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**AN ORDINANCE REPEALING AND REENACTING CHAPTER 1 IN ITS
ENTIRETY**

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WHEREAS, the Town Council finds that the existing provisions of Chapter 1, in its entirety contain outdated, unclear, or fragmented language that no longer reflects current Town policy or best practices; and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;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SUTTON, WEST VIRGINIA, THAT:

Section 1. Repeal Chapter 1, in its entirety of the Code of the Town of Sutton previously enacted and amended, is hereby repealed in its entirety.

Section 2. Reenactment and Replacement Chapter 1, in its entirety of the Code of the Town of Sutton is hereby reenacted in its entirety to read as follows:

CHAPTER ONE
ELECTIONS, ADMINISTRATION, AND PERSONNEL POLICIES

ARTICLE ONE
ELECTIONS, OFFICERS, AND THEIR QUALIFICATIONS

1-101. General Election Provisions

A. Municipal Elections.

Regular municipal elections for the mayor and town council of Sutton shall be held biennially on the second Tuesday in June, or on such other dates as may be authorized by West Virginia law.

B. Polling Place.

Elections shall be conducted at the Community Building within the Town, or at another location designated by the Town Council.

C. Governing Law.

All municipal elections shall be conducted in accordance with the West Virginia Election Code, as amended, except where state law permits municipalities to perform election functions otherwise assigned to county officials.

D. Election Administration.

Where state law assigns duties to the county commission, circuit clerk, or county election officials, those duties shall be performed by the Town Council, Town Recorder, or other duly appointed municipal election officials, as authorized by law.

E. Nonpartisan Elections.

Municipal elections shall be nonpartisan. Ballots shall list candidates for each office under separate headings and shall not reference party affiliation.

(West Virginia Code 8-5-5, W. Va. Code 3-1-2a, W. Va. Code 3-1-6, W. Va. Code 3-1-27, W. Va. Code 3-3-13, Code 8-5-13, W. Va. Code 8-5-15a Section last amended 2022)

1-102. Officers to Be Elected

At each regular municipal election, the voters shall elect:

- A. One (1) Mayor;
- B. One (1) Recorder; and
- C. Five (5) Councilmembers.

Terms of office shall be two (2) years, beginning on the first day of July following the election and continuing until successors are elected and qualified, unless otherwise provided by law.

(West Virginia Code §8-5-11)

1-103. Qualifications of Candidates

To be eligible for election or appointment to municipal office, a person must:

- A. Be a resident of the Town at the time of election or appointment;
- B. Be a qualified registered voter entitled to vote in municipal elections; and
- C. Meet all other qualifications required by West Virginia law.

(West Virginia State Code §8-5-7, Section last amended 1986)

1-104. Filing of Candidacy

- A. Declaration of Candidacy.
Any eligible person may become a candidate by filing a certificate of candidacy with the Town Recorder within the time period established by state law.
- B. Form and Filing.
The certificate shall be signed by the candidate, acknowledged before a notary public, and may be filed in person or by mail, provided it is postmarked no later than the final filing deadline.
- C. Incomplete Filings.
Certificates that fail to contain required information may be rejected in accordance with state election law.

(West Virginia State Code §3-5-7, Section last amended 2022)

1-105. Vacancies in Office

- A. Filling Vacancies.
When a vacancy occurs in the office of Mayor, Recorder, or Councilmember, the Town Council shall fill the vacancy by appointment, subject to approval by a majority vote of Council members present.
- B. Term of Appointee.
An appointee shall serve until the next regular municipal election and until a successor is elected and qualified.
- C. Conflict of Interest.
No Council member nominated or considered for appointment may vote on their own appointment.

(West Virginia Code §8-5-10, Section last amended 1989)

1-106. Election Boards

A. Appointment.

Prior to each municipal election, the Town Council shall appoint election officials as required by law to serve as election commissioners and poll clerks.

B. Bipartisan Composition.

Election boards shall be composed, where practicable, of individuals representing different political affiliations, consistent with state law.

C. Duties.

Election boards shall supervise voting, maintain order, receive ballots, and conduct vote tabulation in accordance with law.

(Section last amended 2022)

1-107. Polling Hours

Polls shall be open from 6:30 a.m. until 7:30 p.m., Eastern Time, or as otherwise required by West Virginia law.

(West Virginia State Code §3-1-31)

1-108. Oath of Election Officials

Before performing election duties, all election commissioners and clerks shall take and subscribe the oath required by state law. No votes shall be counted unless the oath requirement is satisfied.

1-109. Residency and Voting Eligibility

Only bona fide residents of the Town who are registered voters under West Virginia law shall be entitled to vote in municipal elections. Temporary presence alone does not establish residency. Individuals who are minors, of unsound mind, convicted of treason, felony, or election bribery, or who are not bona fide residents of the City shall not be eligible to vote for so long as such disqualification exists.

(Section amended 2022)

1-110. Method of Voting

Voting shall be by ballot, and each voter shall be free to vote by open, sealed, or secret ballot as permitted by law.

(West Virginia State Code §3-1-4)

1-111. Absentee Voting, Poll Procedures, Ballot Handling

Absentee voting, ballot security, poll operations, counting procedures, ballot boxes, and election conduct shall be governed by the West Virginia Election Code and administered by municipal election officials in compliance therewith.

(West Virginia State Code §3-5-13, Section 1-113 & 1-114 last amended 2022, 1-116 West Virginia State Code §3-1-32, 1-116 last amended 2022)

1-112. Order at the Polls

Election officials shall preserve order at polling locations and may remove disorderly persons or take lawful action necessary to protect voters and the election process, consistent with state law and constitutional protections.

