

**OFFICIAL
TOWN OF McCANDLESS
ORDINANCE NO. 1542**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF McCANDLESS, ALLEGHENY COUNTY, PENNSYLVANIA, AMENDING THE TOWN CODE OF ORDINANCES, PART 13, ZONING ORDINANCE, AS AMENDED, TO REVISE SECTION 1303.230, AND TABLE 1303.J, TEMPORARY USES, TO ADD AND AMEND REGULATIONS FOR CERTAIN TEMPORARY USES WITHIN THE TOWN.

WHEREAS, the Pennsylvania Municipalities Planning Code, 53 P.S. §§10101 *et seq.*, (“MPC”) authorizes the Town of McCandless (“Town”) to enact, amend, and repeal zoning, subdivision, and land development ordinances and to implement comprehensive plans within the Town; and

WHEREAS, the Town on March 24, 1969, by Ordinance No. 519 enacted Article 13 of the Town Code of Ordinances, Planning and Zoning Code which regulated zoning, land development and subdivision within the Town; and

WHEREAS, the Town on June 26, 2023, by Ordinance No. 1540 amended Article 13 to repeal and replace the same in its entirety with a new Part 11, Subdivision and Land Development, and a new Part 13, Zoning Ordinance (“Zoning Ordinance”); and

WHEREAS, following review, Town Council believes it to be in the best interest of the Town to make certain additional amendments to the Zoning Ordinance to better reflect the needs of Town residents as they relate to temporary uses within the Town; and

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the Town Council of the Town of McCandless, following review and recommendation by the Town Planning Commission and a duly advertised public hearing on the same, that:

Section 1. Part 13 of the Town of McCandless Code of Ordinances, Zoning Ordinance, is hereby amended by amending Table 1303.J, Temporary Uses, by inserting the underlined text as follows:

Table 1303.J Temporary Uses

| TOWN OF MCCANDLESS ZONING ORDINANCE DISTRICT USE TABLE Key: P = Permitted by-Right SE = Permitted by Special Exception C = Conditional Use Blank Cell = Non-Permitted Use | MAPPED ZONING DISTRICTS | | | | | | | | |
|--|-------------------------------|-------------------------------|--------------------------|-------------------------------|---------------------|-------------------|----------------|-------------|------------------|
| | Civic District | Very Low Density Neighborhood | Low Density Neighborhood | Moderate Density Neighborhood | Neighborhood Center | Corridor District | Urban District | Town Center | Special District |
| Uses | CD | R-VL | R-L | R-M | M-N | M-C | M-U | TC | SD |
| Construction Staging | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> |
| Farmers Market | P | | | | | | P | P | P |
| Mobile Food Facility | P | <u>P</u> | <u>P</u> | <u>P</u> | P | P | P | P | P |
| Temporary Outdoor Event | P | | | | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | P |
| Temporary Sign | See Article 1305 of this Part | | | | | | | | |
| <u>Tents</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> |

Section 2. Part 13 of the Town of McCandless Code of Ordinances, Zoning Ordinance, is hereby amended by amending § 1303.230, Temporary Uses, by inserting the underlined text and deleting the stricken text as follows:

§1303.230 Temporary Uses

(A) *General.*

1. Temporary Uses are limited to those ~~expressly regulated in this Part~~ listed in Table 1303.J.
2. ~~A Temporary Use not listed in Table 1303.J may be approved by as well as those that the Town Zoning Hearing Board has approved as a Special Exception for a Temporary Use.~~
 - a. Special Exception Criteria. In addition to the Special Exception Criteria of §1301.260(C)2, the following criteria must be met:
 - (1) The Temporary Use must not last for more than 30 consecutive days unless the Zoning Hearing Board determines that an extension of time meets the Special Exception Criteria of §1301.260(C)2.
 - b. Recurring Not Listed Temporary Uses.
 - (1) A Temporary Use not listed that is conducted annually or on a similar recurring basis as determined by the Town must apply for Special Exception approval from the Town Zoning Hearing Board for its first occurrence.
 - (2) ~~The~~ A Temporary Use approved under subsection 2.a(1) may be permitted to recur thereafter with approval from the Zoning Officer provided that the following conditions are met: the event location, format, and operations have not Substantially

~~Changed from the original approval and that the conditions established in the original approval are deemed applicable.~~

