

CODIFIED ORDINANCES OF THE TOWN OF McCANDLESS

PART THREE - BUSINESS AND TAXATION

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- Art. 305. Peddlers; Transient Vendors.
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TITLE ONE - Business Regulation

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ARTICLE 301  
Advertising

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|--------|---|--------|----------|
| 301.01 | Intent.   | 301.99 | Penalty. |
| 301.02 | Distributing advertising material<br>at residences. |        |          |

CROSS REFERENCES

- Peddling see B.R. & T. Art. 309
- Littering - see GEN. OFF. Art. 705

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301.01 INTENT.

This chapter is enacted because certain persons, firms or corporations have recently begun the distribution of advertising materials to Town residents by placing or hanging the advertising material on mail boxes or posts or by depositing such material upon other portions of private property without the request or consent of the owners or occupiers of the property and in the judgment of the Town Council this manner of distribution of advertising materials is unsightly, constitutes an invasion of privacy and, unless picked up by the property owner within a reasonable time, the presence of such advertising material would be a clear indication that the residence was unoccupied and thus increase the possibility of vandalism and/or burglary. (Ord. 662. Passed 10-28-74.)

**301.02 DISTRIBUTING ADVERTISING MATERIAL AT RESIDENCES.**

It shall be unlawful for any person, firm or corporation to distribute advertising materials at a residence within the Town of McCandless (other than at the home of the person, firm or corporation distributing the same) by placing such material at the residence, on the property or on the residential mailbox of the person owning or occupying the residence unless the person, firm or corporation, its agents, servants, employees and/or independent contractors distributing such advertising materials:

- (a) Is making such distribution based upon an affirmative request or consent of the person occupying the residence; or
- (b) Is making such distribution through the use of the United States mail service; or
- (c) Is making such distribution through a procedure whereby a resident can notify the person, firm or corporation, its agents, servants, employees and/or independent contractors of a desire not to receive unsolicited distributed materials and such procedure provides for:
  - (1) The honoring of any and all "no distribution" requests from a Town of McCandless resident by not leaving or otherwise distributing any materials to residents from whom such person, firm or corporation, its agents, servants, employees and/or independent contractor has received a "no distribution" request; and
  - (2) The patrolling and monitoring of a service area of a person, firm or corporation, its agents, servants, employees and/or independent contractors on a weekly basis and the collection of unwanted and/or unclaimed materials distributed by such person, firm or corporation within one week of its delivery; and
  - (3) The termination of distribution of materials within one week by a person, firm or corporation, its agents, servants, employees and/or independent contractors to a residence where prior materials have not been claimed.  
(Ord. 1123. Passed 6-27-94.)

**301.99 PENALTY.**

Any violation of any provision of this article shall be considered a summary offense and shall be fined not more than three hundred dollars (\$300.00). Each unlawful distribution to a residence shall be considered as a separate offense.  
(Ord. 662 §2. Passed 10-28-74.)

ARTICLE 305  
Peddlers; Transient Vendors

305.01	Short title.	305.05	Record of permits; suspension or revocation.
305.02	Definitions.	305.06	Manner of conducting business.
305.03	Permit required.	305.99	Penalty.
305.04	Permit fee; issuance, etc.		

CROSS REFERENCES

Power to regulate - see First Class Twp. Code §1502  
(53 P.S. §56524)  
Residential handbilling - see B.R. & T. Art. 301  
Littering - see GEN. OFF. Art. 705

305.01 SHORT TITLE.

The provisions of this article shall be known as the Transient Vendors Ordinance.  
(Ord. 84 §1. Passed 12-3-54.)

305.02 DEFINITIONS.

For the purpose of interpreting this article, words used herein shall have the following definitions:

- (a) "Transient vendor" includes any person, corporation, partnership, association or any agent thereof who conducts a business in the Town off their own property.  
(Ord. 1058. Passed 6-24-91.)
- (b) "Conducting business" means the conducting of retail sales of goods, wares or merchandise, including work commonly done by peddlers or hucksters on commercial property behind the zoning buffer area including solicitations or taking of orders whether verbal or written. (For a definition of zoning buffer area see Section 1311.04(a)(13) of the Codified Ordinances.) Where no buffer area exists on commercial property, conducting of business shall take place at least ten feet off the paved road cartway. Transient vendors are prohibited from conducting business on any portion of any right-of-way or zoning buffer area within the Town of McCandless. Conducting business may include work performed by door-to-door salespersons in residential areas so long as other sections of this chapter are complied with.  
(Ord. 1055 §1. Passed 4-22-91; Ord. 1309. Passed 10-25-04.)

**305.03 PERMIT REQUIRED.**

Hereafter, no transient vendor may conduct a business within the geographic limits of the Town without first obtaining a permit in accordance with the requirements of this article. (Ord. 84 §3. Passed 12-3-54.)

**305.04 PERMIT FEE; ISSUANCE, ETC.****(a) Fee.**

- (1) No fee shall be required for the issuance of a permit, to farmers selling their own products, or to persons selling goods solely for charitable or religious purposes, or the persons engaged in inter-state commerce. (Ord. 92. Passed 4-7-55.)
- (2) All other vendors shall be required to pay a license fee as per the fee schedule established by resolution of Town Council. (Ord. 1309. Passed 10-25-04.)

**(b) Required Information.** No permits shall be issued unless and until the necessary fee is paid and the following information given by the applicant:

- (1) Full identification, including proof by vehicle operator's plate number and/or motor vehicle registration number and including sufficient physical identification.
- (2) The name of vendor's business or his employer, the address of that business, the kind of merchandise sold and the type of transaction conducted.
- (3) The length of time for which the permit shall be issued, the number and names of vendor's helpers.
- (4) Any criminal record of the vendor shall be disclosed at the time of the application.
- (5) Written, notarized permission from the property owner. (Ord. 1055 §3. Passed 4-22-91.)
- (6) Photographic proof of identification, such as a current driver's license. (Ord. 1309. Passed 10-25-04.)

**(c) Carrying Permit.** Any transient vendor shall carry a permit at all times while conducting business in the Town.

**(d) Non-transferability.** Permits are not transferable and an individual permit is required for each person. (Ord. 84 §4. Passed 12-3-54.)

**(e) Inter-state Commerce; Registration Certificate.** Any person engaged in interstate commerce shall register in a book provided therefor, showing his name, address, his employer and the product he is selling. His registration shall also show the date and time he commenced work in the Town and the length of time he intends to work therein. The Town may require that the transient vendor take oath to the truth of the allegations made in such registration. The Town may then issue to the vendor a registration certificate showing that he has registered in the Town. (Ord. 92. Passed 4-7-55.)

**305.05 RECORD OF PERMITS; SUSPENSION OR REVOCATION.**

The Town Manager is hereby required to keep records of all permits issued under this article and the Chief of Police shall apply daily for the list of current permits issued. The Chief of Police shall have the power and is hereby authorized to suspend or revoke any permit issued under this article when he, in his judgment, deems such suspension or revocation to be beneficial to the public health, safety or morals, or for violation of any provision of this article, or for giving false information upon any application for a permit hereunder.  
(Ord. 84 §5. Passed 12-3-54.)

**305.06 MANNER OF CONDUCTING BUSINESS.**

(a) No transient vendor shall deposit any refuse or waste on the streets or alleys or any private or public property in the Town, nor may he be parked or stopped for a longer time than is necessary for the reasonable conduct of his business.

(b) The hours during which a transient vendor may conduct business in the Town shall be limited to Monday through Saturday from 9:00 a.m. until the time of sunset, as published by the United States Naval Observatory.

(c) No transient vendor shall enter or attempt to enter a residence without an express invitation from the occupant or enter onto property posted with a sign stating "No Soliciting" or similar language.  
(Ord. 84 §6. Passed 12-3-54; Ord. 560 §1. Passed 8-24-70; Ord. 621 §1. Passed 1-22-73; Ord. 820 §3. Passed 6-22-81; Ord. 1309. Passed 10-25-04.)

**305.99 PENALTY.**

Whoever violates any provision of this article shall be fined not more than two hundred fifty dollars (\$250.00) and costs of prosecution and, in default of payment thereof, shall be imprisoned not more than thirty days.  
(Ord. 1058. Passed 6-24-91.)



**ARTICLE 306**  
**Solicitation of Funds**

- |        |   |        |   |
|--------|---|--------|---|
| 306.01 | Registration required; identification card information. | 306.04 | Card denial or revocation; hearing by Council.                          |
| 306.02 | Card possession and exhibition required.                | 306.05 | Solicitation at business establishments or properties; card possession. |
| 306.03 | Hours limited.  | 306.99 | Penalty.  |

**CROSS REFERENCES**

Solicitation of funds - see 10 P .S. Sec. 160-1 et seq.  
Solicitation of charitable funds - see 49 Pa. Code Sec. 55.1 et seq.  
Transient vendors - see BUS. & TAX. Art. 305

**306.01 REGISTRATION REQUIRED; IDENTIFICATION CARD INFORMATION.**

(a) It shall be unlawful for any person to go upon residential property within the Town to solicit funds from Town residents for any religious, charitable or nonprofit cause by knocking upon residential doors or by ringing door bells so as to cause or attempt to cause residents to open their doors, unless the person doing the solicitation has first registered at the Town Hall and has received an identification card from the office of the Chief of Police of the Town.

(b) No identification card shall be issued unless the following information is given by the applicant:

- (1) Full identification, including proof thereof by voters registration card, vehicle operator's license or some other accepted method of identification, with residence and office address.
- (2) The name of the organization for which the applicant is soliciting, together with the address of that organization.
- (3) The length of time the soliciting is to be carried on.
- (4) Any criminal record which the applicant may have.  
(Ord. 837 Sec. 1. Passed 3-22-82.)

**306.02 CARD POSSESSION AND EXHIBITION REQUIRED.**

Solicitors regulated by this article shall carry their identification card, which shall be issued by the Chief of Police without charge, at all times while soliciting within the Town and shall show their identification card to residents in order to identify themselves prior to any actual solicitation of funds. (Ord. 837 Sec. 2. Passed 3-22-82.)

**306.03 HOURS LIMITED.**

All solicitation carried on by persons for charitable, religious and nonprofit causes shall, in the case of residential door-to- door or house-to-house calling, be restricted to the following hours:

- (a) From October 1 through April 30, such solicitation shall be limited to the period from 9:00 a.m. to 5:00 p.m. , prevailing time, including Saturdays and Sundays.
- (b) From May 1 through September 30, such solicitation shall be limited to the period from 9:00 a.m. to 9:00 p.m. prevailing time, including Saturdays and Sundays. (Ord. 837 Sec. 3. Passed 3-22-82.)

#### 306.04 CARD DENIAL OR REVOCATION; HEARING BY COUNCIL.

If any solicitor is found to have been convicted of any felony or misdemeanor involving moral turpitude, he or she may be denied an identification card or the identification card may be revoked or cancelled by the Town Council after a hearing before Council. If any solicitor provides any false or misleading information concerning his or her identification or the identity of the organization for which the soliciting is being done, the identification card issued to that solicitor may be revoked by the Town Council after a hearing before Council. (Ord. 837 Sec. 4. Passed 3-22-82.)

#### 306.05 SOLICITATION AT BUSINESS ESTABLISHMENTS OR PROPERTIES; CARD POSSESSION.

Solicitation of funds for charitable, religious or nonprofit causes shall be permitted at any business establishment and upon any business properties, such as shopping center parking lots, during normal business hours but those solicitors shall also register at the Town Hall and carry identification cards. (Ord. 837 Sec. 5. Passed 3-22-82.)

#### 306.99 PENALTY.

Any person who violates this article by soliciting without an identification card or who violates this article by soliciting other than during the hours permitted by this article shall be subject to prosecution before a District Magistrate and, upon conviction, shall be fined not more than three hundred dollars (\$300.00) plus costs of prosecution. (Ord. 837 Sec. 6. Passed 3-22-82.)

ARTICLE 307  
Amusements

307.01	Definitions.	307.05	Enforcement; rules and regulations.
307.02	Permit required.	307.06	Severability.
307.03	Permit application and fee.	307.99	Penalty.
307.04	Permit issuance.		

CROSS REFERENCE

Mechanical devices tax- see BUS. & TAX. Art. 333

307.01 DEFINITIONS.

As used in this article, certain terms are defined as follows:

- (a) "Amusement" means all manner and form of entertainment including among others: theatrical and operatic performances, concerts and lectures; carnivals and side shows, circuses; all forms of entertainment at fair grounds and amusement parks; sports events; swimming or bathing pools; vaudeville shows; dancing; golf courses and golf driving ranges; bowling alleys; tennis, baseball hitting games, billiard and pool games, and all other forms of entertainment, recreation, sport or pastime for which a charge is made. "Amusement" does not include any form of entertainment accompanying or incidental to the serving of food or drink or the sale of merchandise, where the charge for the entertainment is wholly included in the price paid for the refreshment or merchandise; and "amusement" does not include any form of entertainment, the proceeds of which, after payment of reasonable and customary expenses, inure exclusively to the benefit of religious, educational or charitable societies or organizations, private clubs, lodges or fraternal organizations, veteran's organizations, or police or firemen's pension organizations.
- (b) "Person" means any natural person, firm, association, partnership or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to a partnership or association means the partners or members thereof, and as applied to a corporation, the officers thereof.
- (c) "Producer" means any person or other entity conducting any amusement. (Ord. 757 §2. Passed 2-5-79.)

**307.02 PERMIT REQUIRED.**

On and after January 1, 1979, no producer shall begin or continue to conduct within the Town any form of amusement at any permanent or temporary place of amusement, or any itinerant form of amusement unless an amusement permit has been issued and the fee paid. (Ord. 757 §2. Passed 2-5-79.)

**307.03 PERMIT APPLICATION AND FEE.**

(a) On and after January 1, 1979, producers desiring to begin or continue to conduct any amusement within the Town shall file with the Town Manager or his designee an application for an amusement permit, and shall pay the fee for such permit as required by the Town. The permit fee shall be established by resolution and may be changed from time to time as deemed necessary by the Town Council.

(b) The Town shall provide application forms for such permits, which shall include:

- (1) The name and address of the applicant.
  - (2) The location of the amusement to be covered by the permit.
  - (3) The name and address of the owner of the property upon which the amusement is or will be located.
  - (4) The type of amusement.
  - (5) The period for which the permit is requested.
- (Ord. 757 §2. Passed 2-5-79.)

**307.04 PERMIT ISSUANCE.**

(a) Every permit shall be issued in triplicate. The original, signed by the Town Manager, with the Town seal, shall be given to the permit holder.

(b) No permit shall be issued unless the amusement complies with all Town codes pertaining to zoning, land use, public safety and other regulations pertaining to such amusement. (Ord. 757 §2. Passed 2-5-79.)

**307.05 ENFORCEMENT; RULES AND REGULATIONS.**

The Town Manager is hereby empowered with the administration and enforcement of the provisions of this article. He is further empowered and authorized to appoint and delegate police officers or other officials to conduct the necessary inspection of such operation as controlled by this article. The Manager is also empowered to prescribe and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this article.

(Ord. 757 §2. Passed 2-5-79.)

**307.06 SEVERABILITY.**

The provisions of this article are severable, and if any of its provisions are held illegal, invalid or unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of this article. It is hereby declared as the intent of Council that this article would have been adopted had such unconstitutional, illegal or invalid provisions not been included herein. (Ord. 757 §2. Passed 2-5-79.)

**307.99 PENALTY.**

Any person convicted before any District Magistrate for violation or failure to carry out any provision or requirement of this article or attempting to do anything whatever to avoid payment of the whole or any part of the fee imposed under this article, shall be fined not more than three hundred dollars (\$300.00) for each offense and the cost of prosecution thereof, and in default thereof shall be imprisoned for not more than thirty days. Each day that any person continues to violate or fails to comply with any requirement of such sections shall be considered a separate offense.  
(Ord. 757 §2. Passed 2-5-79.)



ARTICLE 309  
Cable Television Rates and Customer Services

309.01	Definitions.	309.07	Ratemaking appeals.
309.02	Obtaining certification.	309.08	Other matters.
309.03	Regulatory authority.	309.09	Severance.
309.04	Rate applications.	309.10	Effective date.
309.05	Customer service standards.		
309.06	Enforcement.		

CROSS REFERENCES

309.01 DEFINITIONS.

- (a) The following terms are defined as follows:
- (1) "Basic service tier" means, at a minimum, all signals of domestic television broadcast stations provided to any subscriber (except a signal secondarily transmitted by satellite carrier beyond the local service area of such station, regardless of how such signal is ultimately received by the cable operator(s)), any public, educational and governmental programming required by the franchise agreement to be carried on the basic tier, and any additional video programming signals or service added to the basic tier by the cable operator(s).
  - (2) "Cable Act of 1992" means the Cable Television Consumer Protection and Competition Act, Pub. L. No. 102-385, 106 Stat. 1460 (1992).
  - (3) "Cable operator(s)" means all cable television operators who are party to a current franchise agreement with the franchising authority.
  - (4) "Cable programming service" means any video programming provided over a cable television system, regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than:
    - A. Video programming carried on the basic service tier;
    - B. Video programming offered on a pay-per-channel or pay-per-program basis; or
    - C. A combination of multiple channels of pay-per-channel or pay-per-program video programming offered on a multiplexed or timeshifted basis so long as the combined service:

1. Consists of commonly-identified video programming; and
  2. Is not bundled with any regulated tier of service.
- (5) "Certification" means the certification received by the franchising authority from the FCC, empowering the franchising authority to regulate certain cable television rates.
  - (6) "Cost-of-service rate application" means a rate application filed in the manner prescribed and on the forms adopted by the FCC. A cost of service rate application may be submitted by a cable operator(s) in its sole discretion, in support of its current rates or a proposed rate increase.
  - (7) "Current rates" means those rates in effect for the basic service tier; and for the equipment and installation necessary to receive the basic service tier, existing on the date when the franchising authority notifies the cable operator(s) that it has received certification.
  - (8) "Customer service standards" means those standards governing customer service which are prescribed by the FCC and may be enforced by the franchising authority.
  - (9) "FCC" means the Federal Communications Commission.
  - (10) "Franchise agreement" means the agreement between one or more cable operator(s) and the franchising authority pursuant to which the cable operator(s) was granted a franchise to offer cable television services to subscribers.
  - (11) "Franchising authority" means the McCandless Town Council.
  - (12) "Maximum permitted rates" means those rates against which all rate applications shall be measured. The maximum permitted rates shall be determined consistent with the rules adopted by the FCC.
  - (13) "Opinion" means an opinion issued by the franchising authority in response to any rate application.
  - (14) "Order" means an order issued by the franchising authority advising the cable operator(s) and other interested parties of the franchising authority's intent to take additional time to review and approve or disapprove any rate application.
  - (15) "Prescribed rate" means the rate prescribed by the franchising authority for the basic service tier and/or for the equipment and installation necessary to receive the basic service tier, which may differ from the proposed rate submitted by the cable operator(s) in a rate application.
  - (16) "Prospective rate adjustment" means a reduction by the franchising authority in the current rates charged by a cable operator(s).
  - (17) "Rate application" means an application on the form adopted by the FCC to be submitted by the cable operator(s) for approval of its current rates and/or any proposed increase in the rates for the basic service tier and/or for the equipment and installation necessary to receive the basic service tier.
  - (18) "Refund" means any refund ordered by the franchising authority of rates charged for the basic service tier and/or the rates for the equipment and installation necessary to receive the basic service tier pursuant to the terms contained in Section 309.04(d)(2).
  - (19) "Subscriber" means a customer of the cable operator(s) receiving cable television service within the geographic boundaries of the franchising authority.
- (Ord. 1105 Sec. 1. Passed 9-27-93.)

