

**For “in-person” meetings, persons who are not on the agenda but wish to address the governing body must register to speak at least 15 minutes prior to the start of the meeting. For virtual meetings, the Mayor will canvas attendees for those wishing to speak. Time limits will be imposed. Requests for copies of documents related to agenda items must be made in writing at least 24 hours in advance of the meeting, not during the meeting. NOTE: Council members are elected to represent citizens of the Corporation of Shepherdstown, please contact them regarding any questions or comments you may have about the agenda items. This Council follows Robert’s Rules of Order (Revised).**

## **TOWN COUNCIL MEETING AGENDA**

Tuesday, October 12, 2021

6:30 p.m.

STATION AT SHEPHERDSTOWN

100 AUDREY EGLE DRIVE

**MASK WEARING IS REQUIRED**

1. Call to order
2. Approval of Town Council Meeting Minutes of September 14, 2021
3. **Public Comment Period**
  - a. Persons who have registered to address Town Council.
4. **Visitors**
  - a. Michael Hofe and David Deamer – Broadband information
  - b. James Gatz – Jefferson County Development Authority
5. **Public Hearings**
  - a. Second readings of the following ordinances:
    - An ordinance to create and adopt Section 7-601 of chapter 6, title 7 Of the code of shepherdstown to establish that simple larceny of goods or chattels of the value of less than one thousand dollars is illegal.

- An ordinance to amend section 3-104 of chapter 1, title 3 of the code of shepherdstown pertaining to the penalty for the unlawful sale, illegal possession, and consumption, of alcoholic beverages in public places
- An ordinance to amend chapter 4 of title 3 of the code of shepherdstown, west virginia, section 3-407 relating to nonintoxicating beer and the use of false identification by persons underage
- An ordinance to enact Section 4-208 of chapter 2, title 4 of the code of Shepherdstown pertaining to the penalty for nuisances caused by dogs
- An ordinance to amend Section 6-304 of chapter 3, title 6 of the code of shepherdstown pertaining to the unlawful sale or use of fireworks
- An ordinance to amend chapter 1 of title 7 of the code of shepherdstown, west virginia, section 7-103, relating to criminal offenses for indecent exposure, public indecency, and invasion of privacy
- An ordinance to amend chapter 1 of title 7 of the code of shepherdstown, west virginia, section 7-106 relating to weapons and firearms
- An ordinance to amend chapter 1 of title 7 of the code of shepherdstown, west virginia, section 7-107 relating to the discharge of firearms
- An ordinance to amend chapter 1 of title 7 of the code of shepherdstown, west virginia, section 7-109 relating to falsely reporting an emergency incident
- An ordinance to amend chapter 1 of title 7 of the code of shepherdstown, west virginia, section 7-110 relating to riots and unlawful assemblages
- An ordinance to create and adopt 7-501 of chapter 5, title 7 of the code of shepherdstown to make it unlawful to litter and to establish penalties for violations
- An ordinance to adopt Chapter 6, title 7 of the code of shepherdstown in accordance with the code of the state of west virginia.
- An ordinance to enact Section 12c-1009 of chapter 10, title 12c of the code of shepherdstown regarding stealing from or tampering with any parking meter, vending machine, pay telephone, cash machine, etc.

**6. Unfinished Business**

- a. Christmas In Shepherdstown update

**7. Old Business**

- a. Website redesign update – vote on approval of draft RFP
- b. Ascend Program

**8. New Business**

- a. Report on Age Friendly Shepherdstown – Marty Amerikaner
- b. Initial discussion regarding the development of a public commons area – Chris Stroeck

**9. Mayor's Report**

- a. FEMA

**10. Reports of Committees**

**A. Finance Committee**

- 1. No meeting in September 2021
- 2. Recommendations: NONE

**B. Parking Committee**

- 1. No September meeting
- 2. Recommendations: NONE

**C. Police Committee**

- 1. No September meeting
- 2. Recommendations: NONE

**D. Public Works Committee**

- 1. Meeting minutes of September 2021
- 2. Recommendations: NONE

**E. Parks and Recreation Committee**

1. Meeting minutes of September 2021
2. Recommendations: NONE

**F. Grants Committee**

1. No meeting scheduled for September 2021
2. Recommendations: NONE

**11. Report of Commissions and Boards**

**A. Tree Commission**

1. Next meeting October 14, 2021
2. Recommendations: NONE

**B. Water and Sanitary Board**

1. Meeting minutes of September 2021
2. Recommendations: NONE

**C. Historic Landmarks Commission**

1. Meeting minutes of September 2021
2. Recommendations: NONE

**D. Planning Commission**

1. Meeting minutes of September 2021- not available at this time
2. Recommendations:
  - a. An ordinance to amend section 9-905, subpart ii, of chapter 9, title 9 of the code of shepherdstown, by expanding and further describing the legal remedies available for violations of this title

**E. Board of Appeals**



**Shepherdstown Town Council Meeting Minutes**  
**Tuesday, September 14, 2021**  
**Zoom Meeting**  
**6:30 p.m.**  
**DRAFT**

**Present:** Jim Auxer (Mayor), Lori Robertson (Recorder), Chris Stroeck, Marty Amerikaner via speaker phone, Jenny Haynes, Cheryl Roberts, and Jim Ford.

**Absent:** None

**Staff:** Town Clerk Amy Boyd, Public Works Director Frank Welch, Officer Bryce Dickens, and Police Chief Mike King.

**Visitors:** Philip Baker-Shenk, David Deamer, Elizabeth Ricketts, John Bresland, Lois Turco, Cam Secrist, Hoy Shingleton, Steve Pearson, Tabitha Johnston, Doc McClusky, Peter Smith, and Mary Fortuna.

**Agenda Items 1 and 2-Call to order/approval of Town Council Minutes (vote required):**

Call to order by Mayor Auxer at 6:30 pm.

Approval of the Town Council Meeting Minutes of August 10, 2021

**C. Stroeck- move to approve Town Council Draft Minutes of August 10, 2021. Second by J. Ford. No objections noted.**

**J. Ford – move to approve Special Town Council Draft Minutes of August 26, 2021. Second by C. Roberts. No objections noted.**

**Agenda Item 3 – Public Comment Period:**

- a. Persons who have registered to address Town Council.

**Agenda Item 4 - Visitors:**

Visitor's comments, if any, are logged in under the specific agenda items.

Mayor – introduced Bryce Dickens, a newly hired officer as of 9/9/21.  
Please welcome him.

Officer Dickens – he appreciates the opportunity.

- a. David Deamer – Broadband Information – works with Region 9. The wireless network group will handle many aspects of this project. Equipment/antennae's will be placed on top of our water tanks/towers across from 7-11 that will make the signal better and allow for more internet coverage in rural areas within a 5-mile radius around the towers that are within line of sight.

Mayor – the corporation will receive a monthly payment for the use of our towers. There is no cost to the town. We need a vote to move forward with this project.

C. Roberts – who benefits? Is there a schematic we can see?

D. Deamer - Those within a 5-mile radius. Yes, he can get that to council.

M. Amerikaner – will this allow for in-town internet enhancement?

D. Deamer – in-town speed is adequate. It's more for those people that have no options outside of town.

**L. Robertson – motion to move forward to explore broadband in Shepherdstown utilizing the placing of equipment on our water towers. Second by C. Stroeck. No objections noted**

- b. Phil Baker-Shenk – Habitat for Humanity – this is a preliminary report on the HFH project. He bought the last piece of property to closedown the Shepherd Village project. He donated Lot #20 to Habitat. Doc and Mel McClusky have been great partners. The permit to secure the building should start soon. Donations have already come in to help. The direct # for the local chapter is 304-263-3154.

#### **Agenda Item 5 – Public Hearings:**

- a. Public hearing on Bond Ordinance (the “Bond Ordinance”) authorizing the issuance of up to \$1,250,000 in aggregate principal amount of the Corporation of Shepherdstown Water Revenue Bonds, Series 2021 (the “Bonds”), to finance a portion of the costs of the acquisition, construction, and equipping of certain additions, betterments, and improvements to the waterworks system of the Corporation of

Shepherdstown, including without limitation the renovation and improvement of the water treatment plant and related facilities (the “Project”).

- b. Final action to give final approval to the Bond Ordinance, as defined and described under “Public Hearings” above, to put the Bond Ordinance into effect.
- c. Consideration of and final action on a Supplemental Resolution supplementing and amending the Bond ordinance referenced above relating to bonds.
- d. Consideration of and action on Resolution authorizing and approving the first requisition of the proceeds of the Bonds.
- e. Possible other actions relating to the Bonds and/or the Project.

**J. Haynes – move to approve the third reading of the Bond Ordinance (the “Bond Ordinance”) authorizing the issuance of up to \$1,250.000 in aggregate principal amount of the Corporation of Shepherdstown Water Revenue Bonds, Series 2021 (the “Bonds”), to finance a portion of the costs of the acquisition, construction, and equipping of certain additions, betterments, and improvements to the waterworks system of the Corporation of Shepherdstown, including without limitation the renovation and improvement of the water treatment plant and related facilities (the “Project”). Second by L. Robertson. No objections noted.**

f. First readings of the following ordinances:

- An Ordinance to create and adopt Section 7-601 of Chapter 6, Title 7 of the Code of Shepherdstown to establish that simple larceny of goods or chattels of the value of less than one thousand dollars is illegal.
- An Ordinance to Amend Section 3-104 of Chapter 1, Title 3 of the Code of Shepherdstown pertaining to the penalty for the unlawful sale, illegal possession, and consumption, of alcoholic beverages in public places.

