

CODIFIED ORDINANCES OF THE TOWN OF McCANDLESS

PART ONE - ADMINISTRATIVE

---

TITLE ONE - General Provisions

- Art. 101. Codified Ordinances.
- Art. 103. Official Standards.
- Art. 105. Wards and Boundaries.

TITLE THREE - Administrative Code

- Art. 113. Title and Purpose.
- Art. 115. Town Council.
- Art. 117. Legislative Processes.
- Art. 119. Citizen Participation.
- Art. 121. Administration.
- Art. 123. Authorities, Boards and Commissions.
- Art. 125. Fiscal Procedures.
- Art. 127. Cost Recovery for Emergency Condition Abatement.

TITLE FIVE - Personnel

- Art. 137. Personnel Board.
- Art. 139. Personnel Code.



CODIFIED ORDINANCES OF THE TOWN OF McCANDLESS

PART ONE - ADMINISTRATIVE

---

TITLE ONE - General Provisions

Art. 101. Codified Ordinances.

Art. 103. Official Standards.

Art. 105. Wards and Boundaries.

---

ARTICLE 101  
Codified Ordinances

<p>101.01 Adoption; component codes; file copy.</p> <p>101.02 Effective date; repeal of prior ordinances.</p> <p>101.03 Saving certain ordinances from repeal.</p> <p>101.04 Amendments and supplements.</p> <p>101.05 Form of amendment or supplement.</p> <p>101.06 How known and cited.</p>	<p>101.07 Secretary's master copy; public record.</p> <p>101.08 Interpretation.</p> <p>101.09 Separability.</p> <p>101.10 Enactment procedure; legal publication.</p> <p>101.99 General penalty.</p>
--	--

CROSS REFERENCES

Codification of Ordinances - see CHTR. Art. IV, § 404; F. C. Twp. Code § 1502 (53 P. S. § 56502); ADMIN. § 117.12

Actions required by ordinance; notice - see CHTR. Art. V § § 504, 505

---

101.01 ADOPTION; COMPONENT CODES; FILE COPY.

(a) The ordinances of The Town of McCandless, Allegheny County, Pennsylvania, of a general and permanent nature, as recompiled, revised, codified and renumbered in the component units listed in subsection (b) are hereby approved, ordained and enacted as the Codified Ordinances of The Town of McCandless, 1976.

(b) The Codified Ordinances of The Town of McCandless, 1976, shall consist of the following codes or parts:

Part One - Administrative  
Part Three- Business Regulation and Taxation Code  
Part Five- Traffic Code  
Part Seven - General Offenses Code  
Part Nine - Streets, Utilities and Public Services Code  
Part Eleven - Health and Sanitation Code  
Part Thirteen- Planning and Zoning Code  
Part Fifteen - Fire Prevention Code  
Part Seventeen - Building Code

(c) One copy of the Codified Ordinances containing each component code or part as listed above shall be filed with the original copy of this ordinance and deemed a part hereof.

#### 101.02 EFFECTIVE DATE; REPEAL OF PRIOR ORDINANCES.

Ten days after the notice of enactment of this Adopting Ordinance is published, all provisions of the Codified Ordinances of The Town of McCandless, 1976, shall be in full force and effect, and all prior ordinances or parts of ordinances which are inconsistent with any provision of the Codified Ordinances are hereby repealed, except as specifically saved from repeal in Section 101.03.

#### 101.03 SAVING CERTAIN ORDINANCES FROM REPEAL.

The repeal provided for in Section 101.02 shall not affect:

- (a) Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Adopting Ordinance;
- (b) Any ordinance or resolution promising or guaranteeing the payment of money by or to the Town, or authorizing the issuance of any bonds, or any evidence of the Town's indebtedness, or any contract or obligation assumed by the Town;
- (c) Any administrative ordinance or resolution of the Town not in conflict or inconsistent with the provisions of these Codified Ordinances;
- (d) Any right, license, privilege or franchise conferred by any ordinance or resolution of the Town on any person or corporation;
- (e) Any ordinance establishing, naming, relocating or vacating any street or public way;
- (f) Any ordinance levying or imposing taxes, assessments or charges;
- (g) Any ordinance providing for positions, duties, vacations, sick leave, term leave pay or compensation;
- (h) Any ordinance establishing or changing the boundaries of the Town;
- (i) Any prosecution, suit or other proceeding pending, or any judgment rendered prior to the effective date of this Adopting Ordinance.

#### 101.04 AMENDMENTS AND SUPPLEMENTS.

The Codified Ordinances of The Town of McCandless, 1976, may be amended or supplemented as provided by law. When any amendment or supplement is adopted in such form as to indicate the intention of the Town Council to make the same a part thereof, such amendment or supplement shall be incorporated in and deemed a part of the Codified Ordinances, so that a reference to the Codified Ordinances shall be understood and construed to include both

the Codified Ordinances of The Town of McCandless, 1976, and any and all such amendments and supplements.

#### 101.05 FORM OF AMENDMENT OR SUPPLEMENT.

(a) All amendments and supplements enacted as a part of the Codified Ordinances shall be integrated therewith by following the form of arrangement and plan of the original Codified Ordinances as follows. Each part shall be subdivided into titles, articles and sections respectively. The numbering of all sections, except the penalty sections, shall be consecutive within each article commencing with the first section of Article 101, which shall be numbered 101. 01; the first digit "1" signifying Part 1, the two digits "01" before the decimal signifying the article within the part, and the two digits "01" after the decimal signifying the first section in Article 101 of the part. Penalty sections shall be numbered "99" and shall be the last section within an article.

(b) Notwithstanding subsection (a) above, the failure to classify or properly number any ordinance section amending the Codified Ordinances shall not invalidate the provisions of any such sections.

#### 101.06 HOW KNOWN AND CITED.

The Codified Ordinances of The Town of McCandless, 1976, including any amendments or supplements, shall be known and referred to as the "Codified Ordinances". Sections of the Codified Ordinances may be referred to and cited in the form "Section \_\_\_\_\_" as may be applicable and appropriate to any section.

#### 101.07 SECRETARY'S MASTER COPY; PUBLIC RECORD.

(a) The Secretary of the Town Council, in addition to the book-form copy to be attached hereto pursuant to Section 101. 01 (c), shall keep one master copy in book form and, in connection therewith or attached thereto in such form and manner as he may determine to be most easily available for ready reference, one copy of all amendments and supplements bearing such code, title, article or section designation as may be proper. If in doubt as to such designation, the Town Secretary shall be guided by the advice of the Town Attorney.

(b) The Secretary's master copy shall be a public record, but it shall not be his duty or responsibility to furnish extra copies of any material in the master copy.

#### 101.08 INTERPRETATION.

In the construction of the Codified Ordinances the following rules shall control, except those inconsistent with the manifest intent of the Town Council as disclosed in a particular provision, section or part:

- (a) Calendar - Computation of Time. The terms "month" and "year" mean the calendar month or year. The time expressed in days within which an act is to be done or a period is to expire shall be computed by excluding the first and including the last day, except if the last be Sunday it shall be excluded. If time is expressed in hours the whole of Sunday shall be excluded.
- (b) Conjunctions. "And" includes "or" and "or" includes "and", if the sense so requires.
- (c) Council. The term "Council" or "Town Council" means the legislative body of the Town.
- (d) County. The word "County" means Allegheny County, Pennsylvania.
- (e) Gender. Words importuning the masculine shall extend and be applied to the feminine and neuter genders.
- (f) General Rule. Except as otherwise provided in this section, words and phrases shall be construed according to the common usage of language. However, technical words and phrases and such others as may have acquired a special meaning in the law, shall be construed according to such technical or special meaning.
- Whenever, in the Codified Ordinances, authority is given to an officer or an act is required to be performed, such authority may be exercised and such act may be performed, at the instance of such officer, by a deputy or subordinate unless contrary to law or to the clear intent of any such particular provision.
- (g) Number. Words in the plural include the singular and words in the singular include the plural number.
- (h) Owner. The word "owner", when applied to property, includes any part owner, joint owner or tenant-in-common of the whole or any part of such property.
- (i) Person. The word "person" shall extend to and be applied to associations, clubs, corporations, firms and partnerships, as well as to individuals.
- (j) Premises. The word "premises", when used as applicable to property, extends to and includes land and buildings.
- (k) Public Authority. The term "public authority" extends to and includes the Board of Education, the Town, the County, the Commonwealth of Pennsylvania, the United States of America and any duly authorized public official.
- (l) Property. The word "property" includes real and personal, and any mixed and lesser estates or interests therein. The words "personal property" include every kind of property except real property. The words "real property" include lands, tenements and hereditaments.
- (m) Reasonable Time. In all cases where provisions is made for an act to be done or notice to be given within a reasonable time, it shall be deemed to mean such time only as may be necessary for the prompt performance of such act or giving of such notice.
- (n) State and Commonwealth. The words "State" and "Commonwealth" mean the Commonwealth of Pennsylvania.
- (o) Street and Road. The words "street" and "road" include avenues, alleys, courts, boulevards, lanes, roads, streets and other public ways and squares in the Town.

- (p) Tenant or Occupant. The words "tenant" or "occupant", as applied to a building or land, shall extend and be applied to any person holding a written or oral lease of, or who occupies the whole or any part of, a building or land, alone or with others.
- (q) Tenses. The use of any verb in the present tense includes the future tense.
- (r) Town or Municipality. The words "Town" or "Municipality" mean the Town of McCandless, Allegheny County, Pennsylvania.
- (s) Town Manager. The term "Town Manager" or "Manager" means the chief administrative officer of the Town.

#### 101.09 SEPARABILITY.

Each section and each part of each section of the Codified Ordinances is hereby declared to be an independent section or part of a section and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any such section or part of a section, or any provision thereof, or the application to any person or circumstances, is held to be invalid, the remaining sections or parts of sections and the application of such provision to any other person or circumstances, other than those as to which it is held invalid, shall not be affected thereby, and it is hereby declared to be the legislative intent that the Codified Ordinances would have been adopted independently of such section, sections or parts of a section so held to be invalid.

