

AGENDA
NITRO CITY COUNCIL
OCTOBER 18, 2016
Amended 10/14/16
7:00 PM

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

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

INVOCATION/PLEDGE OF ALLEGIANCE

FUTURE DATES OF COUNCIL: November 1 and 15, December 6 and 20

APPROVAL OF COUNCIL MINUTES: October 4

APPOINTMENT TO NDA BOARD OF DIRECTORS/HARVEY PEYTON, TRACY TOLER AND JIM CAUDILL: Councilwoman Donna Boggs

OLD BUSINESS

OPEN 2017 CALENDAR BIDS: Recorder Rita Cox

OPEN MUNICIPAL SERVICE BILLING BIDS: Recorder Rita Cox

OPEN PAVING BIDS FOR SECOND AVENUE: Councilman Bill Javins

EXECUTIVE SESSION/POLICE DEPARTMENT BUILDING: Mayor Dave Casebolt

RESOLUTION/HUNTINGTON BANKS LEASE-PURCHASE AGREEMENT: Recorder Rita Cox

NEW BUSINESS

DONATION OF PROPERTY BY MISTY HOLTZMAN: Mayor Dave Casebolt

FIRST READING ARTICLE 521 LIQUOR CONTROL/SUNDAY BRUNCH ORDINANCE: Councilman John Montgomery

NITRO HIGH SCHOOL SOFTBALL REQUEST FOR \$7500: Councilwoman Laurie Elkins

ATTORNEY REPORT

TREASURER REPORT

MAYOR COMMENTS

COUNCIL COMMENTS

PUBLIC COMMENTS

ADJOURNMENT

DRAFT

NITRO CITY COUNCIL
MINUTES
OCTOBER 18, 2016

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

INVOCATION/PLEDGE OF ALLEGIANCE: The Invocation was given by Councilman Andy Shamblin and the Pledge of Allegiance was led by Councilman Bill Racer.

FUTURE DATES OF COUNCIL: Mayor Casebolt said the future dates of Council are November 1 and 15 and December 6 and 20.

APPROVAL OF COUNCIL MINUTES: RECORDER COX MADE THE MOTION THAT THE MINUTES OF OCTOBER 4 BE APPROVED WITH A SECOND BY COUNCILMAN SHAMBLIN. COUNCIL VOTED FOR THE MOTION.

APPOINTMENT TO NDA BOARD OF DIRECTORS/HARVEY PEYTON, TRACY TOLER, AND JIM CAUDILL: COUNCILWOMAN DONNA BOGGS MADE THE MOTION THAT HARVEY PEYTON, TRACY TOLER, AND JIM CAUDILL BE APPOINTED TO THE NDA BOARD WITH A SECOND BY RECORDER RITA COX. COUNCIL VOTED FOR THE MOTION.

OLD BUSINESS

OPEN 2017 CALENDAR BIDS: Recorder Rita Cox said the bids were from Dunbar Printing for \$4275 and Central Printing for \$2150. COUNCILMAN SHAMBLIN MADE THE MOTION THAT THE BIDS BE SENT TO A COMMITTEE CONSISTING OF COUNCILMAN MONTGOMERY, RECORDER COX, AND TREASURER YOUNG FOR A RECOMMENDATION TO COUNCIL AT THE NEXT MEETING. THERE WAS A SECOND BY COUNCILMAN RACER AND THE MOTION CARRIED.

OPEN MUNICIPAL SERVICE BILLING BIDS: Recorder Cox said the only bid received was from Dunbar Printing at \$.25 each. COUNCILMAN RACER MADE THE MOTION THAT THE COMMITTEE OF RECORDER RITA COX, COUNCILMAN JOHN MONTGOMERY, AND TREASURER JOHN YOUNG MAKE A RECOMMENDATION AT THE NEXT MEETING OF COUNCIL. THE SECOND WAS BY COUNCILMAN HILL AND THE MOTION CARRIED.

OPEN PAVING BIDS FOR SECOND AVENUE: Recorder Cox said the two bids were from Asphalt Contractors and Site Work for approximately 18,300 square yards for \$194,873.00 and from WV Paving for approximately 21,367 square yards for \$214,315. COUNCILMAN SHAMBLIN MADE THE MOTION THAT THE BIDS BE REFERRED TO THE PAVING COMMITTEE FOR A DECISION. THE SECOND WAS BY COUNCILWOMAN ELKINS AND THE MOTION CARRIED WITH A UNANIMOUS VOTE.

