

**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 Zoom meetings, the Mayor will canvas attendees for those wishing to speak. Time limits will be imposed. Written comments and/or questions to be addressed at the meeting, must be submitted to [jimauxer@yahoo.com](mailto:jimauxer@yahoo.com) 24 hours before the meeting. 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).**

**Special Town Council Agenda  
Tuesday, March 5, 2024  
5:00 p.m.  
Town Hall  
104 North King Street**

THE MEETING IS STREAMED ON THE TOWN’S FACEBOOK PAGE  
“SHEPHERDSTOWN, WEST VIRGINIA”

1. Call to Order
2. Market House Renovation Contract – Discussion/Action
3. Proposal of “An Ordinance To Enact Chapter 8, Title 8 Of The Code Of Shepherdstown As The Special Events Ordinance” – Discussion/Action
4. Jay Hurley Last Will and Devise to the Town – executive session to discuss and to confer with legal counsel - Discussion/Action
5. Adjournment

# AIA® Document A101® – 2017

## ***Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum***

**AGREEMENT** made as of the Twentieth day of February in the year Two Thousand Twenty-four  
(In words, indicate day, month and year.)

**BETWEEN** the Owner:  
(Name, legal status, address and other information)

Town of Shepherdstown  
104 North King Street  
Shepherdstown, WV 25443

and the Contractor:  
(Name, legal status, address and other information)

Minghini's General Contractors, Inc.  
51 Trumpet Lane  
Martinsburg, WV 25404

for the following Project:  
(Name, location and detailed description)

Renovations of Old Market House, Shepherdstown, WV  
100 East German Street  
Shepherdstown, WV 25443  
Renovations to the Old Market House in Shepherdstown, WV

The Architect:  
(Name, legal status, address and other information)

The Mills Group  
122 East German Street  
Shepherdstown, WV 25443

The Owner and Contractor agree as follows.

### **ADDITIONS AND DELETIONS:**

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101®–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

## TABLE OF ARTICLES

1	THE CONTRACT DOCUMENTS
2	THE WORK OF THIS CONTRACT
3	DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
4	CONTRACT SUM
5	PAYMENTS
6	DISPUTE RESOLUTION
7	TERMINATION OR SUSPENSION
8	MISCELLANEOUS PROVISIONS
9	ENUMERATION OF CONTRACT DOCUMENTS

## EXHIBIT A INSURANCE AND BONDS

### ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

### ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

### ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:

*(Check one of the following boxes.)*

- ☐ The date of this Agreement.
- ☐ A date set forth in a notice to proceed issued by the Owner.
- ☒ Established as follows:  
*(Insert a date or a means to determine the date of commencement of the Work.)*

X Date of Commencement will begin upon receipt of Permits and Owner's Notice to Proceed

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

#### § 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

*(Check one of the following boxes and complete the necessary information.)*

☒ Not later than One hundred eighty days ( 180 ) calendar days from the date of commencement of the Work.

☐ By the following date:

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

**Portion of Work**

**Substantial Completion Date**

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

#### ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be Two Hundred Forty-five Thousand Two Hundred Dollars and Zero Cents (\$ 245,200.00 ), subject to additions and deductions as provided in the Contract Documents.

#### § 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

**Item**

**Price**

None

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.  
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

**Item**

**Price**

**Conditions for Acceptance**

NA

§ 4.3 Allowances, if any, included in the Contract Sum:  
(Identify each allowance.)

**Item**

**Price**

NA

§ 4.4 Unit prices, if any:

(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

**Item**

**Units and Limitations**

**Price per Unit (\$0.00)**

NA

§ 4.5 Liquidated damages, if any:

(Insert terms and conditions for liquidated damages, if any.)

\$250.00 per day

§ 4.6 Other:

(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

NA

## ARTICLE 5 PAYMENTS

### § 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the last day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the Fifteenth day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than Fifteen ( 15 ) days after the Architect receives the Application for Payment.

*(Federal, state or local laws may require payment within a certain period of time.)*

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

### § 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

*(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)*

5%

**§ 5.1.7.1.1** The following items are not subject to retainage:

*(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)*

**§ 5.1.7.2** Reduction or limitation of retainage, if any, shall be as follows:

*(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)*

**§ 5.1.7.3** Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

*(Insert any other conditions for release of retainage upon Substantial Completion.)*

**§ 5.1.8** If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

**§ 5.1.9** Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

## **§ 5.2 Final Payment**

**§ 5.2.1** Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

**§ 5.2.2** The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

## **§ 5.3 Interest**

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

*(Insert rate of interest agreed upon, if any.)*

%

## **ARTICLE 6 DISPUTE RESOLUTION**

### **§ 6.1 Initial Decision Maker**

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.

*(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*

## § 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

*(Check the appropriate box.)*

☒ [ X ] Arbitration pursuant to Section 15.4 of AIA Document A201–2017

☐ [ ] Litigation in a court of competent jurisdiction

☐ [ ] Other *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

## ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

§ 7.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:

*(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)*

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

## ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:

*(Name, address, email address, and other information)*

§ 8.3 The Contractor's representative:

*(Name, address, email address, and other information)*

Jacob Collis  
304-279-7602  
jcollis@minghinis.com  
Craig Collis  
304-263-9988  
ccollis@minghinis.com

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

#### § 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

*(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)*

§ 8.7 Other provisions:

#### ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor
- .2 AIA Document A101™–2017, Exhibit A, Insurance and Bonds
- .3 AIA Document A201™–2017, General Conditions of the Contract for Construction
- .4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:  
*(Insert the date of the E203-2013 incorporated into this Agreement.)*

.5 Drawings

Number	Title	Date
CS, G001, G002, G010, G020, G021, G040, D100, D101, A100, A102, A110, A200, A300, A400, A600, SD100, S100, M001, E100, P002	Market House	8/28/2023

.6 Specifications

Section	Title	Date	Pages
On Drawings & Appendix A	Market House/Scope of Work	8/28/2023	21

.7 Addenda, if any:

Number	Date	Pages
--------	------	-------

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

Init.



**.8 Other Exhibits:**

*(Check all boxes that apply and include appropriate information identifying the exhibit where required.)*

☐ AIA Document E204™-2017, Sustainable Projects Exhibit, dated as indicated below:  
*(Insert the date of the E204-2017 incorporated into this Agreement.)*

☐ The Sustainability Plan:

Title	Date	Pages
-------	------	-------

☐ Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
----------	-------	------	-------

**.9 Other documents, if any, listed below:**

*(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™-2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)*

This Agreement entered into as of the day and year first written above.

Town of Shepherdstown

Minghini's General Contractors, Inc.

\_\_\_\_\_  
**OWNER** *(Signature)*

\_\_\_\_\_  
**CONTRACTOR** *(Signature)*

\_\_\_\_\_  
*(Printed name and title)*

Craig H. Collis, President  
\_\_\_\_\_  
*(Printed name and title)*

Init.

# Additions and Deletions Report for

## AIA® Document A101® – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 14:24:00 ET on 02/13/2024.

### PAGE 1

**AGREEMENT** made as of the Twentieth day of February in the year Two Thousand Twenty-four

...

Town of Shepherdstown  
104 North King Street  
Shepherdstown, WV 25443

...

Minghini's General Contractors, Inc.  
51 Trumpet Lane  
Martinsburg, WV 25404

...

Renovations of Old Market House, Shepherdstown, WV  
100 East German Street  
Shepherdstown, WV 25443  
Renovations to the Old Market House in Shepherdstown, WV

...

The Mills Group  
122 East German Street  
Shepherdstown, WV 25443

### PAGE 2

[ X ] Established as follows:

...

X Date of Commencement will begin upon receipt of Permits and Owner's Notice to Proceed

### PAGE 3

[ X ] Not later than One hundred eighty days ( 180 ) calendar days from the date of commencement of the Work.

...

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be Two Hundred Forty-five Thousand Two Hundred Dollars and Zero Cents (\$ 245,200.00 ), subject to additions and deductions as provided in the Contract Documents.

...

None

...

NA

...

NA

...

NA

...

\$250.00 per day

...

NA

**PAGE 4**

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the last day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the Fifteenth day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than Fifteen ( 15 ) days after the Architect receives the Application for Payment.

...

5%

**PAGE 6**

☒ Arbitration pursuant to Section 15.4 of AIA Document A201-2017

...

Jacob Collis  
304-279-7602  
jcollis@minghinis.com  
Craig Collis  
304-263-9988  
ccollis@minghinis.com

**PAGE 7**

CS, G001, G002, G010, G020,  
G021, G040, D100, D101, A100,  
A102, A110, A200, A300, A400,  
A600, SD100, S100, M001, E100,  
P002

Market House

8/28/2023

...

On Drawings & Appendix A

Market House/Scope of  
Work

8/28/2023

21

**PAGE 8**

Town of Shepherdstown

Minghini's General Contractors, Inc.

...

Craig H. Collis, President

## ***Certification of Document's Authenticity***

***AIA® Document D401™ – 2003***

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 14:24:00 ET on 02/13/2024 under Order No. 4104243317 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A101™ – 2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, other than those additions and deletions shown in the associated Additions and Deletions Report.

