

**PRE-COUNCIL MEETING 7:15 PM
SMALL CONFERENCE ROOM**

**AGENDA FOR PARKERSBURG CITY COUNCIL,
TUESDAY, OCTOBER 10, 2017, 7:30 PM
SECOND FLOOR, COUNCIL CHAMBERS
MUNICIPAL BUILDING**

- I. CALL TO ORDER – Council President, JR Carpenter
- II. ROLL CALL
- III. MINUTES - Council meeting September 26, 2017
- IV. REPORTS FROM STANDING OR SPECIAL COMMITTEES
 - A. Recovery Point Parkersburg, Mr. Matt Boggs and Mr. Judd Fulks, invited to briefly explain their program.
- V. MESSAGE FROM THE EXECUTIVE
- VI. PUBLIC FORUM – Council agenda items for this evening.
- VII. RESOLUTIONS
 1. Resolution amending City Council's rules and regulations by removing the second public forum from the agenda. (Sponsored by Councilmen Carpenter, Stanley and Reynolds)
- VIII. ORDINANCE, FINAL READING
 2. An ordinance amending section 549.10, Discharging of firearms (and fireworks) within the City. (Sponsored by the Public Works Committee)
- XI. PUBLIC FORUM – other matters not on this agenda.
- XII. ADJOURNMENT

The Council of the City of Parkersburg met in regular session Tuesday, September 26, 2017 at 7:30 PM in the Council Chambers on the second floor of the Municipal Building at One Government Square, Parkersburg, and joined in the Lord's Prayer and Pledge of Allegiance prior to the beginning of the meeting.

The meeting was called to order by Council President, JR Carpenter, who presided over the meeting.

The Clerk noted those members attending as Councilmen Dave McCrady, Sharon Kuhl, Bob Mercer, Eric Barber, John Reed, Zach Stanley, Jeff Fox, and JR Carpenter. Mr. Reynolds was absent.

MINUTES – Mr. Fox moved, seconded by Mr. Barber, to approve the City Council minutes from September 22, 2017, and the motion was adopted by unanimous vote.

REPORTS FROM STANDING OR SPECIAL COMMITTEES – Ms. Kuhl introduced all members of the Mayor's Youth Advisory Committee who represent our high schools, and the Board of Education, and Ms. Kuhl is an advisor. The committee will be starting a Teen Court through our middle schools soon.

The City Clerk asked to wish a Happy Retirement to a long-time employee, Tina Sandy, Fire Department, as follows:

"I am blessed to sit in this very unique position and see hundreds of pieces of legislation go through your hands, and to have the opportunity to greet our citizens and try to be helpful to those who come by.

I now have an opportunity to say "thanks for a job well done" to one of our employees who has been a trusted City employee for 42 years.

Tina Sandy and I both started working for the City when we were still in the old City Building. Tina has been very helpful to me over the years – she helped me with City elections, and any other time I was in a jam; she played the lead role in Fire Department testing and sometimes I was able to help her. Any time I called her for information, she had it in her files. Some of you may remember that it was always Tina who came to our Council meetings to thank you for our pay raises or other benefit, always on behalf of all the employees.

Tina is the secretary for the Fire Department and she will be retiring at the end of this week. Her dedication and loyalty to the Fire Department and the citizens of Parkersburg these many years is unquestionable and she will be missed.

She is not here tonight, but please join me in wishing her a very Happy Retirement!!"

(applause)

MESSAGE FROM THE EXECUTIVE – Mayor Tom Joyce told City Council that the people at the Recovery Point are inviting them to learn about their program on October 3, 2017 at 2:30 PM.

Mayor Joyce then read a Proclamation for the week of September 25th – 30th, 2017 as National Adult Education and Family Literacy Week, asking that this topic be recognized and to encourage investment in adult education.

MOTION – Mr. Reed moved, seconded by Mr. Stanley, to receive and file the proclamation, and the motion was adopted by unanimous vote.

PUBLIC FORUM – Mr. Eric Engle, 324 Point Drive, asked Council not to adopt the resolution this evening concerning supporting the road bond amendment on the ballot for October 7, 2017 because the bond will be paid for by regressive taxes, and many workers will not be from West Virginia.

Mr. Don Wehr, Five Mile Run, Parkersburg, WV, also spoke concerning the road bond resolution. He said he has never seen prosperity by going into debt, and that the \$1.5 billion pay-back for the roads and bridges will be three times that amount. He said the amendment did not include a requirement to use West Virginia workers. He said we have a steady increase of severance tax with 80 new wells being drilled, and we should be able to put that money into roads. This is not the time to go into a large debt, he said, and thinks it high risk.

RESOLUTION

RESOLUTION SUPPORTING "ROADS TO PROSPERITY" ROAD BOND AMENDMENT

WHEREAS, the City of Parkersburg supports "Roads to Prosperity" road bond amendment on October 7, 2017, and;

WHEREAS, there are several important dates to remember which tie into this very important election: September 18, 2017 - Voter Registration Deadline to register to vote or update your information for the Special Election. Register to vote/Update Information.