- An Ordinance to Amend Section 3-407 of Chapter 4, Title 3 of the Code of Shepherdstown relating to the non-intoxicating beer and the use of false identification by persons underage.
- An Ordinance to enact Section 4-208 of Chapter 2, Title 4 of the Code of Shepherdstown pertaining to the penalty for nuisances caused by dogs.
- An Ordinance to amend Section 6-304 of Chapter 3, Title 6 of the Code of Shepherdstown pertaining to the unlawful sale or use of fireworks.
- An Ordinance to amend Section 7-103 of Chapter 1, Title 7 of the Code of Shepherdstown relating to criminal offenses for indecent exposure, public indecency, and invasion of privacy.
- An Ordinance to amend Section 7-106 of Chapter 1, Title 7 of the Code of Shepherdstown relating to weapons and firearms.
- An Ordinance to amend Section 7-107 of Chapter 1, Title 7 of the Code of Shepherdstown relating to the discharge of firearms.
- An Ordinance to amend Section 7-109 of Chapter 1, Title 7 of the Code of Shepherdstown relating to falsely reporting an emergency incident.
- An Ordinance to amend Section 7-110 of Chapter 1, Title 7 of the Code of Shepherdstown relating to riots and unlawful assemblages.
- An Ordinance to create and adopt Section 7-501 of Chapter 5, Title 7 of the Code of Shepherdstown to make it lawful to litter and to establish penalties for violations.

- An Ordinance to adopt Chapter 6, Title 6 of the Code of Shepherdstown relating to the discharge of firearms.
- An Ordinance to enact Section 12c-1009 of Chapter 10, Title 12c of the Code of Shepherdstown regarding stealing from or tampering with any parking meter, vending machine, pay telephone, cash machine, etc.

Chief – this brings us in line with WV state codes.  
 M. Amerikaner – is there anything significant here/  
 Chief – no, all standard –just updating.

**L. Robertson – move to approve all of the first readings of the above ordinances put forth by Chief King. Second by M. Amerikaner. C. Stroeck abstained. Motion passed with a majority vote.**

#### **Agenda Item 6 – Unfinished Business:**

- a. None

#### **Agenda Item 7 – Old Business:**

- a. Website redesign update – approval Draft RFP  
 J. Ford – asked to hold off until October’s meeting.

#### **Agenda Item 8 – New Business:**

- a. Trick or Treat – October 31, 6-8 p.m.  
 Mayor Auxer noted that the health department has offered no guidelines regarding Trick or Treating in the area.  
 J. Haynes – The Haunted House will be open that night at the Community Club and may require masks. She can cancel at any time if deemed necessary.  
 L. Robertson – anything done indoors is a private event and we do not need to vote on it.  
**M. Amerikaner – move to not promote Trick or Treating, and to not close German Street, as last year. Second by C. Stroeck. No objections noted.**

b. Event Requests:

- Boofest – October 30, 6-7 p.m. Thriller Dance  
October 30, 10-5 p.m. Street Music

S. Pearson – Thriller Dancers are spaced out on King St.

**L. Robertson – move to approve Thriller Dance, encouraging the wearing of masks and distancing. Second by J. Ford. No objections noted.**

Mayor – we can revisit Boofest in October's meeting.

S. Pearson – no vote tonight now on the street music.

- Christmas Parade – December 4, 10-11 a.m.  
P. Smith – he will recommend all involved to wear masks and practice distancing. Normally, the \$450.00 for the sound system is paid for by Christmas in Shepherdstown.  
S. Pearson stated that that could happen again.  
**C. Roberts – move to approve the Christmas Parade with Covid considerations/regulations. Second by L. Robertson. No objections noted.**
- Christmas in Shepherdstown – J. Haynes – Mrs. Santa is all ready, the Who gals are in, she is chatting with Santa, Rotary will erect the Xmas tree, she is checking on the LED lights, and there is to be a chili cook-off at the Community Club. The Cook-off might possibly be take out as opposed to eating in or held under a tent behind the library. She will speak to the Kiwanis Club about the logistics of the cook-off. Need to think about the tree lighting in regards to crowds.  
**L. Robertson – move to proceed with Christmas in Shepherdstown. Second by J. Haynes. No objections noted.**

**Agenda Item 9 – Mayor's Report:**

- Shepherdstown Museum - open from 12-4 on the weekends. Do go and see it and encourage people to visit. The need docents.
- Shepherdstown Library – work is beginning 9/16/21.
- Habitat for Humanity ceremony is 9/27/21 @ 1:30 p.m.

- Please cut your grass around signs, on the sidewalks, and near the curbs.
- Please help pick up trash, cig. butts, etc.
- Generally, help take care of our town.
- CATF – Ed Herenden has retired with Peggy McKowen stepping up to fill in.
- The Mayor has been appointed to the Jefferson County Criminal Justice Board until July 2024
- M. Amerikaner inquired as to why the pedestrian signs moved to the side of German St.? Chief King – the fire trucks were hitting them. F. Welch – it was expensive to keep replacing them at \$350 each. Public Works has replaced a bunch

### **Agenda Item 10 – Reports of Committees:**

#### **A. Finance Committee:**

1. Meeting minutes of August 2021
2. Finance Reporting:
3. Recommendations

a. Allocate 40K to the Cost Sharing Sidewalk Program—

Mayor – there will be an application process and the public can be informed via email, newspapers, social media, and the website.

**J. Haynes – move to approve the allocation of \$40K to the Cost Sharing Sidewalk Program. Second by C. Roberts. No objections noted.**

b. Allocate the money received from the American Rescue

Plan to the Water Treatment Plant Upgrade Project.

Mayor – this is to finish the water treatment plant project. We can use the \$421,000 from the American Rescue Plan to complete it. This money being used for this project falls under the permitted uses, and we would not have to pull money from our reserves.

Chris Stroeck – suggested deferring the vote until next month to get input from the public as to possible other uses the money could be used for, as the public may not understand the agenda item as written.

Mayor – this is a time sensitive issue and some of the details were just presented to him.

Cheryl Roberts – this opportunity may not come around again to be able to use these funds for this project.



Mayor – the costs did go up. The funds are limited as to what they can be used for.

A discussion ensued as to vote now or in October. Some felt it was rushed and/or was buried in the agenda. The Mayor insisted it wasn't either.

L. Robertson – stated that the Finance Committee, the Water & Sanitary Board, approved it and our town attorney was fine with it. Council is elected to make these decisions.

**L. Robertson – move to approve putting the American Rescue Plan money (\$421,000) toward the Water Treatment Plant Upgrade Project. Second by J. Haynes. C. Stroeck opposed. The motion passed with a majority.**

**C, Stroeck – suggested the possibility of a special meeting to explain it fully.**

**B. Parking Committee:**

1. No August meeting
2. Recommendations: None

**C. Police Committee:**

1. No August meeting
2. Recommendations: Non

**D. Parks and Recreation Committee:**

1. Meeting minutes of August 2021 – not available at this time
2. Recommendations:
  - a. None

C. Roberts – looking at a possible grant to extend a walking path around Cullison.

**E. Public Works Committee:**

1. Meeting minutes of August 2021
2. Recommendations:

None



F. Welch – LED lights – on 8/10/21 50-watt bulbs were installed on Church & Old Queen Alley and Mill & High Streets. 90-watts bulbs are installed on Church & German.

**F. Path Advisory Committee**

1. No meeting in July
2. Recommendations:
  - a. None

**G. Grant Committee**

1. No meeting scheduled for September 2021
  - a. Recommendations:  
None  
C. Stroeck – a \$60,000 grant was awarded for Community Development that runs for over a year. It is for those who had trouble paying their rent/mortgage/utilities during Covid. We can give out up to \$5K a month to help.

**Agenda item 11 – Report of Commissions, Authority and Boards:**

**A. Historic Landmarks Commission:**

1. Meeting minutes of August 2021 – not available at this time
2. Recommendations:
  - a. None

**B. Planning Commission:**

1. Meeting minutes of August 2021 – not available at this time
2. Recommendations:
  - a. None

**C. Tree Commission**

1. Meeting minutes of September 2021 – not available at this time
2. Recommendations: None
3. L. Robertson – the Grant Committee presented proposals for a tree inventory that grant money can be used for.

**D. Water and Sanitary Board:**

- 1 –Meeting minutes of August 2021
- 2 – Recommendations:

- a. Review and consider utilizing the town water towers for broadband service as outlined in the presentation. (Refer to Visitor's report)

**E. Board of Appeals**

1. No meeting scheduled

**L. Robertson – move to adjourn at 8:33 p.m. Second by J. Ford. No objections noted.**

Draft Minutes respectfully submitted by L. Robertson, Recorder for the Corporation of Shepherdstown.

