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A CODIFICATION AND REVISION OF THE GENERAL
ORDINANCES OF THE CORPORATION OF SHEPHERDSTOWN

WHEREAS, all resolutions and special ordinances adopted prior to the adoption of this code and not in conflict with the code shall remain in force and of full legal effect, and

WHEREAS, this code of ordinances shall take effect July 1, 1981

NOW THEREFORE, BE IT ENACTED AND ORDAINED BY THE CORPORATION OF SHEPHERDSTOWN that the ordinances of the municipality of a general and permanent nature, as codified and revised in the following "titles", namely "titles" 1 through 12 are adopted as "The Code of the Town of Shepherdstown, West Virginia of 1981".

Passed through first reading this 14th day of April, 1981

Passed through second reading this 9th day of June, 1981.

Mayor

ATTEST:

Recorder

THE CODE OF THE TOWN OF
SHEPHERDSTOWN, WEST VIRGINIA

THE CHARTER AND THE
GENERAL ORDINANCES

1981

LIST OF OFFICIALS

MAYOR John
M. Farrior

TOWN COUNCIL Wayne
Bjorlie Aaron Z.
Browning. Dr. James
Holland Leonard
Moore, Sr. Winifred
Tegge

RECORDER
Audrey Egle

TREASURER
Margaret Skinner

TOWN ATTORNEY
Charles Printz, Jr,

June, 1981

This volume constitutes a codification and revision of the general ordinances of the Town of Shepherdstown, West Virginia and shall be hereafter referred to as The Code of the Town of Shepherdstown, West Virginia of 1981. The ordinances were codified, edited and indexed by Gordon D. Jones, and typed by Cindi Leatherman and Becky Kisner, members of the Region 9 Planning and Development Council staff.

A CODIFICATION AND REVISION OF
THE GENERAL ORDINANCES OF THE
CORPORATION OF SHEPHERDSTOWN

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Passed through first reading this 14th day of April, 1981.

Passed through second reading this 9th day of June, 1981.

Mayor

ATTEST:

Recorder

CHARTER OF 1867

An Act of the West Virginia Legislature. Passed February 11, 1867

Be it enacted by the Legislature of West Virginia:

The charter of the town of Shepherdstown, in the county of Jefferson, is hereby amended and re-enacted so as to read as follows:

1. All persons resident in said town, and entitled to vote for county and township officers, shall be entitled to vote for mayor, recorder and councilmen. (Note: Amended charter of July 14, 1941, requires residence in the town for sixty days.) At all elections the vote shall be by ballot, and when two or more person for the same office, at any election, shall receive an equal number of votes, the person or person conducting such election shall decide which of said persons shall be returned elected. (Note: Amended charter of July 14, 1941, prescribes that this shall be decided by lot.) And all contested elections shall be determined by the council for the time being, and every election to be held by virtue of this act shall meet at some convenient place in said town annually, on the first Monday in April, and then and there nominate and elect ten fit and able men, being freeholders and inhabitants of the town, to serve as mayor, recorder and common councilmen for the same; and proceed to choose by ballot, out of their own body, one mayor and one recorder, whose several authorities as mayor, recorder and common councilmen shall continue until a new election shall have taken place, and those elected shall have qualified. (Note: The Amended Charter of July 14, 1941, prescribes biennial elections on even numbered years, to be held on the first Tuesday in June, at which a mayor, recorder, and five councilmen are to be elected directly by vote of the electorate; and also removes the requirement that one must be a freeholder to hold office, but inserts the provision that only those are eligible for office who for the year preceding their election must have been assessed with and paid taxes upon at least one hundred dollars worth of real or personal property within the town.

2. The presence of the mayor or the recorder and five councilmen, or in case both the mayor and recorder be absent, the attendance of seven common councilmen, shall be necessary to constitute a board for the transaction of business; at which the mayor, and, in his absence, the recorder shall preside; and if both the mayor and the recorder be absent, the common councilmen shall appoint one of their number to preside pro tempore. (Note: Amended Charter of July 14, 1941, provides that any four of the seven members shall constitute a quorum.) The board, so constituted, shall have power to establish a market, and appoint a clerk thereof, and make such rules and regulations concerning the same as they may deem necessary; to regulate the weighing and measuring of wood and hay; to regulate the streets and alleys of said town; to keep the same in repair; to lay off, open, pave and curb streets, alleys, walks and gutters for the public use, and to either, improve and light the same, as well as the streets and alleys not open, and to have said streets and alleys kept in good order and free from obstructions on or over them; to regulate the width of the sidewalks and streets, and to order the sidewalks, footways and gutters to be curbed, paved and kept in good order, free and clean, by the owners or occupants of the adjacent property; to lay off public grounds, and provide, contract for and take care of public buildings proper to the town; to prevent injury or annoyance to public or individuals from