### 309.02 OBTAINING CERTIFICATION.

(a) The franchising authority is hereby empowered to make application for certification with the Federal Communications Commission (FCC) to regulate cable television rates for the basic service tier, the equipment and installation necessary to receive the basic service tier and to provide notice to the cable operator(s) of its application for certification. Application shall be made in the manner and on the forms adopted by the FCC and notice shall be provided to the cable operator(s) before or on the same day of filing of the application.

(b) Upon the effective date of certification, the franchising authority shall provide notice to the cable operator(s) of its certification, its intention to regulate rates for the basic service tier, the equipment and installation necessary to receive the basic service tier and its intention to enforce customer service standards.

(c) In the event that the franchising authority shall not obtain certification, or that its certification shall be reconsidered and revoked, the franchising authority is hereby authorized to continue to enforce customer service standards and to take such steps as are necessary to receive certification.

(Ord. 1105 Sec. 2. Passed 9-27-93.)

### 309.03 REGULATORY AUTHORITY.

Pursuant to the power and authority granted to the franchising authority under the Cable Act of 1992, its certification by the FCC for regulating rates for the basic service tier, and rates for the equipment and installation necessary to receive the basic service tier, and other charges which may be regulated by the franchising authority pursuant to the regulations adopted by the FCC under the Cable Act of 1992, the franchising authority shall exercise regulatory power over the rates charged or to be charged to a subscriber for the basic service tier, and for the equipment and installation necessary to receive the basic service tier applicable to those subscribers of the cable operator(s).

(Ord. 1105 Sec. 3. Passed 9-27-93.)

### 309.04 RATE APPLICATIONS.

#### (a) Initial Procedures.

(1) The cable operator(s) shall give notice to its subscribers within ninety days (or three billing cycles) of the effective date of the rules adopted by the franchising authority, and all new subscribers at the time of installation, of the availability of the basic service tier.

(2) Each cable operator shall submit a rate application to the franchising authority for approval of that cable operator's current rates for the basic service tier and for approval of its rates for the equipment and installation necessary to receive the basic service tier, and for approval of any proposed rate increase.

A. The rate application for approval of current rates for the basic service tier and the rates for the equipment and installation necessary to receive the basic service tier shall be filed within thirty days of notice from the franchising authority to the cable operator(s) that the franchising authority has been certified by the FCC and has adopted the regulations required by the FCC for rate regulation.

B. The rate application for any proposed increase in rates for the basic service tier or for the equipment and installation necessary to receive the basic service tier shall be filed a minimum of thirty days before the effective date of the proposed increase.

- C. Included in a rate application shall be such information as is set forth in the application form adopted by the FCC.
  - D. The cable operator(s) shall submit any relevant information as is permitted by FCC rules, as contained on the application and worksheets adopted by the FCC for rate applications, and which the cable operator(s) would like the franchising authority to consider in evaluating the current rates for the basic service tier and/or for the equipment and installation necessary to receive the basic service tier, and/or in evaluating any proposed rate increase of those same items.
  - E. If the current rates for the basic service tier and/or for the equipment and installation necessary to receive the basic service tier, or any proposed rate increase exceeds the maximum permitted rates, the cable operator(s) may submit a cost-of-service rate application in conformity with FCC rules. Only the cable operator(s) may decide whether to submit a cost-of-service rate application.
- (3) The cable operator shall give written notice to its subscribers that a rate application has been filed at least thirty days prior to the effective date of any proposed rate increase. Such notice shall provide the name and address of the franchising authority before whom the rate application is pending.
- (4) The cable operator(s) bears the burden of proof that its current rates or any proposed rate increase complies with the statutes of the United States and the regulations of the FCC.
- (5) Within ten days of receipt of a rate application, the franchising authority shall provide notice in a newspaper of general circulation within the jurisdiction of the franchising authority, which notice shall contain at a minimum:
- A. The rate application has been received from the cable operator(s);
  - B. The manner in which interested parties may review and/or obtain copies of the rate application;
  - C. The effective date of the proposed rate increase, if that is the subject of the rate application;
  - D. The manner in which interested parties may offer their comments regarding the rate application;
  - E. The date all comments shall be received by the franchising authority; and
  - F. The date on which the franchising authority shall act on the rate application or the rate application shall have become effective without action.
- (6) Within thirty days of receipt of the rate application the franchising authority shall:
- A. Review the rate application and documentation submitted by the cable operator(s);
  - B. Compare the current rates, or the proposed rate increase submitted by the cable operator(s) with the maximum permitted rates or with such other applicable standards as have been adopted and/or approved by the FCC;
  - C. Consider any public input on the rate application which may have been provided; and

- D. Approve, disapprove or seek additional time to consider the rate application.
- (7) If the franchising authority shall fail to either approve, disapprove or seek additional time to consider the rate application within such thirty days, the rate application shall be deemed approved on the thirtieth day after submission.
- (b) Request for Additional Time.
- (1) Rate application. If the franchising authority is unable to determine from the rate application, including any supporting documentation submitted by the cable operator(s), whether the current rates for the basic service tier and/or for the equipment and installation necessary to receive the basic service tier and/or the proposed rate increase are within the maximum permitted rates, the franchising authority may, in cases not involving cost-of-service showings, take an additional ninety days to consider the rate application.
- A. The franchising authority shall issue an order and serve the same upon the cable operator(s) indicating that additional time is required to consider the rate application. The order shall be issued prior to the expiration of the thirty days during which the franchising authority may consider the rate application. Within seven days of issuance of such order, the franchising authority shall publish notice in a newspaper of general circulation within the jurisdiction of the franchising authority, which notice shall contain a summary of the order, including the additional time requested, and the reason for requesting such additional time.
- B. The cable operator may submit such additional information as it believes will cure any deficiencies in the rate application during the additional time.
- C. The franchising authority may require the cable operator(s) to furnish additional specified information, including proprietary information, when the current rate or proposed rate increase is in excess of the maximum permitted rate. When the current rate is equal to or below the maximum permitted rate, the franchising authority may only require furnishing of documentation that the rate is within the maximum permitted rate. Any proprietary information furnished to the franchising authority shall be retained as confidential in conformity with regulations adopted by the FCC in this regard, a copy of which regulations are on file with and available for review upon request to the franchising authority.
- D. If no decision is issued by the franchising authority at the expiration of the additional time, the current rates or proposed rate increase shall become effective, subject to any later refund order adopted by the franchising authority. Notwithstanding the foregoing, the franchising authority, in order to later order a refund, shall within the text of the order, direct the cable operator(s) to keep an accurate account of all amounts received by reason of the rate in issue and on whose behalf such amounts were paid.

- (2) Cost of service rate application. If the cable operator(s) has submitted a cost-of-service rate application and the franchising authority is unable to determine whether the current rates for the basic service tier and/or for the equipment and installation necessary to receive the basic service tier and/or the proposed rate increase are within the maximum permitted rates, the franchising authority may take an additional 150 days to consider the cost of service rate application.
- A. The franchising authority shall issue an order and serve the same upon the cable operator(s) indicating that additional time is required to consider the rate application because it is a cost-of-service rate application. The order shall be issued prior to the expiration of the thirty days during which the franchising authority may consider the rate application. Within seven days of issuance of such order, the franchising authority shall publish notice in a newspaper of general circulation within the jurisdiction of the franchising authority, which notice shall contain a summary of the order, including the additional time requested, and the reason for requesting such additional time.
- B. The franchising authority may require the cable operator(s) to furnish additional specified information, including proprietary information, when the current rate or proposed rate increase is in excess of the maximum permitted rate. When the current rate is equal to or below the maximum permitted rate, the franchising authority may only require furnishing of documentation that the rate is within the maximum permitted rate. Any proprietary information furnished to the franchising authority shall be retained as confidential in conformity with regulations adopted by the FCC in this regard, a copy of which regulations are on file with and available for review upon request to the franchising authority.
- C. If no decision is issued by the franchising authority at the expiration of the additional time, the current rates or proposed rate increase shall become effective, subject to any later refund order adopted by the franchising authority. Notwithstanding the foregoing, the franchising authority, in order to later order a refund, shall within the text of the order, direct the cable operator(s) to keep an accurate account of all amounts received by reason of the rate in issue and on whose behalf such amounts were paid.
- (c) Decision of the Franchising Authority.
- (1) The franchising authority shall issue a written opinion when:
- A. The rate application is not approved, in whole or in part, by the franchising authority;
- B. The rate application is approved by the franchising authority over the objection(s) of any interested party.
- (2) The franchising authority may, but is not required, to issue a written opinion when the rate application is approved and there have been no objections filed.
- (3) Within seven days of issuance of an opinion, the franchising authority shall provide notice in a newspaper of general circulation within the jurisdiction of the franchising authority, which notice shall contain at a minimum that:

- A. The franchising authority has reached a decision on the rate application, and announcing that decision;
  - B. The manner in which interested parties may review and/or obtain copies of the opinion;
  - C. The right of interested parties to take an appeal from the opinion of the franchising authority; and
  - D. The deadline for taking any such appeal.
- (4) Notice of the opinion of the franchising authority shall be provided to the cable operator(s) by mail within seven days of issuance.
- (d) Disapproval of the Rate Application.
- (1) Rate reduction.
- A. **Current Rates.** If the franchising authority shall issue an opinion disapproving the current rates of the cable operator(s) for the basic service tier or for rates for the equipment and installation necessary to receive the basic service tier, the franchising authority may order a reduction in the current rates for the basic service tier and/or for the equipment and installation necessary to receive the basic service tier. The prospective rate adjustment may be set at:
    - 1. A level consistent with the FCC adopted maximum permitted rates;
    - 2. Another rate, based on review of a cost-of-service rate application; or
    - 3. Another rate consistent with FCC rules.
  - B. **Proposed Rates.** If the franchising authority shall issue an opinion disapproving of any proposed rate increase, the franchising authority may:
    - 1. Prescribe a reasonable rate to be charged by the cable operator(s) instead of the proposed rate. The prescribed rate may not be lower than the maximum permitted rate unless a cost-of-service rate application has been submitted by the cable operator(s) and the franchising authority determines that the cost-of-service analysis justifies a lower rate; or
    - 2. Advise the cable operator(s) of a rate level to which it would not object if a modified rate application were resubmitted.
- (2) Refunds. The franchising authority may order a refund if:
- A. The cable operator failed to comply with a rate decision by the franchising authority. The refund period may be retroactive to the effective date of the rate order issued by the franchising authority.
  - B. The franchising authority determines in its initial review of the current rates that they exceed the maximum permitted rates and are unsupported by a cost-of-service rate application. In such instance the refund period may be retroactive to September 1, 1993 or one year prior to the date on which the cable operator(s) implement(s) the prospective rate adjustment, whichever is shorter.
  - C. The franchising authority:
    - 1. Has issued an order permitting it to take an additional ninety or 150 days to consider a rate application; and
    - 2. Has directed the cable operator(s) to keep an accurate account of all amounts received by reason of the rate in issue and on whose behalf such amounts were paid; but

3. Failed to issue an opinion during that time period, causing the rates to become provisionally effective, and the franchising authority later finds all or a portion of the rates to be unreasonable.

In such instance, the refund period may be retroactive to the date of the order and ending on the date on which the cable operator(s) implements the prospective rate reduction, or one year, whichever is shorter.

- (3) Before any refund order shall become effective, the franchising authority shall send notice to the cable operator(s), and provide such cable operator(s) a maximum of thirty days to submit additional information to the franchising authority as to why the refund should not be ordered. At the end of such period, the franchising authority shall either confirm, amend or rescind such refund order.
- (4) Refunds shall include interest computed at applicable rates published by the Internal Revenue Service for tax refunds and additional tax payments.
- (5) If any proposed rate increase has gone into effect due to inaction of the franchising authority or the failure of the franchising authority to issue an order stating a need for additional time, the franchising authority has no right to order a refund.
- (6) Any violation of any order issued hereunder shall be considered a violation of this article.  
(Ord. 1105 Sec. 4. Passed 9-27-93.)

#### 309.05 CUSTOMER SERVICE STANDARDS.

(a) Within ninety days of receipt by the cable operator(s) of written notice from the franchising authority of the franchising authority's intention to monitor and enforce the customer service standards adopted by the FCC, a copy of which are attached hereto as Exhibit A and incorporated herein by reference, the cable operator(s) shall comply with such standards.

(b) At the next billing cycle after receipt of such notice, as to its existing subscribers, and at the time of installation for new subscribers, the cable operator(s) shall provide its subscribers with notice of its customer service standards, and shall provide such subscribers with the name of the franchising authority or contact person for such franchising authority that the subscriber should contact to report any violation, or alleged violation of such customer service standards.

(c) The franchising authority, upon receipt of a complaint of an alleged violation of the customer service standards by the cable operator(s), or upon discovery of a violation on its own accord, shall provide notice of the same to the cable operator(s), who may respond thereto within ten days of such notice.

(d) The franchising authority, upon receipt of a complaint of an alleged violation of the customer service standards by the cable operator(s), or upon discovery of a violation on its own accord, shall provide notice of the same to the cable operator(s), who may respond thereto within ten days of such notice.

(e) Any failure of the cable operator(s) to cure a violation of the customer service standards within such time as shall be set by the franchising authority, or to timely respond to a notice from the franchising authority regarding a violation, shall be a violation of this article.  
(Ord. 1105 Sec. 5. Passed 9-27-93.)

### 309.06 ENFORCEMENT.

(a) Cumulative Remedies. Where this article provides alternative penalties or remedies, they shall be cumulative and the imposition of one penalty or remedy shall not prevent the franchising authority from invoking any other penalty or remedy provided herein.

(b) In addition to all other rights and remedies provided herein, the franchising authority shall have all rights and remedies afforded under the franchise agreement.

(c) Unless otherwise provided, any person convicted of violating any provision of this article, including any order issued or any rule or regulation promulgated hereunder, shall, upon conviction, be fined not more than five hundred dollars (\$500.00) and costs for each offense, and in default of payment thereof may be imprisoned for not more than ninety days. Each day of a continuing violation shall constitute a separate and distinct offense. (Ord. 1105 Sec. 6. Passed 9-27-93.)

### 309.07 RATEMAKING APPEALS.

Appeals of all ratemaking decisions by the franchising authority may be taken to the FCC by the cable operator(s), subscribers or other interested parties.

(a) Appeals shall be filed within thirty days of the date of public release of the franchising authority's opinion.

(b) Oppositions to an appeal shall be filed within fifteen days after the filing of the appeal and shall be served on the party appealing.

(c) Replies to oppositions shall be filed within seven days of the filing of an opposition and served on all parties. (Ord. 1105 Sec. 7. Passed 9-27-93.)

### 309.08 OTHER MATTERS.

#### (a) Cable Programming Service Rates.

(1) The franchising authority is hereby authorized to file complaints with the FCC on behalf of itself and/or any subscriber(s) who files a complaint with the franchising authority for those cable programming service rates solely regulated by the FCC.

(2) The decision to file a complaint with the FCC by the franchising authority shall be in the sole discretion of the franchising authority.

(3) Any such complaint filed by the franchising authority shall be in conformity with the rules of the FCC.

(4) The franchising authority, if it chooses not to file a complaint may, but is not required, to assist a subscriber in filing a complaint.

(5) No formal review or adjudication by the franchising authority of any such complaint is permitted.

#### (b) Information to be Included in Billing.

(1) A cable operator(s) shall provide the following information to subscribers on monthly bills:

A. The name and mailing address of the franchising authority; and

B. The FCC community unit identifier for the cable system.

(2) A cable operator(s) shall provide notice to the franchising authority at least thirty days in advance of any change in rates for cable programming service or associated equipment.

(Ord. 1105 Sec. 8. Passed 9-27-93.)

**309.09 SEVERANCE.**

This article is adopted pursuant to Pennsylvania law and the authority given to the franchising authority under the Cable Act of 1992 and the regulations adopted by the FCC thereunder. If any portion of this article shall become invalid or unenforceable as a result of any subsequent federal legislation, or FCC regulation, such invalidity and/or unenforceability shall not affect the validity and enforceability of the remainder of this article, and the same shall be interpreted as if the invalid or unenforceable provision were not a part hereof.  
(Ord. 1105 Sec. 9. Passed 9-27-93.)

**309.10 EFFECTIVE DATE.**

This article shall become effective October 16, 1993.  
(Ord. 1105 Sec. 10. Passed 9-27-93.)

TITLE THREE - Taxation

- Art. 321. Amusement Tax. (Repealed)
- Art. 325. Realty Transfer Tax.
- Art. 329. Earned Income Tax.
- Art. 333. Mechanical Devices Tax.
- Art. 337. Real Estate Tax.
- Art. 341. Business Privilege Tax.
- Art. 343. Local Economic Revitalization Tax Assistance (LERTA) Program.
- Art. 345. Tax Assessment Limitation Program.
- Art. 347. Local Services Tax.

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ARTICLE 321  
Amusement Tax

EDITOR'S NOTE: Former Article 321 consisting of Sections 321.01 to 321.13 and 321.99 was repealed by Ordinance 757, passed February 5, 1979. See Article 307.



ARTICLE 325  
 Realty Transfer Tax

<p>325.01 Short title.          325.02 Authority.          325.03 Definitions.          325.04 Imposition of tax; interest.          325.05 Exempt parties.          325.06 Excluded transactions.          325.07 Documents relating to          associations or corporations,          and members, partners,          stockholders or          shareholders thereof.          325.08 Acquired company.          325.09 Credits against tax.          325.10 Extension of lease.</p>	<p>325.11 Proceeds of judicial sale.          325.12 Duties of recorder of deeds.          325.13 Statement of value.          325.14 Civil penalties.          325.15 Lien.          325.16 Enforcement.          325.17 Regulations.          325.18 Severability.          325.19 Effective date.          325.99 Penalty.</p>
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CROSS REFERENCES

Power to tax - see Local Tax Enabling Act §1 (53 P.S. §6901)  
 Limitations on rate of tax - see Local Tax Enabling Act §8  
 (53 P.S. §6908)  
 Realty transfers - see 72 P.S. §3283 et seq.  
 Local real estate transfer tax - see 72 P.S. §8101-D et seq.