---

*(Signed)*

---

*(Title)*

---

*(Dated)*

## AIA

ITEM NO.	DESCRIPTION OF WORK	SCHEDULED VALUE	WORK COMPLETED		STORED MATERIALS	TOTAL COMPLETED TO DATE	% COMP (G / C)	BALANCE TO FINISH (C – G)
	<b>MGC Schedule of Values</b>		Date - 2/13/24					
	<b>Project Name: Renovations of the Old Market House</b>		FROM PREVIOUS APPLICATIONS	REQUISTION THIS PERIOD				
1	Bond	\$3,485.00				\$0.00	0%	\$3,485.00
2	General Conditions	\$24,215.00				\$0.00	0%	\$24,215.00
3	Demolition	\$15,000.00				\$0.00	0%	\$15,000.00
4	Rough Carpentry	\$32,000.00				\$0.00	0%	\$32,000.00
5	Doors/Frames/Hardware	\$5,000.00				\$0.00	0%	\$5,000.00
6	Drywall	\$10,500.00				\$0.00	0%	\$10,500.00
7	Painting	\$6,000.00				\$0.00	0%	\$6,000.00
8	Lift	\$29,000.00				\$0.00	0%	\$29,000.00
9	Plumbing	\$11,000.00				\$0.00	0%	\$11,000.00
10	HVAC	\$25,000.00				\$0.00	0%	\$25,000.00
11	Electric	\$84,000.00				\$0.00	0%	\$84,000.00
	<b>TOTAL</b>	<b>\$245,200.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>0%</b>	<b>\$245,200.00</b>

**From:** [Chazz Printz](#)  
**To:** [Amy Boyd](#)  
**Cc:** [Stephanie Grove](#); [Arthur J. Auxer III \(jimauxer@yahoo.com\)](#)  
**Subject:** RE: event ordinance draft  
**Date:** Wednesday, February 28, 2024 2:41:33 PM  
**Attachments:** [Special Events Ordinance \(track changes\)\(16411853.1\).docx](#)  
[Special Events Ordinance v. 2 \(clean\)\(16634952.1\).docx](#)  
[Special Events Ordinance - Shepherdstown \(2024-02-13 draft\) - reply to SP comments, v.2\(16634958.1\).pdf](#)

---

Amy-

For Council's consideration at the upcoming special meeting, there are three attachments relating to the proposed special events ordinance. The first is a Word version of the ordinance reflecting several track changes. Under Section 8-802, we have added a provision addressing spontaneous special events which require 48 hours of prior notice to the police department. This would be outside of the formal permit application process. There is no penalty for non-compliance with this provision as it would impact First Amendment rights. The second attachment is the proposed ordinance with all track changes accepted and marked as "(clean)" - allowing for comparison between the two drafts.

The third attachment is a pdf which better shows Steve Pearson's comments and my responses both in the margin and on the face of the ordinance. Some of the proposed edits are reflected in the Word documents which are included here.

This email and its attachments may be forwarded to Council as part of the packet for the special meeting next week.

Chazz

**Charles F. Printz, Jr.**

Bowles Rice LLP  
cprintz@bowlesrice.com  
101 S. Queen Street | Martinsburg, WV 25401  
Tel: (304) 264-4222 | Fax: (304) 267-3822  
Bio | vCard

**Bowles Rice**

CONFIDENTIAL AND PRIVILEGED: This e-mail is confidential and privileged, and intended only for the review and use of the addressee(s). If you have received this e-mail in error, please notify the sender at (304) 264-4222 or by e-mail at cprintz@bowlesrice.com. Thank you.

---

**From:** Amy Boyd <clerk@shepherdstown.us>  
**Sent:** Wednesday, February 28, 2024 10:15 AM  
**To:** Chazz Printz <cprintz@bowlesrice.com>  
**Subject:** FW: event ordinance draft

Good Morning Chazz:

We are unable to see your comments.

AN ORDINANCE TO ENACT  
CHAPTER 8, TITLE 8 OF THE CODE OF SHEPHERDSTOWN  
AS THE SPECIAL EVENTS ORDINANCE

THE SHEPHERDSTOWN TOWN COUNCIL ORDAINS:

Title 8 of the Code of Shepherdstown is hereby amended by adding Chapter 8, entitled the “Special Events Ordinance” to establish the application for a special events permit. Accordingly, Chapter ~~87~~, Title ~~811~~ of the Code of Shepherdstown shall read as follows:

TITLE 8

Chapter 8 – Special Events Ordinance

Section 8-801 – Definitions:

As used in this Chapter, the following terms have the following meanings:

- (a) “Aggrieved Person” shall mean a person who can demonstrate a specific, personal and legal interest in the final decision of an application for a permit issued under this ordinance, as distinguished from a general interest, such as is the concern of all members of the community, and which interest would be specifically and personally prejudiced by the decision or benefited by its reversal.
- (b) “Applicant” shall mean the authorized agent of the sponsor who completes the application and acts as a primary contact for the special event.
- (c) “Application fee” shall mean the non-refundable fee, as determined by the Shepherdstown Town Council, payable by applicant for the review of a special events application.
- (d) “Annual Event” shall mean an event recurring each year at approximately the same date and time, which has previously complied with the permit requirements.
- (e) “Town Funded Event” shall mean an event for which the Corporation of Shepherdstown engages full financial responsibility.
- (f) “Town Co-Funded Event” shall mean an event for which the Corporation of Shepherdstown provides a portion of financial support as determined by the Shepherdstown Town Council.
- (g) “Town Services” shall mean those services provided by various departments of the Corporation of Shepherdstown, which may include, but are not limited to police



protection, ~~fire protection, emergency medical response~~, placement and removal of barricades and collection of refuse.

- (h) “Closed Route” shall mean a route along or across a public right of way on which nonemergency vehicular traffic is not permitted to proceed for the entire duration of a special event.
- (i) “Event Participants” shall mean a person or persons in attendance at an event, including, but not limited to, spectators, vendors, event staff, Town staff and any others present for the purpose of the event.
- (j) “Farmer’s Market” shall mean an organized group that utilizes a street or parking lot to sell merchandise, food items and various agriculturally related items or products.
- (k) “Parade” shall mean any march, demonstration, procession or motorcade consisting of people, animals or vehicles, or a combination thereof, upon the streets, sidewalks or other public areas within the Town with an intent or likely effect of attracting public attention and interfering with, or having a tendency to interfere with, the normal flow or regulation of pedestrian or vehicular traffic upon the streets, sidewalks or other public property
- (l) “Permit” shall mean written permission for assembly, parade, or use of public facilities issued pursuant to this Chapter.
- (m) “Processional Event” shall mean any event that is non-stationary and continues in a processional manner through town, such as a parade, march, race, etc., and requires the closure of multiple streets or multiple blocks on the same street.
- (n) “Public Assembly” shall mean any meeting, march, demonstration, picket line, rally, or gathering of 25 or more persons for a common purpose as a result of prior planning that affects or may reasonably be expected to affect the normal flow or regulation of pedestrian or vehicular traffic upon the streets or other public facility, other than a park or recreational building or facility.
- (o) “Public Facility” shall mean a building, structure, place or other location or area which a person may seek to utilize for purposes other than the normal and usual governmental operations of the Town, but excludes a public park and recreational facility.
- (p) “Rental Fee” shall mean a fee for the use of Town-owned property for an event, which may or may not include provisions for utilities.
- (q) “Rolling Closure Route” shall mean a street, sidewalk, trail, walkway or other right-of-way which is closed to accommodate an event, where, as the event passes, the right-of-way is reopened for general public use.
- (r) “Special Event” shall mean any activity or event, such as a parade, entertainment or sporting event, ~~major highway construction or maintenance activity~~, street closure, famers market, public demonstration or assembly, amusement, cultural

recognition, festival, street fair or any other situation where there is need for the control of traffic and crowds or prevention of crime and which is usually scheduled in advance, allowing for planning or required police services prior to the event.

- (s) “Spontaneous Public Event” shall mean any unplanned or unannounced coming together of people, animals or vehicles in a ~~peaceful~~ parade or public assembly which is not contemplated beforehand by any participant therein and which is caused by or in response to unforeseen circumstances or events occasioned by news or affairs coming into public knowledge within five (5) days of such parade or public assembly.

#### Section 8-802 – Permit Required:

The Town Council hereby finds as follows:

- 1) It shall be unlawful for any person to conduct or participate in any parade, public assembly or special event unless a written permit has been issued in accordance with the provisions of this ordinance.
- 2) The provisions of this permit shall not apply to the following:
  - a) ~~Spontaneous public events;~~ 
    - i) Written notice shall be provided to the Shepherdstown Police Department for any Spontaneous Public Event at least forty-eight (48) hours prior to said Spontaneous Public Event.
  - b) Recreational activities, including jogging or walking, which do not require closing of public streets or other rights-of-way and that do not interfere with, or have a tendency to interfere with, the normal use of any public property in a place open to the general public;
  - c) Funeral processions;
  - d) Students going to and from school classes or participating in educational activities, provided that such conduct is under the immediate direction and supervision of proper school authorities;
  - e) The United States Army, Navy, Marine Corps, Coast Guard, or any other branch or organization under the direction of the United States Armed Forces; the military forces of West Virginia or the police and fire

division of the Corporation of Shepherdstown, Jefferson County, or State of West Virginia, acting in official capacity; ~~or~~

- f) A governmental agency/agencies acting within the scope of its functions;  
or
  - g) Town owned property under the regulation and maintenance of Jefferson County Parks and Recreation.
- 3) Applicants requesting a Special Event Permit are required to submit a completed Application for Special Event Permit, along with a twenty-five dollar (\$25.00) non-refundable application fee payable to the Corporation of Shepherdstown for review and processing, at least thirty (30) days prior to the date of proposed event. Other fees may be applicable, in accordance with Title 809.
  - 4) All applications must be received by the Corporation of Shepherdstown, either by mail, electronic mail, fax or delivery in-person, no later than thirty (30) days before the proposed event.
  - 5) The application must be filled out, in its entirety, and shall provide all relevant information, including but not limited to, alternatives for location, route, date, and time.
  - 6) As a condition of the Special Event Application, all applicants are responsible for providing a specific and accurate representation of the proposed event so that the Corporation of Shepherdstown may accurately identify the required level of services, including but not limited to, Police, Emergency Services and Public Works.
  - 7) Preferred Routes may be suggested by the Town for parades and some other processional events, and applicants are asked to review and consider these routes. The Town reserves the right to adjust the routes when conditions or events create a situation in which a preferred or requested route is unavailable.
  - 8) The Town reserves the right to deny any permit application, sponsored or affiliated with a person or organization not in good standing with the Town, specifically in regards to outstanding fees, taxes, or other obligations.