anything dangerous, offensive or unwholesome, to abate, or cause to be abated, anything which, is the nuisance; to prevent persons from galloping horses through the streets; to prevent hogs from running at large in said town; to remove nuisances from the streets and alleys of said town at the expense of those who occasion them, and from the lots at the expense of the owners thereof, provided they neglect to do the same after having been notified to do so by the mayor, recorder and common council; to lay and collect taxes on the real property and persons within the same; provided such taxes shall not in any one year exceed five per centum on the annual rent of houses and lots, to be ascertained by a commissioner or commissioners appointed for that purpose by the mayor, recorder and common councilmen, and seventy cents on every person; to have power to lay and collect a tax from the owners or keepers of dogs; provided that such tax, during any one year, shall not exceed one dollar per head; (Note: By State law the council may now levy taxes on property within certain prescribed limits and with the approval of the State Tax Commissioner; dog taxes are now handled by the County Assessor and County Sheriff.) and, finally, to make such by-laws, rules and regulations for the government of the affairs of said town as shall not be contrary to the constitution or laws of this State or of the United States.

3. It shall be lawful for the mayor, recorder and common councilmen, for the time being, to appoint three or more commissioners to superintend the election of the said ten persons (Note: Now seven under the Amended Charter.) to serve as mayor, recorder and councilmen; and, in any case, any two or more persons nominated or voted for in the said election (and not being elected) shall have an equal number of votes, and proclamation having been made that the election is closing, the said commissioners, or a majority of them, shall determine and say which of the said persons voted for as aforesaid shall be returned as elected.

4. The said mayor, recorder and common councilmen, before they enter upon the duties of their offices, shall make oath or affirmation before some justice, faithfully and impartially to execute the same; a certificate of which oath or affirmation shall be entered or record among the proceeding of said mayor, recorder and common councilmen, in common hall assembled. (Note: Chapter 8 of the West Virginia Code has a provision that members of council shall take the oath of office within twenty days after their election and this was one of the several provisions of said chapter which, by adoption by Council, became a part of the Amended Charter of July 14, 1941.)

5. The recorder shall keep a regular record of all the proceedings of said mayor, recorder and common council, and if he be absent or preside in the absence of the mayor, the common councilmen shall choose one of their own body to act as recorder pro tempore; and all acts and ordinances and minutes of the proceedings shall be signed by the person presiding, and the recorder for the time being; said recorder may be annually allowed by the mayor and common council a reasonable compensation for his services. The said mayor, recorder and common councilmen, so soon as they shall have qualified, as hereinbefore directed, shall be a body politic and corporate by the name and style of the "Mayor, Recorder and Common Council of Shepherdstown," and shall have perpetual succession and a common seal, and by that name may sue and be sued, implead and be

impleaded, and purchase and hold lands, tenements and hereditaments necessary to enable them the better to discharge their duties, and for the good order and government of the said town. Vacancies in the office of mayor, recorder and common councilmen shall be supplied by a majority of the remaining members until an annual election takes place.

6. The said mayor and recorder shall be conservators of the peace within said town, and shall and may exercise all the powers and duties of justices within the same.

7. The said mayor, recorder and common council shall appoint a sergeant and all other officers necessary to conduct the business of said corporation, and for the good order and government of the said town; and said sergeant shall possess all the powers of a constable within the limits of said town; and it shall, moreover, be the duty of said sergeant to collect and account for all taxes, fines and amercements imposed within the same, and do and perform all other acts appertaining to the office of sergeant of the corporation; and before he enters upon his office he shall make oath or affirmation, before the mayor, or recorder, faithfully and impartially to execute his said form, and shall, moreover, give bond and security, to be approved of by the mayor, recorder and common council, in such sum as they shall require, payable to said mayor, recorder and common council, conditioned for the faithful execution of the duties of said office, and to collect and account for all taxes, fines and amercements imposed within said town; and if the said sergeant fail to collect and account for the same according to the condition of said bond, it shall be lawful for the said mayor, recorder and common council to recover the same, by motion before the superior or inferior court of Jefferson County, against the said sergeant and his securities, or either of them, his or their executors or administrators, giving ten days previous notice of such motion. (Note: The collection of taxes levied on real and personal property has been assigned to the County Sheriff by State Law.)