325.01 SHORT TITLE.

This article shall be known as the "Realty Transfer Tax Ordinance of the Town of McCandless". (Ord. 967. Passed 11-23-87.)

325.02 AUTHORITY.

A realty transfer tax for general revenue purposes is hereby imposed upon the transfer of real estate or any interest in real estate situated within the Town of McCandless, regardless of where the documents making the transfer are made, executed or delivered, or where the actual settlements on such transfer take place as authorized by Article XI-D "Local Real Estate Transfer Tax," 72 P.S. § 8101-D et seq. (Ord. 967. Passed 11-23-87.)

**325.03 DEFINITIONS.**

As used in this article certain terms are defined as follows:

- (a) "Association" means a partnership, limited partnership or any other form of unincorporated enterprise owned or conducted by two or more persons other than a private trust or decedent's estate.
- (b) "Corporation" means a corporation, joint-stock association, business trust or banking institution which is organized under the laws of this Commonwealth, the United States or any other state, territory, foreign country or dependency.
- (c) "Document" means any deed, instrument or writing which conveys, transfers, demises, vests, confirms or evidences any transfer or demise of title to real estate, but does not include wills, mortgages, deeds of trust or other instruments of like character given as security for a debt and deeds of release thereof to the debtor, land contracts whereby the legal title does not pass to the grantee until the total consideration specified in the contract has been paid or any cancellation thereof unless the consideration is payable over a period of time exceeding thirty years, or instruments which solely grant, vest or confirm a public utility easement. "Document" also includes a declaration of acquisition required to be presented for recording under Section 325.08.
- (d) "Family farm corporation" means a corporation of which at least seventy-five percent (75%) of its assets are devoted to the business of agriculture and at least seventy-five percent (75%) of each class of stock of the corporation is continuously owned by members of the same family. The business of agriculture shall not be deemed to include:
  - (1) Recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing;
  - (2) The raising, breeding or training of game animals or game birds, fish, cats, dogs or pets or animals intended for use in sporting or recreational activities;
  - (3) Fur farming;
  - (4) Stockyard and slaughterhouse operations; or
  - (5) Manufacturing or processing operations of any kind.
- (e) "Governing body" means the Town of McCandless.
- (f) "Members of the same family" means any individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendants of any of the foregoing, a spouse of any of the foregoing, and the estate of any of the foregoing. Individuals related by the half-blood or legal adoption shall be treated as if they were related by the whole-blood.
- (g) "Person" means every natural person, association or corporation. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term "person" as applied to associations, shall include the responsible members or general partners thereof, and as applied to corporations, the officers thereof.

- (h) "Real estate" means:
- (1) All lands, tenements or hereditaments within the Town, including without limitation buildings, structures, fixtures, mines, minerals, oil, gas, quarries, spaces with or without upper or lower boundaries, trees and other improvements, immovables or interests which by custom, usage or law pass with a conveyance of land, but excluding permanently attached machinery and equipment in an industrial plant;
  - (2) A condominium unit; or
  - (3) A tenant-stockholder's interest in a cooperative housing corporation, trust or association under a proprietary lease or occupancy agreement.
- (i) "Real estate company" means a corporation or association which is primarily engaged in the business of holding, selling or leasing real estate, ninety percent (90%) or more of the ownership interest in which is held by thirty-five or fewer persons and which:
- (1) Derives sixty percent (60%) or more of its annual gross receipts from the ownership or disposition of real estate; or
  - (2) Holds real estate, the value of which comprises ninety percent (90%) or more of the value of its entire tangible asset holdings exclusive of tangible assets which are freely transferable and actively traded on an established market.
- (j) "Title to real estate" means:
- (1) Any interest in real estate which endures for a period of time, the termination of which is not fixed or ascertained by a specific number of years, including without limitation an estate in fee simple, life estate or perpetual leasehold; or
  - (2) Any interest in real estate enduring for a fixed period of years but which, either by reason of the length of the term or the grant of a right to extend the term by renewal or otherwise, consists of a group of rights approximating those of an estate in fee simple, life estate or perpetual leasehold, including without limitation a leasehold interest or possessory interest under a lease or occupancy agreement for a term of thirty years or more or a leasehold interest or possessory interest in real estate in which the lessee has equity.
- (k) "Transaction" means the making, executing, delivering, accepting or presenting for recording of a document.
- (l) "Value" means:
- (1) In the case of any bona fide sale of real estate at arm's length for actual monetary worth, the amount of the actual consideration therefor, paid or to be paid, including liens or other encumbrances thereon existing before the transfer and not removed thereby, whether or not the underlying indebtedness is assumed, and ground rents, or a commensurate part thereof where such liens or other encumbrances and ground rents also encumber or are charged against other real estate. Provided, that where such documents shall set forth a nominal consideration, the "value" thereof shall be determined from the price set forth in or actual consideration for the contract of sale;

- (2) In the case of a gift, sale by execution upon a judgment or upon the foreclosure of a mortgage by a judicial officer, transactions without consideration or for consideration less than the actual monetary worth of the real estate, a taxable lease, an occupancy agreement, a leasehold or possessory interest, any exchange of properties or the real estate of an acquired company, the actual monetary worth of the real estate shall be determined by adjusting the assessed value of the real estate for local real estate tax purposes by the common level ratio factor developed by the Pennsylvania Department of Revenue for Pennsylvania realty transfer tax base calculation;
- (3) In the case of an easement or other interest in real estate the value of which is not determinable under subsection (1)(1) or (2) hereof, the actual monetary worth of such interest; or
- (4) The actual consideration for or actual monetary worth of any executory agreement for the construction of buildings, structures or other permanent improvements to real estate between the grantor and other persons existing before the transfer and not removed thereby or between the grantor, the agent or principal of the grantor of a related corporation, association or partnership and the grantee existing before or effective with the transfer.  
(Ord. 967. Passed 11-23-87.)

#### 325.04 IMPOSITION OF TAX; INTEREST.

(a) Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording, shall be subject to pay to the Town of McCandless, pursuant to the authority of the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 P.S. Section 6901 et seq., for and in respect to the transaction or any part thereof, a tax at the rate of one percent (1%) of the value of the real estate represented by such document, which tax shall be payable to the Town of McCandless at the earlier of the time the document is presented for recording or within thirty (30) days of acceptance of such document or within thirty (30) days of becoming an acquired company. It is the intent of this paragraph that the entire burden of the one percent (1%) tax imposed by the Town of McCandless, pursuant to the authority granted to it by the Local Tax Enabling Act, by this Paragraph on a person or transfer shall not exceed the limitations prescribed in the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 P.S. §6901 et seq., so that if any other political subdivision shall impose or hereafter shall impose such tax on the same person or transfer, then the tax levied by the Town of McCandless in this Paragraph, under the authority of the Local Tax Enabling Act shall, during the time such duplication of the tax exists, except as hereinafter otherwise provided, be one-half (½) of the rate, and such one-half (½) rate shall become effective without any action on the part of the Town of McCandless; provided, however, that the Town of McCandless and any other political subdivision which imposes such tax on the same person or transfer may agree that, instead of limiting their respective rates to one-half (½) of the rate herein provided, they will impose, respectively, different rates, the total of which shall not exceed the maximum rate permitted under the Local Tax Enabling Act.

(b) Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording, shall (in addition to the tax imposed by Paragraph A of this section) also be subject to pay to the Town of McCandless, pursuant to the authority of the Home Rule Charter for the Town of McCandless and the Pennsylvania "Home Rule Charter and Optional Plans Law", for and in respect to the transaction or any part thereof, an additional tax at the rate of one-half percent ( $\frac{1}{2}\%$ ) of the value of the real estate represented by such document, which tax shall be payable solely to the Town of McCandless at the earlier of the time the document is presented for recording or within thirty (30) days of acceptance of such document or within thirty (30) days of becoming an acquired company. It is the intent of this Paragraph that the additional tax of one-half percent ( $\frac{1}{2}\%$ ) imposed herein be and is imposed pursuant to the authority granted to the Town of McCandless by the Home Rule Charter for the Town of McCandless and the Pennsylvania "Home Rule Charter and Optional Plans Law" and, as such, is in addition to the tax set forth in Paragraph A of this section and is not subject to any of the limitations set forth either in Paragraph A of this section or in the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 P.S. Section 6901 et seq.

(c) The payment to the Town of McCandless of the taxes imposed by Paragraphs A and B of this section shall be evidenced by the affixing of an official stamp or writing by the Recorder wherein the date of the payment of the taxes, the amount thereof and the signature of the collecting agent shall be set forth. (Ord. 1311. Passed 12-20-04.)

(d) The tax imposed under Section 325.04 and all applicable interest and penalties shall be administered, collected and enforced under the Act of December 31, 1965 (P.L. 1257, No. 511, as amended), known as "The Local Tax Enabling Act;" provided that if the correct amount of the tax is not paid by the last date prescribed for timely payment, the Town of McCandless, pursuant to Section 1102-D of the Tax Reform Code of 1971 (P.S. 8102-D), authorizes and directs the Department of Revenue of the Commonwealth of Pennsylvania to determine, collect and enforce the tax, interest and penalties.

(e) Any tax imposed under Section 325.04 that is not paid by the date the tax is due shall bear interest as prescribed for interest for delinquent municipal claims under the Act of May 16, 1923 (P.L. 207, No. 153) (53 P.S. 7101, et seq.), as amended, known as "The Municipal Claims and Tax Liens Act." The interest rate shall be the lesser of the interest rate imposed upon delinquent Commonwealth taxes as provided in Section 806 of the Act of April 9, 1929 (P.L. 343, No. 176) (72 P.S. 806), as amended, known as "The Fiscal Code," or the maximum interest rate permitted under the Municipal Claims and Tax Liens Act for tax claims. (Ord. 1340. Passed 2-26-07.)

#### 325.05 EXEMPT PARTIES.

The United States, the Commonwealth or any of their instrumentalities, agencies or political subdivisions shall be exempt from payment of the tax imposed by this article. The exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax. (Ord. 967. Passed 11-23-87.)

**325.06 EXCLUDED TRANSACTIONS.**

The tax imposed by Section 325.04 shall not be imposed upon:

- (a) A transfer to the Commonwealth, or to any of its instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation or deed of confirmation in connection with condemnation proceedings, or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation which reconveyance may include property line adjustments provided such reconveyance is made within one year from the date of condemnation;
- (b) A document which the Town is prohibited from taxing under the Constitution or statutes of the United States;
- (c) A conveyance to a municipality, township, school district or county pursuant to acquisition by the municipality, township, school district or county of a tax delinquent property at sheriff sale or tax claim bureau sale;
- (d) A transfer for no or nominal actual consideration which corrects or confirms a transfer previously recorded, but which does not extend or limit existing record legal title or interest;
- (e) A transfer or division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by cotenants; however, if any of the parties take shares greater in value than their undivided interest, tax is due on the excess;
- (f) A transfer between husband and wife, between persons who were previously husband and wife who have since been divorced, provided the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister and brother or sister of the spouse of a brother or sister, and between a grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within one year shall be subject to tax as if the grantor were making such transfer;
- (g) A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a decedent to the decedent's devisee or heir;
- (h) A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries, whether or not such beneficiaries are contingent or specifically named. No such exemption shall be granted unless the recorder of deeds is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries;
- (i) A transfer for no or nominal actual consideration from a trustee to a beneficiary of an ordinary trust;
- (j) A transfer for no or nominal actual consideration from trustee to successor trustee;
- (k) A transfer:
  - (1) For no or nominal actual consideration between principal and agent or straw party; or
  - (2) From or to an agent or straw party where, if the agent or straw party were his principal, no tax would be imposed under this article.

Where the document by which title is acquired by a grantee or statement of value fails to set forth that the property was acquired by the grantee from, or for the benefit of, his principal, there is a rebuttable presumption that the property is the property of the grantee in his individual capacity if the grantee claims an exemption from taxation under this clause;

- (l) A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, except where the department reasonably determines that the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this article;
- (m) A transfer from a corporation or association of real estate held of record in the name of the corporation or association where the grantee owns stock of the corporation or an interest in the association in the same proportion as his interest in or ownership of the real estate being conveyed and where the stock of the corporation or the interest in the association has been held by the grantee for more than two years;
- (n) A transfer from a nonprofit industrial development agency or authority to a grantee of property conveyed by the grantee to that agency or authority as security for a debt of the grantee or a transfer to a nonprofit industrial development agency or authority;
- (o) A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if:
  - (1) The grantee shall directly use such real estate for the primary purpose of manufacturing, fabricating, compounding, processing, publishing, research and development, transportation, energy conversion, energy production, pollution control, warehousing or agriculture; and
  - (2) The agency or authority has the full ownership interest in the real estate transferred;
- (p) A transfer by a mortgagor to the holder of a bona fide mortgage in default in lieu of a foreclosure or a transfer pursuant to a judicial sale in which the successful bidder is the bona fide holder of a mortgage, unless the holder assigns the bid to another person;
- (q) Any transfer between religious organizations or other bodies or persons holding title for a religious organization if such real estate is not being or has been used by such transferor for commercial purposes;
- (r) A transfer to a conservancy which possesses a tax exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code of 1954, (68A Stat. 3, 26 U.S.C. § 501(c)(3) ) and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities;
- (s) A transfer of real estate devoted to the business of agriculture to a family farm corporation by a member of the same family which directly owns at least seventy-five percent (75%) of each class of the stock thereof.
- (t) A transfer between members of the same family of an ownership interest in a real estate company or family farm corporation;
- (u) A transaction therein the tax due is one dollar (\$1.00) or less; or
- (v) Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof.

In order to exercise any exclusion provided in this section, the true, full and complete value of the transfer shall be shown on the statement of value. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. For leases of coal, oil, natural gas or minerals, the statement of value may be limited to an explanation of the reason such document is not subject to tax under this article. (Ord. 967. Passed 11-23-87.)

**325.07 DOCUMENTS RELATING TO ASSOCIATIONS OR CORPORATIONS, AND MEMBERS, PARTNERS, STOCKHOLDERS OR SHAREHOLDERS THEREOF.**

Except as otherwise provided in Section 325.06, documents which make, conform or evidence any transfer or demise of title to real estate between associations or corporations and the members, partners, shareholders or stockholders thereof are fully taxable. For the purposes of this article, corporations and associations are entities separate from their members, partners, stockholders or shareholders. (Ord. 967. Passed 11-23-87.)

**325.08 ACQUIRED COMPANY.**

(a) A real estate company is an acquired company upon a change in the ownership interest in the company, however affected, if the change does not affect the continuity of the company; and of itself or together with prior changes has the effect of transferring, directly or indirectly, ninety percent (90%) or more of the total ownership interest in the company within a period of three years.

(b) With respect to real estate acquired after February 16, 1986, a family farm corporation is an acquired company when because of voluntary or involuntary dissolution, it ceases to be a family farm corporation or when, because of issuance or transfer of stock or because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm corporation under this article.

(c) Within thirty days after becoming an acquired company, the company shall present a declaration of acquisition to the recorder of each county in which it holds real estate for the affixation of documentary stamps and recording. Such declaration shall set forth the value of real estate holdings of the acquired company in such county. A copy of the Pennsylvania Realty Transfer Tax Declaration of Acquisition may be submitted for this purpose. (Ord. 967. Passed 11-23-87.)

**325.09 CREDITS AGAINST TAX.**

(a) Where there is a transfer of a residential property by a licensed real estate broker which property was transferred to him within the preceding year as consideration for the purchase of other residential property, a credit for the amount of the tax paid at the time of the transfer to him shall be given to him toward the amount of the tax due upon the transfer.

(b) When there is a transfer by a builder of residential property which was transferred to the builder within the preceding year as consideration for the purchase of new, previously unoccupied residential property, a credit for the amount of the tax paid at the time of the transfer to the builder shall be given to the builder toward the amount of the tax due upon the transfer.

(c) Where there is a transfer of real estate which is leased by the grantor, a credit for the amount of tax paid at the time of the lease shall be given the grantor toward the tax due upon the transfer.

(d) Where there is a conveyance by deed of real estate which was previously sold under a land contract by the grantor, a credit for the amount of tax paid at the time of the sale shall be given the grantor toward the tax due upon the deed.

(e) If the tax due upon the transfer is greater than the credit given under this section, the difference shall be paid. If the credit allowed is greater than the amount of tax due, no refund or carryover credit shall be allowed. (Ord. 967. Passed 11-23-87.)

### 325.10 EXTENSION OF LEASE.

In determining the term of a lease, it shall be presumed that a right or option to renew or extend a lease will be exercised if the rental charge to the lessee is fixed or if a method for calculating the rental charge is established. (Ord. 967. Passed 11-23-87.)

### 325.11 PROCEEDS OF JUDICIAL SALE.

The tax herein imposed shall be fully paid, and have priority out of the proceeds of any judicial sale of real estate before any other obligation, claim, lien, judgment, estate or costs of the sale and of the writ upon which the sale is made except the State realty transfer tax, and the sheriff, or other officer, conducting such sale, shall pay the tax herein imposed out of the first moneys paid to him in connection therewith. If the proceeds of the sale are insufficient to pay the entire tax herein imposed, the purchaser shall be liable for the remaining tax. (Ord. 967. Passed 11-23-87.)

### 325.12 DUTIES OF RECORDER OF DEEDS.

(a) As provided in 16 P.S. §11011-6, as amended by the Act of July 7, 1983, (P.L. 40, No. 21), the recorder of deeds shall be the collection agent for the local realty transfer tax, including any amount payable to the Town based on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania Realty Transfer Tax, without compensation from the Town.

(b) In order to ascertain the amount of taxes due when the property is located in more than one political subdivision, the recorder shall not accept for recording such a deed unless it is accompanied by a statement of value showing what taxes are due each municipality.

(c) On or before the tenth of each month, the recorder shall pay over to the Town all local realty transfer taxes collected, less two percent (2%) for use of the county, together with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collections of the Pennsylvania Realty Transfer Tax. The two percent (2%) commission shall be paid to the county.

(d) Upon a redetermination of the amount of realty transfer tax due by the Commonwealth of Pennsylvania, the recorder shall rerecord the deed or record the additional realty transfer tax form only when both the State and local amounts and a rerecording or recording fee has been tendered. (Ord. 967. Passed 11-23-87.)

### 325.13 STATEMENT OF VALUE.

Every document lodged with or presented to the recorder of deeds for recording, shall set forth therein and as a part of such document the true, full and complete value thereof, or shall be accompanied by a statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this article. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. The provisions of this section shall not apply to any excludable real estate transfers which are exempt from taxation based on family relationship. Other documents presented for the affixation of stamps shall be accompanied by a certified copy of the document and statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this article. (Ord. 967. Passed 11-23-87.)