September 22 - October 4, 2017 - Early Voting Early Voting is open during regular business hours at each county courthouse or courthouse annex. Early Voting is also available each Saturday from 9:00am to 5:00pm. Contact your County Clerk to confirm Early Voting hours and locations.

September 30 - Noon, October 7, 2017 - Emergency Absentee Voting Eligible citizens may request an emergency absentee ballot until noon Election Day. Learn more about emergency absentee voting.

Saturday, October 7, 2017 - Election Day Polls open 6:30am through 7:30pm. Find your polling place, and;

WHEREAS, our West Virginia roads need fixing, and supporting the road bonds will allow us to repair existing roadway - from the secondary roads to expressways, small bridges, and larger bridges to newly-planned projects - across the state, and;

WHEREAS, development of roads and road projects means jobs and economic development, as well as, improving the safety of our citizens and interstate travelers in our State, and;

WHEREAS, this past session, our legislature passed five key pieces of legislation proposed by Governor Justice that put this funding mechanism in place in advance of the coming special election, and:

WHEREAS, these bills do many things: extend private-public partnerships in highway funding, increase the amount of monies for both annual design-build construction projects, and the state's bonding authority of federal funds - that will raise as much as \$1.6 BILLION. But all of this funding cannot happen unless the people also vote FOR the amendment on October 7.

NOW, THEREFORE BE IT RESOLVED, that the City of Parkersburg is in support of the "Roads to Prosperity" initiative and urges all citizens to vote for this most important amendment on October 7, 2017.

APPROVED this the ___ day of September, 2017.

MOTION -- Mr. Barber moved, seconded by Ms. Kuhl, to adopt the resolution.

Mr. Fox stated that he had a lot of friends in the industry and they are concerned about the WV Jobs Act being omitted from the amendment. We need infrastructure, but part of this is money that should be infused into the community, he said.

Mr. Barber stated that there were a few negatives, and the scope is large. There are not enough workers in West Virginia to do all these jobs, he said. Any contractor from out of state will employ people from our State where they otherwise would not be working. A lot of people got their CDL license, and there will be thousands of truck drivers needed during this project. It is a stimulus package with tickle-down, and the benefits are good, he said. The Governor said the bonds would be sold a 3%.

Mr. Stanley did not think the resolution should be on the Council's agenda because City Council does not need to put their voice on a public vote, and people do not need to be swayed to vote.

Mr. Reed said he would abstain from the vote. This is a State topic, he said. We don't know what roads will be paved and it is irresponsible, and should not have been on the agenda.

MOTION -- Ms. Kuhl moved, seconded by Mr. McCrady, to table the resolution, and the motion failed with all members voting "no" with the exception of Mr. McCrady, Ms. Kuhl and Mr. Mercer who voted "yes".

VOTE -- the motion failed without a majority vote of Council as follows:

VOTING 'YES' -- Mr. McCrady, Ms. Kuhl, Mr. Barber and Mr. Carpenter;

VOTING 'NO' -- Mr. Mercer, Mr. Stanley, Mr. Fox;

ABSTAINING -- Mr. Reed.

RESOLUTION AUTHORIZING MAYOR JOYCE TO ACCEPT
A 2016 ASSISTANCE TO FIREFIGHTER GRANT FROM THE
DEPARTMENT OF HOMELAND SECURITY -- FEDERAL
EMERGENCY MANAGEMENT AGENCY

WHEREAS, the City of Parkersburg submitted an application to Department of Homeland Security for a 2016 Assistance to Firefighters Grant; and

WHEREAS, said grant is administered by the Federal Emergency Management Agency; and

WHEREAS, upon review the City has been awarded \$23,800 to purchase Operations and Safety equipment; and

WHEREAS, the Federal share of said award is \$21,637 and the City's share is \$2,163; and

WHEREAS, the performance period for said grant is September 1, 2017 to August 31, 2018; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Parkersburg hereby authorizes Mayor Tom Joyce to accept the 2016 Assistance to Firefighters Grant and execute any and all documents as it relates to said grant.

MOTION -- Mr. Stanley moved, seconded by Mr. Fox, to adopt the resolution, and the motion was adopted by unanimous vote.

Council President, JR Carpenter left the room for the next ordinances.

Vice President, Mike Reynolds, was absent.

MOTION -- Mr. Barber nominated Mr. Stanley, to be acting Chairman, seconded by Ms. Kuhl, and adopted by majority vote with all members voting "yes" with Mr. Stanley abstaining.

ORDINANCE, FINAL READING

AN ORDINANCE CREATING AND REGULATING OUTDOOR DINING
ON PUBLIC SIDEWALKS WITHIN THE CENTRAL BUSINESS DISTRICT
IN THE CITY OF PARKERSBURG

WHEREAS, it is the intent of the City of Parkersburg to facilitate outdoor dining within the City's Central Business District (CBD), as defined by the plat attached hereto, in order to create an active streetscape while promoting pedestrian and retail friendly traffic to enhance the economic and social vitality of the City of Parkersburg; and

WHEREAS, it is the intent of the City of Parkersburg to provide safe and visually appealing opportunities for outdoor dining as a use of the public right-of-way, and to expedite the approval of such facilities while ensuring that the public use of the sidewalks will not be significantly

CASTO & HARRIS, INC., SHENKER, WV REG-ORDER NO. 12275-13

impaired by such dining.

