

CHAPTER FOUR

LICENSES AND BUSINESS TAXES

ARTICLE ONE

GENERAL BUSINESS LICENSE

4-101. Definitions. For the purposes of this chapter, the term "person" shall include any group or combination acting as a unit, individual, committee, guardian, trustee, executor, administrator, partnership, copartnership, joint adventure, association, trust, firm or corporation, either domestic or foreign, which is controlled or held with others by majority stock ownership or ultimately controlled or directed by one management or association of ultimate management.

4-102. General business tax levied. No person shall, without a general business license certificate, engage in or prosecute, within the Town of Sutton, any business, profession, calling, vocation, activity, or trade without first obtaining a business license from the Town of Sutton. The general business license tax levied shall be established based upon the standards and guidelines established by the West Virginia State Tax Commissioner for each location a person holds himself out to engage in or transact business therefrom.
(Section amended 1989)

4-103. Conditions precedent to doing business. Each of the following conditions shall be fulfilled precedent to the transaction of any business activity for which a town business license is required:

(a) Payment in full of the proper tax or fee as required by the town;

(b) Display or evidence of possession of a business franchise certificate or other form of license from the State of West Virginia authorizing said person to do business within the state;

(c) Display or evidence of possession of a business franchise certificate or other form of license from Braxton County, if such be required by the Braxton County Commission, authorizing said person to do business within the county;

(d) Issuance of a town license certificate;

(e) Fulfillment of all terms and conditions of such grant of license.

4-112. Suspension and revocation of licenses, and public hearings upon appeal from revocation. The Town Recorder, upon reasonable notice to the licensee, may summarily revoke any license issued by him pursuant to the provisions of this code for any reason which would have been grounds for denial of such license when first issued; for violation of any term or condition of such license; for violation of any pertinent provision of state law, this code, or other ordinance; or for the perpetration or attempted perpetration of fraud, malpractice, or malfeasance by the licensee; without prejudice to prosecution of such licensee by the town. Any person having an interest in any license so revoked and who feels aggrieved thereby may request the Town Recorder to further investigate the grounds for revocation and to reconsider his action, and if the Town Recorder accedes to such request he may suspend or reinstate the license pending his final decision. If the Town Recorder refuses to accede to such request, or if, upon reconsideration, he affirms his revocation of the license, the party so aggrieved may appeal to the Common Council, appear in person or by council, and may have the attendance of witnesses, books and papers in his behalf, and may testify in person. The decision of the Common Council following such hearing shall be final, subject only to such judicial review as may be provided by law.

ARTICLE TWO

BUSINESS AND OCCUPATION TAXES

4-201. Authority to levy business and occupation or privilege tax. Whenever any business or occupation, upon which the State of West Virginia imposes an annual business and occupation or privilege tax under the provisions of the state code, is engaged in or carried on within the corporate limits of the town, the council shall have plenary power and authority, unless prohibited by general law, to impose a similar business and occupation or privilege tax thereon for the use of the town: provided, that in no case shall the rate of such town business and occupation or privilege tax on a particular activity exceed the rate imposed by the state, exclusive of surtaxes, and the ordinance imposing such tax shall conform with the provisions of said state code as to the waiver of penalties.

Any taxes levied pursuant to the authority of this section may be made operative as of the first day of the then current fiscal year and each year thereafter.
(See West Virginia Code §8-13-5)

4-202. Confidential nature of returns; limitation on divulging information. All returns and tax statements made by taxpayers to town officers shall be regarded as confidential and, except in compliance with judicial order or as may be required by the proper administration hereof, the Town Recorder, his agents and employees, and former Town Recorders, agents and employees, shall not divulge facts or information obtained in the administration of this code.

