

ORDINANCE NO. 4-201 through 4-214

CHAPTER 4, ARTICLE 2 Section 201 through 214

OF THE CODE OF THE TOWN OF SUTTON

WHEREAS, the Town Council of the Town of Sutton, West Virginia, is authorized under West Virginia Code §§ 8-11-3, 8-11-4, and 8-12-5, and other applicable provisions of state law, to adopt, amend, repeal, and reenact ordinances governing municipal affairs; and

WHEREAS the Town Council finds that the existing provisions of Chapter 4, Article 2, Section 201 through 214 contain outdated, unclear, or fragmented language that no longer reflects current Town policy or best practices; and

WHEREAS the Town Council finds it in the best interest of the Town and its residents to repeal the existing provisions and adopt a consolidated, modernized replacement that is clear, enforceable, and consistent with current West Virginia law;

Amending and establishing 4-201 through 4-214 of the Town Code relating to the imposition and collection of municipal Business and Occupation Tax pursuant to West Virginia law.

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF SUTTON:

That Article 4 of the Town Code be amended to establish a Business and Occupation Tax measured by gross receipts for businesses operating within the corporate limits of the Town, effective July 1, 2026.

The tax shall be administered and collected in accordance with the provisions set forth in this ordinance.

Section 1. Repeal

Chapter 4, Article 2, Section 201 through 214 of the Code of the Town of Sutton, as previously enacted and amended, is hereby repealed in its entirety.

Section 2. Reenactment and Replacement

Chapter 4, Article 2, Section 201 through 214 of the Code of the Town of Sutton is hereby reenacted in its entirety to read as follows:

Business and Occupation Tax

4-201. Authority to Levy Business and Occupation Tax

Authorization

Pursuant to the authority granted to municipalities under West Virginia Code §8-13-5, the Town of Sutton is authorized to levy and collect a Business and Occupation (B&O) Tax upon persons, firms, partnerships, corporations, and other entities engaging in business activities within the corporate limits of the Town.

Beginning July 1, 2026, all businesses operating within the corporate boundaries of the Town of Sutton shall be subject to the Town's Business and Occupation Tax as established by this ordinance.

The tax shall be measured by the gross receipts or gross income of the business derived from activities conducted within the Town.

The rate of any municipal Business and Occupation Tax shall not exceed the maximum rate permitted under state law.

4-202. Definitions

For the purposes of this article, the following terms shall have the meanings indicated:

Business- Any activity engaged in with the object of gain, benefit, or advantage, either direct or indirect, including trade, commerce, manufacturing, services, or other commercial activity conducted within the corporate limits of the Town.

Gross Income / Gross Receipts-The total receipts derived from trade, business, commerce, sales, or services conducted within the Town, without deduction for labor costs, taxes, royalties, interest, discounts, expenses, or amounts paid to employees or independent contractors.

Property-Real property and improvements thereto purchased or leased for use as part of a business operation located within the Town.

Business and Occupation Tax Liability-The amount of tax owed by a taxpayer calculated by applying the applicable tax rate to the taxpayer's gross receipts generated within the Town during the reporting period.

4-203. Filing and Payment of Tax

All taxpayers subject to this article shall file Business and Occupation Tax returns quarterly for the following reporting periods:

- Quarter 1 — July 1 through September 30
- Quarter 2 — October 1 through December 31
- Quarter 3 — January 1 through March 31
- Quarter 4 — April 1 through June 30

Tax returns shall be filed and paid within thirty (30) days following the end of each reporting period.

The Town may require returns to be filed on forms prescribed by the Recorder.

4-204. Business and Occupation Tax Rates

There is hereby levied and imposed upon persons engaging in business activities within the corporate limits of the Town of Sutton a Business and Occupation Tax measured by the gross receipts derived from such activities, according to the following classifications and rates.

The tax shall be computed per one hundred dollars (\$100) of gross receipts, unless otherwise specified.