8. The taxes in said town shall be annually laid in the month of May or June, and shall be paid and accounted for the by sergeant aforesaid, at the same time that the county levies of this commonwealth are payable and due, and the said sergeant shall have and possess the same right of distress, and powers in collecting the same, that the collectors of the county levies aforesaid have and possess. (Note: By State law, levies are now laid on the third Tuesday of August, and the County Sheriff is the collector of taxes on real and personal property, and capitation and dog taxes.)

9. All questions depending before the mayor, recorder and common council aforesaid shall be decided by a majority of the board. Each member present shall have one vote, except the person who presides, who shall only vote when the board is equally divided.

10. All acts and parts of acts coming within the purview of this act shall be and the same are hereby repealed.

11. This act shall commence and be in force from and after the thirty-first day of March next. (Note: This act was passed on February 11, 1867).

12. (The provisions of this charter remain in effect in so far as the provisions of the Amended Charter of July 14, 1941, are not inconsistent herewith.)

CHARTER AMENDMENTS BY CIRCUIT COURT

Note: There were three of these dated as follows: December 9, 1882; November 28, 1888; and November 8, 1909.

All of these were declared void in an introductory paragraph in the Amended Charter of July 14, 1941. All parts of the first two not made obsolete by state law were re-enacted by said amended charter.

In the case of the third, it was no part of Chapter 8 of the West Virginia Code provisions adopted as the Amended Charter of 1941. Doubtless the Supreme Court decision in the case of St. Marys vs. Wood cited in the introductory paragraph mentioned above would have been affirmed and applied to the Circuit Court amendment of November 8, 1909, had the legality of said Circuit Court Amendment been made an issue before the Supreme Court. However, no such action was taken before or since the decision in the St. Marys vs. Woods case and it would appear that the slight change in the corporate limits set forth in the November 8, 1909 Amendment has been allowed to remain in effect.

Therefore, there is here included a copy of said third amendment by the Circuit Court, as follows:

State of West Virginia, County of Jefferson, to-wit:

In The Circuit Court of said County, in Term, November 8th, 1909.

In the matter of the petition of E.H. Reinhart and other, to change the corporate limits of Shepherdstown, and take in additional territory, a certificate of the Council of the town of Shepherdstown was this day filed, showing that a change has been made in the manner required by law, in the corporate limits thereof, and that by such change, there is included within said corporate limits, that triangular parcel of land adjoining the eastern limits of the corporation between High and Rocky streets, belonging to the Norfolk and Western Railway Company, lying between the western edge of College Street outside of the corporate limits and the eastern line of the said railway company, bounded and described as follows: beginning at the monument (see plat) thence S 60-15 E 197.0 ft. to eastern limits of the Norfolk & Western Railroad, thence with said limits S 57-38 W 408.0 ft, to a point in present corporate limits, thence N 29-28 E 357.0 ft. to beginning, containing 807 acres.

It is therefore ordered that said change in said corporate limits be, and the same is hereby approved and confirmed and the clerk of this court is directed to deliver to said council a certified copy of this order as soon as practicable after the rising of this court, the cost of same to be paid by the petitioner.

I, John M. Daniel, clerk of the circuit, court of Jefferson County, West Virginia, hereby certify that the foregoing is a true copy of an order entered of record by the said circuit court on the 8th day of November, 1909. Given under my hand and seal of the court, this 9th day of November, 1909.