# Wireless Networks Group, Inc.

## Wireless Consulting and Site Management



### **Proposed Services to be provided to the to the City of Shephardstown (the "City") , include:**

1. Marketing of water tank structures to telecom providers
2. Handle all inquiries for potential colocation by telecom providers, to include:
  - a. Establish and administer a formal application process for colocation requests
  - b. Establish a structural engineer of record for the City to initially characterize the water tank(s) structural capacity
  - c. Establish and administer a formal structural analysis process to perform structural analysis updates for each new installation of any changes to existing installations on the water tank(s)
3. As a result of an approved colocation application and a passing structural analysis, perform the following site license agreement services in conjunction with the City's designated legal representative:
  - a. Provide a telecom specific licensing template, to include suggested license rates for each requested equipment installation) for the City to license space to prospective telecom providers. This licensing template would be finalized in coordination with the City's legal representative
  - b. Negotiate a final form of agreement with each telecom provider on behalf of the City for any new licensee
  - c. Have execution agreements prepared and present them to the telecom provider for execution and then provide the partially executed agreements to the City for execution
  - d. Handle the distribution of all fully executed documents to the respective parties
4. Upon execution of any site license agreement, perform the following services:
  - a. Establish and administer a formal contractor qualification process to qualify the telecom providers contractor that will perform installation services on the water tank(s)
  - b. Work with the City to understand and develop project permitting requirements for wireless projects
  - c. Perform pre-construction walks with the telecom providers contractor
  - d. Perform construction monitoring during the installation process
  - e. Conduct project close out site walks and receive a project close-out package with the telecom providers construction firm.

All Wireless Networks Group fees for the above services would be obtained from the telecom provider(s) in the form of pass-thru costs with the City and there would be no out of pocket charges for these services to the City. The only cost to the City would be the initial cost for the 3<sup>rd</sup> party structural engineer to characterize the water tank(s) before anyone proposed to install on them.

After the initial water tank characterization effort, the only charges from Wireless Networks Group would be for any consulting services that the City requests that is outside the scope of the services presented above. An example of other consulting services might be monthly site safety and security checks of the water tank site(s) and wireless installations. Some municipalities desire these types of pre-emptive services, but these types of decisions are completely up to the discretion of the City.

# Wireless Networks Group, Inc.

Wireless Consulting and Site Management



**Photos of Wireless Antenna Equipment Utilized by AT&T, T-Mobile, US Cellular, Verizon  
and WISP's (Wireless Internet Service Providers)**

1011 Holden Road \* Frederick, Maryland 21701-3437 \* (301) 667-0001 - Phone



# Wireless Networks Group, Inc.

Wireless Consulting and Site Management



**Photos of Self-Contained Equipment Shelters Utilized by AT&T, T-Mobile, US Cellular and Verizon**

1011 Holden Road \* Frederick, Maryland 21701-3437 \* (301) 667-0001 - Phone

# Wireless Networks Group, Inc.

Wireless Consulting and Site Management



**Photo of Outdoor Equipment Cabinets Utilized by AT&T, T-Mobile, US Cellular and Verizon**



**Photo of an Equipment Cabinet Utilized by a WISP**

1011 Holden Road \* Frederick, Maryland 21701-3437 \* (301) 667-0001 - Phone



**AN ORDINANCE TO CREATE AND ADOPT  
SECTION 7-601 OF CHAPTER 6, TITLE 7  
OF THE CODE OF SHEPHERDSTOWN TO ESTABLISH THAT SIMPLE LARCENY  
OF GOODS OR CHATTELS OF THE VALUE OF LESS THAN ONE THOUSAND  
DOLLARS IS ILLEGAL.**

THE SHEPHERDSTOWN TOWN COUNCIL ORDAINS:

Chapter 6 of Title 7 of the Shepherdstown Code is hereby created and adopted by adding Section 7-601 entitled "Petit Larceny," which establishes that simple larceny of goods or chattels of the value of less than one thousand dollars penalties is illegal, and sets forth penalties for such violations. Accordingly, Section 7-601 of Chapter 6 of Title 7 is to read as follows:

**7-601. Petit larceny**

If a person commits simple larceny of goods or chattels of the value of less than one thousand dollars, such person is guilty of a misdemeanor, designated petit larceny, and, upon conviction thereof, shall be fined not to exceed two thousand five hundred dollars, confined in jail for a term not to exceed thirty days, or both, in the discretion of the court.

First Reading: September 14, 2021

Second Reading: \_\_\_\_\_

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Recorder

**AN ORDINANCE TO AMEND  
SECTION 3-104 OF CHAPTER 1, TITLE 3 OF THE CODE OF SHEPHERDSTOWN  
PERTAINING TO THE PENALTY FOR THE UNLAWFUL SALE, ILLEGAL  
POSSESSION, AND CONSUMPTION, OF ALCOHOLIC BEVERAGES IN PUBLIC  
PLACES**

THE SHEPHERDSTOWN TOWN COUNCIL ORDAINS:

Chapter 1, Title 3 of the Code of Shepherdstown is hereby amended by revising Section 3-104. to increase the penalty for the unlawful sale, illegal possession, and consumption, of alcoholic beverages in public places.

**Section 3-104. Violation; Penalties.**

A violation of any provision of this Chapter shall be punishable by a fine of not more than five hundred dollars (\$500.00) for each separate offense.

First Reading: September 14, 2021

Second Reading: \_\_\_\_\_

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Recorder



**AN ORDINANCE TO AMEND CHAPTER 4 OF TITLE 3 OF THE CODE OF  
SHEPHERDSTOWN, WEST VIRGINIA, SECTION 3-407 RELATING TO  
NONINTOXICATING BEER AND THE USE OF FALSE IDENTIFICATION BY  
PERSONS UNDERAGE**

THE SHEPHERDSTOWN TOWN COUNCIL ORDAINS:

Chapter 4, Title 3 of the Code of Shepherdstown is hereby amended by revising Section 3-407, relating to the use of false identification by persons underage, to conform with the penalties and standards set forth in W. Va. Code § 11-16-19 and W. Va. Code § 61-8-27a. Accordingly, Chapter 4, Title 3 of the Code of Shepherdstown is amended and revised as follows:

**Section 3-407. Unlawful acts by persons; use of false identification; penalties.**

- (a) A person under the age of twenty-one years may not order, pay for, share the cost of or attempt to purchase any nonintoxicating beer from a licensee or consume any nonintoxicating beer purchased from a licensee or possess any nonintoxicating beer purchased from a licensee. Any person under the age of twenty-one years who violates any provisions of this subsection is guilty of a misdemeanor, and, upon conviction thereof, shall be fined in an amount not to exceed five hundred dollars: Provided, That nothing in this subsection shall prohibit a person who is at least eighteen years of age from purchasing or possessing nonintoxicating beer when he or she is acting upon the request of or under the direction and control of any member of a state, federal or local law-enforcement agency or the West Virginia alcohol beverage administration while the agency is conducting an investigation or other activity relating to the enforcement of the alcohol beverage control statutes and the rules and regulations of the commissioner.
- (b) Any person under the age of twenty-one years who, for the purpose of purchasing nonintoxicating beer from a licensee, misrepresents his or her age, or who for such purpose presents or offers any written evidence of age which is false, fraudulent or not actually his or her own, or who illegally attempts to purchase nonintoxicating beer from a licensee, is guilty of a misdemeanor, and, upon conviction thereof, shall be fined in an amount not to exceed one hundred dollars.
- (c) Any person who knowingly buys for, gives to or furnishes to anyone under the age of twenty-one years, any nonintoxicating beer purchased from a licensee, is guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than one hundred dollars.
- (d) Any person who exhibits or displays a false or erroneous birth certificate, draft card, registration card or certificate, license, or identification card or certificate of any kind or character, or who exhibits or displays any certificate, card or license of any kind or character not his own, for the purpose of purchasing or drinking wine or alcoholic liquor or gaining

admittance to any establishment, from which he or she would otherwise be barred by reason of age, shall be guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine of not less than twenty-five nor more than one hundred dollars.

Authority: W. Va. Code Ann. § 11-16-19; W. Va. Code § 61-8-27a

First Reading: September 14, 2021

Second Reading: \_\_\_\_\_

Adopted: \_\_\_\_\_

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Mayor

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Recorder

**AN ORDINANCE TO ENACT  
SECTION 4-208 OF CHAPTER 2, TITLE 4 OF THE CODE OF SHEPHERDSTOWN  
PERTAINING TO THE PENALTY FOR NUISANCES CAUSED BY DOGS**

THE SHEPHERDSTOWN TOWN COUNCIL ORDAINS:

Chapter 2, Title 4 of the Code of Shepherdstown is hereby amended by enacting Section 4-208 to create a penalty for the various nuisances caused by dogs already prohibited by the Code of Shepherdstown.

**Section 4-208. Penalties.**

Notwithstanding any provision to the contrary, any person in violation of any provision of this Chapter shall be fined no more than one hundred dollars.

