

OFFICIAL
TOWN OF MCCANDLESS
ORDINANCE NO. 1449

AN ORDINANCE OF THE TOWN OF MCCANDLESS, ALLEGHENY COUNTY, PENNSYLVANIA; PROVIDING FOR THE AMENDMENT OF THE ZONING ORDINANCE OF THE TOWN OF MCCANDLESS, AS CODIFIED AT PART THIRTEEN OF THE CODIFIED ORDINANCES OF THE TOWN OF MCCANDLESS; PROVIDING FOR PURPOSES AND FINDINGS OF FACT RELATED TO THE ADOPTION OF THE AMENDMENT; PROVIDING FOR DEFINITIONS; ESTABLISHING CERTAIN GENERAL AND SPECIFIC STANDARDS RELATING TO THE LOCATION, PLACEMENT, CONSTRUCTION AND MAINTENANCE OF COMMUNICATIONS TOWERS AND COMMUNICATIONS ANTENNAE; PROVIDING FURTHER FOR THE REGULATION OF SUCH FACILITIES WITHIN THE PUBLIC RIGHTS-OF-WAY AND OUTSIDE THE PUBLIC RIGHTS-OF-WAY; PROVIDING FOR THE ENFORCEMENT OF SAID REGULATIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW THEREFORE, be it, and it is hereby **ORDAINED** by the Council of the Town of McCandless, Allegheny County, Commonwealth of Pennsylvania, and it is hereby **ENACTED** and **ORDAINED** by authority of same as follows:

SECTION I. Short Title.

This Ordinance shall be known as the “Town of McCandless Wireless Communications Facilities Ordinance.”

SECTION II. Purposes and Findings of Fact.

- A. The purpose of this Ordinance is to establish uniform standards for the siting, design, permitting, maintenance, and use of wireless communications facilities in the Town of McCandless. While the Town recognizes the importance of wireless communications facilities in providing high quality communications service to its residents and businesses, the Town also recognizes that it has an obligation to protect public safety and to minimize the adverse visual effects of such facilities through the standards set forth in the following provisions.
- B. By enacting this Ordinance, the Town intends to:

1. Promote the health, safety, and welfare of Town residents and businesses with respect to wireless communications facilities;
2. Provide for the managed development of wireless communications facilities in a manner that enhances the benefits of wireless communication and accommodates the needs of both Town residents and wireless carriers in accordance with federal and state laws and regulations;
3. Establish procedures for the design, siting, construction, installation, maintenance and removal of Communications Towers and Communications Antennae in the Town, including facilities both inside and outside the public rights-of-way;
4. Address new wireless technologies, including but not limited to, distributed Antenna systems, data collection units, cable Wi-Fi and other wireless communications facilities;
5. Encourage the co-location of wireless communications facilities on existing structures rather than the construction of new tower-based structures;
6. Protect Town residents from potential adverse impacts of wireless communications facilities and preserve, to the extent permitted under law, the visual character of established communities and the natural beauty of the landscape; and
7. Update the Town's wireless facilities regulations to incorporate changes in federal and state laws and regulations.

SECTION III. Definitions.

Section 1311.04 (a) of the Town of McCandless Zoning Ordinance is hereby amended by to include the following definitions:

1. *Amateur radio*— (also called ham radio) means the use of designated radio frequency spectra for purposes of private recreation, non-commercial exchange of messages, wireless experimentation, self-training, and emergency communication.
2. *Co-location*—the mounting of one or more Communications Antennae on an existing Communications Tower, or on any structure that already supports at least one Communications Antenna.
3. *Communications Antenna (Antenna)*— any system of wires, rods, discs, panels, flat panels, dishes, whips, or other similar devices used for the transmission or reception of wireless signals, which may include an omnidirectional Antenna (rod), directional Antenna (panel), parabolic Antenna (disc) or any other wireless Antenna. Communications Antenna further includes, but is not limited to, Related Equipment.

Communications Antennae shall not include support structures for Antennae or any Related Equipment that is mounted to the ground or at ground-level.