4-203. Tax imposed on public service or utility business. Upon, any person engaging or continuing within the town in any public service or utility business, except railroad, railroad car, express, pipeline, telephone and telegraph companies, water carriers by steamboat or steamship, and motor vehicle carriers, there is hereby levied and shall be collected taxes on account of the business engaged in equal to the gross income of the business multiplied by the respective rates as follows:

(1) water companies, four per cent, except as to income from municipally owned water plants;

(2) electric light and power companies, four per cent on sales and demand charges for domestic purposes and commercial lighting, and three per cent on sales and demand charges for all other purposes, except as to income from municipally owned

plants producing or purchasing electricity and distributing the same;

(3) natural gas companies, three per cent on the gross income for this purpose to be determined by deducting from gross income from all sales to consumers the amount of the tax paid by the taxpayers under Section 2A, Chapter 13, Article 11 of the West Virginia State Code;

(4) and upon all other public service or utility business, two percent. The measure of this tax shall not include gross income derived from commerce between this state and other states of the United States or between this town and other localities. The measure of the tax under this section shall include only gross income received from the supplying of public services. The gross income of the taxpayer from any other activity shall be included in the measure of the tax imposed by the appropriate section or sections of this article. (See West Virginia Code §8-13-5a)

4-204. Exemptions. There shall be an exemption in every case of fifty dollars annually in the amount of tax computed under the provisions of this article. A person exercising a privilege or occupation taxable hereunder for a fractional part of a tax year shall be entitled to an exemption of the sum bearing the proportion of fifty dollars that the period of time the privilege or occupation is exercised bears to a whole year. Only one exemption shall be allowed to any one person, whether he exercised one or more privileges or occupations taxed hereunder.

4-205. Computation of tax; remittance. The taxes levied hereunder shall be due and payable in quarterly installments on or before the expiration of one month from the end of the quarter in which they accrue. The taxpayer shall, within one month from the expiration of each quarter, make out an estimate of the tax for which he is liable for such quarter, sign the same, and mail it together with a remittance of the amount of tax to the Recorder of the Town of Sutton. In estimating the amount of tax due for each quarter the taxpayer may deduct one-fourth of the total exemption allowed for the year. When the total tax for which any person is liable under this article does not exceed the sum of one hundred dollars in any year, the taxpayer may pay the same quarterly as aforesaid or, with the consent in writing of the Town Recorder, annually at the end of the month next following the close of the tax year.

4-206. Return and remittance by taxpayer. On or before the expiration of one month after the end of the tax year each

taxpayer shall make a return for the entire tax year showing the gross proceeds of sales or gross income of business, trade, or calling, and compute the amount of tax chargeable against him in accordance with the provisions of this article and deduct the amount of quarterly payments as herein provided, if any, and transmit with his report a remittance of the residue of the tax chargeable against him to the office of the Town Recorder; such return shall be signed by the taxpayer, if made by an individual, or by the president, vice-president, secretary, or treasurer of a corporation, if made on behalf of a corporation. If made on behalf of a partnership, joint adventure, association, trust, or any other group or combination acting as a unit, any individual delegated by such firm, copartnership, joint adventure, association, trust, or any other group or combination acting as a unit shall sign the return on behalf of the taxpayer. The Town Recorder, for good cause shown may extend the time for making the annual return on the application of any taxpayer and grant such reasonable additional time within which to make the same as may, by him, be deemed advisable.

4-207. Erroneous computation. If the taxpayer shall make any error in computing the tax assessable against him, the town recorder shall correct such error or reassess the proper amount of taxes, and notify the taxpayer of his action by mailing to him promptly a copy of the corrected assessment, and any additional tax for which such taxpayer may be liable shall be paid within ten days after the receipt of such statement.

If the amount already paid exceeds that which should have been paid on the basis of the tax so recomputed, the excess so paid shall be immediately refunded to the taxpayer upon the requisition of the Town Recorder and shall be payable out of any funds available for the purpose. The taxpayer may, at his election, apply an overpayment credit to taxes subsequently accruing hereunder.