NOW BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PARKERSBURG that the following be amended to reflect the following changes.

1. Article 1327.02 (411) - Delete Definition #470 (Sidewalk Cafe).
2. Article 1327.02 (328A) - New Definition

Amending section to define Operator of Outdoor Dining Area

OPERATOR - a person, organization, proprietorship, corporation or other similar entity lawfully operating a business located in the Central Business District, which possesses a valid State of West Virginia food vendor's permit and has been issued an Outdoor Dining Area permit by the City's Development Department.

3. Article 1327.02 (328B) - New Definition
- Amending section to define Outdoor Dining Area

OUTDOOR DINING AREA - a confined area of the public sidewalk designated by a site plan approved by the City through the Development Department and located in the Central Business District, and which area is adjacent to Operator's building/permanent structure, where patrons may sit at tables while consuming food and beverages, which may include non-intoxicating beer contingent on proper licensure by the West Virginia Alcohol Beverage Control Administration.

NOW BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF PARKERSBURG that Article 1367 of Chapter 7 of the Municipal Code of the City of Parkersburg is hereby created to read as follows:

ARTICLE 1367 - Outdoor Dining Areas on Public Sidewalks

1367.01 - Purpose.

The purpose of these regulations to facilitate outdoor dining within the City's Central Business District (as defined by Article 1350.02) in order to create an active streetscape while promoting pedestrian and retail friendly traffic to enhance the economic and social vitality of the City of Parkersburg by providing safe and visually appealing opportunities for outdoor dining as a use of the public right-of-way.

1367.02 - Powers, Rules & Regulations

The City of Parkersburg's Development Director is hereby authorized to promulgate reasonable rules and regulations regarding the administration of the requirements of this article, to review all Outdoor Dining Area permit applications on such forms and subject to such procedures as the Development Department may establish to either grant or deny such permits under this article. Copies of such rules and regulations, as amended from time to time, shall be maintained by the Planning Division, and shall be available to interested parties at all reasonable times, including via the City's website.

1367.03 - Compliance with Federal, State and Local Laws and Regulations

(a) The operation of an Outdoor Dining Area pursuant to a permit granted under this article shall comply with the Americans with Disabilities Act, all provisions of state and local building and fire codes, as well as all state and local health laws and regulations regarding the service and preparation of food. The operations of an Outdoor Dining Area shall also be conducted in accordance with the code provisions and regulations of the West Virginia Alcoholic Beverage Control Administration (WV ABCA). Nothing in this article shall be intended to alter or abridge any applicable federal, state and local laws or the Operator's responsibility to comply with all code provisions and regulations of the West Virginia Alcohol Beverage Control Administration.

(b) Nothing in this article shall be intended to alter or abridge the prohibition of service of alcoholic beverages or possession thereof on public property in the City, as set forth in Article 521.05 of the Municipal Code of the City of Parkersburg, except that any permitted Outdoor Dining Area Operator and patrons of permitted Operator's Outdoor Dining Area shall be deemed to be exempt from said prohibition during the hours of operation of said Operator and only within the confines of said area.

1367.04 - Nondiscriminationl Right to limit or deny admission or service

No person shall be denied access or service to an Outdoor Dining Area on the basis of race, religion, national origin, sex, sexual orientation, age or disability; notwithstanding the right of the Operator to limit access and admission to an Outdoor Dining Area to only bona fide paying customers of that Operator's establishment who are behaving in a lawful manner.

1367.05 - Definitions

(a) "Operator" shall mean a person, organization, proprietorship, corporation or other similar entity lawfully operating a business located in the Central Business District, which possesses a valid State of West Virginia food vendor's permit and has been issued an Outdoor Dining Area permit by the City's Development Department.

(b) "Outdoor Dining Area" shall mean a confined area of the public sidewalk designated by a site plan approved by the City through the Development Department and located in the Central Business District, and which area is adjacent to Operator's building/permanent structure, where patrons may sit at tables while consuming food and beverages, which may include non-intoxicating beer contingent on proper licensure by the West Virginia Alcohol Beverage Control Administration.

1367.06 - Application and Permit Process

The Development Director is authorized to issue permits for the use of public sidewalks for restaurant tables, chairs, and similar or related equipment for the purpose of serving food and non-intoxicating beer to the public, subject to the following conditions.