- 9) Events are required to conform to all other applicable Town ordinances and policies, including but not limited to, signage, zoning, noise and nuisance ordinances.

Section 8-803 – Issuance or Denial of Permit:

- (a) All applications will be reviewed by the applicable department heads (Chief of Police, Planning Department, Public Works, Town Administrator, etc.) and forwarded to Town Council or designee for final approval. The Town may set any conditions and fees for service or deposits, in accordance with policy, with the understanding that all conditions and fees must be satisfied within fifteen (15) calendar days prior to the event.
- (b) Upon review of comments, concerns and recommendations of applicable Department Heads, the Town Administrator or designee shall present a final recommendation to the Town Council, and Council may approve the permit if the event is determined to be unlikely to endanger the public health, welfare or safety and applying the following criteria:
  1. The time, duration, route and size of the event will not unreasonably interrupt the safe and orderly movement of vehicular or pedestrian traffic or the normal use of public property in a place open to the general public; and
  2. The time, duration, route, size and proposed activities of the event will not be scheduled to overly burden any one neighborhood or street on a consistent basis or cause or tend to cause an unreasonable disturbance to adjacent property owners or tenants including, but not limited to, noise, light and traffic; and
  3. The event is not of such a nature that it will require diversion of so great a number of police and fire/EMS personnel to properly police the line of movement in the areas contiguous thereto as to impair the normal protection of the remainder of the Town; and
  4. The applicant has, where appropriate, designated monitors sufficient to control the orderly conduct of the event in conformity with such permit; and
  5. The conduct of the event will not unduly interfere with the proper fire, ambulance and police protection or service to the remainder of the Town or is

likely to unreasonably disrupt other public services and protection normally provided to the Town; and

6. The event will not interfere with another event for which a permit has been granted or cause irreconcilable interference with previously approved or scheduled construction, maintenance or other activities; and
  7. The event proposed will not violate, and will conform, with all applicable Federal, State and local regulations and laws governing the proposed event; and
  8. If alcoholic beverages will be served at the event, the applicant must comply with all applicable provisions of the State Code and local ordinances pertaining to serving and consumption of alcoholic beverages. Additionally:
    - (i) the applicant may be required to demonstrate that adequate measures have or otherwise will be taken to ensure the safety of persons who may have become impaired or intoxicated at the event; and
    - (ii) the applicant may be required to demonstrate that adequate measures have or otherwise will be taken to ensure that underage persons are not served or permitted to consume alcoholic beverages at the event; and
    - (iii) no permit shall be issued to any applicant where alcohol is to be served upon any property or in any facility where alcohol is otherwise prohibited by any other statute.
- (c) For special events or public assemblies, such as a Farmer's Market or monthly reservation, held on a regular or recurring basis at the same location, an application for an annual permit covering all such assemblies may be filed with the Town Administrator or designee at least sixty (60) days prior to the first scheduled event. The application will then follow the heretofore described review and approval process.
- (d) If two or more applications are submitted requesting a permit for events to be held at the same time and place, the application first filed shall be first considered, and will be granted if it meets all requirements of this ordinance

- (e) In the event that the any application is denied by Town Council, the Town Administrator or designee will promptly mail to the applicant a notice of action which will contain the reasons for denial and notify the applicant of the right to appeal pursuant to Section 8-806.
- (f) Nothing in this ordinance shall permit the Town Council to deny a permit based upon political, social or religious grounds or reasons or based upon the content of views expressed.
- (g) The Town Administrator, or designee, under the direction of the Town Council, may authorize the conduct of an event on a date, at a time, at a place or over a route, different from that originally proposed. Any applicant desiring to accept an alternate permit shall file a written notice of acceptance with the Town Administrator. Any alternate permit shall conform to all requirements of this ordinance and shall have the same effect as any other permit issued therein.

#### Section 8-804 – Compliance; Penalties:

Every person or organization to whom a permit is issued under this ordinance shall substantially comply with all permit terms and conditions and with all applicable laws and ordinances. The person heading or leading the event shall carry the permit upon his or her person at all times during the conduct of the event, and shall show the permit when requested to do so. Any violation of this Ordinance will be punishable by a fine of up to \$500.00.

#### Section 8-805 – Revocation of Permit:

- (a) The Town Administrator or designee, with or without order of Town Council, shall have the authority to revoke any permit issued to this article if any information supplied by the applicant is discovered to be substantially false or intentionally misleading or if any term, condition, restriction or limitation of the permit has been substantially violated and if there is any continued violation of the terms, conditions, restrictions or limitations after the applicant on anyone working in concert with the applicant has been notified, in writing or otherwise, of a violation of the permit by a representative of the Corporation of Shepherdstown or an appropriate law enforcement official.
- (b) The Town Administrator or designee, with or without order of Town Council, shall have the authority to alter or cancel an event at any time due to unforeseen

circumstances. If the event is cancelled by the Corporation of Shepherdstown due to unforeseen circumstances, permit application rental fees will be reimbursed and fees for Town services will be prorated and refunded, based on services rendered prior to notification of the cancellation. Any expenses incurred by the applicant relating to the event will not be the liability of the Corporation of Shepherdstown. The application fee is non-refundable.

- (c) The Town Administrator or designee may authorize the refund of any rental fees or other fees for Town services not utilized in the event that the applicant is unable to hold or conduct the event due to inclement weather or some other cause not within the applicant's control. The request for such refund must be received by the Town Administrator or designee within ten (10) days of the scheduled event date. The application fee is non-refundable.

#### Section 8-806 – Appeal:

- (a) Any aggrieved person, having been denied a permit under the terms and conditions of this ordinance, or by the revocation of a permit after one has been issued, may present an amended request, which will be reviewed as a new request and must meet all heretofore conditions and deadlines
- (b) The decision of the Town Administrator or designee may be appealed to the Shepherdstown Town Council and the decision of the Shepherdstown Town Council may be appealed to the Circuit Court of Jefferson County, in accordance with the laws of the State of West Virginia.
- (c) In any appeal under this section, the Corporation of Shepherdstown shall have the burden of demonstrating that the denial of the permit was justified under the terms and conditions of this ordinance.

#### Section 8-807 – Public Conduct During Parades, Demonstrations and Assemblies:

- (a) No person shall unreasonably hamper, obstruct, impede or interfere with any event or with any person, vehicle or animal participating or used in an event for which a permit has been issued in accordance with the provision of this ordinance.

- (b) No driver of a vehicle shall drive between the vehicles, persons or animals comprising a parade, special event, public assembly or funeral procession except when otherwise directed by a police officer. This shall not apply to authorized emergency vehicles.
- (c) The Chief of Police, or his or her designee, shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along the public streets or rights-of-way constituting a part of the route of a parade, demonstration or assembly. The Chief of Police, or his designee, shall post signs to such effect and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.
- (d) Loud speakers and/or amplification devices are prohibited unless specifically approved as part of the Permit Application.

Section 8-808 – Indemnification and Insurance Requirements:

- (a) The applicant shall indemnify and hold harmless the Corporation of Shepherdstown, its officers, agents, employees and volunteers from any and all claims, causes of actions, penalties, losses, expenses (including reasonable attorney's fees) and any other liability for injuries or damages to persons or property resulting from the special event which occurred by the omissions or authorized acts of the applicant
- (b) If the Town incurs any costs as a result of the applicant's failure to comply with any provisions, or if the Town property is destroyed or damaged by reason of a special event, the applicant shall reimburse the Town for its actual costs, including the actual repair or replacement cost of the property. The Town may retain any deposit or portion thereof as full or partial reimbursement for any such damage.
- (c) General liability insurance coverage, in the amount of \$1 million per instance and \$2 million aggregate, may be required before an event and maintained throughout the duration of the event, including set-up and dismantle periods. The Corporation of Shepherdstown is to be named as an additional insured.
- (d) The Town reserves the right to recommend a higher amount of required insurance depending on the proposed activity.
- (e) Requested use of rights-of-way or property owned by entities or persons other than the Corporation of Shepherdstown may require additional approvals, conditions or indemnification and insurance. The Corporation of Shepherdstown shall contact state and county agencies when necessary. Approval of private property owners for use of rights-of-ways and property is the sole responsibility of the applicant.



- (f) No applicant shall be required to comply with the insurance requirement of this section if the activity proposed for the special event is protected by the First Amendment to the United States Constitution and the applicant produces evidence that complying with the insurance provision is impossible or so financially burdensome that it would preclude the special event from occurring.
- (g) All events are subject to the requirement to successfully pass all fire, life safety and building safety inspections when applicable

Section 8-809 – Fees:

- (a) Fees may be assessed on events which require additional Town services as follows:
  - 1. Police Fees--\$35 per hour or partial hour worked, per officer.
  - 2. Public Works--\$9 per hour or partial hour worked, per laborer, including time requested or deemed necessary for set up and/or clean up and \$150 per hour for equipment
- (b) Additional fees for Town Service may be waived for all Town Funded Events and Town Co Funded Events
- (c) Application Fee--\$25 per application, with each date constituting one application in the event of a recurring event except that a single multi-day event (example—an event taking place on a Friday and the immediately following Saturday) shall be considered one event.
- (d) The need for Town services is determined by applicant request or staff recommendation and ultimately approved by Town Council

Section 8-810 – Severability:

If any part of provision of this Chapter or the application thereof to any person or circumstances is held invalid, the remainder of the Chapter, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Chapter are severable.

