

ORDINANCE NO. 101

AN ORDINANCE OF THE TOWNSHIP OF HAYCOCK, BUCKS COUNTY, PENNSYLVANIA AMENDING ORDINANCE NO. 71, THE ZONING ORDINANCE OF HAYCOCK TOWNSHIP TO PERMIT NO-IMPACT HOME-BASED BUSINESSES IN ALL ZONING DISTRICTS; AND TO REVISE THE TIME PERIODS FOR PRESENTATION OF AND DECISIONS ON ZONING APPLICATIONS BEFORE THE HAYCOCK TOWNSHIP ZONING HEARING BOARD AND THE HAYCOCK TOWNSHIP BOARD OF SUPERVISORS

BACKGROUND:

A. On or about September 26, 1994, by Ordinance No. 71, as amended, Haycock Township Board of Supervisors ("Board") enacted a zoning ordinance ("Zoning Ordinance") pursuant to its statutory authority, the Pennsylvania Municipalities Planning Code ("MPC"), Act 247 of 1968, as amended (53 P.S. §10101 et seq.);

B. Act 43 of 2002 ("Act 43"), the Pennsylvania General Assembly amended the MPC requiring that a municipality's zoning ordinance permit no-impact home-based business in all residential zones as a use permitted by right (53 P.S. §10603);

C. Act 43 also amended the time periods for presentation and conclusions of applications and hearings before the municipal zoning hearing board and governing body (53 P.S. §10908(1.2); 10908(9) and 10913(2)(b)(1));

D. Through careful study, the Board, with the assistance of its committees, has recognized that certain provisions of the Zoning Ordinance should be amended to comply with Act 43 and to permit no-impact home-based business in all zones as a use permitted by right; and

E. The proposed amendments have been advertised, considered and reviewed in accordance with MPC Section 609 (53 P.S. §10609).

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, and it is hereby **ENACTED AND ORDAINED** by the Board of Supervisors of Haycock Township, Bucks County, Pennsylvania, as follows:

Section 01: A new subsection H1b.(8) is added to Section H-1 Accessory Home Occupation, and shall read in full as follows:

"Use H1h No-Impact Home-Based Business. A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those

normally associated with residential use. Where the provisions of this subsection conflict with the general standards pertaining to home occupations (Section H1) of this ordinance, the provisions of this subsection shall control.

(a) The no-impact home-based business activity shall be compatible with the residential use of the property and the surrounding uses, residential and non-residential.

(b) A no-impact home-based business is only permitted on the same lot with and must be clearly incidental and accessory to a permitted residential dwelling that is the bona fide residence of the principal practitioner of the business activity.

(c) A no-impact home-based business must be conducted within a single-family detached dwelling which is the bona fide residence of the principal practitioner or in an accessory building thereto which is normally associated with the residential use. The no-impact home-based business shall be carried on wholly indoors.

(d) The maximum amount of floor area devoted to a no-impact home-based business shall not exceed twenty-five percent (25%) of the ~~ground floor~~ ^{floor} area of the principal residential dwelling structure (excluding the ground area covered by an attached garage or such other similar building), or six hundred (600) square feet, whichever is less.

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(e) The no-impact home-based business shall employ no employees, contractors, agents or representatives other than family members of the principal practitioner, who also must reside in the dwelling unit.

(f) Any display or sale of retail goods or stockpiling of inventory of a substantial nature is prohibited.

(g) There shall be no outside appearance of a business use or activity, including but not limited to signs, parking, lights, and waste disposal.

(h) The no-impact home-based business activity may not use any equipment or process that creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.

(i) The no-impact home-based business may not involve any illegal activity.

(j) The no-impact home-based business may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with a residential use.

(k) A no-impact home-based business use is not permitted where prohibited by a deed restriction, covenant or agreement restricting the use of land, master deed, bylaw or other document applicable to a common interest ownership community.

(l) A zoning permit shall be required for all no-impact home-based business uses."

