

# McClure Borough Code of Ordinances

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## CHAPTER 1 – ADMINISTRATION OF GOVERNMENT

### Part 1 Borough Officials

#### **A. Manager.**

§101. Creation of the Office. The Office of Borough Manager is hereby created by the Borough of McClure.

§102. Appointment and Removal. The Manager shall be appointed by a majority of all the members of Council and he shall serve until the first Monday of January of the odd numbered year succeeding his election and until his successor qualifies. The Manager shall serve at the pleasure of the Council, and he may be removed at any time by a majority vote of all its members. At least thirty days before such removal becomes effective, the Council shall furnish the Manager with a written statement setting forth its intention to remove him and the reasons therefor

§103. Qualifications. The Manager shall be chosen solely on the basis of his executive and administrative abilities, with special reference to his actual experience in or his knowledge of accepted practices in respect to the duties of his Office as herein outlined. The Manager need not be a resident of the Borough or of the State of Pennsylvania at the time of his appointment. Whether or not Borough Manager shall thereafter become a resident of the Borough shall be negotiable between Council and the Borough Manager under his contract of employment.

§ 104. Manager's Bond. Before entering upon his duties, the Manager shall give a bond to the Borough with a bonding company as surety, in an amount to be established by resolution of Borough Council, conditioned for the faithful performance of his duties. The premium shall be paid by the Borough.

§ 105. Manager's Compensation. The salary of the Borough Manager shall be set by resolution and incorporated in a contract of employment.

§ 106. Powers and Duties of the Manager. The Manager shall be the Chief Administrative Officer of the Borough and he shall be responsible to Council as a whole for the proper and efficient administration of the affairs of the Borough. His powers and duties shall relate to the general management of all Borough business not expressly by statute imposed or conferred upon other Borough officers. Subject to recall by ordinance of Council, the powers and duties of the Borough Manager shall include the following:

1. He shall supervise and be responsible for the activities of all municipal departments;
2. He shall hire and, when necessary for the good of the service, shall suspend or discharge all employees under his supervision, provided that persons covered by the Civil Service provisions of the Borough Code shall be hired, suspended, or discharged in accordance with such provisions; provided further, that the Manager shall report, at the next meeting thereafter of Council, any action taken by authority of this subsection;
3. He shall prepare and submit to Council before the close of the fiscal year, or on such alternate date as Council shall determine, a budget for the next fiscal year and an explanatory budget message. In preparing the budget the Manager, or an officer designated by him, shall obtain from the head of each department, agency, board, or officer, estimates of revenue and expenditures and other supporting data as he requests. The Manager shall review them before submitting the budget to the Council;
4. He shall be responsible for the administration of the budget after its adoption by the Council;

5. He shall hold such other municipal offices or head one or more of the municipal departments as the Council may from time to time direct.
6. He shall attend all meetings of Council and its Committees with the right to take part in the discussion and he shall receive notice of all special meetings of Council or its committees;
7. He shall prepare the agenda for each meeting of Council and supply facts pertaining thereto;
8. He shall keep the Council informed as to the conduct of Borough affairs; submit monthly reports on the condition of the Borough finances and such other reports as the Council requests; and make such recommendations to the Council as he deems necessary;
9. He shall submit to Council, as soon as possible after the close of the fiscal year, a complete report on the financial and administrative activities of the Borough for the preceding year;
10. He shall see that the provisions of all franchises, leases, permits, and privileges granted by the Borough are observed;
11. He may employ, by and with the approval of Council, experts and consultants to perform work and to advise in connection with any of the functions of the Borough. He shall control all engineering activities required by the Borough from time to time and may, by and with the approval of Council employ such experts and consultants to perform work and to advise in those functions beyond his capabilities and expertise;
12. He shall attend to the letting of contracts in due form of law, and he shall supervise the performance and faithful execution of the same except insofar as such duties are expressly imposed upon some other Borough Officer by statute;
13. He shall see that all money owed the Borough is promptly paid and that proper procedures are taken for the security and collection of all the Borough's claims;
14. He shall be the Purchasing Officer of the Borough and he shall purchase, in accordance with the provisions of the Borough Code, all supplies and equipment for the various agencies, boards, departments, and other offices of the Borough. He shall keep an account of all purchases and shall monthly or when directed by Council make a full written report thereof. He shall also issue rules and regulations -- subject to the approval of Council - governing the requisition and purchasing of all municipal supplies and equipment;
15. All complaints regarding services or personnel of the Borough shall be referred to the Office of the Manager. He, or an officer designated by him, shall investigate and dispose of such complaints, and the Manager shall report thereon to Council;
16. He shall represent the Borough at all inter-governmental meetings and accept appointment to any such boards or committees as Council may from time to time direct.