John M. Daniel Clerk
as aforesaid

1941 CHARTER AMENDMENT

Passed July 14, 1941

BE IT ENACTED by the Town Council of the Corporation of Shepherdstown, West Virginia, that:

WHEREAS, the present charter of the Corporation of Shepherdstown, in Jefferson County, was amended and re-enacted by the Legislature of West Virginia on February 11, 1867, by Chapter 15 of the Acts of 1867,

AND WHEREAS, additional amendments to said charter were subsequently attempted by the Circuit Court of Jefferson County as follows: by decree dated December 9, 1882, in the petition of John H. Zittle et al., and by decree dated November 8, 1909, in the petition of E.H. Reinhart et al.,

AND WHEREAS, the Supreme Court of West Virginia in the case of City of St. Marys et al vs. Woods (67 W.Va. 110, 67 S.E. 176) on February 15, 1910, decided and has since held that a Circuit Court has no jurisdiction or power under the Code of West Virginia to amend the charter of a city or town granted by special act of the Legislature,

AND WHEREAS, said three additional amendments above set forth to said charter are therefore void,

NOW, THEREFORE, BE IT ENACTED by the Town Council of the Corporation of Shepherdstown, that the said charter of the Town of Shepherdstown, in the County of Jefferson, be, and the same is, hereby amended and re-enacted under authority of Chapter 8, Article 1, Section 2 of the West Virginia Code, to read as follows:

1. Qualified Voters. Chapter 8, Article 3, Section 7 of the West Virginia Code is hereby adopted in lieu of present provisions of the Shepherdstown Charter covering this question, and henceforth this portion of the town charter shall read as follows: All persons who have been bona fide residents of the territory included in said town for sixty days next preceding a municipal election therein, and who are qualified voters under the Constitution and laws of the State, and non others, shall be entitled to vote at any municipal election in said town. But no person shall be deemed a resident of said town by reason of being a student of any school or college therein, or of being stationed herein for any temporary purpose.

2. Tie Vote. Chapter 8, Article 3, Section 5 of said Code is hereby adopted as follows: Whenever two or more persons shall receive an equal number of votes for the same office, if such number be the highest cast for such office, the persons under whose supervision the election is held shall decide by lot which of them shall be returned as elected, and shall make their return accordingly.

3. Contested Elections. Chapter 8, Article 3, Section 6 of said Code is hereby adopted as follows: All contested elections shall be heard and decided by the council.

4. Municipal Authorities. Chapter 8, Article 3, Section 8 of said Code is hereby adopted as follows: The municipal authorities of said town shall be a mayor, recorder and councilman, who together shall form the council. Where said town has not been divided into wards, there shall be at least five council men, but, when said town has been divided into wards, the council may, by ordinance, determine the number of councilmen to be elected for each ward. And, when it is deemed necessary, the council may, by ordinance, increase the number of wards, and change the boundaries thereof, such wards to be made as nearly equal as may be, in territory and population, and when said shall be divided into wards, or others shall be an increase in the number of wards as aforesaid, the council may increase the number of councilmen and direct an election to be held at the next regular election in such ward or wards so that each ward may have its full number of councilmen residing therein and may equal representation in the council.

5. Eligibility of Mayor, Recorder and Councilmen. Chapter 8, Article 3, Section 9 of said Code is hereby adopted as follows: The Mayor, Recorder and Councilmen must be residents of said municipality, must be loyal voters entitled to vote for members of the council, and for the year preceding their election must have been assessed with and paid taxes upon at least one hundred dollars worth of real or personal property therein.

6. Council: Who to Preside; Quorum; Interested Councilmen Not to Vote. Chapter 8, Article 4, Section 6 of the said Code is hereby adopted as follows The council shall be presided over at its meetings by the mayor and recorder in his absence, in the absence of both the Mayor and Recorder, by one of the councilmen selected by a majority of the council present. A majority of the council shall be necessary to form a quorum for the transaction of business. No member of the council of said town shall vote upon any order, measure, resolution or proposition, in which he may be interested other than as a citizen of said town.

7. Mayor and Recorder May Vote in Council; Tie Vote. Chapter 8, Article 4, Section 7 of said Code is hereby adopted as follows: The Mayor and Recorder shall have votes on members of the council, and in case of a tie, the presiding officer for the time being, unless he has previously voted, shall have the casting vote.

8. Terms of Officers. Chapter 8, Article 4, Section 12 of said Code is hereby adopted as follows: The sergeant and superintendent of roads, streets and alleys shall continue in office during the pleasure of the council. Except as otherwise provided the terms of all officers elected after the first election shall commence of the first day of July following election and shall be for two years. All municipal officers, whether elected at first or regular elections, or appointed as herein provided, shall hold their offices until their successors are elected or appointed and qualified according to law, unless sooner removed from office according to law.