First Reading: September 14, 2021

Second Reading: \_\_\_\_\_

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Recorder

**AN ORDINANCE TO AMEND  
SECTION 6-304 OF CHAPTER 3, TITLE 6 OF THE CODE OF SHEPHERDSTOWN  
PERTAINING TO THE UNLAWFUL SALE OR USE OF FIREWORKS**

THE SHEPHERDSTOWN TOWN COUNCIL ORDAINS:

Chapter 3, Title 6 of the Code of Shepherdstown is hereby amended by revising Section 6-304 to allow for increased penalties for the sale or use of fireworks in Shepherdstown.

**Section 6-304. Unlawful sale or use of fireworks; permit for public display.**

Except as provided in this section, no person shall sell or use fireworks as defined in Section 6-303; provided the State Fire Marshall may grant permits for special occasions such as fairs, amusement parks, municipalities and others. All permits are obtained through the State Fire Marshall after he has inspected the fireworks and a bond has been, posted. The permit is good only for the one purpose it is listed for and is not transferable. Any person who violates any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined no more than one hundred dollars per firework sold or used.

First Reading: September 14, 2021

Second Reading: \_\_\_\_\_

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Recorder

**AN ORDINANCE TO AMEND CHAPTER 1 OF TITLE 7 OF THE CODE OF  
SHEPHERDSTOWN, WEST VIRGINIA, SECTION 7-103, RELATING TO CRIMINAL  
OFFENSES FOR INDECENT EXPOSURE, PUBLIC INDECENCY, AND INVASION OF  
PRIVACY**

THE SHEPHERDSTOWN TOWN COUNCIL ORDAINS:

Chapter 1, Title 7 of the Code of Shepherdstown is hereby amended by revising Section 7-103 relating to indecent exposure, public indecency, and invasion of privacy to comply with the standards set forth in W. Va. Code § 8-11-1, W. Va. Code § 61-8-9, and W. Va. Code § 61-8-28. Accordingly, Chapter 1, Title 7 of the Code of Shepherdstown is amended and revised as follows:

**Section 7-103. Indecent exposure; Public indecency; Invasion of privacy.**

- (a) A person is guilty of indecent exposure when such person intentionally exposes his or her sex organs or anus or the sex organs or anus of another person, or intentionally causes such exposure by another or engages in any overt act of sexual gratification, and does so under circumstances in which the person knows that the conduct is likely to cause affront or alarm: *Provided*, That it is not considered indecent exposure for a mother to breast feed a child in any location, public or private. (b) Except as provided in subsection (c), any person who violates the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail not more than thirty days, or fined not more than two hundred fifty dollars, or both. (c) Any person who violates the provisions of subsection (a) of this section by intentionally exposing himself or herself to another person and the exposure was done for the purpose of sexual gratification, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than five hundred dollars or confined in jail not more than thirty days, or both. For a second offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one thousand dollars or confined in jail for not more than thirty days, or both.
- (d) It is unlawful for a person to knowingly visually portray another person without that other person's knowledge, while that other person is fully or partially nude and is in a place where a reasonable person would have an expectation of privacy. A person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction, shall be confined in a county or regional jail for not more than thirty days or fined not more than five thousand dollars, or both. (e) Any person who displays or distributes visual images of another person with knowledge that said visual images were obtained in violation of subsection (d) of this section is guilty of a misdemeanor and, upon conviction, shall be confined in a county or regional jail for not more than thirty days or fined not more than five thousand dollars, or both.
- (f) The definitions set forth in West Virginia Code § 61-8-28 shall be controlling regarding subsections (d) and (e).

**AN ORDINANCE TO AMEND CHAPTER 1 OF TITLE 7 OF THE CODE OF  
SHEPHERDSTOWN, WEST VIRGINIA, SECTION 7-106 RELATING TO WEAPONS  
AND FIREARMS**

THE SHEPHERDSTOWN TOWN COUNCIL ORDAINS:

Chapter 1, Title 7 of the Code of Shepherdstown is hereby amended by revising Section 7-106 relating to weapons and firearms to comply with the standards set forth in W. Va. Code § 61-7-11. Accordingly, Chapter 1, Title 7 of the Code of Shepherdstown is amended and revised as follows:

**Section 7-106. Weapons and firearms.**

It shall be unlawful for any person armed with a firearm or other deadly weapon, whether licensed to carry the same or not, to carry, brandish or use such weapon in a way or manner to cause, or threaten, a breach of the peace. Any person violating this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty nor more than one thousand dollars, or shall be confined in the regional jail not more than thirty days, or both.

Authority: W.Va. Code Ann. § 61-7-11.

First Reading: September 14, 2021

Second Reading: \_\_\_\_\_

Adopted: \_\_\_\_\_

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Mayor

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Recorder

**AN ORDINANCE TO AMEND CHAPTER 1 OF TITLE 7 OF THE CODE OF  
SHEPHERDSTOWN, WEST VIRGINIA, SECTION 7-107 RELATING TO THE  
DISCHARGE OF FIREARMS**

THE SHEPHERDSTOWN TOWN COUNCIL ORDAINS:

Chapter 1, Title 7 of the Code of Shepherdstown is hereby amended by revising Section 7-107 relating to the discharge of firearms to conform with the penalties set forth in W. Va. Code § 20-2-58. Accordingly, Chapter 1, Title 7 of the Code of Shepherdstown is amended and revised as follows:

**Section 7-107. Discharge of firearms.**

- (a) It shall be unlawful for any person to discharge any firearm within five hundred feet of any dwelling house or near any public road in this Town, at any time, except in the lawful defense of person or property and except in the performance of a lawful duty.
- (b) Any person violating this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500 or confined in jail for not more than thirty days, or both.

Authority: W. Va. Code Ann. § 20-2-58.

First Reading: September 14, 2021

Second Reading: \_\_\_\_\_

Adopted: \_\_\_\_\_

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Mayor

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Recorder

**AN ORDINANCE TO AMEND CHAPTER 1 OF TITLE 7 OF THE CODE OF  
SHEPHERDSTOWN, WEST VIRGINIA, SECTION 7-109 RELATING TO FALSELY  
REPORTING AN EMERGENCY INCIDENT**

THE SHEPHERDSTOWN TOWN COUNCIL ORDAINS:

Chapter 1, Title 7 of the Code of Shepherdstown is hereby amended by revising Section 7-109 relating to false reporting of an emergency incident to conform with the standards set forth in W. Va. Code § 61-6-20. Accordingly, Chapter 1, Title 7 of the Code of Shepherdstown is amended and revised as follows:

**Section 7-109. Falsely reporting an emergency incident.**

A person is guilty of reporting a false emergency incident when knowing the information reported, conveyed or circulated is false or baseless, he or she:

- (1) Initiates or circulates a false report or warning of or impending occurrence of a fire, explosion, crime, catastrophe, accident, illness or other emergency under circumstances in which it is likely that public alarm or inconvenience will result or that firefighting apparatus, ambulance apparatus, one or more rescue vehicles or other emergency apparatus might be summoned; or
- (2) Reports, by word or action, to any official or quasi-official agency or organization having the function of dealing with emergencies involving danger to life or property, an alleged occurrence or impending occurrence of a fire, explosion, crime, catastrophe, accident, illness or other emergency in which it is likely that public alarm or inconvenience will result or that firefighting apparatus, ambulance apparatus, one or more rescue vehicles or other emergency apparatus might be summoned, which did not occur, does not in fact exist; or
- (3) Reports to a law-enforcement officer or agency the alleged occurrence of any offense or incident which did not in fact occur or an allegedly impending occurrence of an offense or incident which is not in fact about to occur or false information relating to an actual offense or incident or to the alleged implication of some person therein; or
- (4) Without just cause, calls or summons by telephone, fire alarm system or otherwise, any firefighting apparatus, ambulance apparatus, rescue vehicles or other emergency vehicles.

Any person who violates this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than five hundred dollars or confined in the regional jail not more than thirty days, or both.

Authority: W. Va. Code Ann. § 61-6-20.