§107. Mayor's Powers and Duties. The Mayor is hereby authorized to delegate to the Borough Manager, subject to recall by written notification at any time, any of his non-legislative and non-judicial powers and duties.

§108. Limitations on Council's Powers. Neither the Council nor any of its committees or members thereof shall dictate or attempt to dictate the hiring of any person to, or his discharge from, employment by the Manager, or in any manner take part in the hiring, suspending or discharging of employees in the administrative service of the Borough except as required to do so by the Civil Service provisions of the Code. Except for the purpose of inquiry, the Council, its committees, and its members shall deal with the administrative service solely through the Borough Manager and neither the Council nor any of its committees, or any of its members shall give orders -- publicly or privately -- to any subordinates of the Manager. However, additional positions for employment beyond the present positions existing in the Borough shall only be made available by Council.

§109. Disability or Absence of the Manager. If the Manager becomes ill or needs to be absent from the Borough he shall designate one qualified member of his staff who shall perform the duties of the Manager

during his absence or disability. The person so designated shall not perform these duties for a period longer than two weeks without the approval of the Council.

**B. Office of Secretary/Treasurer.**

§121. Findings of Fact. That upon investigation the Borough Council finds and determines the following matters of fact, that there is no incompatibility in fact between the offices of Borough Secretary and Borough Treasurer of the Borough of McClure, in as much as the Borough Treasurer, even when also the Borough Secretary, cannot pay out Borough funds without an order signed by the President of Council.

§122. Same Person may be Secretary and Treasurer. That hereafter and so long as no incompatibility in fact between the offices of Borough Secretary and Borough Treasurer becomes apparent, the Offices of Borough Secretary and Borough Treasurer may be held by the same person.

**Part 2 Police [Reserved]**

**Part 3 Pension Funds and Social Security [Reserved]**

**Part 4 Firemen's Relief Association**

§401. Recognition of Firemen's Relief Association.

1. The following association is hereby recognized as actively engaged in providing fire protection and/or emergency services in the Borough of McClure. McClure Volunteer Fire Co. #1, Relief Association The above named association has been formed for the benefit of its members and their families in case of death, sickness, temporary or permanent disability or accident suffered in the line of duty.

2. The above named Association of the Borough of McClure is designated the proper association to receive such funds as are due and payable to the Borough Treasurer by the Treasurer of the State of Pennsylvania from the tax on premiums from foreign fire insurance companies.

§402. Certification to Auditor General. The Borough Council shall annually certify to the Auditor General of the Commonwealth, the name(s) of the active associations and the percentage of service they contribute to the protection of the Borough of McClure. Such certification shall be on forms prescribed by the Auditor General.

§403. Annual Appropriation. There is annually appropriated from the Borough Treasury all such sums of money that may hereafter be paid into the Borough Treasury by the Treasurer of the State of Pennsylvania on account of taxes paid on premiums of foreign fire insurance companies in pursuance of 1984 Act of December 18, No. 205, §§701 et seq. as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania. Such monies received by the Borough Treasurer from the State Treasurer shall be distributed to the duly recognized association(s) within sixty (60) days of receipt. The funds shall be distributed on the basis of the percentage of service established in the certification to the Auditor General and with other provisions of the Act.

**Part 5 Commissions and Authorities**

§501. Application of this Part. Pursuant to the provisions contained in the Borough Code and in order to carry the said provision into effect, there is hereby created in the Borough of McClure a Borough Planning

Commission which shall have all the powers and duties conferred upon it by the Borough Code and any other powers vested in it by law or ordinance.

§502. Members. The Borough Planning Commission shall consist of five members who shall reside within the Borough and who shall be appointed by the Council and shall serve without Compensation, except that they shall be reimbursed for expenses incurred in carrying out their Commission duties.

§503. Conduct of Commission. The Borough Planning Commission shall make an annual report to the Council showing their transaction and recommendations. It may employ planning technicians and other persons whose salaries and wages, together with other necessary expenses of the Commission, shall be provided for, at the discretion of the Council, by proper appropriations and resolutions. The Commission may also receive and expend for the purposes of its planning work, any gifts, grants and appropriations of money from any other sources, including Commonwealth, Federal or local funds, and may contract with governmental or private agencies or individuals with respect thereto.

§504. Powers and Duties. The Borough Planning Commission shall have the power and duty to make, adopt and maintain a comprehensive plan for the physical development of the Borough and surrounding territory. Said Comprehensive plan shall include among other things a land use plan, a thoroughfare plan, a communities facilities plan and a public improvement program. In the preparation of the comprehensive plan, the Commission should study population trends, existing land use, the economic base, traffic, existing thoroughfare system and other factors relating to the development of the Borough. The purpose of the comprehensive plan should be to accomplish a coordinated and harmonious development of the Borough and its environs in accordance with present and future needs. The Commission shall have the continuing responsibility for maintaining the comprehensive plan in and up-to-date condition, and in so doing, shall review and make recommendations to the Council on all ordinances which pertain to the physical development of the Borough.

