

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 changes 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

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 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 devise 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

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.

CHAPTER NINE

ANIMALS AND FOWL

ARTICLE ONE

IN GENERAL

9-101. Running at large prohibited. It shall be unlawful for any person owning or being in charge of cows, swine, sheep, horses, mules, or goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, to knowingly or negligently permit any of them to run at large inside the corporate limits of the town.

(Section amended 1989)

9-102. Keeping near a residence or business restricted. No person shall keep, stable, or house any animal enumerated in the preceding section within the corporate limits of the town.

(Section amended 2022)

9-103. Pen or enclosure to be kept clean. When animals or fowl are kept within the corporate limits, the building, structure, corral, pen, or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition.

9-104. Adequate food, water, and shelter, etc., to be provided. No animal or fowl of any kind shall be kept or confined in any place where the food, water, shelter and ventilation are not adequate and sufficient for the preservation of its health, safe condition, and wholesomeness for food if so intended.

9-105. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such place or condition as to become a nuisance either because of noise, odor, contagious disease, or other reasons.

9-106. Cruel treatment prohibited. If any person shall cruelly, unnecessarily, or needlessly beat, torture, torment, mutilate, kill, or overload, overdrive, or willfully deprive of necessary sustenance, any horse or other domestic animal, whether such horse or other animal be his own or that of another person, or shall impound or confine any such animal in any place and fail to supply the animal with a sufficient quantity of good, wholesome food and water, or shall carry in or upon any vehicle, or otherwise, any such animal in a cruel or inhumane

manner, or knowingly feed a cow on food that produces impure or unwholesome milk, or shall abandon to die any maimed, sick, infirm, or diseased animal, or shall be engaged in or employed at cock fighting, dog fighting, bear battling, pitting one animal to fight against another of the same or different kind, or any similar cruelty to animals, or shall receive money for the admission of any person or shall knowingly purchase a dog or other animal for the purpose of seizing, detaining, or mistreating any other domestic animal, he shall be fined not less than five nor more than one hundred dollars and, in the discretion of the court, he may be imprisoned not exceeding six months.

9-107. Seizure and disposition of animals. Any animal or fowl found running at large or otherwise being kept in violation of this article may be seized by the health officer or by any police officer or other officer so designated by council, and confined in a pound provided or designated by the council. If the owner is known he shall be given notice in person, by telephone, or by a post card addressed to his last-known mailing address, and the animal or fowl will be humanely destroyed or sold if not claimed within five days. If the owner is not known, a note describing the impounded animal or fowl will be publicly broadcast or posted in at least three public places within the corporate limits of the town. The notice shall state that the impounded animal or fowl must be claimed within five days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner within the specified period, the animal or fowl will be sold, humanely destroyed, or otherwise disposed of as authorized by council and the council, town, and any such purchaser shall in no way be liable to the former owner therefore.

9-108. Seizure of rabid animals. Any rabid animal, or animal from good cause supposed to be rabid, found running at large upon any of the streets, alleys, or premises other than that of the owner of such animal, within said town, shall be seized forthwith by the health officer or any police officer and confined in a suitable place until such time as may be required to determine if said animal be infected or not. Any reasonable expense attending such confinement and, of necessary, the humane disposal of such animal, may be allowed by the council.

9-109. Confinement of diseased animals. The owner of any animal suffering with any contagious or infectious disease shall remove or confine the same to some place where danger of its spread of infection cannot be reasonably apprehended; or, if the

animal be killed or die, the body shall be buried or destroyed by the owner.

9-110. Dangerous or vicious animals prohibited. No person shall keep any animal which is known to be dangerous or vicious within the limits of the town unless said animal be kept securely confined. Any person offending against the provisions of this section shall be fined as provided in Section 9-115 following, and after the assessment of the first fine a like fine shall be imposed for every twenty-four hours such animal is suffered by such person to remain unconfined.

9-111. Turning animals loose within the town prohibited. No person shall willfully let out, or cause to be let out, of any enclosure within the town, or drive or lure, or cause to be driven or lured, into said town any of the animals mentioned in Section 9-101 of this article.

