Shepherdstown
WEST VIRGINIA

TOWN HALL
104 N. King Street
Shepherdstown,West Virginia
304-876-2312

SHEPHERDSTOWN SPECIAL PLANNING COMMISSION AGENDA

Monday, October 5, 2026
7:30 p.m.
TOWN HALL
104 NORTH KING STREET, SHEPHERDSTOWN

Join online by Zoom:
https://us06web.zoom.us/j/86067120451?pwd=fWNLscmYpiOmof8Pknlig4oZKNXa8i.1

Meeting ID: 860 6712 0451
Passcode:818383

Or join by telephone:
Dial: (301} 715-8592

1. **Call to Order:**

2. **Approval of Previous Months' Minutes:**
   a. September 21, 2026, Meeting

3. **Visitors:**

4. **Conflicts of Interest:**

5. **Applications:**

6. **Continuing Business:**
   a. Draft Accessory Dwelling Unit (ADU) Ordinance

7. **New Business:**
   a. None

8. **Adjournment:**

Ordinance No. 2026-____

AN ORDINANCE OF THE CORPORATION OF SHEPHERDSTOWN ESTABLISHING REQUIREMENTS FOR ACCESSORY DWELLING UNITS

The Town of Shepherdstown hereby ordains as follows:

Section 1. Findings and Purpose.

The Town Council finds and concludes that 2026 West Virginia Senate Bill 659, codified at W. Va. Code §§ 8-40-1 *et seq*., requires municipalities to allow one accessory dwelling unit by right on each lot or parcel occupied by a single-family dwelling, and provides various requirements for municipalities in connection with permitting accessory dwelling units in their communities which supersede the general authority to implement zoning regulations under Chapter 8A of the West Virginia Code.

This ordinance is adopted for the purpose of complying with newly-adopted state law, and to further the purposes of the current Shepherdstown Comprehensive Plan.

In accordance with W. Va. Code § 8A-7-8, this Ordinance has been referred to the Shepherdstown Planning Commission for its advice, and the Town Council finds that the amendment to the Planning and Zoning Code established by this Ordinance is consistent with the current adopted comprehensive plan, including by furthering the community goals recited in this Section 1.

Section 2. Adoption of Amendment to Title 9 of the Codified Ordinances of the Town.

The following portions of the Codified Ordinances of the Town are hereby amended as provided (new matter underlined; deleted matter ~~stricken~~):

Sec. 9-207. Off-street parking requirements.

Parking space or spaces surfaced with asphalt, concrete or other stabilized material such as crusher-run and three (3) inches of stone shall be provided on any lot on which any of the following uses are hereafter established. Each space shall have access to a street or alley. For purposes of computing, each space will be not less than nine (9) feet wide nor twenty (20) feet long.

I. Minimum requirements for specific uses:

(a) For dwellings, one (1) space on the lot for each living unit in the building. For lodging houses, one (1) space on the lot for each lodging unit in the dwelling. No additional spaces will be required for the first ADU on any lot which already contains a single-family dwelling.

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(b) For churches erected on new sites, one parking space on the lot for each ten (10) seats in the main auditorium, but existing churches and additions to or enlargements of churches existing at the time of passage of this title shall be exempt from this requirement.

(c) For places of public assembly, including auditoriums and theatres, one space for each seven (7) seats provided .

(d) For all schools, except high schools, two (2) spaces for each classroom; for high schools ten (10) spaces for each classroom.

(e) For institutions, clubs, lodges and other public and semi-public buildings, five (5) spaces for each one thousand (1,000) square feet of floor area.

(f) For commercial and residential uses located on the same lot in the Residential Commercial District, one space for each dwelling unit and one space for each two hundred (200) square feet of commercial floor area, with a minimum of two (2) spaces required. No additional spaces will be required for the first ADU on any lot which already contains a single-family dwelling.

(g) For commercial uses, except as specified in Section 9-207 I(f), one (1) space for each three hundred (300) square feet of floor area and one (1) space for each two (2) employees.

II. General rules and exceptions:

(a) In the RC and C Districts, parking space may be provided on a separate lot if within three hundred (300) feet of the building served, and two (2) or more owners may join together in the provision of this parking space.