§505. Zoning Powers. The Planning Commission shall serve as the Zoning Commission and may, in pursuance of its duties, prepare or cause to be prepared a zoning ordinance for consideration of the Council. The Commission shall have a continuing responsibility to review the ordinance and make recommendations as to proposed amendments.

§506. Subdivision Powers. The Planning Commission shall prepare and present to the Council land subdivision regulations. The Commission shall assist the Council in administering said regulations by reviewing and recommending to the Council actions to be taken on subdivisions submitted in accordance with established procedures.

## **Part 6 Schedule of Fees**

## **Part 7 Collection of Municipal Liens**

§701. Application of this Part. This Part shall apply to all municipal claims allowed and authorized by the law of the Commonwealth to be assessed by the Borough of McClure including, but not limited to, liens for taxes and for municipal improvements, for the removal of nuisances and for water rents or rates, sewage rates,

lighting rates and power rates to the fullest extent authorized by law (hereinafter "delinquent accounts"), whether heretofore or hereafter assessed or filed.

§702. Schedule of Attorney Fees. The following schedule of attorney fees is to be utilized and followed in the assessment of attorney fees in the collection of any delinquent account and the corresponding fees shall be added and included in the collection of the same at the time of the filing of the municipal claim by or for the Borough of McClure or as soon thereafter as may be convenient or proper: Preparation and filing of \$95.00 municipal lien Revival of municipal lien \$25.00 Preparation and filing \$95.00 writ of scire facias Judgment for want affidavit of defense of \$50.00 Trial upon affidavit of Fee based upon hourly rate of the defense Solicitor for time expended in preparation for and attendance at trial Collection of municipal Fee based upon hourly rate of the claim in assumpsit Solicitor for time expended in preparation for and attendance at trial Execution on judgment and Sheriff's sale of real property, Fee based upon hourly rate of the Solicitor for the time expended in preparation and filing execution documents and attendance at Sheriff's sale

§703. Notice. Prior to assessing or imposing attorney fees in connection with a delinquent account, the Borough of McClure shall provide thirty (30) days notice of the Borough's intention to assess or impose attorney fees in connection with this Part as may be required by the Act of May 16, 1923, P.L. 207, No. 153, as amended or supplemented, 53 P.S. §7106.

§704. Addition of Interest. In all proceedings where a municipal claim is filed as a lien against real property for delinquent accounts which are the subject of this Part, interest equal to ten (10) percent per annum shall be assessed and accrue on the claim from the date of the completion of the work after it is filed as a lien and on claims for taxes, water rents or rates, lighting rates or sewer rates, from the date of the filing of the lien therefor; provide, however, that if a municipal claim is filed arising out of a municipal project which required the Borough to issue bonds to finance the project, interest shall accrue and be collectible on such claim at the rate of interest of the bond issue or at the rate of twelve (12) percent per annum, whichever is less. No notice prior to the assessment or imposition of interest as set forth herein shall be required. Such interest shall be added to the municipal claim and collected therewith.

§705. Assessment of Penalty. In all proceedings where a municipal claim is filed as a lien against real property for a delinquent accounts which are the subject of this Part, a penalty equal to five (5) percent of the delinquent account shall be added to the municipal claim and collected therewith when the delinquent account remains unpaid for ninety (90) days after the assessment shall have been levied or as soon thereafter as may be convenient or proper. No notice prior to the assessment or the imposition of a penalty as set forth herein shall be required.

## **Part 8 Fire Insurance Escrow**

### **§801. Use of Fire Insurance Proceeds.**

1. No insurance company, association or exchange (hereinafter "insurer") doing business in the Commonwealth of Pennsylvania shall pay a claim of a named insured for fire damage to a structure located within the Borough of McClure where the amount recoverable for the fire loss to the structure under all policies exceeds seven thousand five hundred dollars (\$7,500.00), unless the insurer is furnished by the Borough Treasurer with a certificate pursuant to §508(b) of the Insurance Company Law of 1921, (40 P.S. §638) (the "Act") and unless there is compliance with the procedures set forth in §§508(c) and (d) of the Act (40 P.S. §638(c) and (d)).