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

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

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Recorder

AN ORDINANCE TO ENACT  
CHAPTER 8, TITLE 8 OF THE CODE OF SHEPHERDSTOWN  
AS THE SPECIAL EVENTS ORDINANCE

THE SHEPHERDSTOWN TOWN COUNCIL ORDAINS:

Title 8 of the Code of Shepherdstown is hereby amended by adding Chapter 8, entitled the “Special Events Ordinance” to establish the application for a special events permit. Accordingly, Chapter 7, Title 11 of the Code of Shepherdstown shall read as follows:

TITLE 8

Chapter 8 – Special Events Ordinance

Section 8-801 – Definitions:

As used in this Chapter, the following terms have the following meanings:

- (a) “Aggrieved Person” shall mean a person who can demonstrate a specific, personal and legal interest in the final decision of an application for a permit issued under this ordinance, as distinguished from a general interest, such as is the concern of all members of the community, and which interest would be specifically and personally prejudiced by the decision or benefited by its reversal.
- (b) “Applicant” shall mean the authorized agent of the sponsor who completes the application and acts as a primary contact for the special event.
- (c) “Application fee” shall mean the non-refundable fee, as determined by the Shepherdstown Town Council, payable by applicant for the review of a special events application.
- (d) “Annual Event” shall mean an event recurring each year at approximately the same date and time, which has previously complied with the permit requirements.
- (e) “Town Funded Event” shall mean an event for which the Corporation of Shepherdstown engages full financial responsibility.
- (f) “Town Co-Funded Event” shall mean an event for which the Corporation of Shepherdstown provides a portion of financial support as determined by the Shepherdstown Town Council.
- (g) “Town Services” shall mean those services provided by various departments of the Corporation of Shepherdstown, which may include, but are not limited to police

protection, fire protection, emergency medical response, placement and removal of barricades and collection of refuse.

- (h) “Closed Route” shall mean a route along or across a public right of way on which nonemergency vehicular traffic is not permitted to proceed for the entire duration of a special event.
- (i) “Event Participants” shall mean a person or persons in attendance at an event, including, but not limited to, spectators, vendors, event staff, Town staff and any others present for the purpose of the event.
- (j) “Farmer’s Market” shall mean an organized group that utilizes a street or parking lot to sell merchandise, food items and various agriculturally related items or products.
- (k) “Parade” shall mean any march, demonstration, procession or motorcade consisting of people, animals or vehicles, or a combination thereof, upon the streets, sidewalks or other public areas within the Town with an intent or likely effect of attracting public attention and interfering with, or having a tendency to interfere with, the normal flow or regulation of pedestrian or vehicular traffic upon the streets, sidewalks or other public property
- (l) “Permit” shall mean written permission for assembly, parade, or use of public facilities issued pursuant to this Chapter.
- (m) “Processional Event” shall mean any event that is non-stationary and continues in a processional manner through town, such as a parade, march, race, etc., and requires the closure of multiple streets or multiple blocks on the same street.
- (n) “Public Assembly” shall mean any meeting, march, demonstration, picket line, rally, or gathering of 25 or more persons for a common purpose as a result of prior planning that affects or may reasonably be expected to affect the normal flow or regulation of pedestrian or vehicular traffic upon the streets or other public facility, other than a park or recreational building or facility.
- (o) “Public Facility” shall mean a building, structure, place or other location or area which a person may seek to utilize for purposes other than the normal and usual governmental operations of the Town, but excludes a public park and recreational facility.
- (p) “Rental Fee” shall mean a fee for the use of Town-owned property for an event, which may or may not include provisions for utilities.
- (q) “Rolling Closure Route” shall mean a street, sidewalk, trail, walkway or other right-of-way which is closed to accommodate an event, where, as the event passes, the right-of-way is reopened for general public use.
- (r) “Special Event” shall mean any activity, such as a parade, entertainment or sporting event, major highway construction or maintenance activity, street closure, public demonstration, amusement, cultural recognition, festival, street fair or any other

situation where there is need for the control of traffic and crowds or prevention of crime and which is usually scheduled in advance, allowing for planning or required police services prior to the event.

- (s) “Spontaneous Public Event” shall mean any unplanned or unannounced coming together of people, animals or vehicles in a parade or public assembly which is not contemplated beforehand by any participant therein and which is caused by or in response to unforeseen circumstances or events occasioned by news or affairs coming into public knowledge within five (5) days of such parade or public assembly.

#### Section 8-802 – Permit Required:

The Town Council hereby finds as follows:

- (a) It shall be unlawful for any person to conduct or participate in any parade, public assembly or special event unless a written permit has been issued in accordance with the provisions of this ordinance.
- (b) The provisions of this permit shall not apply to the following:
  - 1. Spontaneous public events; or
  - 2. Recreational activities, including jogging or walking, which do not require closing of public streets or other rights-of-way and that do not interfere with, or have a tendency to interfere with, the normal use of any public property in a place open to the general public; or
  - 3. Funeral processions; or
  - 4. Students going to and from school classes or participating in educational activities, provided that such conduct is under the immediate direction and supervision of proper school authorities; or
  - 5. The United States Army, Navy, Marine Corps, Coast Guard, or any other branch or organization under the direction of the United States Armed Forces; the military forces of West Virginia or the police and fire division of the Corporation of Shepherdstown, Jefferson County, or State of West Virginia, acting in official capacity; or
  - 6. A governmental agency/agencies acting within the scope of its functions; or

7. Town owned property under the regulation and maintenance of Jefferson County Parks and Recreation.
- (c) Applicants requesting a Special Event Permit are required to submit a completed Application for Special Event Permit, along with a twenty-five dollar (\$25.00) non-refundable application fee payable to the Corporation of Shepherdstown for review and processing, at least thirty (30) days prior to the date of proposed event. Other fees may be applicable, in accordance with Title 809.
  - (d) All applications must be received by the Corporation of Shepherdstown, either by mail, electronic mail, fax or delivery in-person, no later than thirty (30) days before the proposed event.
  - (e) The application must be filled out, in its entirety, and shall provide all relevant information, including but not limited to, alternatives for location, route, date, and time.
  - (f) As a condition of the Special Event Application, all applicants are responsible for providing a specific and accurate representation of the proposed event so that the Corporation of Shepherdstown may accurately identify the required level of services, including but not limited to, Police, Emergency Services and Public Works.
  - (g) Preferred Routes may be suggested by the Town for parades and some other processional events, and applicants are asked to review and consider these routes. The Town reserves the right to adjust the routes when conditions or events create a situation in which a preferred or requested route is unavailable.
  - (h) The Town reserves the right to deny any permit application, sponsored or affiliated with a person or organization not in good standing with the Town, specifically in regards to outstanding fees, taxes, or other obligations.
  - (i) Events are required to conform to all other applicable Town ordinances and policies, including but not limited to, signage, zoning, noise and nuisance ordinances.

Section 8-803 – Issuance or Denial of Permit:

- (a) All applications will be reviewed by the applicable department heads (Chief of Police, Planning Department, Public Works, Town Administrator, etc.) and

forwarded to Town Council or designee for final approval. The Town may set any conditions and fees for service or deposits, in accordance with policy, with the understanding that all conditions and fees must be satisfied within fifteen (15) calendar days prior to the event.

- (b) Upon review of comments, concerns and recommendations of applicable Department Heads, the Town Administrator or designee shall present a final recommendation to the Town Council, and Council may approve the permit if the event is determined to be unlikely to endanger the public health, welfare or safety and applying the following criteria:
1. The time, duration, route and size of the event will not unreasonably interrupt the safe and orderly movement of vehicular or pedestrian traffic or the normal use of public property in a place open to the general public; and
  2. The time, duration, route, size and proposed activities of the event will not be scheduled to overly burden any one neighborhood or street on a consistent basis or cause or tend to cause an unreasonable disturbance to adjacent property owners or tenants including, but not limited to, noise, light and traffic; and
  3. The event is not of such a nature that it will require diversion of so great a number of police and fire/EMS personnel to properly police the line of movement in the areas contiguous thereto as to impair the normal protection of the remainder of the Town; and
  4. The applicant has, where appropriate, designated monitors sufficient to control the orderly conduct of the event in conformity with such permit; and
  5. The conduct of the event will not unduly interfere with the proper fire, ambulance and police protection or service to the remainder of the Town or is likely to unreasonably disrupt other public services and protection normally provided to the Town; and
  6. The event will not interfere with another event for which a permit has been granted or cause irreconcilable interference with previously approved or scheduled construction, maintenance or other activities; and

7. The event proposed will not violate, and will conform, with all applicable Federal, State and local regulations and laws governing the proposed event; and
8. If alcoholic beverages will be served at the event, the applicant must comply with all applicable provisions of the State Code and local ordinances pertaining to serving and consumption of alcoholic beverages. Additionally:
  - (i) the applicant may be required to demonstrate that adequate measures have or otherwise will be taken to ensure the safety of persons who may have become impaired or intoxicated at the event; and
  - (ii) the applicant may be required to demonstrate that adequate measures have or otherwise will be taken to ensure that underage persons are not served or permitted to consume alcoholic beverages at the event; and
  - (iii) no permit shall be issued to any applicant where alcohol is to be served upon any property or in any facility where alcohol is otherwise prohibited by any other statute.
- (c) For special events or public assemblies, such as a Farmer's Market or monthly reservation, held on a regular or recurring basis at the same location, an application for an annual permit covering all such assemblies may be filed with the Town Administrator or designee at least sixty (60) days prior to the first scheduled event. The application will then follow the heretofore described review and approval process.
- (d) If two or more applications are submitted requesting a permit for events to be held at the same time and place, the application first filed shall be first considered, and will be granted if it meets all requirements of this ordinance
- (e) In the event that the any application is denied by Town Council, the Town Administrator or designee will promptly mail to the applicant a notice of action which will contain the reasons for denial and notify the applicant of the right to appeal pursuant to Section 8-806.
- (f) Nothing in this ordinance shall permit the Town Council to deny a permit based upon political, social or religious grounds or reasons or based upon the content of views expressed.