(a) An Outdoor Dining Area permit shall be required prior to placing tables, chairs, or any other equipment on any public sidewalk. Permits issued hereunder shall be valid from January 1 through December 31 of said calendar year, unless revoked prior to expiration, and may be renewed on an annual basis. An application for an Outdoor Dining Area permit shall be accompanied by a \$50 administrative fee. An annual renewal permit fee of \$25 shall be assessed for an existing Outdoor Dining Area permit. Any Outdoor Dining Areas that do not project more than two and one-half feet into the sidewalk from the line of the abutting property are still required to complete an Outdoor Dining Area permit application but all administrative fees will be waived

permit fee, complete all renewal paperwork and comply with any other renewal requirements of the Development Department, within thirty (30) days of the commencement of the succeeding permit term. If the Operator fails to meet all renewal requirements within the thirty (30) days, then the Operator's permit shall be deemed to have expired. (c) A completed Outdoor Dining Area permit application shall include: a site plan, drawn to scale showing the layout for the Outdoor Dining Area which accurately depicts the existing sidewalk conditions, including sidewalk width from building face to curb; location and dimensions of tree wells; locations of lamp posts, traffic and parking signs, signal poles, trash receptacles, benches, bicycle racks, and other sidewalk features or obstructions; as well as design, location, size and space of the dining area, chairs, tables, enclosures, aisles between tables; routes of ingress and egress; clearances between the seating area and the curb, a picture and/or description of the barrier/landscape materials to be used, as well as any outdoor furniture and any such additional requirements of the Development Department with respect to type, style, or specifications of the Outdoor Dining Area, including those requirements that may be subject to approval of the West Virginia Alcohol Beverage Control Administration.

The design and placement of tables and chairs, as well as other equipment, shall comply with applicable requirements of the Americans with Disabilities Act. Outdoor Dining Area shall not be allowed within ten (10) feet of a fire hydrant, Fire Department standpipe connection, fire escape, loading zone, mail boxes, bus stops or traffic signal stanchions. No permits will be issued for off-site seating (i.e. seating in front of another business).

(d) After reviewing the application and site plan, the Development Director shall determine if the proposed Outdoor Dining Area, consistent with the requirements of this article, is reasonable, promotes pedestrian and retail friendly vitality, and that there is no less than forty-eight (48) inches remaining within the public right-of-way to facilitate safe circulation of pedestrian traffic, while promoting the overall public health, safety, and welfare. Thereafter, the Development Director may approve, approve with conditions, or deny an application. The permit shall be posted at the Operator's premises, visible to customers and the public. No material change to the approved plan shall be made without prior written approval by the Development Department and West Virginia Alcohol Beverage Control Administration.

(e) If serving non-intoxicating beer, a conditional permit will be granted for the outdoor dining area until the operator submits documentation from the West Virginia Alcohol Beverage Control Administration giving the operator approval for serving non-intoxicating beer within the Outdoor dining area. At that time, a final permit will be issued.

(f) The issuance of an Outdoor Dining Area permit does not grant or imply vested rights to use the area by the Operator but instead is a privilege granted to the Operator. The City retains the right to deny the issuance of a permit or the renewal of a permit for any lawful reason. The City shall have broad discretion to grant or revoke permits issued pursuant to this article in the interests of promoting pedestrian and retail friendly vitality, and improve the overall public health, safety and welfare. The City shall also have the right and power to prohibit the operation of an outdoor dining area at any time, because of the anticipated or actual problems and conflicts in the use of the sidewalk area. Such problems and conflicts may arise from, but are not limited to, scheduled festivals and similar events or parades or marches, or repairs to the street or sidewalk, or from demonstrations or emergencies occurring in the area. The Development Director may suspend or revoke the Outdoor Dining Area permit after providing at least three days' prior written notice, except in an emergency, to the Operator.

1367.07 - General Provisions for Outdoor Dining Areas

(a) The Outdoor Dining Area shall be located adjacent to the property of an existing and lawful establishment of a permitted Operator and shall be under the responsible direction and control of that Operator.

(b) The Outdoor Dining Area may be open to patrons during hours of operation, but not before 7 a.m. or after 11 p.m. In the event a permitted Operator intends to serve non-intoxicating beer in an Outdoor Dining Area, all code provisions and regulations of the West Virginia Alcohol Beverage Control Administration regarding permitted days and hours of service shall be followed.

(c) All furniture and associated enclosures located on the public sidewalk/right-of-way shall not be attached or affixed to any poles, sidewalks/right-of-way or any other public facilities and must be readily removable without damage to the surface of public sidewalk/right-of-way. Penetrations into or permanent fixtures placed upon the public sidewalk/right-of-way are strictly prohibited.

(d) As authorized by state law, including, but not limited to, W.Va. Code § 8-12-5(4), (20) and (44), all partitions or fencing required for the delineation, designation, or enclosure of the outdoor dining area on City right-of-way shall be provided, installed and maintained by the Operator and at the discretion of the City. (e) The City shall have the absolute authority to determine when furniture and associated enclosures must be removed from the public sidewalk/right-of-way.

(f) No Outdoor Dining Area shall interfere with pedestrian or vehicular traffic or with access to parked vehicles and shall not reduce the open portion of public right-of-way/sidewalk to less than forty-eight (48) inches. Forty-eight (48) inches of unobstructed corridor space must be maintained between the outer dimension of the Outside Dining Area (barrier) and the curb or nearest obstruction, in order to ensure a clear pedestrian passageway along the sidewalk. In order to achieve a continuous pedestrian walkway, the pedestrian passageway shall be a straight line, parallel to the building face or curb line, for the entire length of the Outdoor Dining Area.