(West Virginia State Code §3-1-38, section last amended 2022)

1-113. Election Offenses

Any person violating election laws or failing to comply with lawful instructions of election officials shall be subject to penalties provided by West Virginia law.

(West Virginia State Code §3-1-38)

1-114. Challenges to Voters

Election officials shall permit challenges to voter eligibility and shall resolve such challenges in accordance with state law.

1-115. Counting, Tabulation, and Results

Votes shall be counted, tabulated, summarized, and documented according to state law. Election results shall be publicly posted and recorded.

(Last amended in 2022)

1-116. Certification of Election Results

The Town Council, acting as the Board of Canvassers, shall canvass and certify election results and enter them into the official minutes of the Town.

1-117. Board of Canvassers

The Town Council shall serve ex-officio as the Board of Canvassers and may require testimony or evidence necessary to ascertain the true result of any municipal election.

(West Virginia State Code §8-5-17)

1-118. Preservation of Ballots

Ballots, poll books, tally sheets, and election records shall be preserved for the period required by law and destroyed thereafter unless an election contest is pending.

1-119. Certification of Elected Officers

Upon certification, the Town Recorder shall deliver a copy of the election certificate to each elected officer.

1-120. Tie Votes

When two or more persons shall receive an equal number of votes for Mayor or member of Town Council, such tie shall be decided by the Town Council in a manner prescribed by state law.

1-121. Correction of Returns

Election returns may be corrected only upon proper evidence and only to the extent permitted by law.

(West Virginia State Code §8-5-15)

1-122. Compensation of Election Officials

Election commissioners and clerks shall be compensated at rates of not less than fifty dollars nor more than one hundred and fifty dollars for each day that they serve established by the Town Council and paid from the Town treasury.

(Section last amended in 2023)

Chapter One

ARTICLE TWO

COUNCIL MEETINGS, THEIR CONDUCT, AND ORDER OF BUSINESS

1-201. Regular meetings.

F. Regular Meetings.

The Town Council shall hold one (1) regular meeting each month.

G. Time.

Regular meetings shall be held at 6:00 p.m. Eastern Time. Regular meetings shall aim to conclude within two (2) hours. Upon the majority vote of Council, the meeting may be extended. Any unfinished business shall be continued to a subsequent meeting or special meeting.

H. Location.

Regular meetings shall be held at a location established by the Town Council, which location shall be publicly noticed in advance in accordance with West Virginia law.

I. Special Meetings.

Nothing in this section shall prohibit the mayor or a majority of Council members from calling special meetings, provided that such meetings are called and noticed in compliance with the West Virginia Open Governmental Proceedings Act.

J. Public Access.

All regular and special meetings of the Town Council shall be open to the public, except as otherwise permitted for executive session under West Virginia law.

(Section amended 2025)

1-202. Special meetings.

Special meetings may be called by:

The mayor; or any three (3) members of the Council.

Written notice of a special meeting shall be provided to all Council members and the public and shall state:

- A. The date and time of the meeting;
- B. The location of the meeting; and
- C. The specific purpose or agenda items to be considered.

Except in cases of emergency, at least twenty-four (24) hours' notice shall be provided in accordance with state law.

Only the business stated in the notice may be considered at a special meeting.

1-203. Open meetings; executive sessions; public participation.

- A. All meetings of Council shall be open to the public, except when Council lawfully enters executive sessions as permitted by West Virginia law.
- B. Council may enter executive session only upon a recorded vote and only for purposes authorized by law.
- C. Members of the public shall be afforded a reasonable opportunity to address Council on matters within its jurisdiction, subject to reasonable time, place, and manner of rules adopted by Council to ensure orderly conduct.
- D. No person shall be excluded from a public meeting except for actual disruption of proceedings.

(Open meeting law - see W. Va. Code Art. 6-9A)

1-204. Attendance and participation.

- K. Council members are expected to attend all regular and special meetings.
- L. Appointed officers or employees shall attend meetings when requested by the mayor or presiding officer.
- M. No Council member shall be compelled to attend a meeting by force or threat of arrest. Attendance issues shall be addressed through lawful and non-punitive means.

1-205. Cancellation or rescheduling of meetings.

- A. Council may cancel or reschedule a regular meeting by majority vote, provided that at least one regular meeting is held each month, unless prevented by emergency or lawful cause.
- B. Notice of cancellation must be made as soon as the cancellation is approved by my majority vote to the public.
- C. Rescheduling of a meeting shall be provided to the public at least 48 hours in advance

1-206. Quorum.

The majority of the elected Council members shall constitute a quorum for the transaction of business.

(West Virginia Code §8-9-1)

1-207. Presiding officer.

- A. The mayor shall preside over Council meetings.
- B. In the Mayor's absence, the Recorder shall preside.

- C. If both are absent, the Council shall elect a presiding officer by majority vote of members present.
- D. The presiding officer shall preserve order and decorum and rule on procedural questions, subject to appeal to Council.

(West Virginia State Code §8-9-1, section last revised 1989)

1-208. Parliamentary authority.

Robert's Rules of Order, Newly Revised, shall govern Council proceedings where not inconsistent with:

- A. State law;
- B. The Town Charter;
- C. or This Code.

Any ruling of the presiding officer may be appealed to Council and decided by majority vote.

(Section last amended 1989)

1-209. Order of business.

Unless altered by majority vote, the regular order of business shall be:

- A. Call to order
- B. Roll call
- C. Special Guests/Topics
- D. Old Business
- E. New Business
- F. Approval of minutes
- G. Public comment
- H. Communications from the Mayor
- I. Standing committee reports
- J. Special committee reports
- K. Adjournment

(Section last amended 2022)

1-210. Decorum and disorder.

- A. Members shall conduct themselves in a respectful and orderly manner.
- B. If a member is called to order, the member shall cease speaking unless permitted to explain.
- C. Any appeal of a ruling on disorder shall be decided by the Council.