DRAFT

RESOLUTION/HUNTINGTON BANKS LEASE-PURCHASE AGREEMENT: RECORDER RITA COX MADE THE MOTION THAT COUNCIL APPROVE THE RESOLUTION ALLOWING THE MAXIMUM PRINCIPAL AMOUNT TO BE FINANCED \$146,274.00 FOR 2017 POLICE VEHICLES WITH A SECOND BY COUNCILMAN MICHAEL HILL. VOTE WAS UNANIMOUS FOR THE MOTION.

NEW BUSINESS

DONATION OF PROPERTY BY MISTY HOLTZMAN: COUNCILMAN JOHN MONTGOMERY MADE THE MOTION THAT COUNCIL ACCEPT THE SECTION OF LAND BETWEEN 14TH AND 15TH STREET BORDERING FIRST AVENUE THAT IS DONATED BY MISTY HOLTZMAN WITH A SECOND BY COUNCILWOMAN DONNA BOGGS. COUNCIL VOTED FOR THE MOTION.

FIRST READING ARTICLE 521 LIQUOR CONTROL/SUNDAY BRUNCH ORDINANCE: COUNCILMAN MONTGOMERY MADE THE MOTION THAT THE SUNDAY BRUNCH ORDINANCE ALLOWING THE SALE OF LIQUOR BEGINNING AT 10:00 AM ON SUNDAY BE PASSED ON FIRST READING WITH A SECOND BY COUNCILMAN RACER. VOTING FOR THE MOTION WERE RECORDER COX, COUNCILWOMEN ELKINS AND BOGGS, COUNCILMEN HILL, MONTGOMERY AND RACER. VOTING IN OPPOSITION WAS COUNCILMAN SHAMBLIN AND THE MOTION CARRIED.

NITRO HIGH SCHOOL SOFTBALL REQUEST FOR \$7500: COUNCILWOMAN LAURIE ELKINS MADE THE MOTION THAT COUNCIL HELP FUND THE NITRO HIGH SCHOOL SOFTBALL TEAM WITH A SECOND BY COUNCILMAN HILL. VOTING FOR THE MOTION WERE COUNCILWOMAN ELKINS, RECORDER COX, AND COUNCILMEN RACER, HILL, AND SHAMBLIN. VOTING AGAINST THE MOTION WERE COUNCILWOMAN BOGGS AND COUNCILMAN MONTGOMERY. THE MOTION CARRIED.

ATTORNEY REPORT: Johnnie Brown said he that he had questions concerning lawsuit brought by several cities concerning West Virginia Paving and he wanted to let Council know the City of Nitro is automatically in the lawsuit.

TREASURER REPORT: COUNCILWOMAN LAURIE ELKINS MADE THE MOTION THAT COUNCIL ACCEPT THE FINANCIAL REPORT FROM TREASURER JOHN YOUNG WITH A SECOND BY COUNCILMAN BILL RACER. THE MOTION PASSED WITH A UNANIMOUS VOTE OF COUNCIL.

MAYOR COMMENTS: Mayor Dave Casebolt said the Halloween Hoedown will be held Saturday, October 22 and it will begin with a parade at 4:00 from 21st St. to the Nitro Park area.

COUNCIL COMMENTS: Council had no report to give.

PUBLIC COMMENT: Bob Schamber said he appreciated the work being done on the sidewalk outside the Senior Center.

EXECUTIVE SESSION POLICE DEPARTMENT BUILDING: COUNCILWOMAN LAURIE ELKINS MADE THE MOTION TO GO INTO EXECUTIVE SESSION TO DISCUSS THE POLICE DEPARTMENT BUILDING PURCHASE WITH A SECOND BY COUNCILMAN MICHAEL HILL. VOTE WAS UNANIMOUS FOR THE MOTION.

EXECUTIVE SESSION BEGINS 7:45

EXECUTIVE SESSION ENDS 8:05

ADJOURNMENT: COUNCILMAN RACER MADE THE MOTION THAT THE MEETING ADJOURN WITH A SECOND BY COUNCILMAN MONTGOMERY. THE MOTION PASSED.

