

AGENDA
NITRO CITY COUNCIL
OCTOBER 4, 2016
Amended
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: OCTOBER 18, NOVEMBER 1 AND 15

APPROVAL OF COUNCIL MINUTES: September 20

GO MATH PROGRAM/NITRO ELEMENTARY TEACHER HOLLY KALLMERTEN
REQUEST FOR FINANCIAL SUPPORT: Councilman Michael Hill

THE FOUNDATION FOR THOMAS HEALTH SYSTEM/23RD ANNUAL CHARITY GALA
AND AUCTION/REQUEST FOR DONATION: Mayor Dave Casebolt

KANAWHA VALLEY DISC GOLF CLUB PRESENTATION AND REQUEST/NDA: Rich
Hively and Steve Koepsel

OLD BUSINESS

SECOND READING FIREWORKS ORDINANCE/ARTICLE 545/WEAPONS AND
EXPLOSIVES/FIREWORKS SALE, POSSESSION, AND DISCHARGE: Councilman John
Montgomery

SECOND READING MS4 STORMWATER POLLUTION PREVENTION ORDINANCE:
Councilman John Montgomery

GAI RIVERBANK STABILIZATION PROJECT PROPOSAL: Mayor Dave Casebolt
NEW BUSINESS

ANTIQUÉ CAR SHOW 2ND AVENUE 21ST STREET TO 19TH STREET/OCTOBER 15
FROM 12:00 TO 4:00/NEW TOY DRIVE: Bill Fortune

RESOLUTION/DIVISION OF JUSTICE AND COMMUNITY SERVICES GRANT: Recorder
Rita Cox

CONCRETE PAVING BID OPENINGS: Recorder Rita Cox

ATTORNEY REPORT

TREASURER REPORT

MAYOR COMMENTS

COUNCIL COMMENTS

PUBLIC COMMENTS

ADJOURNMENT

NITRO CITY COUNCIL
MINUTES
OCTOBER 4, 2016

DRAFT

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

INVOCATION/PLEDGE OF ALLEGIANCE: The Invocation was given by Mark Smith of St. Pauls Methodist Church and the Pledge of Allegiance was led by Councilwoman Donna Boggs.

FUTURE DATES OF COUNCIL: Mayor Casebolt said the future dates of Council are October 18, and November 1 and 15.

APPROVAL OF COUNCIL MINUTES: RECORDER COX MADE THE MOTION THAT COUNCIL APPROVE THE MINUTES OF SEPTEMBER 20 AND THERE WAS A SECOND BY COUNCILMAN JOHM MONTGOMERY. VOTE WAS FOR THE MOTION.

GO MATH PROGRAM/NITRO ELEMENTARY TEACHER HOLLY KALLMERTEN REQUEST FOR FINANCIAL SUPPORT: Nitro Elementary School teacher Holly Kallmerten told council about a program called Go Math that she would like to purchase for \$2000 for two classes of third graders. She said the program will allow for individual progress. COUNCILWOMAN LAURIE ELKINS MADE THE MOTION THAT COUNCIL CONTRIBUTE \$2000 FROM SALES TAX MONEY TO PURCHASE THE GO MATH PROGRAM FOR THIRD GRADE CLASSES. THE SECOND WAS BY COUNCILMAN BILL RACER AND THE MOTION CARRIED WITH A UNANIMOUS VOTE.

KANAWHA VALLEY DISC GOLF PRESENTATION AND REQUEST/NDA: Rich Hively introduced Steve Koepsel who told about disc golf and the benefits to the community and he said he would like to bring it to Nitro at Ridenour Lake area. COUNCILMAN SHAMBLIN MADE THE MOTION THAT THE NDA BE PERMITTED TO SUBMIT A PLAN TO INSTALL DISC GOLF AROUND RIDENOUR LAKE. THE SECOND WAS BY COUNCILWOMAN ELKINS AND VOTE WAS UNANIMOUS FOR THE MOTION.

OLD BUSINESS

SECOND READING FIREWORKS ORDINANCE/ARTICLE 545/WEAPONS AND EXPLOSIVES/FIREWORKS SALE, POSSESSION, AND DISCHARGE: COUNCILMAN MONTGOMERY MADE THE MOTION THAT COUNCIL PASS ON SECOND READING ORDINANCE ARTICLE 545 REGARDING THE USE OF WEAPONS AND EXPLOSIVES AND THE SALE OF FIREWORKS, THE POSSESSION OF FIREWORKS, AND DISCHARGE OF FIREWORKS. RECORDER COX SECONDED THE MOTION. VOTING FOR THE MOTION WERE COUNCILWOMEN ELKINS AND BOGGS, RECORDER COX, AND COUNCILMEN HILL, RACER AND MONTGOMERY. VOTING IN OPPOSITION TO THE MOTION WERE COUNCILMEN JAVINS AND SHAMBLIN. THE MOTION CARRIED.

SECOND READING MS4 STORMWATER POLLUTION PREVENTION ORDINANCE: COUNCILMAN MONTGOEMRY MADE THE MOTION THAT COUNCIL PASS ON SECOND READING THE MS4 STORMWATER POLLUTION PREVENTION ORDINANCE WITH A SECOND BY COUNCILMAN JAVINS. Councilman

DRAFT

Montgomery said this is an unfunded mandate by the Federal government and the City of Nitro is passing this ordinance to remain in compliance with the regulations set down. VOTE WAS UNANIMOUS FOR THE MOTION.

GAI RIVERBANK STABILIZATION PROJECT PROPOSAL: COUNCILMAN BILL JAVINS MADE THE MOTION THAT COUNCIL ACCEPT THE PROPOSAL BY GAI CONSULTANTS FOR \$112,700 FOR THE RIVERBANK STABILIZATION PROJECT WITH A SECOND BY COUNCILMAN BILL RACER TO BE PAID FOR FROM THE SALES TAX ACCOUNT. COUNCIL VOTED UNANIMOUSLY FOR THE MOTION.

NEW BUSINESS

ANTIQUA CAR SHOW 2ND AVENUE 21ST STREET TO 19TH STREET/OCTOBER 15 FROM 12:00 TO 4:00/NEW TOY DRIVE: RECORDER RITA COX MADE THE MOTION THAT THE SANTA CRUISE CAR SHOW BE PERMITTED ON OCTOBER 15 WITH A SECOND BY COUNCILWOMAN DONNA BOGGS. Bill Fortune said the show had been held in past years in another town but the toys were for the Nitro Mission Team and the Christmas basket program they conduct. He said the group hosting the event is the 19th Street Gear Grinders. VOTE WAS UNANIMOUS FOR THE MOTION.

RESOLUTION/DIVISION OF JUSTICE AND COMMUNITY SERVICES GRANT: RECORDER RITA COX MADE THE MOTION THAT COUNCIL APPROVE THE RESOLUTION PERMITTING THE CITY OF NITRO TO ENTER INTO A CONTRACTUAL AGREEMENT WITH THE DIVISION OF JUSTICE AND COMMUNITY SERVICES TO RECEIVE AND ADMINISTER GRANT FUND FOR THE JUSTICE ASSISTANCE GRANT PROGRAM. THE SECOND WAS BY COUNCILMAN ANDY SHAMBLIN AND THE MOTION CARRIED WITH A UNANIMOUS VOTE.

CONCRETE PAVING BID OPENINGS: Recorder Rita Cox said the bids received were from Hass Concrete for \$2100 for 10 x 20 pads to tear out and replace, Hass Concrete for \$1800 to pour and dress only for \$1800; from 1 Korin 3-10 Inc. \$2600 and \$1800; and Tri-State Paving for \$2400 and \$1800. COUNCILMAN BILL JAVINS MADE THE MOTION THAT COUNCIL ACCEPT THE BID FROM HASS PAVING FOR \$2100 PER PAD TO TEAR OUT AND REPLACE FOR 20 PADS. THERE WAS A SECOND BY RECORDER RITA COX AND THE MOTION CARRIED WITH A UNANIMOUS VOTE.

ATTORNEY REPORT: Johnnie Brown said he has continued working with Chief Steve Walker on policies for the Police Department.

TREASURER REPORT: RECORDER RITA COX MADE THE MOTION THAT THE REPORT FROM TREASURER JOHN YOUNG BE MADE A PART OF COUNCIL MINUTES. THE SECOND WAS BY COUNCILMAN ANDY SHAMBLIN AND THE MOTION CARRIED.

MAYOR COMMENTS: Mayor Casebolt said the Public Works Department will begin putting up the new street signs tomorrow morning. He said that the inspection report has been done on the Peopleworks Building and there is mold in the attic. He said Fright Night led by Jim Caudill will take place at Ridenour Lake on Saturday night at dark.

PUBLIC COMMENT: Bob Schamber said there will be a Country and Western dance for the seniors on Saturday night.

DRAFT

ADJOURNMENT: COUNCILMAN JAVINS MADE THE MOTION FOR ADJOURNMENT AND THE SECOND WAS BY COUNCILMAN MONTGOMERY. VOTE WAS FOR THE MOTION.

DAVE CASEBOLT, MAYOR

RITA COX, RECORDER

DIRTY

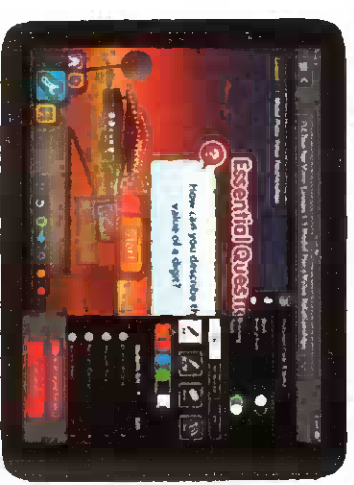


Go Math

Holly Kallmerten-3rd grade
Nitro Elementary

Time is now!

- › New year, new standards
- › Next math adoption is two years away.
- › How will teachers increase student achievement and academic gains?
- › Build every student to college and career ready.



Why Go Math?

FOCUSED. COHERENT. RIGOROUS NEXT GENERATION SOLUTION

GO Math!® is the first K–8 math program written to fully support new standards.

GO Math! provides teachers with in-depth instructional support, embedded Professional Development videos and tips, and a wealth of differentiated instruction resources to ensure the depth of instruction required for student success -

- › GO Math! at both the elementary and middle school levels combines 21st-century educational technology with modern content, dynamic interactivities, and a variety of instructional videos to engage today's digital natives.
- › Every student is supported through the universal access features of the program as they learn to think critically and apply their math knowledge.

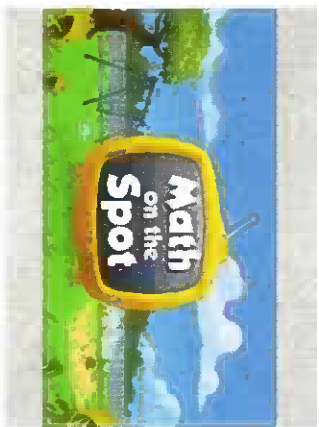
<http://www.hmhco.com/shop/education-curriculum/math/elementary-mathematics/go-math-k-8>

EXPERTS AT HARVARD UNIVERSITY

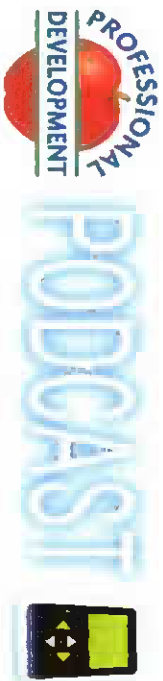
- Studies show through data and analysis, Go Math provides:
- Rigor
- Fact fluency
- Speed
- Confidence with grade-level concepts

<http://www.hmhco.com/~teacher/sites/home/section>

Student videos: on the spot



Podcast and performance task



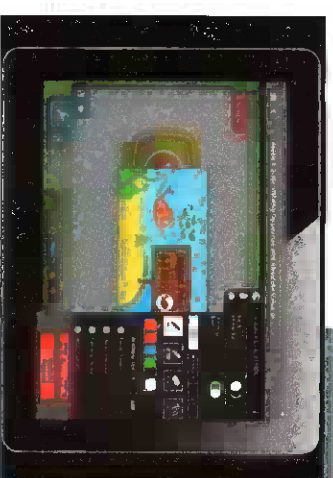
Features are far and wide



<http://www.hmhco.com/~teacher/sites/home/section>

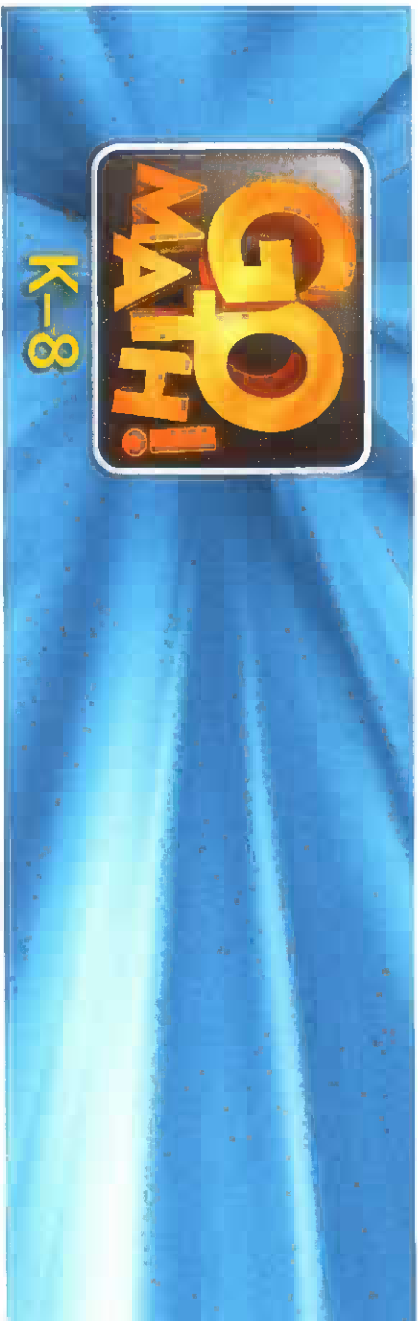
Take Instruction Into the Digital Era

With reliable, dynamic content as our foundation, HMH strives to empower students, educators and their families. The HMH Player® app seamlessly merges technology with curriculum, culminating in an experience that elegantly leverages technology and award-winning HMH content—helping change the way you teach and how your students learn.