9-112. Unauthorized removal of animals from pound. No person shall let out, drive, or turn out of any pound or enclosure any animal that may have been placed therein by any police officer or authorized employee of the town.

9-113. Passing of Ordinance Animals and Fowl. No person, living within the town boundaries, shall keep fowl of any type without first, applying for a permit from the Town of Sutton. No roosters will be allowed. Birds are limited to a total of 15. All birds must be kept in a humane way and penned at all times. Pens must be kept clean: Permits are granted at the discretion of council according to location, and any other factors which concern the health, safety, and well-being of the residents.

If applicant is not the property owner, a letter from the landowner must accompany the application. The letter must state the owner's permission to allow birds, specifically. Permit application will be made at the Mayor's Office during normal business hours.

Cost of permit is \$10.00 ten dollars. The permit will consist of name, address, total number of birds. A map will accompany the permit showing the exact location of the pen on the owner's lot. Any violation of this ordinance may result in citation and fine of not less than \$25.00 and not more than \$200.00.

(Section amended 2022)

9-114. Excess speed of animals prohibited. It shall be unlawful for any person to gallop any horse, mare, gelding, mule, or ass, or ride or drive any such animal or other brute, over any road, street, or alley of the town at a greater rate of speed than eight miles per hour, or to ride or drive any horse or other brute across any bridge within said town at a gait faster than a walk.

9-115. Violations and penalties. Any violation of any section of this article wherein a penalty is not prescribed shall be punishable by a fine of not more than one hundred dollars for each separate offense.

9-116. Pet waste and penalties. An ordinance to establish requirements for the proper disposal of pet solid waste in Town of Sutton, so as to protect public health, safety and welfare, and to prescribe penalties for failure to comply.

(a) Definitions: For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

1. Immediate - shall mean that the pet solid waste is removed at once, without delay.

2. Owner/Keeper - any person who shall possess, maintain, house or harbor any pet or otherwise have custody of any pet, whether or not the owner of such pet.

3. Person - any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

4. Pet - a domesticated animal (other than a disability assistance animal) kept for amusement or companionship.

5. Pet solid waste - waste matter expelled from the bowels of the pet; excrement

6. Proper disposal- placement in a designated waste receptacle, or other suitable container, and discarded in a refuse container which is regularly emptied by the municipality or some other refuse collector; or disposal into a system designed to convey domestic sewage for proper treatment and disposal.

(b) Requirement for Disposal: All pet owners and keepers are required to immediately and properly dispose of their pet's solid waste deposited on any property, public or private, not owned or possessed by that person.

(c) Exemptions: Any owner or keeper who requires the use of a disability assistance animal shall be exempt from the provisions of this section while such animal is being used for that purpose.

(d) Enforcement: The provisions of this Article shall be enforced as prescribed in Article one of Chapter two of Town of Sutton Ordinances. Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a fine not to exceed \$100.00.

(e) Severability: Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance. (Section amended 2022)

ARTICLE TWO

DOGS

9-201. Annual head tax imposed; duty of keepers of dogs to report to county assessor and pay head tax; dog tags to be affixed to collars of dogs.

(a) There is hereby imposed upon each person keeping within the town a dog above the age of six months an annual head tax on each dog so kept by him in the amount of one dollar for each male or spayed female dog and two dollars for each unspayed female dog.

(b) It shall be the duty of each person who keeps within the town a dog above the age of six months to report such dog to the Assessor of Braxton County at the time when the annual assessment of personal property is made; provided, that when any person within the town acquires a dog above the age of six months, or when a dog kept by him within the town attains the age of six months, such person shall then report such dog to the Assessor of Braxton County.

(c) Each person reporting a dog to the county assessor pursuant to subsection (b) of this section shall pay to the assessor the amount of the head tax prescribed in subsection (a) of this section for each dog he is required to report, and he shall then attach to the collar of each such dog the proper registration tag furnished to him by the assessor, and retain within his possession the certificate of registration furnished to him by the assessor for each such dog.

(d) The annual head tax on dogs imposed by subsection (a) of this section is for a fiscal year rather than a calendar year.