DAVE CASEBOLT, MAYOR

DRAFT

RITA COX, RECORDER

NDA - Board of Directors

as of Oct. 11, 2016

	name & address	contact info	term expertise
1	Chuck Boggs III President 204 Broadway Av., Nitro	304-415-3402 c 304-993-9317 w CBoggs3@gmail.com	May-2016 thru April-2019 River Valley Properties Real Estate
2	Tim Arnott V-President 110 21st St., Nitro	304-545-5845 c 304-755-5002 w Arnott_Tim@hotmail.com	Jan-2014 thru Dec-2017 Small Business owner Nitro Antique Mall
3	Danielle McGinnis Secretary 1462 Sattes Circle, Nitro	304-951-7900 c 304-755-6382 w danielle.mcginnis816@gmail.com	Jan-2014 thru Dec-2017 Personal Banker - Huntington Bank Finance & Banking
4	Susan Graves Treasurer 2102 21st St., Nitro	304-549-9942 c susan@susangravesCPA.com	June-2009 thru May-2018 Small Business owner CPA - Accounting
5	Chase Gunnoe Director 514 5th St., Nitro	304-553-9409 c chase55671@hotmail.com	March-2014 thru Feb-2017 Freelance Photographer Marketing, Communications
6	Ivan Meadows Director 210 DuPont Av., Nitro	304-881-6296 c 304-755-5206 h	Nov-1999 thru June-2017 Volunteer - numerous positions Little League President
7	Joe Murphy Director 413 Kanawha Av., Nitro	304-437-2050 c jmurphy2957@gmail.com	July-2015 thru June-2018 Bayer Crop Science Safety Coordinator, Project Mgmt.
8	Donna Boggs City Council Rep. 3727 2nd Av., Nitro	304-755-8823 h 304-549-8823 c dsoboggs@yahoo.com	Oct-2012 thru Sept-2018 Real Estate
9	Bill Fortune Director 11 Lakeview Dr., Nitro	304-881-2015 c 304-755-1417 h Pont57@aol.com	Nov-2012 thru Oct-2018 Nitro Mission Team Education - Semi-Retired
10	Will Haynes Director 1403 Sattes Circle, Nitro	304-444-0802 c WRHaynes2@yahoo.com	Dec-2012 thru Nov-2018 Real Estate Property Management
11	Harvey Peyton Guest 2801 1st Ave., Nitro	304-755-5556 o HDPeyton@peytonlawfirm.com	Attorney, Small Business Owner Peyton Law Firm
12	Tracy Toler Guest 2215 2nd Ave., Nitro	304-541-1835 c TracyToler@yahoo.com	Small Business Owner Professional Photographer
13	Jim Caudill Guest 2608 26th St., Nitro	304-421-5187 c cavscout19d0@yahoo.com	Nitro Public Works
14			
	Rich Hively Exec. Director 61 31st St. East, Nitro	304-755-7876 c NDA@NitroDevelopment.org	Nov. 1, 2013 thru ... Nitro Historical Commission - Pres. Small Business Owner

BIOGRAPHICAL INFORMATION

NAME: HARVEY D. PEYTON

ADDRESS: 2801 First Avenue
P. O. Box 216
Nitro, WV 25143

PERSONAL INFORMATION:

Harvey and Jennifer Peyton live at 2900 1st Avenue in Nitro. Jennifer is the former Jennifer A. Bailey of Poca, WV. Harvey is the father of three children—Tom, who works with him at Peyton Law Firm; Sarah Roberts who directs the homeless programs for the U. S. Department of Veteran's Affairs in Charleston, WV and George who lives in Ashville, NC and operates the food service program at Montreat College. Harvey and Jennifer enjoy the company of five grandchildren.

EDUCATION:

1967, St. Albans High School, St. Albans, WV

1971 B.A., West Virginia University

1974 J.D., West Virginia University

2004 & 2005, Completed 28 hours of course work in mediation techniques and ethics, Nova Southeastern University, Ft. Lauderdale, Florida;

2005-06, completed 12 hours towards a Masters Degree in Public Administration, WVU

WORK HISTORY:

1966-1970, Greenhouse worker, Stadlers Greenhouse, Nitro, WV

1974-1975 Law Clerk, Hon. Robert E. Maxwell, Jr., U. S. District Court, Northern District of West Virginia, Elkins, WV

1975-1977 Private practice, Charleston, WV

1977-present, 39 years of private practice, Nitro, WV

September 22, 2016

Jim Caudill

2608 26th street

Nitro, WV 25143

I feel I could bring some new ideas to the table as a member of the NDA, and I'm always looking for a chance to serve, and better my community. While living in Nitro I have made many friends, and feel that I have proven myself as a valued member of this community. I currently run the City of Nitro Holliday decorating contest, which is now in its 3rd year, and this October will be hosting the first Annual Festival of fright movie night at Ridenour Lake.