1-211. Member protests.

- A. Any Council member may protest an action or decision of Council believed to be improper or unfair.
- B. The protest shall be briefly stated and entered into the official minutes.

1-212. Voting procedures.

- A. All questions shall be decided by voice vote unless a roll call vote is requested.
- B. In the event of doubt or upon request of any member, the presiding officer shall order a roll call vote.
- C. A majority vote of those present and voting shall decide a question unless a greater vote is required by law.

(Section last amended 1989)

1-213. Recording votes.

- A. Upon request of any Council member, the names of those voting yea and nay shall be recorded in the minutes.
- B. Roll call votes shall always be recorded.

1-214. Tabled matters.

- A. Business laid on the table shall be considered postponed.
- B. Unless taken from the table by majority vote, the matter shall be deemed abandoned after three (3) regular meetings.

1-215. Motions and debate.

- A. While a question is under consideration, only motions to:
- B. Amend; Postpone; Commit; or Adjourn shall be in order.
- C. A motion to adjourn shall always be in order and shall not be debatable.

1-216. Enactment of ordinances.

All ordinances and amendments shall be enacted in accordance with Article Three of this Code and applicable state law.

Chapter One

ARTICLE THREE

CONSTRUCTION AND ADOPTION OF ORDINANCES

1-301. Style, intent, and rules of construction.

- A. All general ordinances, standing rules, and amendments shall begin with the words: “Be it ordained by the Common Council of the Town of Sutton.”
- B. The subject of each ordinance shall be briefly stated in its title.
- C. Unless the context clearly requires otherwise, the following rules apply when interpreting this code:
- D. Words in the singular include the plural, and words in the plural include the singular.
- E. Words referring to one gender include all genders.
- F. The term “Mayor” includes any person lawfully exercising the authority of the mayor.
- G. The term “person” includes individuals, corporations, partnerships, and associations.
- H. The term “offense” includes any act or omission made unlawful by ordinance.
- I. Unless otherwise stated, all fines, forfeitures, and penalties collected under this code shall be paid to the Town and used as directed by Council.
- J. The term “Council” means the Common Council of the Town of Sutton.

1-302. Introduction and reading of proposed ordinances.

- A. Every proposed ordinance shall be introduced in writing.
- B. Except as provided for emergency ordinances, a proposed ordinance shall be read by title at not fewer than two Council meetings, with at least one week between meetings.
- C. Any Council member may require that a proposed ordinance be read in full at one or both meetings.
- D. These procedures shall comply with West Virginia Code §8-11-4.

1-303. Committee review and adoption.

- A. After its initial reading, a proposed ordinance shall be referred to the appropriate standing committee for review and recommendation, unless Council votes to suspend the rules and act at the same meeting.

- B. The committee shall report its recommendation at the next regular Council meeting.
- C. The ordinance shall then be read again and, if adopted, shall take effect immediately upon approval of the meeting minutes unless:
 - 1. A later effective date is stated in the ordinance; or
 - 2. Council sets a later effective date for good cause stated on the record.
- D. Following adoption, the Town Code shall be updated accordingly.

1-304. Amendments to ordinances.

- A. A proposed ordinance shall not be materially amended at the same meeting in which it is finally adopted.
- B. No ordinance shall be amended by reference to its title or section number alone. Amendments shall clearly set forth the text being added, deleted, or revised.

1-305. Publication and public notice.

All ordinances or amendments in the review or adoption process shall be posted to the town website for the public to read and comment on if desired for transparency.

Revenue-raising ordinances.

If the principal purpose of a proposed ordinance is to raise revenue for the Town, notice of the proposed ordinance shall be published at least five (5) days before adoption as a Class I legal advertisement in a newspaper of general circulation in Braxton County.

The notice shall state:

- A. The subject matter and general title of the ordinance;
- B. The date, time, and place of the meeting at which final action will be taken; and
- C. Where copies of the ordinance may be inspected by the public.

Interested persons shall be advised of their right to appear and be heard before adoption.

(West Virginia State Code §8-11-4, last amended 2026)

1-306. Effect of repeal.

- A. The repeal or expiration of an ordinance shall not affect:
 - 1. Any offense committed before repeal; or
 - 2. Any penalty, fine, or proceedings already incurred.
- B. When an ordinance that repealed another ordinance is itself repealed, the original ordinance shall not be revived unless expressly stated.

1-307. Computation of time.

When a period of time is prescribed by ordinance:

The first day shall be excluded and the last day included;

If the last day falls on a Sunday or legal holiday, it shall be excluded and the next business day included.

(Section amended 1989)

1-308. Performance by agent or deputy.

When an ordinance requires an act to be performed by an officer or person, the act may be performed by an authorized agent or deputy unless the law requires personal performance.

1-309. Adoption of technical and model codes.

- A. Council may adopt by ordinance technical or model codes, including but not limited to building, housing, fire, electrical, plumbing, sanitation, or public safety codes.
- B. Prior to adoption:
 - 1. The code shall be available in printed or electronic form;
 - 2. Copies shall be available for public inspection; and
 - 3. Notice shall be given as required by law.
- C. The adopting ordinance need not set forth the full text of the code but shall clearly identify it.
- D. Adopted codes shall be certified by the mayor and filed with the Recorder as a permanent record.
- E. The Council may submit the adoption of a code to a public referendum authorized by law.

(West Virginia State Code §8-11-4)

1-310. Emergency ordinances.

- A. Council may adopt an emergency ordinance without following standard procedures only when:
 - 1. A pressing public emergency exists affecting health, safety, or welfare; or
 - 2. Adoption is otherwise authorized by state law.
- B. An emergency ordinance requires the affirmative vote of two-thirds of the elected Council members.
- C. The ordinance shall clearly state the nature of the emergency.