- (g) The Town Administrator, or designee, under the direction of the Town Council, may authorize the conduct of an event on a date, at a time, at a place or over a route, different from that originally proposed. Any applicant desiring to accept an alternate permit shall file a written notice of acceptance with the Town Administrator. Any alternate permit shall conform to all requirements of this ordinance and shall have the same effect as any other permit issued therein.

#### Section 8-804 – Compliance; Penalties:

Every person or organization to whom a permit is issued under this ordinance shall substantially comply with all permit terms and conditions and with all applicable laws and ordinances. The person heading or leading the event shall carry the permit upon his or her person at all times during the conduct of the event, and shall show the permit when requested to do so. Any violation of this Ordinance will be punishable by a fine of up to \$500.00.

#### Section 8-805 – Revocation of Permit:

- (a) The Town Administrator or designee, with or without order of Town Council, shall have the authority to revoke any permit issued to this article if any information supplied by the applicant is discovered to be substantially false or intentionally misleading or if any term, condition, restriction or limitation of the permit has been substantially violated and if there is any continued violation of the terms, conditions, restrictions or limitations after the applicant or anyone working in concert with the applicant has been notified, in writing or otherwise, of a violation of the permit by a representative of the Corporation of Shepherdstown or an appropriate law enforcement official.
- (b) The Town Administrator or designee, with or without order of Town Council, shall have the authority to alter or cancel an event at any time due to unforeseen circumstances. If the event is cancelled by the Corporation of Shepherdstown due to unforeseen circumstances, permit application rental fees will be reimbursed and fees for Town services will be prorated and refunded, based on services rendered prior to notification of the cancellation. Any expenses incurred by the applicant relating to the event will not be the liability of the Corporation of Shepherdstown. The application fee is non-refundable.
- (c) The Town Administrator or designee may authorize the refund of any rental fees or other fees for Town services not utilized in the event that the applicant is unable to

hold or conduct the event due to inclement weather or some other cause not within the applicant's control. The request for such refund must be received by the Town Administrator or designee within ten (10) days of the scheduled event date. The application fee is non-refundable.

#### Section 8-806 – Appeal:

- (a) Any aggrieved person, having been denied a permit under the terms and conditions of this ordinance, or by the revocation of a permit after one has been issued, may present an amended request, which will be reviewed as a new request and must meet all heretofore conditions and deadlines
- (b) The decision of the Town Administrator or designee may be appealed to the Shepherdstown Town Council and the decision of the Shepherdstown Town Council may be appealed to the Circuit Court of Jefferson County, in accordance with the laws of the State of West Virginia.
- (c) In any appeal under this section, the Corporation of Shepherdstown shall have the burden of demonstrating that the denial of the permit was justified under the terms and conditions of this ordinance.

#### Section 8-807 – Public Conduct During Parades, Demonstrations and Assemblies:

- (a) No person shall unreasonably hamper, obstruct, impede or interfere with any event or with any person, vehicle or animal participating or used in an event for which a permit has been issued in accordance with the provision of this ordinance.
- (b) No driver of a vehicle shall drive between the vehicles, persons or animals comprising a parade, special event, public assembly or funeral procession except when otherwise directed by a police officer. This shall not apply to authorized emergency vehicles.
- (c) The Chief of Police, or his or her designee, shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along the public streets or rights-of-way constituting a part of the route of a parade, demonstration or assembly. The Chief of Police, or his designee, shall post signs to such effect and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.

- (d) Loud speakers and/or amplification devices are prohibited unless specifically approved as part of the Permit Application.

Section 8-808 – Indemnification and Insurance Requirements:

- (a) The applicant shall indemnify and hold harmless the Corporation of Shepherdstown, its officers, agents, employees and volunteers from any and all claims, causes of actions, penalties, losses, expenses (including reasonable attorney's fees) and any other liability for injuries or damages to persons or property resulting from the special event which occurred by the omissions or authorized acts of the applicant
- (b) If the Town incurs any costs as a result of the applicant's failure to comply with any provisions, or if the Town property is destroyed or damaged by reason of a special event, the applicant shall reimburse the Town for its actual costs, including the actual repair or replacement cost of the property. The Town may retain any deposit or portion thereof as full or partial reimbursement for any such damage.
- (c) General liability insurance coverage, in the amount of \$1 million per instance and \$2 million aggregate, may be required before an event and maintained throughout the duration of the event, including set-up and dismantle periods. The Corporation of Shepherdstown is to be named as an additional insured.
- (d) The Town reserves the right to recommend a higher amount of required insurance depending on the proposed activity.
- (e) Requested use of rights-of-way or property owned by entities or persons other than the Corporation of Shepherdstown may require additional approvals, conditions or indemnification and insurance. The Corporation of Shepherdstown shall contact state and county agencies when necessary. Approval of private property owners for use of rights-of-ways and property is the sole responsibility of the applicant.
- (f) No applicant shall be required to comply with the insurance requirement of this section if the activity proposed for the special event is protected by the First Amendment to the United States Constitution and the applicant produces evidence that complying with the insurance provision is impossible or so financially burdensome that it would preclude the special event from occurring.
- (g) All events are subject to the requirement to successfully pass all fire, life safety and building safety inspections when applicable

Section 8-809 – Fees:

- (a) Fees may be assessed on events which require additional Town services as follows:
  - 1. Police Fees--\$35 per hour or partial hour worked, per officer.
  - 2. Public Works--\$9 per hour or partial hour worked, per laborer, including time requested or deemed necessary for set up and/or clean up and \$150 per hour for equipment
- (b) Additional fees for Town Service may be waived for all Town Funded Events and Town Co Funded Events
- (c) Application Fee--\$25 per application, with each date constituting one application in the event of a recurring event except that a single multi-day event (example—an event taking place on a Friday and the immediately following Saturday) shall be considered one event.
- (d) The need for Town services is determined by applicant request or staff recommendation and ultimately approved by Town Council

Section 8-810 – Severability:

If any part of provision of this Chapter or the application thereof to any person or circumstances is held invalid, the remainder of the Chapter, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Chapter are severable.

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

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

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Recorder

# Special Events Application

The Corporation of Shepherdstown has enacted Ordinance 8-801 et seq. requiring a special events application be submitted for all assemblies, demonstrations, special events and parades, as detailed in Sections 8-801 through 8-810 in the Corporation of Shepherdstown Codified Ordinances. All requests must be submitted for departmental and Town Council review. The information requested by this form will be used to determine eligibility for a special events permit. **The event will not be considered for approval until the entire application and all of its parts have been submitted.** Applications are due to the Office of the Town Administrator no later than 30 days prior to the proposed special event.

Event Title \_\_\_\_\_

Event Date \_\_\_\_\_

Event Sponsor \_\_\_\_\_

Secondary Date \_\_\_\_\_

## Organizer's Contact Information

Name: \_\_\_\_\_

Cell: \_\_\_\_\_

Address: \_\_\_\_\_

Email \_\_\_\_\_

Alt. Phone \_\_\_\_\_

## Event Information

Requested Area(s) \_\_\_\_ City Streets/Sidewalks \_\_\_\_ Sidewalks only \_\_\_\_ Other \_\_\_\_

Location of Event \_\_\_\_\_

Attach route for processional events. Be precise when indicating location.

Event Hours \_\_\_\_\_ until \_\_\_\_\_ Set up start time \_\_\_\_\_ Clean up end time \_\_\_\_\_

\*\*\*\*NOTE\*\*\*\* Town Square Events are limited to SIX (6) Hours, including set-up and clean-up time.

Anticipated Attendance (per day): Participants \_\_\_\_\_ Spectators \_\_\_\_\_

## Office Use Only

Department Heads: Please indicate disposition of event proposal and attach any comments or conditions.

Police: ____ Approved ____ Denied ____ Conditional	Planning: ____ Approved ____ Denied ____ Conditional
Fire: ____ Approved ____ Denied ____ Conditional	Public Works ____ Approved ____ Denied ____ Conditional
Town Manager: ____ Approved ____ Denied ____ Conditional	Town Council: ____ Approved ____ Denied ____ Conditional

Recorder \_\_\_\_\_ Amount Due \_\_\_\_\_ Amount Paid \_\_\_\_\_ Insurance Provided \_\_\_\_\_ Council Agenda \_\_\_\_\_  
Permit No. \_\_\_\_\_ Conditions Attached? \_\_\_\_\_

# Event Information

Answer the following questions, in full, and attach any additional information

**Name of Event** \_\_\_\_\_

**Brief Description of Event:** \_\_\_\_\_

\_\_\_\_\_

Has your organization held this event in the past? \_\_\_\_\_

When and Where? \_\_\_\_\_

Is the event a fundraiser? \_\_\_\_\_

Will you require assistance from Fire/EMS? \_\_\_\_\_ (additional fees apply) How many units? \_\_\_\_\_ Council reserves the right to assign additional units at applicant cost.

Will you require assistance from the Police Department? \_\_\_\_\_ (additional fees apply) How many units? \_\_\_\_\_ Council reserves the right to assign additional units at applicant cost.