I am seeking a seat on the Nitro Development Authority in order to help the City of Nitro to farther its development, both as a community, and a home for future businesses.

I was born, and raised in Madison, WV. (Boone County) and graduated from Scott High school in 1989, and have been a resident of Nitro since 2010.

I joined the Army right out of high school, and served 3 years my first enlistment. After returning home, I attended Marshall University, and graduated with an associates in business management.

I then returned to service in the Army and also earned my degree in marketing while on deployment to Kosovo. During my time in service, I completed 2 combat tours in Iraq, and 1 tour in Kosovo.

Currently I am employed with Nitro Public Works Department with general services.

Please consider me for a seat on this prestigious board, so I can continue to serve this wonderful city.

TRACY A. TOLER

10/11/2016



2215 2nd Avenue
Nitro, WV 25143
(304) 541-1835

tracytoler@yahoo.com
www.tracyatolerphotography.com

OBJECTIVES

To merge my artistic training, varied interests and strong business sense into a career that resources my broad repertoire

EDUCATION

Fairmont State College, B.S.,
Graphic Communications Technology, 1999

AWARDS

- 5/98 Induction as lifetime member in National Journalism Society
- 11/96 Best Cover Design, Mountaineer Review, Thompson Newspapers
- 5/95 President's Choice Award, Fairmont State College, Juried Art Show
- 5/95 People's Choice Award, Fairmont State College, Juried Art Show

EXPERIENCE

- 5/14-present Owner, ACES-Creative
- 9/08-present Owner, Tracy A. Toler – Photography
- 5/04-9/09 Creative Director/ Photographer, Comar Inc.
- 7/02-4/04 Special Events Manager, American Lung Association
- 9/98-12/99 Outdoor Specialist, Kanawha County Schools
- 9/98-12/99 Webmaster, Clearinghouse for Workforce Education
- 5/98-8/98 Climbing Instructor, Kitty Hawk Kites, Nags Head, NC
- 12/96-12/97 Editor, *Columns*, Fairmont State College, WV
- 12/96-12/97 Webmaster, Center for Women Studies, WVU
- 1/96-2/97 Art Director, *Mountaineer Review*, *Beyond 50*

JOB REQUIREMENTS

Oversee brand management, artistic standards, production schedules and provide all photography and photo editing for print and web applications, ultimately for production of *West Virginia Executive Magazine*, *Metro Valley* and *Entrance*

Oversee the creative work of three graphic artists

Provide studio and location photography, including portraiture, natural environment, and action

SKILLS

- In-depth knowledge of photography, including lighting, color, and composition,

particularly regarding publication requirements.

- Capability of producing high quality digital images for print deadlines
- In-depth knowledge of Adobe Photoshop and other software to enhance images
- Equally adept in photography, videography, and web designs
- Experienced in aerial photography, from both planes and helicopters
- Ancillary skills and experiences in high adventure outdoor sports, including rafting, skiing, climbing and caving
- Event managerial experience in music festivals and concerts
- Familiarity with people, places and culture of West Virginia
- Ability to maintain positive interactions within a work environment



RESOLUTION

The Council of the City of Nitro resolves that the Treasurer of the City of Nitro is authorized to lease \$146,274.00 for the purchase of vehicles with Huntington Public Capital of Huntington National Bank.