#### 101.10 ENACTMENT PROCEDURE; LEGAL PUBLICATION.

This Adopting Ordinance shall be enacted, and legal advertisement effective, in conformity with the provisions of the Charter and State law.

#### 101.99 GENERAL PENALTY.

Whenever, in the Codified Ordinances or in any ordinance of the Town, any act is prohibited or is made or declared to be unlawful or an offense, or whenever in the Codified Ordinances or in any ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is otherwise provided therefor, the violator of any such provision or any ordinance shall be fined not more than three hundred dollars (\$300.00) and costs and, in default of payment thereof, shall be imprisoned not more than thirty days.

ARTICLE 103  
Official Standards

EDITOR'S NOTE: There are no sections in Article 103. This article has been established to provide a place for future legislation and for cross references.

ARTICLE 105  
Wards and Boundaries

- |   |                                     |
|---|-------------------------------------|
| 105.01 Map of wards and election districts. | 105.02 Display of map in Town Hall. |
|   | 105.03 Effective date.              |

CROSS REFERENCES

Town boundaries - see CHTR. Art. I, Sec. 102

Councilmanic Districts - see CHTR. Art. I, Sec. 103

105.01 MAP OF WARDS AND ELECTION DISTRICTS.

The seven wards of the Town and the election districts in each ward shall be as shown on a map of the Town bearing the date of November 26, 2012, whereby the ward boundaries are delineated in orange and the election district boundaries within the wards are delineated by color and where the wards are numbered 1 through 7 and the election districts are numbered 1 through 3 within each ward with the exception of Ward 7 which has four election districts numbered accordingly. The map is attached to original Ordinance 1422, passed November 26, 2012.

(Ord. 1422. Passed 11-26-12.)

105.02 DISPLAY OF MAP IN TOWN HALL.

A copy of the map showing the new wards and election districts shall be prominently displayed in the Town Hall for inspection by any interested persons during normal business hours. (Ord. 1422. Passed 11-26-12.)

105.03 EFFECTIVE DATE.

The seven wards of the Town of McCandless and the election districts in those wards approved by this article shall become effective for the 2013 municipal primary election and subsequent elections thereto.

(Ord. 1422. Passed 11-26-12.)





ARTICLE 115  
Town Council

115.01 Powers and composition.	115.05 Meetings.
115.02 Qualifications of members.	115.06 Meeting procedures.
115.03 Vacancies.	115.07 Investigations.
115.04 Compensation.	115.08 Indemnification policy.

CROSS REFERENCES

Town Council - see CHTR. Art. III  
Forms of action by Council- see CHTR. Art. V, §504  
Investigations by Council - see CHTR. Art. VI

**115.01 POWERS AND COMPOSITION.**

All legal powers of the Town shall be vested in the Town Council, consisting of seven members elected from seven Councilmanic Districts for terms of four years beginning the first Monday in January following their election. The President of Council shall preside at meetings and shall perform ceremonial duties of the Town's principal elected official. The Vice President shall act as President for any purpose whenever the later is absent or incapacitated. (Ord. 678 §201. Passed 6-23-75.)

**115.02 QUALIFICATIONS OF MEMBERS.**

Each member of Council must be a qualified voter in the district to be represented at the time of election and continuously throughout his term of office. (Ord. 678 §202. Passed 6-23-75.)

**115.03 VACANCIES.**

A vacancy shall occur upon a member's death, resignation, conviction of a felony or crime of moral turpitude, failure to maintain his qualifications or absence from three successive meetings of Council without having been excused by the President or by Council. The remaining members of Council shall select by majority vote and appoint a qualified replacement from the same political party. If a vacancy exists for forty-five days, Council or any ten electors may petition the Court of Common Pleas of Allegheny County to appoint a qualified replacement from the same political party. (Ord. 678 §203. Passed 6-23-75.)

#### 115.04 COMPENSATION.

Compensation for each member shall be specified by ordinance, may not be increased more than ten percent at a time nor more often than every four years and the ordinance must be enacted prior to the year in which that member was last elected. Members of Council shall receive no other compensation nor fringe benefits except liability and accident and health insurance while in the performance of their duties. Members of Council may not hold any other compensated Town office or Town employment.  
(Ord. 678 §204. Passed 6-23-75.)

#### 115.05 MEETINGS.

(a) A meeting may be an organization, regular, special, emergency or adjourned meeting. All meetings, except emergency, must be held in the Town Hall. All meetings are conducted in accordance with Robert's Rules of Order.

(b) The organization meeting shall be held at 8:00 p.m. on the first Monday in January of even numbered years (or on Tuesday, January 2, if the first Monday is January 1.) At that meeting Council shall elect a President, a Vice President, a Secretary and an Assistant Secretary. The President and Vice President shall be members of Council. All officers shall be elected to serve a two year term but they may be removed and/or replaced by Council at any time. At the organization meeting, the President shall appoint such committees as he deems appropriate. At the organization meeting Council may consider and act upon any matter which would be appropriate for decision at any regular meeting of Council.

(c) Regular meetings shall be held at least once a month as per a schedule to be adopted at the organization meeting by resolution.

(d) Special meetings may be called by the President, the Town Manager or any three members of Council. Written notice must be given to each member, advertised and posted on the bulletin board seventy-two hours in advance of the meeting time. Only the business stated in the notice of a special meeting may be conducted at that meeting. The presence of a member of Council at a special meeting shall constitute a waiver of notice by that member.

(e) An emergency meeting may be called by any member of Council or the Town Manager without notice. If all members present agree emergency action is necessary to protect or promote the public health and safety of the Town and if the meeting is attended by at least a majority of all members of Council, Council may take emergency action. Emergency legislation is valid for a maximum of ninety days.  
(Ord. 678 §205. Passed 6-23-75.)

#### 115.06 MEETING PROCEDURES.

Four members constitute the quorum necessary to conduct business. The affirmative vote of a majority of the members present shall constitute official action except for Class A ordinances.

The vote on ordinances and resolutions shall be taken by roll call and recorded in the minutes unless the vote is unanimous.

Minutes shall be kept of all meetings of Council and all meeting of Councilmanic committees. Such minutes shall be distributed to Council members. (Ord. 678 Sec. 206. Passed 6-23-75.)

#### 115.07 INVESTIGATIONS.

Council may by resolution conduct or authorize any committee, employee or agent of the Town to conduct an investigation of the performance of any member of Council, employee or agent of the Town. Council may also investigate any other proper subject matter in aid of its legislative function. Council may issue subpoenas to compel attendance of any member of Council or any employee or agent of the Town and/or production of records or documents in the possession of such persons which constitute public documents of the Town or which otherwise may be reasonably relevant to the performance of the duties of such person as a member of Council or as an employee or agent of the Town. The presiding officer of the investigating unit shall have the power to administer oaths. Council shall be guided in all such procedures by the advice of the Town Attorney. (Ord. 678 Sec. 207. Passed 6-23-75.)

#### 115.08 INDEMNIFICATION POLICY.

(a) To protect the members of the Town Council and certain key employees from liability in the performance of their duties, indemnification and liability insurance shall be provided by the Town. The amounts and limits of said insurance shall be determined annually.

(b) Each member of Town Council shall be indemnified against expenses including attorney's fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with any adverse action by reason of the fact that he or she is or was a member of Town Council, if the member of Town Council acted in good faith and in a manner he or she reasonably believed to be in the best interests of the Town and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by judgement, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the member of Town Council did not act in good faith and in a manner which he or she reasonably believed to be in the best interests of the Town and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

(c) Expenses incurred in defending a civil or criminal action suit or proceeding against a member of Council shall be paid by the Town in advance of the final disposition of such action, suit or proceeding as authorized by the Town Council in a specific case upon the determination of the Town Council that the member of Town Council acted in good faith and in manner he or she reasonably believed to be in the best interests of the Town, and with respect to any criminal action or proceeding, had no reasonable cause to believe that his or her conduct was unlawful.

(d) To the extent that the member of Town Council has been successful on the merits or otherwise in defense of any adverse action, he or she shall be indemnified against expenses, including attorney's fees, actually and reasonably incurred by him or her in connection therewith as of right. In all other instances, indemnification shall be made by the Town only as authorized in a specific case upon a determination that the indemnification of the member of Town Council is proper in the circumstances because he or she has met the

applicable standard of conduct set forth above. Such determination shall be made by the Town Council by a majority vote of a quorum consisting of members of Council who are not parties of the adverse action or, if such a quorum is not obtainable or if a disinterested quorum of the Town Council so directs, by an independent legal counsel in a written opinion.

(e) Key employees of the Town of McCandless, hereinafter identified as the Manager, Assistant Manager, the Police Chief, the Public Works Superintendent, the Planning and Land Use Administrator, the Building Inspector and the Fire Marshal, shall be indemnified for said expenses, etc. stated in subsection (b) hereof in a specific case upon a determination that the indemnification of said key employee is proper in the circumstances because he or she has met the applicable standard of conduct set forth in subsection (b) hereof. Such determination shall be made by the Town Council by a majority vote of a quorum consisting of members of Council who are not parties to the adverse action or, if such a quorum is not obtainable or if a disinterested quorum of the Town Council so directs, by an independent legal counsel in a written opinion.

(f) The indemnification provided by this section shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled by any contract or as a matter of law.

(g) The indemnification shall continue as to such person who has ceased to be a member of Town Council or key employee and shall inure to the benefit of the heirs, executors and administrators of such person. (Ord. 1191. Passed 10-27-97.)



ARTICLE 117  
Legislative Processes

117.01	Excluded powers.	117.08	Class C Ordinance procedure.
117.02	Classes of legislation.	117.09	Resolutions: numbering, signing.
117.03	Class A Ordinances.	117.10	Ordinances: number, signing, posting.
117.04	Class B Ordinances.	117.11	Effective date.
117.05	Class C Ordinances.	117.12	Codification.
117.06	Class A Ordinance procedure.		
117.07	Class B Ordinance procedure.		

CROSS REFERENCES

Limitation on municipal powers- see Act 62 of 1972  
as amended (53 P. S. §1-302)

Council rules and procedures - see CHTR. Art. IV, § 406

Ordinances and resolutions - see CHTR. Art. V

117.01 EXCLUDED POWERS.

Council may exercise all powers and perform all functions not denied by higher authority. In those areas covered by Federal, State or County law, the Town may not enact legislation contrary to, in limitation of or enlargement of the higher authority's legislation. Future State law will supersede the Town ordinances in the case of conflict. Council may not legislate on the following subjects.

- (a) Filing and collection of municipal tax claims or liens and the sale of real or personal property in satisfaction thereof;
- (b) Procedure in the exercise of the powers of eminent domain and the assessment of damages and benefits for property taken, injured or destroyed;
- (c) Boundary changes of municipalities;
- (d) Regulation of public schools;
- (e) Registration of electors and conduct of elections;
- (f) Fixing of subjects of taxation;
- (g) Fixing of rates of non-property or personal taxes levied upon non-residents;
- (h) Assessment of real or personal property and persons for taxation purposes;
- (i) Defining or providing for the punishment of any felony or misdemeanor;
- (j) Municipal planning under the provisions of Act. 247, Pennsylvania Municipalities Planning Code. (Ord. 678 §301. Passed 6-23-75.)

### 117.02 CLASSES OF LEGISLATION.

Official action by Council may be taken by ordinance, resolution or simple motion. A simple motion is made orally and is adequate to record a decision on a question of only current import. A resolution is presented in writing, is usually drafted by the Town Attorney and, if adopted, is permanently recorded in the Resolution Book. An ordinance must be drafted by the Town Attorney and presented in written form. It usually requires prior notice, may require a public hearing and must be advertised and entered into the Ordinance Book after enactment. (Ord. 678 §302. Passed 6-23-75.)

### 117.03 CLASS A ORDINANCES.

Class A Ordinances concern the following:

- (a) Administrative Code;
- (b) Compensation of Council members;
- (c) Zoning matters of any kind; and
- (d) The establishment or changing of regulations pertaining to subdivision requirements, site plan approvals, excavation permits and/or building restrictions.

(Ord. 678 §303. Passed 6-23-75.)

### 117.04 CLASS B ORDINANCES.

Class B Ordinances concern the following subjects:

- (a) Levying of taxes or assessments;
- (b) Adoption or amendment of the budget;
- (c) Change in any department, commission, authority, office or agency of the Town;
- (d) Franchises;
- (e) Charges for any services to be furnished to the Town;
- (f) Conveyance leasing, exclusive licensing or disposition of any land or other property of the Town; and
- (g) Contract authorizations in excess of one-quarter of one percent (1/4%) of the previous year's budget. (Ord. 678 §304. Passed 6-23-75.)

### 117.05 CLASS C ORDINANCES.

Class C Ordinances concern the following subjects:

- (a) Personnel Code;
- (b) Borrowing of money;
- (c) Establishment of a fine or penalty;
- (d) Commitment to share or coordinate municipal functions or services with other government entities;
- (e) Procedures for awarding contracts;
- (f) Police and Fire Protection;
- (g) Amendment or repeal of any existing ordinance not concerned with Class A or Class B subjects; and
- (h) Any other matter requiring action by ordinance.

(Ord. 678 §305. Passed 6-23-75.)

**117.06 CLASS A ORDINANCE PROCEDURE.**

The date for enactment of the proposed ordinance must be established by motion at a previous meeting.

A public hearing is required six to sixty days prior to the enactment of the ordinance.

Notice of public hearing on any zoning matter shall be published once each week for two consecutive weeks in a newspaper of general circulation in the Town. The first publication shall be not more than thirty days and the second publication shall be not less than seven days from the date of the hearing.

Hearings on other matters shall be advertised in a newspaper of general circulation in the Town not more than ninety days nor less than two days prior to the hearing. In each instance, the notice of the hearing shall also be posted on the Town bulletin board.

Rezoning hearings also require mailed notice to property owners (abutting and across the street as well as that to be rezoned) and posting of the property to be rezoned.

The property perimeter should be posted to that portion of the perimeter abutting public streets.

Four affirmative votes are required for enactment.

(Ord. 1127 §A.1. Passed 8-22-94.)

**117.07 CLASS B ORDINANCE PROCEDURE.**

A public hearing is required six to sixty days prior to the proposed enactment.

Notice of the public hearing must be given five days in advance by advertising and by posting of the bulletin board.

A majority vote of those present is required for enactment.

(Ord. 678 §307. Passed 6-23-75.)

**117.08 CLASS C ORDINANCE PROCEDURE.**

Notice of the proposed ordinance must be advertised and posted on the bulletin board.

A majority vote of those present is required for enactment.

(Ord. 678 §308. Passed 6-23-75.)

**117.09 RESOLUTIONS: NUMBERING, SIGNING.**

Each adopted resolution shall be numbered in sequence restarting with number one each calendar year, shall carry the date of adoption, shall be signed by the President of Council whose signature shall be witnessed by the Secretary and shall be inserted in the Resolution Book. (Ord. 678 §309. Passed 6-23-75.)

**117.10 ORDINANCES: NUMBERING, SIGNING, POSTING.**

Each enacted ordinance shall be numbered in a continuous sequence, shall carry the date of enactment, shall be signed by the President of Council whose signature shall be witnessed by the Secretary and shall be inserted in the Ordinance Book. A copy shall be posted promptly on the bulletin board for a period of at least thirty days and a copy or a reasonably complete and descriptive summary shall be advertised promptly.

(Ord. 678 §310. Passed 6-23-75.)

**117.11 EFFECTIVE DATE.**

The effective date of an ordinance is ten days after advertisement or ten days after enactment if advertisement fails to appear for reasons beyond Council's control.

(Ord. 678 §311. Passed 6-23-75.)

**117.12 CODIFICATION.**

Codification of all ordinances with continuing legal effect shall be prepared and updated periodically. All ordinances should be reviewed whenever the codification is updated and revision or repeal of certain ordinances accomplished where needed.  
(Ord. 678 §312. Passed 6-23-75.)

ARTICLE 119  
Citizen Participation

- |        |                     |        |                             |
|--------|---------------------|--------|-----------------------------|
| 119.01 | Council meetings.   | 119.04 | Access to public documents. |
| 119.02 | Committee meetings. | 119.05 | Requests and complaints.    |
| 119.03 | Bulletin board.     |        |                             |

CROSS REFERENCES

- Public meetings and citizens' right to be heard - see  
CHTR. Art. IV, § 405  
Certification of ordinances and resolutions - see CHTR.  
Art. V, §506  
Open meeting law - see 65 P. S. § 261
- 

119.01 COUNCIL MEETINGS.

Council shall provide on the agenda for comments and suggestions from those in the audience and shall encourage the use of this opportunity to the maximum extent consistent with the orderly conduct of the business at hand.  
(Ord. 678 §401. Passed 6-23-75.)

119.02 COMMITTEE MEETINGS.

The committee chairmen shall permit and encourage comments from the audience to the extent consistent with the orderly conduct of the business at hand.  
(Ord. 678 §402. Passed 6-23-75.)

119.03 BULLETIN BOARD.

The Town Manager shall maintain the bulletin board in a current condition. Posted thereon shall be a schedule of meetings of all Town bodies, currently proposed legislation, recently enacted legislation and all other matters of general interest to the citizens. This bulletin board shall be accessible at all times.  
(Ord. 678 §403. Passed 6-23-75.)

119.04 ACCESS TO PUBLIC DOCUMENTS.

The Town Manager shall provide during normal business hours to any citizen access to any public documents for the purpose of perusal or copying. Copies of public documents (certified if requested) shall be provided at a reasonable fee.  
(Ord. 678 §404. Passed 6-23-75.)

119.05 REQUESTS AND COMPLAINTS.

The Town Manager shall have the responsibility of seeing that any request or complaint received by any Town employee during his duty hours is answered courteously and as completely and correctly as is practical. Citizens should report any instance where a non-cooperative answer has been received to the Town Manager.  
(Ord. 678 §405. Passed 6-23-75.)



ARTICLE 121  
Administration

121.01	Town Manager.	121.09	Treasurer.
121.02	Manager's responsibilities.	121.10	Finance Officer.
121.03	Assistant Manager.	121.11	Town Attorney.
121.04	Police Department.	121.12	Attorney's responsibilities.
121.05	Chief of Police.	121.13	Planning and Development Administrator.
121.06	Public Works Superintendent.	121.14	Fire Marshal.
121.07	Building Inspector.		
121.08	Earned Income Tax Collector.		

CROSS REFERENCES

Town Manager - see CHTR. Art. VII  
Town Attorney - see CHTR. Art. VIII  
Planning and land use administration- see CHTR.  
Art. IX

121.01 TOWN MANAGER.

Council shall appoint a qualified person as Manager and fix his compensation. The appointment can be terminated at any time with or without cause. The Manager shall hold no political office or other remunerative employment. The Manager shall have sole authority to direct his subordinates and all requests of Council shall be directed to him or to the Assistant Manager or to the Police Chief.  
(Ord. 678 §501. Passed 6-23-75; Ord. 705 §1. Passed 10-25-76.)

121.02 MANAGER'S RESPONSIBILITIES.

The Manager is the chief administrative officer and his responsibilities include, but are not limited to, the following:

- (a) To determine the number of employees necessary and the form of organization desirable to provide the services mandated by law or by Council;
- (b) To employ and supervise all Town employees, except for regular full time police officers, and to discipline and/or terminate such employees where desirable;
- (c) To collect all monies due to the Town with the exception of taxes on real property collected by the present treasurer;
- (d) To prepare all budgets and to control all expenditures. Each invoice must be certified as proper prior to processing for payment;
- (e) To maintain appropriate records and submit required reports, including a year end report on finances and administration;
- (f) To accept and act upon citizens complaints and suggestions, and where deemed necessary, to report same to Council;
- (g) To administer the policies established by Council;
- (h) To attend meetings of Council and Councilmanic committees and to contribute to the discussion.

- (i) To perform such other duties as may be assigned; and
- (j) To delegate to subordinates his responsibilities to the extent that he considers proper and efficient.  
(Ord. 678 §502. Passed 6-23-75.)

#### 121.03 ASSISTANT MANAGER.

The Manager may appoint a qualified person as Assistant Manager and fix his compensation. The Appointment can be terminated at any time with or without cause. These actions require concurrence of Council. The Assistant Manager shall have those responsibilities delegated to him. In the absence of the Manager, the Assistant Manager shall act as Manager with all the powers of the position.  
(Ord. 678 §503. Passed 6-23-75; Ord. 705 §1. Passed 10-25-76.)

#### 121.04 POLICE DEPARTMENT.

Council shall:

- (a) Appoint and fix the number, rank and compensation of the police and prescribe all necessary rules and regulations for the organization and operation of the Police Department; and
- (b) Appoint and fix the compensation of a Chief of Police who shall be generally responsible for the supervision of the Police Department.  
(Ord. 678 §504. Passed 6-23-75.)

#### 121.05 CHIEF OF POLICE.

The Chief of Police is responsible for the enforcement of law, prevention of crime, and the protection of life and property. The Chief is also responsible for the administration of the department, which responsibility includes, but is not limited to, the following:

- (a) Organization and scheduling;
- (b) Training and evaluation of personnel;
- (c) Supervision of school guards, radio operators and police secretary;
- (d) Maintenance of proper records and submission of required reports;
- (e) Conformance with administrative policies established by Council and the Manager;
- (f) Cooperation with other law enforcement agencies; and
- (g) Control of departmental expenses.  
(Ord. 678 §505. Passed 6-23-75; Ord. 705 §1. Passed 10-25-76.)

#### 121.06 PUBLIC WORKS SUPERINTENDENT.

The Public Works Superintendent's responsibilities include, but are not limited to, the following:

- (a) Accomplishment of road maintenance and other related tasks in a proper and economical manner;
- (b) Supervision and training of all public works employees;
- (c) Maintenance of equipment;
- (d) Control of departmental expenses;
- (e) Maintenance of proper records and submission of required reports; and
- (f) Contact with citizens.  
(Ord. 678 §506. Passed 6-23-75.)

#### 121.07 BUILDING INSPECTOR.

The Building Inspector's responsibilities include but are not limited to, the following:

- (a) Issuance of building and grading permits upon proper request;
  - (b) Duties of the Zoning Officer in the enforcement of the Zoning Ordinance;
  - (c) Enforcement of subdivision, land use development, zoning, building and other codes or ordinances;
  - (d) Inspection of all construction other than that done by higher levels of government to the extent necessary to insure compliance with applicable codes and ordinances;
  - (e) Assistance to the Zoning Hearing Board;
  - (f) Issuance of occupancy permits; and
  - (g) Collection of permit fees.
- (Ord. 678 §507. Passed 6-23-75.)

#### 121.08 EARNED INCOME TAX COLLECTOR.

The Earned Income Tax Collector is responsible for:

- (a) Collection of Earned Income Tax for the Town and the School District;
  - (b) Collection of delinquent Earned Income Tax;
  - (c) Custody of Earned Income Tax monies and transfer of same to the Town and to the School District; and
  - (d) Maintenance of proper records and submission of required reports.
- (Ord. 678 §508. Passed 6-23-75.)

#### 121.09 TREASURER.

The present Treasurer is an elected official operating under the First Class Township Code. His responsibilities include:

- (a) Collection of real estate, amusement and mechanical devices tax;
  - (b) Custody of Town funds, and
  - (c) Signature on Town checks to conform with properly authenticated vouchers.
- (Ord. 678 §509. Passed 6-23-75.)

#### 121.10 FINANCE OFFICER.

The Finance Officer shall have the responsibility of administrative control over the investment of temporary surplus funds which may exist in any Town accounts.

When the position of the Town Treasurer becomes vacant, the Finance Officer will assume the responsibilities and duties of the Treasurer, under the direction and control of the Town Manager. (Ord. 678 §510. Passed 6-23-75.)

#### 121.11 TOWN ATTORNEY.

Council shall appoint and fix the compensation of the Town Attorney who must have five years legal practice in Pennsylvania and be admitted to practice before the Pennsylvania Supreme Court. This may or may not be a full-time job. The appointment can be terminated any time, with or without cause.

(Ord. 678 §511. Passed 6-23-75.)

#### 121.12 ATTORNEY'S RESPONSIBILITIES.

The powers and duties of the Town Attorney shall include, but are not necessarily limited to, the following:

- (a) Commencement or prosecution of legal actions brought by the Town;
- (b) Defense of legal actions brought against the Town, its agents, employees or members of Council;
- (c) Preparation of contracts and other legal documents;
- (d) Preparation of ordinances;
- (e) Preparation and/or review of resolutions; and
- (f) Attendance and legal guidance at Council meetings and Councilmanic committee meetings. (Ord. 678 §512. Passed 6-23-75.)

#### 121.13 PLANNING AND DEVELOPMENT ADMINISTRATOR.

(a) Appointment and Compensation. The Town shall have a Planning and Development Administrator, appointed by the Manager with the approval of Council, at a rate of compensation consistent with the qualifications and experience of the individual. The Planning and Development Administrator shall be a qualified person with training and experience in municipal planning and related matters.

(b) Duties. The Planning and Development Administrator shall have the following powers and duties, under the general supervision of the Manager and Council, and in cooperation with the Planning Commission:

- (1) To draft and propose a long-range and comprehensive master plan for the Town and modifications thereof, embodying land use planning and practices consistent with the quality of living desired by the people of the Town;
- (2) To review and to make recommendations regarding proposed Council actions implementing the comprehensive plan;
- (3) To prepare information and land use recommendations on capital projects for implementation in the annual capital budget;
- (4) To assist in the acquisition of available Federal, State, and County funding assistance for capital projects and operating programs;
- (5) To assist the Planning Commission, Zoning Hearing Board, Building Inspector, Bureau of Fire Prevention, Manager and Council with respect to the applications for zoning changes and other land use and development matters;
- (6) To assist with the administration of zoning ordinances and other land use controls;
- (7) To assist in the preparation and administration of a building and housing code for the Town and amendments thereto;
- (8) To prepare and to recommend land development techniques and practices beneficial to the people of the Town;
- (9) To carry out such other duties and functions as may be delegated to him under the Charter or by Council or the Manager; and
- (10) Administration of contracts with firm serving as Planning and Development Consultant.

(c) Removal. The Planning and Development Administrator may be removed by the Manager, with the approval of Council, at any time, with or without cause. (Ord. 678 §513. Passed 6-23-75.)

**121.14 FIRE MARSHAL.**

(a) The Fire Marshal shall be responsible for the fire inspections of all buildings except residential. The public portions of apartments and dormitories (such as stairwells, corridors, garages, etc.) are not excepted.

This inspection shall include readiness of fire extinguishers and sprinkler systems as well as other proper concerns. This inspection shall be made at least once every calendar year with the buildings considered to be higher risk being inspected more often. A report of each inspection shall be prepared.

The Fire Marshal shall work closely with the volunteer fire company and use their assistance whenever practical.

(Ord. 678 Sec. 514. Passed 6-23-75; Ord. 705 Sec. 1. Passed 10-25-76.)

(b) The Fire Marshal shall have no power or authority to direct, take charge, dispatch equipment and manpower or issue orders at the scene of any emergency, fire or disaster in the Town. These powers shall remain the responsibility of the fire companies of the Town.

The Fire Marshal shall have no authority in any of the internal affairs of the fire companies.

The Fire Marshal shall investigate, or cause to be investigated, every fire or explosion occurring within the jurisdiction that is of a suspicious nature or which involves the loss of life or serious injury or causes destruction or damage to property. Such investigation shall be initiated immediately upon the occurrence of such fire or explosion ; and if it appears that such an occurrence is of a suspicious nature, the Fire Marshal shall take charge immediately of the physical evidence and in order to preserve any physical evidence relating to the cause or origin of such fire or explosion, take means to prevent access by any person or persons to such buildings, structure or premises until such evidence has been properly processed. The Fire Marshal shall notify such persons designated by law to pursue investigations into such matters and shall further cooperate with such authorities in the collection of evidence and prosecution of the case and shall pursue the investigation to its conclusion.

(Ord. 847 Sec. 1. Passed 7-19-82.)

ARTICLE 123  
Authorities, Boards and Commissions

EDITOR'S NOTE : The Town of McCandless has authorizes joint creation of various authorities by ordinance, pursuant to the Municipality Authorities Act of May 2, 1945 (P.L. 382), as follows:

- (a) North Allegheny Joint Authority by Ordinance 16 adopted October 7, 1949, for public school building purposes.
- (b) McCandless Township Sanitary Authority by Ordinance 110 adopted December 14, 1955, for sewer and treatment systems purposes.
- (c) McCandless - Franklin Park Ambulance Authority by Ordinance 707 adopted December 13, 1976, as amended by Ordinance 714 adopted February 7, 1977, and Ordinance 749 adopted October 23, 1978, for public ambulance service purposes.
- (d) Northland Public Library Authority by Ordinance 712 adopted February 7, 1977, for free public library service purposes.
- (e) McCandless Township Industrial Development Authority by Resolution 8 of 1969 adopted October 27, 1969; changed to McCandless Industrial Development Authority on October 4, 1979, by amending the Articles of Incorporation of such Authority.

123.01	Planning Commission membership.	123.06	Personnel Board functions. (Repealed)
123.02	Planning Commission functions.	123.07	Police Pension Committee. (Repealed)
123.03	Zoning Hearing Board membership.	123.08	Sanitary Authority Board.
123.04	Zoning Hearing Board functions.	123.09	Development Authority Board.
123.05	Personnel Board membership.		

CROSS REFERENCES

Planning Commission- see CHTR. Art. IX, §902; P. & Z. Art. 1301  
Zoning Hearing Board- see CHTR. Art. IX, §904; P. & Z. 1329. 04  
Personnel Board; rules - see ADM. Art. 137

123.01 PLANNING COMMISSION MEMBERSHIP.

Council shall appoint seven qualified electors of the Town to serve overlapping four year terms. Vacancies shall be filled promptly as they occur. A member may be removed for cause but may request a hearing before Council prior to removal. No members may be paid. (Ord. 678 §601. Passed 6-23-75.)

123.02 PLANNING COMMISSION FUNCTIONS.

Planning Commission functions include:

- (a) Review of request from land developers;
- (b) Recommendations to Council concerning approval of such requests;
- (c) Recommendations concerning preparation of and changes in codes and/or ordinances affecting land use;

- (d) Recommendations concerning preparation of and changes in the comprehensive plan or an official map;
- (e) Recommendations to the Zoning Hearing Board upon request, and
- (f) Recommendations on other matters covered by the Pennsylvania Municipalities Planning Code. (Ord. 678 §602. Passed 6-23-75.)

#### 123.03 ZONING HEARING BOARD MEMBERSHIP.

Council shall appoint three qualified electors of the Town to serve overlapping three year terms. Vacancies shall be filled promptly as they occur. A member may be removed for cause but may request a hearing before Council prior to removal. Members may receive compensation as established by Council. Members of the Board shall hold no other office in the Town, except that no more than one member of the Board may also be a member of the Planning Commission. (Ord. 678 §603. Passed 6-23-75.)

#### 123.04 ZONING HEARING BOARD FUNCTIONS.

Zoning Hearing Board functions as prescribed by the Pennsylvania Municipal Planning Code include holding hearings on the following:

- (a) Requests for variances from the Zoning Ordinance;
- (b) Requests for special exceptions;
- (c) Appeals from actions of the Zoning Officer, and
- (d) Challenges to the validity of the Zoning Ordinance or map. The Zoning Hearing Board may make, alter and rescind rules and forms for its procedure, consistent with Town ordinances but shall be bound by and shall follow any procedures, notice requirements and any other mandated requirements of the Pennsylvania Municipalities Planning Code. With the approval of Council, the Zoning Hearing Board may employ legal counsel other than the Town Attorney in any cases where Council might be in an adversary position as to any decision or finding made by the Zoning Hearing Board. (Ord. 678 §604. Passed 6-23-75.)

#### 123.05 PERSONNEL BOARD MEMBERSHIP.

Council shall appoint three qualified electors of the Town to serve overlapping three year terms. Vacancies shall be filled promptly as they occur. A member may be removed for cause but has a right to a hearing prior to removal. No member may be paid. (Ord. 678 §605. Passed 6-23-75.)

#### 123.06 PERSONNEL BOARD FUNCTIONS.

(EDITOR'S NOTE: This section was repealed by Ordinance 734, passed March 6, 1978. See Section 137.04 of the Codified Ordinances.)

**123.07 POLICE PENSION COMMITTEE.**

(EDITOR'S NOTE: This section was repealed by Ordinance 705, passed October 25, 1976.)

**123.08 SANITARY AUTHORITY BOARD.**

Council shall appoint five qualified electors to serve overlapping five year terms on the Sanitary Authority Board. Members may receive compensation from the Authority's funds at rates fixed by Council. Vacancies shall be filled promptly as they occur.  
(Ord. 678 §608. Passed 6-23-75.)

**123.09 DEVELOPMENT AUTHORITY BOARD.**

To serve on the Development Authority Board, Council shall appoint one qualified elector from each of the following five municipalities: McCandless, Pine, Marshall, Franklin Park and Bradford Woods, to overlapping five year terms. Appointees must be recommended by the governing body of the municipality they are to represent.  
(Ord. 678 §609. Passed 6-23-75.)

**ARTICLE 125**  
**Fiscal Procedures**

125.01	Fiscal year.	125.06	Expenditures.
125.02	Budget submission and approval.	125.07	Bonds.
125.03	Operating budget.	125.08	Surplus funds.
125.04	Capital Improvement Budget.	125.09	Reimbursement of expenses.
125.05	Deposit of taxes and other incoming money.	125.10	Audit.
		125.11	Budgetary Reserve Account.

**CROSS REFERENCES**

Budget and fiscal matters - see CHTR. Art. XII  
Treasurer- see F.C. Twp. Code §510 et seq.  
(53 P.S. §55510 et seq.); ADM. 121.09  
Allegheny Regional District Law- see 16 P.S. §6101-B et seq.

**125.01 FISCAL YEAR.**

The fiscal year shall be the calendar year.  
(Ord. 678 §701. Passed 6-23-75.)

**125.02 BUDGET SUBMISSION AND APPROVAL.**

(a) The Manager shall submit in early October an operating budget for the next year and a capital improvement budget for the next five years. Council shall approve all budgets before the start of the fiscal year.

(b) The Manager is responsible for budget control. He shall notify Council promptly whenever present and anticipated obligations under any budget item indicate an overrun that is both greater than five thousand dollars (\$5,000) and greater than ten percent of the amount budgeted. Council may either take immediate action to reduce the anticipated expenditure so as to be consistent with the budget item or to amend the budget.  
(Ord. 678 §702. Passed 6-23-75; Ord. 705 §1. Passed 10-25-76.)

**125.03 OPERATING BUDGET.**

The operating budget shall include all special funds and accounts and shall be in the general form prescribed for First Class Townships. It shall include repetitive items such as police cars. It shall not exceed anticipated or available revenues. It shall be accompanied by an explanation both in fiscal terms and in terms of programs with special references to changes from the current year. (Ord. 678 §703. Passed 6-23-75.)

**125.04 CAPITAL IMPROVEMENT BUDGET.**

The Capital Improvement Budget shall include proposed expenditures for:

- (a) Purchase of land;
- (b) Construction or extension of buildings;
- (c) Construction of new roads and drainage facilities, and
- (d) Purchase of major equipment.

The budget shall indicate proposed spending by year and the proposed funding.

(Ord. 678 §704. Passed 6-23-75.)

**125.05 DEPOSIT OF TAXES AND OTHER INCOMING MONEY.**

Taxes and other incoming moneys shall be deposited in the bank reasonably promptly.

(Ord. 678 §705. Passed 6-23-75.)

**125.06 EXPENDITURES.**

Payment of bills shall be by check after approval of the list of bills by Council.

(Ord. 678 §706. Passed 6-23-75.)

**125.07 BONDS.**

Council shall require and provide bonds in such amounts as they deem proper for the Manager, Assistant Manager, Earned Income Tax Collector, Treasurer and the Town Attorney. (Ord. 678 §707. Passed 6-23-75.)

**125.08 SURPLUS FUNDS.**

Surplus funds shall be invested in United States Treasury notes or bills, insured certificates of deposit or insured savings accounts.

(Ord. 678 §708. Passed 6-23-75.)

**125.09 REIMBURSEMENT OF EXPENSES.**

Reimbursement shall be made for travel and other proper expenses incurred on Town business. Approval by Council is required prior to reimbursement.

(Ord. 678 §709. Passed 6-23-75.)

**125.10 AUDIT.**

Council shall provide for an annual audit of all Town revenues and accounts by an independent Certified Public Accountant who has no personal interest, direct or indirect, in the fiscal affairs of the Town. Council may provide for more frequent audits and special audits as it deems necessary. The results of the annual audit and a certified financial statement of the fiscal affairs of the Town shall be presented to Council and published in a newspaper of general circulation in the Town by April 1 of the year following the fiscal year audited.

(Ord. 678 §710. Passed 6-23-75.)

**125.11 BUDGETARY RESERVE ACCOUNT.**

- (a) There is hereby created for the Town a Budgetary Reserve Account.
- (b) The Town Manager/Secretary is hereby directed to deposit all funds received from the State Treasurer pursuant to Act 77 of 1993 for the period of the first calendar year in which the additional one percent (1%) sales tax is in effect into such Budgetary Reserve Account.
- (c) Such Budgetary Reserve Account created by this section shall be maintained by the Town and the funds therein shall be retained by the Town until such time as Council shall direct their expenditure, whether total or partial, in connection with an unanticipated fiscal emergency of the Town.
- (d) An unanticipated fiscal emergency as set forth in subsection (c) hereof may be defined to include, but shall need not be limited to, an unbudgeted or underbudgeted expense relating to:
- (1) The construction, repair or maintenance (including winter maintenance) of public roads within the Town;
  - (2) The purchase, lease, repair or maintenance of vehicles or other equipment necessary to protect the public health, welfare and safety; or
  - (3) Such other unanticipated fiscal emergency as may be defined by Council in its Resolution.
- (e) If a final decision of a court of competent jurisdiction holds any provision of this section, or the application of any provision to any circumstances to be illegal or unconstitutional, all the other provisions to other circumstances, shall remain in full force and effect. The intention of the Town is that the provisions of this section shall be severable and that this section would have been adopted if any such illegal or unconstitutional provisions had not been included. (Ord. 1126 §1-5. Passed 8-22-94.)



ARTICLE 127  
Cost Recovery for Emergency Condition Abatement

- |        |   |        |                                     |
|--------|---|--------|-------------------------------------|
| 127.01 | Abatement of emergency condition; cost liability. | 127.03 | Cost inclusion.                     |
| 127.02 | Hazardous materials defined.                      | 127.04 | Fire suppression services excluded. |

**127.01 ABATEMENT OF EMERGENCY CONDITION; COST LIABILITY.**

The Town, through its various emergency services, is authorized to clean up or abate, or cause to be cleaned up or abated the effects of any hazardous materials or substances deposited upon or into properties or facilities within the municipal boundaries of the Town or having a direct or identifiable effect on person or property within the municipal boundaries of the Town, including, but not limited to, traffic control, evacuation, relocation, substance monitoring, establishment of medical care facilities and all other costs incurred in the mitigation of the emergency situation; and any person or persons, partnership, corporation or corporations who intentionally or accidentally or negligently caused such deposit shall be liable for all costs incurred by the Town as a result of such clean up or abatement activity. The remedy provided by this article shall be in addition to any other remedies provided by other laws or ordinances of the Commonwealth of Pennsylvania and the Town of McCandless. (Ord. 990 §1. Passed 9-26-88.)

**127.02 HAZARDOUS MATERIALS DEFINED.**

"Hazardous materials" means any substances or materials in a quantity or form which, in the determination of the Emergency Management Coordinator or his authorized representative, poses an unreasonable and imminent risk to the life, health or safety of persons or property or to the ecological balance of the environment, and shall include, but not be limited to, such substances as explosives, radioactive materials, petroleum products or gases, poisons, etiologic (biologic) agents, flammables, corrosives or materials listed in the hazardous substances list of the Pennsylvania Department of Labor and Industry. (Ord. 990 §2. Passed 9-26-88.)

**127.03 COST INCLUSION.**

For purposes of this article, costs incurred by the Town emergency services shall include, but not be limited to, the following: actual labor costs of Town personnel, including worker's compensation benefits, fringe benefits, administrative overhead, cost of equipment operation, cost of special fire extinguishing agents used and cost of any contracted labor and materials.

(Ord. 990 §3. Passed 9-26-88.)

**127.04 FIRE SUPPRESSION SERVICES EXCLUDED.**

The authority to recover costs under this article shall not include actual fire suppression services which are normally or usually provided by the Fire Departments.

(Ord. 990 §4. Passed 9-26-88.)

TITLE FIVE - Personnel  
 Art. 137. Personnel Board.  
 Art. 139. Personnel Code.

---

ARTICLE 137  
 Personnel Board

137.01 Establishment.	137.04 Powers and duties.
137.02 Terms of members.	137.05 Rules of procedures.
137.03 Noncompensatory; expenses.	

CROSS REFERENCES

Adoption by ordinance - see CHTR. Art. V, §502, 504  
 Personnel Code - see CHTR. Art. XI, §1101  
 Personnel Board - see CHTR. Art. XI, §1103  
 Membership - see ADM. 123.05

---

137.01 ESTABLISHMENT.

A Town Personnel Board is hereby established, consisting of three members and up to two alternate members, all of whom shall be qualified electors of the Town.  
 (Ord. 1272. Passed 7-15-02.)

137.02 TERMS OF MEMBERS.

Initial appointment of the three members of the Personnel Board shall be one member for a one year term, one member for a two year term and one member for a three year term. Subsequent appointments of members and alternate members shall be for a three year term.  
 (Res. 9-1975 §2. Passed 4-28-75; Ord. 1272. Passed 7-15-02.)

137.03 NONCOMPENSATORY; EXPENSES.

The members of the Personnel Board shall serve without compensation, but they shall be reimbursed for the reasonable expenses incurred in the performance of their duties.  
 (Res. 9-1975 §3. Passed 4-28-75.)

137.04 POWERS AND DUTIES.

The Personnel Board shall have the following powers and duties:

- (a) To solicit and evaluate all applicants for the police force;
- (b) To make a listing of eligible police applicants with numerical rating scores;
- (c) To conduct noncompetitive examination of police chief nominees, if directed by Council;
- (d) To conduct a hearing, when requested in writing, by any non-probationary employee who has been discharged, suspended or demoted and who has exhausted the prescribed grievance procedures;

- (e) To conduct a hearing, when requested in writing, by any non-probationary employee who believes that he or she has been aggrieved in the promotion process, as set forth in Rule III;
- (f) To make investigations in the fulfillment of its proper duties, and to issue subpoenas;
- (g) To hear appeals from any applicant or person who has been examined for a promotional vacancy; and
- (h) To perform such other functions and duties as may be provided for in the Personnel Code. (Ord. 1410. Passed 12-19-11.)

### 137.05 RULES OF PROCEDURE.

#### Rule I - General.

101 - Composition of Board: The Personnel Board shall consist of three qualified electors of the Town, appointed by Council, to serve three year overlapping terms, without pay. The Board shall organize each year prior to January 10, by electing a Chairman and a Vice Chairman. Once a panel of members and/or alternate members commences consideration of a matter, a majority of that same panel shall be required to complete consideration of such matter. (Ord. 1272. Passed 7-15-02.)

102 - Meetings: Meetings may be called by the Chairman or by the other two members. Two members constitute a quorum. Two affirmative votes are required for approval of any motion. Conduct of meetings shall be governed by Robert's Rules of Order. Meetings shall be open to the public unless a public meeting would broach the normal confidentiality of employee data. Minutes shall be kept and minutes of open meetings shall be made available to the public upon request. Minutes shall be approved by the majority of the Board and signed by the Chairman.

103 - Powers and Duties: The Personnel Board shall have the powers and duties specified in Section 137.04.

104 - Rules: The Personnel Board has the power to prescribe, amend and enforce rules and regulations for the purpose of implementing the provisions of this Article and the Home Rule Charter. Before any such rules and regulations are implemented, the same shall first be approved by Town Council. No changes shall be made in these rules without approval of Town Council. (Ord. 1196. Passed 12-15-97.)

#### Rule II - Police Appointments.

201 - Advertisement: Whenever the Board is advised that Council desires a new list of eligible candidates from which to fill existing or anticipated vacancies, the Board shall advertise this fact and establish a period of time during which applications will be received.

202 - Qualifications: An applicant for employment as a police employee shall meet at least the following qualifications:

- a. Be at least 18 years of age;
- b. Have a bachelor's degree from an accredited college or university, or have at least four years (8320 hours) law enforcement experience as determined by the Personnel Board after consultation with the Chief of Police;
- c. Be licensed by the Commonwealth of Pennsylvania to operate a motor vehicle;
- d. Be a citizen of the United States of America;

- e. Be a person who has successfully completed a basic police training course in conformity with current law (formerly PA Act 120) and commits to the taking of a certification examination administered by the Municipal Police Officers' Education and Training Commission (MPOETC) within sixty (60) days of notice by the Town to take and pass the examination, or is otherwise certified under applicable law and further has satisfied all other federal, state and local rules and regulations regarding his/her ability to act as a police officer.
- f. Be of good moral character;
- g. Be free of habitual addiction of intoxicated liquors or drugs;
- h. Indicate a willingness to establish residence within a defined geographical boundary (as determined by the Town or as determined in a collective agreement) within one year of appointment;
- i. Be eligible to carry a firearm and be free from conviction of a disqualifying crime in accordance with the Police Officers Education and Training Program of Title 37 of the Pennsylvania Code; and
- j. Such other qualifications which may be proposed by the Personnel Board and approved by Council.

203 - Applications: Each applicant shall complete fully the prescribed application form. The applicant is responsible for all information placed upon the form. False or incorrect information will void the application form and any subsequent action taken upon it.

When the form is returned, the following shall be provided by the applicant at that time:

- a. The fee as set by resolution of Town Council;
- b. Proof of any honorable discharge, and a full and complete explanation, if appropriate, of any claim for veteran's preference. All veteran's preference claims shall be made along with the return of the application form, and within the time required of the return of the application form. Any person claiming veteran's preference shall execute whatever release may be required in order to investigate fully the circumstance of the claim of veteran's preference.

204 - Examinations: All examinations shall be practical in character and shall relate to such matters and include such inquiries as will fairly test the merit and fitness of the persons examined to discharge the duties of the position sought.

The examination shall consist of :

- a. A written examination, and
- b. An oral examination.

The written examination shall constitute 60% of the final composite score, and the oral examination shall constitute 40% of the final composite score.

The written examination shall have a minimum passing score of 85%, and the oral examination shall have a minimum passing score of 80%.

205 - Contenders: The Board shall administer the oral examination to the highest twelve (12) applicants who have attained the passing scores of 85% or greater on the written examination, and any person possessing a veteran's preference right who has achieved a passing score on the written examination and who may place in the top twelve if provided with veteran's preference after the oral examination.

206 - Background Investigation: The Board may refuse to examine, or may refuse to certify, any applicant who is found to lack any of the minimum qualifications as prescribed and adopted for the position or the employment for which he has applied, or who is disabled and/or unfit to perform the duties of the position for which he seeks employment, or who is addicted to the habitual use of intoxicating liquors or narcotic drugs, or who has been guilty of any crime involving moral turpitude or of infamous or notoriously disgraceful conduct, or who has been dismissed from public service for delinquency or misconduct in office, or who is affiliated with any group whose politics and activities are subversive to the form of government set forth in the Constitution or laws of the United States and Pennsylvania.

The Chief of Police shall be furnished with a list of contenders, and shall conduct a background investigation of each one. The investigation will include, but is not limited to, questioning neighbors, schools and employers. The Chief may question the applicant.

The applicant may be required to execute releases or waivers permitting any investigation as determined by the Chief or the Board.

The Board may utilize the services of the Chief of Police or other persons to aid in any background investigation.

207 - Hearing: If any applicant or person feels himself or herself aggrieved by the action of the Board in refusing to examine or certify him or her, the Board shall, at the request of such person, within ten days after the request notify such person to appear personally and by counsel before the Board. The Board shall then review its refusal to make an examination or certification and take such testimony as may be offered. The decision of the Board shall be final.

208 - List of Eligibles: All contenders who have successfully passed the written examination and the oral examination and have a score of at least 85% on the written examination and 80% on the oral examination, shall be included on a list of eligibles. The list shall be prepared in descending numerical order of composite scores. The written score shall be multiplied by 60% (.60) and the oral score shall be multiplied by 40% (.40); the addition of these two calculations shall form a composite score. To the composite score shall be added ten points to anyone properly entitled to veteran's preference points. The names of those persons with the highest three scores may be considered by Council for selection as a police employee.

Town Council may decide to interview some members of the list of eligibles. Any contender requested to attend an interview shall appear at the time and place set by Council. Failure to attend any such interview shall be deemed to be a willful decision not to accept a position which may be offered by the Town.

209 - Conditional Offers of Employment: Examinations: Any person from the list of eligibles who has been given and accepted a conditional offer of employment shall be given physical, medical and psychological evaluations which shall be reasonably designed to test the individual's ability to perform the duties of a police officer. The Personnel Board shall determine which psychological, physical or medical tests are to be administered and who shall administer them in conformance with applicable law or regulations. These tests shall fairly determine whether the individual to be tested is able to perform the duties required to be performed by a police officer for the Town. The successful completion of any tests administered under this Section shall be a condition precedent to employment with the Town. In the event any test is approved to determine if unacceptable levels of alcohol are or have been consumed, or whether any controlled substances are or have been ingested, the applicant shall be notified prior to the test.

Each person from the list of eligibles who has been given and accepted a conditional offer of employment shall also be required to pass an agility test conducted at a location of the Town's choice. Each individual subject to such an agility test shall be required to sign a waiver releasing any and all rights and claims for damages while taking the agility test. Any individual to be tested under this section should also be notified, generally, concerning any further tests which may be administered during his/her probationary period, or whether physical standards must be met to conclude successfully the probation period.

210 - Confidentiality of Scores: The Board shall advise any applicant (upon written request) of the scores made by the applicant.

(Ord. 1410. Passed 12-19-11.)

Rule III - Police Promotions.

301 - Announcements: Whenever the Board is advised of a vacancy in any rank above patrolman, the Board shall post on the police bulletin board notice of such vacancy and the interval of time during which applications from the Town's police officers will be accepted.

302 - Examinations: Written and oral examinations will be administered as required for police appointments. A review of each applicant's personnel record will be made by the Board. No background investigation will be made.

303 - Scoring: Any applicant who obtains 70% or more, in both the written and oral examination, shall be included on the eligibility list.

Both written and oral examinations shall be scored on the basis of a possible 100% with 70% of the minimum passing score on each examination. The composite score shall be 70% of the written score plus 30% of the oral score. Example: 70% of 80 written = 56; 30% of 90 oral = 27; 56 + 27 = 83% composite score. Apparent ties shall be broken by favoring the contender with the higher written score.

Only the top three names may be considered for each selection by Council and any one of the top three candidates may be selected by Council.

304 - Medical Examination: Any applicant selected to fill the vacancy, must undergo

the same medical examination as prescribed for police appointment.

(Ord. 1137 §1. Passed 1-23-95.)

305 - Chief of Police: The appointment or selection of a new Chief of Police, whether

by promotion or otherwise, shall be at the sole discretion of Council and Council shall determine what procedure shall be followed in making the appointment or selection. (Ord. 960 §2. Passed 9-28-87.)

306 - Hearings for Officers Denied Promotion:

- a. Any non-probationary employee who has been examined for the purpose of filling a promotional vacancy and believes he or she is aggrieved by the action of the Personnel Board with regard to the conduct or results of his or her examination under Section 302, or in not being selected as one of the top three candidates to be considered for promotion by Council pursuant to Section 303 of this Rule may request, in writing, a hearing before the Board. The Board shall, at the request of such person, within ten days after the request, notify such person to appear personally and by counsel, if desire, before the Board. The Board shall then review its refusal to promote such person and take such testimony as may be offered. The Board shall notify the aggrieved individual of the results of the hearing, in writing, within ten (10) days of its conclusion.

- b. Within ten (10) days of receiving the written results of his or her hearing under Section 306(a), if an aggrieved individual is not satisfied with the result reached by the Personnel Board pursuant to Section a. above, he may, in writing, make a request to the Board that a hearing before an impartial hearing officer be conducted in accordance with the Pennsylvania Local Agency Law, Subchapter B, 2 Pa. C.S. §§ 551, et seq. The impartial hearing officer shall be selected by the Town and shall have no affiliation or interest with the Town or the aggrieved individual. The cost of the impartial hearing officer shall be divided evenly between the Town and the aggrieved individual. The decision of the impartial hearing officer shall be final.  
(Ord. 1410. Passed 12-19-11.)

#### Rule IV - Hearings.

401 - Hearing Request: Any non-probationary employee, who has been discharged, suspended or demoted, may request, in writing, a hearing before the Personnel Board within ten (10) days of the formal issuance of the discharge, suspension or demotion to which he seeks challenge. If such a request is made, the Personnel Board shall grant him or her a hearing which shall be held within a period of ten (10) days from the filing of the request by the employee unless continued by the Personnel Board for cause at the request of the Town. A hearing shall be open to the public, or closed to the public, as desired by the individual requesting the hearing.

402 - Pre-Hearing Procedure: A member of the Personnel Board shall meet or otherwise confer with the employee and the Town Manager within seven (7) days of the receipt of the request for a hearing:

- a. The date, time and location of the hearing;
- b. Whether the hearing will be public or closed; and
- c. Whether the employee requesting a hearing will employ counsel.

403 - Counsel: The Town and the person sought to be suspended, removed or demoted shall at all times have the right to employ counsel before the Personnel Board and upon appeal to the Allegheny County Court of Common Pleas. The Personnel Board shall be represented by legal counsel who shall not be the Town Attorney or an attorney within the office of the Town Attorney.

404 - Evidence: Evidence presented at the hearing may be oral or documentary. The parties shall not be bound by technical rules of evidence, and all relevant evidence of reasonably probative value may be received. Reasonable examination and cross examination shall be permitted. The Chairman of the Personnel Board shall rule on the admissibility of evidence. In the event another Personnel Board member should disagree with the ruling of the Chairman, the Personnel Board may recess to resolve the difference of opinion. The Chairman shall reaffirm or modify his ruling as soon as the hearing has resumed in accordance with the decision of the majority of the Personnel Board.

405 - Testimony: The employee, the Town and the Personnel Board have the right to call and question witnesses and to question witnesses called by others. All testimony shall be taken under oath to be administered by the Chairman. The Chairman is empowered to subpoena witnesses and documents and must do so, if requested in writing, no later than two business days prior to the hearing. All Officers in public service and all Town Employees shall attend and testify when required to do so by the Personnel Board. If any person shall refuse or neglect to obey any subpoena issued by the Personnel Board, it may apply by petition to the Court of Common Pleas of Allegheny County for its subpoena requiring the attendance of such person before the Personnel Board or the court, there to testify and to produce any records and papers necessary, and in default thereof shall be held in contempt of court. A stenographic record of all testimony taken at such hearings shall be filed with and preserved by the Personnel Board, which record shall be sealed and not be available for public inspection in the event the charges are dismissed or a closed hearing was held at the request of an aggrieved individual.

406 - Procedure at Hearing: The Chairman shall open the hearing by reading the employee's request for hearing. If the hearing is a closed hearing, the Chairman shall require each person present in the hearing room to identify himself and state his position in the hearing. The Chairman shall then read the communication to the employee imposing discharge, suspension or demotion. The Chairman shall then have the Town or the supervisory official who ordered the discharge, suspension or demotion present the facts of the charge or case against the employee. The employee who has been discharged, suspended or demoted shall then be given the opportunity to present his case against the discharge, suspension or demotion. If either the Town (or its supervisory official) or the employee wishes to present a summation of the evidence, either individually or through counsel, such summation shall be briefly and concisely stated, with the employee's summation being last.

407 - Disposition: The Personnel Board shall render a written decision deciding whether the discharge, suspension or demotion is to be sustained, reversed or varied within thirty (30) days of the conclusion of the hearing. An employee who has been discharged, suspended or demoted by the final action of the Personnel Board shall have the right to appeal to the Court of Common Pleas of Allegheny County within thirty (30) days from the date of the decision by the Personnel Board. For that purpose, the employee shall be entitled to secure a full and complete transcript of the record of the hearing by the Personnel Board at the cost of the employee. The decision of the court affirming or reversing the decision of the Personnel Board shall be final and the employee shall be suspended, discharged, demoted or reinstated in accordance with the order of the court.

408 - Distribution of Costs: The employee shall be responsible for any hearing costs he incurs, including, but not limited to, the employee's counsel, court reporter, witnesses and other fees.  
(Ord. 1410. Passed 12-19-11.)



ARTICLE 139  
Personnel Code

139.01	Short title.	139.17	Job Descriptions
139.02	Purpose.	139.18	Evaluations.
139.03	Town Manager.	139.19	Transfers; promotions; demotions.
139.04	Town employees.	139.20	Uniforms.
139.05	Types of employees.	139.21	Reimbursement of expenses.
139.06	Political activity.	139.22	Grievances.
139.07	Violations.	139.23	Termination, Etc.
139.08	Hiring application.	139.24	Retirement.
139.09	Interview.	139.25	Benefits.
139.10	Qualifications.	139.26	No discrimination; affirmative action.
139.11	Physical examination.	139.27	Sexual harassment.
139.12	Employment of relatives.	139.28	Drug free workplace.
139.13	Hiring authority.	139.29	Modification.
139.14	Hours.	139.30	Employees at will.
139.15	Overtime.	139.31	Amendment.
139.16	Pay periods.		

CROSS REFERENCES

Personnel Code - see CHTR. Art. XI, 1101

Personnel Board - see CHTR. Art. XI, 1103; ADM. 123.05, Art. 137

139.01 SHORT TITLE.

This article shall be known as and may be referred to as the Personnel Code.  
(Ord. 1206. Passed 11-23-98.)

139.02 PURPOSE.

As required by the Home Rule Charter, the purpose of this Code is to provide the Town administration with guidelines for handling personnel matters and to provide each employee with the essential conditions of his/her appointment.

Uniformed police officers are covered by the Police Policy and Procedure Manual and Personnel Code.

This Code also creates a Personnel Policies and Procedures Manual.

In the event this Code conflicts with any law, applicable administrative requirement, collective bargaining agreement, arbitration award, or other term or condition of employment, such modification, insofar as required by law, shall modify this Code to the extent required.

The use of male or female personal pronouns shall include persons of the other sex unless the context clearly intends otherwise.

(Ord. 1206. Passed 11-23-98.)

#### 139.03 TOWN MANAGER.

The Home Rule Charter established the Town Manager as the Town's chief executive and administrative officer; he has the responsibility for administering this Code.

The Manager shall develop a Personnel Policies and Procedures Manual and make necessary amendments thereto.

The Personnel Policies and Procedures Manual shall implement this Code, and may contain guidelines and policies on matters not directly covered by this Code, and further clarify its operation.

The Manager may overrule any decisions made by subordinates.

(Ord. 1206. Passed 11-23-98.)

#### 139.04 TOWN EMPLOYEES.

All employees share a common responsibility of providing courteous and efficient service in the public interest. Public employees are obliged to discharge their duties faithfully regardless of personal considerations and shall abide by the provisions of this Code and the Personnel Policies and Procedures Manual.

(Ord. 1206. Passed 11-23-98.)

#### 139.05 TYPES OF EMPLOYEES.

Town employees are considered regular, part-time or temporary:

- (a) Regular employees are those who work full-time on a regular basis;
- (b) Part-time employees are those who work less than full-time on a regular schedule, such as school guards;
- (c) Temporary employees are those hired to work for a certain or definite period of time or for the duration of a need, such as summer help and recreation aides.

(Ord. 1206. Passed 11-23-98.)

#### 139.06 POLITICAL ACTIVITY.

No employee shall be a candidate for nomination or election to any public office unless he/she shall have first obtained an approved leave of absence from employment. If elected, employee shall resign from employment immediately upon election to any public office.

(Ord. 1206. Passed 11-23-98.)

#### 139.07 VIOLATIONS.

Any employee violating the letter or spirit of this Code, or the Policies and Procedures Manual, may invite disciplinary action thereby. Any disciplinary action taken shall be job related and where possible shall be utilized in an attempt to rehabilitate or change the behavior of an employee.

(Ord. 1206. Passed 11-23-98.)

#### 139.08 HIRING APPLICATION.

Each applicant must complete the Town's application form as developed by the Manager.

(Ord. 1206. Passed 11-23-98.)

**139.09 INTERVIEW.**

The Manager shall develop procedures for interviewing prospective employees.  
(Ord. 1206. Passed 11-23-98.)

**139.10 QUALIFICATIONS.**

An applicant for a position must meet the standards of the established job description and qualifications. The Manager shall describe and rate all positions, including part-time and temporary positions.  
(Ord. 1206. Passed 11-23-98.)

**139.11 PHYSICAL EXAMINATION.**

Any applicant selected for a full-time position shall undergo a medical and physical examination by a physician selected and paid for by the Town to determine the applicant's physical and medical capacity to fill the position.  
(Ord. 1206. Passed 11-23-98.)

**139.12 EMPLOYMENT OF RELATIVES.**

No person shall be hired or transferred to work with or under the direct supervision of a blood relative or a relative by law.  
(Ord. 1206. Passed 11-23-98.)

**139.13 HIRING AUTHORITY.**

The Manager is the hiring authority for all positions except uniformed police. Uniformed police are hired by Town Council.  
(Ord. 1206. Passed 11-23-98.)

**139.14 HOURS.**

The basic work week shall be set by the department head in conjunction with the Manager.

This shall not be construed as a guarantee of hours of work each day, week, month or year.

Employees shall work the hours scheduled by the department head and the Manager.  
(Ord. 1206. Passed 11-23-98.)

**139.15 OVERTIME.**

The overtime rate is the employee's normal hourly rate plus one half for all hours worked (not paid for) in excess of any statutory requirement.

Absent approval of the department head and the Manager, part-time or temporary employees shall not receive overtime pay unless more than forty (40) hours in a work week is worked.

(Ord. 1206. Passed 11-23-98.)

**139.16 PAY PERIODS.**

Employees are paid every two (2) weeks.  
(Ord. 1206. Passed 11-23-98.)

#### 139.17 JOB DESCRIPTIONS.

The job description (for those positions for which a job description is available) shall be a written description containing a title, statement of typical duties and responsibilities, and the minimum or desirable qualifications for employees to assure satisfactory performance.

The description, and the job rating for salary/wage purposes, shall be amended by the Manager when circumstances require.  
(Ord. 1206. Passed 11-23-98.)

#### 139.18 EVALUATIONS.

Evaluation instruments shall be developed by the Manager. The Manager shall also determine how, when and in what manner employees shall be evaluated.  
(Ord. 1206. Passed 11-23-98.)

#### 139.19 TRANSFERS; PROMOTIONS; DEMOTIONS.

(a) An employee who is transferred to another position which has the same pay scale shall have his/her pay remain the same as before the transfer.

An employee promoted to a higher position shall have his/her pay adjusted.

An employee who is demoted or transferred to a lower position shall receive a lower rate of pay.

(b) Any employee who temporarily serves in a position with a higher pay scale shall receive at least the rate of the lowest step in the higher position while serving.  
(Ord. 1206. Passed 11-23-98.)

#### 139.20 UNIFORMS.

The Town shall provide uniforms under the terms and conditions set by the Manager.  
(Ord. 1206. Passed 11-23-98.)

#### 139.21 REIMBURSEMENT OF EXPENSES.

Employees shall be reimbursed for travel and other expenses incurred on behalf of the Town and authorized by the Manager.  
(Ord. 1206. Passed 11-23-98.)

#### 139.22 GRIEVANCES.

Regular full-time and regular part-time persons who fill non-policy making positions may utilize the following procedure:

(a) These employees may file grievances limited to working conditions. During this grievance procedure the grievant shall continue to work under the direction of his/her supervisor.

(b) When the grievance procedure is to be invoked and no Grievance Committee has been selected, one shall be named at that time. The Grievance Committee shall consist of three (3) employees of the department involved. One member shall be named chairperson. Any employee having a grievance shall discuss the grievance with his/her immediate supervisor. If the grievance is not resolved, he/she may present his/her grievance in writing to the Grievance Committee. If the Committee finds merit in the grievance, it shall proceed to the next step. The written grievance shall be given to the Manager within ten (10) days from the occurrence of the grievance. The Manager shall meet within seven (7) working days thereafter with the department head, chairperson of the Grievance Committee and the aggrieved employee.

- (c) If the matter is not resolved, the written grievance may be given to the Personnel Board within ten (10) working days from the Manager's decision, and be considered in a meeting within thirty (30) working days thereafter. Within seven (7) working days thereafter, a recommendation shall be made by the Personnel Board to Council which shall make a final decision promptly thereafter.
- (d) Extensions of time shall be only by mutual consent.
- (e) The Town shall not be obligated to pay any employee for the time spent in processing grievances or grievance meetings.  
(Ord. 1206. Passed 11-23-98.)

#### 139.23 TERMINATION, ETC.

An employee who does not give the Town two (2) weeks notice of his/her resignation shall receive no benefits which may otherwise then be due.

An employee who is discharged for cause by the Town shall be paid full wages and benefits due to the date of discharge.

The return of appropriate pension contributions to an employee shall be determined by the Manager.

(Ord. 1206. Passed 11-23-98.)

#### 139.24 RETIREMENT.

The Town provides retirement arrangements for those persons who have given it long and faithful service. These benefits are based upon pension documents in the possession of the Manager.

(Ord. 1206. Passed 11-23-98.)

#### 139.25 BENEFITS.

(a) Full-Time Employees. The Policies and Procedures Manual shall set forth benefits such as vacation, holiday pay, sick leave, and other leaves granted employees. The Manager is authorized to amend such benefits in his reasonable discretion with the approval of Council.

(b) Part-Time and Temporary Employees. Employees who work less than a full-time schedule or who are temporary employees are entitled to no leaves or other benefits unless prescribed by law.

(c) Other Benefits. The Manager shall, in the Town's Personnel Policies and Procedures Manual, set out other benefits, such as health insurance, which are available to employees, as well as the contribution the Town shall make toward the cost of these benefits.

(Ord. 1206. Passed 11-23-98.)

#### 139.26 NO DISCRIMINATION; AFFIRMATIVE ACTION.

No Discrimination - The Town does not discriminate based upon the race, sex, national origin, physical abilities and disabilities, religion, or politics of its employees. The Manager is instructed and authorized to create and implement policies and procedures which make sure that no discrimination of the type or kind set forth herein does occur, and to create and implement effective affirmative action policies.

(Ord. 1206. Passed 11-23-98.)

### 139.27 SEXUAL HARASSMENT

The Town maintains a working environment free from all sexual harassment. Sexual harassment is any unwelcome sexual advance, request for sexual favors, and other verbal, visual, or physical conduct of a sexual nature. Any such harassment is prohibited and shall be the subject of disciplinary action by the Town.

The Manager shall create a policy which allows an employee who believes he/she has been sexually harassed to bring the matter to the attention of the Town and to take appropriate action thereafter.

(Ord. 1206. Passed 11-23-98.)

### 139.28 DRUG FREE WORKPLACE.

The Town shall provide a drug free workplace, free of drugs and free of those individuals who use drugs.

The Manager shall create a drug free policy which prohibits the use of drugs or other controlled substances in the workplace, which shall meet all provisions of state, federal or other law, requirement or condition and inform employees promptly of the policy.

(Ord. 1206. Passed 11-23-98.)

### 139.29 MODIFICATION.

The provisions of this Code may be modified by a collective bargaining agreement, arbitration award, or other term or condition of employment. Any such modification, insofar as required by law, shall govern.

(Ord. 1206. Passed 11-23-98.)

### 139.30 EMPLOYEES AT WILL.

Employees of the Town are employees at will unless otherwise expressly employed. Employees may be terminated with or without cause, or notice, at any time. No person, other than the Manager, and then only with the written approval of a majority of Council, has any authority to enter into any agreement for employment for any specified period of time, or to make any agreement contrary to this section.

The Manager shall develop procedures to indicate when a person is not an employee at will, which shall, at a minimum require (1) the express statement that the employment is an "enforceable employment agreement" and (2) is expressly approved in writing by Council.

(Ord. 1206. Passed 11-23-98.)

### 139.31 AMENDMENT.

This Code may be amended or modified at any time.

(Ord. 1206. Passed 11-23-98.)