The value of technology is in how it empowers educators. HMH Player provides you with a revolutionary tool, helping you:

- Connect**
Download content when connected to the Internet, work offline, and then sync when back online.
- Customize**
Create custom lessons, upload your own content, or link to external resources to target particular skills and topics.
- Collaborate**
Open a Collaborative Classroom Session to use dynamic presentation tools, conduct informal polling, or instant message directly with students.
- Communicate**
Teachers and students can quickly access real-time reporting to monitor progress and identify areas for improvement



Students staying connected

<https://www.k6.thinkcentral.com/content/lisp/math/gomath2016/index.html>



Dr. Edward B. Burger - Author

Edward B. Burger, Ph.D., is the president of Southwestern University, a former Francis Christian Fellowship Oakley Third Century Professor of Mathematics at Williams College, and a former vice president at Baylor University. He has authored or coauthored more than 65 articles, books, and video series delivered over 500 addresses and workshops throughout the world; and made more than 50 television appearances. He is a Fellow of the American Mathematical Society and has earned national honors, including the Robert Foster Cherry Award for Great Teaching in 2010. In 2012, Microsoft Education named him a “Global Hero in Education.”

Dr. Juli K. Dixon - Author

Juli K. Dixon, Ph.D., is a Professor of Mathematics Education at the University of Central Florida. She has taught mathematics in urban schools at the elementary, middle, secondary, and post-secondary levels. She is an active researcher and speaker with numerous publications and conference presentations. Key areas of focus are deepening teachers' content knowledge and communicating and justifying mathematical ideas. She is a past chair of the NCTM Student Explorations in Mathematics Editorial Panel and member of the Board of Directors for the Association of Mathematics Teacher Educators.

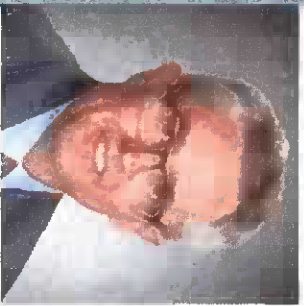




Dr. Timothy D. Kanold - Author

Timothy D. Kanold, Ph.D., is an award-winning international educator, author, and consultant. He is a former superintendent and director of mathematics and science at Adlai E. Stevenson High School District 125 in Lincolnshire, Illinois. He is a past president of the National Council of Supervisors of Mathematics (NCSM) and the Council for the Presidential Awards of Mathematics (CPAM). He has served on several writing and leadership commissions for NCTM during the past decade. He presents motivational professional development seminars with a focus on developing professional learning communities (PLCs) to improve the teaching, assessing, and learning of students. He has recently authored nationally recognized articles, books, and textbooks for mathematics education and school leadership, including *What Every Principal Needs to Know about the Teaching and Learning of Mathematics*.

Dr. Matthew R. Larson - Author



Matthew R. Larson, Ph.D., is currently the President of the National Council of Teachers of Mathematics. He will serve in this capacity for two years. He will then return to his position of K-12 mathematics curriculum specialist for the Lincoln Public Schools. He has served on the Board of Directors for the National Council of Teachers of Mathematics from 2010-2013. He is a past chair of NCTM's Research Committee and was a member of NCTM's Task Force on Linking Research and Practice. He is the author of several books on implementing the Common Core Standards for Mathematics. He has taught mathematics at the secondary and college levels and held an appointment as an honorary visiting associate professor at Teachers College, Columbia University.



Steven J. Leinwand - Author

Steven J. Leinwand is a Principal Research Analyst at the American Institutes for Research (AIR) in Washington, D.C., and has over 30 years in leadership positions in mathematics education. He is past president of the National Council of Supervisors of Mathematics and served on the NCTM Board of Directors. He was also a mathematics consultant for the Connecticut State Department of Education. He is the author of numerous articles, books, and textbooks and has made countless presentations with topics including student achievement, reasoning, effective assessment, and successful implementation of standards.

Martha E. Sandoval-Martinez - Author

Martha E. Sandoval-Martinez is a mathematics instructor at El Camino College in Torrance, California. She was previously a Math Specialist at the University of California at Davis and former instructor at Santa Ana College, Marymount College, and California State University, Long Beach. In her current and former positions, she has worked extensively to improve fundamental pre-algebra and algebra skills in students who have historically struggled with mathematics.



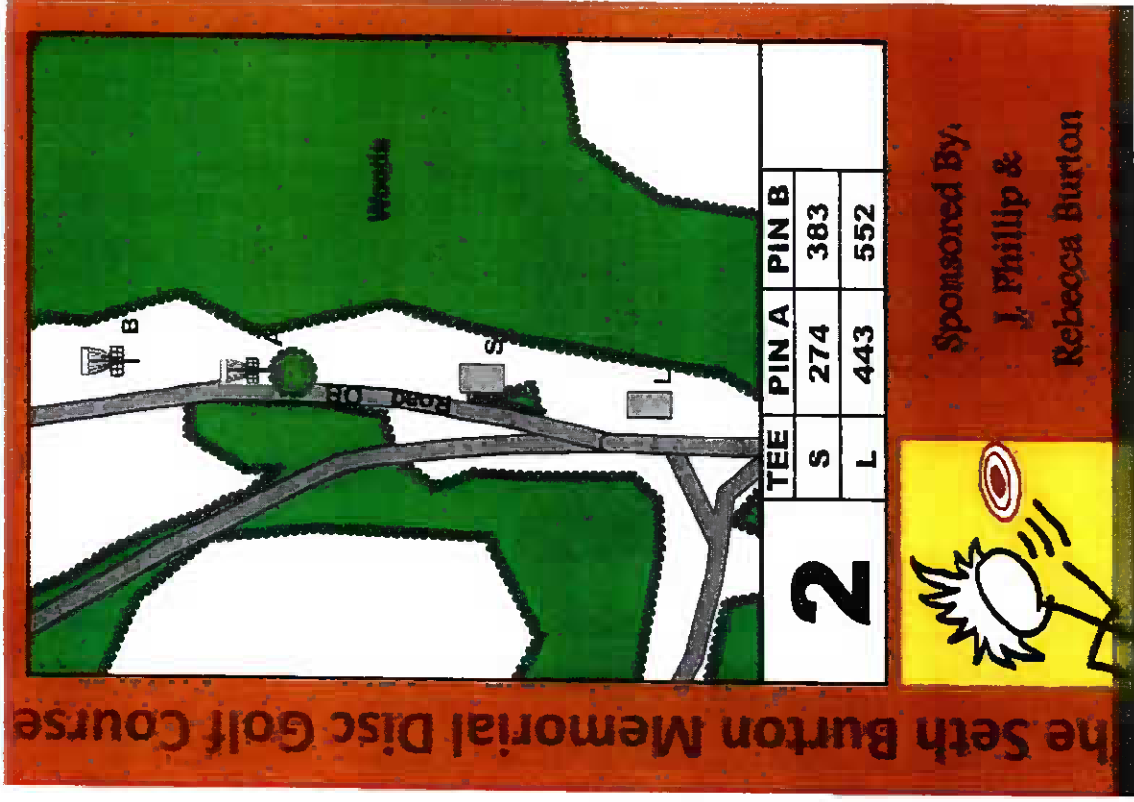
See more at: <http://www.hmhco.com/shop/education-curriculum/math/elementary-mathematics/go-math-k-8#why-authors>

Disc Golf

1. What is disc golf?
2. What are benefits?
 - a. Community Health
 - b. Environmental
 - c. Safety
 - d. Education
 - e. Community Involvement
 - f. Economic
3. The growth of Disc Golf
4. Cost & Design

What is Disc Golf?

- Played like traditional golf but using flying discs instead of clubs and balls
- Goal is to complete the hole in the fewest strokes or “throws”



Disc Golf



A Fun Pathway to Wellness

Fun for All Ages

- Gets kids back to being outdoors and active
- Exercise for fitness & help fight obesity
- Program available to bring to your school
 - E.D.G.E. - Educational Disc Golf Experience
 - Helps Educators teach disc golf
 - www.edgediscgolf.com



Lifetime Fitness Sport

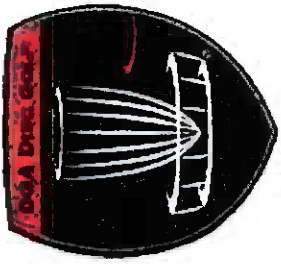
- From School Age to Golden Age
- Disc Golf Offers a Lifetime of Activity



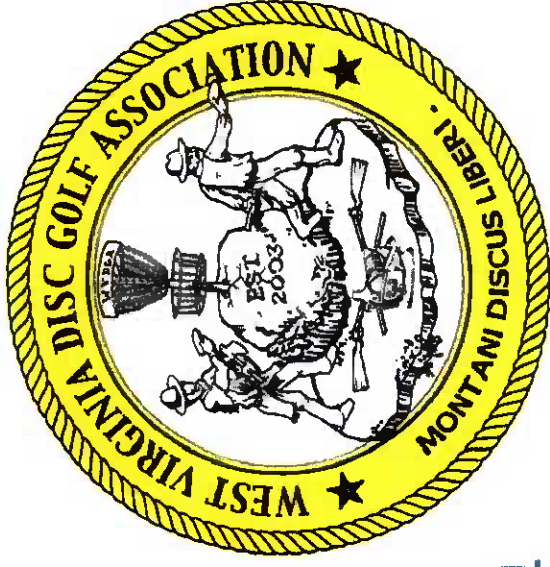
More than a “Walk in the Park”

- Players Average 2.5 miles playing a course
- Throwing, bending, and hiking are required
- Utilize your body to propel the disc forward





Credits



- PDGA – www.pdga.com
- E.D.G.E. – www.edgediscgolf.com
- WVDGA – www.wvdiscgolf.org
- DGA – www.discgolf.com



Teeing Off

- A “Drive” from the Tee Area



The Approach

- An “Approach Shot” toward the basket



Disc Golf

- The hole is completed when the disc lands and remains in the basket



ORDINANCE _____

An Ordinance to amend and reenact Section 545.10, Article 545 of the Codified Ordinances of the City of Nitro, West Virginia, as amended, all relating to the regulation of fireworks within the City of Nitro.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA, that Section 545.10, Article 545 of the Codified Ordinances of the City of Nitro, West Virginia, as amended, be amended and reenacted, all to read as follows:

ARTICLE 545
Weapons and Explosives

545.10 FIREWORKS SALE, POSSESSION AND DISCHARGE.

(a) ~~"Fireworks" means any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used, the type of unmanned balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, Roman candles, daygo bombs, or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance, except that the term "fireworks" shall not include: Model rockets and model rocket engines, designed, sold and used for the purpose of propelling recoverable acro models and shall not include toy pistols, toy canes, toy guns or other devices in which paper or plastic caps manufactured in accordance with the United States Department of Transportation regulations for packing and shipping of toy paper or plastic caps are used and toy paper or plastic caps manufactured as provided therein, the sale and use of which shall be permitted at all times. Each package containing toy paper or plastic caps offered for retail sale shall be labeled to indicate the maximum explosive content per cap.~~

~~The following sparklers and novelties shall not be considered fireworks and require a business registration fee be paid to be authorized to sell, as provided in West Virginia Code 11-12-86:~~

- ~~(1) Explosive caps designed to be fired in toy pistols, provided that the explosive mixture of the caps shall not exceed twenty five hundredths of a grain for each cap.~~
- ~~(2) Snake and glow worms composed of pressed pellets of a pyrotechnic mixture that produce a large snake like ash when burning.~~
- ~~(3) Smoke devices consisting of a tube or sphere containing a pyrotechnic mixture that produces white or colored smoke.~~
- ~~(4) Trick noisemakers which produce a small report designed to surprise the user and which include:~~

~~—A. A party popper, which is a small plastic or paper item containing not in excess of twenty five hundredths of a grain of explosive mixture. A string protruding from the device is pulled to activate the device, expelling paper streamers and producing a small report.~~

~~— B. A string popper which is a small tube containing not in excess of twenty five hundredths of a grain of explosive mixture with string protruding from both ends. The strings are pulled to activate the friction sensitive mixture, producing a small report.~~

~~— C. A snapper or drop pop, which is a small paper wrapped item containing no more than twenty five hundredths of a grain of explosive mixture coated on small bits of sand. When dropped, the device produces a small report.~~

~~— (5) Wire sparklers consisting of wire or stick coated with nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition. These items must not exceed one hundred grams of mixture per item.~~

~~— (6) Other sparkling devices which emit showers of sparks and sometimes a whistling or crackling effect when burning, do not detonate or explode, are hand held or ground-based, cannot propel themselves through the air and contain not more than seventy five grams of chemical compound per tube or not more than a total of two hundred grams if multiple tubes are used: Provided, that sparklers and sparkler devices as provided for herein shall not be sold to anyone below the age of sixteen years old.~~

~~(AAVaC 29-3-23)~~

Definitions. For purposes of this Code, the following terms shall have the meaning ascribed herein unless another meaning is clearly established.