Be it resolved that at a meeting of Council, October 18, 2016 with a motion by Recorder Cox and a second by Michael Hill the vote was the following:

Ward 1 Councilwoman Donna Boggs

✓

Ward 2 Councilman Bill Racer

✓

Ward 3 Councilwoman Laurie Elkins

✓

Ward 4 Councilman Michael Hill

✓

Councilman at Large John Montgomery

✓

Councilman at Large Bill Javins

Councilman at Large Andy Shamblin

✓

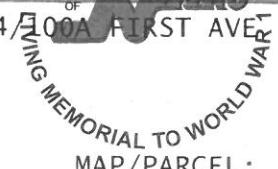
Recorder Rita Cox

✓

Dave Casebolt

Dave Casebolt, Mayor

PROPERTY TYPE	COUNTY	DISTRICT	ACCOUNT NO.	YEAR	TICKET NO.	
REAL	KANAWHA	27-NITRO	07583842	2016	133325	
PROPERTY DESCRIPTION		RATE	CLASS	ASSESSMENT	ASSESSMENT LESS EXEMPTION	HALF YEAR TAX
4/100A FIRST AVE		1.428000	2	3660	3660	26.13
MAP/PARCEL: 7 0280 0000 0000						



HOLTZMAN WILLIAM A &
MISTY D
2321 23 RD ST
NITRO WV 25143

*14th ST
AND
1st AVE*

DO NOT PAY THIS AMOUNT
REFER TO SCHEDULE BELOW

26.13

MAKE CHECKS PAYABLE AND REMIT TO:

**SHERIFF OF KANAWHA COUNTY
TAX DIVISION**
409 VIRGINIA STREET E ROOM 120
CHARLESTON, WV 25301-2595

PAYMENTS CAN BE MADE ONLINE AT WWW.KANAWHASHERIFF.US

RETAIN THIS SECTION FOR YOUR RECORDS

NAME	COUNTY	ACCOUNT NO.	YEAR	TICKET NO.
HOLTZMAN WILLIAM A & MISTY D MAP/PARCEL: 7 0280 0000 0000	KANAWHA	07583842	2016	133325



IF PAID BY:	PAYMENT SCHEDULE - SECOND HALF		DISTRICT	PROPERTY TYPE
	2ND HALF	FULL YEAR		
			27-NITRO	REAL
March 1, 2017	25.48	52.79	STATE	0.18
March 31, 2017	26.13	53.44	COUNTY CURRENT	10.47
April 1, 2017	26.13	53.63	COUNTY EXCESS	4.46
April 30, 2017	26.33	53.83	SCHOOL CURRENT	14.20
			SCHOOL EXCESS I	11.08
			SCHOOL EXCESS II	0.76
			MUNICIPAL CURRENT	8.05
			MUNICIPAL EXCESS	3.06

THIS STATEMENT IS FOR TAXES ASSESSED ON PROPERTY YOU OWNED ON JULY 1 OF THE PRECEDING YEAR. TAXES ON PROPERTY YOU OWN THIS JULY 1 WILL BE BILLED NEXT YEAR. PLEASE BRING ANY DISCREPANCIES TO THE ATTENTION OF THE COUNTY ASSESSOR.

FIRST HALF PAYMENTS CANNOT BE MADE AFTER APRIL 1ST. THE TOTAL DUE MUST BE PAID AFTER THIS DATE. IF TOTAL IS NOT PAID BY APRIL 30TH, IT WILL BE PUBLISHED AS REQUIRED BY LAW WITH FEES ADDED.

NAME	COUNTY	ACCOUNT NO.	YEAR	TICKET NO.
HOLTZMAN WILLIAM A & MISTY D MAP/PARCEL: 7 0280 0000 0000	KANAWHA	07583842	2016	133325



IF PAID BY:	PAYMENT SCHEDULE - FIRST HALF		DISTRICT	PROPERTY TYPE
	1ST HALF	FULL YEAR		
			27-NITRO	REAL
September 1, 2016	25.48	50.96	<p>PLEASE REVIEW THIS STATEMENT CAREFULLY.</p> <p>YOU ARE RESPONSIBLE FOR ANY CHANGE OF ADDRESS, AND SUBSEQUENT NOTICE SUCH CHANGE TO THE SHERIFF AND ASSESSOR. MAKE SURE THAT THE ADDRESS SHOWN ON THIS STATEMENT IS CORRECT. IF YOUR ADDRESS HAS CHANGED, PLEASE MAKE THE NECESSARY CORRECTIONS ON THE SPACE PROVIDED ON THE REVERSE OF THIS DOCUMENT.</p> <p>TEAR OFF AND RETURN THIS PORTION WITH YOUR PAYMENT IF YOU ARE PAYING EITHER THE FIRST HALF OR THE FULL YEAR TAXES.</p>	
September 30, 2016	26.13	51.61		
October 31, 2016	26.33	51.81		
November 30, 2016	26.52	52.00		
December 31, 2016	26.72	52.20		
January 31, 2017	26.91	52.39		
February 28, 2017	27.11	52.59		
March 1, 2017	27.31	52.79		
March 31, 2017	27.31	53.44		

DAVE CASEBOLT

THIS STATEMENT IS FOR TAXES ASSESSED ON PROPERTY YOU OWNED ON JULY 1 OF THE PRECEDING YEAR. TAXES ON PROPERTY YOU OWN THIS JULY 1 WILL BE BILLED NEXT YEAR. PLEASE BRING ANY DISCREPANCIES TO THE ATTENTION OF THE COUNTY ASSESSOR.

