

## CHAPTER EIGHT

### HEALTH, SANITATION AND SAFETY

#### ARTICLE ONE

##### REFUSE

8-101. Definitions. For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section.

(a) "Refuse" shall mean and include garbage, rubbish, trash, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded therefrom and shall not be stored therewith.

(b) "Approved Container" shall mean a metal or plastic container, which is portable, watertight, equipped with handles and a lid, and has a capacity of not less than ten gallons nor more than 96 gallons (if equipped with wheels), which when full, shall not have a total combined weight of contents and container of more than 75 pounds.

(c) "Garbage" shall mean all matter, solid liquid or mixed, which attends, is created or accumulates within the town from the preparation, cleaning, cooking, use, storage or sale of any matter designed or intended as food stuff for human consumption. Such term shall also include tin cans, bottles and other containers from which food or foodstuffs have been removed.

(d) "Premises" shall mean every residence household, apartment trailer court, motel, hospital, nursing home, hotel restaurant, café, market, wholesale or retail store or other establishment or place of business in the Town of Sutton in which garbage or trash accumulates.

(e) "Rubbish" shall means all normal wastes resulting from the use or occupancy of any premises such as ashes, brush, grass, leaves or other similar substances but does not include any building material or industrial waste.

(f) "Litter" shall means the disorderly accumulation of objects, especially discarded waste material or scraps.

(Section amended 2022)

8-102. Premises to be kept clean. All persons within corporate limits of the town are hereby required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in this article. Residents of the town should be free from the nuisances of unsightly deposits of garbage, trash and refuse and the noxious odors that accompany such. No person shall keep or dispose of garbage, refuse or rubbish within the town except as provided in this article.

(Section amended 2022)

8-103. Storage of garbage, refuse and rubbish prior to removal. No refuse shall be permitted to accumulate on said premises for any period of time longer than the interval between the regularly scheduled collections.

(a) Every occupant of premises from which garbage and rubbish are to be moved shall deposit all garbage and rubbish in such approved containers as shall prevent the same from being scattered or blown upon any other premises or public ways in the city to cause litter.

(b) No person shall deposit or store garbage or refuse unless such garbage or refuse has been prepared for collection, removal and disposal and complies with the definition of garbage, refuse or rubbish as set out in this article.

(c) Lids shall be kept on approved containers at all times.

(d) Approved containers are not to be stored in front yards of premises on a regular basis, where said containers can be viewed by the general public.

(e) Occupants shall place approved containers, garbage; refuse or rubbish on the curb or out for collection, at such times as shall be scheduled by the town or contracted service for the collection of refuse therefrom.

(f) All approved containers shall be returned to their appropriate storage place as soon as practicable after such containers have been emptied.

(Section amended 2022)

8-104. Location of containers. Where alleys are used by the town refuse collectors, containers shall be placed on or within six feet of the alley line in such a position as not to intrude on the traveled portion of the alley. Where streets are used by the town refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there be no curb, at such times as described in article 8-103.

(Section amended 2022)

8-105. Unlawful Acts. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose.

(a) No person shall throw, place or scatter any garbage, refuse or rubbish over or upon any premises, street or alley, either public or private, or adjacent thereto: or permit the accumulation of garbage, refuse or rubbish on any premises owned, occupied or controlled by such person, to become or remain offensive, unsanitary, unsightly, unsafe to public health or hazardous from fire. For purposes of this section, the words "such person" as used in the preceding sentence shall include the owner of the property, the landlord, and the tenant.

(b) No person shall keep or maintain on any premises any garbage, refuse or rubbish intended for removal or collection therefrom in any manner other than that prescribed by this article.

(c) No person shall cause or permit any vehicle containing garbage to stand upon any. street, alley or thoroughfare within the city, except when in actual use in receiving or loading garbage.

(d) No person shall dispose of garbage, trash or other refuse or rubbish by dumping it into any dumpster or container located on any property other than that on which such garbage, trash or other refuse was produced.

(e) No person shall scavenge or withdraw any substance from a dumpster, trash can or other trash or refuse container located on private or public property for the purpose of converting such substance to his or her own use.