9-202. Certain dogs exempt from tax imposed by Section 9-201. The head tax imposed by subsection (a) of Section 9-201 shall not apply to dogs in a licensed kennel or veterinary hospital. All seeing-eye dogs are exempted from the head tax imposed by subsection (a) of Section 9-201, but their owners or custodians shall annually apply for and be issued dog license tags upon display of proper rabies vaccination or inoculation or vaccination certificate.

9-203. Offenses concerning license tags. No person shall attach a license tag to any dog to which it was not issued or

remove a license tag from the collar of any dog without the consent of the owner.

9-204. Dogs are not permitted to run at large. No dog, whether wearing a license tag or not, shall be permitted, and it shall be unlawful for any dog, to run at large within the corporate limits of the town at any time. Any dog found running at large in violation of this section shall be subject to impoundment as provided in Section 9-107 of this chapter.

9-205. Keeping vicious dog prohibited. No person shall own, keep, or harbor any dog known by him to be vicious, dangerous, or in the habit of biting or attacking persons, whether or not such dog wears a tag or muzzle, and, upon satisfactory proof that such dog is vicious, dangerous, or in the habit of biting or attacking persons, the animal warden or any police officer or other person may cause such to be impounded, upon a warrant being issued therefore and served upon the owner thereof and a hearing being had thereon, disposed of in a humane manner.
(Section amended 1989)

9-206. Duty of owner or custodian of dog upon biting any person. Any dog, whether licensed or not, who bites any person shall be taken by its owner or custodian forthwith to a veterinarian for confinement and observation, or shall be securely confined on the premises of its owner or custodian, and in either case the owner or custodian shall forthwith notify the health officer of Braxton County.

9-207. Muzzling dogs under proclamation of Mayor. Whenever it shall be made to appear to the Mayor and/or council that there are good reasons for believing that any dog within the town is mad, he may issue a proclamation requiring that all dogs shall, for a period to be defined in the proclamation, wear good, substantial muzzles, securely put on, so as to prevent them from biting or snapping, and any dog at large, during the period defined by the Mayor, without such muzzle, shall be taken by the animal warden or any police officer and impounded as provided in this chapter.

9-208. Inducing dogs to fight, annoy persons or animals. No person shall entice, induce, urge or cause any dog to engage in or prolong a fight in the town, and no person shall induce or cause any dog to run after, bark at, frighten, or bite any person or animal lawfully passing along or standing in or on any street or highway within the town.

9-209. Seizing or enticing dog; bringing dog into city for impounding or killing. Except for persons duly authorized by this article, no person shall entice any properly licensed dog into any enclosure for the purpose of taking off its collar, harness, or tag, or, for such purpose, decoy or entice any dog out of the enclosure or house of its owner or possessor, or seize or molest any dog which is held or led by any person, or bring any dog into the town for the purpose of impounding or killing.

9-210. Violations and penalties. A violation of any section of this article shall be punishable by a fine of not more than one hundred dollars for each separate violation.
(Section amended 2022)

CHAPTER TEN

MOTOR VEHICLES AND TRAFFIC

ARTICLE ONE

IN GENERAL

10-101. Definitions. The following words and phrases when used in this code shall, for the purpose of this code, have the meanings respectively ascribed to them in this article.

(1) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

(2) "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(3) "Motorcycle" means every motor vehicle having a seat or saddles for the use of the rider and/or riders and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.

(4) "Motor-driven cycle" means every motorcycle, including every motor scooter, with a motor which produces not to exceed five horsepower, and every bicycle with motor attached.

(5) "Authorized emergency vehicle" means vehicles of the fire department, duly chartered rescue squad, police vehicles, and such ambulances and emergency vehicles of municipal departments or public service corporations as are designated or authorized by the Commissioner or the Chief of Police of an incorporated city, and such privately owned ambulances and emergency vehicles as are designated by the Commissioner.

(6) "School bus" means every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school.

(7) "Bicycle" means every device propelled by human power upon which any person or persons may ride, having two wheels.