(1) "Amusement park" means any person or organization which holds a permit for the operation of an amusement ride or amusement attraction under article ten, chapter twenty-one of this code;

(2) "Consumer fireworks" means small fireworks devices that are designed to produce visible effects by combustion that are required to comply with the construction, chemical composition and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 C.F.R. Parts 1500 and 1507 (2014), and that are listed in APA Standard 87-1. Consumer fireworks do not include sparkling devices, novelties, toy caps or model rockets;

(3) "Display fireworks" means large fireworks to be used solely by professional pyro-technicians licensed by the State Fire Marshal and designed primarily to produce visible or audible effects by combustion, deflagration or detonation and includes, but is not limited to, salutes containing more than two grains (one hundred thirty milligrams) of explosive materials, aerial shells containing more than forty grams of pyrotechnic compositions and other display pieces that exceed the limits of explosive materials for classification as consumer fireworks and are classified as fireworks UN0333, UN0334, or UN0335 under 49 C.F.R. §172.101 (2014);

(4) "Distributor" means a person who sells fireworks to wholesalers and retailers for resale;

(5) "Fire Marshal" means the State Fire Marshal;

(6) "Firework" or "fireworks" means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration or detonation. Fireworks include consumer fireworks, display fireworks and special effects. Fireworks does not include sparkling devices, novelties, toy caps or model rockets;

(7) "Interstate wholesaler" means a person who is engaged in interstate commerce selling fireworks;

(8) "Model rocket" means that term as defined in National Fire Protection Association Standard 1122, "Code for Model Rocketry";

(9) "Novelties" means that term as defined under APA standard 87-1, section 3.2; but shall not include toy pistols, toy caps, toy canes, toy guns or other similar devices;

(10) "Person" means an individual or the responsible person for an association, an organization, a partnership, a limited partnership, a limited liability company, a corporation or any other group or combination acting as a unit;

(11) "Public display of fireworks" means a public entertainment feature that is advertised to the general public or is on public property that includes the display or discharge of fireworks;

(12) "Retailer" means a person who purchases consumer fireworks for resale to consumers;

(13) "Sparkling devices" means "ground or handheld sparkling devices" as that phrase is defined under APA 87-1, sections 3.1.1 and 3.5;

(14) "Special effects" means a combination of chemical elements or chemical compounds capable of burning independently of the oxygen in the atmosphere and designed and intended to produce an audible, visual, mechanical or thermal effect as an integral part of a motion picture, radio, television, theatrical or opera production or live entertainment;

(15) "Toy caps" means that term as defined under APA 87-1, section 3.3; and

(16) "Wholesaler" means any person who sells consumer fireworks to a retailer or any other person for resale and any person who sells articles of pyrotechnics, display fireworks, and special effects to a person licensed to possess and use those devices.

~~(b) Except as hereinafter provided, no person, firm, copartnership or corporation shall offer for sale, possess, expose for sale, sell at retail, keep with intent to sell at retail, or use or explode any fireworks, provided, permits for the supervised display of fireworks may be granted upon application to the State Fire Marshal and after approval of the Police and Fire Chiefs, and the filing of a bond by the applicant as provided hereinafter. Every such display shall be handled by a competent operator licensed or certified as to competency by the State Fire Marshal and shall be of such composition, character, and so located, discharged or fired as in the opinion of the Fire Chief, after proper inspection, and of the Police Chief shall not be hazardous to property or endanger any person or persons. After such privilege shall have been granted, the sale, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable.~~

~~The Mayor shall require a bond from the licensee in a sum not less than one thousand dollars (\$1,000) conditioned on compliance with the provisions of this section and West Virginia Code Article 29-3 and the regulations of the State Fire Commission, provided, that the Municipality shall not be required to file such bond.~~

~~Before any permit for a pyrotechnic display shall be issued, the person, firm or corporation making application therefor shall furnish proof of financial responsibility to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of such person, firm or corporation or any agent or employee thereof, in such amount, character and form as the State Fire Marshal determines to be necessary for the protection of the public. (WVaC 29-3-24)~~

Licensing requirement. No person or entity may manufacture, wholesale, distribute, import, sell or store for the purpose of resale, fireworks, sparking devices, novelties or toy caps without a license, registration, certificate or permit for each place of business in and issued by the City of Nitro.

(c) Sale of fireworks.

(1). A retailer selling fireworks shall have a consumer fireworks certificate issued under the authority of West Virginia Code § 29-3E-5.

(2). The sale of fireworks shall be under the direct supervision and control of a competent person at least twenty-one years of age and duly qualified and responsible for the enforcement of all safety measures.

(3). Smoking, matches and open flames shall not be permitted within fifty feet of fireworks being sold. Signs shall be posted in conspicuous places in, on and around all fireworks being displayed for sale with the words "FIREWORKS -- NO SMOKING" in letters of not less than four inches in height.

(4). Fire extinguishing equipment shall be kept and maintained upon the sale premises and shall include, but not be limited to, a ten-pound A.B.C. fire extinguisher.

(5). All electrical fixtures contained upon the sale premises shall be dust-ignition proof. No fewer than two unobstructed exits shall be maintained upon the fireworks sale premises at all times.

(6). No fireworks shall be offered for sale within 300 feet of the property line of any church, hospital or school, or within fifty feet of the property line of any lot upon which any flammable liquid dispensers or flammable liquid storage areas are located.

(7). Any outdoor fireworks sales shall be located not less than twenty-five feet from any building, structure and all rights of way including, but not limited to, highways, streets, alleys, and sidewalks.

(8). Fireworks shall not be sold to any person under the age of eighteen years.

(d) Storage of fireworks.

(1). Fireworks shall be stored in a manner to be fire-resistant from any external or internal source, weather-resistant and theft-resistant.

(2). Fireworks storage shall be under the direct supervision and control of a competent person at least eighteen years of age.

(3). Consumer fireworks shall be stored in accordance with the manufacturer's printed instructions.

(e) Fireworks, use requirements, generally. A person using fireworks:

(1) Shall not do so while that person is under the influence of alcoholic liquor or controlled substance or a combination of both;

(2) Shall be eighteen years of age or older or shall be under the direct supervision of his or her parent, guardian or other adult person having the care and custody of the minor;

(3) Shall be responsible for the removal of all debris accumulated within twenty-four hours of such fireworks use and be financially responsible for all cleanup costs and damages due to the use of such fireworks;

(4) Shall be responsible for all costs and expenses associated with emergency response efforts, including but not limited to fire suppression efforts, related to such fireworks; and

(5) Shall abide by all legal requirements concerning such fireworks use.

(f) Consumer Fireworks, use requirements. A person using consumer fireworks:

(1) Shall not do so within 100 feet of any building or structure;

(2) Shall not do so except between 10 a.m. and 10 p.m. on Memorial Day, Independence Day, Labor Day and the holiday weekends corresponding to those holidays, or between 10 a.m. on December 31 and 12:30 a.m. on January 1;

(3) Shall not do so from any motor vehicle or boat;

(4) Shall ensure that such consumer fireworks do not travel through, come in contact with or discharge or explode onto any public street, highway or sidewalk, in or upon any building, at or near any person or within 500 feet of any location posing a special fire danger, such as a gas station or chemical storage area;

(5) Shall not do so during periods of very high or extreme fire danger as determined by the Nitro Fire Department or the West Virginia Division of Forestry, or while wind conditions are such that proper fireworks control cannot be exercised; and

(6) Shall do so in accordance with the fireworks manufacturer's printed instructions.

(g) Display Fireworks

(1). Display fireworks shall be used by a competent operator licensed or certified as to competency by the State Fire Marshal and shall be of such composition and character and so located and used so as to be safe in the opinion of the Fire Chief and Police Chief.

(2). The use of display fireworks is conditioned on compliance with the provisions of this section, West Virginia Code Article 29-3E and the regulations of the State Fire Marshal.

(3). The operator shall provide to the Mayor proof of liability insurance coverage issued by an insurance company licensed to do business in West Virginia in the amount of \$1 million or more and of a character and form as the Mayor determines to be necessary for the protection of the public, with the City being a named insured to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of the operator or an employee thereof.

(4). After such privilege shall have been granted, the sale, possession, use and distribution of display fireworks shall be lawful for that purpose only.

(5). No privilege granted hereunder shall be transferable.

(h) Seizure authorized. The City of Nitro may seize, take, remove and dispose of at public auction or destroy, or cause to be seized, taken or removed and disposed of at public auction, or destroyed at the expense of the owner, all fireworks or combustibles offered for sale, stored or held in violation of this section, West Virginia Code Article 29-3E or an emergency or legislative rule promulgated thereunder by the Fire Marshall.

(i) Enforcement. The provisions of this section shall be enforced by the Fire Chief, the Police Chief or their designees.

(J) Penalty. Whoever violates any of the provisions of this section shall be fined not more than five hundred dollars (\$500.00). Each violation of the provisions of this section shall constitute a separate offense.

This ordinance shall take effect immediately upon passage.

Passed on First Reading _____

Passed on Second Reading _____

David Casebolt, Mayor

Rita Cox, Recorder

ORDINANCE _____

An Ordinance to amend the Codified Ordinances of the City of Nitro, West Virginia, as amended, by adding thereto two new articles relating to pollution prevention: Article 163A, Stormwater Pollution Prevention, Illicit Discharge Detection And Elimination, and 163B, Stormwater Pollution Prevention, Construction Site Erosion And Sediment Control.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA, that the Codified Ordinances of the City of Nitro, West Virginia, as amended, be amended and reenacted by adding thereto Article 163A and Article 163B, all to read as follows:

**ARTICLE 163A
STORMWATER POLLUTION PREVENTION
ILLICIT DISCHARGE DETECTION AND ELIMINATION**

Sec. 163A.1 Purpose/Intent.

The purpose of this article is to provide for the protection of the health, safety, and general welfare of the citizens of the City of Nitro (city) through the regulation of non-stormwater discharges into the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state law. This article establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with the city's National Pollutant Discharge Elimination System (NPDES) permit. The objectives of this article are:

- (a) To regulate the contribution of pollutants to the MS4 by non-stormwater discharges;
- (b) To prohibit illicit connections and discharges to the MS4;
- (c) To establish legal authority to carry out all inspection, enforcement, surveillance and monitoring procedures necessary to ensure compliance with this Article; and
- (d) To comply with applicable federal and state statutory and regulatory requirements and schedules regarding the city's stormwater management requirements.

Sec. 163A.2 Definitions. The following words, terms and phrases when used in this article shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:

(a) *Best management practices* (BMPs) means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices that, when used singly or in combination, contribute to the control of the discharge of pollutants directly or indirectly into stormwater, receiving waters, or the MS4. BMPs also include treatment practices, operating procedures, and practices to contribute to the control of: site runoff of spillage or leaks, sludge or water disposal, or drainage from raw materials storage. BMPs can be non-structural, which is an action that does not require construction, or structural, which involves constructed facilities or measures.

(b) *Clean Water Act (CWA)* means the federal Water Pollution Control Act (33 U.S.C. §1251 et seq.), and any subsequent amendments thereto.

(c) *Construction* means the act of building, grading, shaping, removing, demolishing, repairing, erecting, extending, installing equipment, or enlarging any building, structure, grounds, or premises.

(d) *Facility* means, for the purposes of this article, a building, structure, installation, construction site or premises in which pollutants are produced and/or generated as a result of an activity conducted within or around such building, structure, installation, construction site or premises.

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

(f) *Illicit Discharge* means any discharge to the MS4 or the waters of the state that does not consist entirely of stormwater, is not a discharge containing no Pollutants covered under the city's NPDES MS4 Permit, or is not one of those discharges listed in Section 163A.5 of this article.

(g) *Illicit Connection* means (1) any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the MS4 or waters of the state including, but not limited to, conveyances which allow any Non-stormwater discharge to enter the MS4 and any connection to the MS4 from indoor drains and sinks, regardless of whether said drain or connection was previously allowed, permitted, or approved by the city or the WV Department of Environmental Protection (DEP); or (2) any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by a stormwater compliance officer after the effective date of the ordinance from which this article derives and which has not been located, identified, documented, and provided to a stormwater compliance officer after written notice.

(h) *Industrial Activity* means an activity subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26(b)(14).

(i) *Maximum Extent Practicable* means a standard set forth in the CWA that requires NPDES permittees to have controls in place that are designed to reduce the discharge of Pollutants to the MS4 and waters of the state, including management practices, control techniques and system, design and engineering methods.

(j) *Municipal Separate Storm Sewer System (MS4)* means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that are:

- (1) Owned or operated by the city;
- (2) Designed or used for collecting or conveying stormwater;
- (3) Not a combined sewer; and

(4) Not part of a Publicly Owned Treatment Works (POTW) as defined in 40 CFR, Section 122.2

(k) *National Pollutant Discharge Elimination System (NPDES Stormwater Discharge Permit)* means a permit issued by the Federal Environmental Protection Agency

ORDINANCE _____

An Ordinance to amend the Codified Ordinances of the City of Nitro, West Virginia, as amended, by adding thereto two new articles relating to pollution prevention: Article 163A, Stormwater Pollution Prevention, Illicit Discharge Detection And Elimination, and 163B, Stormwater Pollution Prevention, Construction Site Erosion And Sediment Control.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA, that the Codified Ordinances of the City of Nitro, West Virginia, as amended, be amended and reenacted by adding thereto Article 163A and Article 163B, all to read as follows:

**ARTICLE 163A
STORMWATER POLLUTION PREVENTION
ILLICIT DISCHARGE DETECTION AND ELIMINATION**

Sec. 163A.1 Purpose/Intent.

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- (a) To regulate the contribution of pollutants to the MS4 by non-stormwater discharges;
- (b) To prohibit illicit connections and discharges to the MS4;
- (c) To establish legal authority to carry out all inspection, enforcement, surveillance and monitoring procedures necessary to ensure compliance with this Article; and
- (d) To comply with applicable federal and state statutory and regulatory requirements and schedules regarding the city's stormwater management requirements.