- (a) The Temporary Use format, operations, frequency, and length of time are the same as identified in the original approval.
 - (b) The location for the Temporary Use is the same as identified in the original application and the footprint may be expanded to the extent identified below:
 - i. In a Residential Zoning District, the footprint may expand to cover an additional 10% or 1,250 sq ft of site or floor area, whichever is less.
 - ii. In a Nonresidential Zoning District, the footprint may expand to cover an additional 20% or 2,500 sq ft of site or floor area, whichever is less.
 - (c) The conditions established in the original approval are deemed applicable.
- c. Nonrecurring Not Listed Temporary Uses. ~~All other A Temporary Uses~~ Use not listed and that does not match the criteria of subsection 2.a must ~~shall~~ receive Special Exception approval for each occurrence.
3. Criteria for all Temporary Uses.
- a. Residential Zoning Districts. A Temporary Use must comply with the Accessory Building Setback requirements in the Residential Zoning District where it is located.
 - b. Nonresidential Zoning Districts. A Temporary Use must comply with the Accessory Building Setback requirements in the Nonresidential Zoning District where it is located, except that the front Setback may be reduced to 10 feet.
4. Temporary Uses Exempt from Permit Requirement. A Temporary Use associated with a Principal Residential Use is exempt from the permit requirements of this Part provided the following conditions are met:
- a. The Temporary Use lasts for not more than 72 consecutive hours.
 - b. The Temporary Use does not include any Structure over 1 Story in Height and 120 sq ft in area except for a Tent, which may be up to 600 sq ft in area.
- (B) Use Specific Requirements for Temporary Uses.
1. Construction Staging. Construction Staging includes construction vehicle parking, employee or contractor vehicle parking, dumpsters, materials, and office trailers. The following Use regulations apply:
- a. Construction Staging must be clearly needed and be actively used for current construction or renovation work on the same Lot, an Adjacent Lot, or within the same Subdivision.
 - b. All Construction Staging must be removed from the site within 20 days of the completion of the portion of the construction that they relate to.
 - c. Construction Staging must be set back at least 10 feet from all Lot Lines.
 - d. Construction Staging must not exceed 15 feet and 1 story in Height.
 - e. Construction Staging is exempt from the Building Configuration, Setback, Parking Placement, Design Standards, and Buffering requirements of the applicable Zoning Districts.
2. Farmers Market. A Farmers Market is a public market administered by a market manager and held multiple times per year to connect and mutually benefit farmers, communities, and shoppers. The Farmers Market ~~shall allow as~~ vendors are predominantly local farmers,

farmers' cooperatives and producers selling any of the following: ~~whole produce; value-added agricultural products such as jams, jellies, and pickles; prepared food;~~ all agricultural and horticultural products including but not limited to whole produce, plants, flowers, meats, dairy products, and other food-related products; value-added agricultural products such as jams, jellies, and pickles; and prepared food. The following Use regulations apply:

- a. The Applicant ~~shall~~ must indemnify, ~~save~~ hold harmless, and defend (if requested) the Town and the Owner(s) of any private or public property upon which the Farmers Market will be held and their respective officers, agents, and employees from any and all claims, suits, or actions for injuries, death, or property damage arising out of the ~~Temporary Outdoor Event~~ Farmers Market where the claim, suit, or action was caused by the Applicant, its officers, agents, and employees, the event participants, support ~~staff~~ staffs, event officials, volunteers, medical support, technical support, media vehicles, event communications ~~staff~~ staffs, the traveling public, general public, or spectators.
 - b. An accurate certificate of insurance must be provided showing:
 - (1) General liability insurance for bodily injury and property damage in the minimum amount of \$250,000.00 per Person and \$1,000,000.00 per occurrence to cover any loss that might occur as a result of the ~~Permitted~~ permission to use ~~Use of~~ the local and state ~~rights-of-way~~ Rights-of-Way or private property that might otherwise arise out of or be connected with the Farmers Market.
 - (2) The General Liability insurance policy shall be provided for on an occurrence basis rather than a claims made basis.
 - (3) The Town and applicable public and private Landowners named as the additional insured.
 - c. Written permission for use of any private property must be obtained from the Owner(s), or other Person with authority to grant same, and be submitted to the Zoning Officer.
 - d. ~~The farmers' market is of a temporary nature, namely, in operation~~ Farmers Market is permitted to operate only one day or 2 days per week between the maximum hours of 8 AM and 8 PM.
 - e. A minimum Lot Area of 100 square feet per stand ~~shall~~ must be provided.
 - f. Each Farmers Market ~~Vendors~~ vendor must obtain a Retail Food License from the Pennsylvania Department of Agriculture to operate a food facility at a ~~farmers' market~~ Farmers Market, whether the market is inside or outside. Each individual stand is considered its own retail food facility and must obtain its own license to operate.
3. Mobile Food Facility. A Mobile Food Facility is a ~~movable~~ retail food facility that is mobile or transitory by design, such as a stand, vehicle, cart, basket, box, or similar Structure, from which food is stored, prepared, processed, distributed, or sold ~~and the facility~~. The following Use regulations apply:
- a. Duration.
 - (1) Physically locates In a Nonresidential Zoning District, a Mobile Food Facility may remain at one site or location for no more than 14 consecutive days, ~~in one calendar year~~, regardless of whether the facility operates continuously during that time period.

