Column 5. This should be the ending amount for that account number. There is a formula in this box to calculate this amount.

### Net Increase (Decrease) Revenues (All Pages)

This box is the total of the net increase / decrease of the columns above and the worksheet "ADD REVENUES". This should be the total of the net change to all fund balance and revenues accounts.

# Instructions for Budget Revision File

## EXPENDITURES: (net each account category)

### Column 1 - Account Number

From the drop down box you can pick the account number or you can type in the account number. This number must be an expenditure number. If you type in a fund balance or revenue number, an error box will appear and say "The value you entered is not valid". A user has restricted values that can be entered into this cell." From the choices, choose retry and enter a correct number or cancel to remove the entry.

### Column 2 - Account Description

This box will fill in when you enter the account number in column 1, unless it is not a valid number. If you enter a number that is not acceptable, this box will say "not a valid number". This number must be assigned by the State Auditor's Office before the budget revision will be approved.

### Column 3 - Previously Approved Amount

The amount in this column must be the last approved amount for this account number. At the beginning of the fiscal year, the amount on the approved budget would be used. After the first revision, the amount in this column would be the most recent approved revised amount for the account number.

### Column 4 - Increase

If you want to increase the amount of the expenditure account, enter the amount of the increase here.

### Column 5 - Decrease

If you want to decrease the amount of the expenditure account, enter the amount of the decrease here.

### Column 6- Revised Amount

This is the total of Column 3 plus Column 4 minus Column 5. This should be the ending amount for that account number. There is a formula in this box to calculate this amount.

### Net Increase (Decrease) Expenditures (All Pages)

This box is the total of the net increase / decrease of the columns above and the worksheet "ADD EXPENDITURES". This should be the total of the net change to all expenditure accounts.

**If this budget revision is OUT OF BALANCE a message will appear beside the net increase boxes and on the signature line, it will say "OUT OF BALANCE!!! DO NOT SUBMIT. Do not send this revision in until it is in balance and these messages disappear.**

2019 proposed budget for Nitro fairs and festivals commission

Family movie night	\$3,200.00
Halloween hoedown	\$2,500.00
Festival of fright	\$6,500.00
Christmas festival	\$5,000.00
Eastereggstravaganda	\$4,500.00
Taste of Nitro	\$1,200.00
Ridenour regatta	\$6,500.00
Boomtown bash	\$125,000.00*
Riverfest	\$25,000.00**
Executive director	\$18,500.00
Annual salary	

\*contingent on bash ticket sales-50/50 sales for entertainment

\*\* contingent on fairs and festivals taking over riverfest



**State of West Virginia**  
**John B. McCuskey**

**Office of the State Auditor  
Chief Inspector Division  
1900 Kanawha Boulevard, East  
State Capitol, Building 1, Suite W-100  
Charleston, West Virginia 25305**

**State Auditor and  
Chief Inspector**

**Toll Free: (877) 982-9148  
Telephone: (304) 558-2251  
Fax: (304) 558-6414  
[www.wvsao.gov](http://www.wvsao.gov)**

***MANAGEMENT LETTER***

Honorable Mayor and Council  
Municipality of Nitro  
Nitro, West Virginia 25143

In accordance with *Government Auditing Standards* applicable to financial audits, we have audited the financial statements of the Municipality of Nitro, West Virginia, as of and for the year ended June 30, 2017, and have issued our report thereon dated June 26, 2018.

*Government Auditing Standards* also require that we describe the scope of our testing of compliance with laws and regulations and internal control over financial reporting and report any irregularities, illegal acts, other material noncompliance and reportable conditions in internal control, related to major federal financial assistance programs. We have issued the required report dated June 26, 2018, for the year ended June 30, 2017.

We are also submitting for your consideration the following comments that are opportunities for strengthening internal controls, improving operating efficiency and reducing expenses. These comments reflect matters that, while in our opinion do not represent material instances of noncompliance or reportable internal control conditions, we believe represent matters for which improvements in compliance or internal controls or operational efficiencies might be achieved. Due to the limited nature of our audit, we have not fully assessed the cost-benefit relationship of implementing the recommendations suggested below. However, these comments reflect our continuing desire to assist your government. We have already discussed many of these comments and suggestions with management and we will be pleased to discuss them in further detail at your convenience, to perform any additional study of these matters, or to assist you in implementing the recommendations. If you have any questions, please do not hesitate to contact us.

Suggestions For Improving Operations

Travel Reimbursement Policy

During our expenditure sample, we noted that the Municipality does not use a uniform reimbursement request for individuals requesting reimbursement for travel. In our sample of travel reimbursements, it was noted that some individuals are writing down mileage numbers on notebook paper and turning it in for reimbursement. This practice leads to several internal control issues, including the inability to verify mileage amounts for, and purpose of travel. These practices could result in instances of abuse or fraud.

Recommendation

The Municipality should implement a uniform policy for reimbursing travel money, including a uniform Travel Expense Reimbursement Request, which details the employee's name, department, dates of travel, purpose of travel, expense type (i.e. - mileage, meals, hotel, etc.), supervisor, etc. This form should be signed by the employee certifying that the cost were incurred in connection with their assigned duties, are true, accurate and actual, and do not reflect any costs or expenses reimbursed or to be reimbursed from any other source. In addition, the travel expense settlement form should be reviewed and approved by the employee's direct supervisor before being sent to the administrative office for reimbursement.

These comments are intended for the Council members, management, grantor agencies and federal awarding agencies, and are not intended to be and should not be used by anyone other than these specified parties.

In closing, on behalf of the audit staff, we appreciate the opportunity to present these comments and recommendations for your consideration. We would like to thank management for its hospitality, cooperation, positive attitude and openness to suggestion.

Respectfully submitted,



John B. McCuskey  
West Virginia State Auditor  
Charleston, West Virginia