4-208. Failure to make return; assessment by Town Recorder when return believed deficient. If any person shall fail or refuse to make a return, either in whole or in part, or if the Town Recorder has reasonable ground to believe that any return made is so deficient as not to form the basis of a satisfactory assessment of the tax, he may proceed as he deems best to obtain information on which to base the assessment of the tax. The Town Recorder may, with the consent of the council, request of the state Tax Commissioner of West Virginia permission to inspect and make copies of the State Gross Sales Tax Returns filed in the Commissioner's Office by any taxpayer of the town

for the purpose of securing information for municipal tax purposes and it is further provided that the necessary funds to pay reasonable costs and expenses to obtain the information required shall be paid by the town. As soon as possible after procuring such information as the Town Recorder may be able to obtain as to any person failing or refusing to make a return, he shall proceed to assess the tax and shall notify the person assessed of the amount of the tax. The assessment of the tax by the Town Recorder shall be final as to any person who refused to make a return.

4-209. Jeopardy assessments. If the Town Recorder believes that the collection of any tax which he is required to administer will be jeopardized by delay, he shall there upon make an assessment of the tax, noting that fact upon the assessment. The amount assessed shall be immediately due and payable. Unless the taxpayer against whom a jeopardy assessment is made petitions for reassessment within twenty days after service of notice of the jeopardy assessment, such an assessment becomes final.

A petitioner for reassessment by a person against whom a jeopardy assessment has been made must be accompanied by such security as the Town Recorder may deem necessary to ensure compliance with this article.

4-210. Notice of assessment; petition for reassessment; hearing. The Town Recorder shall, where the taxpayer has not been previously so notified, give to the taxpayer written notice of any assessment made pursuant to this article. Unless taxpayer against whom a notice of assessment is directed shall, within thirty days after receipt thereof (except in the case of jeopardy assessments), either personally or by certified mail, file with the Town Recorder petition in writing, verified under oath by said taxpayer or his duly appointed agent, having knowledge of the facts, setting forth with definiteness and particularity the items of the assessments objected to, together with the reason for such objections, such assessment shall become and be deemed conclusive and the amount thereof shall be payable at the end of the thirty-day period. In every case where a petition for reassessment as above described is filed, the council shall assign a time and place for the hearing thereof and shall notify the petitioner of such hearing by written notice at least twenty days in advance thereof and such hearing shall be held within sixty days from the filing of the petition for reassessment unless continued by agreement or by the town council for good cause. The hearing shall be informal

and may be conducted by an examiner designated by the council. At such hearing evidence may be offered to support the assessment or to prove that it is incorrect. After such hearing the council shall, within a reasonable time, give notice in writing of the decision. Unless an appeal is taken within thirty days from service of this notice, the council's decision shall be final.

4-211. Appeal; correction of assessment; injunction. If any person, having made the return and paid the tax as provided by this article, feels aggrieved by the assessment so made upon him for any year by the Town Recorder, he may apply to the town council by petition, in writing, within thirty days after notice is mailed to him by the Town Recorder, for a hearing and correction of the amount of the tax so assessed upon him by the Town Recorder, in which petition shall be set forth the reasons why such hearing should be granted and the amount of such tax should be reduced. The town council shall promptly consider such petition, and may grant such hearing or deny it. If denied, the petitioner shall be forthwith notified thereof; if granted, the council shall notify the petitioner of the time and place fixed for such hearing. After such hearing, the council may make such order in the matter as may appear to it just and lawful, and shall furnish a copy of such order to the petitioner. Any person improperly charged with any tax required to be paid by him may recover the amount so paid, together with interest, in any proper action or suit against the town as may be authorized by law.

4-212. Tax year. The assessment of taxes herein made and the returns required therefor shall be for the year ending on the thirty-first day of December. If the taxpayer, in exercising a privilege or occupation taxed under this article, keeps the books reflecting the same on a basis other than the calendar year, he may, with the consent of the Town Recorder, make his annual returns and pay taxes for the year covering his accounting period, as shown by the method used to pay the like tax to the State of West Virginia.

4-213. Tax cumulative. The tax imposed by this article shall be in addition together licenses and taxes levied by this code and other ordinances as a condition precedent to engaging in any business, trade or calling. A person exercising a privilege taxable under this article, subject to the payment of all licenses and charges which are a condition precedent to exercising the privilege taxed, may exercise the privilege for

the current tax year upon the condition that he shall pay the tax accruing under this article.