9. Elections. Chapter 8, Article 3, Section 4 of said Code is hereby adopted as follows: All regular corporation elections shall be held biennially on the first Tuesday in June, beginning June 2, 1942.

10. Power of Council. Chapter 8, Article 4, Section 10 of said Code is hereby adopted as amended by Chapter 66 of the Acts of the Legislature 1935, regular session, as follows: The Council shall have plenary power and authority therein by ordinance or resolution as the case may require, (so far as such power or authority is not in conflict with the constitution and laws of this state or the constitution of the United States) to lay off, vacate, close, open, alter, curb, pave or repair and keep in good repair roads, streets, alleys, sidewalks, crosswalks, drains, gutters, for the use of the public, and to improve and light the same, and have them kept free from obstructions on or over them; to prevent by proper fines and penalties the throwing, depositing or permitting to remain on any street, sidewalk, alley, lane, square or other public place any glass, scrap iron, nails, tacks, wire, other litter, or any offensive matter or anything likely to injure the feet of persons or animals or the tires of vehicles; to regulate the use of streets, alleys, lanes and sidewalks for vehicles propelled by man power, and for other vehicles the use of which is not regulated by general laws; to regulate the width of sidewalks on the streets, and subject to the provisions of article eight of this chapter, to order the sidewalks, footways and crosswalks to be curbed, recurbed, paved, repaved and kept in good order, free and clean, by the owners or occupants thereof, or of the real property next adjacent thereto; to establish and regulate markets, and prescribe the time of holding the same; to prevent injury or annoyance to the public or individuals from anything dangerous, offensive or unwholesome; to prevent hogs, cattle, horses, sheep or other animals, and fowls of all kinds from going at large in said town; to protect places of divine worship and to preserve peace and order in and about the premises where held; to arrest, convict and punish any person for keeping a house of ill-fame, or for letting to another person any house or other building for the purpose of being used or kept as a house of ill-fame, or for knowingly permitting any house owned by him, or under his control, to be kept or used as a house of ill-fame, or for loafing, boarding or loitering in a house of ill-fame, or frequenting same; to arrest, convict and punish any person for importing, publishing, selling or distributing any pornographic publication; to arrest, convict and punish any person for cruelly, unnecessarily or needlessly beating, torturing, mutilating, killing or overleading or overdriving, or willfully depriving of necessary sustenance, any horse or other domestic animal; to arrest, convict and punish any person for gambling or keeping gaming tables, commonly called "A, B, C", or "E, D", table or faro bank or keno table, or table of like kind, under any denomination, whether the gaming table be played with cards, dice or otherwise or any person who shall be a partner or concerned in interest, in keeping or exhibiting such table or bank, or keeping or maintaining any gambling house or place, or betting or gambling for money or anything of value; to license, or for good cause to refuse to license in a particular case, or at its discretion to prohibit in all cases the operation of pool and billiard rooms and maintaining for hire of pool and billiard tables notwithstanding the general law as to state licenses for such business. When the council, in the exercise of its discretion, shall have refused to grant a license mandamus shall not lie to compel the council to grant such license, unless it shall clearly appear that the refusal of the council to grant such license is discriminatory or arbitrary. In the event that the council decides to license any such business, the council shall have power, and it shall be the duty of the council, to make and enforce reasonable ordinances regulating the licensing and operating of such businesses; the council shall also have such power and authority