Will items be left overnight? \_\_\_\_\_ What and where? \_\_\_\_\_  
Hazmat items must be attended constantly.

Will you be providing private security? \_\_\_\_\_

Will alcohol \_\_\_\_\_ or food \_\_\_\_\_ be served?  
Additional approvals may be necessary through the ABCA or Health Department.

Will you have vendors? \_\_\_\_\_ Are you charging admission \_\_\_\_\_?  
Check with B&O Licensing to obtain additional licenses and tax information.

Will streets \_\_\_\_\_ or intersections \_\_\_\_\_ be blocked? **Requires** police department assistance.  
List streets and/or intersections \_\_\_\_\_

Public Works assistance needed? \_\_\_\_\_ Street Sweeping \_\_\_\_\_ Barricades or fencing Material \_\_\_\_\_ (additional fees apply)—Council reserves right to assign additional units at applicant cost

Will you be using loud speakers or amplification devices? \_\_\_\_\_

Continued on next page

Will you be installing temporary structures, such as tents, bleachers, stages, inflatables? \_\_\_\_\_ What and where? \_\_\_\_\_  
Check with Planning for U&O Requirements

Will you require dedicated parking or bagged meters? \_\_\_\_\_  
What and where? \_\_\_\_\_  
Check with Parking for costs and arrangements

#### Indemnification

I \_\_\_\_\_ shall defend and hold harmless the Corporation of Shepherdstown, its officers, employees, agents and representatives thereof, from all suits, actions, claims of any kind, including attorney's fees, brought on account of any personal injuries, damages or violation of rights sustained by any person or property in consequence of any neglect on behalf of \_\_\_\_\_ (name of organization or business), while their personal property is situated on Town property. I shall further hold the Corporation of Shepherdstown harmless from any claims or amounts arising from any violation of any law, bylaw, ordinance, regulation or decree.

[If required] A certificate of general liability insurance coverage in the amount of no less than \$1 million per instance and \$2 million aggregate naming the Corporation of Shepherdstown as an additional insured is attached to this application.

I further swear that all information provided in this application is true and accurate to the best of my knowledge and understand that the Shepherdstown Town Council has authority to change or amend my indicated needs, as necessary, and I am responsible for additional fees.

Signature \_\_\_\_\_ Date \_\_\_\_\_

Title \_\_\_\_\_

## **Fee Schedule**

Application Fee--\$25

Police Fees--\$35 per hour or partial hour worked, per officer.

Fire/EMS--\$35 per hour or partial hour worked, per firefighter and \$100 per hour or partial hour for firefighting apparatus and/or medic unit

Public Works--\$20 per hour or partial hour worked, per laborer, including time requested or deemed necessary for set up and/or clean up

\*\*\*Additional fees for Town Service may be waived for all Town Funded Events and Town Co-Funded Events\*\*\*

\*\*\* The need for Town services is determined by applicant request or staff recommendation and ultimately approved by Town Council\*\*\*





AN ORDINANCE TO ENACT  
CHAPTER 8, TITLE 8 OF THE CODE OF SHEPHERDSTOWN  
AS THE SPECIAL EVENTS ORDINANCE

THE SHEPHERDSTOWN TOWN COUNCIL ORDAINS:

Title 8 of the Code of Shepherdstown is hereby amended by adding Chapter 8, entitled the “Special Events Ordinance” to establish the application for a special events permit. Accordingly, Chapter 8, Title 8 of the Code of Shepherdstown shall read as follows:

TITLE 8

Chapter 8 – Special Events Ordinance

Section 8-801 – Definitions:

As used in this Chapter, the following terms have the following meanings:

- (a) “Aggrieved Person” shall mean a person who can demonstrate a specific, personal and legal interest in the final decision of an application for a permit issued under this ordinance, as distinguished from a general interest, such as is the concern of all members of the community, and which interest would be specifically and personally prejudiced by the decision or benefited by its reversal.
- (b) “Applicant” shall mean the authorized agent of the sponsor who completes the application and acts as a primary contact for the special event.
- (c) “Application fee” shall mean the non-refundable fee, as determined by the Shepherdstown Town Council, payable by applicant for the review of a special events application.
- (d) “Annual Event” shall mean an event recurring each year at approximately the same date and time, which has previously complied with the permit requirements.
- (e) “Town Funded Event” shall mean an event for which the Corporation of Shepherdstown engages full financial responsibility.
- (f) “Town Co-Funded Event” shall mean an event for which the Corporation of Shepherdstown provides a portion of financial support as determined by the Shepherdstown Town Council.
- (g) “Town Services” shall mean those services provided by various departments of the Corporation of Shepherdstown, which may include, but are not limited to police protection, placement and removal of barricades and collection of refuse.

- (h) “Closed Route” shall mean a route along or across a public right of way on which nonemergency vehicular traffic is not permitted to proceed for the entire duration of a special event.
- (i) “Event Participants” shall mean a person or persons in attendance at an event, including, but not limited to, spectators, vendors, event staff, Town staff and any others present for the purpose of the event.
- (j) “Farmer’s Market” shall mean an organized group that utilizes a street or parking lot to sell merchandise, food items and various agriculturally related items or products.
- (k) “Parade” shall mean any march, demonstration, procession or motorcade consisting of people, animals or vehicles, or a combination thereof, upon the streets, sidewalks or other public areas within the Town with an intent or likely effect of attracting public attention and interfering with, or having a tendency to interfere with, the normal flow or regulation of pedestrian or vehicular traffic upon the streets, sidewalks or other public property
- (l) “Permit” shall mean written permission for assembly, parade, or use of public facilities issued pursuant to this Chapter.
- (m) “Processional Event” shall mean any event that is non-stationary and continues in a processional manner through town, such as a parade, march, race, etc., and requires the closure of multiple streets or multiple blocks on the same street.
- (n) “Public Assembly” shall mean any meeting, march, demonstration, picket line, rally, or gathering of 25 or more persons for a common purpose as a result of prior planning that affects or may reasonably be expected to affect the normal flow or regulation of pedestrian or vehicular traffic upon the streets or other public facility, other than a park or recreational building or facility.
- (o) “Public Facility” shall mean a building, structure, place or other location or area which a person may seek to utilize for purposes other than the normal and usual governmental operations of the Town, but excludes a public park and recreational facility.
- (p) “Rental Fee” shall mean a fee for the use of Town-owned property for an event, which may or may not include provisions for utilities.
- (q) “Rolling Closure Route” shall mean a street, sidewalk, trail, walkway or other right-of-way which is closed to accommodate an event, where, as the event passes, the right-of-way is reopened for general public use.
- (r) “Special Event” shall mean any activity or event, such as a parade, entertainment or sporting event, street closure, farmers market, public demonstration or assembly, amusement, cultural recognition, festival, street fair or any other situation where there is need for the control of traffic and crowds or prevention of crime and which is usually scheduled in advance, allowing for planning or required police services prior to the event.

- (s) “Spontaneous Public Event” shall mean any unplanned or unannounced coming together of people, animals or vehicles in a peaceful parade or public assembly which is not contemplated beforehand by any participant therein and which is caused by or in response to unforeseen circumstances or events occasioned by news or affairs coming into public knowledge within five (5) days of such parade or public assembly.

Section 8-802 – Permit Required:

The Town Council hereby finds as follows:

- 1) It shall be unlawful for any person to conduct or participate in any parade, public assembly or special event unless a written permit has been issued in accordance with the provisions of this ordinance.
- 2) The provisions of this permit shall not apply to the following:
  - a) Spontaneous public events;
    - (i) Written notice shall be provided to the Shepherdstown Police Department for any Spontaneous Public Event at least forty-eight (48) hours prior to said Spontaneous Public Event.
  - b) Recreational activities, including jogging or walking, which do not require closing of public streets or other rights-of-way and that do not interfere with, or have a tendency to interfere with, the normal use of any public property in a place open to the general public;
  - c) Funeral processions;
  - d) Students going to and from school classes or participating in educational activities, provided that such conduct is under the immediate direction and supervision of proper school authorities;
  - e) The United States Army, Navy, Marine Corps, Coast Guard, or any other branch or organization under the direction of the United States Armed Forces; the military forces of West Virginia or the police and fire division of the Corporation of Shepherdstown, Jefferson County, or State of West Virginia, acting in official capacity;

- f) A governmental agency/agencies acting within the scope of its functions;  
or
  - g) Town owned property under the regulation and maintenance of Jefferson County Parks and Recreation.
- 
- 3) Applicants requesting a Special Event Permit are required to submit a completed Application for Special Event Permit, along with a twenty-five dollar (\$25.00) non-refundable application fee payable to the Corporation of Shepherdstown for review and processing, at least thirty (30) days prior to the date of proposed event. Other fees may be applicable, in accordance with Title 809.
  - 4) All applications must be received by the Corporation of Shepherdstown, either by mail, electronic mail, fax or delivery in-person, no later than thirty (30) days before the proposed event.
  - 5) The application must be filled out, in its entirety, and shall provide all relevant information, including but not limited to, alternatives for location, route, date, and time.
  - 6) As a condition of the Special Event Application, all applicants are responsible for providing a specific and accurate representation of the proposed event so that the Corporation of Shepherdstown may accurately identify the required level of services, including but not limited to, Police, Emergency Services and Public Works.
  - 7) Preferred Routes may be suggested by the Town for parades and some other processional events, and applicants are asked to review and consider these routes. The Town reserves the right to adjust the routes when conditions or events create a situation in which a preferred or requested route is unavailable.
  - 8) The Town reserves the right to deny any permit application sponsored or affiliated with a person or organization not in good standing with the Town, specifically in regards to outstanding fees, taxes, or other obligations.
  - 9) Events are required to conform to all other applicable Town ordinances and policies, including but not limited to, signage, zoning, noise and nuisance ordinances.