Sec. 163A.2 Definitions. The following words, terms and phrases when used in this article shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:

- (a) *Best management practices* (BMPs) means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices that, when used singly or in combination, contribute to the control of the discharge of pollutants directly or indirectly into stormwater, receiving waters, or the MS4. BMPs also include treatment practices, operating procedures, and practices to contribute to the control of: site runoff of spillage or leaks, sludge or water disposal, or drainage from raw materials storage. BMPs can be non-structural, which is an action that does not require construction, or structural, which involves constructed facilities or measures.

(EPA) or by a state under authority delegated pursuant to 33 USC § 1342(b) that authorizes the discharge of Pollutants into waters of the United States.

(l) *Non-Stormwater Discharges* means, unless otherwise provided in Section 163A.5, those discharges that include, but are not limited to, sanitary wastewater, car wash wastewater, radiator flushing disposal, spills from roadway accidents, carpet cleaning wastewater, effluent from septic tanks, improper oil disposal, laundry wastewater/gray water, improper disposal of auto and household toxics.

(m) *Person* means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

(n) *Pollutant* means anything that causes or contributes to Pollution and may include, but is not limited to:

- (1) Paints, varnishes, and solvents;
- (2) Oil and other automotive fluids;
- (3) Non-hazardous liquid and solid wastes and yard wastes;
- (4) Refuse, rubbish, garbage, litter, or other discarded or abandoned objects;
- (5) Floatables;
- (6) Pesticides, herbicides, and fertilizers;
- (7) Hazardous substances and wastes;
- (8) Sewage, fecal coliform and pathogens;
- (9) Dissolved and particulate heavy metals;
- (10) Animal wastes;
- (11) Wastes and residues that result from constructing or renovating a building or structure;
- (12) Noxious or offensive matter of any kind;
- (13) Hyperchlorinated water; and
- (14) Commercial car and building wash water.

(o) *Pollution* means the degradation of the physical, thermal, chemical, biological or radioactive properties of the Watercourses and water supplies located in or running through the city and/or the discharge of any Pollutant into the Watercourses and water supplies located in or running through the city which will or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare or to impair the beneficial use of the water and/or the water environment.

(p) *Premises* means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

(q) *Stormwater* means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation, including groundwater discharge and floodwater.

(r) *Stormwater Compliance Officer* (hereinafter referred to as compliance officer) means an employee of the City of Nitro or Nitro Public Works Department designated by the city to administer, implement and enforce this article.

(s) *Stormwater Pollution Prevention Plan* (SWPPP) means a document that describes the best management practices and activities to be implemented by a Person to identify sources of pollution or contamination at a site and the actions to eliminate or

reduce pollutant discharges into stormwater, the MS4, and/or receiving waters to the maximum extent practicable.

(t) *Wastewater* means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

(u) *Watercourse* means a body of water flowing in a reasonably defined channel with a bed and banks.

Sec. 163A.3 Applicability.

This article shall apply to all stormwater and non-stormwater discharges entering the MS4 from any premises located within the city unless explicitly exempted by the city or the West Virginia Department of Environmental Protection (WVDEP).

Sec. 163A.4 Responsibility for administration.

City of Nitro, Public Works Department Stormwater Compliance Officers shall administer, implement, and enforce the provisions of this article.

Sec. 163A.5 illicit discharge and connection prohibitions.

(a) Prohibition of illicit discharges.

(1) Except for stormwater, no person shall discharge or cause to be discharged into the MS4 or waters of the state any materials, including, but not limited to, Pollutants or waters containing any Pollutants that cause or contribute to a violation of applicable water quality standards or any other federal, state, or local regulations.

(2) The commencement or continuation of any illicit discharge to the MS4 is prohibited except as described as follows:

(A) Discharges not containing Pollutants from the following:

- (i) Potable water sources including waterline flushings from which chlorine has been removed to the maximum extent practicable;
- (ii) Landscape irrigation or lawn watering with potable water;
- (iii) Diverted stream flows;
- (iv) Rising ground water;
- (v) Groundwater infiltration to storm drains;
- (vi) Pumped groundwater;
- (vii) Foundation or footing drains where flows are not contaminated with pollutants (e.g. do not contain process materials such as solvents, heavy metals, etc.);
- (viii) Crawl space pumps;
- (ix) Air conditioning condensation;
- (x) Uncontaminated groundwater or spring water;
- (xi) Springs;
- (xii) Dewatering of work areas of collected Stormwater and ground water (filtering or chemical treatment may be necessary prior to discharge);
- (xiii) Water used to control dust;
- (xiv) Routine external building washdown that does not use detergents or other chemicals;

(EPA) or by a state under authority delegated pursuant to 33 USC § 1342(b) that authorizes the discharge of Pollutants into waters of the United States.

(l) *Non-Stormwater Discharges* means, unless otherwise provided in Section 163A.5, those discharges that include, but are not limited to, sanitary wastewater, car wash wastewater, radiator flushing disposal, spills from roadway accidents, carpet cleaning wastewater, effluent from septic tanks, improper oil disposal, laundry wastewater/gray water, improper disposal of auto and household toxics.

(m) *Person* means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

(n) *Pollutant* means anything that causes or contributes to Pollution and may include, but is not limited to:

- (1) Paints, varnishes, and solvents;
- (2) Oil and other automotive fluids;
- (3) Non-hazardous liquid and solid wastes and yard wastes;
- (4) Refuse, rubbish, garbage, litter, or other discarded or abandoned objects;
- (5) Floatables;
- (6) Pesticides, herbicides, and fertilizers;
- (7) Hazardous substances and wastes;
- (8) Sewage, fecal coliform and pathogens;
- (9) Dissolved and particulate heavy metals;
- (10) Animal wastes;
- (11) Wastes and residues that result from constructing or renovating a building or structure;
- (12) Noxious or offensive matter of any kind;
- (13) Hyperchlorinated water; and
- (14) Commercial car and building wash water.

(o) *Pollution* means the degradation of the physical, thermal, chemical, biological or radioactive properties of the Watercourses and water supplies located in or running through the city and/or the discharge of any Pollutant into the Watercourses and water supplies located in or running through the city which will or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare or to impair the beneficial use of the water and/or the water environment.

(p) *Premises* means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

(q) *Stormwater* means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation, including groundwater discharge and floodwater.

(r) *Stormwater Compliance Officer* (hereinafter referred to as compliance officer) means an employee of the City of Nitro or Nitro Public Works Department designated by the city to administer, implement and enforce this article.

(s) *Stormwater Pollution Prevention Plan (SWPPP)* means a document that describes the best management practices and activities to be implemented by a Person to identify sources of pollution or contamination at a site and the actions to eliminate or

- (xv) Waters used to wash vehicles (of dust and soil, not process materials such as oils, asphalt or concrete) where detergents are not used and detention and/or filtering is provided before the water leaves the wash site;
- (xvi) Non-commercial washing of vehicles;
- (xvii) Natural riparian habitat or wetland flows;
- (xviii) Swimming pools (if dechlorinated to a concentration of one PPM chlorine or less);
- (xix) Firefighting activities; or
- (xx) Any other water source not containing pollutants.

(B) Discharges approved in writing by a compliance officer as being necessary to protect public health and safety.

(C) Dye testing is an allowable discharge, but requires written notification to a compliance officer prior to the time of the test.

(D) The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the EPA, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge into the MS4.

(b) Prohibition of Illicit Connections.

(1) The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was previously permitted by the city and/or permissible under law or practices applicable or prevailing at the time of connection. Where such connections exist in violation of this ordinance and said connections were made prior to the effective date of this ordinance or any other ordinance prohibiting such connections, the property owner or the person using said connection shall remove the connection within six months following the effective date of this ordinance. However, the six-month grace period shall not apply to connections which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife or habitat.

(3) This prohibition includes any drain or conveyance connected from a commercial or industrial land use to the MS4 that has not been documented in plans, maps, or equivalent records and approved by a compliance officer after the effective date of this ordinance unless or until such drain or conveyance is located, identified, documented, and the documentation is provided to and approved by a compliance officer. The property owner or person using such drain or conveyance shall locate the same upon receipt of written notice from a compliance officer. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the requesting compliance officer.

(4) A person shall be in violation of this article if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

Sec. 163A.6 Watercourse protection.

Every person owning property through which a watercourse passes, or such person's lessee as a condition of its lease, shall keep and maintain that part of the watercourse located within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or cause the flow of water through the Watercourse to back up. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

Sec. 163A.7 Industrial or construction activity discharges.

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to a compliance officer prior to the allowance of discharges into the MS4.

Sec. 163A.8 Requirement to prevent control, and reduce stormwater pollutants by the use of best management practices.

The city will adopt requirements identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the MS4, or waters of the state. The owner or operator of a commercial or industrial establishment shall provide, at his or her own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 or watercourses through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of Stormwater associated with Industrial Activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as is necessary for compliance with requirements of the NPDES permit.

Sec. 163A.9 Access to facilities for inspection, monitoring, sampling, measuring, testing or copying records.

(a) Applicability: This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

(b) Access to facilities:

(1) To the fullest extent permitted by law, compliance officers bearing proper identification are authorized by this article to enter and inspect regulated facilities to determine compliance with this article.

(2) Facility operators shall allow Compliance Officers reasonable access to all parts of the premises for the purposes of inspecting, monitoring, sampling, measuring,

- (xv) Waters used to wash vehicles (of dust and soil, not process materials such as oils, asphalt or concrete) where detergents are not used and detention and/or filtering is provided before the water leaves the wash site;
- (xvi) Non-commercial washing of vehicles;
- (xvii) Natural riparian habitat or wetland flows;
- (xviii) Swimming pools (if dechlorinated to a concentration of one PPM chlorine or less);
- (xix) Firefighting activities; or
- (xx) Any other water source not containing pollutants.

(B) Discharges approved in writing by a compliance officer as being necessary to protect public health and safety.

(C) Dye testing is an allowable discharge, but requires written notification to a compliance officer prior to the time of the test.

(D) The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the EPA, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge into the MS4.

(b) Prohibition of Illicit Connections.

(1) The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was previously permitted by the city and/or permissible under law or practices applicable or prevailing at the time of connection. Where such connections exist in violation of this ordinance and said connections were made prior to the effective date of this ordinance or any other ordinance prohibiting such connections, the property owner or the person using said connection shall remove the connection within six months following the effective date of this ordinance. However, the six-month grace period shall not apply to connections which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife or habitat.

(3) This prohibition includes any drain or conveyance connected from a commercial or industrial land use to the MS4 that has not been documented in plans, maps, or equivalent records and approved by a compliance officer after the effective date of this ordinance unless or until such drain or conveyance is located, identified, documented, and the documentation is provided to and approved by a compliance officer. The property owner or person using such drain or conveyance shall locate the same upon receipt of written notice from a compliance officer. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the requesting compliance officer.

or testing the Facility's Stormwater discharge. Compliance Officers shall also be allowed reasonable access for the purpose of copying records that must be kept under the conditions of an NPDES permit.

(3) If a compliance officer has been refused access to any part of the premises of a facility from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this article involving illicit discharges or pollutants discharging into stormwater, the MS4 or waters of the state; or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this article or any order issued hereunder; or to protect the overall public health, safety, and welfare of the community, then the compliance officer may seek issuance of a search warrant from any court of competent jurisdiction to conduct of an investigation concerning compliance with the terms of this article.

Sec. 163A.10 Notification of spills.

Notwithstanding other requirements of state or federal law, as soon as any Person responsible for a facility or responsible for emergency response for a facility, has information of any known or suspected release of materials which are resulting, or may result, in illicit discharges or pollutants discharging into stormwater, the MS4, or waters of the state, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of all other illicit discharges, said person shall notify the city's stormwater management department in person or by phone or email, no later than the next business day. All relevant contact information shall be listed on the city's website. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the stormwater management department within three business days of the notice. If the Illicit discharge emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Sec. 163A.11 Stormwater Utility Board created.

(a) There is hereby created in and for the city, the City of Nitro, Nitro Stormwater Utility Board, which shall hear and decide appeals of any order or decision of a compliance officer or any denial of a request for reconsideration by the city issued pursuant to this article.

(b) The stormwater utility board shall be comprised of the Public Works Director, the Mayor, and a minimum of three persons appointed by the Mayor, two of whom must be current members of Nitro city council and one person not employed by the city who is qualified by knowledge and experience in matters pertaining to construction and/or engineering. Members of the board shall serve for terms of three years and do not receive compensation, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their official duties.

(c) Notwithstanding any other provisions in this code to the contrary, any person employed by, owning an interest in or otherwise associated with an owner or person that regularly conducts business in front of the stormwater management board may also serve as a member of the stormwater management board and shall not be disqualified from serving as a member because of a conflict of interest as defined in West Virginia Code § 61-10-15 and shall not be subject to prosecution under provisions of that chapter when the violation is created solely as a result of his or her relationship with the owner or person. The member must, however, recuse himself or herself from any vote, discussion, participation or other activity regarding any colorable conflict recognized under West Virginia law.

(d) Notwithstanding any other provisions in this Code to the contrary, any person employed by, owning an interest in or otherwise associated with an owner or person that regularly conducts business in front of the stormwater management board may also serve as a member of the stormwater management board and shall not be in violation of West Virginia Code § 6B-2-5(g) if the member recuses himself or herself from any vote, discussion, participation or other activity regarding any conflict: Provided, that such members do not constitute a majority of the members of the stormwater management board at the same time.

Sec. 163A.12 Notice of violation.

(a) When a compliance officer determines after reasonable observation or investigation that a person has violated a prohibition or failed to meet a requirement of this article, he/she may order compliance by written notice of violation to that person. Such notice may require, without limitation:

- (1) The performance of monitoring, analyses and reporting;
- (2) The elimination of illicit connections or discharges;
- (3) That discharges, practices or operations that are in violation shall cease and desist;
- (4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and/or
- (5) The implementation of source control or treatment BMPs.