First Reading: September 14, 2021

Second Reading: \_\_\_\_\_

Adopted: \_\_\_\_\_

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Mayor

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Recorder

**AN ORDINANCE TO AMEND CHAPTER 1 OF TITLE 7 OF THE CODE OF  
SHEPHERDSTOWN, WEST VIRGINIA, SECTION 7-110 RELATING TO RIOTS AND  
UNLAWFUL ASSEMBLAGES**

THE SHEPHERDSTOWN TOWN COUNCIL ORDAINS:

Chapter 1, Title 7 of the Code of Shepherdstown is hereby amended by revising Section 7-110 relating to riots and unlawful assemblages to conform with the standards set forth in W. Va. Code § 61-6-1 and W. Va. Code § 61-6-1a. Accordingly, Chapter 1, Title 7 of the Code of Shepherdstown is amended and revised as follows:

**Section 7-110. Riots and unlawful assemblages.**

The mayor may suppress riots, routs and unlawful assemblages in this Town. It shall be the duty of the mayor to go among, or as near as may be with safety, to persons riotously, tumultuously, or unlawfully assembled, and in the name of the law command them to disperse; and if they shall not thereupon immediately and peaceably disperse, the mayor giving the command, and any other present, shall command the assistance of all persons present, and of all or any part of other law-enforcement personnel available to him or her, as need be, in arresting and securing those so assembled. If any person present, on being required to give his or her assistance, depart, or fail to obey, he or she shall be deemed a rioter. The mayor, and those acting under his or her order, may, when engaged in suppressing a riot, rout or unlawful assemblage, cordon off any area or areas threatened by such riot, rout or unlawful assemblage, and may take all actions which are necessary and reasonable under the emergency to restore law and order, and such actions may be, but are not limited to, the following:

- (a) Prohibit the sale, offering for sale, dispensing, furnishing, or transportation of firearms or other dangerous weapons, ammunition, dynamite, or other dangerous explosives in, to or from such areas.
- (b) Prohibit the sale, offering for sale, dispensing, furnishing, or consumption of alcoholic beverages or nonintoxicating beer in a public place in such areas, and prohibit the transportation of alcoholic beverages or nonintoxicating beer in, to, or from such areas.
- (c) Impose curfews, as required, to control movement of persons in, to, and from such areas.
- (d) Enter a private dwelling or other building or other private place in such areas when in fresh pursuit of a rioter, when in search of a sniper who has fired upon a person from such a dwelling or other building or place or when in search of firearms, other dangerous weapons, ammunition, dynamite, or other dangerous explosives when there is reason to believe that such items are stored in the said dwelling, building, or place and that they will be removed therefrom before a search warrant could be obtained.

No person shall willfully fail to obey a lawful order of the mayor, and those acting under his or her order, given pursuant to this section.

Any person who violates an order given pursuant to the authority of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$500, or imprisoned in the regional jail not more than thirty days, or both.

Authority: W. Va. Code Ann. § 61-6-1; W. Va. Code Ann. § 61-6-1a

First Reading: September 14, 2021

Second Reading: \_\_\_\_\_

Adopted: \_\_\_\_\_

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Mayor

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Recorder

**AN ORDINANCE TO CREATE AND ADOPT 7-501 OF CHAPTER 5, TITLE 7 OF THE  
CODE OF SHEPHERDSTOWN TO MAKE IT UNLAWFUL TO LITTER AND TO  
ESTABLISH PENALTIES FOR VIOLATIONS**

**THE SHEPHERDSTOWN TOWN COUNCIL ORDAINS:**

Chapter 5 of Title 7 of the Shepherdstown Code is hereby created and adopted by adding Section 7-501 entitled "*Unlawful disposal of litter; civil and criminal penalty*," to make it an offense to litter, and to establish penalties and guidelines for such violations. Said ordinance is expressly authorized by W. Va. Code § 22-15A-4. Accordingly, Section 7-501, Chapter 5 of Title 7 is to read as follows:

**Section 7-501: Unlawful disposal of litter; civil and criminal penalty.**

(a) (1) A person may not place, deposit, dump, throw, or cause to be placed, deposited, dumped, or thrown any litter as defined in West Virginia Code §22-15A-2, in or upon any public or private highway, road, street, or alley; any private property; any public property; or the waters of the state or within 100 feet of the waters of this state, except in a proper litter or other solid waste receptacle.

(2) A person may not place, deposit, dump, throw, or cause to be placed, deposited, dumped, or thrown any litter from a motor vehicle or other conveyance or perform any act which constitutes a violation of the motor vehicle laws contained in the Shepherdstown Code.

(3) If any litter is placed, deposited, dumped, discharged, thrown, or caused to be placed, deposited, dumped, or thrown from a motor vehicle, boat, airplane, or other conveyance, it is prima facie evidence that the owner or the operator of the motor vehicle, boat, airplane, or other conveyance intended to violate the provisions of this section.

(4) Any person who violates the provisions of this section by placing, depositing, dumping, or throwing or causing to be placed, deposited, dumped, or thrown any litter on his or her private property in an amount not exceeding 50 pounds in weight is not subject to the criminal provisions of this section.

(5) Any person who violates the provisions of this section by placing, depositing, dumping, or throwing or causing to be placed, deposited, dumped, or thrown any litter, not collected for commercial purposes, in an amount not exceeding 100 pounds in weight or 27 cubic feet in size, is guilty of a misdemeanor. Upon conviction, he or she is subject to a fine of not less than \$100 nor more than \$2,500, or in the discretion of the court, sentenced to perform community service by cleaning up litter from any public highway, road, street, alley, or any other public park or public property, or waters of the state, as designated by the court, for not less than eight nor more than 100 hours, or both. If any person is convicted of the misdemeanor by placing, depositing, dumping, or throwing litter in the waters of the state, that person shall be fined not less than \$500 nor more than \$3,000, or in the discretion of the court sentenced to perform community service by cleaning up litter from any waters of the state, as designated by the court, for not less than 20 hours nor more than 120 hours, or both.

(6) Any person who violates the provisions of this section by placing, depositing, dumping, or throwing or causing to be placed, deposited, dumped, or thrown any litter, not collected for commercial purposes, in an amount greater than 100 pounds in weight or 27 cubic feet in size, but less than 500 pounds in weight or 216 cubic feet in size is guilty of a misdemeanor. Upon conviction, he or she is subject to a fine of not less than \$2,500 nor more than \$5,000, or in the discretion of the court, may be sentenced to perform community service by cleaning up litter from any public highway, road, street, alley, or any other public park or public property, or waters of the state, as designated by the court, for not less than 16 hours nor more than 200 hours, or both. If any person is convicted of the misdemeanor by placing, depositing, dumping, or throwing litter in the waters of the state, that person shall be fined not less than \$3,000 nor more than \$5,500, or in the discretion of the court sentenced to perform community service by cleaning up litter from any waters of the state, as designated by the court, for not less than 20 hours nor more than 220 hours, or both.

(7) Any person who violates the provisions of this section by placing, depositing, dumping, or throwing or causing to be placed, deposited, dumped, or thrown any litter in an amount greater than 500 pounds in weight or 216 cubic feet in size or any amount which had been collected for commercial purposes is guilty of a misdemeanor. Upon conviction, the person shall be fined not less than \$2,500 nor more than \$25,000 or confinement in jail for not more than thirty (30) days, or both. If any person is convicted of the misdemeanor by placing, depositing, dumping, or throwing litter in the waters of the state, that person shall be fined not less than \$3,000 nor more than \$11,000, or confinement in jail for not more than thirty (30) days, or both. In addition, he or she may be guilty of creating or contributing to an open dump as defined in West Virginia Code §22-15-2 and subject to the enforcement provisions of West Virginia Code §22-15-15.

(8) Any person convicted of a second or subsequent violation of this section is subject to double the authorized range of fines and community service for the subsection violated.

(9) The sentence of litter clean up shall be verified by environmental inspectors from the Department of Environmental Protection. Any defendant receiving the sentence of litter clean up shall provide, within a time to be set by the court, written acknowledgment from an environmental inspector that the sentence has been completed and the litter has been disposed of lawfully.

(10) Any person who has been found by the court to have willfully failed to comply with the terms of a litter clean-up sentence imposed by the court pursuant to this section is subject to, at the discretion of the court, double the amount of the original fines and community service penalties originally ordered by the court.

(11) All law-enforcement agencies, officers, and environmental inspectors shall enforce compliance with this section within the limits of each agency's statutory authority.

(12) The municipal court judge may not dismiss an action brought under the provisions of this section without notification to the Town attorney of his or her intention to do so and affording the Town attorney an opportunity to be heard.

(13) No portion of this section restricts an owner, renter, or lessee in the lawful use of his or her own private property or rented or leased property or prohibits the disposal of any industrial and other wastes into waters of this state in a manner consistent with the provisions of West Virginia Code §22-11-1 *et seq.* But if any owner, renter, or lessee, private or otherwise, knowingly permits any of these materials or substances to be placed, deposited, dumped, or thrown in a location that high water or normal drainage conditions will cause these materials or substances to wash into any waters of the state, it is prima facie evidence that the owner, renter, or lessee intended to violate the provisions of this section: *Provided*, That if a landowner, renter, or lessee, private or otherwise, reports any placing, depositing, dumping, or throwing of these substances or materials upon his or her property to the Town of Shepherdstown, the Town attorney, the Jefferson County Commission, the Division of Natural Resources, or the Department of Environmental Protection, the landowner, renter, or lessee will be presumed to not have knowingly permitted the placing, depositing, dumping, or throwing of the materials or substances.

(b) Any indication of ownership found in litter is prima facie evidence that the person identified violated the provisions of this section: *Provided*, That no inference may be drawn solely from the presence of any logo, trademark, trade name, or other similar mass reproduced things of identifying character appearing on the found litter.

(c) (1) Every person who is convicted of or pleads guilty to disposing of litter in violation of subsection (a) of this section shall pay a civil penalty of not less than \$200 nor more than \$2,000 as costs for clean up, investigation, and prosecution of the case, in addition to any other court costs that the court is otherwise required by law to impose upon a convicted person.