(West Virginia State Code §8-11-4)

1-311. Ordinance book and public access.

- A. The Town shall maintain the Code of Ordinances in both electronic and loose-leaf form.
- B. After adoption of any ordinance, affected pages shall be promptly updated and distributed to:
 - 1. Town officials and employees who maintain official copies; and
 - 2. Any person who has requested and paid for updates.
- C. Notes referencing amendment dates and ordinance numbers shall be cumulative for clarity.
- D. A copy of the Town Code and all amending ordinances shall be provided to the West Virginia Municipal League following adoption.
- E. Failure to include a notation or update shall not invalidate an ordinance.

(Section last amended 2022)

1-312. Conflicting Provisions

If the provisions of different codes, articles or sections of the Codified Ordinances conflict with or contravene with each other, the provisions bearing the latest passage date shall prevail. If the conflicting provisions bear the same passage date, the conflict shall be construed so as to be consistent with the meaning or legal effect of the questions of the subject matter taken as a whole.

Chapter One

ARTICLE FOUR

LEVY, COLLECTION, AND DISBURSEMENT OF TAXES

1-401. Council as Levying Body

The Common Council of the Town shall serve as the levying body for municipal taxes and shall meet annually between March 7 and March 28, as required by law, to conduct levy-related business and other lawful matters.

(West Virginia State Code §8-13-1)

1-402. Levy Estimate and Certification

At the levy meeting, the Council shall review the Town's fiscal condition and prepare an itemized levy estimate setting forth:

- A. Anticipated revenues from all sources for the current fiscal year, excluding proposed taxes;
- B. Required interest, sinking fund, and amortization payments for bonded indebtedness lawfully incurred;
- C. Other lawful contractual indebtedness of the Town;
- D. All other anticipated expenditures for the fiscal year, including reasonable allowances for delinquencies, exonerations, and contingencies;
- E. The total amount required to be raised by taxation;
- F. The proposed levy rates in cents per one hundred dollars of assessed valuation for each class of property; and
- G. The assessed valuations of real, personal, and public utility property within the Town.

The Town Recorder shall promptly forward a certified copy of the levy estimate to the West Virginia State Tax Commissioner and shall publish the estimate as required by law.

(W. Va. Code 11-8-14)

1-403. Reconvened Levy Hearing and Approval

The Council shall reconvene on the third Tuesday in April to hear and consider any objections to the levy estimate or proposed rates submitted by:

- A. The Town Attorney;
- B. The State Tax Commissioner or designee; or

C. Any taxpayer of the Town.

All objections and the Council's findings shall be entered into the official record. The failure to file an objection shall not preclude any lawful remedy.

No levy shall be imposed until approved in writing by the State Tax Commissioner as stated in W. Va. Code 11-8-26a. Upon approval, the Recorder shall enter the levy order and approval into the Council minutes.

Levies shall be imposed in the following order:

- A. Bonded and contractual debt;
- B. General current expenses.

Levy rates shall not exceed limits established by law.

(W. Va. Code 11-8-14, W. Va. Code 11-8-26a)

1-404. Certification of Levy

Within three (3) days after adoption, the Recorder shall transmit certified copies of the levy order to:

- A. The State Tax Commissioner;
- B. The State Auditor; and
- C. Any other officer required by law to extend the levy.

(W. Va. Code 11-8-14)

1-405. Elections to Increase Levies and Issue Bonds

The Council may order an election to authorize an additional levy or issuance of bonds by entering an order specifying:

- A. The purpose of the levy;
- B. The amount required;
- C. The total amount to be raised;
- D. The assessed valuation of taxable property;
- E. The proposed levy rates by class;
- F. The duration of the levy (not to exceed three years); and
- G. Whether bonds will be issued.

Approval requires at least sixty percent (60%) of votes cast in favor. Additional levies shall not exceed statutory limits and shall expire unless renewed by voters.

1-406. Special Levy Elections

Notice of a special levy election shall be published as a Class II legal advertisement in compliance with state law.

Election officials, ballots, canvassing, and supplies shall be handled in accordance with general election law, except where otherwise provided. A separate ballot shall be used for levy elections.

1-407. Required Forms

All levy estimates, orders, and election documents shall be completed using forms prescribed by the State Tax Commissioner or Attorney General, as applicable, and shall conform to state law.

1-408. Use of Levy Funds

Funds raised through taxation shall be expended only for the purposes for which they were levied, unless otherwise authorized by the State Tax Commissioner.

The Council shall not:

- A. Expend funds without authorization;
- B. Expend funds for unauthorized purposes;
- C. Exceed amounts allocated in the levy order; or
- D. Incur obligations beyond available funds.

Any obligation incurred in violation of this section shall be void.

1-409. Purchasing and Competitive Bidding or Emergency Expenditures by the Mayor.

- A. Purchases of \$4,000 or less may be made by the council on the open market.
- B. Purchases exceeding \$4,000 shall be made by competitive bidding, except in emergencies, in accordance with state law. Bid notices shall be publicly advertised, sealed bids received, and awards made to the lowest responsible bidder for meeting specifications. The Council may require performance bonds and may reject bids as permitted by law. In any instance that requires competitive bids, the council shall publish in the Braxton County newspaper and were ever else they see fit for best results at least 30 days prior to the deadline.
- C. The mayor is authorized to approve and incur emergency expenditures on behalf of the Town not to exceed two thousand dollars (\$2,000.00) per occurrence when immediate action is necessary to:
 - 1. Prevent damage to Town property;
 - 2. Restore or maintain essential municipal operations; or

3. Address an urgent situation where delays would reasonably result in increased cost, risk, or disruption.

Emergency expenditures may include, but are not limited to, repairs or replacement of critical equipment such as computers, printers, utilities, building systems, or other infrastructure necessary for Town operations.