(Section amended 2022)

8-106. Collection. All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the

supervision of such officer as the council shall designate. Collections shall be made regularly in accordance with an announced schedule as fixed or determined by council from time to time.

8-107. Collection vehicles. The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys. Any person, other than an authorized agent or employee of the town, who places any garbage, refuse, trash or other debris into any collection vehicle or other vehicle owned by or in the possession of the town without previously receiving authorization from the mayor, chief of police, or street commissioner shall be guilty of a misdemeanor.  
(Section amended 1989.)

8-108. Disposal. It shall be the duty of the council to provide for an adequate and sufficient refuse disposal service within the town. The disposal of refuse in any quantity by any person in any place, public or private, other than in the manner designated for refuse disposal by the council is expressly prohibited.

8-109. Violations, penalties.

(a) Except as otherwise provided in this code, any person violating any of the provisions of this article or failing or refusing to abide by and comply with the rules or regulations promulgated to effectuate the provisions of this article, shall, upon conviction, be fined not less than \$50.00 nor more than \$500.00 and costs, and for each second or subsequent offense.

(b) Each succeeding day a violation of this article exists shall constitute a new and separate offense.  
(Section amended 2022)

8-110. Obligations of property owners to secure service and pay fees. Every owner of any occupied premises within the Town shall have the responsibility of obtaining minimum regular service for the collection, storage and disposal of solid waste. The rates and charges shall be the obligation of the owner of the premises, provided that upon application by the owner of any

rental property, such bills may be rendered to the occupant. However, the rendering of a bill to an occupant who is not the owner of the premises shall not affect or impair the right of to collect such charges from the owner in the event any such bill becomes delinquent.

(Section amended 2022; formerly 8-131)

8-111. Fees for yard waste. The Mayor or his designee shall establish fees for the collection and disposal of yard waste from premises which cover the cost of collecting, transporting, and disposing of such yard waste. The fees shall be due and payable in advance at the office of the Municipal Clerk.  
(formerly 8-135)

8-112. Surcharges. Because of volatility in the price of fuel, the Town of Sutton shall from time to time, implement temporary emergency fuel surcharges contemporaneously with and in the same fashion as such surcharges are authorized by the Public Service Commission of West Virginia for common carriers regulated by the Public Service Commission.

(Adopted May 24, 2007; formerly 8-138)

8-113. Severability. The provisions of this article are severable and if any provisions or part thereof shall be invalid or unconstitutional or inapplicable to any person or circumstances, such invalidity, unconstitutionality or inapplicability shall not affect or impair the remaining provisions of this article. This article shall not be deemed to impair or affect any existing contract for the collection of garbage, refuse or rubbish.

(Adopted January 3, 2023)

ARTICLE TWO

MISCELLANEOUS

8-201. Health Officer.  
(Section deleted 2023)

8-202. Adulterated food, drugs, and cosmetics; penalties.  
(Section deleted 2023)

8-203. Sale of preserved food as fresh, penalties.  
(Section deleted 1989)

8-204. Determination of adulterated item.  
(Section deleted 2023)

8-205. Communicable disease.  
(Section deleted 2023)

8-206. Keeping of slaughterhouse prohibited.  
(Section deleted 2023)

8-207. Disposal of water, slop, etc. on public grounds prohibited. It shall be unlawful for any person to throw the water, slop, offal, or any other such offensive material or substance from his or her house or kitchen into or upon any street, alley, road or public ground, or upon the lot of another, or permit or suffer the same to be done by any person in his or her employment or belonging to his or her family.

8-208. Dead animals, penalties. It shall be unlawful for the owner of any dead animal to suffer it to remain longer than five hours within the town after having been notified by the Mayor or any police officer to remove the same; upon conviction such person shall be fined not less than five nor more than fifty dollars, and for each and every twenty-four hours thereafter he shall suffer the same to remain, a further fine of not more than fifty dollars may be imposed. In all cases of neglect or refusal of the party so convicted to comply with the order of the Mayor to remove such nuisance or dead animal, the removal may be done by the direction of the Mayor and the costs of such removal shall be added to the fine imposed.