Section 8-803 – Issuance or Denial of Permit:

- (a) All applications will be reviewed by the applicable department heads (Chief of Police, Planning Department, Public Works, Town Administrator, etc.) and forwarded to Town Council or designee for final approval. The Town may set any conditions and fees for service or deposits, in accordance with policy, with the understanding that all conditions and fees must be satisfied within fifteen (15) calendar days prior to the event.
- (b) Upon review of comments, concerns and recommendations of applicable Department Heads, the Town Administrator or designee shall present a final recommendation to the Town Council, and Council may approve the permit if the event is determined to be unlikely to endanger the public health, welfare or safety and applying the following criteria:
1. The time, duration, route and size of the event will not unreasonably interrupt the safe and orderly movement of vehicular or pedestrian traffic or the normal use of public property in a place open to the general public; and
  2. The time, duration, route, size and proposed activities of the event will not be scheduled to overly burden any one neighborhood or street on a consistent basis or cause or tend to cause an unreasonable disturbance to adjacent property owners or tenants including, but not limited to, noise, light and traffic; and
  3. The event is not of such a nature that it will require diversion of so great a number of police and fire/EMS personnel to properly police the line of movement in the areas contiguous thereto as to impair the normal protection of the remainder of the Town; and
  4. The applicant has, where appropriate, designated monitors sufficient to control the orderly conduct of the event in conformity with such permit; and
  5. The conduct of the event will not unduly interfere with the proper fire, ambulance and police protection or service to the remainder of the Town or is likely to unreasonably disrupt other public services and protection normally provided to the Town; and
  6. The event will not interfere with another event for which a permit has been granted or cause irreconcilable interference with previously approved or scheduled construction, maintenance or other activities; and

7. The event proposed will not violate, and will conform, with all applicable Federal, State and local regulations and laws governing the proposed event; and
8. If alcoholic beverages will be served at the event, the applicant must comply with all applicable provisions of the State Code and local ordinances pertaining to serving and consumption of alcoholic beverages. Additionally:
  - (i) the applicant may be required to demonstrate that adequate measures have or otherwise will be taken to ensure the safety of persons who may have become impaired or intoxicated at the event; and
  - (ii) the applicant may be required to demonstrate that adequate measures have or otherwise will be taken to ensure that underage persons are not served or permitted to consume alcoholic beverages at the event; and
  - (iii) no permit shall be issued to any applicant where alcohol is to be served upon any property or in any facility where alcohol is otherwise prohibited by any other statute.
- (c) For special events or public assemblies, such as a Farmer's Market or monthly reservation, held on a regular or recurring basis at the same location, an application for an annual permit covering all such assemblies may be filed with the Town Administrator or designee at least sixty (60) days prior to the first scheduled event. The application will then follow the heretofore described review and approval process.
- (d) If two or more applications are submitted requesting a permit for events to be held at the same time and place, the application first filed shall be first considered, and will be granted if it meets all requirements of this ordinance
- (e) In the event that the any application is denied by Town Council, the Town Administrator or designee will promptly mail to the applicant a notice of action which will contain the reasons for denial and notify the applicant of the right to appeal pursuant to Section 8-806.
- (f) Nothing in this ordinance shall permit the Town Council to deny a permit based upon political, social or religious grounds or reasons or based upon the content of views expressed.

- (g) The Town Administrator, or designee, under the direction of the Town Council, may authorize the conduct of an event on a date, at a time, at a place or over a route, different from that originally proposed. Any applicant desiring to accept an alternate permit shall file a written notice of acceptance with the Town Administrator. Any alternate permit shall conform to all requirements of this ordinance and shall have the same effect as any other permit issued therein.

#### Section 8-804 – Compliance; Penalties:

Every person or organization to whom a permit is issued under this ordinance shall substantially comply with all permit terms and conditions and with all applicable laws and ordinances. The person heading or leading the event shall carry the permit upon his or her person at all times during the conduct of the event, and shall show the permit when requested to do so. Any violation of this Ordinance will be punishable by a fine of up to \$500.00.

#### Section 8-805 – Revocation of Permit:

- (a) The Town Administrator or designee, with or without order of Town Council, shall have the authority to revoke any permit issued to this article if any information supplied by the applicant is discovered to be substantially false or intentionally misleading or if any term, condition, restriction or limitation of the permit has been substantially violated and if there is any continued violation of the terms, conditions, restrictions or limitations after the applicant or anyone working in concert with the applicant has been notified, in writing or otherwise, of a violation of the permit by a representative of the Corporation of Shepherdstown or an appropriate law enforcement official.
- (b) The Town Administrator or designee, with or without order of Town Council, shall have the authority to alter or cancel an event at any time due to unforeseen circumstances. If the event is cancelled by the Corporation of Shepherdstown due to unforeseen circumstances, permit application rental fees will be reimbursed and fees for Town services will be prorated and refunded, based on services rendered prior to notification of the cancellation. Any expenses incurred by the applicant relating to the event will not be the liability of the Corporation of Shepherdstown. The application fee is non-refundable.
- (c) The Town Administrator or designee may authorize the refund of any rental fees or other fees for Town services not utilized in the event that the applicant is unable to



hold or conduct the event due to inclement weather or some other cause not within the applicant's control. The request for such refund must be received by the Town Administrator or designee within ten (10) days of the scheduled event date. The application fee is non-refundable.

Section 8-806 – Appeal:

- (a) Any aggrieved person, having been denied a permit under the terms and conditions of this ordinance, or by the revocation of a permit after one has been issued, may present an amended request, which will be reviewed as a new request and must meet all heretofore conditions and deadlines
- (b) The decision of the Town Administrator or designee may be appealed to the Shepherdstown Town Council and the decision of the Shepherdstown Town Council may be appealed to the Circuit Court of Jefferson County, in accordance with the laws of the State of West Virginia.
- (c) In any appeal under this section, the Corporation of Shepherdstown shall have the burden of demonstrating that the denial of the permit was justified under the terms and conditions of this ordinance.

Section 8-807 – Public Conduct During Parades, Demonstrations and Assemblies:

- (a) No person shall unreasonably hamper, obstruct, impede or interfere with any event or with any person, vehicle or animal participating or used in an event for which a permit has been issued in accordance with the provision of this ordinance.
- (b) No driver of a vehicle shall drive between the vehicles, persons or animals comprising a parade, special event, public assembly or funeral procession except when otherwise directed by a police officer. This shall not apply to authorized emergency vehicles.
- (c) The Chief of Police, or his or her designee, shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along the public streets or rights-of-way constituting a part of the route of a parade, demonstration or assembly. The Chief of Police, or his designee, shall post signs to such effect and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.

- (d) Loud speakers and/or amplification devices are prohibited unless specifically approved as part of the Permit Application.

Section 8-808 – Indemnification and Insurance Requirements:

- (a) The applicant shall indemnify and hold harmless the Corporation of Shepherdstown, its officers, agents, employees and volunteers from any and all claims, causes of actions, penalties, losses, expenses (including reasonable attorney's fees) and any other liability for injuries or damages to persons or property resulting from the special event which occurred by the omissions or authorized acts of the applicant
- (b) If the Town incurs any costs as a result of the applicant's failure to comply with any provisions, or if the Town property is destroyed or damaged by reason of a special event, the applicant shall reimburse the Town for its actual costs, including the actual repair or replacement cost of the property. The Town may retain any deposit or portion thereof as full or partial reimbursement for any such damage.
- (c) General liability insurance coverage, in the amount of \$1 million per instance and \$2 million aggregate, may be required before an event and maintained throughout the duration of the event, including set-up and dismantle periods. The Corporation of Shepherdstown is to be named as an additional insured.
- (d) The Town reserves the right to recommend a higher amount of required insurance depending on the proposed activity.
- (e) Requested use of rights-of-way or property owned by entities or persons other than the Corporation of Shepherdstown may require additional approvals, conditions or indemnification and insurance. The Corporation of Shepherdstown shall contact state and county agencies when necessary. Approval of private property owners for use of rights-of-ways and property is the sole responsibility of the applicant.
- (f) No applicant shall be required to comply with the insurance requirement of this section if the activity proposed for the special event is protected by the First Amendment to the United States Constitution and the applicant produces evidence that complying with the insurance provision is impossible or so financially burdensome that it would preclude the special event from occurring.
- (g) All events are subject to the requirement to successfully pass all fire, life safety and building safety inspections when applicable

Section 8-809 – Fees:

- (a) Fees may be assessed on events which require additional Town services as follows:
1. Police Fees--\$35 per hour or partial hour worked, per officer.
  2. Public Works--\$9 per hour or partial hour worked, per laborer, including time requested or deemed necessary for set up and/or clean up and \$150 per hour for equipment
- (b) Additional fees for Town Service may be waived for all Town Funded Events and Town Co Funded Events
- (c) Application Fee--\$25 per application, with each date constituting one application in the event of a recurring event except that a single multi-day event (example—an event taking place on a Friday and the immediately following Saturday) shall be considered one event.
- (d) The need for Town services is determined by applicant request or staff recommendation and ultimately approved by Town Council

Section 8-810 – Severability:

If any part of provision of this Chapter or the application thereof to any person or circumstances is held invalid, the remainder of the Chapter, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Chapter are severable.