The mayor shall report any emergency expenditure made under this section to the Town Council at the next regular or special meeting, including the amount, purpose, and vendor.

Any emergency expenditure exceeding two thousand dollars (\$2,000.00) shall require approval by the Town Council at a duly noticed meeting and by majority vote. Nothing in this section shall authorize expenditures in excess of available budgeted funds or in violation of state purchasing or fiscal laws.

(West Virginia State Code §8-12-10, Section last amended 2022 then in 2026)

1-410. Recovery of Unlawful Expenditures

Any unlawful expenditure of Town funds may be challenged in a court of competent jurisdiction by the Town, a taxpayer, the State Tax Commissioner, or other authorized party, consistent with state law.

1-411. Personal Liability for Willful Violations

Any official who willfully participates in unlawful expenditures may be held personally liable for recovery of funds and subject to penalties as provided by law.

1-412. Removal Proceedings

Removal of an official for violations of this article shall occur only through lawful judicial proceedings, with notice and opportunity to be heard, as required by state law. See Chapter 1 of Article 1-612 for the procedures set forth for removal of elected officials.

1-413. Claims Against the Town

All claims against the Town shall be presented in itemized form and certified as just, correct, and unpaid. No claim shall be paid unless lawfully authorized.

1-414. Disbursement of Town Funds

Town funds shall be disbursed only upon lawful order signed by authorized officials. Forgery or misuse of warrants or checks shall be prosecuted under applicable law.

(West Virginia State Code §8-13-22)

1-415. Fiscal Year

The Town’s fiscal year shall begin on July 1 of each year.

(W. Va. Code 8-13-17)

1-416. Financial Statements

Within 120 days of the fiscal year start, the Recorder shall prepare a sworn financial statement detailing revenues, expenditures, debts, and recipients of public funds. Copies shall be provided to residents upon request and may be published as required by law.

(West Virginia State Code §8-13-23a)

1-417. Classification of Funds

Town funds shall be classified into:

- A. General Fund – for general operations;
- B. Sinking Fund – for bonded debt service.

Funds shall be used only for lawful purposes.

(West Virginia State Code 8-13-20)

1-418. Special and Capital Reserve Funds

The Council may establish special funds, including a Capital Reserve Fund, for capital projects and grants, subject to state approval where required. Such funds shall be budgeted, appropriated, and expended in accordance with the law.

(West Virginia State Code §8-13-19 & §8-13-19a)

Chapter One

ARTICLE FIVE

SOCIAL SECURITY, WORKERS' COMPENSATION FOR OFFICERS AND EMPLOYEES, AND
PERSONEL POLICIES AND PROCEDURES.

1-501. Policy and Purpose

It is the policy of the Town to provide eligible municipal officers and employees with participation in:

- A. Social Security or any authorized equivalent program;
- B. Workers' compensation coverage, as required or permitted by applicable state and federal law.
- C. Policies and procedures for employees in the Town of Sutton.

This policy applies to officers and employees engaged in both governmental and proprietary functions of the Town. The Town shall take all actions required by law to establish, maintain, and administer such coverage.

(West Virginia State Code §8-12-8, Section last amended 2022)

1-502. Authority to Execute Agreements

The mayor is authorized and directed to execute all agreements, amendments, and related documents reasonably necessary to secure and maintain the benefits described in this article, including agreements with:

- A. State or federal agencies;
- B. Insurance carriers;
- C. Benefit administrators; or
- D. Other authorized entities.

Such agreements shall be subject to applicable law and, where required, approval by the Town Council.

(West Virginia State Code §8-12-7)

1-503. Payroll Withholdings

The Town is authorized to deduct from the salaries or wages of officers and employees from such amounts, at such times, as are required or permitted by applicable state or federal law or regulation for participation in the programs described in this article. All amounts withheld shall be timely paid to the appropriate agency or entity in accordance with governing law.

1-504. Employer Contributions and Appropriations

The Town Council shall appropriate and authorize payment from available funds for any employer's contributions required by law or by the terms of participation in benefit programs authorized under this article. Such contributions shall be paid to the appropriate state or federal agency, insurance provider, or other authorized entity, in accordance with applicable laws, regulations, and approved agreements.

1-505. Records and Reporting

The Town shall maintain accurate records and prepare such reports as required by applicable state and federal laws and regulations relating to employee benefits, payroll withholdings, and employer contributions. Records shall be maintained in accordance with public records of laws and applicable retention requirements.

1-506. Job Vacancy Postings

It shall be the policy of the Town of Sutton to post vacant positions so that qualified employees will be given an opportunity for job vacancies. Hiring decisions shall be based on qualifications, experience, and ability to perform assigned duties. The Town shall comply with all applicable equal employment opportunity laws.

1-507. Employee Status

All employees are "at-will" employees of the Town of Sutton. If hired or currently employed, employment can be terminated with or without notice at any time for any reason or for no reason.

(W. Va. Code §8-12-5)

1-508. Probationary Period

The initial ninety (90) calendar days of employment shall serve as an introductory period, during which the employee's performance, conduct, and compatibility with the work environment shall be evaluated. This period also allows the employee to become acquainted with assigned duties and workplace expectations. The mayor may, at their discretion, extend or reduce the duration of the introductory period when warranted.

Following successful completion of the introductory period, the employee shall be eligible to receive accrued leave and other benefits in accordance with established policies. Vacation and sick leave shall accrue during this period, provided the employee is retained as a regular full-time employee.

(W. Va. Code §8-12-5)

1-509. Work Schedules

Working hours and days are determined by the mayor. Work schedules shall be established according to the needs of the department and may include day, evening, night, and/or weekend hours.