(g) An Outdoor Dining Area permit shall not be issued for an area that would obstruct access within ten (10) feet of a fire hydrant, Fire Department standpipe connection, fire escape, loading zone, mail boxes, bus stops or traffic signal stanchions.

(h) The Outdoor Dining Area must be kept sanitary, neat and clean at all times and shall be free from the accumulation of food and litter. Food scraps and containers shall be disposed of in appropriate refuse containers on a regular basis during the day by the Operator. Sweeping of refuse or food scraps into tree grates or other nearby areas is strictly prohibited. Each operator shall wash, as needed, the public area to remove any food or drink residue.

(i) All applicable Health Department sanitation requirements shall be followed for outdoor food handling. The Operator shall be responsible for posting the outdoor dining area as to any special Health Department requirements.

(j) Operation and maintenance of the Outdoor dining area must comply in accordance with Article 509 - Disorderly Conduct and Peace Disturbance of the Municipal Code of the City of Parkersburg and all other code provisions and regulations of the City of Parkersburg.

(k) In order to serve non-intoxicating beer in an Outdoor Dining Area, the designated area must be included in the floor plan for the licensed premises as approved by the West Virginia Alcohol

Beverage Control Administration. Non-intoxicating beer shall be served and consumed only on the enclosed or bounded portion of the public sidewalk designated and permitted by the City as an Outdoor Dining Area. Patrons are not permitted to carry non-intoxicating beer in or out of the Outdoor Dining Area.

(l) Smoking is prohibited within any outdoor dining area.

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Barriers

- (a) Outdoor Dining Area barriers (fences, planter boxes, etc.) must be visually appealing and help to separate the dining area from the sidewalk. All barrier material must be maintained in good visual appearance, without visible fading, dents, tears, rust, corrosion, or chipped or peeling paint.
- (b) Barriers are required in the following instances.
 - (1) Required for full perimeter of outdoor dining areas when the seating area extends more than two and a half (2 1/2) feet into the public right-of-way. A detectable barrier is required for the full perimeter (with the exception of the access openings).
 - (2) Required for full perimeter of all outdoor dining areas when serving alcohol. State law requires that outdoor dining areas, where alcohol is served or consumed, must be enclosed with only one opening to the sidewalk for access. Such access must face the main ingress and egress of the operator's establishment. All access openings must measure no less than thirty-six (36) inches in width.
- (c) The following types of barriers are permitted: sectional fencing, planters, planter boxes or combination thereof. Prohibited barrier styles include, but not limited to chain-link, rope, chains, cyclone fencing, buckets, food containers, tires, tree stumps, wood pallets, chicken wire, plastic fencing or similar appurtenances and materials not specifically manufactured for fencing or to be used for pedestrian traffic control.
 - (1) Sectional fencing (generally defined as rigid fence segments that can be placed together to create a unified fencing appearance) are permitted. Sectional fencing must be of metal (aluminum, steel, iron, or similar) or of wood construction and must be painted or stained.
 - (2) If a stanchion or other vertical supporting device is attached to the sectional fencing, the base must be flat and must measure no more than one-half (1/2) of an inch above the sidewalk surface. No domed bases for the stanchion or other vertical supporting device for the fencing. The base must not be a tripping hazard.
 - (3) All barriers must be a total height of thirty-six (36) inches above the level of the sidewalk. Exceptions may be granted for barriers that include landscape (planting) materials or a combination of landscape materials and sectional fencing.
 - (4) Planters may be used in addition to or in place of other barrier designs. They may also be used in situations where no barrier is required.
 - (A) All planters themselves must be a total height of thirty-six (36) inches above the level of the sidewalk. The plants (live or artificial) within the planters shall not exceed sixty (60) inches in height, measured from the surface of the sidewalk.
 - (B) All planters must have plants contained within them. If plants within a planter die, the plants must be replaced or the planter removed from the public right-of-way.
 - (5) All barriers must be freestanding, without any permanent or temporary attachments to buildings, sidewalks, or other infrastructure.