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

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

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Recorder

D. FRANK HILL, III  
ATTORNEY AT LAW  
POST OFFICE BOX A  
SHEPHERDSTOWN, WEST VIRGINIA 25443

D. FRANK HILL, III (WV & MD BAR)

136 E. GERMAN STREET  
THE PHARMACY BUILDING  
(304) 876-9333  
FAX (304) 876-9335

**FACSIMILE COVER PAGE**

DATE: February 26, 2024  
ATTENTION: Charles F. Printz, Jr.  
COMPANY: Bowles Rice LLP  
FAX NUMBER: (304) 267-3822  
RE: Estate of Garland J. Hurley / Town of Shepherdstown

NUMBER OF PAGES (including cover page): 7

Chazz:

This is a follow up to your email to me of Friday regarding the rent on the Hurley property.

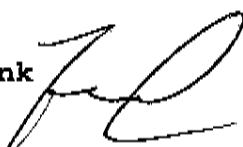
Sent are 3 pages providing the detail of the occupants by name showing rent paid for 2021, 2022, and 2023.

I have also sent a "Residential Lease" for one occupant (Unit 14) to the West Virginia Coalition To End Homelessness (2 pages) which is the only occupant under any form of a written lease - the others being month-to-month.

Lastly, I have sent a single page addressing one of the occupants which the Town might want to consider retaining for the purpose as stated in the note.

I hope this information is helpful in the Town's consideration of the gift.

Frank



cc: Genevieve A. O'Loughlin, Executrix

## James King 11 + 5 storage

	2021	2022	2023			
Jan.	290.00	340.00	340.00			
Feb	290.00	340.00	390.00			
March	290.00	340.00	390.00			
April	290.00	340.00	390.00			
May	290.00	340.00	390.00			
June	290.00	340.00	390.00			
July	290.00	340.00	390.00			
Aug	290.00	340.00	390.00			
Sept	290.00	340.00	390.00			
Oct	290.00	340.00	390.00			
Nov	290.00	340.00	390.00			
Dec	290.00	340.00	390.00			

## Mrs Breeden + Leroy 12

	2021	2022	2023			
Jan	Santa	Santa	Santa			
Feb	200.00	250.00	250.00			
March	200.00	250.00	250.00			
April	200.00	250.00	250.00			
May	200.00	250.00	250.00			
June	200.00	250.00	250.00			
July	200.00	250.00	250.00			
Aug.	200.00	250.00	250.00			
Sept	200.00	250.00	250.00			
Oct	200.00	250.00	250.00			
Nov	200.00	250.00	250.00			
Dec	200.00	250.00	250.00			

## Kevin Saylor 9

	2021	2022	2023			
Jan	Maintenance		300.00			
Feb			300.00			
March			300.00			
April			300.00			
May			300.00			
June			300.00			
July			300.00			
Aug.			300.00			
Sept			300.00			
Oct.			300.00			
Nov			300.00			
Dec.			300.00			

## Tom Skeane 10

	2021	2022	2023	
Jan		600.00	250.00	
Feb		600.00	600.00	
March		600.00	300.00	
April		600.00	300.00	
May		600.00	300.00	
June	500.00	600.00	300.00	
July	600.00	600.00	300.00	
Aug	600.00	250.00	300.00	purchased unit 2022
Sept	600.00	250.00	300.00	
Oct	600.00	250.00	300.00	
Nov	600.00	250.00	300.00	
Dec	600.00	250.00	300.00	

## Simon Heppitt 8

	2021	2022	2023	
Jan			300.00	
Feb			300.00	
March			300.00	
April			300.00	
May			300.00	
June			300.00	
July			300.00	
Aug			300.00	
Sept			300.00	
Oct			300.00	
Nov			300.00	
Dec		300.00	300.00	purchased unit 2022

## Sam Tannotta 7

	2021	2022	2023	
Jan				
Feb				
March				
April				
May				
June				
July				
Aug		00		purchased unit 2022
Sept				
Oct				
Nov			300.00	
Dec			300.00	
				total rent due 8-22-10-23
				15 X 300 = 4500
				80 hour worked
				80 X 15 = 1200
				outstanding 3300



## RESIDENTIAL LEASE

BY THIS AGREEMENT made and entered into on between Jay O'Hurley, herein referred to as Lessor, and West Virginia Coalition to End Homelessness, herein referred to as Lessee, Lessor leases to Lessee the property situated at: 203 S Mill Street #14 Shepherdstown County of Jefferson 25443, State of West Virginia, together with all appurtenances, for a term of 12 months, to commence on 09 / 01 / 2023, and to end on 08 / 31 / 2024, at 11:59 pm.

1. **Rent.** Lessee agrees to pay, without demand, to Lessor as rent for the premises the sum of \$800 per month in advance or on the 1<sup>st</sup> of each calendar month beginning 09 / 01 / 2023. Rents received after the 5 of the month will be assessed a \$80.00 late fee. If Lessee is entering this residential lease agreement later than the 1<sup>st</sup> of the month, first rent payment shall be prorated.

Payments in the form of check, cash, or money order shall be made payable to Lessor: Jay O' Hurley at the following address: 205 East Washington St Shepherdstown, WV 25443 Lessor agrees to provide a receipt documenting who money is received from, paid to, the date received, accurate amount, and valid signature.

2. **Security Deposit.** On execution of this lease, Lessee deposits with Lessor \$ 0 receipt of which is acknowledged by Lessor, as security for the faithful performance by Lessee of the terms hereof, to be returned to Lessee, without interest, on the full and faithful performance by him of the provisions hereof.

3. **Number of Occupants.** Lessee agrees that the demised premises shall be occupied by no more than 2 persons, consisting of 2 adults and 0 child(ren) under the age of 18, without the written consent of Lessor.

4. **Condition of Premises.** Lessee stipulates that he has examined the demised premises, including the grounds and all buildings and improvements, and that they are, at the time of this lease, in good order, repair, and a safe, clean, and tenantable condition.

5. **Damage to Premises.** If the demised premises, or any part thereof, shall be partially damaged by fire or other casualty not due to Lessee's negligence or willful act or that of his employee, family, agent, or visitor, the premises shall be promptly repaired by Lessor and there shall be an abatement of rent corresponding with the time during which, and the extent to which, the leased premises may have been untenable; but, if the leased premises should be damaged other than by Lessee's negligence or willful act or that of his employee, family, agent, or visitor to the extent that Lessor shall decide not to rebuild or repair, the term of this lease shall end and the rent shall be prorated up to the time of the damage. Insurance carried by the Lessor covers the building only. Tenant personal items are not covered against fire, theft or other loss or damage. Lessee is advised to purchase and maintain Renters Insurance.

6. **Dangerous Materials.** Lessee shall not keep or have on the leased premises any article or thing of a dangerous, inflammable, or explosive character that might unreasonably increase the danger of fire on the leased premises or that might be considered hazardous or extra hazardous by any responsible insurance company. There shall be no dangerous activity that could result in bodily injury and/or illegal activities conducted, encouraged, or allowed on the premises, by Lessee and/or guests.

7. **Utilities.** The following utilities are required to be on at all times while property is occupied by Lessee, and responsibility of payment of utility services is outlined as follows:



Utility:	Paid by Lessor (Landlord)	Paid by Lessee (Tenant)
Electric	X	
Gas (If Applicable)	N/A	N/A
Water	X	
Sewer	X	
Garbage	X	
Cable/Internet/Phone		X
Other:		

**8. Right of Inspection.** Lessor and his agents shall have the right at all reasonable times during the term of this lease and any renewal thereof to enter the demised premises for the purpose of inspecting the premises and all building and improvements thereon. Lessee will be notified of such, not less than 24 hours in advance, with an exception to situations deemed an emergency in regard to repairs and/or safety.

**9. Animals.** Permission of animals and/or pets strictly defined here for Lessee at this property are as follows:

**10. Abandonment.** If at any time during the term of this lease Lessee abandons the demised premises or any part thereof, after 45 days of written notice from Lessor without written objection of Lessee, Lessor may, at his option, enter the demised premises by any means without being liable for any prosecution therefor, and without becoming liable to Lessee for damages or for any payment of any kind whatsoever, and may, at his discretion, as agent for Lessee, relet the demised premises, or any part thereof, for the whole or any part of the then unexpired term, and may receive and collect all rent payable by virtue of such reletting. If Lessor's right of re-entry is exercised following abandonment of the premises by Lessee, then Lessor may consider any personal property belonging to Lessee and left on the premises to also have been abandoned, in which case Lessor may dispose of all such personal property in any manner Lessor shall deem proper and is hereby relieved of all liability for doing so. If at any time Lessee would like to relinquish the rights to agreed property, Lessee shall notify Lessor no less than 30 days prior to vacating the premises. At that time, Lessor will consider the lease term ended and Lessee shall proceed as no longer obligated or responsible under this contract.

IN WITNESS WHEREOF, the parties have executed this lease the day and year first above written.

*[Signature]* 8/29/23  
Lessor Date

*[Signature]* 8/30/23  
Lessee Date

\_\_\_\_\_  
Lessee Date

\_\_\_\_\_  
Lessee Date

As The Corporation of Shepherdstown considers accepting Jay Hurley's donation of the land which occupies The Rumsey Mobile Home Park to become a new town park, I would like to present to their consideration that one mobile home remain - the blue mobile home which is nicely landscaped belonging to Kevin and Peggy Saylor.

Kevin could become the maintenance caretaker. He would be advantageous to facilitate the transition from Rumsey Home Park to Town Park.

Kevin is a plumber, electrician and carpenter. He is working at O'Hurley's General Store as Chief of Maintenance and has been absolutely vital to us during Jay's life, and especially now at his death.

It is therefore in the interest of O'Hurley's General Store to present this consideration.

The presence of one mobile home would represent the history of the land, while not diminishing the park.

Genevieve O'Loughlin