4-214. Payment; penalty for nonpayment. Every remittance of taxes imposed by this article shall be made by bank draft, certified check, money order, or certificate of deposit to the Town Recorder, who shall issue his receipt therefor to the taxpayer and pay the money into the town treasury to be kept and accounted for as provided by law.

If any taxpayer fails to make the return required by this article, or makes his return but fails to remit in whole or in part the proper amount of tax, there shall be added to the amount of tax unpaid, from the date such tax should have been paid, a penalty in the amount of five percent of the tax for the first month or fraction thereof of delinquency and one percent of the tax for each succeeding month or fraction thereof of delinquency; provided, that if such failure is due to reasonable cause, the Town Recorder or the council may waive or remit in whole or in part these penalties.

If the failure to pay is due to fraud or intent to evade this article and the rules and regulations promulgated thereunder, there shall be added an additional penalty of twenty-five percent of the amount of the tax exclusive of penalties.

The penalties so added shall be collected at the same time and in the same manner and as a part of the tax.

4-215. Lien of tax due and unpaid. A tax due and unpaid under this article shall be a debt to the town. It shall be a personal obligation of the taxpayer and shall be a lien upon the property of the taxpayer; provided, that no such tax lien shall be enforceable against a purchaser (including lien creditor) for valuable consideration without notice, unless docketed in the office of the County Clerk of Braxton County.

4-216. Enforcement of collection. The town may use any means for the collection of the taxes imposed by this article as are provided by law for the enforcement and collection of similar taxes of the State of West Virginia.

4-217. Payment when person sells out or quits business; lien liability of successor. Any person exercising any privilege taxable under this article who shall sell out his business or stock of goods, or shall cease doing business, shall file the

return prescribed by Section 4-206 of this article and remit the entire tax that may be chargeable against him because of all business done, within thirty days after selling out his business or stock of goods, or ceasing to do such business.

The successor in business of any such person shall withhold so much of the purchase money as will satisfy the taxes and penalty which may be due until the former owner shall produce a receipt from the Town Recorder evidencing the payment of such taxes and penalty. If the purchaser of a business or stock of goods shall fail to withhold purchase money as above provided, and the taxes and penalty shall remain unpaid after expiration of the thirty day period allowed for payment thereof, he shall be personally liable for the payment of all such taxes and penalty, and the same shall be recoverable by the Town Recorder as provided by Section 4-208 of this article.

4-218. Recording of tax liens. The Town Recorder, for the more effective collection of the tax, may file with the Clerk of the Braxton County Commission a certified copy of an assessment of taxes under this article for recordation. Upon payment of the taxes delinquent under this article for recordation. Upon payment of the taxes delinquent under this article, the lien of which shall have been recorded, the Town Recorder shall certify in duplicate the fact and amount of payment and the balance due, if any, and shall forward the certificates, one to the taxpayer and one to the Clerk of the Braxton County Commission. From the date that such certificate is admitted to record the land of the taxpayer in the town shall be free from any lien for taxes under this article accrued to the date that the certificate was issued, if the tax be paid in full.

4-219. Collection by action or suit; injunction. The town may collect any tax, interest penalty due and unpaid under the revisions of this article by action in debt, assumpsit, motion for judgment, or other appropriate proceedings in the county in which (a) the activity taxed was engaged in or (b) the taxpayer resides; or by suit to enforce the lien therefor in a county in which any property of the taxpayer may be found; or the tax due and unpaid under this article may be recovered by suit in any court of competent jurisdiction. If the failure of any taxpayer to comply with the provisions of this article shall have continued sixty days, the town may proceed to obtain an injunction restraining the taxpayer from doing business in said town until he fully complies with the provisions of this article.