PLEASE CIRCLE THE AMOUNT PAID

**RITA COX
RECORDER**
304-755-0707

TO AVOID INTEREST CHARGES
PAY THE 1ST HALF BEFORE SEPTEMBER 1
AND THE 2ND HALF BY MARCH 1

P.O. BOX 308
NITRO, WEST VIRGINIA 25143

ORDINANCE _____

An ordinance to amend Sections 521.07 and 521.09, Article 521 of the Codified Ordinances of the City of Nitro, West Virginia, as amended, all relating to the sale of nonintoxicating beer and alcoholic beverages; and to change the earliest time when nonintoxicating beer and alcoholic beverages may be sold on Sundays to 10:00 a.m.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA, that Sections 521.07 and 521.09, Article 521 of the Codified Ordinances of the City of Nitro, West Virginia, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 521
Liquor Control**

Council Findings.

(a) The City Council finds that on October 3, 2016, the Municipal Home Rule Board under the authority provided in West Virginia Code § 8-1-5a approved the amendment to the City's Home Rule, Phase II Plan that was a request for authorization to enact an ordinance that changes the time when certain Alcohol Beverage Control Administration Class "A" license holders may begin selling nonintoxicating beer and alcoholic beverages to 10:00 a.m. on Sundays.

(b) The City Council believes that the changes in nonintoxicating beer and alcoholic beverage serving hours on Sundays will provide an economic enhancement within the City and benefit the hospitality business activities within the City.

(c) The City Council further believes that aside from the potential direct financial benefit, relaxing Sunday liquor laws and allowing restaurants in the City to be fully operational on Sunday enhance the City's image in the eyes of business and leisure travelers thereby enriching their travel experience in Nitro and promoting Nitro as a historic, hip destination.

521.07 ACTS PROHIBITED BY NONINTOXICATING BEER LICENSEE.

(a) No licensee under West Virginia Code Article 11-16, his, her, its or their servants, agents or employees shall sell, give or dispense, and no individual shall drink or consume, in or on any licensed premises or in any rooms directly connected therewith, nonintoxicating beer or cooler on weekdays between the hours of 2:00 a.m. and 7:00 a.m., or between the hours of 2:00 a.m. and 1:00 p.m. on any Sunday, except in private clubs licensed under the provisions of West Virginia Code Article 60-7, where the hours shall conform with the hours of sale of alcoholic liquors: Provided, That effective November 2, 2016, no person licensed under West Virginia Code Article 11-16, or his agent, employee or member thereof, on such licensee's premises shall sell, give or dispense nonintoxicating beer between the hours of 2:00 a.m. and 10:00 a.m. on Sunday;

(b) No licensee, his, her, its or their servants, agents or employees shall sell, furnish or give any nonintoxicating beer as defined in this article to any person visibly or noticeably intoxicated, or to any person known to be insane or known to be a habitual drunkard;

(c) No licensee, his, her, its or their servants, agents or employees, shall sell, furnish or give any nonintoxicating beer as defined in this article to any person who is less than twenty-one years of age;

(d) No distributor shall sell or offer to sell, and no retailer shall purchase or receive, any nonintoxicating beer as defined in this article, except for cash; and no right of action shall exist to collect any claims for credit extended contrary to the provisions of this subsection. Nothing herein contained shall prohibit a licensee from crediting to a purchaser the actual price charged for packages or containers returned by the original purchaser as a credit on any sale, or from refunding to any purchaser the amount paid or deposited for such containers when title is retained by the vendor;

(e) No brewer or distributor or brewpub or his, her, its or their agents, shall transport or deliver nonintoxicating beer as defined in this article to any retail licensee on Sunday;

(f) No brewer or distributor shall give, furnish, rent or sell any equipment, fixtures, signs or supplies directly or indirectly or through a subsidiary or affiliate to any licensee engaged in selling products of the brewing industry at retail, or offer any prize, premium, gift or other similar inducement, except advertising matter of nominal value, to either trade or consumer buyers; provided that a distributor may offer, for sale or rent, tanks of carbonic gas. Nothing herein contained shall prohibit a brewer from sponsoring any professional or amateur athletic event or from providing prizes or awards for participants and winners in any such events: provided however that no such event shall be sponsored which permits actual participation by athletes or other persons who are minors, unless specifically authorized by the ~~nonintoxicating Beer~~ Commissioner.