1-510. Termination from employment

An employee may be terminated from employment at any time with or without just cause.

1-511. Resignation

All employees shall give not less than two (2) weeks prior to written notice of resignation to the mayor.

1-512. Retrieval and Production fees

(a) If a records request requires more than minimal staff time, the Town of Sutton may charge for the actual cost of the employee's time. This cost will be based on the employee's hourly pay, including related labor costs, for the time spent locating, reviewing, and preparing records or responses. The person making the request must pay these costs.

(b) Paper copies of records will be charged at one dollar (\$1.00) per page, or another amount set by the Municipal Court. The requester must pay this fee for copies.

All fees shall be reasonable and shall not exceed actual costs, in accordance with the West Virginia Freedom of Information Act (W. Va. Code §29B-1-3).

1-513. Classification of Employment

This Article is adopted pursuant to the authority granted under W. Va. Code §8-12-5, and is intended to establish procedures for the hiring, administration, and separation of full time, seasonal, or temporary employees in a manner consistent with applicable state and federal law.

- A. Full time position- is defined as a permanent municipal position requiring regular service for the Town and meeting the minimum service requirements whose employment, if continued past the 90-day probationary period, accumulates to a minimum total of one thousand forty hours or twenty hours a week during a calendar year and extends over at least nine months of a calendar year.
- B. Seasonal or Temporary Position- An individual hired for a specific season or recurring period of limited duration, typically not to exceed six (6) months within a twelve (12) month period. (Excluded from employee benefits)

The Town Council of Sutton is authorized to hire seasonal and temporary employees as necessary to:

- A. Meet operational demands;
- B. Address emergencies or unforeseen conditions;
- C. Complete specific projects;
- D. Provide services during peak seasonal periods.

All hiring shall be subject to available budget appropriations. Compensation shall be set by town of Sutton Council and shall be paid in accordance with W. Va. Code §21-5-4 and shall comply with all applicable wage and hour laws.

Any seasonal or temporary employment positions;

- A. Does not create a contract of employment;
- B. Does not guarantee continued or permanent employment;
- C. Does not automatically convert to full-time status.

All hiring and employment practices under this Article shall comply with all applicable federal employment laws, West Virginia human rights laws, West Virginia labor laws, and West Virginia Ethics Act (W. Va. Code §6B-2-5, where applicable).

1-514. Conflict of Interest

The town of Sutton requires all employees to notify the mayor in writing whenever they become aware of a possible conflict of interest. Any employee who willfully fails to fully disclose any known conflict of interest shall be subject to disciplinary procedures up to and including termination from employment.

1-515. Dress and Appearance

All employees are expected to present themselves in a professional manner at all times. Clothing should be clean, neat, and appropriate for the job. The way employees look, and act reflects directly on the Town of Sutton, and maintaining a positive image is important.

Employees should dress according to their job duties, keeping in mind public visibility, safety requirements, and their role as representatives of the town of Sutton.

1-516. Drug Free Workplace Policy

The Town of Sutton is dedicated to maintaining a workplace free from the effects of drugs and alcohol. This policy is established to ensure the safety, health, and productivity of all employees.

- A. The use, possession, manufacture, distribution, sale, or dispensing of illegal or controlled substances on Town property, in Town vehicles, or while performing official duties is prohibited.
- B. Alcohol is not permitted on Town property, in Town vehicles, or during the performance of Town business.
- C. Employees shall not report to work or remain on duty while under the influence of alcohol or illegal substances.
- D. Employees taking prescribed medications that may impair job performance must provide written medical documentation outlining any limitations.
- E. Off-duty illegal drug activity that adversely affects job performance, workplace safety, or the Town's public image is prohibited.
- F. Employees must report any conviction under a criminal drug statute related to conduct occurring during Towns business within five (5) days, as required by federal law.
- G. Employees are encouraged to seek assistance for substance-related issues through available programs.
- H. Noncompliance with required treatment or counseling may result in disciplinary action, including termination.
- I. Violations of this policy may result in disciplinary measures up to and including dismissal and may also result in legal action.

The Town of Sutton may require drug or alcohol testing when reasonable suspicion exists. Refusal to comply may result in disciplinary action.

Chapter One

ARTICLE SIX

VACATION LEAVE SICK LEAVE, HOLIDAYS, AND RELATED LEAVE

1-601. Applicability

This article applies to all municipal officers and employees of the Town who are classified as full-time employees by the Town through ordinance, resolution, or personnel policy, unless otherwise excluded by law.

For the purposes of this article, "full-time" is defined as a permanent municipal position requiring regular service for the Town and meeting the minimum service requirements whose employment, if continued past the 90-day probationary period, accumulates to a minimum total of one thousand forty hours or twenty hours a week during a calendar year and extends over at least nine months of a calendar year. The governing body shall not reclassify an employee's position for the purpose of avoiding the provisions of this article.

1-602. Vacation Leave

This section applies to all full-time employees of the Town. For purposes of this section, full-time employment includes employees meeting the Town's definition of full-time status in section 1-513 of the town of Sutton ordinances.

Vacation leave must be requested in advance (5 business days) and approved by the employee's supervisor.

Each eligible employee shall accrue up to eighty (80) hours of vacation leave per calendar year. Leave shall not be granted in a lump sum but shall be earned incrementally based on hours worked. Vacation leave shall be accrued on an hourly basis using the following formula:

(a) Vacation Leave Accrual Rate:

$$80 \text{ hours} \div 2,080 \text{ hours} = 0.0385 \text{ hours per hour worked}$$

(b) For each hour worked by an employee, leave shall accrue as follows:

$$\text{Vacation leave earned} = \text{Hours worked} \times 0.0385$$

Employees working fewer than forty (40) hours per week shall accrue leave proportionally based on actual hours worked using the formulas set forth in subsection of this article.