(8) "Truck Tractor" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(9) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(10) "Road tractor" means every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

(11) "Truck" means every motor vehicle designed, used, or maintained primarily for the transportation of property.

(12) "Bus" means every motor vehicle designed for carrying more than seven passengers and used for the transportation of persons; and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

(13) "Trackless trolley coach" means every motor vehicle which is propelled by electric power obtained from overhead trolley

(14) "Trailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

(15) "Semitrailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by another vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

(16) "Pole trailer" means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, or sustaining themselves as beams between the supporting connections.

(17) "Pneumatic tire" means every tire in which compressed air is designed to support the load.

(18) "Solid tire" means every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

(19) "Metal tire" means every tire the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

(20) "Railroad" means a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

(21) "Railroad train" means a steam engine, electric, diesel, or other motor, with or without cars coupled thereto, operated upon rails, except streetcars.

(22) "Streetcar" means a car other than a railroad train for transporting persons or property and operated upon rails principally within a municipality.

(23) "Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

(24) "Flammable liquid" means any liquid which has a flash point of seventy degrees Fahrenheit, or less, as determined by a tagliabue or equivalent closed-cup test device.

(25) "Gross weight" means the weight of a vehicle without load plus the weight of any load thereon.

(26) "Commissioner" means the Commissioner of the Department of Motor Vehicles of the State of West Virginia.

(27) "Department" means the Department of Motor Vehicles of the State of West Virginia acting directly or through its duly authorized officers and agents.

(28) "Person" means every natural person, firm, co-partnership, association, or corporation.

(29) "Pedestrian" means any person afoot.

(30) "Driver" means every person who drives or is in actual physical control of a vehicle.

(31) "Owner" means a person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this code.

(32) "Police officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(33) "Street" or "highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public purposes of vehicular travel.

(34) "Private road" or "driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons. "Private property" means real estate in private ownership without regard to the manner in which it is used.

(35) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately, but not to all such roadways collectively.

(36) "Sidewalk" means that portion of a street between the curblines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians.

(37) "Laned roadway" means a roadway which is divided into two or more clearly marked lanes for vehicular traffic.

(38) "Through highway" means every highway or portion thereof at the entrances to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing the same and when stop signs are erected as provided in this chapter.

(39) "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(40) "Crosswalk" includes: (a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs, or, in the absence of curbs, from the edges of the traversable roadway; and (b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(41) "Business district" means the territory contiguous to and including a highway when within any six hundred feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings, railroad stations, and public buildings which occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of the highway.

(42) "Residence district" means the territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of three

hundred feet or more is in the main improved with residences or residences and buildings in use for business.

(43) "Traffic-control devices" means all signs, signals, markings, and devices not inconsistent with this chapter placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

(44) "Traffic-control signal" means any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed.

(45) "Railroad sign" or "signal" means any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

(46) "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together while using any highway for purposes of travel.

(47) "Right-of-way" means the privilege of the immediate use of the highway.

(48) "Stop" when required, means complete cessation from movement.

(49) "Stop", "stopping", or "standing", when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

(50) "Park", when prohibited, means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.

(51) "School grounds" includes the land on which a school is built together with such other land used by students for play, recreation, or athletic events while attending school.

(52) "Axle group" means an assemblage of two or more consecutive axles considered together in determining their combined load effect on a bridge or pavement structure. The determination of what constitutes an axle group may include any or all the axles on the vehicle or combination of vehicles.

(53) "Tandem axle" means any two or more consecutive axles whose centers are not more than ninety-six inches apart, and are individually attached to and/or articulated from a common attachment to the vehicle including a connecting mechanism designed to equalize the load between axles.

(54) "Tandem axle weight" means the total weight transmitted to the road by two or more consecutive axles whose centers may be included between parallel transverse planes

spaced not more than ninety-six inches apart, extending the full width of the vehicle.

(55) "Connecting mechanism" means an arrangement of parts interconnecting two or more consecutive axles to the frame of a vehicle in such a manner as to equalize the load between axles.

(56) "Parking space" means an area at the side of a street or roadway which is intended for the standing, stopping of a vehicle.