4. *Communications Tower*—any structure that is used for the purpose of supporting one or more Antennae, including, but not limited to, self-supporting lattice towers, guy towers and monopoles, utility poles and light poles. DAS hub facilities are considered to be Communications Towers.
5. *Distributed Antenna Systems (DAS)*—network of spatially separated Antenna sites connected to a common source that provides wireless service within a geographic area or structure.
6. *Emergency*—a condition that (1) constitutes a clear and immediate danger to the health, welfare, or safety of the public, or (2) has caused or is likely to cause facilities in the Rights-of-Way to be unusable and result in loss of the services provided.
7. *FCC*—Federal Communications Commission.
8. *Height of a Communications Tower* - The vertical distance measured from the ground level, including any base pad, to the highest point on a Communications Tower, including Antennae mounted on the tower and any other appurtenances.
9. *Monopole*—a Communications Tower or site which consists of a single pole structure, designed and erected on the ground or on top of a structure, to support Communications Antenna and connecting appurtenances.
10. *Related Equipment*— Any piece of equipment related to, incident to, or necessary for, the operation of a Communications Tower or Communications Antenna. By way of illustration, not limitation, “Related Equipment” includes generators and base stations.
11. *Right-of-Way or ROW*—the surface of and space above and below any real property in the Town in which the Town has a regulatory interest, or interest as a trustee for the public, as such interests now or hereafter exist, including, but not limited to, all Streets, highways, avenues, roads, alleys, sidewalks, tunnels, viaducts, bridges, skyways, or any other public place, area or property under the control of the Town, and any unrestricted public or utility easements established, dedicated, platted, improved or devoted for Utility purposes, but excluding lands other than streets that are owned by the Town. The phrase “in the Right(s)-of-Way” and means in, on, over, along, above and/or under the Right(s)-of-Way. For the purpose of this ordinance, ROW shall include streets and roads owned by Allegheny County, the Commonwealth of Pennsylvania, and any other Pennsylvania state agencies.
12. *Stealth Technology*—camouflaging methods applied to wireless communications towers, Antennae and other facilities which render them more visually appealing or blend the proposed facility into the existing structure or visual backdrop in such a manner as to render it minimally visible to the casual observer. Such methods include, but are not limited to, architecturally screened roof-mounted Antennae, building-mounted Antennae

painted to match the existing structure and facilities constructed to resemble trees, shrubs, and light poles.

13. *Substantially Change*—(1) Any increase in the height of a Wireless Support Structure by more than 10%, or by the height of one additional Antenna array with separation from the nearest existing Antenna not to exceed twenty (20) feet, whichever is greater, except that the mounting of the proposed Wireless Communications Facility may exceed the size limits set forth in the WBCA or the Town of McCandless Zoning Ordinance if necessary to avoid interference with existing Antennae; or (2) any further increase in the height of a Wireless Support Structure which has already been extended by more than 10% of its originally approved height or by the height of one additional Antenna array.
14. *WBCA* - Pennsylvania Wireless Broadband Collocation Act (53 P.S. §11702.1 *et. seq.*)
15. *Wireless*—transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, PCS, microwave, satellite, or radio signals.
16. *Wireless Communications Facility* —the Antennae, nodes, control boxes, towers, poles, conduits, ducts, pedestals, electronics and other equipment used for the purpose of transmitting, receiving, distributing, providing, or accommodating wireless communications services.
17. *Wireless Communications Facility Applicant (Applicant)*—any person that applies for a wireless communication facility building permit, zoning approval and/or permission to use the public right-of-way (ROW) or other Town owned land or property.
18. *Wireless Support Structure*—a freestanding structure, such as a Tower-Based Wireless Communications Facility or any other support structure that could support the placement or installation of a Wireless Communications Facility if approved by the Town.

SECTION IV. Repealer

The terms, conditions and provisions of Part Thirteen (Planning and Zoning Code”), Title Three, Article 1341.13(c)-(d) of the Codified Ordinances of the Town of McCandless are hereby REPEALED and REPLACED by provisions set forth under Sections V-X of this Ordinance.

Additionally, all prior ordinances are hereby repealed in whole or in part to the extent inconsistent with this Ordinance.

The following shall be inserted after Section 1341.13(b) of the Codified Ordinances of the Town of McCandless.

SECTION V. General Requirements for All Communications Antennae

A. The following regulations shall apply to all Communications Antennae that do not Substantially Change the physical dimensions of the Wireless Support Structure to which they are attached:

1. Prohibited on Certain Structures. Commercial Communications Antennae shall not be located on single-family dwellings, two family dwellings, multi-family dwellings, or any accessory residential structure.
2. Permit Required. Applicants proposing the modification of an existing Communications Tower, in order to co-locate an Antenna, shall obtain a Permit from the Town Zoning Office. In order to be considered for such permit, the Applicant must submit a permit application to the Town Zoning Office.
3. Standard of Care. Any Communications Antenna shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, and National Electrical Code. Antennae shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Town.
4. Related Equipment. Ground-mounted Related Equipment greater than three (3) cubic feet shall not be located within twenty-five (25) feet of a lot in residential use or zoned residential.
5. Wind. All Communications Antenna structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/TIA-222-E, as amended).
6. Public Safety Communications. No Communications Antenna shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
7. Aviation Safety. Communications Antennae shall comply with all federal and state laws and regulations concerning aviation safety.
8. Radio Frequency Emissions. No Communications Antenna may, by itself or in conjunction with other Antennae, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of

Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.