Business Classification	Rate Per \$100.00
Manufacturing, compounding, or preparing products for sale	\$0.30
Wholesale sales (including distribution)	\$0.10
Retail sales of tangible personal property	\$0.50
Contractors and construction services	\$0.30

Amusements and entertainment businesses	\$0.50
Service (including professional services) And all other businesses	\$1.00
Public utilities (as permitted by law)	\$0.50
Rental or Leasing of real or personal property	\$1.00
Liquor - Retail Sale (Class B/Outlet)	\$1.25
Liquor - Service & Other Business (Class A/On-Premises)	\$1.50

If a business engages in more than one classification, the tax shall be computed separately for each activity.

The Town Council may amend the tax rates or classifications by ordinance, provided such rates do not exceed those permitted under West Virginia law.

4-205. Penalties and Late Payment

Any tax not paid by the due date shall be subject to the following penalties:

- Five percent (5%) penalty after the first thirty (30) days past due
- One percent (1%) additional penalty per month or fraction thereof until paid

The Town may pursue collection of unpaid taxes in accordance with applicable municipal and state law.

4-206. New Business Tax Credit

To encourage economic development and business investment within the Town of Sutton, a New Business Tax Credit is hereby established.

(a) Definition of New Business

For purposes of this section, a new business shall mean:

1. A commercial, wholesale, retail, manufacturing, or service business establishing its primary place of operation within the corporate limits of the Town; or
2. A business relocating its principal place of operation from outside the Town into the corporate limits through purchase or lease of real property.

A qualifying lease shall generally be five (5) years or longer, although leases of six (6) months or longer with an option to extend may be considered upon review by the Town Council.

Businesses incorporated into the Town through annexation or boundary adjustments may also qualify as new businesses.

A business shall not qualify as a new business if:

- it previously operated within the Town and merely changes its name or organizational structure; or
- an existing business is sold or transferred but continues substantially the same operations.

(b) Amount of Credit

Qualified new businesses may receive the following Business and Occupation Tax credits:

Year 1 — 75% credit of the tax liability

Year 2 — 50% credit of the tax liability

Year 3 — 25% credit of the tax liability

The total tax credit granted to any qualifying business shall not exceed \$300,000.

(c) Eligibility Requirements

To claim the credit:

- the business must file all required B&O tax returns on time
- all required documentation must be submitted to the Town

Failure to file a required return by the due date may result in denial of the credit for the applicable period.

4-207. Administration and Enforcement

The Recorder of the Town of Sutton shall administer this article and shall:

- prepare and distribute required forms
- maintain records of filings and payments
- collect and account for all taxes imposed under this article

The Town Council may adopt rules and procedures necessary to administer this ordinance.

The Council shall have authority to determine eligibility for tax credits and resolve disputes concerning qualification under this article.

4-208. Audit Authority and Examination of Records

In order to verify the accuracy of any Business and Occupation Tax return filed under this article, the Town of Sutton shall have the authority to examine the records of any taxpayer subject to this tax.

The Recorder, or any authorized representative of the Town, may:

1. Examine the books, papers, records, invoices, and other documents of any taxpayer that relate to the gross receipts or business activities conducted within the corporate limits of the Town;
2. Require the taxpayer to provide information necessary to determine the correct amount of tax due;
3. Conduct an audit of any taxpayer when the Town has reason to believe a return may be incomplete, inaccurate, or not filed as required

Such examinations may include records related to sales, services, contracts, or other transactions that generate gross receipts subject to the Business and Occupation Tax.

All taxpayers subject to this article shall maintain adequate records for a minimum period of three (3) years and shall make such records available to the Town upon reasonable notice.

If an audit determines that additional taxes are due, the Town shall notify the taxpayer in writing of the amount due, including any applicable penalties and interest.

4-209. Appeals and Administrative Review

Any taxpayer who disagrees with a determination made by the Town regarding the assessment of a Business and Occupation Tax, penalty, denial of credit, or other decision made under this article may file a written appeal.

(a) Filing an Appeal

The taxpayer shall submit a written appeal to the Recorder of the Town of Sutton within thirty (30) days from the date of the written notice of the determination being appealed.