(2) The Clerk of the municipal court in which these additional costs are imposed shall, on or before the last day of each month, transmit 50 percent of a civil penalty received pursuant to this section to the State Treasurer for deposit in the State Treasury to the credit of a special revenue fund known as the Litter Control Fund which was transferred to the Department of Environmental Protection. Expenditures for purposes set forth in this section are not authorized from collections but are to be made only in accordance with appropriation and in accordance with the provisions of West Virginia Code §12-3-1 *et seq.* and upon fulfillment of the provisions set forth in West Virginia Code §5A-2-1 *et seq.* Amounts collected which are found from time to time to exceed the funds needed for the purposes set forth in this article may be transferred to other accounts or funds and designated for other purposes by appropriation of the Legislature.

(d) The remaining 50 percent of each civil penalty collected pursuant to this section shall be transmitted to Jefferson County or its regional solid waste authority where the litter violation occurred. Moneys shall be expended by the county or regional solid waste authority for the purpose of litter prevention, clean up, and enforcement.

(a)(1) No person shall place, deposit, dump, throw or cause to be placed, deposited, dumped or thrown any litter as defined by W. Va. Code § 22-15A-2, in or upon any public or private highway, road, street or alley; any private property; any public property; or the waters of the



Town or within one hundred feet of the waters of this Town, except in a proper litter or other solid waste receptacle.

(2) It is unlawful for any person to place, deposit, dump, throw or cause to be placed, deposited, dumped or thrown any litter from a motor vehicle or other conveyance or to perform any act which constitutes a violation of the motor vehicle laws contained in section fourteen, article fourteen, chapter seventeen-c of the West Virginia Code.

(3) If any litter is placed, deposited, dumped, discharged, thrown or caused to be placed, deposited, dumped or thrown from a motor vehicle, boat, airplane or other conveyance, it is prima facie evidence that the owner or the operator of the motor vehicle, boat, airplane or other conveyance intended to violate the provisions of this section.

(4) Any person who violates the provisions of this section by placing, depositing, dumping or throwing or causing to be placed, deposited, dumped or thrown any litter, not collected for commercial purposes, in an amount not exceeding one hundred pounds in weight or twenty-seven cubic feet in size, is guilty of a misdemeanor. Upon conviction, he or she is subject to a fine of not less than \$100 nor more than \$1,000, , or in the discretion of the court, sentenced to perform community service by cleaning up litter from any public highway, road, street, alley or any other public park or public property, or waters of the state, as designated by the court, for not less than eight nor more than sixteen hours, or both.

(5) Any person who violates the provisions of this section by placing, depositing, dumping or throwing or causing to be placed, deposited, dumped or thrown any litter, not collected for commercial purposes, in an amount greater than one hundred pounds in weight or twenty-seven cubic feet in size, but less than five hundred pounds in weight or two hundred sixteen cubic feet in size is guilty of a misdemeanor. Upon conviction he or she is subject to a fine of not less than \$1,000 nor more than \$2,000, or in the discretion of the court, may be sentenced to perform community service by cleaning up litter from any public highway, road, street, alley or any other public park or public property, or waters of the state, as designated by the court, for not less than sixteen nor more than thirty-two hours, or both.

(6) Any person who violates the provisions of this section by placing, depositing, dumping or throwing or causing to be placed, deposited, dumped or thrown any litter in an amount greater than five hundred pounds in weight or two hundred sixteen cubic feet in size or any amount which had been collected for commercial purposes is guilty of a misdemeanor. Upon conviction, the person is subject to a fine not less than \$2,500 or not more than \$25,000 or confinement in jail for not more than one year or both.

(7) Any person convicted of a second or subsequent violation of this section is subject to double the authorized range of fines and community service for the subsection violated.

(8) The sentence of litter clean up shall be verified by an official from the Town. Any defendant receiving the sentence of litter clean up shall provide, within a time to be set by the court, written acknowledgment from a Town official that the sentence has been completed and the litter has been disposed of lawfully.

(9) Any person who has been found by the court to have willfully failed to comply with the terms of a litter clean up sentence imposed by the court pursuant to this section is subject to, at the discretion of the court, double the amount of the original fines and community service penalties originally ordered by the court.

(11) No portion of this section restricts an owner, renter or lessee in the lawful use of his or her own private property or rented or leased property or to prohibit the disposal of any industrial and other wastes into waters of this state in a manner consistent with the provisions of article eleven, chapter twenty-two of the West Virginia Code. But if any owner, renter or lessee, private or otherwise, knowingly permits any such materials or substances to be placed, deposited, dumped or thrown in such location that high water or normal drainage conditions will cause any such materials or substances to wash into any waters of the state, it is prima facie evidence that the owner, renter or lessee intended to violate the provisions of this section: Provided, That if a landowner, renter or lessee, private or otherwise, reports any placing, depositing, dumping or throwing of these substances or materials upon his or her property to the prosecuting attorney, county commission, the Division of Natural Resources or the Department of Environmental Protection, the landowner, renter or lessee will be presumed to not have knowingly permitted the placing, depositing, dumping or throwing of the materials or substances.

(b) Any indication of ownership found in litter shall be prima facie evidence that the person identified violated the provisions of this section: Provided, That no inference may be drawn solely from the presence of any logo, trademark, trade name or other similar mass reproduced things of identifying character appearing on the found litter.

(c) Every person who is convicted of or pleads guilty to disposing of litter in violation of subsection (a) of this section shall pay a civil penalty in the sum of not less than \$200 nor more than \$1,000 as costs for clean up, investigation and prosecution of the case, in addition to any other court costs that the court is otherwise required by law to impose upon a convicted person.

(d) Pursuant to W. Va. Code § 22-15A-4(c), the clerk of the municipal court in which these additional costs are imposed, as set forth in subsection (c), shall, on or before the last day of each month, transmit fifty percent of a civil penalty received pursuant to this section to the State Treasurer for deposit in the State Treasury to the credit of a special revenue fund to be known as the Litter Control Fund. The remaining fifty percent of each civil penalty collected pursuant to this section shall be transmitted to the county or regional solid waste authority in Jefferson County.

Authority: W. Va. Code § 22-15A-4.

First Reading: September 14, 2021

Second Reading: \_\_\_\_\_

Adopted: \_\_\_\_\_

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Mayor

Recorder

12959865.1

**AN ORDINANCE TO ADOPT  
CHAPTER 6, TITLE 7 OF THE CODE OF SHEPHERDSTOWN IN ACCORDANCE  
WITH THE CODE OF THE STATE OF WEST VIRGINIA.**

THE SHEPHERDSTOWN TOWN COUNCIL ORDAINS:

Chapter 6 of Title 7 of the Shepherdstown Code is hereby created and adopted by adding Section 7-602 entitled "*Shoplifting defined*," Section 7-603 entitled "*Evidence*," Section 7-604 entitled "*Penalties*," and Section 7-605 entitled "*Definitions*." These ordinances make it an offense to shoplift, and establish penalties and guidelines for such violations. Said ordinances are expressly authorized by W. Va. Code § 61-3A-1; § 61-3A-2; § 61-3A-3; § 61-3A-6. Accordingly, Section 7-602, 7-603, 7-604, and 7-605 of Chapter 6 of Title 7 is to read as follows:

**7-602. Shoplifting defined.**

(a) A person commits the offense of shoplifting if, with intent to appropriate merchandise without paying the merchant's stated price for the merchandise, such person, alone or in concert with another person, knowingly:

- (1) Conceals the merchandise upon his or her person or in another manner; or
- (2) Removes or causes the removal of merchandise from the mercantile establishment or beyond the last station for payment; or
- (3) Alters, transfers or removes any price marking affixed to the merchandise; or
- (4) Transfers the merchandise from one container to another; or
- (5) Causes the cash register or other sales recording device to reflect less than the merchant's stated price for the merchandise; or
- (6) Removes a shopping cart from the premises of the mercantile establishment; or
- (7) Repudiates a card-not-present credit or debit transaction after having taken delivery of merchandise ordered from the merchant and does not return the merchandise or attempt to make other arrangements with the vendor.

(b) A person also commits the offense of shoplifting if such person, alone or in concert with another person, knowingly and with intent obtains an exchange or refund or attempts to obtain an exchange or refund for merchandise which has not been purchased from the mercantile establishment.

### **7-603. Evidence.**

(a) Evidence of stated price or ownership of merchandise may include, but is not limited to:

- (1) The actual merchandise alleged to have been shoplifted; or
- (2) The unaltered content of the price tag or marking from such merchandise; or
- (3) Properly identified photographs of such merchandise.

(b) Any merchant may testify at a trial as to the stated price or ownership of merchandise, as well as to other matters pertaining to the case.

### **7-604. Penalties.**

A person convicted of shoplifting shall be punished as follows:

(a) First offense conviction. -- Upon a first shoplifting conviction:

(1) When the value of the merchandise is less than or equal to five hundred dollars, the person is guilty of a misdemeanor and shall be fined not more than two hundred fifty dollars.

(2) When the value of the merchandise exceeds five hundred dollars, the person is guilty of a misdemeanor and shall be fined not less than one hundred dollars nor more than five hundred dollars, or the person shall be confined in jail not more than thirty days, or both.