9. Removal. In the event that use of a Communications Antenna is discontinued, the owner shall provide written notice to the Town of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned Antennae or portions of Antennae shall be removed as follows:
 - a. All abandoned or unused Antennae and accessory facilities shall be removed within two (2) months of the cessation of operations at the site unless a time extension is approved by the Town.
 - b. If the Antenna or accessory facility is not removed within two (2) months of the cessation of operations at a site, or within any longer period approved by the Town, the Antenna and/or associated facilities and equipment may be removed by the Town and the cost of removal assessed against the owner of the Antenna.
10. Timing of Approval for Applications that Fall Under the WBCA. Within thirty (30) calendar days of the date that an application for a Communications Antenna is filed with the Town, the Town shall notify the Applicant in writing of any information that may be required to complete such application. Within sixty (60) calendar days of receipt of a complete application, the Town shall make its final decision on whether to approve the application and shall advise the Applicant in writing of such decision. If additional information was requested by the Town to complete an application, the time required by the Applicant to provide the information shall not be counted toward the Town's sixty (60) day review period.
11. Permit Fees. The Town may assess appropriate and reasonable permit fees directly related to the Town's actual costs in reviewing and processing the application for approval of a Communications Antenna. Such fees shall be adopted by resolution of Town Council. For applications that fall under the WBCA, the fee assessed shall not exceed the maximum fees established under the WBCA.
12. Insurance. Each Person that owns or operates a Communications Antenna shall provide the Town with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the Communications Antenna.
13. Indemnification. Each Person that owns or operates a Communications Antenna shall, at its sole cost and expense, indemnify, defend and hold harmless the Town, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the Person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the Communications Antenna. Each Person that

owns or operates a Communications Antenna shall defend any actions or proceedings against the Town in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of a Communications Antenna. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.

B. The following regulations shall apply to all Communications Antennae that do Substantially Change the Wireless Support Structure to which they are attached:

1. Prohibited on Certain Structures. Communications Antennae shall not be located on single-family dwellings, two-family dwellings, or any residential accessory structure.
2. Permits Required. Any Applicant proposing the construction of a new Communications Antenna, or the modification of an existing Communications Antenna, shall first obtain a Permit from the Town Zoning Office. New construction and modifications shall be prohibited without a Zoning Permit and Building Permit, as required. After receipt of the Permit application, the Town Zoning Officer shall determine whether zoning relief is necessary under the Town Code.
3. Standard of Care. Any Communications Antenna shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, and National Electrical Code. All Antennae shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Town.
4. Wind. Any Communications Antenna structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/TIA-222-E Code, as amended).
5. Public Safety Communications. No Communications Antenna shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
6. Historic Buildings. No Communications Antenna may be located on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or is eligible to be so listed, or is listed on the official historic structures and/or historic districts list maintained by the Town, or has been designated by the Town to be of historical significance.

7. Aviation Safety. Communications Antennae shall comply with all federal and state laws and regulations concerning aviation safety.
8. Maintenance. The following maintenance requirements shall apply:
 - a. The Communications Antenna shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
 - b. Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Town's residents.
 - c. All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
9. Radio Frequency Emissions. No Communications Antenna may, by itself or in conjunction with other Antennae, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
10. Removal. In the event that use of a Communications Antenna is discontinued, the owner shall provide written notice to the Town of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned Antennae or portions of Antennae shall be removed as follows:
 - a. All abandoned or unused Antennae and accessory facilities shall be removed within two (2) months of the cessation of operations at the site unless a time extension is approved by the Town.
 - b. If the Antenna or accessory facility is not removed within two (2) months of the cessation of operations at a site, or within any longer period approved by the Town, the Antenna and/or associated facilities and equipment may be removed by the Town and the cost of removal assessed against the owner of the Antenna.
11. Timing of Approval. Within thirty (30) calendar days of the date that an application for a Communications Antenna is filed with the Town, the Town shall notify the Applicant in writing of any information that may be required to complete such application. Within ninety (90) calendar days of receipt of a complete application, the Town shall make its final decision on whether to approve the application and shall advise the Applicant in writing of such decision. If additional information was requested by the Town to complete an application, the time required by the Applicant to provide the information shall not be counted toward the Town's ninety (90) day review period.

12. Retention of Experts. The Town may hire any consultant(s) and/or expert(s) necessary to assist the Town in reviewing and evaluating the application for approval of the Antenna and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Ordinance. The Applicant and/or owner of the Antenna shall reimburse the Town for all costs of the Town's consultant(s) in providing expert evaluation and consultation in connection with these activities.
13. Permit Fees. The Town may assess appropriate and reasonable permit fees directly related to the Town's actual costs in reviewing and processing the application for approval of a Communications Antenna, as well as related inspection, monitoring and related costs.

SECTION VI. Communications Antennae Outside the Public Rights-of-Way

The following additional regulations shall apply to Communications Antennae located outside the public Rights-of-Way that do Substantially Change the Wireless Support Structure to which they are attached:

1. Communications Antennae are permitted in the (I) Institutional, District, C-5 Commercial Residential District, C-7 Office Building District, R-4 Hi-Rise Apartment District, and R-6 Elderly Housing District. Communications Antennae in such districts may only be mounted to a building, an existing utility pole, an existing Communications Tower, or public utility transmission structure.
2. Development Regulations. Communications Antennae shall be co-located on existing structures, such as existing buildings or Communications Towers, if possible, subject to the following conditions:
 - a. To the extent permissible by law, such Antenna does not exceed the lesser of a total maximum height of twelve (12) feet, or the maximum height permitted in the underlying zoning district.
 - b. If the Antenna Applicant proposes to locate the Related Equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district.
 - c. A security fence satisfactory to the Town of not less than ten (10) feet shall surround any separate communications equipment building. Vehicular access to the communications equipment building shall not interfere with the parking or vehicular circulations on the site for the principal use. A lock box shall be provided for emergency access.
3. Permit Required. If co-location of the Communications Antenna on an existing Support Structure is not technologically feasible, the Applicant shall obtain a Permit from the Town Zoning Office.