The appeal shall include:

- the name and address of the taxpayer
- the tax period in dispute
- a statement of the reason for the appeal
- any supporting documentation.

(b) Review by Council

Upon receipt of the appeal, the matter shall be placed on the agenda of the next available Town Council meeting or a meeting scheduled for that purpose.

The Town Council shall review the matter and may:

- uphold the original determination
- modify the assessment
- grant relief where appropriate under this article.

The taxpayer may present information or documentation supporting the appeal.

(c) Final Administrative Decision

The decision of the Town Council shall constitute the final administrative determination of the Town.

Nothing in this section shall prevent a taxpayer from seeking further review in a court of competent jurisdiction as provided by law.

4-210. Business Registration Requirement

Every person, firm, partnership, corporation, or other entity engaging in business within the corporate limits of the Town of Sutton shall register with the Town prior to commencing business operations.

The registration shall be filed with the Town Recorder on forms prescribed by the Town and shall include:

- the name and address of the business;
- the name of the owner or responsible officer;
- the location of the business within the Town;
- the nature of the business activity conducted.

Registration shall be required annually, unless otherwise provided by the Town.

Registration does not relieve any person from the obligation to file and pay the Business and Occupation Tax imposed by this article.

Failure to register may result in the assessment of penalties and enforcement actions as authorized by this ordinance.

4-211. Allocation of Gross Receipts

When a business conducts activities both **within and outside the corporate limits of the Town**, only the portion of gross receipts attributable to business conducted within the Town shall be subject to the Business and Occupation Tax.

The taxpayer shall maintain records sufficient to demonstrate the allocation of receipts between locations.

If adequate records are not provided, the Town may reasonably estimate the portion of gross receipts attributable to business conducted within the Town based upon available information.

4-212. Failure to File Return

If a person required to file a Business and Occupation Tax return fails to do so within the required time period, the Town may estimate the tax due based on:

- prior tax returns filed by the taxpayer;
- records available to the Town;
- information obtained through audit; or
- other reasonable methods of determining gross receipts.

The estimated tax shall become due and payable unless the taxpayer files a proper return and provides documentation demonstrating the correct amount due.

4-213. Confidentiality of Tax Information

Except as otherwise provided by law, all tax returns, reports, financial information, and supporting documents submitted to the Town of Sutton pursuant to this article shall be confidential and shall not be disclosed to any person other than authorized municipal officials responsible for administering or enforcing the provisions of this article.

No officer, employee, or agent of the Town shall disclose any information contained in a tax return or obtained through an audit or investigation conducted under this article, except:

1. When required for the proper administration or enforcement of this article;
2. When required by lawful court order or legal process;
3. When the information is provided in a form that does not identify any particular taxpayer; or
4. When disclosure is otherwise permitted by West Virginia Code §11-10-5d or other applicable law.

Nothing in this section shall prevent the Town from publishing or releasing aggregate statistical information concerning Business and Occupation Tax collections, provided that such information does not reveal the identity or financial information of any individual taxpayer

Any unauthorized disclosure of confidential tax information by a municipal officer or employee may result in disciplinary action and any other remedies permitted by law.

4-214 Severability

If any section, subsection, clause, phrase, or provision of this ordinance or the reenacted provisions is held invalid or unenforceable, such invalidity shall not affect the remaining provisions, which shall remain in full force and effect.

Section 3. Repealer

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

Section 4. Severability

If any section, subsection, clause, phrase, or provision of this ordinance or the reenacted provisions is held invalid or unenforceable, such invalidity shall not affect the remaining provisions, which shall remain in full force and effect.

Section 5. Effective Date

This ordinance shall take effect upon adoption, following required readings, approval, and publication as provided by law.

ADOPTED by the Town Council of the Town of Sutton, West Virginia, on this ____ day of _____, 2026.

TOWN OF SUTTON, WEST VIRGINIA

First Reading: _____ Second Reading: _____

Mayor

Recorder

Council member

Council member

Council member

Council member

Council member