Types of Furniture

- (a) Outdoor Dining Area furniture must be visually appealing and must be maintained in good visual appearance, without visible fading, dents, tears, rust, corrosion, or chipped or peeling paint. All furniture and fixtures must be maintained in a clean condition at all times and shall be of high quality, durable and of sufficiently sturdy construction. All furniture and fixtures shall be consistent and match each other by being visually similar design, construction, and color.
- (b) All furniture other than tables, chairs, and umbrellas are prohibited. This includes but is not limited to serving stations, bar counters, shelves, racks, sofas, trash receptacles, and torches. Outdoor space heaters may be permitted when it is safe to do so according to the Parkersburg Fire Department and in keeping with the intent of this ordinance. Locations for outdoor space heaters must be located on original site plan on the Outdoor Dining Area Permit Application.
 - (1) Tables must be of metal (aluminum, steel, iron, or similar) or of wood construction and may be colored or of a natural unpainted material (i.e., wood, metal, etc.). Tables are not permitted to be of any plastic material.
 - (2) Square or rectangular tables are preferred, but not required for outdoor dining areas. All tables shall be consistent and match each other by being visually similar design, construction, and color.
 - (3) Chairs must be of metal (aluminum, steel, iron, or similar) or of wood construction and may be colored or of a natural unpainted material (i.e., wood, metal, etc.). Chairs are not permitted to be of any plastic material. All chairs shall be consistent and match each other by being visually similar design, construction, and color.
 - (4) Upholstered pillows or any other type of cushions for the furniture is permitted.
 - (5) Umbrellas must be of a material suitable for outdoor use and must be canvas-type. No plastic fabrics, plastic/vinyl/laminate fabrics, or any type of rigid materials are permitted for use as umbrellas within an outdoor dining area. Umbrella covers must be of one solid color.
 - (6) Signage, graphics or wording on the umbrellas is prohibited, except where the Operator's business name/logo is used. (7) Square or Rectangular Umbrellas are preferred. Market-style or those designed specifically for patio or outdoor restaurant are preferred.
 - (8) All parts of any umbrella (including the fabric and supporting ribs) must be contained entirely within the outdoor seating area.
 - (9) When extended, the umbrella must measure at least eight (8) feet above the surface in order to provide adequate circulation space below. Any part of an umbrella used in the outdoor dining area may not exceed a height often (10) feet above the level of the sidewalk.
- (c) The floor of any outdoor dining area should be uncovered sidewalk material. Prohibited sidewalk coverings include, but are not limited to carpet, platforms, raised decks, or any other flooring material including but not limited to tile, nylon, vinyl, canvas, or any other covering that is intended to resemble turf are prohibited.
- (d) All furniture and fixtures must be freestanding. At no time shall furniture and fixtures be secured to other permanent structures including, but not limited to trees, street signs, hydrants, or any other street infrastructure by means of ropes, chains, or any other devices.

1367.09 - Additional Requirements

claims, suits, damages, judgements, costs and expenses, consequential or otherwise, including attorneys' fees and expenses, of any or all types arising out of, or related in any way to, the permitted Outdoor Dining Area.

(b) The applicant of an Outdoor Dining Area permit shall provide at its sole cost and expense and shall maintain in effect during the entire period of the permit, insurance in the following manner.

(1) Worker's Compensation insurance in at least the required statutory limits;

(2) The applicant shall maintain comprehensive general liability insurance, including owner's protective liability insurance and contractual liability insurance covering claims for personal injury and property damage with limits of at least one million dollars (\$1,000,000) coverage per each occurrence, and one million dollars (\$1,000,000) for any single injury; and shall name as additional insured the City of Parkersburg, its agents, officers, elected officials and employees.

(3) A copy of the certificates of insurance for the required policies for each type of insurance shall be furnished to the City of Parkersburg prior to the issuance of an Outdoor Dining Area permit. The required insurance policies shall each provide that they shall not be changed or canceled during the life of the Outdoor Dining Area permit until thirty days after written notice of such change has been delivered to the City. Operators shall submit proof of General Liability Insurance when filing their renewal fee with the City of Parkersburg on an annual basis.

(c) The authorization and privilege granted by a permit approved under this section shall be terminated due to the Operator's failure to comply with the City's rules and regulations concerning outdoor dining areas, any federal, state or local laws, any unabated nuisances or whenever the City desires to use the affected public right-of-way for any public purpose. In the event the City shall have a public need for use of the right-of-way or the property affected by the right-of-way, the City may terminate the use of such right-of-way by written notification to the applicant for the removal of any encroachments, and the Operator shall cease use of the right-of-way unless and until such time the City has no public need for use of the right-of-way. Said removal shall be completed by the date specified in the notice and shall be accomplished by the applicant without cost to the City. If the applicant fails or neglects to remove the encroachment within the time specified, the City shall have the right to remove the encroachment, at the expense of the Operator, and shall not be liable to the Operator for any loss, financial or otherwise, or damage to the encroachment or personal property within the encroachment area.

1367.10 - Denial or Revocation of Permit

(a) An Outdoor Dining Area permit is a privilege granted to the Operator that may be revoked by the City upon finding that the Operator has violated the City's rules and regulations concerning outdoor dining areas, any federal, state or City law applicable to the Outdoor Dining Area or the operation thereof, including but not limited to, compliance with all code provisions and regulations of the West Virginia Alcohol Beverage Control Administration, that the continued operation of the Outdoor Dining Area poses a threat to the health, safety or welfare of the public, or that the Outdoor Dining Area constitutes a public nuisance.

(b) An applicant who has been denied a permit, or an Operator whose permit has been revoked, may appeal to the Wood County Circuit Court, as set forth in WV Code §8A-9-1, et seq.