**325.14 CIVIL PENALTIES.**

(a) If any part of any underpayment of tax imposed by this article is due to fraud, there shall be added to the tax an amount equal to fifty percent (50%) of the underpayment.

(b) In the case of failure to record a declaration required under this article on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause, there shall be added to the tax five percent (5%) of the amount of such tax if the failure is for not more than one month, with an additional five percent (5%) for each additional month or fraction thereof during which such failure continues, not exceeding fifty percent (50%) in the aggregate. (Ord. 967. Passed 11-23-87.)

**325.15 LIEN.**

The tax imposed by this article shall become a lien upon the lands, tenements or hereditaments, or any interest therein, lying, being situated, wholly or in part within the boundaries of the Town which lands, tenements, hereditaments or interest therein, are described in or conveyed by or transferred by the deed which is the subject of the tax imposed, assessed and levied by this article, such lien to begin at the time when the tax under this article is due and payable, and continue until discharge by payment, or in accordance with the law, and the Town attorney is authorized to file a municipal or tax claim in the Court of Common Pleas of Allegheny County, in accordance with the provisions of the Municipal Claims and Liens Act of 1923, 53 P.S. §7101 et seq., its supplements and amendments. (Ord. 967. Passed 11-23-87.)

**325.16 ENFORCEMENT.**

All taxes imposed by this article together with interest and penalties prescribed herein, shall be recoverable as other debts of like character are recovered. (Ord. 967. Passed 11-23-87.)

**325.17 REGULATIONS.**

The Town Attorney is charged with enforcement and collection of tax and is empowered to promulgate and enforce reasonable regulations for enforcement and collection of the tax. The regulations which have been promulgated by the Pennsylvania Department of Revenue under 72 P.S. §8101-C et seq. are incorporated into and made a part of this article. (Ord. 967. Passed 11-23-87.)

**325.18 SEVERABILITY.**

Should any section, subsection, sentence, clause or phrase of this article be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this article in its entirety or any part thereof other than that declared to be invalid. (Ord. 967. Passed 11-23-87.)

**325.19 EFFECTIVE DATE.**

This article shall become effective ten days after the notice of its enactment is published in a newspaper of general circulation in the Town. (Ord. 967. Passed 11-23-87.)

**325.99 PENALTY.**

Whoever violates any provision of this article shall be fined not more than five hundred dollars (\$500.00) for each offense and costs, and, in default of payment of such fine and costs, shall be imprisoned for not more than thirty days. The penalty imposed under this section shall be in addition to any other penalty imposed by any other section of this article. (Ord. 967. Passed 11-23-87; Ord. 1340. Passed 9-26-07.)

ARTICLE 329  
Earned Income Tax

EDITOR'S NOTE: The present Town Treasurer's term will expire on the first Monday of 1978. Thereafter, in accordance with Charter provisions §1602(b) and §702(2) the Town Manager will assume the Treasurer's duties.

329.01 Short title.	329.07 Suit for collection of tax.
329.02 Definitions.	329.08 Interest and penalties.
329.03 Imposition of tax.	329.09 Payment under protest and refunds.
329.04 Declaration and payment of tax.	329.10 Exemptions.
329.05 Collection at source.	329.11 Credit. (Repealed)
329.06 Appointment of Collector; powers and duties.	329.99 Penalty.

CROSS REFERENCES

Register for taxes - see Local Tax Enabling Act §9 (53 P.S. §6909)  
Collection of taxes - see Local Tax Enabling Act §10 (53 P.S. 6910)  
Collection of delinquent taxes - see Local Tax Enabling Act §19 (53 P.S. §6919)

329.01 SHORT TITLE.

This article shall be known as "The McCandless Income Tax Ordinance", and such term shall be its short title and full identification thereof. (Ord. 133 §1. Passed 11-14-56.)

329.02 DEFINITIONS.

The following words and phrases, when used in this article, shall have the meanings, ascribed to them in this section, except where the context clearly indicates or requires a different meaning:

- (a) "Association" means a partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons.
- (b) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association or any other entity.
- (c) "Collector" means that person or agency duly authorized to collect the tax imposed herein. The singular shall include the plural, and the masculine shall include the feminine and the neuter.



- (d) "Corporation" mean a corporation or joint stock association organized under the laws of the United States, the State of Pennsylvania, or any other state, territory, foreign country or dependency. (Ord. 133. Passed 11-14-56.)
- (e) "Earned income" means compensation as determined under Section 303 of the act of March 4, 1971 (P.L. 6, No. 2.), known as the "Tax Reform Code of 1971," and regulations in 61 Pa. Code Pt. I Subpt. B Art. V (relating to personal income tax). Employee business expenses are allowable deductions as determined under Article III of the "Tax Reform Code of 1971." The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income. (Ord. 1294. Passed 12-15-03.)
- (f) "Employer" means an individual, partnership, association, corporation, governmental body or unit or agency, or any other entity employing one or more persons on a salary, wage, commission or other compensation basis. (Ord. 133. Passed 11-14-56.)
- (g) "Net profits" means the net income from the operation of a business, profession, or other activity, except corporations, determined under Section 303 of the act of March 4, 1971 (P.L. 6, No. 2) known as the "Tax Reform Code of 1971," and regulations in 61 Pa. Code Pt. 1 Subpt. B Art. V (relating to personal income tax). The term does not include income which is not paid for services provided and which is in the nature of earnings from an investment. For taxpayers engaged in the business, profession or activity of farming, the term shall not include:
- (1) Any interest earnings generated from any monetary accounts or investment instruments of the farming business;
  - (2) Any gain on the sale of farm machinery;
  - (3) Any gain on the sale of livestock held twelve months or more for draft, breeding or dairy purposes; and
  - (4) Any gain on the sale of other capital assets of the farm.
- (Ord. 1294. Passed 12-15-03.)
- (h) "Nonresident" means an individual, partnership, association or other entity domiciled outside the Town of McCandless.
- (i) "Person" means a natural person, partnership, corporation, fiduciary or association. Whenever used in any section prescribing and imposing a penalty, the term "person", as applied to associations, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.
- (j) "Resident" means an individual, partnership, association, or other entity domiciled in the Town of McCandless.
- (k) "Salaries, wages, commissions and other compensation" includes salaries, wages, commissions, bonuses, incentive payments, fees and tips that may accrue or be received by an individual for services rendered, whether directly or through an agent and whether in cash or in property, but shall not include periodic payments for sick or disability benefits and those commonly recognized as old age benefits, retirement pay or pensions paid to persons retired from service after reaching a specific age or after a stated period of employment, nor any wages or compensation paid by the United States to any person for active service in the Army, Navy or Air Force of the United States nor any bonus or additional compensation paid by the United States or the Commonwealth of Pennsylvania or any other state for such service.
- (l) "Taxpayer" means a person, whether an individual, partnership, association or any other entity, required hereunder to file a return of earnings or net profits, or to pay a tax thereon. (Ord. 133 §2. Passed 11-14-56.)

**329.03 IMPOSITION OF TAX.**

(a) A tax for Town of McCandless general revenue purposes of one-half percent (0.5%) is hereby imposed on the following:

- (1) Salaries, wages, commissions and other compensation earned on and after the first day of the year following the enactment or re-enactment of this article, by residents of the Town.
- (2) Net profits, earned on and after the first day of the year following the enactment or re-enactment of this article, of businesses, professions and other activities conducted by residents of the Town.

(b) A tax for Town of McCandless general revenue purposes of one percent (1.0%) is hereby imposed on the following:

- (1) Salaries, wages, commissions and other compensation earned on and after the first day of the year following the enactment or re-enactment of this article, by nonresidents of the Town for work done or services performed or rendered in the Town.
- (2) Net profits, earned on and after the first day of the year following the enactment or re-enactment of this article, of businesses, professions and other activities conducted in the Town by nonresidents.

The tax levied under subsections (a)(1) and (b)(1) hereof shall relate to and be imposed upon salaries, wages, commissions and other compensation paid by an employer or on his behalf to any person who is employed by or renders services to him. The tax levied under subsections (a)(2) and (b)(2) hereof shall relate to and be imposed on the net profits of any business, profession or enterprise carried on by any person as owner or as proprietor, either individually or in association with some other person or persons.

This article hereby imposes upon all persons designated herein the duty to pay the tax to the Collector at times designated, and to file the proper returns and declarations in accordance with the requirements herein, regardless of whether or not there is a duty upon the employer of the taxpayer to withhold the same from the taxpayer's salaries, wages, commissions or other compensation. In the event that an employer fails to withhold moneys of the taxpayer, the taxpayer is, nevertheless required to pay the same.  
(Ord. 14 0 2. Passed 1-1-12.)

**329.04 DECLARATION AND PAYMENT OF TAX.**

(a) Every taxpayer who anticipates any net profits, or any earnings not subject to the provisions of Section 329.05, relating to collection at source, shall, on or before April 15 of the year following the enactment or re-enactment of this article, make and file with the Collector on a form prescribed by the Collector, a declaration of his estimated net profits or earnings during the period beginning January 1 and ending December 31 of the year following the enactment or re-enactment of this article, setting forth the estimated amount of net profits or earnings anticipated by him during such period and subject to the tax, together with such other information as the Collector may require.

(b) The declaration shall show the estimated amount of tax imposed by this article on such estimated net profits or earnings, the estimated amount of tax which will be collected at source in accordance with Section 329.05, and the balance due. The taxpayer making the declaration shall, at the time of filing thereof, pay the Collector the estimated amount of tax shown as due thereon. However, the taxpayer shall have the right to pay the estimated tax, or the balance of estimated tax due, as shown on his return, in four quarterly installments as follows: the first installment at the time of filing the declaration on or before April 15, and the other installments on or before July 15, October 15 and December 31, respectively, of the year following the enactment or re-enactment of this article.

(c) Any taxpayer, who first anticipates any net profits, or any earnings not subject to the provisions of Section 329.05 relating to collection at source, after April 15 of the year following the enactment or re-enactment of this article, shall make and file the declaration hereinabove required on or before July 15, October 15 or December 31 of the year following the enactment or re-enactment of this article, whichever of these dates next follows the date on which the taxpayer first anticipates such net profits or earnings.

The taxpayer making the declaration shall, at the time of filing thereof, pay to the Collector the estimated amount of tax shown due thereon. However, the taxpayer shall have the right to pay the estimated tax, or the balance of the estimated tax due, as shown on his return, in equal installments on or before the quarterly installment payment dates which remain after the filing of the declaration. (Ord. 133 §4. Passed 11-14-56.)

(d) On or before April 15 of the year succeeding the taxable year, every taxpayer who receives earnings or net profits shall make and file with the Collector on a prescribed form a final return showing all net profits or earnings for the period beginning January 1 and ending December 31 of the taxable year, the total amount of tax due, the amount of estimated tax paid under the provisions of this section, the amount of tax deducted under the provisions of Section 329.05, and the balance due. However, any taxpayer may, in lieu of paying the fourth quarterly installment of his estimated tax, elect to make and file with the Collector on or before January 31 of the year following the taxable year, the final return as hereinabove required. At the time of filing the final return each taxpayer shall pay the balance of the tax due or shall make demand for refund or credit in the case of overpayment. (Ord. 1246. Passed 5-21-01.)

(e) Every taxpayer who discontinues business prior to December 31 of the year following the enactment or re-enactment of this article shall, within seven days after the discontinuance of business, file his final return as hereinabove required and pay the tax due.

(f) Every employee receiving any earnings which are not subject to the provisions of Section 329.05 relating to collection at source, who terminates his employment prior to December 31 of the year following the enactment or re-enactment of this article shall, within seven days after such termination, file his final return as hereinabove required and pay the tax due.

(g) The Collector may, upon proper application by the taxpayer, and in accordance with regulations set therefor, grant extensions of time for payments of tax as provided in this section. (Ord. 133 §4. Passed 11-14-56.)

(h) Under the authority of Act No. 511 of the General Assembly of the Commonwealth of Pennsylvania, approved December 13, 1965, P.L. 1189 as amended, the Collector is hereby directed to require all township residents who receive any earned income not subject to the provisions of the Income Tax Ordinance relating to collection at source to make and file with the collector a quarterly return on or before April 30 of the current year, July 31 of the current year, October 31 of the current year and January 31 of the succeeding year, setting forth the aggregate amount of earned income not subject to withholding made during the three month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year and December 31 of the current year, respectively, together with such other information as the collector may require. Every taxpayer making such return shall, at the time of filing thereof, pay to the collector the amount of tax shown as due thereon. (Ord. 599 §1. Passed 3-6-72.)

**329.05 COLLECTION AT SOURCE.**

(a) Every person within the Town who employs one or more persons on a salary, wage, commission or other compensation basis, other than domestic servants, shall immediately, or within fifteen days after becoming an employer, register with the Collector his name, address and such other information as the Collector may require.

(b) Every person within the Town who employs one or more persons on a salary, wage, commission or other compensation basis, other than domestic servants, shall deduct monthly, or more often than monthly, at the time of payment thereof, the tax imposed by this article on the salaries, wages, commissions and other compensations due to his employee or employees, and shall, on or before January 15 of the year following the enactment or re-enactment of this article, and on or before the 15th day of each succeeding calendar month, file a return of taxes deducted on a form prescribed by the Collector and pay to the Collector the amount of tax deducted for the preceding month.

(c) On or before January 31 of the year succeeding the year this tax was due, every such employer shall file with the Collector on forms prescribed by him:

- (1) An annual return showing the total amount of salaries, wages, commissions and other compensation paid, the total amount of tax deducted, and the total amount of tax paid to the Collector during the period beginning January 1 and ending December 31 of the year following the enactment or re-enactment of this article.
- (2) A return for each employee employed during all or any part of the period beginning January 1 and ending December 31 of the year following the enactment or re-enactment of this article, setting forth the employee's name, address and social security number, the amount of salaries, wages, commissions or other compensation paid to the employee during such period, the amount of tax deducted, the amount of tax paid to the Collector, and such other information as the Collector may require, and every employer shall furnish a copy of the individual return to the employee for whom it is filed.

(d) Every employer who discontinues business prior to December 31 of the year following the enactment or re-enactment of this article shall, within seven days after the discontinuance of business, file the returns hereinabove required and pay the tax due.

(e) The failure or omission of any employer to make the deductions required by this section shall not relieve any employee from the payment of the tax or from complying with the requirements of this article relating to the filing of declarations and returns.  
(Ord. 133 §5. Passed 11-14-56.)

**329.06 APPOINTMENT OF COLLECTOR; POWERS AND DUTIES.**

Council, by resolution, may appoint any person or agency, so designated, to collect the tax imposed herein, and Council may set the compensation of such person or agency who shall be known as "The McCandless Income Tax Collector" or "Collector".

The Collector shall act in accordance with this article and regulations adopted pursuant thereto.

- (a) It shall be the duty of the Collector to collect and receive the taxes, fines and penalties imposed by this article. It shall also be his duty to keep a record showing the amount received by him from each person paying the tax and the date of such receipt.
- (b) The Collector is hereby charged with the administration and enforcement of the provisions of this article. Council is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the re-examination and correction of declarations and returns, and of payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to prescribe forms necessary for the administration of this article.
- (c) The Collector, and agents designated by him, are hereby authorized to examine the books, papers and records of any employer or supposed employer or of any taxpayer in order to verify the accuracy of any declaration or return, or, if no declaration or return was filed, to ascertain the tax due. Every employer or supposed employer and every taxpayer or supposed taxpayer is hereby directed and required to give to the Collector or to any agent designated by him the means, facilities and opportunity for such examinations and investigations as are hereby authorized.
- (d) Any information gained by the Collector, his agents, or by any other official or agent of the Town of McCandless as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this article shall be confidential except for official purposes and except in accordance with a proper judicial order or as otherwise provided by law.
- (e) Any person aggrieved by any action of the Collector shall have the right to appeal as provided by law.

(Ord. 133 §6. Passed 11-14-56; Ord. 511 §1. Passed 11-25-68.)

The Town Tax Office is empowered and authorized to require all owners of rental property which is located within the Town to submit the names and addresses of all persons occupying such property. The Town Tax Office shall prepare forms for such purposes and shall advise all such owners of their duty to report the identity of their tenants within fifteen (15) days of occupancy. This information will then be forwarded to the Town's Earned Income Tax Collector.

(Ord. 1403. Passed 11-28-11.)

### 329.07 SUIT FOR COLLECTION OF TAX.

All unpaid taxes imposed by this article together with interest and penalties shall be recoverable by the Town Attorney as other debts of like amount are recoverable, provided, that any suit brought to recover the tax imposed by this article shall be begun within six years after such tax is due or within six years after a declaration or return has been filed, whichever date is later. However, this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:

- (a) Where no declaration or return was filed by any person although a declaration or return was required to be filed by him under the provisions of this article.
- (b) Where an examination of the declaration or return in the possession of the Collector reveals a fraudulent evasion of taxes, including, but not limited to, substantial understatement of taxes deducted and of actual or estimated net profits or earnings.

- (c) Where any person has deducted taxes under the provisions of this article and has failed to pay the amounts so deducted to the Collector.  
(Ord. 133 §7. Passed 11-14-56.)

#### 329.08 INTEREST AND PENALTIES.

If for any reason the tax is not paid when due, interest at the rate of six percent per annum on the amount of such tax, and an additional penalty of one-half of one percent of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid, shall be added and collected. Where suit is brought for the recovery of any such tax, the person liable therefor shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed. (Ord. 133 §8. Passed 11-14-56.)

#### 329.09 PAYMENT UNDER PROTEST AND REFUNDS.

The Collector is hereby authorized to accept payment under protest of the amount of tax claimed by the Town in any case where any person disputes the validity or amount of the Town's claim for the tax. If it is thereafter judicially determined by a court of competent jurisdiction that there has been an overpayment to the Collector, the amount of the overpayment with legal interest shall be refunded to the person who paid under protest.  
(Ord. 133 §9 . Passed 11-14-56.)

#### 329.10 EXEMPTIONS.

The tax imposed by this article shall not apply:

- (a) To any person as to whom it is beyond the legal power of the Town to impose the tax herein provided for under the Constitution of the United States and the Constitution and laws of the Commonwealth of Pennsylvania.
- (b) To institutions or organizations operated for public, religious, educational or charitable purposes, to institutions or organizations not organized or operated for private profit, or to trusts and foundations established for any of those purposes.

This section shall not be construed to exempt any person who is an employer from the duty of collecting the tax at source from his employees and paying the amount collected to the Collector under the provisions of Section 329.05.  
(Ord. 133 §10. Passed 11-14-56.)

#### 329.11 CREDIT. (REPEALED)

EDITOR'S NOTE: Former Section 329.11 was repealed by Ordinance 1290, passed November 24, 2003.