8-209. Smoke, soot, fumes, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense

smoke, soot, cinders, noxious acids, fumes or gases as to be detrimental to or to endanger the health, comfort, or safety of the public or so as to cause or have a tendency to cause injury or damage to property or business.

8-210. Stagnant water. It shall be unlawful for any person to knowingly allow any pool of stagnant water to accumulate and stand on his property.

8-211. Weeds. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any such person to fail to comply with an order by the Mayor or Chief of Police to cut such vegetation when it has reached a height of over one foot.

8-212. Health hazard due to broken sewer, penalties. The owner and/or occupant of any private property, for the use and benefit of which drains, sewers or ditches have been made or may be made within said town, shall be held liable for keeping the same in constant good repair and free from all manner of annoyance to the public or to the owners or occupants of property adjacent thereto.

In the event such drains, sewers or ditches become dangerous or offensive to the public health and safety by reason of their becoming stopped up, broken, or out of repair, or from any other cause, and owner, agent, or occupant of said property fails or refuses to repair the same within a reasonable length of time, after having been notified by the Mayor, it shall be the duty of the Mayor to direct the street Commissioner to repair, or cause to be repaired, such sewer, drain, or ditch, and report his proceedings, with the cost incurred in making such repairs, to the council, and the owner and occupant of such property, jointly and severally, shall be liable for said costs. The owner and occupant of such property, if both shall be so notified and both shall fail to make such repairs, or, if either one and not the other be so notified and shall so fail, then the party or parties notified and so failing, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five nor more than one hundred dollars.

8-213. Fireworks, penalties. Except as hereinafter provided, it shall be unlawful for any person, firm, co-partnership, or corporation to offer for sale, expose for sale, sell at retail, possess, use, or explode any fireworks (as defined by the applicable section or sections of the code of the State of West Virginia); provided, that there may be public displays of

125

fireworks by the town, fair associations, amusement parks, or other organizations or groups of individuals, when such display shall be conducted in accordance with the rules and regulations prescribed by the state fire marshal, and who shall have first obtained a permit so to do from said marshal, and from the council. Every such display shall be handled by a competent operator to be approved by the Chief of Police and by the chief of the fire department, and shall be of such character and so located, displayed, or fired as, in the opinion of the police and fire chiefs, after proper inspection, shall not be hazardous to property in the town or endanger any person or persons. Application to the council for such permit shall be made in writing at least fifteen days prior to the date of the display.

After such privilege shall have been granted, sales, possession, use and distribution of such fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable. If the person holding the permit shall in any manner violate the terms and conditions thereof, or shall in any manner injure any property of person while conducting such display, the Mayor, and in his absence the Chief of Police, shall have authority to immediately revoke such permit and to stop any further display of such fireworks. In addition thereto, the person to whom the permit was granted shall be liable for any damage done to any property or person.

Any person, firm, co-partnership, or corporation violating any provision of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not to exceed five hundred dollars, or imprisoned in the jail not to exceed ninety days, or both such fine and imprisonment, in the discretion of the court.  
(Section amended 2022)

8-213-A Explosive Devices. No explosive device may be detonated within the city limits of the Town of Sutton without a Permit approved by the Common Council. The Mayor or in his absence the Chief of Police may grant temporary approval to proceed, if all other conditions are met, until the next regular meeting of the Council or call a special meeting for the purpose of consideration if necessary. This ordinance includes, but is not limited to, explosive devices used in construction, demolition, or site preparation.

A permit will not be granted to any individual or firm that does not meet all West Virginia State and Federal requirements including appropriate licenses. Such proof must

126



accompany the application for permission to discharge explosives with in the said Town and will be the responsibility of the applicant to provide.

Either the Mayor or the Chief of Police will review the proposed work as described in the "Application For Permit To Detonate Explosives" and may require additional action on the part of the applicant to insure as safe an environment as possible for the Town of Sutton. The Mayor or the Chief of Police may deny the application if they do not feel that adequate safe guards are in place to protect the Town, it's citizens and visitors.