(b) No parking space may be located in a front yard. This does not prohibit parking in a driveway.

(c) Parking spaces may be provided in side and rear yards in the Commercial District but are limited to rear yards in Residential Districts.

(d) Parking space for any use specifically permitted in an R District may be provided on a lot adjoining that use.

(e) Existing buildings not complying with off-street parking requirements may be remodeled, repaired or structurally altered, but any enlargement must provide the required parking spaces for said enlargement.

Sec. 9-208. Accessory Dwelling Units; Private detached garage or accessory building.

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(a) A single Accessory Dwelling Unit (ADU) shall be permitted on any lot or parcel containing an existing single-family dwelling, subject to the following requirements:

1) **Single-family dwelling.** For purposes of determining whether the lot or parcel contains an existing single-family dwelling, a structure is a single-family dwelling if it meets the definition provided in this Code and is not used for another purpose (such as a dwelling occupied for multifamily or commercial purposes as a preexisting, nonconforming use).

2) **Type.** The ADU may be attached to or detached from the single family dwelling.

3) **Area.** The ADU must have a smaller area than the existing single family dwelling, determined by measuring gross floor area. Attached or detached ADUs shall not be more than 75 percent of the gross floor area of the single-family dwelling or 1,000 square feet, whichever is less.

4) **Setbacks**: setbacks from front, side, and rear property lines, and from other structures, for detached ADUs will be the same as those for single family dwellings in the district. Attached ADUs shall be considered a part of the principal structure for purposes of determining compliance with setbacks.

5) **Height:** Maximum building heights for ADUs shall be the same as the maximum building height for single-family dwellings in the zoning district.

6) **Lot size:** An ADU will be permitted on a lot having the minimum lot size required for a single-family dwelling in the district.

7) **Lot coverage:** An ADU will be subject to the maximum lot coverage provisions in the district. An ADU will be permitted if the ADU, together with the existing single-family dwelling and any other structures on the lot or parcel, will not exceed the maximum lot coverage for the district.

8) **Building or lot frontage:** An ADU will be permitted on a lot having the minimum lot frontage required for a single-family dwelling in the district.

9) **Streets and Sidewalks:** No improvements to streets or sidewalks will be required as a condition of establishing an ADU, but the property owner and/or contractor shall be responsible for the full cost of repairing and restoring any portion of a street, curb, sidewalk, or other public infrastructure damaged or deteriorated in connection with the construction of an ADU.

10) **Parking**: No additional off-street parking shall be required beyond what is required for the principal dwelling.

11) **Use**: ADUs shall be used as a dwelling and may be rented, leased, or used for short-term rental purposes subject to applicable law.

12) **Design:**

(A) Within a historic district as defined by W. Va. Code §8A-1-2, an ADU shall match follow the design requirements imposed pursuant to any ordinance or regulation duly adopted for the preservation of that historic district.

(B) Within the Shepherdstown Historic District established pursuant to Chapter 3 of this Title, the requirement to follow such requirements shall include, but not be limited to, compliance with the then-current Shepherdstown Historic District Design Guidelines and the requirement to obtain a certificate of appropriateness prior to issuance of a project permit pursuant to Section 9-309.

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(C) Except for applicable historic district regulations, an ADU shall not be required to match the exterior design, roof pitch, or finishing materials of the existing single-family dwelling.

(D) Unless expressly preempted by this subsection, all design and performance standards applicable to single-family dwellings in the zoning district shall apply to ADUs. If there are no design and performance standards applicable to single-family dwellings in the zoning district, then, unless expressly preempted by this subsection, all design and performance standards applicable to accessory structures in the zoning district shall apply to ADUs.

13) **Application**: No ADU may be constructed without a Project Permit as required by Section 9-902 or occupied without an Occupancy Permit as required by Section 9-903. Each application shall be accompanied by an application fee in the amount provided by Section 9-902.XIV.

14) **Water and Sewer Service:** No ADU will be permitted unless the applicant provides with the application a "will-serve" letter from the water and sewer system serving the single-family dwelling, or approval from Department of Health if municipal water/sewer service is not available. Water and sewer service for the ADU do not need to be separate from the service for the primary structure.