(57) "Loading zone" means that parking space or spaces which are designated for the temporary standing, stopping of a vehicle while actually engaged in loading or unloading.

(58) "Reserved Parking zone" means that parking space or spaces specifically designated for the use of certain authorized persons but not for the general public.

(59) "No-Parking zone" means that area in which no standing, stopping, or parking of any vehicle is permitted at any time unless under emergency conditions or under the direction of a police officer.

(60) "Parking meter" means a mechanical traffic control device for the purpose of regulating parking, by which a person or persons may insert a designated coin or coins to operate a mechanism which indicates the time period that a vehicle may be legally parked within the designated parking space.

(See West Virginia Code 17A-1-1.)

10-102. Obedience to chapter required; exceptions. (a) The provisions of this chapter applicable to the drivers of vehicles upon the highways shall apply to the drivers of all vehicles owned or operated by the United States, the State of West Virginia, or any county, city, town, district, or any other political subdivision of the state, except as provided in this section and subject to such specific exceptions as are set forth in this code with reference to authorized emergency vehicles.

(b) Unless specifically made applicable, the provisions of this chapter shall not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work upon the surface of a highway but shall apply to such persons and vehicles when traveling to or from such work.

10-103. Required obedience to police officers. It shall be the duty of the Sutton Police Department and its officers to enforce the provisions of this chapter and other laws of the Town of Sutton; and no person shall willfully fail to refuse to comply with any lawful order or direction of any police officer or any officer invested by law with authority to direct, control, or regulate traffic.

10-104. Applicability of chapter to animals. Every person riding an animal or driving any animal-drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this chapter, except those provisions of this chapter which by their very nature can have no application.

10-105. Railroad trains restricted as to blocking streets.
(Section deleted 2023)

10-106. Putting glass, etc. upon highway; required removal thereof. (a) No person shall throw or deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans, or any other substance likely to injure any person, animal, or vehicle upon such highway.

(b) Any person who drops, deposits, or permits to be dropped or thrown, upon any highway any destructive or injurious material shall immediately remove the same or cause it to be removed.

(c) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle.

10-107. Duty of driver whose vehicle collides with unattended vehicle. The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle or shall leave in a conspicuous place in or on the vehicle struck a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking and a statement of the circumstances thereof.

(See West Virginia Code 17C-4-3)

10-108. Unlawful taking of vehicle. Any person who drives a vehicle, not his own, without consent of the owner thereof, and with intent temporarily to deprive said owner of his possession of such vehicle, without intent to steal the same, is guilty of a misdemeanor. The consent of the owner of a vehicle to its taking or driving shall not in any case be presumed or implied because of such owner's consent on a previous occasion to the taking or driving of such vehicle by the same or a different person. Any person who assists in, or is a party or accessory

to or an accomplice in, any such unauthorized taking or driving is guilty of a misdemeanor.

(See West Virginia Code 17A-8-4)

10-109. Offenses by persons owning or controlling vehicles. It is unlawful for the owner, or any other person, employing or otherwise directing the driver of any vehicle to require or knowingly to permit the operation of such vehicle upon a highway in any manner contrary to law.

(See West Virginia Code 17C-5-2)

10-110. Parties to an offense. Every person who commits, attempts to commit, conspires to commit, or knowingly aids or abets in the commission of, any act declared herein to be a crime, whether individually or in connection with one or more other persons or as a principal, agent, or accessory, shall be guilty of such offense, and every person who falsely, fraudulently, forcibly, or willfully induces, causes, coerces, required, permits, or directs another to violate any provision of this chapter is likewise guilty of such offense.

10-111. Penalties. (a) It is a misdemeanor for any person to violate any of the provisions of this chapter unless such violation is by this chapter or other section of this code declared to be a felony.

(b) Every person convicted of a misdemeanor for a violation of any of the provisions of this chapter for which another penalty is not provided shall for a first conviction thereof be punished by a fine of not more than one hundred dollars or by imprisonment for not more than ten days; for a second such conviction within one year thereafter such person shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than twenty days or by both such fine and imprisonment; upon a third or subsequent conviction such person shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than six months or both such fine and imprisonment.