#### 329.99 PENALTY.

(a) Any person who fails, neglects or refuses to make any declaration or return or to pay the tax required by this article; any employer who fails, neglects or refuses to register or to pay the tax deducted from his employees; any person who refuses to permit the Collector or any agent designated by him to examine his books, records and papers; and any person who makes any incomplete, false or fraudulent return or attempts to do anything whatsoever to avoid the full disclosure of the amount of his net profits or earnings to avoid the payment of the whole or any part of the tax imposed by this article, shall be fined not more than five hundred dollars (\$500.00) for each offense and costs, and, in default of payment shall be imprisoned for not more than thirty days.

(b) Any failure to file a quarterly return within the proper time limit and any failure to make quarterly payment within the proper time limit by those subject to the provisions of this article shall be deemed a violation of this article and a violator may be fined not more than five hundred dollars (\$500.00) and in default of payment be imprisoned for not more than thirty days. (Ord. 1211. Passed 2-22-99.)

(c) Any owner of rental property who fails to comply with the provisions of Section 329.06 of this article shall be fined not more than five hundred dollars (\$500.00) for each offense and costs. (Ord. 1403. Passed 11-28-11.)

(d) Any person who divulges any information which is confidential under the provisions of subsection (d) of Section 329.06 shall, be fined not more than five hundred dollars (\$500.00) for each offense and costs, and in default of payment shall be imprisoned for not more than thirty days. (Ord. 1211. Passed 2-22-99.)

(e) The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of this article.

(f) The failure of any person to receive or procure the forms required for making the declarations or returns required by this article shall not excuse him from making such declaration or return. (Ord. 133 §11. Passed 11-14-56.)

ARTICLE 333  
Mechanical Devices Tax

333.01	Short title.	333.07	Change in location or ownership.
333.02	Definitions.	333.08	List of certificates.
333.03	Amount of tax.	333.09	Severability.
333.04	Payment date.	333.99	Penalty.
333.05	Sticker certificates.		
333.06	Application for sticker certificate.		

CROSS REFERENCES

Power to tax - see Local Tax Enabling Act §1 (53 P.S. §6901)  
Audits - see Local Tax Enabling Act §12 (53 P.S. §6912)

333.01 SHORT TITLE.

This article shall be known by its short title and cited as the "Mechanical Devices Tax".  
(Ord. 1176 §2. Passed 12-16-96.)

333.02 DEFINITIONS.

Unless otherwise specifically stated, the following terms shall have for the purpose of this article the meanings herein respectively provided:

- (a) "Mechanical device" means any music vending machine, commonly known as a "juke-box"; any device which is operated for use as a game, entertainment or amusement by the insertion of a coin or token or currency; and any automatic or mechanical pinsetting device used in a bowling alley.
- (b) "Person" means any natural person, association, firm partnership or corporation.  
(Ord. 1176 §3. Passed 12-16-96.)

333.03 AMOUNT OF TAX.

A tax is hereby imposed, for general purposes, upon the privilege of using or operating, within the Town, a mechanical device, as herein defined as follows:

- (a) For each mechanical pinsetting device used in a bowling alley, fifty dollars (\$50.00) for the calendar year or any portion thereof.
- (b) For each outdoor baseball or softball pitching device unrelated to any other recreational or commercial use, fifty dollars (\$50.00) for the calendar year or any portion thereof.

- (c) For any golf ball dispensing machine located at a golf driving range unrelated to any other recreational or commercial use, fifty dollars (\$50.00) for the calendar year or any portion thereof.
- (d) For all other mechanical devices, one hundred fifty dollars (\$150.00) for the calendar year or any portion thereof.
- (e) The tax herein levied shall be paid by the person owning the mechanical device and/or operating the business establishment in which such device is installed or used.  
(Ord. 1176 §4. Passed 12-16-96.)

#### 333.04 PAYMENT DATE.

The tax imposed under this article shall be payable to the Town Manager or such other Town official who may subsequently be charged with the responsibility of collecting taxes on or before January 15 or immediately upon the installation of such machine, if installation occurs after January 15. No deduction or refund of any tax payable under this article shall be granted in the case of any tax payable for less than a full calendar year, or in case of any device destroyed, stolen, sold or otherwise disposed of or transferred after the payment of such tax, or after such tax was due. However, in case of substitution of any device by another device in the same class, the use of which is taxable under this article, no additional tax shall be paid.  
(Ord. 1176 §5. Passed 12-16-96.)

#### 333.05 STICKER CERTIFICATES.

The Town Manager shall procure at the expense of the Town a sufficient number of sticker certificates showing the following:

- (a) The name of the Town;
- (b) The number of the certificate;
- (c) The number of the machine;
- (d) The type of device; and
- (e) The name of the owner.  
(Ord. 1176 §6. Passed 12-16-96.)

#### 333.06 APPLICATION FOR STICKER CERTIFICATE.

On or before January 15 of each year that this article is effective, owners of machines taxed in this article shall make application to the Town Manager for a sticker certificate evidencing the payment of the tax. The application shall show the following:

- (a) The name of the Town;
- (b) The name and address of the applicant and the business establishment at which the device is located.
- (c) The name and address of the owner of the machine; and
- (d) The identification of the machine by serial number and by type of device.

The application shall be accompanied with the tax as provided herein. The Town Manager shall thereupon issue, before February 15 of the same year, a sticker evidencing such payment. The sticker certificate issued by the Town Manager shall be displayed on each machine in a conspicuous place. In the case of replacement of the machines an alternate sticker certificate will be issued by the Town Manager upon prompt application. Replacement of lost or destroyed stickers shall be made at a fee of one dollar (\$1.00).  
(Ord. 1176 §7. Passed 12-16-96.)

**333.07 CHANGE IN LOCATION OR OWNERSHIP.**

In case of the removal of any establishment in which a device for the use of which a tax has been paid under this article to another location in the Town, or in case of a change in the identity of the person operating or owning such establishment, the person operating such establishment shall report such fact within five days of such change in location or personnel, and the Manager shall immediately amend the certificate.  
(Ord. 1176 §8. Passed 12-16-96.)

**333.08 LIST OF CERTIFICATES.**

The Town Manager shall, on or before March 1 of any year in which this article is effective, make a list of all persons and establishments to whom certificates have been issued and shall file the same with the Town Secretary and the Chief of Police.  
(Ord. 1176 §9 Passed 12-16-96.)

**333.09 SEVERABILITY.**

The provisions of this article are severable, and if any of its provisions are held illegal, invalid or unconstitutional, the decisions of the court shall not effect or impair any of the remaining provisions of this article. It is hereby declared as the intent of Council that this article would have been adopted had such unconstitutional, illegal or invalid provisions not been included herein.  
(Ord. 143 §9. Passed 3-13-57.)

**333.99 PENALTY.**

Whoever violates or fails to carry out any of the provisions or requirements of this article or attempts to do anything whatever to avoid payment of the whole or any part of the tax imposed under this article, shall be fined not more than three hundred dollars (\$300.00) for each and every offense and the costs of prosecution thereof, and in default thereof shall be imprisoned for not more than thirty days.  
(Ord. 1176 §10. Passed 12-16-96.)

ARTICLE 337  
Real Estate Tax

- |                                      |                                 |
|--------------------------------------|---------------------------------|
| 337.01 Tax levied; rate established. | 337.03 Interim real estate tax. |
| 337.02 Discount and penalty rate.    | 337.04 Installment payments.    |

CROSS REFERENCES

Action by ordinance required - see CHTR. Art. V. Sec. 504(e)  
Public hearing required - see CHTR. Art. V, Sec. 505(c)  
Classification of taxing ordinances - see ADM. 117.04, 117.07

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**337.01 TAX LEVIED; RATE ESTABLISHED.**

A tax is hereby levied on all real property within the Town subject to taxation for general governmental purposes, for debt purposes, for fire prevention and for capital improvements for the fiscal year 2013 as follows:

For governmental purposes, debt purposes, fire prevention purposes and capital improvements the sum of 1.296 mills on each dollar of assessed valuation, or the sum of (\$.1296) on each one hundred dollars (\$100.00) of assessed valuation.

(Ord. 1429. Passed 6-10-13.)

**337.02 DISCOUNT AND PENALTY RATE.**

(a) All taxpayers subject to the payment of real estate taxes to the Town shall be entitled to a discount of two percent (2%) from the amount of such tax upon making payment within two months after the date of the tax notice. All taxpayers who fail to make payment of such taxes for four months after the date of the tax notice shall be charged a penalty of ten percent (10%), which penalty shall be added to the taxes by the tax collector and be collected by the tax collector.

(b) The rates of discount and penalties established by this section shall become effective in 1977 and shall be effective for subsequent years unless changed by ordinance. (Ord. 717 Secs. 1, 2. Passed 3-7-77.)

**337.03 INTERIM REAL ESTATE TAX.**

All taxpayers subject to the payment of real estate taxes to the Town who have their assessment increased by Allegheny County due to new construction on or additions to an existing building on the property will be subject to payment of tax on the additional assessed value retroactive to the first day of the month following the date on which an occupancy permit for said new building or addition was granted by the Town, subject to the following:

- (a) The Town must submit the interim request to Allegheny County within the fiscal year of the improvement.
- (b) The Town must send in the interim tax notice to the taxpayer within ten (10) days after receipt of the duplicate addition from Allegheny County. The additional valuation will be taxed at the Town's tax rate reduced proportionately to the number of months remaining in the fiscal year.
- (c) If the full amount is paid within two (2) months after the date the notice is mailed, a discount of two percent (2%) will apply. If the full amount is paid within four (4) months of the mailing date of the notice, no penalty may be imposed and the taxes cannot be considered delinquent, even if payment occurs after December 31. (Ord. 1317. Passed 5-23-05.)

#### 337.04 INSTALLMENT PAYMENTS.

Taxpayers that have been granted a homestead/farmstead exclusion under Act 1 ("Eligible Taxpayers") are eligible to pay current Town real property taxes in installments. The process through which an Eligible Taxpayer may choose to pay current Town real property taxes in installments is as follows:

- (a) The payment of the first installment by an Eligible Taxpayer on or before the first payment date set forth in (c) below shall be conclusive evidence of the intention of the Eligible Taxpayer to pay Town real property taxes via installments.
- (b) When a taxpayer fails to evidence an intention to pay Town real property taxes in installments as set forth in (a) and (c), the current Town real property taxes shall become due and payable and be collected as provided in the Act of May 25, 1945 (P.L. 1050, No. 394), known as the Local Tax Collection Law, subject to the discounts and penalties provided by that Act.
- (c) The taxpayer shall be required to pay Town real property taxes in accordance with the following installment schedule, with one third of the total amount of Town real property taxes due to be paid on each of the installment payment dates:

First payment due date	August 31
Second payment due date	October 31
Third payment due date	December 31

- (d) If any installment is not paid when due, a penalty of ten (10%) percent shall be added to each installment on the date when it becomes delinquent; provided, however, that if the property is turned over to the County for nonpayment of taxes or a lien is filed, the aforementioned penalty shall be replaced by the penalty and interest provided for in applicable law. This penalty shall be collected by the tax collector.
- (e) A taxpayer who is delinquent by more than ten (10) days or more than two (2) installment payments shall be ineligible for the installment option in the following calendar year.

The Town shall provide an annual notice of information regarding the payment of Town real property taxes in installments and the dates on which the installment payments are due or delinquent on the tax notice sent to the homestead and farmstead property owners. (Ord. 1345. Passed 7-2-07.)

ARTICLE 341  
Business Privilege Tax

341.01	Enacting authority.	341.06	Posting license.
341.02	Definitions.	341.07	Tax Administrator duties.
341.03	Imposition of tax; rate; business volume computed; exemptions; liability to two or more municipalities; records.	341.08	Confidential nature of information.
341.04	Returns; payment; late penalty.	341.09	Suit on collection and penalty.
341.05	License fee.	341.10	Severability.
		341.11	Effective date.
		341.99	Penalty.

CROSS REFERENCES

Power to act - see Act 511 of 12-31-65 (53 P.S. Sec. 6901-6924)

341.01 ENACTING AUTHORITY.

(a) This article shall be known as the Business Privilege Tax Ordinance and is enacted pursuant to the authority of the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, as amended. (Ord. 830 Sec. 1; Passed 12-21-81.)

341.02 DEFINITIONS.

The following words and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) "Business" means any activity carried on or exercised for gain or profit in the Town, including, but not limited to, the sale of merchandise or other tangible personalty and/or realty, the performance of services and the rental of personalty and/or realty.
- (b) "Calendar year" means the period January 1 to December 31, inclusive.
- (c) "License year" means the period from January 1 to December 31, inclusive.
- (d) "Person" means any individual, partnership, limited partnership, association, firm or corporation. Whenever used in any clause prescribing or imposing a penalty, the term "person" as applied to associations shall mean the partners or members thereof, and as applied to corporations, the officers thereof.
- (e) "Taxpayer" means a person subject to the payment of the tax imposed by this article.
- (f) "Tax Administrator" means the person duly appointed by Council to collect and administer the within tax and shall include his or its deputies.
- (g) "Tax year" means the period from January 1 to December 31, inclusive, except that the tax year 1982 shall be the period February 1 to December 31, 1982.
- (h) "Town" means the Town of McCandless, Allegheny County, Pennsylvania. (Ord. 830 Sec. 2. Passed 12-21-81.)

341.03 IMPOSITION OF TAX; RATE; BUSINESS VOLUME COMPUTED;  
EXEMPTIONS; LIABILITY TO TWO OR MORE MUNICIPALITIES;  
RECORDS.

There is hereby levied for the tax year 1982 and annually thereafter a tax for general revenue purposes on the privilege of doing business as herein defined in the Town as follows:

- (a) Rate and Basis of Tax. The rate of the tax on each and every dollar of the whole or gross volume of business transacted within the territorial limits of the Town shall be one mill. One mill shall mean one dollar (\$1.00) per one thousand dollars (\$1,000) of gross volume of business.
- (b) Computation of Volume of Business.
  - (1) Every person subject to the payment of the tax hereby imposed who has commenced his business prior to the full calendar year prior to the tax year shall compute his annual estimated whole or gross volume of business upon the actual amount of the whole or gross receipts of the business received by or credited to him during such immediately preceding calendar year. For the tax year 1982 only, such computation shall be based upon the actual whole or gross amount of business transacted from February 1 through December 31 of the immediately preceding calendar year.
  - (2) Every person subject to the payment of the tax hereby imposed who has commenced or commences his business before the beginning of the tax year but after the beginning of the full calendar year prior to the tax year, shall compute his estimated annual whole or gross volume of business for the tax year upon the whole or gross volume of business transacted by him during the prior calendar year, taking the monthly average during such period and multiplying the same by twelve. In the event that he shall be in business fewer than ninety days in the prior calendar year, he shall be permitted to use sufficient days in the calendar year in which the tax year begins to equal ninety successive days after commencement of business, to take a monthly average thereon, and to multiply the average by twelve. For the tax year 1982 only, such computation shall be based upon the monthly average multiplied by eleven.
  - (3) Every person subject to the payment of the tax hereby imposed who has commenced or commences his business subsequent to the beginning of the tax year shall compute his annual whole or gross volume of business upon the actual whole or gross amount of receipts received by or credited to him during the tax year.
  - (4) Every person subject to the payment of the tax hereby imposed who engages in business temporary, seasonal or itinerant by nature, shall compute his estimated whole or gross amount of business to be transacted by him for the period such person engages in such temporary, seasonal or itinerant business within the Town by a method to be determined by the Tax Administrator.
  - (5) Every person who ceases to carry on a business during any tax year after having paid the business privilege tax for the entire year shall, upon making proper application to the Tax Administrator, be entitled to receive a refund of the pro-rata amount of the tax based upon the period of time he was not in business during the tax year. In the event that a person who discontinues business during any tax year

does so before payment of his tax becomes due for such tax year, he shall be permitted to apportion his tax for such tax year and shall pay an amount to be computed by multiplying his gross receipts for the preceding full calendar year by a fraction whose numerator shall be the number of months such person was in business during the tax year and whose denominator shall be twelve.

- (6) The Tax Administrator is hereby authorized to accept payment under protest of the amount of business privilege tax claimed by the Town in any case where the taxpayer disputes the validity or amount of the Town's claim for tax. If it is thereafter judicially determined by a court of competent jurisdiction that the Town has been overpaid, the amount of the overpayment shall be refunded to the taxpayer.

(c) Persons, Businesses and Receipts Exempted.

- (1) Persons and businesses. Persons employed for a wage or salary, nonprofit corporations or associations organized for religious, charitable or educational purposes, agencies of the Government of the United States or of the Commonwealth of Pennsylvania and the business of any political subdivision, or of any authority created or organized under and pursuant to any act of assembly are exempt from the provisions of this article.
- (2) No such tax shall be assessed and collected on a privilege, transaction, subject or occupation which is subject to a State tax or license fee, and which tax or license fee has been held by the Courts of Pennsylvania to be the basis for exemption from the imposition of a business privilege tax by a municipality.
- (3) Utilities. No such tax shall be assessed and collected on the gross receipts from utility service of any person or company whose rates of service are fixed and regulated by the Pennsylvania Public Utility Commission; or on any public utility service rendered by any such person or company or on any privilege or transaction involving the rendering of any such public utility service.
- (4) State tax on tangible property. No such tax shall be assessed and collected on the privilege of employing such tangible property as is subject to a State tax except on sales of admission to places of amusement or on sales or other transfer of title or possession of property.
- (5) Production and manufacture. No such tax shall be assessed and collected on goods, articles and products or on by-products of manufacture, or on minerals, timber, natural resources and farm products, manufactured, produced or grown in the Town, or on the preparation of processing thereof for use of market, or on any privilege, act or transaction relating to the business of manufacturing, the production, preparation or processing of minerals, timber, and natural resources or farm products, by manufacturers, by producers and by farmers with respect to the goods, articles and products of their own manufacture, production or growth, or any privilege, act or transaction relating to the business of processing by-products of manufacture, or on the transportation, loading, unloading or dumping or storage of such goods, articles, products or by-products. (Ord. 830 §3. Passed 12-21-81.)
- (6) Minimum tax exemption. No such tax is due if the tax amount owed for any license year is equal to or less than five dollars (\$5.00). A tax return and documentation required by the Tax Administrator shall be filed by the date on which tax is due. (Ord. 1031. Passed 5-29-90.)