15) **Manufactured homes**. A manufactured home may be used as an ADU subject to the requirements of this Section only if it is installed on a permanent foundation and complies with applicable building, fire, and safety codes.

16) **Other zoning regulations**. ADUs will be subject to all other requirements of this Code, including Title 9 Planning and Zoning.

(b) A private garage or other accessory building, except an ADU, located in the rear yard may not be nearer than three (3) feet to any side lot line, nor nearer than twelve (12) feet to an alley line, except that a common or joint garage may be erected on adjoining lots. On corner lots, said garage or other accessory building shall not be nearer to the side street line than the main building.

CHAPTER 4 - COS (Conservation Open Space) District

Section 9-405 Accessory uses

(a) General signs. Section 9-210-I, "Signs, general."

(b) ADUs, when constructed on a lot or parcel with an existing single-family dwelling, subject to the requirements of Section 9-208 of this Code.

CHAPTER 5 (PR) Park-Residential, R-1, R-2 Districts

Section 9-502 Uses permitted in the PR (Park Residential) District

(a) Uses (a) through (d) permitted in the COS District

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(b) A single family residence per existing lot as presently recorded with no construction on a slope greater than twelve (12) percent, or below the base flood level as determined by H.U.D.

(c) ADUs, when constructed on a lot or parcel with an existing single-family dwelling, subject to the requirements of Section 9-208 of this Code.

CHAPTER 6 - RC (Residential Commercial) District

Section 9-602 Uses permitted in the Residential Commercial District

The following uses shall be permitted if not more than three thousand (3,000) square feet of floor area:

(a) Any use permitted in the R-2 District, including ADUs, when constructed on a lot or parcel with an existing single-family dwelling, subject to the requirements of Section 9-208 of this Code.

(b) Transient lodgings.

(c) Retail outlets: furniture, department, clothing dry goods, shoe and variety stores, hardware, electrical appliance, paint and wallpaper stores.

(d) Specialty shops: gift shops, jewelry stores, magazine, book and stationery outlets, florist shops, camera and photography shops and studios, sporting goods and antique shops.

(e) Food, Drug and Beverage: grocery, fruit and/or vegetable stores, delicatessens, drug stores, bakeries, restaurants, taverns, and the like.

(f) Service and recreation: laundromats, dry cleaning and laundry pick-up stations, barber and beauty shops, dressmaking and millinery shops, shoe repair and tailor shops, commercial recreation, repair shops for appliances and small articles, furnace, heating and plumbing shops.

(g) Business and professional offices: medical, dental, clinics, law offices, banks, finance, and utility company offices, insurance and real estate offices.

(h) Public service buildings: libraries, museums, and community centers.

(i) Accessory uses or buildings not used for dwelling; provided, that ADUs are permitted as provided in Section 9-208 of this Code.

(j) Business and advertising signs, real estate and public building signs or bulletin boards when attached to a building pertaining to the use of the property on which the sign is located, provided that they meet the requirements of Section 9-210

CHAPTER 7 C (Commercial) District

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Section 9-702 Uses permitted in the Commercial District

The following uses shall be permitted:

(a) Any use permitted in the RC District; including ADUs, when constructed on a lot or parcel with an existing single-family dwelling, subject to the requirements of Section 9-208 of this Code..

(b) Newspaper printing and publishing facilities and print shop.

(c) Indoor storage and transfer.

(d) Automobile filling stations, automobile repair and sales.

(e) Lumber yards.

(f) Feed, grain and farmers' supplies

(g) Dry cleaners.

(h) Other commercial ventures, except that none shall be permitted that interfere with neighboring properties in terms of fire hazards, smoke emission, glare, noise, odor, dust, vehicle movement, liquid and solid waste, visibility, vibration, heat, electrical static, or radioactivity.

CHAPTER 9 – ENFORCEMENT AND PENALTIES

Section 9-902 Project permit

I. Required

(a) Before any construction, alteration, reconstruction, moving, or demolition of any structure is made within the town which would affect the exterior appearance of the structure, the applicant proposing to make the construction or change shall file with the Planning Commission an application for permission to build, alter, reconstruct, move, demolish or make the addition.