(b) Second offense conviction. -- Upon a second shoplifting conviction:

(1) When the value of the merchandise is less than or equal to five hundred dollars, the person is guilty of a misdemeanor and shall be fined not less than one hundred dollars nor more than five hundred dollars, or the person shall be confined in jail not more than thirty days, or both.

(2) When the value of the merchandise exceeds five hundred dollars, the person is guilty of a misdemeanor and shall be fined not less than five hundred dollars or shall be confined in jail for not more than thirty days, or both.

(d) Mandatory penalty. -- In addition to the fines and imprisonment imposed by this section, in all cases of conviction for the offense of shoplifting, the court shall order the defendant to pay a penalty to the mercantile establishment involved in the amount of fifty dollars, or double the value of the merchandise involved, whichever is higher. The mercantile establishment shall be entitled to collect such mandatory penalty as in the case of a civil judgment. This penalty shall be in addition to the mercantile establishment's rights to recover the stolen merchandise.

(e) In determining the number of prior shoplifting convictions for purposes of imposing punishment under this section, the court shall disregard all such convictions occurring more than seven years prior to the shoplifting offense in question.

**7-605. Definitions.**

- (a) "Card-not-present credit or debit transaction" means a credit or debit sale of merchandise by telephone, mail order, internet or other means that does not require the cardholder's signature or physical presentation of the credit or debit card to the merchant.
- (b) "Conceal" means to hide, hold or carry merchandise so that, although there may be some notice of its presence, it is not visible through ordinary observation.
- (c) "Merchant" means an owner or operator of any mercantile establishment and includes the merchant's employees, servants, security agents or other agents.
- (d) "Mercantile establishment" means any place where merchandise is displayed, held or offered for sale, either at retail or wholesale. "Mercantile establishment" does not include adjoining parking lots or adjoining areas of common use with other establishments.
- (e) "Merchandise" means any goods, foodstuffs, wares or personal property, or any part or portion thereof of any type or description displayed, held or offered for sale, or a shopping cart.
- (f) "Value of the merchandise" means the merchant's stated price of the merchandise, or, in the event of altering, transferring or removing a price marking or causing a cash register or other sales device to reflect less than the retail value of the merchandise, as defined in section one of this article, the difference between the merchant's stated price of the merchandise and the altered price.

References: W. Va. Code § 61-3A-1; § 61-3A-2; § 61-3A-3; § 61-3A-4; § 61-3A-6.

First Reading: September 14, 2021

Second Reading: \_\_\_\_\_

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Recorder

**AN ORDINANCE TO ENACT  
SECTION 12C-1009 OF CHAPTER 10, TITLE 12C OF THE CODE OF  
SHEPHERDSTOWN REGARDING STEALING FROM OR TAMPERING WITH ANY  
PARKING METER, VENDING MACHINE, PAY TELEPHONE, CASH MACHINE,  
ETC.**

THE SHEPHERDSTOWN TOWN COUNCIL ORDAINS:

Chapter 10, Title 12C of the Code of Shepherdstown is hereby amended by enacting Section 12C-1009 to establish the offense of stealing or tampering with any parking meter, vending machine, pay telephone, cash machine, money changing machine, etc. and to set forth a specific penalty for violations.

**Section 12C-1009. Stealing from or tampering with any parking meter, vending machine, pay telephone, cash machine, etc.**

Any person who enters, forces or attempts to force an entrance into, tampers with, or inserts any part of an instrument, into any parking meter, vending machine, pay telephone, cash machine, money changing machine, or any other device designed to receive money, with intent to steal therefrom, is guilty of a misdemeanor, and upon conviction thereof shall be fined not more than three hundred dollars.

First Reading: September 14, 2021

Second Reading: \_\_\_\_\_

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Recorder

Request for Proposals  
For  
Corporation of Shepherdstown Website



Corporation of Shepherdstown  
104 North King Street  
Shepherdstown, WV 25443  
(304) 876 2312  
[www.shepherdstown.us](http://www.shepherdstown.us)

## **Overview**

The purpose of soliciting proposals is to identify a provider for replacing, hosting and providing support for the website of the Corporation of Shepherdstown (Town). The website ([www.shepherdstown.us](http://www.shepherdstown.us)) was developed and is currently hosted by a third party. The successful proposer will be invited to work with a team appointed by the Town Council to develop a final proposal and contract that will be presented to the Town Council for final review and approval.

The Town is a small municipality (about 2000 residents) in Jefferson County, which is in the Eastern Panhandle section of West Virginia.

## **Contacts**

Questions related to this project may be addressed to:

Amy Boyd  
Town Clerk  
[clerk@shepherdstown.us](mailto:clerk@shepherdstown.us)

Jim Ford  
Town Council  
[jim.ford@shepherdstown.us](mailto:jim.ford@shepherdstown.us)

## **Objectives**

The primary purpose of the website is to act as a communication platform between Town government and Town residents. With that in mind, the primary goal of this project is to facilitate that communication.

The redesigned website must provide all the information that is available on the Town's current site and should have the capability to provide much more.

The website will be maintained and updated by Town administrative personnel. While they all have some level of expertise in computer usage it should be assumed that they are not IT professionals. Therefore, another important goal of this project is ease of use.

## **Mandatory Requirements**

The new website must include all the capabilities of the current website. These include:

- List of Town-related News items.
- Events Calendar
- Separate pages for the Town Council and each Committee that include all the pertinent information including (but not limited to):
  - Committee member names and contact information.
  - List of scheduled and past meetings including links to agendas and minutes.
- Separate pages for each of the Town departments.
- Links to access Town Ordinances, Forms, Bill Payment, Parking Information, etc.
- Embedded social media links and/or feeds.

Note that this list is not meant to be exhaustive. The prospective vendor should view the site ([www.shepherdstown.us](http://www.shepherdstown.us)) to determine the complete list of current capabilities.

The new website must be usable from all the generally available desktop and mobile devices.

The new website must function correctly when used with all the major browsers.

The new website must be easily maintainable by the Town's administrative personnel. This includes minor changes (e.g. adding a calendar event, a news item or a new meeting for a committee) and more significant changes (e.g. creating a new page(s) and adding a link to it from an existing page).

The new website must be easy for users to navigate and search.

The new website must meet emerging industry standard guidelines for security, privacy and accessibility.

## **Optional Requirements**

While it is not absolutely necessary that the requirements in this section be addressed by a proposal, those that do address them will be considered more favorably.

The new website should provide a 311 system capability; i.e. pages on the site which allow Town residents to post non-emergency questions or report non-emergency situations that require municipal attention.

The new website should provide the ability for Town departments such as Police, Water, Sewer, Waste Management, Streets, etc. to have their own sub-sites.

The new website should provide the ability to maintain various ad-hoc email lists based on subject matter. For example, a Town resident interested in the finances of the Town should be able to register to receive emails whenever a Finance committee agenda or minutes is posted on the website.



## **Additional Features**

Availability of additional website features not detailed above should be included in the proposal and will be considered when evaluating proposals.

## **Budget**

Each proposal should specify the one-time cost of getting the new website up and running. This should include all design and implementation efforts and also training of the Town's administrative staff. This cost should not exceed \$10,000.

Each proposal should also include the ongoing annual cost of hosting and supporting the website.

## **Timeline**

TBD - How much time should elapse between award of the contract and delivery of the website. Intermediate milestones prior to final delivery might also be specified.

## **Proposal Submittal Instructions**

TBD - how proposals should be submitted (written, electronically submitted ...)? How many copies if written? What is the cut-off date for proposals?

## **Terms and Conditions**

Mostly legal content - provided by Town Attorney.

Should include, at a minimum, things like:

How will the contract be awarded?

How will payments be made?

What will be the legal and financial responsibilities of the vendor?

## **PUBLIC WORKS COMMITTEE MINUTES**

**Monday, September 20, 2021**

**9:00 a.m.**

**Town Hall – In person**

**104 North King Street**

1. Call to Order – 9:03am – Jim A., Jim F. Chris S.; Staff – Frank W.
2. Reading and approval of minutes -- Jim F. motion to approve Aug., 2021 Minutes, approved.
3. Visitors – None.
4. Public Comment – None.
5. Unfinished Business:
  - a. International Property and Maintenance Code:
    1. 332 W. German Street – Waiting on second engineering report.
    2. 105 Ray Street – Good progress is being made.
    3. 349 W. German Street – Unable to reach, second notice to be sent.
    4. 103 Race Street – Notice sent, follow up in 30 days.
  - b. Trash in alleys – On-going; Queen Alley looks good, Back Alley needs work.
  - c. Recycling Grant – Will apply in April, 2022; Committee considered the recommendation from David Rosen regarding a central location for glass recycling. We have 2 years left on the grant recycling program, Frank not sure we can modify collection until grant runs out. Frank and the Committee to explore all such options in spring, 2022.
  - d. Rt. 45 project – Applied for alternate transportation grant – no update.
  - e. Sidewalks – shared cost program has been approved.
  - f. Ken Clohan projects: projects and updates – No update:
    - \*Washington Street - partially paved and improved, handicap corners to be installed;
    - \*German Street - pave Princess to Mill Street;
    - \*Princess Street dip - bridge crew to assess;
    - \*Duke Street - water problem – ponding;
    - \*Re-do crosswalk decals - partially completed - few more to complete;
    - \*New entry – check German St. at crossing of “Town Run”;
    - \*New entry – Jay Hurley’s request – Rt. 230 – enclosure.