4-220. Offenses; penalties. It shall be unlawful for any person to refuse to make any return required to be made by this article; or to make any false or fraudulent return or false statement in any return, with intent to defraud the town or to evade the payment of the tax, or any part thereof, imposed by this article; or for any person to aid or abet another in any attempt to evade the payment of the tax, or any part thereof, imposed by this article; or for the president, vice president, secretary, or treasurer of any corporation to make or permit to be made for any corporation or association any false return or any false statement in any return required by this article, with the intent to evade the payment of any tax hereunder. And person violating any of the provisions of this section shall, on conviction thereof, be fined not more than one thousand dollars or imprisoned not exceeding thirty days, or punished by both such fine and imprisonment, at the discretion of the court. In addition to the foregoing penalties, any person who shall knowingly swear to or verify any false or fraudulent return, or any return containing any false or fraudulent statement with the intention aforesaid shall be guilty of the offense of false swearing and, on conviction thereof, shall be punished in the manner provided by law. Any corporation for which a false return, or a return containing a false statement, as aforesaid, shall be made, shall be punished by a fine of not more than one thousand dollars.

4-221. Authority of council to revoke city licenses as additional penalty. In addition to the penalties provided in Section 4-220 of this article, the failure of any taxpayer to make any required return or to pay the tax imposed upon him by this article, either or both, within five days following the prescribed date for the filing of such return or the payment of such tax, shall constitute good cause for the Common Council to revoke or to refuse to renew, either or both, the town license of such taxpayer to engage in the business taxed under this article, as well as any other town business license held by him or it.

ARTICLE THREE

MISCELLANEOUS BUSINESSES AND ACTIVITIES

4-301. Amusement tax. The town shall have plenary power authority to levy and collect an admission or amusement tax upon any public amusement or entertainment conducted within the corporate limits thereof for private profit or gain. The tax shall be levied upon the purchaser and added to and collected by the seller with the price of admission, or other charge for the amusement or entertainment. The tax shall not exceed two percent of the admission price or charge, but a tax of at least one cent per admission shall be levied and collected in any case.

Any ordinance imposing such tax shall contain reasonable rules and regulations governing the collection thereof by the seller and the method of his payment and accounting therefor to the town.

(See West Virginia Code §8-13-6)

4-302-1. Hotel/Motel Occupancy Tax. A City Hotel/Motel Tax shall be imposed by order of the Common Council duly entered of record. Such Tax shall be imposed uniformly throughout the Town of Sutton: on Hotels and Motels located within the corporated limits of said municipality situated, in whole or in part, within the City.

4-302-2. The tax shall be imposed on the consumer and shall be collected by the Hotel/Motel operator as part of the consideration paid for the occupancy of a Hotel/Motel room, Provided, that the tax shall not be imposed on any consumer occupying a Hotel/Motel room for Thirty or more consecutive days.

4-302-3. The rate of tax imposed shall be Three (3) percent of the consideration paid for the use or occupancy of a Hotel/Motel room. Such consideration shall not include the amount of tax imposed on the transaction under Article Fifteen, Chapter Eleven of the W.Va. Code, or charges for meals, valet services, room service, telephone service or other charges or consideration not paid for use of occupancy of a Hotel/Motel room.

4-302-4. Consideration means the amount received in money, credits, property or other consideration for or in exchange for right to occupy a Hotel/Motel room.

4-302-5. Hotel means any facility, building or buildings, publicly or privately owned (including a facility located in a state, county or municipal park), in which the public may, for a consideration, obtain sleeping accommodations. The term shall include, but not be limited to, boarding houses, hotels, motels, inns, courts, lodges, cabins and tourist homes. The term "Hotel" shall include state, county parks offering accommodations as herein set forth. The term "Hotel" shall not be construed to mean any Hospital, Sanitarium, extended Care Facility, or Nursing Home.

4-302-6. "Hotel room" means any room or suite of rooms or other facility affording sleeping accommodations to the general public situated within a hotel.

4-302-7. "State park" means any state-owned facility which is part of this state's park and recreation system established or to be established.

4-302-8. The consumer shall pay to the Hotel operator the amount of tax herein imposed. This tax shall be collectible as such by the hotel operator who shall account for, and remit to the taxing authority, all taxes paid by consumers. The hotel operator shall separately state the tax authorized by this order on all bills, invoices, accounts, books of account and records relating to consideration paid for occupancy, or use of a hotel room. The taxing authority's claim shall be enforceable against the moneys so commingled excepting only claims of the state for money held by the hotel.