and enforce reasonable ordinances regulating the licensing and operating of such businesses; the council shall also have such power and authority to arrest, convict and punish any person for carrying about his person any revolver or other pistol, dirk, bowie-knife, razor, sling shot, billy, metallic or other false knuckles, or any other dangerous or other deadly weapon of like kind or character, within said town; to arrest, convict and punish any person for driving or operating within said town, a motor vehicle when intoxicated or under the influence of liquor, drugs or narcotics; to provide penalties for the offenses and violations of law mentioned herein in addition to the penalties provided in section twenty-three of this article, but which shall not exceed the penalties provided for like offenses and violations in this chapter, and in chapter sixty-one of this Code; to abate or cause to be abated anything which, in the opinion of a majority of the whole council, shall be a nuisance; to regulate the keeping of gun powder and other combustibles; to acquire, by purchase, condemnation and otherwise, land in or near the town for providing and maintaining proper places for the burial of the dead and to regulate interments therein upon such terms and conditions as to price and otherwise as may be determined by the council, and, in order to carry into effect such provisions the council may acquire any cemetery and cemeteries already established; to provide for the regular building of houses or other structures, and for making of division fences by owners of adjacent premises and the drainage of lots by the proper drains and ditches; to make regulations guarding against danger or damage by fire; to prevent the illegal sale of intoxicating liquors, drinks, mixtures and preparations therein; to protect the persons and property of the inhabitants of said town, and to preserve peace and good order therein, and, for this purpose, to appoint, when necessary, a police force to assist the sergeant in the discharge of his duties; except as otherwise provided, to prescribe the powers and define the duties of the officers appointed by the council, fix their terms of service and compensation, and require and take from them bonds, when deemed necessary, payable to said town, in its corporate name, with such sureties and in such penalty as the council may see fit, conditioned for the faithful discharge of their duties; to require and take from employees and contractors bonds in such penalties, with such sureties and with such conditions, as council may see fit; to erect or authorize or prohibit the erection of gas works, electric light works, water works, and sewer treatment and disposal works within or without the town, or partly within and partly without the town, except that it shall not erect or authorize the erection of any such works, partly without the town to serve persons already obtaining service from existing works of the character proposed, and where such works are by the municipality erected, or have heretofore been so erected, partly within and partly without the town, it shall have the right to lay and collect charges for services rendered to those served within and those served without the town, and to prevent injury to such works or the pollution of the water and its maintenance in a healthful condition for public use within the town; to regulate and provide for the weighing of hay, coal and other articles sold or for sale in the town, to provide a revenue for the town and appropriate the same to its expenses, which power shall include the power to tax dogs; to impose a license tax on persons or companies keeping for hire carriages, hacks, buggies or wagons, or for carrying passengers for pay in any such vehicle, in said town; to adopt rules for the transaction of business, and the government and regulation of its own body. Wherever the powers herein granted cannot be reasonably and efficiently exercised by confining the exercise thereof within the corporate limits, the powers of the corporation

shall extend beyond the corporate limits to the extent necessary to the reasonably efficient exercise of such powers within the corporate limits. But such powers, unless otherwise provided, shall not extend more than one mile beyond the corporate limits, nor shall such powers extend into the corporate limits of another municipal corporation.

11. Oath of Officers. Chapter 8, Article 3, Section 11 of said Code is hereby adopted as follows: Every person elected or appointed to an office in said corporation shall, within twenty days after his election or appointment and before he shall enter upon the duties of his office, take and subscribe the oath of office prescribed for district officers; which may be done before the Mayor or Recorder of said town, which oath, with the certificate of the officer administering the same, shall be filed, recorded and preserved in the office of the Recorder of the town, and a certified copy of such oath and certificate shall be filed and recorded in the office of the clerk of the county court of the county.

12. Powers and Duties of Mayor. Chapter 8, Article 4, Section 3 of said Code is hereby adopted as follows: The Mayor shall be the Chief Executive Office of the town, when not otherwise provided by law, and shall take care that the order, by-laws, ordinances, acts and resolutions of the council thereof are faithfully executed. He shall be ex officio, a justice and conservator of the peace within the town, and shall, within the same, have and exercise all powers and perform all duties vested by law in a justice of the peace, except that he shall have no jurisdiction in civil cases or causes of action arising out of the corporate limits of the town. He shall have the same power to issue attachments in civil cases as a justice of his county has, though the cause of action arose out of his town. But in such cases he shall have no power to try the same but such attachments shall be returnable and be heard before some justice of his county. Any warrant or other process issued by him may be executed at any place within the county or counties in which the town is situated. He shall have control of the police of the town and may appoint special police officers whenever he deems it necessary, except when otherwise provided by law; and it shall be his duty especially to see that the peace and good order of the town are preserved, and that persons and property therein are protected; and to this end he may cause the arrest and detention of all riotous and disorderly persons in the town before issuing his warrant therefore. He shall have power to issue executions for all fines, penalties and costs imposed by him, or he may require the immediate payment thereof, and, in default of such payment, he may commit the party in default to the jail of Jefferson County, or other place of imprisonment in said corporation, if there be one, until the fine or penalty and costs shall be paid, but the term of imprisonment in said case shall not exceed thirty days. He shall, from time to time, recommend to the council such measures as he may deem needful for the welfare of the town. The expense of maintaining any person committed to the jail of the county by him, except it be to answer an indictment, or be under the provisions of section eight and nine, article eighteen, chapter fifty of said Code, shall be paid by the town and taxed as part of the costs of the proceeding. But such Mayor shall not receive any money belonging to the State, or to individuals, unless he shall give bond and security required of a justice of the peace by article one, chapter fifty, of said Code; and all provision of said article one, relating to moneys received by justices shall apply to like moneys received by the Mayor.