(b) Notice(s) of violation shall be served in accordance with the law of the State of West Virginia concerning the service of process in civil actions, except that a method of service effectuated by a mailing by the clerk of a court (e.g., service pursuant to West Virginia Rule of Civil Procedure 4(d)(1)(D)) shall be deemed to be effectuated by a mailing by a compliance officer. If service is made by certified mail consistent with West Virginia Rule of Civil Procedure 4(d)(1)(D) and delivery of the notice of the violation is refused, the compliance officer, promptly upon the receipt of the notice of such refusal, shall mail to the person being noticed, by first class mail, postage prepaid:

- (1) A copy of the notice of the violation(s);
- (2) A notice that despite such refusal, the notice of the violation(s) is valid, and;
- (3) Advising that the city will proceed to enforce the notice of violation(s).

So long as such first class mailing is not returned as undeliverable by the U.S. Postal Service, service of the notice of violation(s) will be conclusively presumed to have

or testing the Facility's Stormwater discharge. Compliance Officers shall also be allowed reasonable access for the purpose of copying records that must be kept under the conditions of an NPDES permit.

(3) If a compliance officer has been refused access to any part of the premises of a facility from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this article involving illicit discharges or pollutants discharging into stormwater, the MS4 or waters of the state; or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this article or any order issued hereunder; or to protect the overall public health, safety, and welfare of the community, then the compliance officer may seek issuance of a search warrant from any court of competent jurisdiction to conduct of an investigation concerning compliance with the terms of this article.

Sec. 163A.10 Notification of spills.

Notwithstanding other requirements of state or federal law, as soon as any Person responsible for a facility or responsible for emergency response for a facility, has information of any known or suspected release of materials which are resulting, or may result, in illicit discharges or pollutants discharging into stormwater, the MS4, or waters of the state, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of all other illicit discharges, said person shall notify the city's stormwater management department in person or by phone or email, no later than the next business day. All relevant contact information shall be listed on the city's website. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the stormwater management department within three business days of the notice. If the Illicit discharge emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Sec. 163A.11 Stormwater Utility Board created.

(a) There is hereby created in and for the city, the City of Nitro, Nitro Stormwater Utility Board, which shall hear and decide appeals of any order or decision of a compliance officer or any denial of a request for reconsideration by the city issued pursuant to this article.

(b) The stormwater utility board shall be comprised of the Public Works Director, the Mayor, and a minimum of three persons appointed by the Mayor, two of whom must be current members of Nitro city council and one person not employed by the city who is qualified by knowledge and experience in matters pertaining to construction and/or engineering. Members of the board shall serve for terms of three years and do not receive compensation, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their official duties.

been effectuated. Proof of service shall be made at the time of service by a written declaration, under oath, executed by the enforcement official effecting service and shall declare the time, date and manner by which service was made.

(c) Any notice of violation(s) under this section shall be in writing and shall contain the following:

- (1) The date the notice of violation is given;
- (2) The name and address of the person(s) charged with the violation;
- (3) The nature of the violation;
- (4) A statement of the action required to be taken in order to correct the violation and further prevent it;
- (5) The time period allowed for the violation to be corrected. When determining the time period allowed for correction, a compliance officer shall take into consideration the threat posed by the violation to the health, safety and welfare of the public and the nature of the work required to correct the violation;
- (6) The maximum fines that may be assessed if the violation is not corrected and a citation is issued; and
- (8) The name, address and telephone number of the compliance officer issuing the notice of violation.

(d) Nothing in this section shall limit the authority of compliance officers to take any other lawfully prescribed enforcement action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

Sec. 163A.13 Request for reconsideration; appeal of decision of the Public Works Director.

(a) Any person receiving a notice of violation from a compliance officer may submit a written request for reconsideration to the Public Works Director by mailing said request to the Nitro Public Works Department, P.O. Box 308, Nitro, WV 25143, or by hand delivering said request to the Public Works Director, 194 Republic Way, Nitro, WV 25143. The request for reconsideration must be received within ten days from the date of the notice of violation and shall include a written explanation of the basis for the request. Upon receipt of a timely request for reconsideration, the Public Works Director shall review the request and shall:

- (1) Uphold the notice of violation;
- (2) Reverse the notice of violation; or
- (3) Modify the notice of violation and shall provide written notice by certified mail of his or her decision to the person within 15 days of receipt thereof.

(b) When a notice of violation is upheld by the Public Works Director as outlined in (a) above, the person may appeal the decision of the Nitro Stormwater Utility Board by mailing a notice of appeal to Nitro Stormwater Utility Board, c/o Office of the Mayor, P.O. Box 308, Nitro, WV 25143, or by hand delivering said request to the Nitro Stormwater Utility Board, Office of the Mayor, 2009 20th Street, Nitro, West Virginia, 25143. When appealing a decision by the Public Works Director, the notice of appeal to the stormwater utility board must be received within ten days from the date of the receipt of the written notice of the Public Works Director's decision. Hearing on the appeal shall be before the Nitro Stormwater Utility Board and said hearing shall take place within 30 business days

from the date of receipt of the notice of appeal. At the conclusion of the hearing, the stormwater utility board shall either grant or deny the appeal in writing within 10 days, and provide written notice by certified mail of its decision to the person who appealed. The decision of the stormwater utility board shall be final. Failure to file a notice of appeal within the period set forth herein shall constitute a waiver of the right to appeal to the stormwater utility board, shall result in the decision of the Public Works Director being final, and the notice of violation shall be fully enforceable as set forth in this article.

Sec. 163A.14 Appeal of notice of violation.

Any person receiving a notice of violation who chooses not to request reconsideration by the Public Works Director may appeal the notice of violation directly to the Nitro Stormwater Utility Board by mailing a notice of appeal to the Nitro Stormwater Utility Board, c/o Office of the Mayor, P.O. Box 308, Nitro, WV 25143, or by hand delivering said request to the Nitro Stormwater Utility Board, Office of the Mayor, 2009 20th Street, Nitro, West Virginia, 25143. When appealing a notice of violation where no reconsideration by the Public Works Director has been requested, the notice of appeal to the stormwater utility board must be received within ten days from the date of the notice of violation. Hearing on the appeal shall be before the Nitro Stormwater Utility Board and said hearing shall take place within 30 business days from the date of receipt of the notice of appeal. At the conclusion of the hearing, the Nitro Stormwater Utility Board shall either grant or deny the appeal in writing within 10 days, and provide written notice by certified mail of its decision to the person who appealed. The decision of the stormwater utility board shall be final. Failure to file a notice of appeal within the period set forth herein shall constitute a waiver of the right to appeal to the Nitro Stormwater Utility Board and the notice of violation shall be fully enforceable as set forth in this article.

Sec. 163A.15 Enforcement measures after appeal.

(a) If the violation has not been corrected within ten days or any other period specified by the stormwater management board in its decision, then the compliance officer shall request the owner's permission for access to the subject private property to take any and all measures reasonably necessary to abate the violation and/or bring the property into compliance.

(b) If refused access to the subject property, the compliance officer may seek a warrant in a court of competent jurisdiction to be authorized to enter upon the property.

Sec. 163A.16 Injunctive relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. If a person has violated or continues to violate the provisions of this article, the city may petition a court of competent jurisdiction for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation. Any such person against whom such an injunction is issued shall be responsible for paying all costs of the city in obtaining and enforcing such injunction, including the court costs and attorney's fees.

been effectuated. Proof of service shall be made at the time of service by a written declaration, under oath, executed by the enforcement official effecting service and shall declare the time, date and manner by which service was made.

(c) Any notice of violation(s) under this section shall be in writing and shall contain the following:

- (1) The date the notice of violation is given;
- (2) The name and address of the person(s) charged with the violation;
- (3) The nature of the violation;
- (4) A statement of the action required to be taken in order to correct the violation and further prevent it;
- (5) The time period allowed for the violation to be corrected. When determining the time period allowed for correction, a compliance officer shall take into consideration the threat posed by the violation to the health, safety and welfare of the public and the nature of the work required to correct the violation;
- (6) The maximum fines that may be assessed if the violation is not corrected and a citation is issued; and
- (8) The name, address and telephone number of the compliance officer issuing the notice of violation.

(d) Nothing in this section shall limit the authority of compliance officers to take any other lawfully prescribed enforcement action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

Sec. 163A.13 Request for reconsideration; appeal of decision of the Public Works Director.

(a) Any person receiving a notice of violation from a compliance officer may submit a written request for reconsideration to the Public Works Director by mailing said request to the Nitro Public Works Department, P.O. Box 308, Nitro, WV 25143, or by hand delivering said request to the Public Works Director, 194 Republic Way, Nitro, WV 25143. The request for reconsideration must be received within ten days from the date of the notice of violation and shall include a written explanation of the basis for the request. Upon receipt of a timely request for reconsideration, the Public Works Director shall review the request and shall:

- (1) Uphold the notice of violation;
- (2) Reverse the notice of violation; or
- (3) Modify the notice of violation and shall provide written notice by certified mail of his or her decision to the person within 15 days of receipt thereof.

(b) When a notice of violation is upheld by the Public Works Director as outlined in (a) above, the person may appeal the decision of the Nitro Stormwater Utility Board by mailing a notice of appeal to Nitro Stormwater Utility Board, c/o Office of the Mayor, P.O. Box 308, Nitro, WV 25143, or by hand delivering said request to the Nitro Stormwater Utility Board, Office of the Mayor, 2009 20th Street, Nitro, West Virginia, 25143. When appealing a decision by the Public Works Director, the notice of appeal to the stormwater utility board must be received within ten days from the date of the receipt of the written notice of the Public Works Director's decision. Hearing on the appeal shall be before the Nitro Stormwater Utility Board and said hearing shall take place within 30 business days

Sec. 163A.17 Violations deemed a public nuisance.

(a) In addition to the enforcement processes and penalties provided in this article, any condition caused or permitted to exist in violation of any of the provisions of this article shall be considered a threat to the public health, safety, welfare and the environment, may be declared and deemed a nuisance, and may be summarily abated and/or restored by, or at the direction of, the city, by and through its compliance officer. The city may initiate any administrative and civil actions as necessary to abate, enjoin or otherwise compel the cessation of such nuisance.

(b) The cost of such abatement and/or restoration shall be the sole responsibility of the owner of the property and the cost thereof shall be a lien upon and against the property. Such lien shall continue in existence until the same shall be paid.

Sec. 163A.18 Criminal prosecution.

In addition to, and not in lieu of, any administrative remedy provided in this article, violations of this article shall be a criminal misdemeanor, subject to criminal citation and punishable by a fine of not less than \$500.00. Every day or portion thereof that a person fails or refuses to remedy a violation shall be considered a separate offense. Fines may be reduced by the municipal court only upon agreement of the city by and through its prosecutor.

Sec. 163A.19 Remedies not exclusive.

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

Sec. 163A.20 Severability.

The provisions of this article are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this article or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this article.

**ARTICLE 163B
STORMWATER POLLUTION PREVENTION
CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL**

Sec. 163B.1 Purpose/intent.

The purpose of this article is to provide for the protection of the health, safety, and general welfare of the citizens of the City of Nitro (city) through the regulation of those construction projects where the discharge of sediment and other construction related pollutants into adjacent waterways is likely to occur.

Sec. 163B.2 Definitions. The following words, terms and phrases when used in this Article shall have the meanings ascribed to them in this Section except where the context clearly indicates a different meaning:

- (a) *Clearing* means any activity that removes or causes the removal of the vegetative surface cover.
- (b) *Construction* means the act of building, grading, shaping, removing, demolishing, repairing, erecting, extending, installing equipment on/in, or enlarging any building, structure, grounds, or premises.
- (c) *Construction Site* means a parcel of land or a contiguous combination thereof where land disturbing activity occurs.
- (d) *Drainage Way* means any channel that conveys surface runoff throughout the construction site.
- (e) *Erosion* means the wearing-away of land surface by natural or artificial forces such as wind, water, ice, gravity or vehicle traffic.
- (f) *Erosion Control* means a measure that is designed to prevent erosion.
- (g) *Erosion and Sediment Control Plan* (ESCP) means a set of plans indicating the specific measures and sequencing to be used to control erosion and sediment on a construction site.
- (h) *Grading* means the cutting and/or filling of the land surface to a desired slope, elevation, or contour.
- (i) *Impervious Area* means an area composed of any material which impedes or prevents the natural infiltration of water into the soil, including but not limited to, concrete, asphalt, and roof surfaces.
- (j) *Land Disturbing Activity* (LDA) means any activity that results in the movement or manipulation of soil, rock or other earth materials. This includes, but is not limited to, clearing and grubbing, grading, excavation, filling, embankment construction, road grading, ditch cleaning, mineral extraction, commercial timbering, initial landscape preparation and stockpiling of earth materials. The activities set forth in Section 163B.5(b) of this article are exempt from the definition of land disturbing activity for purposes of this article.
- (k) *Perimeter Control* means a barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.
- (l) *Person* means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.
- (m) *Phasing* means disturbing a parcel of land in distinct phases, with the stabilization of each phase completed before disturbance of the next phase.
- (n) *Sediment* means soil, sand, silt, and minerals washed from land into water.
- (o) *Sediment Control* means measures that prevent eroded sediment from leaving a construction site.
- (p) *Stabilization* means the use of practices that prevent exposed soil from eroding.
- (q) *Start of Construction* means the first land disturbing activity associated with a construction project.
- (r) *Stormwater Compliance Officer* (hereinafter referred to as compliance officer) means an employee of the City of Nitro or Nitro Public Works Department designated by the city to administer, implement and enforce this article.
- (s) *Watercourse* means a body of water flowing in a reasonably defined channel with a bed and banks.

Sec. 163A.17 Violations deemed a public nuisance.