Section 02: Subsection 403, the Table of Use Regulations, is hereby amended to insert use H1h, No-Impact Home-Based Business, under Accessory Uses. Columns headed by the following are amended to insert a "P" in the corresponding boxes with the H1h No-Impact Home-Based Business use as a use permitted by right:

- "RP" - Resource Protection
- "RA" - Rural-Agricultural
- "RD" - Rural Development
- "FC" – Future Commercial
- "VC-1" - Village Center - 1
- "SRC" – Suburban Residential Conservation
- "SRL" – Suburban Residential Low
- "SRM" – Suburban Residential Medium
- "SRH" – Suburban Residential High
- "VC-2" – Village Center - 2
- "URL" – Urban Residential Low
- "PC" – Planned Commercial
- "CC" – Central Commercial
- "SC" – Select Commercial
- "PI" – Planned Industrial
- "Ext" – Extraction.

Section 03: Subsection c. of Section 1109, Hearings, of the Zoning Ordinance is amended in full to read as follows:

"c. The first hearing before the Board or hearing officer shall be commenced within sixty (60) days from the date of receipt of the applicant's completed application, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the Board or hearing officer shall be held within forty-five (45) days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within one hundred (100) days of the first hearing. Upon the request of the applicant, the Board or hearing officer shall assure that the applicant

receives at least seven (7) hours of hearings within the one hundred (100) days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within one hundred (100) days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete his case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and Haycock Township, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal."

Section 4: Subsection k. of Section 1109, Hearings, of the Zoning Ordinance is amended in full to read as follows:

"k. The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefore. Conclusions based on any provisions of this section, the Pennsylvania Municipalities Planning Code, or any other applicable rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties within forty-five (45) days and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than thirty (30) days after the report of the hearing officer.

Except for challenges filed under section 916.1 of the Pennsylvania Municipalities Planning Code or Section 1112 of the Zoning Ordinance, where the Board fails to render the decision within the period required by this subsection k. or fails to commence, conduct or complete the required hearing as provided in subsection c. hereof, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of said decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided in subsection a. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection k. shall prejudice the right

of any party opposing the application to appeal the decision to a court of competent jurisdiction."

Section 5: Subsection i. of Section 1108, Governing Body: Powers and Duties - Conditional Uses, of the Zoning Ordinance is amended in full to read:

"Administration. The Board of Supervisors shall commence, conduct and complete the required hearing in the manner provided in Section 1109 of this Ordinance and Section 908(1.2) of the Pennsylvania Municipalities Planning Code. The Board of Supervisors shall render a written decision on the application and communicate it to the applicant in the manner provided in Section 1109.k. of this Ordinance and Section 913.2(b)(1) of the Pennsylvania Municipalities Planning Code. Where the Board of Supervisors fails to render the decision within the period required by this subsection or fails to commence, conduct or complete the required hearing as provided in this subsection, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board of Supervisors to meet or render a decision as hereinabove provided, the Board of Supervisors shall give public notice of the decision within ten (10) days from the last day it could have met to render a decision in the same manner as required by Section 1109.a. of this Ordinance. If the Board of Supervisors shall fail to provide such notice, the applicant may do so."

Section 6: In addition, all inconsistent provisions of other ordinances or resolutions are repealed to the extent of the inconsistency. All other provisions of the ordinances of Haycock Township shall remain in full force and effect.

Section 7: The provisions of this ordinance are declared to be severable. If any provision of this ordinance is declared to be invalid or unconstitutional by a court of competent jurisdiction, such determination shall have no effect on the remaining provisions of this ordinance.

Section 8: This ordinance shall be effective five (5) days after adoption by the Haycock Township Board of Supervisors.

ORDAINED and ENACTED this 7th day of February, A.D., 2005.

ATTEST:

Nancy M. Yodis
Nancy M. Yodis, Secretary

HAYCOCK TOWNSHIP
BOARD OF SUPERVISORS

Kathleen M. Babb
Kathleen M. Babb, Chair

Michael Lennard, Vice Chair

Henry Depue
Henry Depue