2. Where there are delinquent taxes, assessments, penalties or user charges against the property (“municipal claims”), or there are expenses which the Borough of McClure has incurred as a cost for the removal, repair or securing of a building or other structure on the property (collectively “municipal expenses”), the Borough Secretary of the Borough of McClure shall immediately render a bill for such work, if he has not already done so. Upon written request of the named insured specifying the tax description of the property, the name and address of the insurer and the date of receipt by the insurer of a loss report of the claim, the Treasurer shall furnish a certificate within fourteen (14) working days of the request, to the insurer, a certificate (or at his discretion an oral notice confirmed in writing) either:
  - A. Stating that there are no unpaid municipal claims or municipal expenses against the property.
  - B. Specifying the nature and amount of such claims or expenses, accompanied by a bill for such amounts.
  - C. Taxes, assessments, penalties and user charges shall be deemed delinquent for this purpose if a lien could have been filed for such claims under applicable law. Upon receipt of a certificate and bill pursuant to subsection (2)(A) of this Section, the insurer shall transfer to the Treasurer an amount from the insurance proceeds sufficient to pay such sums prior to making payment to the named insured, subject to the provisions of subsection (3) hereof.
3. When all municipal claims and municipal expenses have been paid pursuant to subsection (2) of this Section, or where the Treasurer has issued a certificate described in subsection (2)(A) indicating that there are no municipal claims or municipal expenses against the property, the insurer shall pay the claim of the named insured; provided, however, that if the loss agreed upon by the named insured and the insurer equals or exceeds sixty (60) percent of the aggregate limits of liability on all fire policies covering the building or structure, the following procedures must be followed:
  - A. The insurer shall transfer from the insurance proceeds to the Treasurer, in the aggregate, two thousand dollars (\$2,000.00) for each fifteen thousand dollars (\$15,000.00) of such claim or fraction thereof.
  - B. If at the time a loss is submitted by the insured, such insured has submitted to the insurer, with a copy to the Borough of McClure, a contractor's signed estimate of the cost of removing, repairing or securing the building or other structure in an amount less than the amount calculated under the foregoing transfer formula, the insured shall transfer to the Treasurer from the insurance proceeds the amount specified in the estimate. If there is more than one insurer, the transfer of proceeds shall be on a pro rata basis by all insurers insuring the building or other structure.
  - C. Upon receipt of the above described portion of the insurance proceeds, the Treasurer shall do the following:
    - (1) Place the proceeds in a separate fund to be used solely as security against the total municipal expenses anticipated by the Borough of McClure to be required in removing, repairing or securing the building or structure as required by this Part. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the Borough of McClure in connection with such removal, repair or securing or any proceedings related thereto.
    - (2) Mail to the named insured, at the address received from the insurer, a notice the proceeds have been received by the Borough of McClure and that the procedures under this subsection shall be followed.



(3) After the transfer, the named insured may submit to the Borough of McClure a signed estimate of the cost of removing, repairing or securing the building or other structure, in which event the Treasurer shall, if such estimate is deemed by the Treasurer to be reasonable, return to the insured the amount of the funds transferred to the Borough of McClure in excess of that required to pay the municipal expenses; provided, the Borough of McClure, has not commenced to remove, repair, or secure the building or other structure, in which case the Borough of McClure will complete the work.

(4) Pay to the Borough Secretary, for reimbursement to the Borough general fund, the amount of the municipal expenses paid by the Borough of McClure.

(5) Pay the remaining balance in the fund (without interest) to the named insured upon receipt of a certificate issued by the Borough Secretary that the repair, removal or securing of the building or other structure has been completed in accordance with all applicable codes and regulations of the Borough of McClure.

(6) Nothing in this Section shall be construed to limit the ability of the Borough of McClure to recover any deficiency in the amount of municipal claims or municipal expenses recovered pursuant to this Part, or to insurance proceeds, by an action at law or in equity to enforce the codes of the Borough of McClure or to enter into an agreement with the named insured with regard to such other disposition of the proceeds as the Borough of McClure may deem responsible.

§802. Limits of liability. Nothing in this Part shall be construed to make an insurance company, association or exchange liable for any amount in excess of proceeds payable under its insurance policy or for any other act performed pursuant to this Part or to make this Borough, any Borough official, a Borough of McClure or public official an insured under a policy of insurance or to create an obligation to pay delinquent property taxes or unpaid removal liens or expenses other than as provided in this Part.

§803. Insurance Company Rights Reserved. An insurance company, association or exchange making payment of policy proceeds under this Part for delinquent taxes or structure removal liens or removal expenses incurred by the Borough of McClure shall have a full benefit of such payment including all rights of subrogation and of assignment.

§804. Construction. This Part shall be liberally construed to accomplish its purpose to deter the commission of arson and related crimes, to discourage the abandonment of property and to prevent urban blight and deterioration.

§805. Notification of Pennsylvania Department of Community and Economic Development. The Secretary of the Borough of McClure shall transmit a certified copy of this Part promptly to the Pennsylvania Department of Community and Economic Development.

§806. Penalty. Any owner of property, any named insured or insurer who violates the provisions of this Part or who shall fail to comply with any of the requirements hereof shall be sentenced, upon conviction thereof, to a fine of not more than one thousand dollars (\$1,000.00) plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed thirty (30) days. Each day on which an offense shall continue shall be deemed a separate offense.