- g. Garbage and recycling rates – Special Meeting to be held in Jan. 2022, will add glass recycling issues to this agenda.
  - h. LED lights – Feedback has been positive.
- 6. New Business: None.
  - 7. Mayor's Report: None.
  - 8. Next Meeting: 10/25/21, 9am, at Town Hall.
  - 9. Adjournment: Jim F. motion to adjourn, approved.

## Minutes

Shepherdstown Parks & Recreation - September 28, 2021

6:00 p.m.

Town Hall

### 1. Call to Order:

Meeting Called to Order at 6:04 PM.

Members Present: Cheryl Roberts (Chair), Lori Robertson, Nick Tully, & Jenny Haynes all in person, Marty Amerikaner, Effie Kallas both virtually.

Members Absent: Jenny Haynes.

Staff: Frank Welch.

### 2. Approval of Agenda:

**MOTION** to approve the agenda made by Lori second by Jenny. Motion carried without objections.

### 3. Approval of Minutes:

**MOTION**, made by Lori, to approve the Minutes from August 24, 2021. Second by Tully. Motion passed without objections.

### 4. Welcome Visitors: No visitors.

### 5. Unfinished Business:

#### a. Bane-Harris Park - C. Roberts

Cheryl reports that a huge tree branch fell either this morning or last night. The branch is lying across the paved path and resting on the fence. Frank will look at it tomorrow and check to see if the remaining part of the tree is stable.

Cheryl suggests that this spring we investigate having the fence painted. Cars cut close to the fence accessing the alley. It's a narrow alley and a tight turn.

b. Cullison Park - M. Amerikaner

i. Playground Equipment Replacement "Toy" Follow-up - Frank reports that he received a quote of \$1,535.87 to replace the toy. This does not count installation. Installation was quoted to him as costing an extra \$600.00. He suspects that if the seller installs the equipment, we may get a better warranty.

**MOTION**, made by Lori, that we expend the funds in the Parks & Rec account to buy and install the toy. Second by Marty. Motion passed unanimously.

Marty reports that Noble will be available to meet with us regarding the walking path in Cullison.

c. Rumsey Park - N. Tully

Tully reports that the park looks good. Lori reports that a tree is dead near the parking spaces and should be removed. It looks to be a Holly species. She suggests that the Tree Commission remove the tree.

d. Viola Devonshire - L. Robertson

Lori reports that the park looks good. The neighbors in Shepherd Village have been faithfully taking care of the park, spreading mulch, etc.

e. Riverfront Park - J. Haynes

Jenny reports that the park is busy and that the picnic bench receives regular use by the public. Frank procured maps of the park. The park begins at a point at Town Run and broadens toward the river. Town owns approximately 87' of riverfront.

f. Bookmark The Park - E. Kallas & C. Roberts

i. Past & Future Events

Cheryl volunteers to take on the publicity for next year. Ideas for next year include:

1. Balloons and games for kids.
2. Procuring a musician, paid by a sponsor, to perform.
3. Asking the children's librarian to come and conduct a reading for kids.

4. Asking the librarian to come and offer a program for adults about new or favorite books.

5. A spin-off program centered around music and featuring larger musical groups like the Shepherdstown Middle School Jazz Band, Friends of Music, Shepherd University Music Department, etc., could be started next year. Possible names for this new program could be "Bookmark the Date".

ii. Artist Gift Presentation - Cheryl reports that she will contact Jason Enterline, the artist who created the "Bookmark the Park" logo, regarding his gift of appreciation from the Committee.

g. Park & Rec Facebook Page - L. Robertson

Lori has a copy of the "Bookmark the Park" art and can drop a post as soon as she receives text ready content.

h. Community Survey Action Plan.

Cheryl reports that the survey was a loud vote from the community for more walking paths. Thank you to Marty for suggesting a new path around Cullison Park.

6. New Business:

- a. Walking Path Proposal - Cullison Park. Frank will get maps of the park.
- d. Future Meeting Topics.

7. Next Meeting: October 26, 2021.

8. Adjournment

**MOTION** to adjourn meeting made by Lori.

Adjournment: 6:41 pm.

Respectfully Submitted by Secretary Effie Kallas.

Approved: Cheryl Roberts, Chairperson



Historic Landmark's Commission September 13, 2021 – Regular Meeting



Draft Minutes

**Members Present:** Bruce Massey – Chairman; Keith Alexander; T. Nicole Saunders-Meske;

**Members Not Present:** Jim Broomall; Carmen Slater

**Staff:** Andy Beall

**Visitors:** Jim Auxer; Jim King; James Gatz; Benjamin Bankhurst; Edith Thompson; Pastor Karen Erskine-Valentine; Suzanne Offutt; Gene Kelley; Sara Lambert; Alicia McCormick; Haydn Rudolph; Steve Pearson

**Call to Order:** 6:00 p.m.

**Approval of Minutes:** 8/9/2021 **Approved**

**Conflicts of Interest:** None

**Application Review:** K. Alexander recuses himself on application #21-32

Previous Applications:		Project Description
21-18	James Gatz	Add sliding glass door, stoop & stairs to enclosed porch (previously approved) and amendment to use fiberglass windows in addition.
	215 W. New Street	
<i>The applicant is present and describes the proposed alterations. The plan is to add the (2) sliding glass doors next to (2) full length windows egressing onto a small wooden porch and stairs directly to the rear. B. Massey and K. Alexander both voice the fact the project location is minimally visible from the public right-of-way. J. Gatz also states he would like to use fiberglass instead of wood windows in the new addition. J. King states that fiberglass windows look very much like wood and takes no issues with the change in material. B. Massey reads from the historic guidelines, page 58(I) which states: "Windows: While wood construction is preferred for windows, the use of vinyl clad, or aluminum clad windows is acceptable so long as the dimensions are compatible with historic window openings. Dark tinted windows or windows with reflective glass and coatings should not be used if they are in the public view." B. Massey continues that while the guidelines do not specifically mention fiberglass, that its use would be acceptable.</i>		
Notes:		
Motion:	<i>K. Alexander motions to approve the design changes as amended pursuant to page 58 of the Shepherdstown Historic District Design Guidelines, guideline (I); no objections and motion passed unanimously.</i>	

New Applications:		Project Description
21-32	Benjamin Bankhurst	Enclose side rear porch with matching German Lap siding and wood windows.
	106 W. Washington Street	

Historic Landmark's Commission September 13, 2021 – Regular Meeting



Draft Minutes

<i>The applicant is present and describes the proposed porch enclosure. He states that it is his desire to use casement windows. The Commission generally likes the design and materials of the proposed porch enclosure and given the inability to view the area from the public right-of-way, have no issues with the project.</i>	
<b>Notes:</b>	
<b>Motion:</b>	<i>N. Saunders-Meske motions to approve application #21-32 as presented with casement windows and pursuant to pages' 45 &amp; 58 of the Historic District Design Guidelines; no objections and motion passed unanimously.</i>

Workshop:

Edith Thompson – Wishes to fill in old cistern. The HLC unanimously agree the proposed infill of the old cistern is not a matter requiring their review.

St. Peters Parish House – Addition. Sara Lambert, the Church's architect presents a design for enlarging the parish house, originally presented at an HLC workshop in 2018. The addition would be to the rear and north of the existing parish house. Would propose Hardie Board siding on both the new addition and as a replacement for the existing vinyl siding on the parish house itself and fiberglass windows throughout. There will also be a proposal for rooftop solar panels. The HLC, in general, find the proposed addition to be tasteful and sympathetic to the historic district. They encourage the applicants to submit a formal application.

Continuing Business:

N/A

New Business:

N/A

Administrative Matters:

Carmen Slater has been approved by Town Council as new HLC commissioner.

Adjournment:

Motion to adjourn at 7:15 p.m.; no objections and passed unanimously.

AN ORDINANCE TO AMEND SECTION 9-905, SUBPART II, OF  
CHAPTER 9, TITLE 9 OF THE CODE OF SHEPHERDSTOWN, BY  
EXPANDING AND FURTHER DESCRIBING THE LEGAL  
REMEDIES AVAILABLE FOR VIOLATIONS OF THIS TITLE

THE SHEPHERDSTOWN TOWN COUNCIL ORDAINS:

Chapter 9, Title 9, Section 9-905, Subpart II, is hereby amended by expanding and further describing the legal remedies available for violations of Title 9 as follows:

**Section 9-905 Remedies and Penalties**

II. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, maintained or demolished or any building, structure or land is used in violation of this title, the appropriate authorities of The Corporation of Shepherdstown, in addition to other remedies, may institute injunction, mandamus, or other appropriate actions or proceedings, **including a stop work order, citation, or criminal prosecution**, to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, demolition or use, or to correct or abate such violation, or to prevent the occupancy of said building or land.

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Recorder