This ensures equitable leave accrual among all full-time employees regardless of scheduled weekly hours.

Vacation leave shall not exceed a maximum accumulation of eighty (80) hours at any time, unless otherwise authorized by Council. Any unused vacation leave shall be forfeited at the end of each year. Upon separation from employment for any reason, all accrued but unused vacation leave shall be forfeited and shall not be paid out, unless otherwise required by law.

It shall be the duty of the department head to record in a permanently bound book or in electronic record, open to the inspection of the Mayor and the town council of Sutton, the sick leave time granted as well as vacation time applied for and granted to regularly employed persons of the town, and the day, month, and year in which the same was granted.

(West Virginia State Code 8-5-12, Section last amended 2026)

1-603. Sick Leave

This section applies to all full-time employees of the Town. For purposes of this section, full-time employment includes employees meeting the Town's definition of full-time status in section 1-513 of the town of Sutton ordinances.

Each eligible employee shall accrue up to ninety-six (96) hours of sick leave per calendar year. Leave shall not be granted in a lump sum but shall be earned incrementally based on hours worked. Leave shall be accrued on an hourly basis using the following formulas:

(a) Sick Leave Accrual Rate:

$$96 \text{ hours} \div 2,080 \text{ hours} = 0.0462 \text{ hours per hour worked}$$

(b) For each hour worked by an employee, leave shall accrue as follows:

$$\text{Sick leave earned} = \text{Hours worked} \times 0.0462$$

Employees working fewer than forty (40) hours per week shall accrue leave proportionally based on actual hours worked using the formulas set forth in subsection of this article. This ensures equitable leave accrual among all full-time employees regardless of scheduled weekly hours.

Sick leave shall not exceed a maximum accumulation of ninety-six (96) hours within a calendar year. Sick leave may be used for:

- (a) Personal illness or injury;
- (b) Medical appointments;
- (c) Illness, injury, or death of an immediate family member;
- (d) Pregnancy-related medical conditions.
- (e) Other lawful purposes consistent with this article.

Any unused leave shall be forfeited at the end of the year. Upon separation from employment for any reason, all accrued but unused sick leave shall be forfeited and shall not be paid out, unless otherwise required by law.

It shall be the duty of the department head to record in a permanently bound book or in electronic record, open to the inspection of the Mayor and the town council of Sutton, the sick leave time granted as well as vacation time applied for and granted to regularly employed persons of the town, and the day, month, and year in which the same was granted.

(W. Va. Code §21-5-1 et seq, last amended 2026)

1-604. Civil Leave (Jury Duty)

Employees required to serve on jury duty shall receive regular compensation during such service, without charge to vacation or sick leave.

1-605. Parental and Pregnancy-Related Leave

Sick leave may be used for pregnancy-related medical conditions. An employee may continue working until medically unable to perform regular duties, as certified by a licensed healthcare provider. Vacation leave may be used for up to six (6) weeks before or after childbirth, at the employee's discretion. This section supplements, and does not replace, rights under applicable state or federal law.

1-606. Leave of Absence

Any leave of absence not otherwise provided for in this article must be approved by the mayor, with final approval by the Town Council.

(Section last amended 2022)

1-607. Paid Holidays

Employees shall receive full pay for all legal holidays recognized by the State of West Virginia under West Virginia Code § 2-2-1, including special memorial holidays, and for any additional holidays proclaimed by:

- A. The Governor of West Virginia;
- B. The President of the United States;
- C. The mayor; or
- D. The Town Council.

(Section last amended 2025)

1-608. Compensatory Time

- A. Authorization and Agreement. Compensatory time may be granted only when authorized in advance, except in emergencies, and only pursuant to a written agreement entered into before the work is performed.
 - 1. Accrual Limits. Compensatory time shall not exceed:
 - 2. Two hundred forty (240) hours for general employees; or
 - 3. Four hundred eighty (480) hours for public safety or emergency service employees, where permitted by law.
- B. Use of Compensatory Time. Employees shall be permitted to use accrued compensatory time within a reasonable period after request, unless doing so would unduly disrupt Town operations.
- C. Separation from Employment. Unused compensatory time shall be paid at the higher of the employee's final regular rate or the average rate over the previous three (3) years, as required by law.

(Section last amended 1989)

1-609. Voting Leave

Any employee entitled to vote in an official election shall be granted up to three (3) hours of paid leave to vote when work schedules would otherwise prevent adequate voting time, provided reasonable advance notice is given.

1-610. Standards of Conduct

Municipal officers and employees shall perform their duties honestly, impartially, and in the best interest of the Town. No officer or employee shall use their position for personal gain or special privilege not available to the public.

1-611. Violations and Due Process

This section is for non-elected employees in the Town of Sutton.

- A. Notice of Violation.

An employee alleged to have violated this article shall receive written notice describing the nature of the alleged violation.
- B. Opportunity to Respond.

Before disciplinary action is imposed, the employee shall be given a reasonable opportunity to respond, either in writing or in person, to the mayor or other designated authority.
- C. Disciplinary Action.

Discipline may include verbal or written warning, suspension, or termination, depending on the severity and circumstances of the violation and consistent with applicable law and Town policy.

D. Appeal Rights.

Any employee subject to disciplinary action may appeal such action by 10 business days to the Town Council in accordance with procedures established by ordinance or policy.

Chapter One

ARTICLE SEVEN

STANDARDS OF CONDUCT AND ETHICAL RESTRICTIONS FOR PERSONNEL

1-701. Conflicts of Interest and Business Dealings

Except for lawful compensation received for municipal service, no municipal officer or employee shall have a direct or indirect financial interest in any contract, transaction, or business dealing with the Town. No officer or employee shall use their position to secure personal financial benefit from Town business. This section shall be interpreted and enforced consistent with applicable West Virginia conflict-of-interest laws.