4-302-9. A hotel or hotel operator shall not represent to the public in any manner, directly or indirectly, that it will absorb all or any part of the tax or that the tax not to be considered an element in the price to be collected from the consumer.

4-302-10. No profit shall accrue to any person as a result of the collection of this tax.

4-302-11. Payment of this tax shall be due and payable in monthly installments on or before the Fifteenth day of the calendar month next succeeding the month in which the tax occurred; Provided, that credit sales in which the tax authorized by this article is not collected by the hotel operator at the time such sales, such tax shall not be regarded as having occurred until the date on which it is either received

by the hotel operator or upon expiration of the Thirty day payment period, whichever shall occur first. The hotel operator shall, on or before the Fifteenth day of each month, prepare and deliver to the taxing authority a return for the preceding month, in the form prescribed by the taxing authority.

4-302-12. Each hotel operator shall keep complete and accurate records of taxable sales and of charges, together with a record of the tax collected thereon, and shall keep all invoices and other pertinent documents in such for as the taxing authority may require for a period of not less than Three years unless consented to in writing by the taxing authority.

4-302-13. The tax authority shall devise administrative procedures for assessment, collection and refund of the tax authorized by this order. The Recorder shall be the City's agent for administration and collection of the tax and shall have the power to distrain property and to initiate civil suits for collection of this tax. The City Recorder shall have the power and duty to issue tax returns and to receive tax returns for this tax.

4-302-14. Proceeds of this tax collected and remitted to the taxing authority pursuant to this order shall be deposited into the general revenue fund of the Town of Sutton and after appropriation thereof shall be expended only as provided hereafter or outlined by the West Virginia State Code Section 7-18-14.

ARTICLE FOUR

PUBLIC UTILITIES EXCISE TAX

4-401. Authority to levy tax. The council shall have plenary power and authority, as provided by the laws of the State of West Virginia, to levy and collect an excise tax on the privilege of purchasing, using, or consuming, within the corporate limits of the town, public utility services and tangible personal property from public utilities subject to the jurisdiction of the Public Service Commission of West Virginia. (See West Virginia Code §8-13-5a)

4-402. Definitions. The following words and phrases when used in this article shall for the purposes of this article have the following respective meanings:

(1) "Public utility service" means all services and tangible personal property purchased within this municipality from a seller, as hereinafter defined; namely, telephone service, electric service, gas service including bottled or liquid gas if the seller thereof is classified as a public utility subject to the jurisdiction of the Public Service Commission of West Virginia, water service, and sanitary sewer service, if purchased, used, or consumed within the corporate limits of this municipality or any other type of government be privately owned or owned by a municipality or any other type of government entity;

(2) "Purchaser" included every person who purchases, uses, or consumes a public utility service;

(3) "Seller" includes every person, whether a public service corporation, a municipality or other government entity, or a private corporation, classified as a public utility and subject to the jurisdiction of the Public Service commission of West Virginia, who sells, furnishes, or supplies a public utility service;

(4) "User" means the owner or tenant of private residential property or the owner or tenant of property used for commercial or industrial purposes, and every combination thereof, of every kind or description.

4-403. Imposition and levying of tax; rate of tax. There is hereby imposed and levied upon each and every purchaser of a public utility service an excise tax upon the privilege of purchasing, using, or consuming, within the corporate limits of this municipality, such public utility service. Such tax shall be in the amount of two percent of the charge (exclusive of any

federal or state tax thereon imposed upon the purchaser) made by the seller against the purchaser with respect to each public utility service. The tax imposed and levied by this article is in addition to all other taxes imposed and levied by this municipality.

In the event the amount of the charge for any single public utility service exceeds the sum of twenty thousand dollars in any given calendar month to any single purchaser, no tax shall be imposed for such additional purchase, use, or consumption in excess of said amount of twenty thousand dollars. In the event more than one public utility shall furnish the identical public utility service to the same purchaser, said purchaser shall be entitled to group the same as a single public utility service in calculating the amount of the charges in any calendar month for such public utility service.