(b) Before any installation, erection, construction or moving of any utility equipment, including, but not limited to, any overhead electric transmission line, on metal or wooden poles or towers or pole structures, cross country telephone trunk line including microwave, transmission pipe line, natural gas line, trunk sewer line or sub-station and pump station, portable and stationary standby generators, fuel and oil tanks, air conditioning compressors, liquid propane gas tanks and security alarms, is made within the town, the applicant proposing to make the installation, erection, construction or move shall file with the Planning Commission an application for permission.

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(c) Every application shall be referred to and considered by the Planning Commission and accepted or rejected by it; Provided, that: a duly appointed zoning officer may consider and approve, on behalf of the Planning Commission, applications filed which are for Category I projects as the same are defined in Section 9-902 XIV herein, entitled "Project permit fee schedule." No permit for any such change may be granted until the Planning Commission or appropriate zoning officer has acted thereon as hereinafter provided. Applications not approved by the Zoning Officer will automatically be referred to and considered by the Planning Commission and accepted or rejected by it.

XIV. Project permit fee schedule

In order to defray the expense of administering this title, a fee is adopted in the following categories:

Category I: Minor projects such as painting (change in color only), awnings, porch railings, window boxes, satellite dishes, solar panels, propane tanks, signs, or other minor changes and permit extensions. $35.00.

Category II: Accessory buildings except ADUs, sidewalks, decks, fences, driveways, garages, storage buildings, carports. $50.00.

Category III: Single family dwelling major changes excluding additions but including window and roof replacement, non-profit tax exempt organizations. $150.00 (Plus $1.50 per $1,000.00 value over $50,000.00). Attached and detached ADUs.

Category IV: Additions except ADUs, commercial-industrial, multi-family residences. $400.00 (Plus $1.50 per $1,000.00 value over $50,000.00).

Category V: Demolition.

$50.00 Accessory Buildings.
$150.00. Non Contributing Structures.
$500.00 Contributing Structures.

The Planning Commission shall categorize any request not specifically listed in the above categories. Fees shall be paid to the Town Treasurer/Clerk and must accompany the application. If work begins without the required permit, double the cost of said permit ~~would~~ will be charged.

CHAPTER 13 – DEFINITIONS

For the purpose of this title certain terms or words used herein shall be interpreted as follows:

Words used in the present tense include the future. All words in the singular include the plural and all words in the plural include the singular. The word "shall" is mandatory and not 131 directory. The word "used" shall be deemed to include "designed, intended, or arranged to be used."

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Accessory Dwelling Unit means a self-contained and independently accessed living unit that includes its own cooking, sleeping, and sanitation facilities and complies with, or is otherwise exempt from, any applicable regulatory requirements.

Accessory Dwelling Unit, Attached means an accessory dwelling unit located within or attached to a structure on the same parcel, with its own entrance/exit directly to the exterior of the property.

Accessory Dwelling Unit, Detached means an accessory dwelling unit that consists partly or entirely of a building that is separate and detached from a structure on the same parcel.

Accessory use or building - A use or separate unattached building customarily incidental and subordinate to the principle use or building and located on the same lot with such principal use or building.

Apartment - Dwelling unit clearly delineated from adjacent dwelling units as evidenced by the existence of separate entrance, separate plumbing, and separate kitchen. See dwelling unit.

Bed-and-Breakfast Establishment - A residence occupied by the owner in which rooms are let for transients and in which no meal other than breakfast is served for payment. Includes inns in which no long-term lease for rooms is executed by the guest and in which no meals are served for payment.

~~*Dwelling, accessory apartment* – A secondary dwelling unit established in conjunction with a primary dwelling unit, whether a part of the same structure or detached from the primary dwelling unit.~~

Dwelling, one-family - A building containing not more than one (1) dwelling unit

Dwelling, single family means, in connection with any *Accessory Dwelling Unit* use, a building with one or more rooms designed for residential living purposes by one household that is detached from any other dwelling unit, and shall have the same meaning as that term defined by W. Va. Code §§ 8-42-1 *et seq*., as it may be amended.