1367.11 - Penalty

Any person, firm or corporation violating any provision of this article, shall be fined up to fifty dollars (\$50) per day. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

MOTION – Mr. Reed moved, seconded by Ms. Kuhl, to adopt the ordinance on final reading and the motion was adopted by unanimous vote. (Mr. Carpenter not in the room)

ORDINANCE, FINAL READING:

AN ORDINANCE AMENDING SECTION 545.12, OBSTRUCTING STREETS AND SIDEWALKS WITH BOXES, BARRELS, ETC. OF THE CODEFIED ORDINANCES OF THE CITY OF PARKERSBURG

THE COUNCIL OF THE CITY OF PARKERSBURG HEREBY ORDAINS that Section 545.12 of Article 545 of the Codified Ordinances of the City of Parkersburg be amended with the inclusion of the following exception:

There is excepted herefrom those areas of the public sidewalk that are designated and approved by the City and utilized for and as an Outdoor Dining Area under Article 1367 of this code.

MOTION – Mr. Reed moved, seconded by Mr. Mercer, to adopt the ordinance on final reading, and the motion was adopted by unanimous vote. (Mr. Carpenter not in the room)

Mr. Carpenter returns and takes his seat.

ORDINANCE, FIRST READING:

AN ORDINANCE AMENDING SECTION 549.10, DISCHARGING FIREARMS AND FIREWORKS WITHIN THE CITY

MOTION – Ms. Kuhl moved, seconded by Mr. Barber, to adopt the ordinance on first reading.

Ms. Kuhl asked the Police Chief if this ordinance was strong enough for his department to enforce, and Chief Martin said it will give them guidance and structure to the public, and will reduce their phone calls. When Mr. Stanley stated that we have the noise ordinance, Chief Martin said our highest complaint is about barking dogs. We have not written citations the past two years for fireworks.

Mr. Carpenter said he did not see how the ordinance could help. Mayor Joyce stated that it would be beneficial to have fire personnel out in the neighborhoods to enhance safety measures. but we will not be deputizing firemen. he said.

CASTRO & HARRIS, INC., SPENCER, WV RE-ORDER NO. 12275-13

MOTION TO AMEND -- Mr. Stanley moved, seconded by Mr. Barber, to include West Virginia day in the ordinance, and the amendment failed with all members voting "no" with the exception of Mr. Barber, Mr. Stanley and Mr. Fox voting "yes".

MOTION TO AMEND -- Mr. Barber moved to ban all fireworks in the City, and there was no second to the motion.

MOTION TO AMEND -- Mr. Fox moved, seconded by Mr. Stanley to add: "A person who is less than eighteen years of age or younger shall only use, ignite or discharge consumer fireworks or sparking devices under the direct supervision of his or her parent, guardian or other adult person having the care and custody of the minor.

And "All persons who use, ignite or discharge consumer fireworks shall ensure that such consumer fireworks are not propelled 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, lumber yard, bulk mulch, propane or chemical storage area."

VOTE -- the amendment was adopted by unanimous vote.

VOTE -- the motion, as amended, was adopted by majority vote with all members voting "yes" with the exception of Mr. Stanley and Mr. Carpenter, who voted "no".

MISCELLANEOUS --

MOTION - Mr. Stanley moved, seconded by Mr. Reed, to receive and file the annual report of the Firemen's Pension and Relief Funds to the Municipal Pension Oversight Board through June 30, 2017, and the motion was adopted by unanimous vote.

MOTION -- Mr. Reed moved, seconded by Mr. Stanley, to receive and file the annual report of the Policemen's Pension and Relief Funds to the Municipal Pension Oversight Board through June 30, 2017, and the motion was adopted by unanimous vote.

PUBLIC FORUM -- Mr. Scott Heckert, 3300 1/2 Camden Avenue, thanked all City Departments for our help making the Sternwheel Festival a success.

Jean Peters, 49th Street, Vienna, told Council that Fairmont recently adopted an NDO ordinance and is moving forward, and Parkersburg is moving backwards.

Charles McDonough, 72 Oak Drive, Parkersburg, WV stated that people have said they were unaware of discrimination in Parkersburg, and that he watch people demonize people to get their way concerning the NDO ordinance.

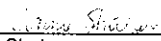
Gail Posey, Vienna, WV spoke against the NDO and said it caused a lot of separation in our area.

Kim Williams, Vienna, WV, is in favor of NDO and said people have been disrespected in our Council Chambers during the discussions.

Michael Hess, 26th Avenue, Parkersburg, WV thanked the City for assisting him with some youth programs and said they were moving forward.

President Carpenter stated that the microphone was to be used for City business and not for point/counterpoint.

The meeting adjourned at 8:40 PM.



City Clerk

Council President

RESOLUTION AMENDING COUNCIL'S
RULES AND REGULATIONS TO REMOVE
SECOND PUBLIC FORUM

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PARKERSBURG that
the Rules and Regulations for Parkersburg City Council be amended and re-enacted in
Rule XI, OPEN MEETINGS, ORDER OF BUSINESS, as follows:

All regular and special meetings of City Council shall be open to the public. The
business of the Council shall be taken up for consideration and disposition in the following
manner:

1. Call to order
2. Roll Call
3. To read, correct and approve the minutes of the previous meeting
4. Message from the Executive
5. Reports from standing or special committees
6. Public Forum, thirty (30) minute maximum. Five (5) minutes per person.
7. Resolutions, petitions, or motions
8. Unfinished business
9. Ordinances, final reading
10. Ordinances, first reading
11. Miscellaneous business
12. Adjournment