(a) In addition to the enforcement processes and penalties provided in this article, any condition caused or permitted to exist in violation of any of the provisions of this article shall be considered a threat to the public health, safety, welfare and the environment, may be declared and deemed a nuisance, and may be summarily abated and/or restored by, or at the direction of, the city, by and through its compliance officer. The city may initiate any administrative and civil actions as necessary to abate, enjoin or otherwise compel the cessation of such nuisance.

(b) The cost of such abatement and/or restoration shall be the sole responsibility of the owner of the property and the cost thereof shall be a lien upon and against the property. Such lien shall continue in existence until the same shall be paid.

Sec. 163A.18 Criminal prosecution.

In addition to, and not in lieu of, any administrative remedy provided in this article, violations of this article shall be a criminal misdemeanor, subject to criminal citation and punishable by a fine of not less than \$500.00. Every day or portion thereof that a person fails or refuses to remedy a violation shall be considered a separate offense. Fines may be reduced by the municipal court only upon agreement of the city by and through its prosecutor.

Sec. 163A.19 Remedies not exclusive.

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

Sec. 163A.20 Severability.

The provisions of this article are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this article or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this article.

**ARTICLE 163B
STORMWATER POLLUTION PREVENTION
CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL**

Sec. 163B.1 Purpose/intent.

The purpose of this article is to provide for the protection of the health, safety, and general welfare of the citizens of the City of Nitro (city) through the regulation of those construction projects where the discharge of sediment and other construction related pollutants into adjacent waterways is likely to occur.

Sec. 163B.2 Definitions. The following words, terms and phrases when used in this Article shall have the meanings ascribed to them in this Section except where the context clearly indicates a different meaning:

(t) *Waterway* means a channel that directs surface runoff to a watercourse or to the MS4.

Sec. 163B.3 Applicability.

This article shall apply to all Construction projects located within the city that involve land disturbing activity (LDA) exceeding 5,000 square feet or an increase in impervious area by 1,000 square feet or greater unless exempted by Section 163B.5(b) this article.

Sec. 163B.4 Responsibility for administration.

City of Nitro, Public Works Department Stormwater Compliance Officers shall administer, implement, and enforce the provisions of this article.

Sec. 163B.5 Approval of land disturbing activity.

(a) Any person applying for a City of Nitro building permit that proposes a construction project involving LDA exceeding 5,000 square feet, or an increase in impervious area by 1,000 square feet or greater, is required to obtain approval for such LDA from the Nitro Building Department's office. Requests for approval shall be made at the time of application for a building permit; provided, however, that a building permit shall not be issued in the absence of prior approval of LDA by the Public Works Department's office.

(b) Notwithstanding Section 163A_5(a) herein, approval for LDA shall not be required for the following activities:

- (1) Interior renovations;
- (2) Roof repair;
- (3) Building façade maintenance;
- (4) Milling and repaving of existing asphalt or concrete streets, parking lots, or sidewalks;
- (5) Maintenance of existing landscaping or gardens;
- (6) Cutting of trees and brush (provided the area remains vegetated and no grubbing of root system occurs); and
- (7) Maintenance of pervious sports fields such as replacement of the clay surface to baseball infields, turf plugging of golf fairways and greens.

Sec. 163B.6 Submission of erosion and sediment control plan; modifications.

(a) Any person requesting approval of LDA is required to submit an erosion and sediment control plan (ESCP) to the city building department as part of the building permit application for review and approval by the Nitro Building Department's office. The ESCP shall comply with the provisions set forth in the City of Nitro Stormwater Management Guidance Manual regarding Erosion and Sediment Control Measures. The Stormwater Management Guidance Manual will be available to the public on the city's website, as well as on file at the Nitro Public Works Department and Nitro Building Department offices.

(b) All control measures set forth in an approved ESCP shall be followed and maintained at all times during the construction project unless modified with the approval of the Public Works Department's office. Any significant modifications to an ESCP must be approved by the Public Works Director's office via written authorization to the

permittee. Minor modifications to the ESCP may be approved by the Public Works Department's office at the construction site.

(c) A copy of the approved ESCP shall be kept on the construction site during all stages of a construction project and shall be made available for review upon request by a compliance officer.

Sec. 163B.7 Erosion and sediment control design requirements.

(a) Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the most recent version of the City's Stormwater Management Guidance Manual and shall be adequate to prevent transportation of sediment from the construction site to the satisfaction of the Public Works Department's office.

(b) Clearing and Grading of natural resources, such as protected habitats and wetlands, shall not be permitted, except when in compliance with the Stormwater Management Guidance Manual.

(c) Clearing, except to the extent necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.

(d) Minimum erosion control requirements shall include:

(1) Temporary seeding must be applied if the construction site is idle for more than 21 days.

(2) Special techniques that meet the design criteria outlined in the Stormwater Management Guidance Manual on steep slopes or in drainage ways shall be used to ensure stabilization.

(3) Soil stockpiles must be stabilized or covered at all times.

(4) The entire construction site must be stabilized at the close of the construction season, which may include but is not limited to, temporary seeding, mulching, and the use of erosion controls.

(5) Techniques shall be employed to prevent the transportation of dust or sediment from the construction site.

(6) Techniques shall be employed to divert upstream runoff away from LDA without causing any additional erosion.

(e) Minimum sediment control requirements shall include: sediment basins, sediment traps, and/or perimeter controls.

(f) Minimum waterway and watercourse protection requirements shall include:

(1) Approval of a waterway or watercourse crossing by all applicable federal and state agencies having jurisdiction, which may include, but is not limited to, West Virginia Department of Natural Resources, United States Army Corps of Engineers, and the United States Environmental Protection Agency.

(2) Stabilization of a watercourse before, during, and after any in-channel work.

(3) All on-site stormwater conveyance channels designed according to the criteria outlined in the Stormwater Management Guidance Manual.

(4) Stabilization adequate to prevent Erosion located at the outlets of all pipes and paved channels.

(t) *Waterway* means a channel that directs surface runoff to a watercourse or to the MS4.

Sec. 163B.3 Applicability.

This article shall apply to all Construction projects located within the city that involve land disturbing activity (LDA) exceeding 5,000 square feet or an increase in impervious area by 1,000 square feet or greater unless exempted by Section 163B.5(b) this article.

Sec. 163B.4 Responsibility for administration.

City of Nitro, Public Works Department Stormwater Compliance Officers shall administer, implement, and enforce the provisions of this article.

Sec. 163B.5 Approval of land disturbing activity.

(a) Any person applying for a City of Nitro building permit that proposes a construction project involving LDA exceeding 5,000 square feet, or an increase in impervious area by 1,000 square feet or greater, is required to obtain approval for such LDA from the Nitro Building Department's office. Requests for approval shall be made at the time of application for a building permit; provided, however, that a building permit shall not be issued in the absence of prior approval of LDA by the Public Works Department's office.

(b) Notwithstanding Section 163A_5(a) herein, approval for LDA shall not be required for the following activities:

- (1) Interior renovations;
- (2) Roof repair;
- (3) Building façade maintenance;
- (4) Milling and repaving of existing asphalt or concrete streets, parking lots, or sidewalks;
- (5) Maintenance of existing landscaping or gardens;
- (6) Cutting of trees and brush (provided the area remains vegetated and no grubbing of root system occurs); and
- (7) Maintenance of pervious sports fields such as replacement of the clay surface to baseball infields, turf plugging of golf fairways and greens.

Sec. 163B.6 Submission of erosion and sediment control plan; modifications.

(a) Any person requesting approval of LDA is required to submit an erosion and sediment control plan (ESCP) to the city building department as part of the building permit application for review and approval by the Nitro Building Department's office. The ESCP shall comply with the provisions set forth in the City of Nitro Stormwater Management Guidance Manual regarding Erosion and Sediment Control Measures. The Stormwater Management Guidance Manual will be available to the public on the city's website, as well as on file at the Nitro Public Works Department and Nitro Building Department offices.

(b) All control measures set forth in an approved ESCP shall be followed and maintained at all times during the construction project unless modified with the approval of the Public Works Department's office. Any significant modifications to an ESCP must be approved by the Public Works Director's office via written authorization to the

(g) Construction site access requirements shall include: establishment and maintenance of a stabilized construction site entrance as outlined in the Stormwater Management Guidance Manual.

Sec. 163B.8 Review and approval of land disturbing activity and erosion and sediment control plan by Public Works Department's office.

The Public Works Department's office shall review each request for approval of LDA and the corresponding ESCP to determine conformance with the requirements of this article. Within ten days after receiving a building permit application and corresponding ESCP, the Public Works Department's office shall, in writing:

- (a) Approve the requested LDA and corresponding ESCP;
- (b) Approve the requested LDA and corresponding ESCP subject to conditions as may be necessary to satisfy the objectives of this article; or
- (c) Deny the requested LDA and corresponding ESCP, indicating the reason(s) for denial and the procedure for submitting a revised ESCP, if appropriate.

Sec. 163B.9 Inspection of construction site.

(a) All construction sites involving LDA and requiring an approved ESCP shall be inspected and approved by a compliance officer at each stage of construction consistent with the seven stages set forth in this subsection. Compliance officers shall inspect construction sites as authorized by this section and shall either approve that portion of the work completed or shall notify the person receiving approval for the LDA that the work is not in compliance with the approved ESCP. Plans for grading, stripping, excavating, and filling work bearing the stamp of approval of a compliance officer shall be maintained at the construction site during all stages of the project. To obtain the required inspections for each stage of construction, the person receiving approval for the LDA shall notify the Public Works Department's office at least two working days before each of the following stages:

- (1) Installation of erosion and sediment control measures;
- (2) Start of construction;
- (3) Completion of site clearing and rough grading;
- (4) Installation of any stormwater conveyance structures;
- (5) Completion of final grading;
- (6) Close of the construction season; and
- (7) Completion of project.

(b) The person receiving approval for LDA and corresponding ESCP shall make regular inspections of all control measures in accordance with the inspection schedule outlined in the approved ESCP. The purpose of such inspections will be to determine the overall effectiveness of the ESCP and the potential need for additional control measures. All inspections shall be documented in writing and submitted to the Public Works Department's office at the time intervals specified in the Stormwater Management Guidance Manual.

Sec. 163B.10 Notice of noncompliance and order to correct.

(a) When a compliance officer determines after reasonable observation or investigation that a person has not complied with any provision of this article or has failed

to comply with an approved ESCP, the compliance officer may order compliance by written notice of noncompliance and order to correct.

(b) Notice(s) of noncompliance and order(s) to correct shall be served in accordance with the law of the State of West Virginia concerning the service of process in civil actions, except that a method of service effectuated by a mailing by the clerk of a court (e.g., service pursuant to West Virginia Rule of Civil Procedure 4(d)(1)(D) shall be deemed to be effectuated by a mailing by a compliance officer. If service is made by certified mail consistent with West Virginia Rule of Civil Procedure 4(d)(1)(D) and delivery of the notice of noncompliance and order to correct is refused, the compliance officer, promptly upon the receipt of the notice of such refusal, shall mail to the Person being noticed, by first class mail, postage prepaid:

(1) A copy of the notice of noncompliance and order to correct;

(2) A notice that despite such refusal, the notice of noncompliance and order to correct is valid, and;

(3) Advising that the city will proceed to enforce the notice of noncompliance and order to correct.

So long as such first class mailing is not returned as undeliverable by the U.S. Postal Service, service of the notice of noncompliance and order to correct will be conclusively presumed to have been effectuated. Proof of service shall be made at the time of service by a written declaration, under oath, executed by the enforcement official effecting service and shall declare the time, date and manner by which service was made.

(c) Any notice of noncompliance and order to correct under this section shall be in writing and shall contain the following:

(1) The date the notice of noncompliance and order to correct is given;

(2) The name and address of the person(s) charged with the noncompliance;

(3) The nature of the noncompliance;

(4) A statement of the action required to be taken in order to correct the noncompliance and further prevent it;

(5) The time period allowed for correction. When determining the time period allowed for correction, a compliance officer shall take into consideration the threat posed by the noncompliance to the health, safety and welfare of the public and the nature of the work required to correct the noncompliance;

(6) The maximum fines that may be assessed if the noncompliance is not corrected and a citation is issued; and

(7) The name, address and telephone number of the compliance officer issuing the notice of noncompliance and order to correct.

(d) Nothing in this section shall limit the authority of compliance officers to take any other lawfully prescribed enforcement action, including emergency actions or any other enforcement action, without first issuing a notice of noncompliance and order to correct.

(e) Failure to correct the noncompliance by the date set forth in the notice of noncompliance and order to correct shall be reported to the building department. Any subsequent work performed shall constitute work being performed in a dangerous or unsafe manner or in a manner contrary to the West Virginia State Building Code, as adopted by Nitro Municipal Code, and the person charged with the noncompliance may be issued a stop work order or the building permit may be revoked.

Sec. 163B.11 Injunctive relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. If a person has violated or continues to violate the provisions of this article, the city may petition a court of competent jurisdiction for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation. Any such Person against whom such an injunction is issued shall be responsible for paying all costs of the city in obtaining and enforcing such injunction, including the court costs and attorney's fees.

Sec. 202.12 Violations deemed a public nuisance; penalties.

(a) In addition to the enforcement processes and penalties provided in this article, any condition caused or permitted to exist in violation of any of the provisions of this article shall be considered a threat to the public health, safety, welfare and the environment, may be declared and deemed a nuisance, and may be summarily abated and/or restored by, or at the direction of, the city, by and through its compliance officer. The city may initiate any administrative or civil actions as necessary and appropriate to abate, enjoin or otherwise compel the cessation of such nuisance.

(b) The cost of any such abatement and/or restoration by the city shall be the sole responsibility of the owner of the property and the cost thereof shall be a lien upon and against the property. Such lien shall continue in existence until the same shall be paid.

Sec. 163B.13 Criminal prosecution.