(g) No licensee shall permit in his premises any lewd, immoral or improper entertainment, conduct or practice;

(h) No licensee except the holder of a license to operate a private club issued under the provisions of West Virginia Code Article 60-1, or a holder of a license for a private wine restaurant issued under the provisions of West Virginia Code Article 60-8, shall possess a Federal license, tax receipt or other permit entitling, authorizing or allowing such licensee to sell liquor or alcoholic drinks other than nonintoxicating beer;

(i) No licensee shall obstruct the view of the interior of his premises by enclosure, lattice, drapes or any means which would prevent plain view of the patrons occupying such premises. The interior of all licensed premises shall be adequately lighted at all times: provided, that provisions of this subsection shall not apply to the premises of a Class B retailer, the premises of a private club licensed under the provisions of West Virginia Code Article 60-7, or the premises of a private wine restaurant licensed under the provisions of West Virginia Code Article 60-8;

(j) No licensee shall manufacture, impart, sell, trade, barter, possess or acquiesce in the sale, possession or consumption of any alcoholic liquors on the premises covered by such license or on premises directly or indirectly used in connection therewith: provided, that the prohibition contained in this subsection with respect to the selling or possessing or to the acquiescence in the sale, possession or consumption of alcoholic liquors shall not be applicable with respect to the holder of a license to operate a private club issued under the provisions of West Virginia Code Article 60-1, nor shall the prohibition be applicable to a private wine restaurant licensed under the provisions of West Virginia Code Article 60-8, insofar as such private wine restaurant is authorized to serve wine;

(k) No retail licensee shall sell or dispense nonintoxicating beer as defined in this article, purchased or acquired from any source other than a distributor, brewer or manufacturer licensed under the laws of this State;

(l) No licensee shall permit loud, boisterous or disorderly conduct of any kind upon his or her premises or permit the use of loud musical instruments if either or any of the same may disturb the peace and quietude of the community wherein such business is located: provided, that, no licensee shall have in connection with his or her place of business any loudspeaker located on the outside of the licensed premises that broadcasts or carries music of any kind;

(m) No person whose license has been revoked, shall obtain employment with any retailer within the period of one year from the date of such revocation, and no retailer shall employ knowingly any such person within such time;

(n) No distributor shall sell, possess for sale, transport or distribute nonintoxicating beer except in the original container;

(o) No licensee shall knowingly permit any act to be done upon the licensed premises, the commission of which constitutes a crime under the laws of this State or Municipality;

(p) No Class B retailer shall permit the consumption of nonintoxicating beer upon his licensed premises;

(q) No Class A licensee, his, her, its or their servants, agents or employees, or any licensee by or through such servants, agents or employees, shall allow or permit any person less than eighteen years of age to loiter in or upon any licensed premises; except, however, that the provisions of this subsection shall not apply where such person under the age of eighteen years is in or upon such premises in the immediate company of his or her parent or parents, or where and while such person under the age of eighteen years is in or upon such premises, for the purpose of and actually making a lawful purchase of any items or commodities therein sold, or for the purchase of and actually receiving any lawful service therein rendered, including the consumption of any item of food, drink or soft drink therein lawfully prepared and served or sold for consumption on such premises;

(r) No distributor shall sell; offer for sale, distribute or deliver any nonintoxicating beer outside the territory assigned to such distributor by the brewer or manufacturer of such nonintoxicating beer or sell, offer for sale, distribute or deliver any such nonintoxicating beer to any retailer whose principal place of business or licensed premises is within the assigned territory of another distributor of such nonintoxicating beer: provided, that nothing herein shall be deemed to prohibit sales of convenience between distributors licensed in this State wherein one such distributor sells, transfers or delivers to another such distributor a particular brand or brands for sale at wholesale; and

(s) No licensee or any agent, servant or employee of any such licensee shall knowingly violate any rule or regulation lawfully promulgated by the Commissioner.