4-404. Exemptions. The tax hereby imposed and levied shall not apply to the following transactions, which transactions are hereby exempted from such tax:

- (1) Purchases of public utility service for resale;
- (2) Purchases of public utility service by the United States of America, the State of West Virginia, and the political subdivisions, municipalities, boards, commissions, authorities, and public corporations thereof;
- (3) Purchases of tangible personal property such as appliances or the like, as distinguished from the public service supplied;
- (4) Charges for telephone services which are paid by the insertion of coins into coin-operated telephones, and specific charges or tolls for telephone calls to points outside the limits of this municipality;
- (5) Nonrecurring or one-time charges incidental to the furnishing of public utility service.

4-405. Collection and payment of taxes. Said tax shall in every case be collected by the seller and paid by the purchaser upon the amount of each periodic statement rendered such purchaser by the seller, and shall be paid by the purchaser to the seller at the time the purchase price or such charge shall become due and payable under the agreement between the purchaser and the seller. It shall be the duty of every seller in acting as the tax collecting medium or agency for this municipality to collect the said excise tax at the time of collecting the purchaser price charged for its public utility service. The taxes levied hereunder shall be due and payable to the town in quarterly installments on or before the expiration of one month

from the end of the quarter in which they accrue. The seller shall, within one month from the expiration of each quarter, make out an estimate of the tax for which he is liable for such quarter on a form to be prescribed by the Town Recorder, sign the same, and mail the same together with a remittance of the amount of the tax to the Recorder of the Town of Sutton.

In estimating the amount of tax due for each quarter the seller may deduct one-fourth of the total exemption allowed for the year. When the total tax for which any person is liable under this article does not exceed the sum of one hundred dollars in any tax year, the seller may pay the same quarterly as aforesaid or with the consent in writing of the Recorder of the Town of Sutton, annually at the end of the month next following the close of the tax year.

4-406. Records, inspection thereof. Each and every seller shall keep and maintain complete records showing all purchases of public utility service within the corporate limits of this municipality which records shall show the charge made against each purchaser, the dates such public utility service was furnished, the date of payment therefor, and the amount of tax imposed hereunder, and such records shall be kept open for inspection by the duly authorized agents of this municipality at reasonable times, and the duly authorized agents of this municipality shall have the right, power and authority to make at the expense of the town such transcripts thereof during such times as they may desire.

4-407. Non-liability of utility for errors; duty of municipality; refunds; use of tax funds. There shall be no liability upon the seller for erroneously collecting the tax hereby impose and levied or for erroneously failing to bill for such tax as a result of a good faith mistake on the part of the seller. When any purchaser contends that such tax is not owed by such purchaser on the ground that the public utility service was not purchased, used, or consumed within the corporate limits of this municipality, the seller shall refer the question to the common council and such seller shall thereafter collect or refrain from collecting such tax from such purchaser for such public utility service as instructed in writing to do by the Town Recorder upon the decision of the council. Any and all claims for refunds of any such tax shall be presented to this municipality and not to the seller.

The council shall have the authority to promulgate and enforce reasonable rules and regulations necessary for the

administration and enforcement of this article. Said tax funds so collected shall be used and expended solely for providing and maintaining the police and fire protection services of the Town of Sutton.

4-408. Enforcement provisions; penalties. Any amount of tax due and unpaid under the provisions of this article shall be a debt due this municipality. It shall be a personal obligation of the purchaser which shall be enforceable as provided in the applicable sections of the Code of the State of West Virginia, or in any other manner now or hereafter provided by law for compelling the payment of taxes due municipalities.

Any purchaser failing or refusing to pay the tax hereby imposed and levied and any seller or purchaser violating any of the provisions hereof or any lawful rule and regulation promulgated hereunder shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars for each such offense. The failure or refusal to pay the tax for public utility service purchased, used, or consumed during different periodic statement periods shall constitute a separate and distinct offense for each period.