4. Land Development Plan. Town approval of a land development plan shall be required for all Towers in excess of fifty (50) feet in height. All stormwater requirements are applicable.
5. Design Regulations.
 - a. Communications Antennae shall employ Stealth Technology and be treated to match the supporting structure in order to minimize aesthetic impact. The application of the Stealth Technology chosen by the Antenna Applicant shall be subject to the approval of Town Council.
 - b. The total height of any support structure and mounted Antenna shall not exceed the maximum height permitted in the underlying zoning district. To the extent permissible by law, the height of an Antenna shall not exceed the lesser of a total maximum height of twelve (12) feet, or the maximum height permitted in the underlying zoning district.
 - c. In accordance with industry standards, all Communications Antenna Applicants must submit documentation to the Town justifying the total height of the Antenna structure. Such documentation shall be analyzed in the context of such justification on an individual basis.
 - d. Non-Commercial Usage Exemption. Town citizens utilizing satellite dishes, Amateur radios, and Antennae for the purpose of maintaining television, telephone, radio communications and/or internet connections at their respective residences shall be exempt from these Design Regulations.
6. Removal, Replacement, Modification.
 - a. The removal and replacement of Communications Antennae and/or accessory equipment for the purpose of upgrading or repairing the Antenna is permitted, so long as such repair or upgrade does not increase the overall size or number of Antennae.
 - b. Any material modification to a Wireless Communications Facility shall require a prior amendment to the original permit or authorization.
7. Reservation of Rights. In accordance with applicable law, the Town reserves the right to deny an application for the construction or placement of any Communications Antenna for numerous factors, including but are not limited to, visual impact, design, and safety standards.
8. Inspection. The Town reserves the right to inspect any Antenna to ensure compliance with the provisions of this Ordinance and any other provisions found within the Town Code or state or federal law. The Town and/or its agents shall have the authority to enter the property upon which an Antenna is located at any time, upon reasonable notice to the operator, to ensure such compliance.

SECTION VII. Communications Antennae in the Public Rights-of-Way

A. The following additional regulations shall apply to all Communications Antennae located in the public Rights-of-Way:

1. Permitted in Areas in Which Utilities are Aboveground. Communications Antennae shall be permitted in areas in which all utilities are located aboveground, regardless of the underlying zoning district, so long as such Antennae are located on existing poles in the ROW. Antennae shall not be located on any sign listed in the Manual on Uniform Traffic Control Devices (MUTCD) nor any traffic signal pole, mast arm device or associated equipment.
2. Co-location. Communications Antennae in the ROW shall be co-located on existing poles, such as existing utility poles or street light poles. If co-location is not technologically feasible, the Applicant shall locate its Communications Antennae on existing poles that do not already act as Wireless Support Structures.
3. Design Requirements:
 - a. Antenna installations located above the surface grade in the public ROW including, but not limited to, those on streetlights and joint utility poles, shall consist of equipment components that are no more than six (6) feet in height and that are compatible in scale and proportion to the structures upon which they are mounted. All equipment shall be the smallest and least visibly intrusive equipment feasible.
 - b. Antennae and all support equipment shall be treated to match the supporting structure. Antennae and accompanying equipment shall be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted. Antennae must be located using Stealth Technology as approved by the Town. No more than four (4) antennae may be placed on a pole.
4. Reimbursement for ROW Use. In addition to permit fees as described above, every Communications Antenna in the ROW is subject to the Town's right to fix annually a fair and reasonable compensation to be paid for use and occupancy of the ROW. Such compensation for ROW use shall be directly related to the Town's actual ROW management costs including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other ROW management activities by the Town. The owner of each Communications Antenna shall pay an annual fee to the Town to compensate the Town for its costs incurred in connection with the activities described above. The Annual ROW management fee for Communications Antennae shall be determined by the Town and authorized by resolution of Town Council and shall be based on the Town's actual ROW management costs as applied to such Communications Antenna.

5. Time, Place and Manner. The Town shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Communications Antennae in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Town and the requirements of the Public Utility Code.
6. Equipment Location. Communications Antennae and accessory equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Town. In addition:
 - a. In no case shall ground-mounted equipment, walls, or landscaping be located within thirty-six (36) inches of the exposed back of the curb or within an easement extending onto a privately-owned lot;
 - b. Ground-mounted equipment that cannot be underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Town.
 - c. Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Town.
 - d. Any graffiti on the tower or on any accessory equipment shall be removed at the sole expense of the owner within ten (10) business days of notice of the existence of the graffiti.
 - e. Any plans for a proposed underground vault related to Communications Antennae shall be reviewed and approved in advance by the Town.
7. Relocation or Removal of Facilities. Within sixty (60) days following written notice from the Town, or such longer period as the Town determines is reasonably necessary or such shorter period in the case of an Emergency, an owner of an Antenna in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any Antenna when the Town, consistent with its police powers and applicable Public Utility Commission regulations, shall have determined that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
 - a. The construction, repair, maintenance or installation of any Town or other public improvement in the Right-of-Way;
 - b. The operations of the Town or other governmental entity in the Right-of-Way;
 - c. Vacation of a street or road or the release of a utility easement; or
 - d. An Emergency as determined by the Town.