Dwelling unit - A building or portion thereof arranged or designed for occupancy by not more than one (1) family for living purposes and having cooking facilities.

Family - One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage, no such family may contain more than three (3) persons, but further provided that domestic servants employed on the premises may be housed on the premises without being counted as a family or families.

Floor area of building, total - The total number of square feet of floor area in a building, excluding cellars, uncovered steps, and uncovered porches; but including the total floor area of

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accessory buildings on the same lot. All horizontal measurements shall be made between interior faces of walls.

Gross Floor Area means, in connection with *Accessory Dwelling Units*, the interior habitable area of a single-family dwelling or an accessory dwelling unit.

Household means a family living together in a single dwelling unit with common access to, and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food within the dwelling unit.

Independently accessed means, for purposes of any accessory dwelling unit, an entry and exit leading to the exterior of the accessory dwelling unit, as required by the International Residential Code adopted as part of the State Building Code.

~~*Lot* - A parcel of land occupied or to be occupied by a building and its accessory buildings, together with such open spaces as required.~~

Lot means part of a subdivision or a parcel of land, the map or plat of which has been legally recorded with the office of the County Clerk, or, a lot or parcel of land, described by metes and bounds, the deed of which has been recorded with the office of the County Clerk.

Manufactured Home means a structure constructed in compliance with the federal Manufactured Home Construction and Safety Standards, 42 U.S.C. §5401 *et seq.*, and installed on a permanent foundation.

Parcel means a single lot, or a grouping of lots acquired by a single deed and considered as one buildable lot for zoning purposes. Parcels that consist of a grouping of lots acquired by a single deed may be subdivided for purposes of creating more buildable parcels, subject to compliance with all regulations contained within this Code, including the subdivision regulations.

Short-term rental means an individually or collectively owned single-family house or single-family dwelling unit or a unit or group of units in a condominium, cooperative, time-share, or owner-occupied residential home that is offered for a fee for 30 days or less.

~~*Short-term rental housing* – A dwelling unit offered to a succession of renters, tourists, or transients by lease for periods of time less than four (4) months. Short-term rental housing includes, but is not limited to, day-to-day, week-to-week, and month-to-month leases Month-to month extensions to leases longer than four (4) months shall not be considered short-term rental housing. Short-term rental housing shall be considered a boardinghouse under these Ordinances. (added December 2011)~~

Section 3. Repeal, Savings, Severability.

Any section of this Code repealed or modified by a subsequent ordinance will continue in force until the effective date of the repealing ordinance.

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The repeal or modification of any part of this Code does not affect any existing right acquired, or liability or obligation incurred, under the code sections amended or repealed unless the modifying ordinance expressly so provides. Any repealed or modified part of this Code will remain in force for the purpose of sustaining any proper legal proceedings and prosecutions related to the enforcement of such right or liability brought prior to the repeal or modification.

The repeal of any repealing ordinance, clause, or provision does not revive any former ordinance, clause, or provision unless expressly provided by ordinance.

If any provision of this Ordinance, or the application of this Ordinance to any person or circumstance, is held invalid by a court of competent jurisdiction or other entity or agency having jurisdiction to make such determination, the remainder of this Ordinance and the application to other persons or circumstances remain in effect.

Section 4. Effective date; application. This ordinance shall be effective on January 1, 2027. This Ordinance does not affect rights, duties, or liabilities that matured, penalties that were incurred, and proceedings that were begun, before its effective date. The law remains in force for the purpose of sustaining any proper action or prosecution for the enforcement of the right, penalty, forfeiture or liability.

Section 5. Recording of ordinance. The Recorder is directed to obtain all signatures required by the form of Ordinance adopted and maintain an executed original ordinance with the official records of the Town, to be maintained, preserved, and accessed in accordance with the laws of the State of West Virginia, and to take the following additional actions: None.

FIRST READING: _____

SECOND READING: _____

ADOPTED: _____

FILED: _____

_____
Mayor

_____
Recorder

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