- (2) In a Residential Zoning District, a Mobile Food Facility may not remain overnight.
- b. A Mobile Food Facility ~~shall~~ must meet the requirements of the Allegheny County Health Department and applicable licensing requirements of the Pennsylvania Department of Agriculture and provide evidence of this compliance as part of the permit application.
 - c. A Mobile Food Facility must also obtain a transient vendor license and other relevant business licenses from the Town of McCandless as specified in Part 3 Business and Taxation.
4. Temporary Outdoor Event. A Temporary Outdoor Event is an event such as a carnival, circus, Street celebration, race, bazaar, market, procession, assemblage, or other similar ~~outdoor~~ event that is held outside of a Building. Such events may be on a Street, open space, or other public space in which public access is wholly or partially restricted. The event may include the sale of goods. A Farmers Market is not considered a Temporary Outdoor Event. The following Use regulations apply:
- a. Length of the Event.
 - (1) A Temporary Outdoor Event that lasts up to 5 days is permitted by-right.
 - (2) A Temporary Outdoor Event that lasts longer than 5 days must apply for Special Exception approval from the Town Zoning Hearing Board.
 - b. A Mobile Food Facility that is included in a Temporary Outdoor Event must meet the requirements for a Mobile Food Facility.
 - c. The Applicant ~~shall~~ must indemnify, ~~save~~ hold harmless, and defend (if requested) the Town and the Owner(s) of any private or public property upon which the event or activity will be held and their respective officers, agents, and employees from any and all claims, suits, or actions for injuries, death, or property damage arising out of the Temporary Outdoor Event where the claim, suit, or action was caused by the Applicant, its officers, agents, and employees, the event participants, support ~~staff~~ staffs, event officials, volunteers, medical support, technical support, media vehicles, event communications ~~staff~~ staffs, the traveling public, general public, or spectators.
 - d. An accurate certificate of insurance must be provided showing:
 - (1) ~~(a) public~~ Public liability insurance for bodily injury and property damage in the minimum amount of \$250,000.00 per Person and \$1,000,000.00 per occurrence to cover any loss that might occur as a result of the ~~Permitted~~ permission to use ~~Use~~ of the local and state ~~rights-of-way~~ Rights-of-Way or private property that might otherwise arise out of or be connected with the Temporary Outdoor Event ~~event~~;
 - (~~b~~). The Public Liability insurance policy shall be provided for on an occurrence basis rather than a claims made basis.
 - (3) ~~the~~ The Town and applicable public and private Landowners named as the additional insured. ~~The Applicant warrants the information in the insurance certificate is accurate.~~
 - e. The event location or route ~~shall~~ must be appropriately secured with proper security and safety measures ~~taken~~ to protect the event participants, support ~~staff~~ staffs, event officials, volunteers, medical support, technical support, media vehicles, vehicle escort

services, maintenance and protection services, the traveling public, event communications ~~staff~~ ~~staffs~~, the general public, and spectators. Proper Emergency medical services ~~shall~~ ~~must~~ be provided. Local fire departments, the public, and the traveling public ~~shall~~ ~~must~~ be notified in advance of the event.

- f. Events Held in a Right-of-Way. Written authorization from the ~~Pennsylvania Department of Transportation via a Special Event Permit~~ applicable Town, County, or State entity granting the Applicant permission ~~Use to use~~ the Right-of-Way of a public roadway is required. The Applicant ~~shall~~ ~~must~~ provide the Town with a complete copy of the ~~Special Event Permit~~ permit granted and any associated documentation. All information ~~shall~~ ~~must~~ be submitted to the Zoning Officer.
 - g. Events Held on Private Property. Written permission for use of any private property must be obtained from the Owner(s), or other Person with authority to grant same, and must be submitted to the Zoning Officer.
5. Temporary Signs. Temporary Signs are regulated under Article 1305 of this Part.
6. Tents. Tents may be erected as an Accessory Structure for a Temporary Use. The following Use regulations apply:
- a. Duration. Tents must be taken down at the end of the Temporary Use.

Section 3. If any of the provisions or terms of this Ordinance shall be held invalid for any reason whatsoever, then, unless such provision or term is material to this Ordinance as to render this Ordinance impracticable to perform, such provision or term shall be deemed severable from the remaining provisions or terms of this Ordinance and shall in no way affect the validity or enforceability of any other provisions hereof.

Section 4. All prior ordinances are hereby repealed in whole or in part to the extent inconsistent herewith.

ORDAINED AND ENACTED into law this 27th day of November 2023, Effective immediately.

ATTEST:

TOWN COUNCIL
TOWN OF McCANDLESS



Secretary



President