8. Reservation of Rights. In accordance with applicable law, the Town reserves the right to deny an application for the construction or placement of any Communications Antenna for numerous factors, including but are not limited to, visual impact, design, and safety standards.

SECTION VIII. General Requirements for All Communications Towers.

The following regulations shall apply to all Communications Towers:

1. Standard of Care. Any Communications Tower shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, National Electrical Code, as well as the accepted and responsible workmanlike industry practices of the National Association of Tower Erectors. Any Communications Tower shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Town.
2. Authorization Required. The construction of a new Communications Tower may be permitted as a special exception subject to the applicable standards in this Ordinance. Modifications to an existing Communications Tower shall be prohibited without a zoning permit. Any Applicant for a special exception shall demonstrate that the proposed facility conforms to all applicable requirements and standards set forth in Section 1341.13.
3. Wind. Any Communications Tower structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/TIA-222-E, as amended).
4. Design. Any Communications Tower shall be designed to have the least practical adverse visual effect on the areas which can view it.
5. Height. Any Communications Tower shall be designed at the minimum functional height. All Communications Tower Applicants must submit documentation to the Town justifying the total height of the structure. The maximum total height of any Communications Tower, which is not located in the public ROW, shall not exceed two hundred (200) feet, as measured vertically from the ground level to the highest point on the structure, including Antennae and subsequent alterations. Equipment buildings, cabinets, and ground-mounted accessory structures shall not exceed fifteen (15) feet in height.

6. Related Equipment. A telecommunication equipment building, equipment cabinet, or any other structure associated with a Communications Tower, shall meet the height and setback requirements for principal buildings in the zoning district in which the building is located, except as otherwise noted in the Town of McCandless Zoning Ordinance.
7. Public Safety Communications. No Communications Tower shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
8. Maintenance. The following maintenance requirements shall apply:
 - a. Any Communications Tower shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
 - b. Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of Town residents.
 - c. All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
9. Radio Frequency Emissions. No Communications Tower may, by itself or in conjunction with other Wireless Communications Facilities, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
10. Historic Buildings or Districts. No Communications Tower may be located on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or eligible to be so listed, or is included in the official historic structures and/or historic districts list maintained by the Town.
11. Signs. All Communications Towers shall post a sign in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency.
12. Lighting. No Communications Tower shall be artificially lighted, except as required by law. Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings. If lighting is required, the Applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. Strobe lights are not to operate between sunset and sunrise.
13. Noise. Communications Towers shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and applicable Town

ordinance guidelines, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.

14. Aviation Safety. Communications Towers shall comply with all federal and state laws and regulations concerning aviation safety.
15. Retention of Experts. The Town may hire any consultant(s) and/or expert(s) necessary to assist the Town in reviewing and evaluating the application for approval of the Communications Tower and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Ordinance. The Applicant and/or owner of the Tower shall reimburse the Town for all costs of the Town's consultant(s) in providing expert evaluation and consultation in connection with these activities.
16. Timing of Approval. Within thirty (30) calendar days of the date that an application for a Communications Tower is filed with the Town, the Town shall notify the Applicant in writing of any information that may be required to complete such application. All applications for Communications Towers shall be acted upon within one hundred fifty (150) days of the receipt of a fully completed application for the approval of such Communications Tower and the Town shall advise the Applicant in writing of its decision. If additional information was requested by the Town to complete an application, the time required by the Applicant to provide the information shall not be counted toward the one hundred fifty (150) day review period.
17. Non-Conforming Uses. Non-conforming Communications Towers which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored at their former location, but must otherwise comply with the terms and conditions of this Ordinance. Co-location of antennae on existing non-conforming Towers is permitted.
18. Removal. In the event that use of a Communications Tower is planned to be discontinued, the owner shall provide written notice to the Town of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned Towers or portions of Towers shall be removed as follows:
 - a. All unused or abandoned Communications Towers and accessory facilities shall be removed within six (6) months of the cessation of operations at the site unless a time extension is approved by the Town.
 - b. If the Tower and/or accessory facility is not removed within six (6) months of the cessation of operations at a site, or within any longer period approved by the Town, the Tower and accessory facilities and equipment may be removed by the Town and the cost of removal assessed against the owner of the Tower.
 - c. Any unused portions of Communications Towers, including Antennae, shall be removed within six (6) months of the time of cessation of

operations. The Town must approve all replacements of portions of a Communications Tower previously removed.