In addition to any administrative remedy provided in this article, violations of this article constitute a criminal misdemeanor, subject to criminal citation and punishable by a fine of not less than \$500.00. Every day or portion thereof that a person fails or refuses to remedy a violation shall be considered a separate offense. Fines may be reduced by the municipal court only upon agreement of the city by and through its prosecutor.

Sec. 163B.14 Remedies not exclusive.

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

Sec. 163B.15 Severability.

The provisions of this article are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this article, or the application thereof to any person, establishment, or circumstances, shall be held invalid, such invalidity shall not affect the other provisions or application of this article.

As this ordinance consists entirely of new language, strike-throughs and under-lining has been omitted.

Passed on First Reading _____

Passed on Second Reading _____

Dave Casebolt, Mayor

Rita Cox, Recorder

June 20, 2016

Honorable Dave Casebolt, Mayor
City of Nitro
2009 20th Street
Nitro, West Virginia 25143

Re: **Nitro Park Riverbank Stabilization Project
Proposal for Preliminary Design Services**

Dear Mayor Casebolt:

Michael Baker International, Inc. (Michael Baker) expresses our appreciation to the City of Nitro for the opportunity to propose on engineering services for the City.

The City of Nitro has received a Planning Assistance to States (PAS) Report from the USACOE, Huntington District, for a Riverfront Park Site, Bank Stabilization, and Recreation Study dated February 28, 2014. That report identified that the bank of the Kanawha River is locally unstable, and recommended stabilization by placement of a 10-foot high longitudinal dike along the riverbank. That report included the disclaimer that "Ultimately, the 10-foot dike height alternative reduces the risk of impacts from, but does not totally remove the risk of, possible future river bank slippage." In addition, the lateral extent of the shallow underwater shelf at the river's edge and utilities near the top of the riverbank are identified in the report as limiting site constraints.

Because of this disclaimer and constraint uncertainties of the PAS conceptual-level design, Michael Baker proposes a two phase approach, 1. Preliminary Design and 2. Final Design. This letter proposal is for Preliminary Design focused on additional investigations to resolve uncertainties and to develop a more satisfactory design to provide a stable riverbank. Final Design will be for plans and specifications for the project suitable for public bidding. These preliminary investigations include surveys and geotechnical subsurface investigations to more precisely define the site conditions. Then, Michael Baker will use these refined conditions to analyze the existing riverbank stability at three locations and verify the applicability of the USACOE conceptual design here. It is anticipated that their design will need to be modified somewhat to ensure stability to generally accepted factors of safety under various conditions.

See the discussions below for details. Survey areas and test boring locations are shown on the attached figure. Borings will be located in the field based on survey results.

Survey

To support analyses and the development of construction plans, both land and bathymetric surveys will be necessary. Initially Michael Baker will establish a base line parallel to the top of slope to tie all work efforts to one common base line.

We will provide a Topographic Survey of the area from the water's edge to about 50 feet inland from the power transmission poles and over the width of the city park parallel to the river, estimated to be 770 feet.

We will provide a Bathymetric Survey from the water edge to beyond the point at which the shallow water bench slopes sharply into the bottom of the river. The extent of the bathymetric survey is estimated to be approximately 50 feet from the shore line and over the width of the city park, estimated to be 770 feet.

At the completion of surveys, a base map will be prepared with the baseline and key features and constraints shown.

Geotechnical Subsurface Investigations

After completion of the surveys, Michael Baker will establish three sections perpendicular to the river based on survey results to obtain subsurface information. To obtain the data, two borings will be drilled at each of the three sections. Three land borings will be drilled at the top of slope to an estimated depth of 50 feet or refusal on bedrock. Water borings will be drilled from a barge mounted drill rig to obtain information for the shallow water bench at each of the three sections. Water borings will be drilled to a depth of 40 feet or refusal on bedrock. No rock coring is anticipated in either land or water borings.

In summary, three (3) land borings will be drilled at the top of the slope to a depth of 50 feet and three (3) water borings will be drilled from a barge to a depth of 40 feet. Borings will be terminated at the top of bedrock if encountered at a depth less than anticipated.

At the completion of the borings, selected soil samples will be subjected to laboratory testing. This testing will include natural moisture contents; soil classifications from sieve, hydrometer and Atterburg limits tests; and unit density, consolidation and strength tests from undisturbed soil samples (Shelby tubes).

Geotechnical Analysis and Report

Michael Baker will use the results of the investigation to develop three subsurface sections for slope stability analysis. The existing slope conditions will be analyzed first, to confirm soil strength parameters used. Then the 10 foot dike recommended by the USACOE will be imposed to determine its impact to stability. Since the dike will act as a buttress against the slope, there are three main stabilities to verify: stability of the slope above the dike, stability of the dike itself, and stability of the combined slope and dike system. In addition, slope stability should consider the normal pool water level, a high water level (a design elevation not to exceed the top of the existing riverbank), and a rapid drawdown condition (evaluating the effect of a receding flood).

Attempts will be made to retain the recommended USACOE design as much as possible. However, there is a possibility that adequate stability may not be achievable with feasible modifications to their design.

Michael Baker

INTERNATIONAL

Honorable Dave Casebolt, Mayor

June 20, 2016

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At the conclusion of our analyses, Michael Baker will prepare a report of findings, conclusions and recommendations. The report will document the results of the surveys, borings and soil testing, and analyses. It will provide a simple statement of findings (i.e.; whether or not the USACOE conceptual design is feasible at this site). Assuming it will be feasible, Michael Baker will also provide recommendations including refined details and construction notes that can serve as the basis for development of construction documents for riverbank stabilization. Actual preparation of construction documents is not included here, but will be proposed pending conclusion of this investigation and preliminary design.

Preliminary Design Schedule

This work will require approximately one month for land and bathymetric surveys, another month for drilling and testing, and six weeks for analyses and report preparation. To allow for inclement weather and other unforeseen events, Michael Baker estimates that a final report can be submitted within four months of notice to proceed.

Preliminary Design Cost

Costs for this investigation include:

Michael Baker labor (surveys and geotechnical professionals): \$49,500.

Michael Baker labor (Project Management): \$4,000.

Subcontracted Drilling and Testing services: \$23,800.

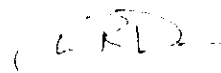
Other Direct Costs incurred by Michael Baker: \$2,900.

We propose performing these preliminary geotechnical design services for a "not-to-exceed" price of \$80,200. It is understood and agreed that the engineering services performed by Baker shall be subject to the attached General Terms and Conditions.

Should the terms and conditions of this proposal be acceptable, kindly signify approval and acceptance in the space provided below, and return one (1) executed copy to this office.

Sincerely,

MICHAEL BAKER INTERNATIONAL, INC.



Chad R. Davis, P.E.

Vice President

Enclosures

Michael Baker

INTERNATIONAL

Honorable Dave Casebolt, Mayor

June 20, 2016

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Acceptance Acknowledgment

Michael Baker International, Inc. is hereby engaged to perform the services described herein and the terms and conditions as set forth in this letter agreement are hereby accepted this ___ day of _____, 2016.

CITY OF NITRO, WEST VIRGINIA

By: _____

Date: _____

GENERAL TERMS AND CONDITIONS

DEFINITIONS: "MICHAEL BAKER" shall mean Michael Baker International, Inc. and "OWNER" shall mean the client named in the Agreement.

STANDARD OF CARE: The standard of care applicable to MICHAEL BAKER's services will be the degree of skill and diligence normally employed by professionals or consultants performing the same or similar services as MICHAEL BAKER provides to OWNER under the Agreement.

ACCESS: The OWNER shall furnish all access to property and rights-of-way for the performance of MICHAEL BAKER's services.

ESTIMATES: Estimates of cost of construction, financing, acquisition of real or personal property or rights-of-way shall be made in accordance with generally accepted professional practices and procedures. However, MICHAEL BAKER has no control over construction costs, competitive bidding and market conditions, nor costs of financing, acquisition of real or personal property or rights-of-way; and MICHAEL BAKER does not guarantee the accuracy of such cost estimates as compared to actual cost or bids.

CONSTRUCTION PHASE: MICHAEL BAKER shall not be responsible during the construction phase for the construction means, methods, techniques, sequences or procedures of construction contractors, installers or suppliers, or the safety precautions and programs incident thereto, and MICHAEL BAKER shall not be responsible for their failure to perform the work in accordance with the contract documents.

PAYMENT: Payments shall be made monthly by the OWNER to MICHAEL BAKER based on invoices submitted by MICHAEL BAKER. The OWNER shall also pay MICHAEL BAKER a late payment charge for any payments not made within thirty (30) days of the date of applicable invoices at the rate of 1.5% per month.

TIME OF PERFORMANCE: MICHAEL BAKER shall commence work upon receipt of written notice to proceed from the OWNER and shall complete the work within the time period set forth in the Agreement, subject to any delays caused by the OWNER, other agencies involved in the work or any other parties or events not under the control of MICHAEL BAKER.

MODIFICATIONS: If the OWNER requires modifications and/or changes caused through no fault of MICHAEL BAKER, and if such modifications and/or changes are required after services have been performed, or in the event the OWNER desires additional work not covered by the Agreement, MICHAEL BAKER shall perform such work as ordered by the OWNER in writing and shall be paid for such work as may be agreed between the OWNER and MICHAEL BAKER, or on the basis of direct payroll costs chargeable to such work plus 160% of the total of all such payroll costs to cover overhead and profit.

SUSPENSION OR TERMINATION: In the event the work is terminated or suspended by the OWNER prior to the completion of the Agreement, MICHAEL BAKER shall be paid an equitable amount proportional to the services rendered and expenses incurred through the date of termination or suspension.

LEGAL COST, PERMITS, FEES, ETC.: The OWNER shall furnish or compensate MICHAEL BAKER for all legal services and opinions, and for permits, review fees, etc., necessary for the performance of the services to be rendered by MICHAEL BAKER.

INDEMNIFICATION: Except as stated below, MICHAEL BAKER shall indemnify and save harmless the OWNER from claims, losses, lawsuits or expenses caused directly by MICHAEL BAKER's sole negligent acts and errors or omissions in the performance of MICHAEL BAKER's services hereunder. To the fullest extent permitted by law, with respect to claims, damages, losses and expenses which are related to hazardous materials or substances in the Project, including removal, disposal or cleanup or environmental liability, the OWNER shall indemnify, save harmless and defend MICHAEL BAKER from and against all claims, damages, losses or expenses, including attorney's fees, arising out of or resulting from the performance

of MICHAEL BAKER's services, or claims against MICHAEL BAKER arising from work of others or claims arising out of or related to the presence of hazardous materials or substances in the Project.

LIMIT OF LIABILITY: To the fullest extent permitted by law, the OWNER agrees to limit MICHAEL BAKER's liability to the OWNER and to all construction contractors or subcontractors on the project for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to the Project or this Agreement from any cause or causes including but not limited to MICHAEL BAKER's negligent acts, errors, omissions, strict liability, breach of contract, or breach of warranty, such that the total aggregate liability of MICHAEL BAKER to all those named shall not exceed \$50,000 or the total fee for MICHAEL BAKER's services rendered in the project, whichever is greater. Under no circumstances shall MICHAEL BAKER be liable to the OWNER for any consequential damages, including but not limited to loss of use or rental, loss of profit or cost of any financing, however caused, including MICHAEL BAKER's fault or negligence.

COMPLIANCE WITH LAW: MICHAEL BAKER shall comply with all applicable provisions of Federal, State and local laws or regulations relating to employment.

SEVERABILITY: If, for any reason, any one or more of the provisions contained in this Agreement are held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision herein, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein.

DEFENSE OF CLAIMS: In the event of a public hearing or arbitration or any other proceeding, formal or informal, relating in any way to the Project, OWNER agrees to compensate MICHAEL BAKER for all costs incurred or related to such proceeding, including but not limited to that necessary for preparation, responding to requests by any party, appearance at depositions or trial, or any other matter involving any such hearing or proceeding. Compensation shall be based upon hourly rates mutually agreed to by the parties or, in the absence of agreed-to rates, then the pay provisions under MODIFICATIONS hereinabove shall apply. This provision does not apply to proceedings to which MICHAEL BAKER is a party nor to cases where such services are part of the agreed scope of services.