(West Virginia State Code §8-9-1)

1-702. Acceptance of Gifts and Gratuities

No municipal officer or employee shall solicit, accept, or receive any money, gift, service, favor, or other thing of value from any person or entity other than the Town, when such item:

- A. Is given in exchange for the performance of official duties; or
- B. Could reasonably be interpreted as an attempt to influence official action. This section does not prohibit items of nominal value permitted under state ethics law, nor does it prohibit lawful compensation authorized by the Town.

(West Virginia State Code §61-5A-6)

1-703. Outside Employment

All outside employment and/or educational pursuits must not be in conflict. Outside employment is permissible as long as it clearly does not provide a conflict of interest with the Town of Sutton and does not inhibit the satisfactory fulfillment of job duties or responsibilities and scheduling. Any employee with outside employment shall notify the mayor, in the chance of a conflict of interest shall arise.

1-704. Political Activity

Municipal officers and employees retain their constitutional rights to vote, privately express political opinions, and participate in political activity on their own time and in their personal capacity. No municipal officer or employee shall:

- A. Use municipal authority, time, property, or resources to influence an election;
- B. Solicit political contributions while acting in an official capacity; or

- C. Coerce or pressure any person regarding political activity. This section does not apply to elected officials acting within the scope of their elected office, as permitted by law.

(West Virginia State Code §8-14-19)

1-705. Use of Municipal Time, Property, and Resources

Municipal time, facilities, equipment, supplies, and resources shall be used solely for official municipal purposes. No officer or employee shall use or authorize the use of municipal resources for personal gain or private benefit, except where:

- A. Such use has been expressly approved by the Town Council; and
- B. The Town receives compensation at rates normally charged for such use.

1-706. Personnel Records and Leave Records

The Mayor or a designated official shall ensure that accurate and current records are maintained for each officer and employee, including records of:

- A. Vacation leave;
- B. Sick leave;
- C. Compensatory time; and
- D. Any other authorized leave or credit.

Such records shall be maintained in accordance with applicable law and public records requirements.

1-707. Enforcement and Due Process

- A. Notice.
Any alleged violation of this article shall be communicated to the officer or employee in writing, describing the conduct at issue.
- B. Opportunity to Respond.
Before disciplinary action is taken, the officer or employee shall be given a reasonable opportunity to respond, either orally or in writing.
- C. Disciplinary Action.
Discipline may include counseling, written warning, suspension, or termination, depending on the severity of the violation and consistent with Town policy and applicable law.
- D. Appeals.
Any officer or employee subject to disciplinary action may appeal such action in accordance with procedures established by ordinance or personnel policy.

1-708. Removal of Elected Official

This section applies to all elected and appointed municipal officers of the Town, except where otherwise governed by specific state law.

- A. Any municipal officer who engages in any of this behavior will constitute grounds for initiating removal proceedings and a referral to circuit court:
 - 1. Official misconduct;
 - 2. Malfeasance, misfeasance, or nonfeasance in office;
 - 3. Neglect of duty;
 - 4. Incompetence;
 - 5. Gross immorality;
 - 6. Violation of any provision of this Code or applicable state law;
 - 7. Conviction of a felony or offense involving moral turpitude;
 - 8. Failure to maintain qualifications required for office.
 - 9. Missing 3 or more meetings.
 - 10. Ethics Violations.
 - 11. Failure to maintain residency.

- B. Removal of Officers with Fixed Terms (Judicial Process Required)
 - 1. Any officer holding a position with a fixed term shall be removed only in accordance with state law, including filing a petition in circuit court.
 - 2. Proceedings for removal shall follow the procedures set forth in W. Va. Code §6-6-7.

- C. The governing body may:
 - 1. Authorize legal action;
 - 2. Request the filing of a removal petition;
 - 3. Cooperate in any investigation or proceeding.
 - 4. Removal of Appointed Officers Without Fixed Terms

- D. Any appointed officer serving without a fixed term may be removed:
 - 1. By the appointing authority;
 - 2. With or without cause;
 - 3. When deemed in the best interest of the public.
 - 4. Such removal shall be consistent with W. Va. Code §6-6-8.

- E. Due Process Requirements

Even when not strictly required, the Town shall provide:

1. Written notice of the grounds for removal;
2. Opportunity for the officer to respond;
3. A hearing before the governing body or designated authority (if applicable);
4. A written decision stating findings and actions taken.

F. Suspension Pending Removal Proceedings

The governing body may, when necessary to protect the public interest:

1. Suspend an officer with or without pay;
2. Pending final outcome of removal proceedings;
3. When serious allegations are under investigation.

G. Vacancy upon removal

Upon removal:

The office shall be deemed vacant immediately upon final court order; or Final administrative action (if appointive position)

The vacancy shall be filled in accordance with:

- A. Applicable provisions of Chapter 8 of the West Virginia Code; and
- B. Municipal ordinance procedures.

The provisions set forth above shall replace all prior versions of Chapter 1, in its entirety.

Section 3. Codification Authority the Town Clerk is hereby authorized and directed to:

- A. Insert the reenacted provisions into the Code of the Town of Sutton in proper numerical order;
- B. Remove all repealed language;
- C. Renumber sections as necessary; and
- D. Make no substantive editorial changes required for formatting, consistency, and cross-referencing.

Section 4. Repealer All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency. Except as to any rights accrued, liabilities incurred, or proceedings begun prior to such repeal

Section 5. 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 6. Effective Date This ordinance shall take effect upon adoption, following required readings, approval, and publication as provided by law.