Under no circumstances will any permit be granted without a 24 hour notice of application. Each explosion will constitute a separate incident and require a separate permit unless otherwise directed by the council. A fee of \$25 will be required to accompany the application.

No portion of this ordinance should be interpreted to relieve the individual or firm detonating such explosives from all liability incurred directly or indirectly from their actions. The person or persons to whom the permit is granted shall be liable for any and all damages done to any property or persons. By granting the permit the city of Sutton and it's officials take no responsibility, what so ever, for any damages that may result.

Any individual or firm violating this ordinance by detonating an explosive device within the corporate limits of the Town of Sutton shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than fifty dollars nor more than one thousand dollars, or imprisoned in the jail not to exceed ninety days or both such fine and imprisonment, in the discretion of the court. In addition to the penalties set forth by this ordinance the provisions here of, may be further enforced by injunction issued from the Circuit Court of Braxton County.

This ordinance will become effective immediately upon approval of the third reading of the Common Council of the Town of Sutton and apply to all occurrences from that date forth.  
(Section amended 2022)

8-214. Spitting on public property, penalty. It shall be unlawful for any person to spit upon the floors, walls, steps, or any other part of any hall or public building within the

town. Any person offending against this section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one nor more than fifty dollars for each offense.  
(Section amended 2022)

8-215. Public nuisances by reason of fire and safety hazard.  
No person, firm, corporation, or association owning real estate within the corporate limits of the Town of Sutton, nor any lessee or sublessee thereof, shall suffer or permit such real estate or any dwelling house thereon or any other building of any kind or character to fall into such state of neglect or disrepair as to become unsightly or to create a hazardous condition by reason of fire, wind, or other natural causes so as to endanger the health and safety of the residents of the Town of Sutton, nor shall any such owner or lessee allow the accumulation of paper, cardboard, boxes, and other rubbish causing or tending to cause a fire hazard. If in the opinion of the council such condition exists or arises, council shall take prompt and appropriate legal action to cause such condition to be corrected or abated as a public nuisance, as provided in this article.

8-216. Public nuisances by reason of health and sanitation hazard. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of the same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter of the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. If in the opinion of the council such condition exists or arises, council shall take prompt and appropriate legal action to cause such condition to be corrected or abated as a public nuisance, as provided in this article.

8-217. Abandoned refrigerators and other airtight appliances.  
No person shall abandon, discard, or knowingly permit to remain on premises under his control, in a place accessible to children, any refrigerator or other airtight or semi-airtight container which has a capacity of one and one-half cubic feet or more and an opening of fifty square inches or more and which has a door or lid equipped with a hinge, latch, or other fastening device capable of securing such door, lid, without rendering such equipment harmless to human life by removing such hinges, latches, or other hardware which may cause a person to be confined therein. This section shall not apply to an ice-box,

refrigerator, or other airtight or semi-airtight container located in that part of a building occupied by a dealer, warehouseman, or repairman; provided, however, that this exception shall not relieve said dealer, warehouseman, or repairman from using the highest degree of care under the circumstances to protect and save harmless against injury or death the life or person of any individual.

8-218. Violations action by council. In the event of violation of any of the foregoing sections of this article for which a penalty is not therein prescribed, council shall take prompt and appropriate legal action to cause said violation to be corrected or abated as a public nuisance. Provided, that no such legal action shall be taken until such person, firm, corporation, or association or such occupant, lessee, or sublessee shall have first been given proper legal notice setting forth such facts as shall be necessary to sufficiently apprise such person of said violation and time and opportunity, all facts and circumstances considered, to correct such situation or abate the same; and, if such person desires to be heard before council, an opportunity shall be afforded to him for a hearing as to the existence of such violation, provided a request for such hearing is timely made by said person.

8-219. Penalties. In addition to all civil remedies available to council to correct or abate any or all conditions referred to in this article, any person failing or refusing to correct or abate such condition within the time provided shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than one thousand dollars; and, after the time allowed in the aforesaid notice has elapsed without the correction or abatement made as specified, each twenty-four hour period thereafter during which such condition remains uncorrected or unabated shall be and constitute a separate offense.