(t) Any person who violates any provision of this section, or any rule, regulation or order lawfully promulgated by the Commissioner, or who makes any false statement concerning any material fact in submitting application for license or for a renewal of a license or in any hearing concerning the revocation thereof, or who commits any of the acts herein declared to be unlawful, shall be punished as provided in Section 521.99.

(u) Nothing in this section nor any rule or regulation of the Commissioner shall prevent or be deemed to prohibit any licensee from employing any person who is at least eighteen years of age to serve in such licensee's lawful employ, including the sale or delivery of nonintoxicating beer as defined in this article. With the prior approval of the Commissioner, a licensee whose principal business is the sale of food or consumer goods or the providing of recreation activities, including, but not limited to, nationally franchised fast food outlets, family-oriented restaurants, bowling alleys, drug stores, discount stores, grocery stores and convenience stores, may employ persons who are less than eighteen years of age but at least sixteen years of age: provided, that such person's duties shall not include the sale or delivery of nonintoxicating beer or alcoholic liquors: provided, however, that the authorization to employ such persons under the age of eighteen years shall be clearly indicated on the licensee's license.

521.09 ACTS PROHIBITED BY PRIVATE CLUB LICENSEE.

(a) No person licensed under West Virginia Code Article 60-7, or his agent, employee or member thereof, on such licensee's premises shall:

(1) Sell or offer for sale any alcoholic liquors other than from the original package or container;

(2) Authorize or permit any disturbance of the peace; obscene, lewd, immoral or improper entertainment, conduct or practice; gambling or any slot machine, multiple coin console machine, multiple coin console slot machine or device in the nature of a slot machine;

(3) Sell, give away or permit the sale of, gift to or the procurement of any nonintoxicating beer, wine or alcoholic liquors for or to, or permit the consumption of nonintoxicating beer, wine or alcoholic liquors on the licensee's premises, by any person less than twenty-one years of age;

(4) Sell, give away, or permit the sale of, gift to or the procurement of any nonintoxicating beer, wine or alcoholic liquors, for or to any person known to be deemed legally incompetent, or for or to any person who is physically incapacitated due to consumption of nonintoxicating beer, wine or alcoholic liquor or the use of drugs;

(5) Sell, give or dispense nonintoxicating beer, wine or alcoholic liquors in or on any licensed premises or in any rooms directly connected therewith, between the hours of 3:00 a.m. and 1:00 p.m. on Sunday: Provided, That effective November 2, 2016, no person licensed under West Virginia Code Article 60-7, or his agent, employee or member thereof, on such licensee's premises shall sell, give or dispense nonintoxicating beer, wine or alcoholic liquors in or on any licensed premises or in any rooms directly connected therewith, between the hours of 3:00 a.m. and 10:00 a.m. on Sunday;

(6) Permit the consumption by, or serve to, on the licensed premises any nonintoxicating beer, wine or alcoholic liquors covered by this article, to any person who is less than twenty-one years of age;

(7) With the intent to defraud, alter, change or misrepresent the quality, quantity or brand name of any alcoholic liquor;

(8) Sell or offer for sale any alcoholic liquor to any person who is not a duly elected or approved dues paying member in good standing of the private club or a guest of such member;

9) Sell, offer for sale, give away, facilitate the use of or allow the use of carbon dioxide, cyclopropane, ethylene, helium or nitrous oxide for purposes of human consumption except as authorized by the Commissioner;

(10) A. Employ any person who is less than eighteen years of age in a position where the primary responsibility for such employment is to sell, furnish or give nonintoxicating beer, wine or alcoholic liquors to any person;

B. Employ any person who is between the ages of eighteen and twenty-one who is not directly supervised by a person aged twenty-one or over in a position where the primary responsibility for such employment is to sell, furnish or give nonintoxicating beer, wine or alcoholic liquors to any person; or

(11) Violate any reasonable rule or regulation of the Alcohol Beverage Control Commissioner.

(b) No licensee shall advertise in any news media or other means, outside of the licensee's premises, the fact that alcoholic liquors may be purchased thereat.

Passed on First Reading _____

Passed on Second Reading _____

Dave Casebolt, Mayor

Rita Cox, Recorder