19. Permit Fees. The Town may assess appropriate and reasonable permit fees directly related to the Town's actual costs in reviewing and processing the application for approval of a Communications Tower, as well as related inspection, monitoring and related costs.
20. FCC License. Each Person that owns or operates a Communications Tower shall submit a copy of its current FCC license, including the name, address, and emergency telephone number for the operator of the facility.
21. Insurance. Each Person that owns or operates a Communications Tower greater than fifty (50) feet in height shall provide the Town with a certificate of insurance evidencing general liability coverage in the minimum amount of \$5,000,000 per occurrence and property damage coverage in the minimum amount of \$5,000,000 per occurrence covering the Communications Tower. Each Person that owns or operates a Communications Tower fifty (50) feet or less in height shall provide the Town with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering each Communications Tower.
22. Indemnification. Each Person that owns or operates a Communications Tower shall, at its sole cost and expense, indemnify, defend and hold harmless the Town, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the Person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the Communications Tower. Each Person that owns or operates a Communications Tower shall defend any actions or proceedings against the Town in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of Communications Tower. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.
23. Engineer Signature. All plans and drawings for a tower and Antenna shall contain a seal and signature of a professional structural engineer, licensed in the Commonwealth of Pennsylvania.
24. Financial Security. Prior to receipt of a zoning permit for the construction or placement of a Communications Tower, the Applicant shall provide to the Town financial security sufficient to guarantee the removal of the Communications Tower in a form to be approved by the Town Attorney. Said financial security shall remain in place until the Communications Tower is removed.

SECTION IX.

Tower-Based Facilities Outside the Rights-of-Way

A. The following regulations shall apply to Tower-Based Wireless Communications Facilities located outside the Rights-of-Way:

1. Development Regulations:

- a. Location. No Communications Tower shall be located in an area in which all utilities are underground, except as permitted by this Ordinance. The following additional requirements shall apply:
 - i. Communications Towers may be permitted in an (I) Institutional Zoning District.
 - ii. Communications Towers shall not be located in, or within seventy-five (75) feet of, any area in which all utilities are underground.
- b. Gap in Coverage. An Applicant for a Communications Tower must demonstrate that a significant gap in wireless coverage exists with respect to all wireless operators in the applicable area and that the type of Wireless Communications Facility being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or non-existence of a gap in wireless coverage shall be a factor in the Town's decision on an application for approval of Communications Towers.
- c. Sole Use on a Lot. A Communications Tower shall be permitted as a sole use on a lot, provided that the lot shall meet the minimum lot area of the district in which it is located.
- d. Combined with Another Use. A Communications Tower may be permitted on a property with an existing use, or on a vacant parcel in combination with another use, except residential, subject to the following conditions:
 - i. The existing use on the property may be any permitted use in the applicable district, and need not be affiliated with the Wireless Communications Facility.
 - ii. Minimum Lot Area. The minimum lot shall comply with the requirements for the applicable zoning district and shall be the area needed to accommodate the Communications Tower and guy wires, the equipment building, security fence, and buffer planting if the proposed Communications Tower is greater than fifty (50) feet in height. If a security fence is put in place, a lock box shall be provided for emergency access.

- iii. Minimum Setbacks. The foundation and base of any Communications Tower shall be set back from property lines in accordance with the minimum setbacks applicable to the zoning district where the property is located.
2. All parts of the Communications Tower shall be set back a minimum of one hundred (100) feet from the property line on the larger parcel on which the leased parcel is located, plus one foot for each foot of height of Tower and Antenna beyond one hundred (100) feet. Notice. Upon submission of an application for a Communications Tower, the Applicant shall mail notice to all owners of every property within five hundred (500) feet of the proposed facility. The Applicant shall provide proof of the notification to the Town.
3. Leased Parcels. Copies of lease agreements and easements necessary to provide access to the buildings or structure for installation and placement of the equipment cabinet or equipment building shall be provided to the Town. Recording of a plat of subdivision shall not be required for the leased parcel on which the Communications Tower is constructed, provided the equipment building is proposed to be unmanned, the required easement agreement for access is submitted for approval by the Town, and the equipment building is less than 1,000 square feet.
4. Co-Location and Siting. The Applicant must demonstrate that the wireless communications equipment planned for the proposed Communications Tower cannot be accommodated on an existing or approved structure or building, or on Town property. The Applicant shall demonstrate that it contacted the owners of tall structures, buildings, and towers in excess of fifty (50) feet, within a one half (1/2) of a mile radius of the site proposed, sought permission to install an Antenna on those structures, buildings, and towers and was denied for one of the following reasons:
 - a. The proposed Antenna and Related Equipment would exceed the structural capacity of the existing building, structure or tower, and its reinforcement cannot be accomplished at a reasonable cost.
 - b. The proposed Antenna and Related Equipment would cause radio frequency interference with other existing equipment for that existing building, structure, or tower and the interference cannot be prevented at a reasonable cost.
 - c. Such existing buildings, structures, or towers do not have adequate location, space, access, or height to accommodate the proposed equipment or to allow it to perform its intended function.
 - d. A commercially reasonable agreement could not be reached with the owner of such building, structure, or tower.
5. Any application for approval of a Communications Tower shall include a comprehensive inventory of all existing towers and other suitable structures within a two-mile radius

from the point of the proposed tower, unless the Applicant can show to the satisfaction of the Town that a different distance is more reasonable, and shall demonstrate conclusively why an existing tower or other suitable structure cannot be utilized.

6. Design Regulations:

- a. The Communications Tower shall employ the most current Stealth Technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the Stealth Technology chosen by the Communications Tower Applicant shall be subject to the approval of the Town.
- b. Any height extensions to an existing Communications Tower shall require prior approval of the Town. The Town reserves the right to deny such requests based upon lawful considerations related to the character of the Town.
- c. Any proposed Communications Tower shall be designed structurally, electrically, and in all respects to accommodate both the Communications Tower Applicant's Antennae and comparable Antennae for future users.
- d. Any Communications Tower over fifty (50) feet in height shall be equipped with an anti-climbing device, as approved by the manufacturer.

7. Surrounding Environs:

- a. The Applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the Communications Tower structure shall be preserved to the maximum extent possible.
- b. The Applicant shall submit a soil report to the Town complying with the standards of Appendix I: Geotechnical Investigations, ANSI/TIA-222, as amended, to document and verify the design specifications of the foundation of the Communications Tower, and anchors for guy wires, if used.

8. Fence/Screen:

- a. A security fence satisfactory to the Town having a minimum height of ten (10) feet shall completely surround any Communications Tower greater than fifty (50) feet in height, as well as guy wires, or any building housing Communications Tower equipment. If a security fence is used, a lock box shall be provided for emergency access.
- b. Landscaping shall be installed to screen and buffer the tower and any ground level features, such as an equipment building, from adjacent properties.

- c. A ten (10) foot wide bufferyard consisting of dense evergreen hedge planted so that the leaves or needles will touch an adjacent plant at maturity around the perimeter of the security fence on the leased parcel. The bufferyard required in the Institutional (“I”) Zone District must be planted around the perimeter of the parcel from which the leased parcel is separated.

9. Accessory Equipment:

- a. Ground-mounted equipment associated to, or connected with, a Communications Tower shall be underground or screened from public view using Stealth Technologies, as described above.
- b. All utility buildings and accessory structures shall be architecturally designed to blend into the environment in which they are situated and shall meet the minimum setback requirements of the underlying zoning district.

10. Additional Antennae. As a condition of approval for all Communications Towers, the Applicant shall provide the Town with a written commitment that it will allow other service providers to co-locate Antennae on Communications Towers where technically and economically feasible. The owner of a Communications Tower shall not install any additional Antennae without obtaining the prior written approval of the Town.

11. Access Road. An access road, turnaround space and parking shall be provided to ensure adequate emergency and service access to Communications Tower. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion. Where applicable, the Communications Tower owner shall present documentation to the Town that the property owner has granted an easement for the proposed facility. The access road shall be a minimum of twenty (20) feet in width and shall be improved with a bituminous or concrete surface approved by the Town, for its entire length at a minimum of twelve (12) feet in width.

12. Parking. For each Communications Tower greater than fifty (50) feet in height, there shall be two off-street parking spaces. Each parking space shall be improved with a dust-free, all-weather surface.

13. Reservation of Rights. In accordance with applicable law, the Town reserves the right to deny an application for the construction or placement of any Communications Tower for numerous factors, including but are not limited to, visual impact, design, and safety standards.

14. Inspection. The Town reserves the right to inspect any Communications Tower to ensure compliance with the provisions of this Ordinance and any other provisions found within the Town Code or state or federal law. The Town and/or its agents shall have the

authority to enter the property upon which a Communications Tower is located at any time, upon reasonable notice to the operator, to ensure such compliance.

15. Engineer Inspection Report. The owner of any Communications Tower greater than fifty (50) feet in height shall submit to the Town proof of an annual inspection conducted by a structural engineer at the owner's expense and an updated tower maintenance program based on the results of the inspection. Any structural faults shall be corrected immediately and re-inspected and certified to the Town by a structural engineer at the Tower owner's expense.

SECTION X. Communications Towers in the Public Rights-of-Way

- A. The following regulations shall apply to Tower-Based Wireless Communications Facilities located in the Rights-of-Way:

1. Location. The location of Towers is limited to the following rights-of-way:
 - a. An Applicant must first attempt to site a proposed tower along the following corridors, provided the proposed Tower is not situated within fifty (50) feet of an area in which all utilities are underground:
 - i. Route 19 (Perry Highway)
 - ii. Ingomar Road and Wildwood Road.
 - b. If it is not technologically or economically feasible to locate the proposed Tower along the corridors mentioned above, the proposed Tower may be located along collector roads listed below where utilities are aboveground, provided that the proposed Tower is not sited within seventy-five (75) feet of an area in which utilities are underground. Collector Roads –Rinaman Road, Richard Road, Grubbs Road, Reichold Road, Kummer Road, Cumberland Road, Perrymont Road, and Sloop Road.
 - c. No Communications Tower sited in the public ROW shall be located in the front façade zone of any structure.
2. Gap in Coverage. An Applicant for a Communications Tower must demonstrate that a significant gap in wireless coverage exists with respect to all wireless operators in the applicable area and that the type of Communications Tower being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or non-existence of a gap in wireless coverage shall be a factor in the Town's decision on an application for approval of Communications Towers in the ROW.

3. Notice. Upon submission of an application for a Communications Tower, the Applicant shall mail notice to all owners of every property within five hundred (500) feet of the proposed facility. The Applicant shall provide proof of the notification to the Town.
4. Co-location and Siting. The Applicant must demonstrate that the wireless communications equipment planned for the proposed Communications Tower cannot be accommodated on an existing or approved structure or building, or on Town property. The Applicant shall demonstrate that it contacted the owners of tall structures, buildings, and towers within a one quarter ($\frac{1}{4}$) of a mile radius of the site proposed, sought permission to install an Antenna on those structures, buildings, and towers and was denied for one of the following reasons:
 - a. The proposed Antenna and Related Equipment would exceed the structural capacity of the existing building, structure or tower, and its reinforcement cannot be accomplished at a reasonable cost.
 - b. The proposed Antenna and Related Equipment would cause radio frequency interference with other existing equipment for that existing building, structure, or tower and the interference cannot be prevented at a reasonable cost.
 - c. Such existing buildings, structures, or towers do not have adequate location, space, access, or height to accommodate the proposed equipment or to allow it to perform its intended function.
 - d. A commercially reasonable agreement could not be reached with the owner of such building, structure, or tower.
5. Time, Place and Manner. The Town shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Communications Towers in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Town and the requirements of the Public Utility Code.
6. Equipment Location. Communications Towers and accessory equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Town. In addition:
 - a. In no case shall ground-mounted equipment, walls, or landscaping be located within 18 inches of the face of the curb.
 - b. Ground-mounted equipment that cannot be undergrounded shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Town.

- c. Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Town.
- d. Any graffiti on the tower or on any accessory equipment shall be removed at the sole expense of the owner within ten (10) business days of notice of the existence of the graffiti.
- e. Any plans for underground vaults related to Communications Towers shall be reviewed and approved in advance by the Town.

7. Design Regulations.

- a. The Communications Tower shall employ the most current Stealth Technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the Stealth Technology chosen by the Communications Tower Applicant shall be subject to the approval of the Town.
 - b. Communications Towers in the public ROW shall not exceed thirty-two (32) feet in height.
 - c. Any height extensions to an existing Communications Tower shall require prior approval of the Town, and shall not increase the overall height of the Communications Tower to more than thirty-two (32) feet. The Town reserves the right to deny such requests based upon aesthetic and land use impact, or any other lawful considerations related to the character of the Town.
 - d. Any proposed Communications Tower shall be designed structurally, electrically, and in all respects to accommodate both the Applicant's Antennae and comparable Antennae for future users.
8. Reservation of Rights. In accordance with applicable law, the Town reserves the right to deny an application for the construction or placement of any Communications Tower in the ROW for numerous factors, including but are not limited to, visual impact, design, and safety standards.
9. Additional Antennae. As a condition of approval for all Communications Towers in the ROW, the Applicant shall provide the Town with a written commitment that it will allow other service providers to co-locate Antennae on Communications Towers where technically and economically feasible. The owner of a Communications Tower shall not install any additional Antennae without obtaining the prior written approval of the Town.
10. Relocation or Removal of Facilities. Within sixty (60) days following written notice from the Town, or such longer period as the Town determines is reasonably necessary or such shorter period in the case of an Emergency, an owner of Communications Tower in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or

alter the position of any Communications Tower when the Town, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:

- e. The construction, repair, maintenance or installation of any Town or other public improvement in the Right-of-Way;
 - f. The operations of the Town or other governmental entity in the Right-of-Way;
 - g. Vacation of a street or road or the release of a utility easement; or
 - h. An Emergency as determined by the Town.
11. Reimbursement for ROW Use. In addition to permit fees as described in Section VIII(19) above, every Communications Tower in the ROW is subject to the Town's right to fix annually a fair and reasonable compensation to be paid for use and occupancy of the ROW. Such compensation for ROW use shall be directly related to the Town's actual ROW management costs including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other ROW management activities by the Town. The owner of each Communications Tower shall pay an annual fee to the Town to compensate the Town for the Town's costs incurred in connection with the activities described above. The annual ROW management fee for Communications Towers shall be determined by the Town and authorized by resolution of Town Council and shall be based on the Town's actual ROW management costs as applied to such Communications Tower.

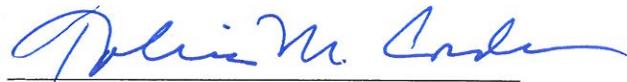
SECTION XI. Miscellaneous

- a. Police Powers. The Town, by granting any permit or taking any other action pursuant to this Chapter, does not waive, reduce, lessen or impair the lawful police powers vested in the Town under applicable federal, state and local laws and regulations.
- b. Severability. If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held illegal or invalid by any court of competent jurisdiction, such provision shall be deemed a separate, distinct and independent provision, and such holding shall not render the remainder of this Chapter invalid.
- c. Effective Date. This Ordinance shall become effective ten (10) days after notice of enactment is published in a newspaper of general circulation.

ENACTED AND ORDAINED this 18th day of *May*, 2015.

ATTEST:

TOWN OF MCCANDLESS COUNCIL:



Secretary



Chairman