ARTICLE TWO

TRAFFIC-CONTROL DEVICES

10-201. Obedience to traffic-control devices. (a) The driver of any vehicle and the motorman of any streetcar shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in Chapter 7 of this code.

(b) No provision of this chapter for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective even though no signs are erected or in place. (See West Virginia Code 17C-3-2, 17C-3-4)

10-202. Authority of council to erect or install traffic-control devices. The Common Council of the Town of Sutton shall place and maintain such traffic-control devices upon highways within the corporate limits of the town as they may deem necessary to indicate and to carry out the provisions of this chapter or to regulate, warn, or guide traffic. All such traffic-control devices hereafter erected shall conform to the West Virginia State manual and specifications. (See West Virginia Code 17C-3-3)

10-203. Traffic-control legend. Whenever traffic is controlled by traffic-control signals exhibiting the words "Go", "Caution", or "Stop", or exhibiting different colored lights successively one at a time, or with arrows, the following colors only shall be used and said terms and lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(a) Green alone or "Go": (1) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited. (2) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(b) Yellow alone or "Caution" when showing following the green or "Go" signal: (1) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited. (2) Pedestrians facing such signal are thereby advised that there is insufficient time to cross the roadway, and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(c) Red alone or "Stop": (1) Vehicular traffic facing" the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone except as provided in paragraphs (2) and (3) of this subsection (c). (2) A vehicle which is stopped in obedience to a red or "Stop" signal as close as practicable at the entrance to the crosswalk on the near side of the intersection or, if none, then at the entrance to the intersection, may cautiously make a right turn but such vehicle shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other vehicular traffic proceeding as directed by the signal at said intersection, except that council may by ordinance prohibit any such right turn against a red or "Stop" signal at any intersection within the corporation, which ordinance shall be effective when a sign is erected at such intersection giving notice thereof. (3) A vehicle which is stopped in obedience to a red or "Stop" signal as close as practicable at the entrance to the crosswalk on the near side of the intersection or, if none, then at the entrance to the intersection on a one-way street which intersects another one-way street on which traffic moves to the left, may cautiously make a left turn into said one-way street but such vehicle shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other vehicular traffic proceeding as directed by the signal at said intersection, except that council may by ordinance prohibit any such left turn against a red or "Stop" signal at any intersection within the corporation, which ordinance shall be effective when a sign is erected at such intersection giving notice thereof. (4) No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(d) Red with green arrow: (1) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawful within a crosswalk and to other traffic lawfully using the intersection. (2) No pedestrian

facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(e) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

(f) The motorman of any streetcar shall obey the above signals as applicable to vehicles.

10-204. Pedestrian walk wait signals. Whenever special pedestrian-control signals exhibiting the words "Walk" or "Wait" or words to such effect are in place such signals shall indicate as follows:

(a) "Walk" - Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(b) "Wait" - No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to a sidewalk or safety island while the wait signal is showing.

10-205. Flashing signals. Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal it shall require obedience by vehicular traffic as follows:

(1) Flashing red (stop signal) - When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or, if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(2) Flashing yellow (caution signal) - When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

10-206. Display of unauthorized devices, signs, etc.; such devices etc., declared nuisance and subject to removal. (a) No person shall place, maintain, or display upon or in view of any highway, road, or street within the corporation any unauthorized traffic-control device or traffic-control signal, or any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-

control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal, and no person shall place or maintain upon any highway, road, or street within the corporation any traffic-control device bearing thereon any commercial advertising. This shall not be deemed to prohibit the erection upon private property adjacent to the highway of signs giving useful directional information and of a type that cannot be mistaken for official signs.

(b) Every such prohibited device, signal, sign, or marking is hereby declared to be a public nuisance and the Common Council is hereby empowered to remove the same or cause it to be removed without notice.

10-207. Interference with official traffic-control devices or railroad signs or signals prohibited. No person shall without lawful authority attempt to or in fact alter, deface, injure, knock down, or remove any official traffic-control device or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof.