

## ORDINANCE NO. 1759

**AN ORDINANCE OF THE BOROUGH OF MCKEES ROCKS INCORPORATING PROVISIONS OF SECTION 638 OF THE INSURANCE COMPANY LAW, 40 P.S. § 638, AS AMENDED, WHICH PROVIDES THE BOROUGH WITH THE AUTHORITY TO REQUIRE SECURITY IN THE FORM OF INSURANCE PROCEEDS FROM AN INSURANCE COMPANY, ASSOCIATION, OR EXCHANGE, DOING BUSINESS IN PENNSYLVANIA, FOR THE REMOVAL, REPAIR AND SECURING OF FIRE DAMAGED BUILDINGS AND OTHER STRUCTURES SUBJECT TO FIRE LOSS CLAIMS LOCATED IN THE BOROUGH.**

WHEREAS, the Borough of McKees Rocks (hereinafter the "Borough") adopted Ordinance No. 1552 in order to implement Act 93 of 1994, 40 P.S. § 638 (hereinafter the "Insurance Company Law").

NOW, THEREFORE, be it ORDAINED AND ENACTED by the Borough Council of the Borough of McKees Rocks, Allegheny County, Pennsylvania, that Ordinance No. 1552 is amended to read as follows :

**SECTION I. DESIGNATED BOROUGH OFFICER.** The Borough Secretary/manager of the Borough of McKees Rocks or such official's designee is hereby appointed as the designated officer who is authorized to carry out all responsibilities and duties stated herein.

**SECTION II. PAYMENT OF INSURANCE PROCEEDS.** No insurance company, association or exchange (hereinafter the "Insuring Agent") doing business in the Commonwealth of Pennsylvania shall pay a claim of a named insured for fire damage to a structure located within the Borough of McKees Rocks (hereinafter the "Municipality") where the amount recoverable for the fire loss to the structure under all policies exceeds Five Thousand (\$7,500.00) Dollars, unless the Insuring Agent is furnished with a municipal certificate pursuant to section 508(B) of Act 98 of 1992 and unless there is compliance with Section 508(C) and (D) of Act 98 of 1992 and the provisions of this Ordinance.

### **SECTION III. PROCEDURE.**

- 1. Issuance of Certificate Where Delinquent Taxes or Charges are Due and/or Costs Have Been Incurred by Borough Related to the Fire Damaged Building or Structure.** Where pursuant to § 638(b)(1)(ii) of the Insurance Company Law, as amended, the Borough Treasurer is requested to issue a certificate to the insuring agent regarding property that is subject to delinquent taxes, assessments, penalties and user charges, the Treasurer shall issue such certificate along with a bill showing the amount of delinquent taxes, assessments, penalties and user charges against the subject property that have not been paid as of the date of the Treasurer's certificate and also showing, as of the date of the Treasurer's certificate, the amount of the total costs, if any,

certified to the Treasurer that have been incurred by the Borough for the removal, repair or securing of a damaged building or other structure on the property.

- A. The Borough shall be responsible for certifying to the Treasurer any such costs incurred by the Borough for removal, repair or securing of a damaged building or other structure on the property.
- B. The insuring agent shall, upon receipt of such certificate and bill, return the bill to the Borough Treasurer and transfer to the Treasurer an amount from the insurance proceeds necessary to pay the taxes, assessments, penalties, charges and costs as shown on the bill.
- C. The Borough shall, upon receipt of such amount, apply or credit the amount to payment of the items shown on the bill.

2. **Issuance of Certificate Where No Delinquent Taxes or Charges Are Due and No Costs Have Been Incurred by the Borough Related to the Fire Damaged Building or Structure.** Where pursuant to § 638(b)(1)(i) of the Insurance Company Law, as amended, the Borough Treasurer is requested to issue a certificate to the insuring agent, or, at the discretion of the Borough Treasurer, a verbal notification confirmed in writing by the insuring agent, regarding property that is not subject to delinquent taxes, assessments, penalties or user charges, the Treasurer shall issue such a certificate which indicates that there are no delinquent taxes, assessments, penalties or user charges against the property, and that as of the date of the Treasurer's certificate or verbal notification, the Borough has not certified any amount as total costs incurred by the Borough for the removal, repair or securing of a damaged building or other structure on the property, and the insuring agent shall pay the claim of the named insured.

3. **Transfer of Proceeds.** In accordance with § 638(c) of the Insurance Company Law, as amended, the insuring agent shall transfer from the insurance proceeds the following amounts to the Borough Treasurer, as security. The following amounts shall only be paid if the loss as agreed upon by the named insured and the insuring agent equals or exceeds 60% of the aggregate limits of liability on all fire policies covering the building or other structure:

- A. An amount in the aggregate of \$2,000 for each \$15,000 of a fire loss claim and for each fraction thereof; however, if the amount of such claim is \$15,000 or less, the amount transferred to the Borough shall be \$2,000.
- B. If at a time of the loss report the named insured has submitted a contractor's signed estimate of the costs of removing, repairing or

securing the building or other structure that is in an amount less than the above formula, the insuring agent shall transfer to the Borough the amount specified in the estimate.

4. **Pro Rata Transfer.** The transfer of proceeds shall be on a pro rata basis by all companies, associations or exchanges insuring the damaged building or structure.
5. **Post Transfer Contractor's Estimate.** After the transfer of proceeds, the named insured may submit a contractor's signed estimate of the costs of removing, repairing or securing the damaged building or other structure, and the Borough Treasurer shall return the amount of secured proceeds in excess of the estimate to the named insured, if the Borough has not otherwise commenced removing, repairing or securing the damaged building or other structure.
6. **Accounting Procedure for Transferred Proceeds.** Upon receipt of security under this section, the Borough shall conform to the following procedure, pursuant to § 638(d) of the Insurance Company Law:
  - A. The Borough Treasurer shall place the proceeds in a separate fund to be used solely as security against the total costs of removing, repairing, or securing the damaged building or structure incurred by the Borough. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the Borough in connection with such removing, repairing or securing of the building or any procedure related thereto.
  - B. When transferring the proceeds, it is the obligation of the insuring agent to provide the Borough with the name and address of the named insured, whereupon the Borough Treasurer shall contact the named insured, certify that the proceeds have been received by the Borough and notify the named insured that the procedures under this section and § 638(d) of the Insurance Company Law shall be followed.
  - C. The proceeds shall only be returned to the named owner upon the following stated occurrences: the damaged building or other structure has been properly repaired, removed or secured in accordance with all applicable laws, regulations and requirements of the Borough; the requisite proof of such completion has been received by the Borough Treasurer; and the Borough has not incurred any costs associated with repairing, removing or securing the damaged building or other structure.

- D. If the Borough has incurred costs associated with repairing, removing or securing the building or other structure, such costs shall be paid from the secured funds. If excess funds remain, the Borough Treasurer shall transfer the remaining funds to the named insured.
- E. Any interest earned on proceeds held by the Borough that are not returned to the named insured shall belong to the Borough. Any interest earned on proceeds that are returned to the named insured shall be distributed to the named insured at the time said proceeds are returned.
7. **Borough's Ability to Recover Deficiency.** Nothing in this Part shall be construed to limit the ability of the Borough to recover any deficiency.
8. **Agreement with Named Insured.** Nothing in this subsection shall be construed to prohibit the Borough and the named insured from entering into an agreement which permits the transfer of funds to the named insured if some other reasonable disposition of the damaged property has been negotiated.

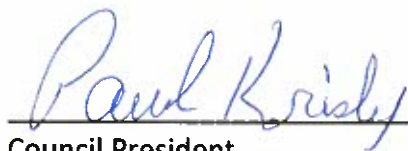
SECTION IV. Any Ordinance or parts of Ordinances conflicting with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

THIS ORDINANCE adopted by the Council of McKees Rocks Borough at a duly assembled public meeting held this 12<sup>th</sup> day of March, 2019.

ATTEST:

McKEES ROCKS BOROUGH

  
Borough Manager

By:   
Council President

  
Mayor