Revised March 28, 2008

Michael Baker

INTERNATIONAL

Honorable Dave Casebolt, Mayor

June 20, 2016

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City Of Nino FY Current
Income Statement
For the Three Months Ending September 30, 2016

	Year to Date Current Year	Year to Date Budget	Year to Date LY	CY Vs Budg CY V. LY
Property Tax	\$ 266,977	\$ 238,077	\$ 314,195	\$ 28,900 \$ (47,218)
Property Tax Excess Levy	\$ 104,216	\$ 92,316	\$ 128,736	\$ 11,900 \$ (24,520)
Property Tax Library Exce Levy	\$ 16,075	\$ 11,751	\$ 14,094	\$ 4,324 \$ 1,981
Oil & Gas Severance Tax	\$ -	\$ 5,943	\$ -	\$ (5,943) \$ -
Utility Tax	\$ 60,231	\$ 63,549	\$ 64,128	\$ (3,318) \$ (3,897)
THF Realty B&O Tax	\$ 38,500	\$ 19,251	\$ 38,500	\$ 19,249 \$ -
B&O TAX- MANUFACTURED	\$ 2,009	\$ 5,001	\$ 7,356	\$ (2,992) \$ (5,347)
B&O TAX - RETAIL	\$ 60,727	\$ 138,186	\$ 59,204	\$ (77,459) \$ 1,523
B&O TAX - WHOLESALE	\$ 10,198	\$ 12,474	\$ 17,285	\$ (2,276) \$ (7,087)
B&O TAX - ELECTRIC DOMESTIC	\$ 44,954	\$ 50,250	\$ 42,677	\$ (5,296) \$ 2,277
B&O TAX - WATER CO.	\$ 19,142	\$ 19,602	\$ 18,739	\$ (460) \$ 403
B&O TAX-ELHC. & OTHER POWER CO	\$ 26,275	\$ 24,999	\$ 27,957	\$ 1,276 \$ (1,682)
B&O TAX - CONTRACTING	\$ 17,250	\$ 16,662	\$ 17,923	\$ 588 \$ (672)
B&O TAX - BANKING	\$ 731	\$ 1,167	\$ 1,622	\$ (436) \$ (891)
B&O TAX - AMUSEMENT	\$ 165	\$ 429	\$ 724	\$ (264) \$ (559)
B&O TAX - SERVICE	\$ 44,081	\$ 40,977	\$ 47,771	\$ 3,104 \$ (3,690)
B&O TAX - RENTAL & ROYALTIES	\$ 27,761	\$ 31,251	\$ 28,207	\$ (3,490) \$ (446)
Liquor Tax	\$ 13,101	\$ 13,749	\$ 12,141	\$ (648) \$ 960
Hotel Occupancy Tax	\$ 58,000	\$ 51,756	\$ 55,947	\$ 6,244 \$ 2,053
Court Costs and Fees	\$ 4,436	\$ 10,935	\$ 4,803	\$ (6,499) \$ (367)
Regional Jail Fund Tax	\$ 377	\$ 201	\$ 469	\$ 176 \$ (91)
Business License	\$ 11,285	\$ 9,249	\$ 17,603	\$ 2,036 \$ (6,318)
Building Permits	\$ 3,921	\$ 5,499	\$ 5,946	\$ (1,578) \$ (2,025)
Franchise Fees	\$ 11,323	\$ 11,499	\$ 11,605	\$ (176) \$ (282)
Plan Review Fees	\$ 145	\$ 939	\$ 1,000	\$ (794) \$ (855)
<u>TRP FEES</u>	\$ 16,577	\$ 35,154	\$ 67,106	\$ (18,577) \$ (50,529)
Parks & Recreation	\$ 1,450	\$ 1,602	\$ 2,650	\$ (152) \$ (1,200)
Donation - Park & Rec.	\$ -	\$ -	\$ 200	\$ - \$ (200)
Swimming Pool Revenue	\$ 20,397	\$ 11,250	\$ 22,288	\$ 9,147 \$ (1,891)
Pool Revenue Credit Card	\$ 2,555	\$ 801	\$ 2,531	\$ 1,754 \$ 24
Pool Concessions	\$ 12,051	\$ 7,500	\$ 15,119	\$ 4,551 \$ (3,068)
Pool Concessions Contracted	\$ 689	\$ 201	\$ 520	\$ 488 \$ 169

City Of Nitro FY Current
Income Statement
For the Three Months Ending September 30, 2016

	Year to Date Current Year	Year to Date Budget	Year to Date 1Y	CY Vs Budg CY Vs 1Y
Concessions Credit Card	\$ 1,438	\$ 249	\$ 1,128	\$ 1,189 \$ 310
Municipal Service Fees	\$ 200,091	\$ 211,251	\$ 215,560	\$ (11,160) \$ (15,468)
Dumpster Fees	\$ 15,825	\$ 20,733	\$ 20,359	\$ (4,908) \$ (4,534)
Other Trash Fees	\$ 240	\$ 375	\$ 290	\$ (135) \$ (50)
Rental Property	\$ (47,874)	\$ 1,971	\$ 2,100	\$ 45,903 \$ 45,774
Nitro Fire Fees Commercial	\$ 12,774	\$ 24,999	\$ -	\$ (12,225) \$ 12,774
Nitro Fire Fees Residential	\$ 525	\$ -	\$ -	\$ 525 \$ 525
State & County Grants	\$ 2,222	\$ 10,050	\$ 1,311	\$ (7,828) \$ 911
Contributions	\$ 4,258	\$ 1,842	\$ 3,840	\$ 2,416 \$ 418
Contributions Other Entities	\$ -	\$ 186,315	\$ -	\$ (186,315) \$ -
Reimb: Police Wages	\$ 6,322	\$ 12,501	\$ 20,947	\$ (6,179) \$ (14,625)
Reimb: Fire Wages	\$ -	\$ 126	\$ -	\$ (126) \$ -
Reimb: Public Works Wages	\$ 2,446	\$ 750	\$ 2,136	\$ 1,696 \$ 310
Dog Track Table Games	\$ 87,747	\$ 87,276	\$ 89,454	\$ 471 \$ (1,707)
Table Games - Greenbrier	\$ 56	\$ 84	\$ 64	\$ (28) \$ (8)
Interest Income	\$ -	\$ 564	\$ 637	\$ (564) \$ (637)
Reimburse Lakeview	\$ -	\$ 999	\$ -	\$ (999) \$ -
Reimburse City Calendar	\$ -	\$ 624	\$ 375	\$ (624) \$ (375)
Reimb: Hospitalization	\$ 40,304	\$ 33,174	\$ 32,596	\$ 7,130 \$ 7,708
Senior Citizens Reimb.	\$ 2,217	\$ 6,501	\$ 6,507	\$ (4,284) \$ (4,290)
Reimb. Legal Ads	\$ -	\$ 51	\$ -	\$ (51) \$ -
Rebates Purchasing Card	\$ 1,189	\$ 876	\$ 994	\$ 313 \$ 195
Reimb: Insurance Claims	\$ 413	\$ 1,026	\$ 2,500	\$ (613) \$ (2,087)
Accident Reports	\$ 1,645	\$ 1,101	\$ 1,715	\$ 544 \$ (70)
M Dent Receipts - State	\$ -	\$ 1,656	\$ -	\$ (1,656) \$ -
Other Lottery Revenues	\$ 5,248	\$ 5,337	\$ 5,624	\$ (89) \$ (376)
Dog Track - Lottery	\$ 14,877	\$ 37,500	\$ 11,255	\$ (22,623) \$ 3,622
Miscellaneous Income	\$ 1,027	\$ 1,875	\$ 2,584	\$ (848) \$ (1,557)
Coal Severance	\$ 4,255	\$ 6,477	\$ 6,959	\$ (2,222) \$ (2,705)
Sales Tax City	\$ 432,760	\$ 432,760	\$ 432,760	\$ 432,760 \$ 432,760
Total Revenues	\$ 1,781,352	\$ 1,588,503	\$ 1,477,979	\$ 192,849 \$ 303,374

1 348,592

City OF Nitro FY Current
Income Statement
For the Three Months Ending September 30, 2016

	Year to Date Current Year	Year to Date Budget	Year to Date LY	CY Vs Budg	CY Vs LY
Expenses					
Mayor Expenses					
Total Mayor Expense	\$ 17,649	\$ 17,271	\$ 16,462	\$ (378)	\$ (1,186)
City Council Expenses					
Total City Council Expenses	\$ 22,392	\$ 122,439	\$ 15,040	\$ 100,047	\$ (7,351)
City Recorder					
Total City Recorder	\$ 12,825	\$ 13,533	\$ 11,438	\$ 708	\$ (1,386)
Treasurer					
Total Treasurer	\$ 18,632	\$ 17,307	\$ 22,983	\$ (1,325)	\$ 4,351
Municipal Court					
Total Municipal Court	\$ 20,823	\$ 27,948	\$ 23,648	\$ 7,125	\$ 2,825
Regional Development Authority					
Total Regional Development Authority	\$ -	\$ 480	\$ 1,965	\$ 480	\$ 1,965
Building Department					

City Of Nitro FY Current
Income Statement
For the Three Months Ending September 30, 2016

	Year to Date Current Year	Year to Date Budget	Year to Date LY	CY Vs Budg	CY Vs LY
Total Building Expense	\$ 23,281	\$ 20,748	\$ 29,479	\$ (2,533)	\$ 6,198
City Hall					
Total City Hall	\$ 122,670	\$ 161,286	\$ 151,607	\$ 38,616	\$ 28,937
Public Works					
Total Public Works	\$ 127,357	\$ 135,333	\$ 118,867	\$ 7,976	\$ (8,489)
Police					
Total Police Expenses	\$ 432,946	\$ 469,755	\$ 447,938	\$ 36,809	\$ 14,992
Fire					
Total Fire Expenses	\$ 287,971	\$ 428,226	\$ 304,259	\$ 140,255	\$ 16,288
Dog Warden & Humane Society					
Total Dog Warden/Humane Society	\$ -	\$ 7,500	\$ -	\$ 7,500	\$ -
Streets & Transportation					
Total Streets & Transportation	\$ 85,868	\$ 81,234	\$ 76,814	\$ (4,634)	\$ (9,054)

City OF Nitro FY Current
Income Statement
For the Three Months Ending September 30, 2016

	Year to Date Current Year	Year to Date Budget	Year to Date LY	CY Vs Budg	CY Vs LY
Health & Sanitation					
Total Health & Sanitation	\$ 118,642	\$ 121,881	\$ 170,644	\$ 3,239	\$ 52,002
Recreation					
Total Recreation	\$ 18,098	\$ 9,291	\$ 15,267	\$ (8,807)	\$ (2,831)
Visitors Bureau					
Total Visitor's Bureau	\$ 31,250	\$ 25,878	\$ 19,804	\$ (5,372)	\$ (11,446)
Pool					
Total Pool	\$ 77,411	\$ 33,864	\$ 76,254	\$ (43,547)	\$ (1,158)
Fairs & Festivals					
Total Fairs & Festivals	\$ -	\$ -	\$ 450	\$ -	\$ 450
Historical Commission					
Total Historical Commission	\$ 907	\$ -	\$ -	\$ (907)	\$ (907)
Library					
Total Library	\$ 36,924	\$ 45,411	\$ 45,788	\$ 8,487	\$ 8,864

City Of Nitro FY Current
Income Statement
For the Three Months Ending September 30, 2016

Social Services Seniors

	Year to Date	Year to Date	Year to Date	
	Current Year	Budget	LY	CY Vs Budg CY Vs LY
Total Senior's Support	\$ 18,584	\$ 23,769	\$ 18,438	\$ 5,185 \$ (147)

Capital Projects

Capital Outlay - City Council	\$ 6,821	\$ 32,868	\$ 4,321	\$ 26,047 \$ (2,500)
Capital Outlay - City Hall	\$ 165	\$ -	\$ -	\$ (165) \$ (165)
Capital Outlay - City Hall Sales Tax	\$ 21,747	\$ -	\$ -	\$ (21,747) \$ (21,747)
Capital Outlay - Mun. Court	\$ -	\$ 1,251	\$ -	\$ 1,251 \$ -
Capital Outlay - Police	\$ -	\$ -	\$ 20,559	\$ - \$ 20,559
Capital Outlay Coal S - Police	\$ -	\$ -	\$ 6,853	\$ - \$ 6,853
Capital Outlay Coal Sev- Fire	\$ -	\$ -	\$ 1,342	\$ - \$ 1,342
Capital Outlay - Fire	\$ -	\$ 14,856	\$ 13,512	\$ 14,856 \$ 13,512
Capital Outlay - Fire Sales Tax	\$ 15,974	\$ -	\$ -	\$ (15,974) \$ (15,974)
Capital Outlay - Streets & Tra	\$ 57,236	\$ -	\$ -	\$ (57,236) \$ (57,236)
Capital Outlay - Streets & Transp Sales Tax	\$ 7,680	\$ -	\$ -	\$ (7,680) \$ (7,680)
Capital Outlay - Health & San	\$ 5,431	\$ -	\$ 7,241	\$ (5,431) \$ 1,810
Capital Outlay - Health & San Sales Tax	\$ 13,474	\$ -	\$ -	\$ (13,474) \$ (13,474)
Capital Outlay - Historical	\$ 1,325	\$ -	\$ 19,759	\$ (1,325) \$ 18,434
Capital Outlay - Recreation	\$ 9,415	\$ -	\$ 21,506	\$ (9,415) \$ 12,091
Capital Outlay - Recreation Sales Tax	\$ 5,844	\$ -	\$ -	\$ (5,844) \$ (5,844)
Capital Outlay - Library	\$ -	\$ 78,405	\$ -	\$ 78,405 \$ -
Capital Outlay - Library Fund	\$ 534	\$ -	\$ -	\$ (534) \$ (534)
Capital Outlay - Library CST	\$ 136,472	\$ 2,727	\$ -	\$ -133745.1 \$ -136472.1
Total Capital Projects	\$ 282,118	\$ 130,107	\$ 95,093	\$ (152,011) \$ (187,025)

Total Expenses	\$ 1,756,345	\$ 1,893,261	\$ 1,662,237	\$ 136,916 \$ (94,108)
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Net Income	\$ 25,007	\$ (304,758)	\$ (184,258)	\$ 329,765 \$ 209,265
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City Of Nitro FY Current
Income Statement
For the Three Months Ending September 30, 2016

Year to Date	Year to Date	Year to Date	Cy Vs Budg	CY Vs LY
Current Year	Budget	LY		

**For Immediate Release
October 3, 2016**

**Contact: Rich Hively
(304) 755-7876**

Unique New Street Signs Going Up in Nitro

WHAT: Installation and finishing of the first of 144 street signs made to commemorate Nitro's centennial.

WHO: Mayor David Casebolt

Rich Hively, president of the Nitro Historic Commission

Scott Stephens, metal artist at Celtic Mountain Iron and sign creator

WHERE: Nitro Development Authority, 201 21st Street, Nitro

WHEN: Wednesday, October 5, 2016, at 10:00 a.m.

WHY: The new steel signs feature a cutout silhouette of a World War I doughboy, representing the establishment of Nitro almost 100 years ago as a site for making ammunition for the war effort. They are unlike any other street signs in the area. The first of the signs will be installed at the corner of 21st Street and Bank Street. Also, Scott Stephens will be there to put the lettering on the last of the signs he has been making for several months.

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