- (d) Determination of Gross or Whole Volume Business. Gross or whole volume of business upon which the tax hereunder is computed shall include the gross consideration credited or received for or on account of sales made, rentals and/or services rendered, subject only to the following allowable deductions and exemptions:
- (1) The dollar volume of business transacted by wholesale and retail dealers derived from the resale of goods, wares and merchandise taken by any dealer as trade-in or as part payment for other goods, wares and merchandise, except to the extent that the resale price exceeds the trade-in allowance.
  - (2) Refunds, credits or allowances given by a taxpayer to a purchaser on account of defects in goods, wares or merchandise sold, or on account of goods, wares or merchandise returned.
  - (3) Any commissions paid by a broker to another broker on account of a purchase or sales contract initiated, executed or cleared with such other broker.
  - (4) Bad debts, where the deduction is also taken in the same year for Federal Income Taxation purposes.
  - (5) Taxes collected as agent for the United States of America, Commonwealth of Pennsylvania, County of Allegheny or the Town of McCandless.
- (e) Partial Exemptions. Where gross or whole volume of business in its entirety cannot be subjected to the tax imposed by this article by reason of the provisions of the Constitution of the United States or any other provision of law, the Tax Administrator, with the approval of Council, shall establish rules and regulations and methods of allocation and evaluation so that only that part of the gross or whole volume of business which is properly attributable and allowable to doing business in the Town shall be taxed hereunder.
- (f) Rate When Same Tax is Imposed by Two Taxing Bodies. If any person is liable for the same tax on the same subject imposed under the Local Tax Enabling Act 1965, December 31, Pamphlet Law 1257, and its amendments, to the Town and one or more political subdivisions, of the State, then and in that event the tax shall be apportioned by such percentage as may be agreed upon by such political subdivisions, but, in no event, shall the combined taxes of both subdivisions exceed a maximum rate of tax as fixed by the Enabling Act permitting the imposition of such taxes.
- (g) Records. The taxpayer, to obtain the foregoing enumerated exclusions and deductions, shall keep books and records of his business so as to show clearly, accurately and separately the amount of such sales and services as are excluded from the tax and the amounts of such sales and services which he is entitled to deduct from the gross volume of business as hereinbefore provided.  
(Ord. 830 Sec. 3. Passed 12-21-81.)

#### 341.04 RETURNS; PAYMENT; LATE PENALTY.

- (a) Every return shall be made upon a form furnished by the Tax Administrator. Every person making a return shall certify the correctness thereof by affidavit.
- (b) Every person subject to the tax imposed by this article who commenced his business on or before January 1 of the full calendar year previous to the beginning of any tax year shall on or before May 15 of the tax year file with the Tax Administrator a return setting forth his name, business, business address and such other information as may be necessary in arriving at the actual gross amount of business transacted by him during the preceding calendar year, and the amount of the tax due.

(c) Every person subject to the tax imposed by this article who has commenced his business before the beginning of the tax year but after January 1 of the full calendar year previous to the beginning of the tax year shall on or before May 15 of the tax year file with the Tax Administrator a return setting forth his name, business, business address and such other information as may be necessary in arriving at the estimated gross amount of business transacted by him as calculated under Section 341.03(b)(2) and the amount of tax due.

(d) Every person subject to the tax imposed by this article who has commenced or commences business subsequent to the beginning of any tax year shall, on or before January 31 of the year immediately following the tax year, file a return together with payment of the tax due, with the Tax Administrator, containing the actual gross amount of business transacted by him calculated under Section 341.03(b)(3).

(e) Every person subject to the payment of the tax imposed by this article who engages in a business temporary, seasonal or itinerant shall on or before January 31 of the year immediately following the tax year file a return together with payment of the tax due, with the Tax Administrator, containing the actual whole or gross amount of business transacted by him as calculated under Section 341.03(b)(4).

(f) Any person going out of or ceasing to do business shall, within seven days from the date of ceasing to do business, file a return showing the actual gross volume of business conducted and done by such person during that tax year in which such person ceased doing business, and pay the tax due as computed thereon at the rate herein provided for at the time of filing such return. If such tax has been previously paid based upon estimated gross receipts, the taxpayer shall be entitled to a refund, without interest, of any excess tax paid for the tax year in which business was terminated.

(g) Payment of Tax and Penalties for Late Payment. The Business Privilege Tax levied pursuant to this article for the tax year 1982, which shall include the period from February 1, 1982 through December 31, 1982, shall be due and payable as follows: One-third shall be due and payable on May 15, 1982, one-third shall be due and payable on July 15, 1982 and one-third shall be due and payable on September 15, 1982, and if the same is not paid on such dates, ten percent (10%) shall be added thereto, plus an additional one percent (1%) per month or fractional part of a month until paid. For the tax years 1983 and subsequent tax years to which this article is applicable, the business privilege tax levied pursuant to this article shall be due and payable on the date on which the taxpayer is required to file a return as set forth above, and if the same is not paid on such date, ten percent (10%) shall be added thereto, plus an additional one percent (1%) per month or fractional part of a month until paid. For Business Privilege Tax due and payable for 2014 and subsequent tax years, if for any reason the tax is not due, interest at the rate of six percent (6%) per annum on the amount of such tax, and an additional penalty of one-half of one percent (0.5%) of the amount of unpaid tax for each month or fraction thereof during which the tax remains unpaid, shall be added and collected.

(h) Receipt. The Tax Administrator shall, upon payment to him of the Business Privilege Tax, give the person paying the same a receipt therefor.  
(Ord. 830 Sec. 4. Passed 12-21-81; Ord. 1437. Passed 2-24-14.)

#### 341.05 LICENSE FEE.

After the effective date of this section, any person desiring to conduct, or to continue to conduct any business, as herein defined, within the Town shall file with the Tax Administrator an application for a Business Privilege License and shall pay a fee of five dollars (\$5.00) for the initial license. There shall be no fee required for license renewal.  
(Ord. 849. Passed 8-23-82.)

#### 341.06 POSTING LICENSE.

The license issued shall be conspicuously posted in the place of business for which such license is issued, and shall remain in effect for the license year or fraction of year for which the license was issued. In cases where more than one place of business is conducted, a separate license shall be issued for each place of business. Any taxpayer who is in default in payment of tax due hereunder shall be refused a license until such tax is paid in full.  
(Ord. 830 Sec. 6. Passed 12-21-81.)

#### 341.07 TAX ADMINISTRATOR DUTIES.

(a) The Tax Administrator is charged with the duties of collecting and receiving the taxes, fines and penalties imposed by this article. It shall be his duty to keep a record showing the amount received by him for each person paying the tax and the date of such receipt. The Tax Administrator may delegate his authority hereunder, with the approval and consent of Council to a deputy or deputies.

(b) The Tax Administrator and his duly appointed deputies under the direction of Council are hereby empowered with the approval of Council to prescribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the examination and correction of returns, and the payments alleged or found to be incorrect, or as to which an overpayment is claimed, or found to be incorrect, or as to which an overpayment is claimed, or found to have occurred, and charged with enforcing the provisions of this article and any rules and/or regulations promulgated pursuant hereto.

(c) In the event the person to be assessed neglects or refuses to make a return, then in such case the Tax Administrator or his duly appointed deputies shall assess such person or persons on such an amount of whole or gross volume of business as the Tax Administrator or his deputies deem reasonable and appropriate. In all cases of assessment, the Tax Administrator or his duly appointed deputies shall give the parties assessed a notice in which shall be stated the amount of the Business Privilege Tax imposed or levied.

(d) The taxpayer shall maintain such records and books of account as shall enable him to make a true and accurate return in accordance with the provisions of this article. Such accounts and records shall disclose in detail the gross receipts and other data pertaining to the taxpayer's gross volume of business, and shall be sufficiently complete to enable the Tax Administrator or his deputies to verify all transactions. The Tax Administrator or his deputies are hereby authorized to examine the books, papers and records of any person or persons subject to or supposed to be subject to the tax imposed by this article, in order to verify the accuracy of the return made, or if no return was made, to ascertain the tax due.

(e) The Tax Administrator or his deputy is hereby authorized to compel the production of books, papers and records, and/or writings and documents of every nature and kind, of any person subject or supposed to be subject to the tax imposed by this article, for his review, inspection or copying, and the attendance of all persons before him, whether as parties or witnesses, whom he believes to have knowledge of such books, papers, records, documents, writings and /or knowledge of the business transacted by any taxpayer with the Town.

(f) Any person aggrieved by any decision of the Tax Administrator shall have the right to appeal to the Court of Common Pleas of Allegheny County, Pennsylvania.  
(Ord. 830 Sec. 9. Passed 12-21-81.)

#### 341.08 CONFIDENTIAL NATURE OF INFORMATION.

Any information gained by the Tax Administrator or any other official, agent or employee of the Town, as a result of any returns, investigations, hearings or verifications required or authorized by this article, shall be confidential, except in accordance with proper judicial order or as otherwise provided by law.  
(Ord. 830 Sec. 10. Passed 12-21-81.)

#### 341.09 SUIT ON COLLECTION AND PENALTY.

(a) The Tax Administrator or his duly appointed deputies shall have the power in the name of the Town to institute proceedings against any and all persons who violate the provisions of this article.

(b) If for any reason the tax is not paid when due and suit is brought for the recovery of any such tax, the person liable therefor, shall, in addition, be liable for the costs of collection and interest and penalties herein imposed.  
(Ord. 830 Sec. 11. Passed 12-21-81.)

#### 341.10 SEVERABILITY.

(a) Nothing contained in this article shall be construed to empower the Town to levy and collect the taxes hereby imposed on any person, or any business, or any portion of any business not within the taxing power of the Town under the Constitution of the United States and the laws and Constitution of the Commonwealth of Pennsylvania.

(b) If the tax, or any portion thereof, imposed upon any person under the provisions of this article shall be held by any Court of competent power or jurisdiction to be in violation of the Constitution of the United States or of the Commonwealth of Pennsylvania or any other provision of the law, the decision of the Court shall not affect or impair the right to impose the taxes, or the validity of the taxes so imposed upon other persons as herein provided.

(c) The provisions of this article are severable, and if any of its provisions shall be held illegal, invalid or unconstitutional, the decision of the Court shall not affect or impair any of the remaining provisions of this article. It is hereby declared to be the intention of Council that this article would have been adopted if such illegal, invalid or unconstitutional provisions had not been included herein.  
(Ord. 830 Sec. 12. Passed 12-21-81.)

#### 341.11 EFFECTIVE DATE.

This article is enacted pursuant to the authority of the Local Tax Enabling Act, 1965, December 31, Pamphlet Law 1257, as amended, and shall become effective thirty days after it has been passed by Council and shall continue thereafter unless amended or repealed.  
(Ord. 830 Sec. 13. Passed 12-21-81.)

**341.99 PENALTY.**

(a) Whoever conducts, transacts or engages in any of the businesses subject to the tax imposed by this article, without having first secured a Business Privilege License for the year, or any person who shall fail to file a tax return as required by the provisions of this article, or any person who shall willfully file a false return, shall, upon summary conviction before any District Magistrate in the County be fined not more than three hundred dollars (\$300.00) for any one offense and recoverable costs.

(b) Each day on which such person violates this article may be considered as a separate offense and punishable as such as aforeprovided.  
(Ord. 830 Sec. 7, 8. Passed 12-21-81.)



ARTICLE 343  
Local Economic Revitalization Tax Assistance (LERTA) Program

343.01	Title and effective date.	343.11	Effective date.
343.02	Statutory authority.	343.12	Termination.
343.03	Definitions and findings of fact.	343.13	Severability.
343.04	Contemporaneous adoption.	343.14	Compliance with Acts of Assembly.
343.05	Exemption.	343.15	Repealer.
343.06	Procedure for obtaining exemption.	343.16	Town rules and regulations.
343.07	Annual qualification for exemption.	343.17	Cooperation with the School District.
343.08	Notice to the Town.	343.18	Adoption.
343.09	Penalties for violation.		
343.10	Maximum period of exemption.		

CROSS REFERENCES

State law provisions- see 72 P.S. Sec. 4722 et seq.  
Building permit - see BLDG. 1701.04(b)  
Occupancy permit - see BLDG. 1701.04(n)

343.01 TITLE AND EFFECTIVE DATE.

(a) This article shall be known as the Revenue Allocation Program Ordinance (hereinafter "R.A.P. Ordinance") and the program created hereby shall be known as the R.A.P. Program.

(b) The provisions hereof shall become effective immediately upon enactment and advertising in accordance with the provisions of the Town of McCandless (hereinafter "Town") Home Rule Charter (hereinafter "Charter") and its terms shall continue in effect without annual re-enactment until the expiration provided herein. Changes in its terms become effective on the date specified in any amending ordinance; provided, however, no changes shall become effective which will adversely affect any financing obligations of the Town of McCandless, as hereinafter set forth, for which the Town has become obligated prior to the date of the change. (Ord. 1076 Sec. 1. Passed 7-20-92.)

**343.02 STATUTORY AUTHORITY.**

This article is enacted pursuant to the authority granted by the following statutes:

- (a) The Local Economic Revitalization Tax Assistance Act, the Act of December 1, 1972, P.L. 237, No. 76, 72 P.S. Sec. 4722 et seq.
- (b) The Transportation Partnership Act, as the same may be amended, the Act of July 9, 1985, P.L. 189, No. 47, 53 P.S. Sec. 1621 et seq. (hereinafter "TPA").
- (c) The Business Improvement District Act, the Act of November 30, 1967, P.L. 658, No. 305, 53 P.S. Sec. 1551 et seq. (hereinafter "BIDA").
- (d) The Home Rule Charter and Optional Plans Law, 53 P.S. Sec. 1-101 et seq. (hereinafter "HRCOPL").
- (e) The Act relating to Inter-Governmental Cooperation, 53 P.S. Sec. 481 et seq.
- (f) The Public School Code of 1949, 24 P.S. Sec. 1-101 et seq. (hereinafter "School Code").  
(Ord. 1076 Sec. 2. Passed 7-20-92.)

**343.03 DEFINITIONS AND FINDINGS OF FACT.**

The following words and phrases when used in this article shall have the meaning ascribed to them in this section, unless the context clearly indicates a different meaning and the Town, after public hearing, hereby finds the following facts:

- (a) "School District" means the North Allegheny School District.
- (b) "Town" means the Town of McCandless.
- (c) "County" means Allegheny County.
- (d) "Collector" means the person or persons appointed to collect real estate taxes imposed pursuant to the taxing powers of the Town.
- (e) "Board" means the Board of Property Assessment, Appeals and Review of Allegheny County, Pennsylvania.
- (f) "Construction" means the erection of a building or buildings on previously unoccupied land, or upon land on which a building or buildings have been demolished or razed for the purpose of erecting a new building or buildings consisting of industrial, residential, commercial or other business use designed to obtain higher standards of safety, health, economic use or amenity.
- (g) "Reconstruction" means the rebuilding of a building or buildings previously erected for the purpose of changing the economic use or amenity of such structure or to obtain higher standards of safety or health.
- (h) "Improvement" means repair, construction or reconstruction, including without limitation, alterations and additions, having the effect of rehabilitating a deteriorating property so that it becomes habitable or attains higher standards of safety, health, economic use or amenity or is brought into compliance with laws, ordinances or regulations governing such standards. Ordinary upkeep and maintenance shall not be deemed an improvement.

- (i) "Eligible property" means any industrial, residential, commercial or other business property owned by an individual, association or corporation and located in the designated area on Exhibit "A" known as the McCandless Economic Development District or any such property therein which has been the subject of an order by a government agency requiring the unit to be vacated, condemned or demolished by reason of noncompliance with laws, ordinances or regulations.
- (j) "Eligible area" means that geographic area of the Town of McCandless more particularly described on Exhibit "A" attached to this article as approved after prior public hearing by the Town Council which meets the requirements of Sec. 4725 of LERTA. The geographic area designated as the "McCandless Economic Development District" on Exhibit "A" has been found and determined to be within the following criteria:
- (1) The area contains vacant, overgrown and unsightly lots of ground.
  - (2) The area lacks public infrastructure and thus has defective design or arrangement of buildings, streets or lot layouts.
  - (3) Much of the area contains economically and socially undesirable land uses.
  - (4) The area is determined to meet the requirements for redevelopment under criteria set forth in Sec. 1702(a) of the Act of May 24, 1945, P.L. 991, No. 385 known as the "Urban Redevelopment Law".
- The "Eligible Area" as defined by this article shall be limited to that described on Exhibit "A". Application of the terms and conditions of the R.A.P. Program shall be limited to the Eligible Area described on Exhibit "A". Properties located in the "Eligible Area" shall be considered "benefitted properties" within the meaning any of the following: (1) the BIDA (2) TPA, (3) Municipality Authorities Act, 53 P.S. Sec. 301 et seq. (hereinafter "MAA") or (4) the HRCOPL.
- (k) "Person" means any natural person, partnership, unincorporated association or corporation, nonprofit or otherwise. Whenever used in any provision of this article, the word "person" as applied to partnerships mean and include all the partners thereof, as applied to unincorporated associations, mean and include all members thereof, as supplied to corporations mean and include all officials or officers thereof. The term "person" used in this article is synonymous with the word "taxpayer" and "property owner".
- (l) "Tax Assessment" means the value of a parcel of real property within the Town and School District as established by the Board of Property Assessment, Appeals and Review or the Court of Common Pleas pursuant to the provisions of the Second Class County Assessment Law, 72 P .S. Sec. 5452.1 et seq. for the purpose of the levy of real property taxes.

- (m) "Municipal governing body" means a city, borough, incorporated town or township (i.e., Town of McCandless).
- (n) "Local Taxing Authority" means a county, city borough, incorporated town, township, institution, district or school district having authority to levy real property taxes (i.e., the North Allegheny School District and the Town of McCandless).
- (o) "Contribution" means a payment made voluntarily by a taxpayer whose property is within the Eligible Area to or for the use of the Town in developing public infrastructure facilities projects or services. "Contribution" includes, without limitation, grants, gifts and donations as defined in the TPA, BIDA or MAA.
- (p) "Assessment" means a payment made involuntarily by a taxpayer whose property is within the Eligible Area to or for the use of the Town in developing or paying for public infrastructure facilities projects or services. Such assessments shall be deemed imposed in conformity and under and subject to the provisions of the TPA, BIDA or MAA.
- (q) "Tax" means any tax otherwise permitted by law to be imposed by the Town but restricted to subjects of taxation located within the Eligible Area and restricting the receipts of such tax to the financing of economic development, public infrastructure facilities or services.
- (r) "Tax year" means the twelve (12) month period from January 1 to December 31 annually.
- (s) "McCandless Economic Development District" means that portion of the Town of McCandless, Allegheny County also known as the "Eligible Area" and more particularly described on Exhibit "A" attached to this article as established by the Town Council pursuant to TPA, BIDA, MAA, the Charter or the HRCOPL.
- (t) "Exemption" means the allocation to the Town by the local taxing authority of the revenue generated by the tax based upon the additional assessment valuation attributable to the actual cost of the construction, reconstruction or improvement made to the eligible property.
- (u) "Maximum amount of exemption for McCandless Economic Development District" pursuant to this article shall be 100% of the millage in effect on a year to year basis (currently 10 mills) as applied to the tax assessment attributable to improvements.  
(Ord. 1076 Sec. 3. Passed 7-20-92.)

#### 343.04 CONTEMPORANEOUS ADOPTION.

The terms and conditions of this article and the implementation of any real property tax exemption granted hereunder are contingent upon the adoption of a companion resolution by the School District. Pursuant to the Act relating to Inter-Governmental Cooperation, no amendment to this article shall be effective unless consented to by the School District.  
(Ord. 1076 Sec. 4. Passed 7-20-92.)

**343.05 EXEMPTION.**

Any property owner, whose real property is located within the Eligible Area and who makes improvements to such real property may apply for and receive from the Town an exemption from certain real property taxation upon such improvements in the amounts and in accordance with the provisions and limitations set forth in this article. The exemption of real property taxes by the Town is conditioned upon the receipt of a forty-five (45) mil exemption upon such improvements from the School District in accordance with the provisions of its resolution.

- (a) The maximum amount of the exemption for all taxpayers of all real estate taxes under this article and the School District resolution shall be limited to the total sums necessary for payment to the Town to pay the School District special benefit assessment levied pursuant to the TPA, fund debt service, costs and expenses (including planning, financing, acquiring, developing, improving and operating), to sink bonds and to provide reserves for future phases, all related specifically to public infrastructure facilities projects or services within the McCandless Economic Development District undertaken by the Town pursuant to the TPA, BIDA, MAA, the Charter or HRCOPL.
- (b) The maximum amount of the exemption for each taxpayer shall be determined in each tax year, after levy of real estate taxes for such tax year by all Local Taxing Authorities.
- (c) The exemption from real estate taxes authorized by this article shall be upon the property exempted and shall not terminate upon the sale or exchange of the property.
- (d) The exemption from real estate taxes shall be limited to ten years as permitted by LERTA for each building constructed or reconstructed or improvements on each eligible property. No exemption granted under this article shall continue past such time period as determined by LERTA on an improvement by improvement basis.
- (e) Nothing herein shall preclude a taxpayer or the Local Taxing Authorities from appealing, from time to time, the assessment valuation of the eligible property or any increases in assessed value as provided in the Second Class County Assessment Law, 72 P.S. Sec. 5452.1 et seq. (Ord. 1076 Sec. 5. Passed 7-20-92.)

**343.06 PROCEDURE FOR OBTAINING EXEMPTION.**

(a) At the time that a property owner secures a building permit for commencement of construction, reconstruction or improvement of a property within the Eligible Area, the property owner desiring exemption from real estate tax pursuant to this article shall file a request in writing for exemption on a single form provided by the Town, substantially in the form attached hereto and made a part hereof as Exhibit B which is hereby approved by the Town.

(b) The property owner must certify on the form provided the following information:

- (1) Name and address of owner.
- (2) Lot and block number of the property to be improved.
- (3) The date the building permit was issued for construction, reconstruction or improvement.
- (4) The type of construction, reconstruction or improvement for which exemption is requested.
- (5) The summary of the plan of construction or reconstruction or plan of improvement.
- (6) The anticipated date of completion.
- (7) The actual costs of construction, reconstruction or improvement.
- (8) Where such activity consists of improvements to bring the property into compliance with laws, ordinances or regulations governing safety or health, specific citations must be made to those laws, ordinances or regulations.
- (9) Such other information as may be necessary to process such application for exemption.

(c) The application shall be submitted by the property owner to the Town no later than thirty (30) days after the date the building permit was issued. Failure to submit notice of completion within thirty (30) days may permit the Town to deny such request for exemption for the initial tax year after completion of construction, reconstruction or improvement thereby limiting the length of the schedule of taxes exempted to one less year.

(d) A copy of the exemption request shall be forwarded by the Town to the Board as well as to the School District within thirty (30) days of the date the exemption request was submitted to the Town.

(e) Upon receipt of the exemption request, the Board shall certify the following information to the Town within thirty (30) days of receipt of the exemption request:

- (1) The initial assessed valuation of the property before construction, reconstruction or improvement.
- (2) The taxes due for the current year on the property for the Town and School District before construction, reconstruction or improvement.

(f) When the construction, reconstruction or improvement has been completed, the property owner shall notify the Town and the Town shall notify the School District and Board in writing. Such notice must occur within thirty (30) days of completion. Failure to submit notice of completion within thirty (30) days may permit the Town to deny such request for exemption for the initial tax year after completion of construction, reconstruction or improvement thereby limiting the length of the schedule of taxes exempted to one less year. The notice of completion shall include the following information:

- (1) Name and address of owner.
- (2) Lot and block number of property improved.
- (3) The date construction, reconstruction or improvement was completed.
- (4) Any modification to the plan of construction, reconstruction or improvement as previously submitted.
- (5) The final, adjusted actual costs of construction, reconstruction or improvement.

(g) The Board shall, after notice in writing and with a prior physical inspection, assess the property to determine the assessment valuation attributable to the construction, reconstruction or improvement and eligible for tax exemption under this article and the School District resolution.

(h) The Board shall provide in writing to the Town and School District and Tax Collector the following information:

- (1) The tax assessment of the property prior to construction, reconstruction or improvement.
- (2) The increase to assessed valuation attributed to the construction, reconstruction or improvement.
- (3) The amount of assessed valuation increase eligible for tax exemption.
- (4) The allocation of the increase in assessed valuation eligible for tax exemption by the Town and School District.

(i) The Town shall promptly notify the School District and the Tax Collector with a copy to the property owner in writing of the maximum amount of tax that may be exempted pursuant to this article.

(j) The Tax Collector shall forward the tax bill to the property owner at the appropriate time for each Local Taxing Authority utilizing its established tax collection process as set forth in the School Code and the Local Tax Collection Law, 72 P.S. Sec. 5511.1 et seq. (the "Local Tax Collection Law").

(k) The property owner shall have the obligation to pay the tax bill as directed within the appropriate time periods as provided in the Public School Code or Local Tax Collection Law.

(1) The Tax Collector utilizing its established procedure shall forward the appropriate amount due based on the allocation provided by the Board to each of the Local Taxing Authorities.

(m) The Tax Collector shall arrange for refund of taxes and/or exemption as the case may be based upon the exemption and shall provide evidence of tax exemption in writing to each taxpayer or by way of tax receipts or other documents.

(n) Should the taxpayers "contribution", "assessment" and/or "tax" paid to the Town during any taxable year not take advantage of the maximum exemption available from the Town and School District exemptions, the actual amount of exemption granted to each taxpayer from each Local Taxing Authority shall be calculated by the Board applying an allocation based upon the ratio of the participating tax millage of each of the Local Taxing Authorities for each tax year in which an exemption is claimed.

(o) All remaining taxes whether from the base assessment of taxes or on unused amounts of exemption shall be paid to the Tax Collectors of the Local Taxing Authorities according to the normal tax collection process of the School Code and/or the Local Tax Collection Law and the provisions of any other statute or regulation relating to the collection of real estate taxes.

(p) In the event of a tax delinquency whereby the delinquent tax is collected by the Tax Claim Bureau of Allegheny County, upon receipt of its share of tax, the Town shall forward 100% of the millage in effect on a year to year basis (currently 10 mills) of the tax collected or the appropriate amount as determined by the Board to the Town.

(q) The Town may, on behalf of the property owners, provide some or all of the reporting placed upon property owners to the Local Taxing Authorities and the same may be met by an annual report by the Town to the Local Taxing Authorities.  
(Ord. 1076 Sec. 6. Passed 7-20-92.)

#### 343.07 ANNUAL QUALIFICATION FOR EXEMPTION.

(a) After the initial application for exemption, a property owner need not reapply for an exemption, unless the identity of the property owner should change. Such new property owner desiring to maintain the exemption of tax in succeeding tax years shall notify the School District and Town in writing on or before the 15th day of April, of each tax year.

The notice shall include the following information:

- (1) Name and address of current owner.
- (2) Name and address of prior owners during exemption period.
- (3) Lot and block number of property improved.
- (4) Date that construction, reconstruction or improvement was completed.
- (5) Date of initial approval of exemption.

Failure to submit such notice for a succeeding year's exemption before the 15th day of April of each tax year may permit the Town to deny the request for exemption for the tax year, thereby limiting the length of the schedule of taxes exempted to one less year.

(b) The Town may, on behalf of the property owners, provide some or all of the reporting placed upon property owners to the Local Taxing Authorities and the same may be met by an annual report by the Town to the Local Taxing Authorities.  
(Ord. 1076 Sec. 7. Passed 7-20-92.)

#### 343.08 NOTICE TO THE TOWN.

As soon as practical after the adoption of the budgets of the Town and School District and the levy of real estate taxes thereunder, the Local Taxing Authorities shall notify the Town of the property tax millage rates and allocation to be applied to any exemption for the taxable year. (Ord. 1076 Sec. 8. Passed 7-20-92.)

#### 343.09 PENALTIES FOR VIOLATION.

Any person who fails, neglects or refuses to make any exemption request or fails, neglects or refuses to file any certificate of completion or evidence of contribution, assessment or tax as required by this article, within the time limits provided may suffer loss of the exemption available for that taxable year at the sole discretion of the Town. The loss of such exemption in any one taxable year does not preclude exemption in any other taxable year except insofar as the loss of such exemption reduces the maximum period of exemption to one less year. (Ord. 1076 Sec. 9. Passed 7-20-92.)

#### 343.10 MAXIMUM PERIOD OF EXEMPTION.

The length of the schedule of taxes exempted shall not exceed ten (10) years, the maximum time period allowed by LERTA from completion of the construction, reconstruction or improvement on an improvement by improvement basis. (Ord. 1076 Sec. 10. Passed 7-20-92.)

#### 343.11 EFFECTIVE DATE.

The provisions of this article and the School District resolution shall become effective on the date identified in Section 343.01(b) and shall impact upon all property within the Eligible Area for which building permits are issued from its effective date. This article and the School District resolution shall remain in effect for a period of twenty (20) years from the effective date and requests for exemptions may be filed at the time of issuance of any building permits for construction, reconstruction and improvement at any time during this twenty (20) year period; provided further, that each property owner shall have the benefit of the maximum period of exemption set forth in Section 343.10, except as set forth in Section 343.12. (Ord. 1076 Sec. 11. Passed 7-20-92.)

#### 343.12 TERMINATION.

If at any time during the period in which this article is in effect, including the period of exemption after completion of construction, reconstruction or improvement, all of the Town's public infrastructure facilities projects or services within the McCandless Economic Development District shall be completed, including the payment of all outstanding debt, nonassessable cost overruns, costs, expenses, and the School District Special Benefit Assessments, accrued and otherwise, the Town shall so notify the School District of such completion and the provisions of this article shall become null and void upon the adoption of an ordinance by the Town terminating the effect of this article. (Ord. 1076 Sec. 12. Passed 7-20-92.)

**343.13 SEVERABILITY.**

The provisions of this article are severable, and if any of its provisions shall be held invalid, illegal or unconstitutional, such decision shall not affect or impair any of the remaining provisions of this article. It is hereby declared to be the intention of the Town Council that this article would have been adopted as if such invalid, illegal or unconstitutional provisions had not been included herein.

(Ord. 1076 Sec. 13. Passed 7-20-92.)

**343.14 COMPLIANCE WITH ACTS OF ASSEMBLY.**

This article is enacted and intended to be in compliance with the provisions of the Acts of Assembly recited above, and where the interpretation of terms or provisions of this article are not in accordance with or in compliance with the provisions of such Acts of Assembly, the provisions of such Acts are intended to be adopted, resolved or enacted by this article as fully as though incorporated, set forth, and made a part of this article.

(Ord. 1076 Sec. 14. Passed 7-20-92.)

**343.15 REPEALER.**

Any resolution or part of any resolution conflicting with the provisions of this article is rescinded insofar as the conflict exists.

(Ord. 1076 Sec. 15. Passed 7-20-92.)

**343.16 TOWN RULES AND REGULATIONS.**

The Town Manager is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations related to any matter pertaining to the administration and enforcement of this article. No rule or regulation of any kind shall be enforceable unless it has been approved by resolution of the Town Council. A copy of such rules and regulations currently in force shall be available for public inspection.

(Ord. 1076 Sec. 16. Passed 7-20-92.)

**343.17 COOPERATION WITH THE SCHOOL DISTRICT.**

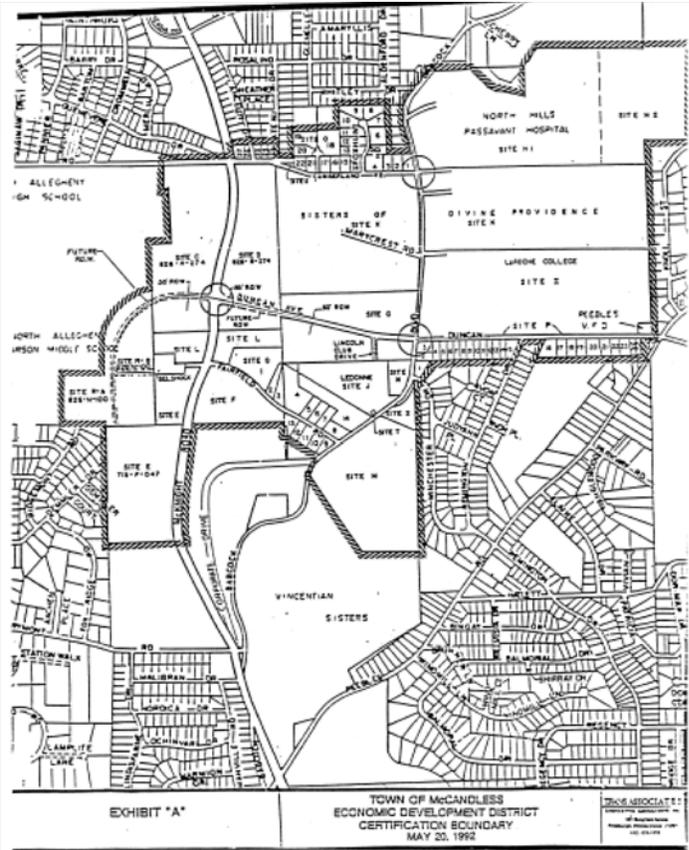
The President of the Town Council is hereby authorized and directed to enter into such agreements with the School District as are necessary from time to time to effectuate the terms of the R.A.P. Ordinance. Such agreements shall be in a form approved by the Town Solicitor.

(Ord. 1076 Sec. 17. Passed 7-20-92.)

**343.18 ADOPTION.**

This article is adopted this 20th day of July, 1992, to become effective according to Section 343.01(b), and shall continue in effect thereafter from year to year pursuant to its terms as approved by the Town Council of the Town of McCandless.

(Ord. 1076 Sec. 18. Passed 7-20-92.)



MCCANDLESS ECONOMIC DEVELOPMENT DISTRICT  
ABATEMENT APPLICATION

Application # \_\_\_\_\_

Property Owner Information

Name: \_\_\_\_\_

Address of Property: \_\_\_\_\_

Mailing Address of Owner: \_\_\_\_\_

Construction Information

Date Building Permit Issued: \_\_\_\_\_ Building Permit Number: \_\_\_\_\_

Summary of Construction: \_\_\_\_\_

Anticipated Completion Date: \_\_\_\_\_ Cost of Construction: \_\_\_\_\_

Property Tax Information

County Parcel #: \_\_\_\_\_

Present Assessed Value: Land \_\_\_\_\_ Building \_\_\_\_\_

It is my desire to participate in the Tax Abatement Program for the purpose of financing the expenses to be applied towards the construction of the McCandless Economic Development District Improvements. I understand and agree that under the terms and provisions of the Town of McCandless Local Economic Revitalization Tax Assistance Ordinance and the corresponding North Allegheny School District Resolution, I am eligible for a real estate tax abatement or credit against any payments in lieu of real property taxes in an amount no greater than any yearly contributions which I make to the Town of McCandless. I authorize the Town of McCandless to examine or duplicate any information contained in the Township Building permit file and to share this information with North Allegheny School District for the purpose of evaluating this application.

I HEREBY CERTIFY THAT THE STATEMENTS MADE IN THIS APPLICATION ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

Date: \_\_\_\_\_

Signature \_\_\_\_\_

Position, Title or Other identification of applicant \_\_\_\_\_

Property Address \_\_\_\_\_

IT IS A MISDEMEANOR UNDER THE ACT OF DECEMBER 6, 1972, 18 Pa. C.S.A. 4904 TO MAKE A FALSE STATEMENT WITH INTENT TO MISLEAD PUBLIC OFFICIALS.

-----  
Town of McCandless Personnel to Complete

Were improvements required to correct code violations:

No: \_\_\_\_\_ Yes: \_\_\_\_\_

Application Approved: \_\_\_\_\_, 19 \_\_\_\_ Application Rejected \_\_\_\_\_, 19 \_\_

Reason for Rejection: \_\_\_\_\_

Anticipated Tax Year Eligible: \_\_\_\_\_

\_\_\_\_\_  
Zoning Officer

\_\_\_\_\_  
Manager

EXHIBIT B

ARTICLE 345  
Tax Assessment Limitation Program

345.01	Definitions.	345.04	Rules and regulations.
345.02	Special tax provision.	345.05	Appeals.
345.03	Participation in program.		

CROSS REFERENCES

Allegheny Regional Asset District Law - see 16 P.S. §6101-B et seq.  
Senior Citizens Rebate and Assistance Act - see 72 P.S. §4751-1 et seq.

345.01 DEFINITIONS.

- (a) Act 77 - The Act of December 22, 1993, Public Law 529, No. 77, codified as the Allegheny Regional Asset District Law, PA. Stat. Ann. Tit. 16 §6101-B et seq.
- (b) Allegheny Regional Asset District Law - See the definition of "Act 77" above.
- (c) Board of Property Assessment - The Board of Property Assessment Appeals and Review of Allegheny County as set forth in Chapter 207 of the Administrative Code of Allegheny County.
- (d) Council - Council of the Town of McCandless.
- (e) County - Allegheny County.
- (f) Eligible Taxpayer - A longtime owner/occupant of a principal residence in the County who is: (1) a single person aged sixty (60) or older during a calendar year in which County real property taxes are due and payable and whose household income does not exceed \$30,000; or (2) married persons if either spouse is sixty (60) or older during calendar year in which County real property taxes are due and payable whose combined household income does not exceed \$30,000; or (3) an unmarried widow or widower aged fifty (50) or older during the calendar year in which County real property taxes are due and payable and whose household income does not exceed \$30,000; or (4) a permanently disabled person aged eighteen (18) or older during the calendar year in which County real property taxes are due and payable and whose household income does not exceed \$30,000.

(g) Household Income - All income received by an eligible taxpayer while residing in his or her principal residence during a calendar year.

(h) Income - All income from whatever source derived, including, but not limited to, salaries, wages, dividends, interest, bonuses, commissions, income from self-employment, IRA distributions, alimony, support money, cash public assistance and relief, the gross amount of any pensions or annuities, including railroad retirement benefits for the calendar years prior to 1999, and fifty percent of railroad retirement benefits for calendar years 1999 and thereafter, all benefits received under the Federal Social Security Act (except Medicare benefits) for calendar years prior to 1999, and fifty percent of all benefits received under the Federal Social Security Act (except medical benefits) for calendar years 1999 and thereafter, all benefits received under State Unemployment Insurance laws and Veteran's Disability payments, all interest received from the federal or any state government or any instrumentality or political subdivision thereof, realized capital gains, net income from rentals, worker's compensation and the gross amount of loss of time insurance benefits, life insurance benefits and proceeds, except the first five thousand dollars (\$5,000) of the total of death benefit payments, and gifts of cash or property, other than transfers by gift between members of a household, in excess of a total value of three hundred dollars (\$300.00), but shall not include surplus food or other relief in kind supplied by a governmental agency or property tax or rent rebate or inflation dividend.

(i) Longtime Owner/Occupant - A Town property owner/occupant who, for at least ten (10) continuous years, has owned and occupied a dwelling place within the County as a principal residence and domicile, or any person who for at least five (5) years has owned and occupied the same dwelling as a principal residence and domicile if that person received assistance in the acquisition of the property as a part of a government or non-profit housing program.

(j) Office of Property Assessment - The Office of Property Assessment of Allegheny County or such other entity performing the function of making valuations of real property for taxation purposes.

(k) Person - A natural person.

(l) Primary Personal Residence - The dwelling place and so much of the land or lots surrounding it as is reasonably necessary for use of the dwelling as a home, owned and occupied by a person. The term primary personal residence shall also include premises occupied by reason of ownership in a cooperative housing corporation, mobile homes which are assessed as realty for local property tax purposes and the land upon which the mobile home is situated, and other similar living accommodations, as well as part of a multi-dwelling or multi-purpose building and a part of the land upon which it is built. It shall also include premises occupied by a person and located on land owned by a nonprofit incorporated association, of which the person is a member, if the person is required to pay a pro rata share of the property taxes levied against the association's land. It shall also include premises occupied by a person if he is required by law to pay a property tax by reason of his or her ownership or rental (including a possessory interest) in the dwelling, the land, or both. An owner includes a person in possession under a contract of sale, deed of trust, life estate, joint tenancy or tenancy in common or by reason of statutes of descent and distribution.

- (m) Program - See the definition of "Special Tax Provisions" below.
- (n) Senior Citizens Rebate and Assistance Act - The Act of March 11, 1971, Public Law 104, No. 3, as amended, codified at Pa. Stat. Ann. Tit. 72, §4751-1 et seq.
- (o) Special Tax Provisions - A program of tax relief for eligible taxpayers authorized under Act 77, as amended, consisting of a discount on the payment of Town of McCandless real property taxes.
- (p) Town - Town of McCandless.
- (q) Treasurer - The Treasurer of Allegheny County.  
(Ord. 1241. Passed 4-23-01.)

#### 345.02 SPECIAL TAX PROVISION.

- (a) All eligible taxpayers in the Town who are longtime owner/occupants of a principal residence shall be deemed a separate class of subjects of taxation and shall be entitled to the benefit of the special Tax Provisions of this Article.  
(Ord. 1241. Passed 4-23-01.)
- (b) All eligible taxpayers in the Town who are longtime owner/occupants shall be entitled to apply for and receive a discount of thirty percent (30%) on the gross or face amount of the Town of McCandless real property taxes then due and owing during a tax year on an eligible taxpayer(s) primary personal residence, and this discount shall not be in derogation of the allowable two percent (2%) discount permitted to all taxpayers for early payment.  
(Ord. 1303. Passed 6-28-04.)

#### 345.03 PARTICIPATION IN PROGRAM.

Any person paying property taxes in the Town may apply to either the Office of the Treasurer or to the Office of Property Assessment for certification as a participant in the Program authorized under this Article. In order to be eligible to participate in the Program, the person must meet the following conditions:

- (a) The person must be a single person aged sixty (60) or older; or be married persons with either spouse being sixty (60) years of age or older; or be an unmarried widow or widower aged fifty (50) years of age or older; or be a disabled person aged eighteen (18) years of age or older.
- (b) The person must be a longtime owner/occupant; and
- (c) The property owned by the person(s) must be the primary personal residence of the person(s).
- (d) The person's household income must not exceed thirty thousand dollars (\$30,000). (Ord. 1241. Passed 4-23-01.)

#### 345.04 RULES AND REGULATIONS.

The Office of the Treasurer and the Office of the Property Assessment and/or the Town Manager shall promulgate rules and regulations for the administration of the Program established under this Article. Such rules and regulations shall include, but not be limited to: application procedures and deadlines; reasonable proof of household income; proof of residence; ownership and occupancy of the primary personal residence; provision of the tax bill or receipt for the Town of McCandless real estate taxes owed or paid in connection with the primary personal residence; and any other reasonable requirements and conditions as may be necessary to operate the property tax relief program.  
(Ord. 1241. Passed 4-23-01.)

**345.05 APPEALS.**

An appeal from any determination hereunder by the Office of the Treasurer or the Office of Property Assessment shall be in accordance with the Pennsylvania Local Agency Law. (Ord. 1241. Passed 4-23-01.)

ARTICLE 347  
Local Services Tax

347.01	Definitions.	347.08	Individuals engaged in more than one occupation or employed in more than one political subdivision.
347.02	Levy of tax.	347.09	Nonresidents subject to tax.
347.03	Exemption and refunds.	347.10	Administration of tax.
347.04	Duty of employers to collect.	347.11	Suits for collection.
347.05	Returns.	347.12	Violations and penalties.
347.06	Dates for determining tax liability and payment.	347.13	Interpretation.
347.07	Self-employed individuals.		

347.01 DEFINITIONS.

The following words and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context or language clearly indicates or requires a different meaning:

- (a) **POLITICAL SUBDIVISION** - The area within the corporate limits of the Town of McCandless.
- (b) **COLLECTOR** - The person, public employee or private agency designated by the political subdivision to collect and administer the tax herein imposed.
- (c) **DCED** - The Department of Community and Economic Development of the Commonwealth of Pennsylvania.
- (d) **EARNED INCOME** - Compensation as this term is defined in Section 13 (relating to earned income taxes) of the Local Tax Enabling Act, the Act of December 31, 1965, P.L. 1257 §13, as amended, 53 P.S. §6913, as amended.
- (e) **EMPLOYER** - An individual, partnership, association, limited liability corporation, limited liability partnership, corporation, governmental body, agency or other entity employing one or more persons on a salary, wage, commission or other compensation basis, including a self-employed person.
- (f) **HE, HIS or HIM** - Indicates the singular and plural number, as well as male, female and neuter genders.

- (g) INDIVIDUAL - Any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the political subdivision.
- (h) NET PROFITS - The net income from the operation of a business, profession, or other activity, as this term is defined in Section 13 (relating to earned income taxes) of the Local Tax Enabling Act, the Act of December 31, 1965, P.L. 1251, §13, as amended, 53 P.S. §6913, as amended.
- (i) OCCUPATION - Any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, earned on or performed within the corporate limits of the political subdivision for which compensation is charged or received, whether by means of salary, wages, commission or fees for services rendered.
- (j) TAX - The local services tax at the rate fixed in Section 347.02.
- (k) TAX YEAR - The period from January 1 through December 31 in any year (a calendar year). (Ord. 1351. Passed 12-3-07.)

#### 347.02 LEVY OF TAX.

For specific revenue purposes, an annual tax is hereby levied and assessed, commencing January 1, 2008, upon the privilege of engaging in an occupation with a primary place of employment within the Town during the tax year. Each natural person who exercises each privilege for any length of time during any tax year shall pay the tax for that year in the amount of fifty-two dollars (\$52.00), assessed on a pro rata basis, in accordance with the provisions of this article. This tax may be used solely for the following purposes as the same may be allocated by the Town from time to time:

- (a) Emergency services, which shall include emergency medical services, police services and/or fire services;
- (b) Road construction and/or maintenance;
- (c) Reduction of property taxes; or
- (d) Property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S. Ch 85. Subch. F (relating to homestead property exclusion).

The political subdivision shall use no less than twenty-five percent (25%) of the funds derived from the tax for emergency services. This tax is in addition to all other taxes of any kind or nature heretofore levied by the political subdivision. The tax shall be no more than fifty-two dollars (\$52.00) on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed. (Ord. 1351. Passed 12-3-07.)

#### 347.03 EXEMPTION AND REFUNDS.

(a) Exemption. Any person whose total earned income and net profits from all sources within the political subdivision is less than twelve thousand dollars (\$12,000) for any calendar year in which the tax is levied is exempt from the payment of the tax for that calendar year. In addition, the following persons are exempt from payment of the tax:

- (1) Any person who has served in any war or armed conflict in which the United States was engaged and is honorably discharged or released under honorable circumstances from active service if, as a result of military service, the person is blind, paraplegic or a double or quadruple amputee or has a service-connected disability declared by the United States Veterans' Administration or its successor to be a total one hundred percent (100%) disability.

- (2) Any person who serves as a member of a reserve component of the armed forces and is called to active duty at any time during the taxable year. For the purposes of this subparagraph, "reserve component of the armed forces" shall mean the United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard or the Pennsylvania Air National Guard.
- (b) Procedure to Claim Exemption.
- (1) A person seeking to claim an exemption from the local services tax may annually file an exemption certificate with the political subdivision and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the political subdivision of less than twelve thousand dollars (\$12,000) in the calendar year for which the exemption certificate is filed. In the event the political subdivision utilizes a tax collection officer, it shall provide a copy of the exemption certificate to that officer. The exemption certificate shall have attached to it a copy of all the employee's last pay stubs or W-2 forms from employment within the political subdivision for the year prior to the fiscal year for which the employee is requesting to be exempted from the tax. Upon receipt of the exemption certificate and until otherwise instructed by the political subdivision or except as required by subsection (b)(2) hereof, the employer shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which the exemption applies. Employers shall ensure that the exemption certificate forms are readily available to employees at all times and shall furnish each new employee with a form at the time of hiring. The exemption certificate form shall be the uniform form provided by the political subdivision.
- (2) With respect to a person who claimed an exemption for a given calendar year from the tax, upon notification to an employer by the person or by the political subdivision that the person has received earned income and net profits from all sources within the political subdivision equal to or in excess of twelve thousand dollars (\$12,000) in that calendar year or that the person is otherwise ineligible for the tax exemption for that calendar year, or upon an employer's payment to the person of earned income within the Municipality in an amount equal to or in excess of twelve thousand dollars (\$12,000) in that calendar year, an employer shall withhold the local services tax from the person under subsection (b)(3) hereof.

- (3) If a person who claimed an exemption for a given calendar year from the tax becomes subject to the tax for the calendar year under subsection (b)(2) hereof, the employer shall withhold the tax for the remainder of that calendar year. The employer shall withhold from the person, for the first payroll period after receipt of the notification under subsection (b)(2) hereof, a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person under this subsection, plus the per payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees. In the event the employment of a person subject to withholding of the tax under this clause is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of the tax due, and the political subdivision may pursue collection under this article.
- (4) Except as provided in subsection (b)(2) hereof, it is the intent of this subsection that employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility or exempting any employee from the local services tax.

(c) Refunds. The Town, in consultation with the Collector, shall establish procedures for the processing of refund claims for any tax paid by any person who is eligible for exemption, which procedures shall be in accord with provisions of the general municipal law relating to refunds of overpayments and interest on overpayments. Refunds made within seventy-five (75) days of a refund request or seventy-five (75) days after the last day the employer is required to remit the tax for the last quarter of the calendar year, whichever is later, shall not be subject to interest. No refunds shall be made for amounts overpaid in a calendar that do not exceed one dollar (\$1.00). The Town or the Collector shall determine eligibility for exemption and provide refunds to exempt persons. (Ord. 1351. Passed 12-3-07.)

#### 347.04 DUTY OF EMPLOYERS TO COLLECT.

(a) Each employer within the political subdivision, as well as those employers situated outside the political subdivision but who engage in business within the political subdivision, is hereby charged with the duty of collecting the tax from each of his employees engaged by him or performing for him within the political subdivision and making a return and payment thereof to the Collector. Further, each employer is hereby authorized to deduct this tax for each employee in his employ, whether said employee is paid by salary, wage or commission and whether or not all such services are performed within the political subdivision.

(b) A person subject to the tax shall be assessed by the employer a pro rata share of the tax for each payroll period in which the person is engaging in an occupation. The pro rata share of the tax assessed on the person for a payroll period shall be determined by dividing the rate of the tax levied for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro rata share, an employer shall round down the amount of tax collected each payroll period to the nearest one-hundredth of a dollar. Collection of the tax shall be made on a payroll period basis for each payroll period in which the person is engaging in an occupation, except as provided in Paragraph (d) of this Section. For purposes of this paragraph, combined rate shall mean the aggregate annual rate of the tax levied by the school district and the Municipality.

(c) No person shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period.

(d) In the case of concurrent employment, an employer shall refrain from withholding the tax if the employee provides a recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of the tax withheld and a statement from the employer that the pay statement is from the employee's principal employer and the employee will notify other employers of a change in principal place of employment within two weeks of its occurrence. The employee's statement shall be provided on the form approved by DCED.

(e) The tax shall be no more than fifty-two dollars (\$52.00) on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed. The political subdivision shall provide a taxpayer a receipt of payment upon request by the taxpayer.

(f) No employer shall be held liable for failure to withhold the tax or for the payment of the withheld tax money to the political subdivision if the failure to withhold taxes arises from incorrect information submitted by the employee as to the employee's place or places of employment, the employee's principal office or where the employee is principally employed. Further, an employer shall not be liable for payment of the local services tax in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of Paragraph (b) of Section 347.03 of this article and this section and remits the amount so withheld in accordance with this article.

(g) Employers shall be required to remit the local services tax thirty (30) days after the end of each quarter of a calendar year. (Ord. 1351. Passed 12-3-07.)

#### 347.05 RETURNS.

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to the employer by the Collector. If an employer fails to file the return and pay the tax, whether or not the employer makes collection thereof from the salary, wages or commissions paid by him or her to an employee, except as provided hereafter in this article, the employer shall be responsible for the payment of the tax in full as though the tax had been originally levied against the employer. (Ord. 1351. Passed 12-3-07.)

#### 347.06 DATES FOR DETERMINING TAX LIABILITY AND PAYMENT.

In each tax year, each employer shall use his or her employment records to determine the number of employees from whom such tax shall be deducted and paid over to the Collector on or before the thirtieth day following the end of each calendar quarter of each such tax year. (Ord. 1351. Passed 12-3-07.)

#### 347.07 SELF-EMPLOYED INDIVIDUALS.

Each self-employed individual who performs services of any type or kind or engages in any occupation or profession within a primary place of employment within the political subdivision shall be required to comply with this article and pay the pro rata portion of the tax due to the Collector on or before the thirtieth day following the end of each quarter. (Ord. 1351. Passed 12-3-07.)

**347.08 INDIVIDUALS ENGAGED IN MORE THAN ONE OCCUPATION OR EMPLOYED IN MORE THAN ONE POLITICAL SUBDIVISION.**

(a) The situs of the tax shall be the place of employment on the first day the person becomes subject to the tax during each payroll period. In the event a person is engaged in more than one occupation, that is, concurrent employment, or an occupation which requires the person to work in more than one political subdivision during a payroll period, the priority of claim to collect the local services tax shall be in the following order:

- (1) First, the political subdivision in which a person maintains his principal office or is principally employed;
- (2) Second, the political subdivision in which the person resides and works if the tax is levied by that political subdivision;
- (3) Third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.

(b) In case of dispute, a tax receipt of the taxing authority for that calendar year declaring that the taxpayer has made prior payment constitutes prima facie certification of payment to all other political subdivisions. (Ord. 1351. Passed 12-3-07.)

**347.09 NONRESIDENTS SUBJECT TO TAX.**

All employees and self-employed individuals residing or having their places of business outside of the political subdivision but who perform services of any type or kind or engage in any occupation or profession within the political subdivision do, by virtue thereof, agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this article with the same force and effect as though they were residents of the political subdivision. Further, any individual engaged in an occupation within the political subdivision and an employee of a nonresidential employer may, for the purpose of this article, be considered a self-employed person, and in the event his tax is not paid, the political subdivision shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided. (Ord. 1351. Passed 12-3-07.)

**347.10 ADMINISTRATION OF TAX.**

(a) The Collector shall be appointed by resolution of the political subdivision. It shall be the duty of the Collector to accept and receive payments of this tax and to keep a record thereof showing the amount received by him from each employer or self-employed person, together with the date the tax was received.

(b) The Collector is hereby charged with the administration and enforcement of this article and is hereby charged and empowered, subject to municipal approval, to proscribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the examination of payroll records of any employer subject to this article, the examination and correction of any return made in compliance with this article and any payment alleged or found to be incorrect or as to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the Collector shall have the right to appeal to the Court of Common Pleas of Allegheny County as in other cases provided.

(c) The Collector is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer or, if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the Collector the means, facilities and opportunity for such examination.  
(Ord. 1351. Passed 12-3-07.)

#### 347.11 SUITS FOR COLLECTION.

(a) In the event that any tax under this article remains due or unpaid thirty (30) days after the due dates above set forth, the Collector may sue for the recovery of any such tax due or unpaid under this article, together with interest and penalty.

(b) If for any reason the tax is not paid when due, interest at the rate of six percent (6%) on the amount of such tax shall be calculated beginning with the due date of the tax, and a penalty of five percent (5%) shall be added to the flat rate of such tax for nonpayment thereof. Where suit is brought for the recovery of this tax or other appropriate remedy undertaken, the individual liable therefor shall, in addition, be responsible and liable for the costs of collection.  
(Ord. 1351. Passed 12-3-07.)

#### 347.12 VIOLATIONS AND PENALTIES.

Whoever makes any false or untrue statement on any return required by this article, or whoever refuses inspection of the books, records or accounts in his custody and control setting forth the number of employees subject to this tax and who are in his employment, or whoever fails or refuses to file any return required by this article shall be guilty of a violation and, upon conviction thereof, shall be sentenced to pay a fine of not more than six hundred dollars (\$600.00) and costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than thirty (30) days. The action to enforce the penalty herein prescribed may be instituted against any person in charge of the business of any employer who shall have failed or who refuses to file a return required by this article.  
(Ord. 1351. Passed 12-3-07.)

#### 347.13 INTERPRETATION.

(a) Nothing contained in this article shall be construed to empower the political subdivision to levy and collect the tax hereby imposed on any occupation not within the taxing power of the political subdivision under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.

(b) If the tax hereby imposed under the provisions of this article shall be held by any court of competent jurisdiction to be in violation of the Constitution of the United States or of the laws of the Commonwealth of Pennsylvania as to any individual, the decision of the court shall not affect or impair the right to impose or collect said tax or the validity of the tax so imposed on other persons or individuals as herein provided.  
(Ord. 1351. Passed 12-3-07.)