Sponsored by Councilmen Carpenter, Stanley and Reynolds 10/10/17

Current rules since
June 13, 2017

RESOLUTION

15
07

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PARKERSBURG that the Rules and Regulations for Parkersburg City Council be amended and re-enacted in Rule XI, OPEN MEETINGS, ORDER OF BUSINESS, as follows:

All regular and special meetings of City Council shall be open to the public. The business of the Council shall be taken up for consideration and disposition in the following manner: **(amendments in bold below, #6 and #12)**

1. Call to order
2. Roll Call
3. To read, correct and approve the minutes of the previous meeting.
4. Message from the Executive
5. Reports from standing or special committees
6. Public Forum **for items on the agenda this evening**, Thirty (30) minute maximum. Five (5) minutes per person.
7. Resolutions, petitions, or motions.
8. Unfinished business
9. Ordinances, final reading
10. Ordinances, first reading
11. Miscellaneous business
12. Public Forum **for any other items to come before Council.**
13. Adjournment

Current

Sponsored by Councilmen Reed, Reynolds, and Barber

June 13, 2017, ADOPTED

AN ORDINANCE AMENDING SECTION 549.10, DISCHARGING FIREARMS (AND FIREWORKS) WITHIN THE CITY

NOW COMES THE COUNCIL OF THE CITY OF PARKERSBURG AND HEREBY ORDAINS that Section 549.10 of the Codified Ordinances be and it is hereby amended in regard to discharging fireworks within the City of Parkersburg as follows:

549.10 DISCHARGING FIREARMS AND FIREWORKS WITHIN THE CITY RESTRICTED; FIREWORKS SAFETY.

(a) No person within the corporate limits of the City shall fire or discharge any cannon, gun, pistol or firearm, unless it is a case of necessity or in the discharge of some public duty or with the permission of Council, or by a member of a duly organized military company under the order of an officer in command thereof. However, any gun, rifle, pistol or other firearm may be fired or discharged at a regularly organized rifle or pistol range within the City, which rifle or pistol range shall be first inspected and approved by the Chief of Police. The inspection by the Chief of Police of such rifle or pistol range shall be subject to ratification and review by Council.

(b) It shall be unlawful for a person within the corporate limits of the City to manufacture, wholesale, distribute, import, sell or store for the purpose of resale, consumer fireworks, sparkling devices, or toy caps without a license, registration, certificate or permit from the State Fire Marshall and a valid business license issued by the City.

- (1) Definitions. As used in this section, all terms, including but not limited to “consumer fireworks”, “firework or fireworks”, “model rocket”, “new explosive”, “novelties”, “person”, “sparkling devices”, “special effect and “toy caps” shall have the meanings ascribed to them in West Va. Code 29-3E-2 Definitions.
- (2) Governing Conduct. The following conduct shall govern the use, ignition and discharge of consumer fireworks and sparkling devices in the corporate limits of the City.
 - (i) All persons who use or ignite or discharge consumer fireworks or sparkling devices shall abide by all legal requirements concerning such firework use, including the provisions of West Va. Code 29-3E-1 et seq., and Title 103 Legislative Rule West Virginia Fire Marshall Series 4 Regulation of Fireworks.
 - (ii) A person who is less than eighteen years of age shall only use, ignite or discharge consumer fireworks or sparkling devices under the direct supervision of his or her parent, guardian or other adult person having the care and custody of the minor.
 - (iii) All persons who use, ignite or discharge consumer fireworks shall ensure that such consumer fireworks are not propelled 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, lumber yard, bulk mulch, propane or chemical storage area.
 - (iv) No person shall use, ignite or discharge consumer fireworks within corporate limits of the City except as follows:

- A. Between the hours of 9:00 p.m. and 11:00 p.m. on July 2, July 3 and July 4 (Independence Day); and
 - B. Between 9:00 p.m. on December 31 and 12:30 a.m. on January 1 (New Year's Eve).
- (3) Fireworks Enforcement. See West Va. Code 29-3E-13(b) – The City of Parkersburg Police Officers and Fire Department Personnel shall have the authority to enforce the provisions of this section.

Whenever reasonable grounds exist to believe that a violation of this section has occurred, all officers vested with the authority of its enforcement, may forthwith summon, by the issuance of a citation, any person charged with a violation of same to appear before the Judge of the Municipal Court for the City and to answer said charge on or before a date therein stated.

- (4) Fireworks Exemptions. This article does not prohibit any of the following:
- (i) The use of fireworks by railroads or other transportation agencies for signaling purposes or illumination;
 - (ii) The sale or use of blank cartridges for a theatrical performance, use by military organizations or signal or ceremonial purposes in athletics or sports; or
 - (iii) The possession, sale or disposal of fireworks incidental to the public display of fireworks by wholesalers or other persons who have a permit to possess, store and sell explosives from the Bureau of Alcohol, Tobacco, Firearms, and Explosives of the United States Department of Justice and the State Fire Marshall. (WV Code §29-3E-9).

Sponsored by Council Public Works Committee

Penalty is covered under City Code §501.99