13. Powers and Duties of Recorder. Chapter 8, Article 4, Section 4 of said Code is hereby adopted as follows: It shall be the duty of the Recorder to keep the journal of the proceedings of the council, and have charge of and preserve the records of the town. In the absence from the town, or in case of sickness, of the Mayor, or during any vacancy in the office of Mayor, the Recorder shall perform the duties of the Mayor and be invested with all his powers.

14. Powers and Duties of Sergeant. Chapter 8, Article 4, Section 5 of said Code is hereby adopted as follows: The Sergeant shall have all the powers, rights and privileges within the corporate limits of the town in regard to the arrest of persons, the collection of claims, and the execution and return of process that can be legally exercised by a constable of a district within the same. In order to arrest for violation of municipal ordinances and as to all matters arising within the corporate limits and coming within the scope of his official duties, the powers of the Sergeant or of any policeman shall extend anywhere within the county or counties in which municipality is situated. He and his sureties shall be liable to all the fines, penalties and forfeitures that a constable of a district is liable to, for failure or dereliction in such office, to be recovered in the same manner and in the same courts in which such fines, penalties and forfeitures are now recovered against such constables. The Sergeant shall, before entering upon the duties of his office, execute a bond, conditioned according to law, with surety satisfactory to the council, payable to the town, in such penalty, not less than one thousand dollars, as the council may prescribe.

15. Vacancies in Office; How Filled. Chapter 8, Article 3, Section 13 of said Code is hereby adopted as follows: When a vacancy shall occur for any cause in the office of Mayor, Recorder or in the Council, the vacancy, until the next succeeding election and until the qualification of an elected successor, shall be filled by appointment by the Council from among the citizens of the town eligible under this charter.

16. Tax Levies. Chapter 67, Article 8, Section 14 of the Acts of 1933, Second Extraordinary Session, as amended by Chapter 132, Acts of 1939, Regular Session is hereby declared to govern the preparation of estimates and laying of levies on all taxable property within the town in lieu of the present provision of the Charter of 1867 requiring levies to be made in May or June. All estimates will therefore be made henceforth on the first Tuesday in August and approved on the third Tuesday in August in each year.

TOWN CHARTER

Editor's note: - The legislature, in its 1969 revision and consolidation of chapters 8 and 8A of the Code of West Virginia into a new chapter 8, recognized, in section 8-1-6, "that when the provisions of existing special legislative charters are compared with and are considered in the light of the provisions of this chapter, (i.e., the new chapter 8), there are five basic possibilities as to the relationship between such charter provisions and the provisions of this chapter, namely: (1) As to any particular charter provisions, such charter provisions may be inconsistent or in conflict with the pertinent provisions of this chapter; (2) although relating to the same subject matter and although not inconsistent or in conflict with any provisions of this chapter, certain charter provisions may be sufficiently different from pertinent provisions of this chapter as to indicate, as a matter of practical construction, that either the charter provisions or the provisions of this chapter, but not both, should be applicable; (3) although varying in certain respects, certain charter provisions may be similar to and in essential harmony with corresponding provisions of this chapter; (4) as to any particular charter provisions, there may be no counterpart of such provisions in this chapter; and (5) as to any provisions in this chapter, there may be no counterpart charter provisions."

Section 8-1-6, therefore, sets forth certain rules to be applied, in addition to the usual and ordinary rules of statutory construction, with respect to construction and applicability of legislative charters, and it is suggested that users of this town code refer to West Virginia Code 8-1-6, in determining the present construction and applicability of any portion of the town charter to any given situation.