

ADDRESSING THE NEED FOR POST-PANDEMIC HOUSING ORDINANCES TO FACILITATE HOME-BASED LOW-IMPACT OCCUPATIONS

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I. Introduction

This narrative and model ordinance focus on the Swatara Township Zoning Ordinance which sets the standards for home-based businesses, or home occupations. Due to how well businesses have been continuing to run after adjusting to remote operations, it is expected that many will continue to operate virtually after the pandemic. To allow this, ordinances must be expanded to allow a broader range of businesses to operate from the home so that businesses can be approved for a permit, pass the inspection, and remain remote. To accomplish this, townships should include a broader range of uses and occupations that would be fit for a COVID-19 and post-pandemic society.

The Swatara Township home occupation section of the zoning ordinance defines home occupation narrowly, by limiting the spaces available to conduct a home occupation.¹ Further, the ordinance also limits the types of low impact occupations permitted.² These restrictions create challenges for business owners seeking approval of their home occupations because COVID-19 has forced individuals to resort to conducting their business remotely. These restrictions will continue to create a challenge for individuals in a post pandemic society because there still may be mandates in place that may require individuals to conduct business from home. Loosening these restrictions would allow individuals to operate and manage a business from

¹ SWATARA TWP, PA., ORDINANCE ch. 295, art. 2 (2010).

² *Id.* at 122

their home successfully in a post pandemic society. If no changes to the definitions are made, then this could result in loss of jobs and a rising unemployment rate in Pennsylvania.

As the duration of the pandemic is uncertain, society may have an increased demand for work-from-home opportunities. This is an issue because Pennsylvania ordinances are not tailored to post-pandemic considerations and do not address the new reality that COVID-19 has brought. The familial home has now become the present-day workplace. As the uncertainty continues and the number of COVID-19 cases remain rising, working from home has become the new “normal.”

After substantial research, we have found that local ordinances do not adequately address the problems brought by COVID-19 with respect to home occupations. There are no ordinances that possess key elements needed to address the problem, which is why we are proposing a model ordinance for municipalities to follow. State and local governments have not yet addressed post-pandemic accommodations for a higher-impact home-based business directly. However, some townships have recognized the need to implement temporary protocols, but no amendments to zoning ordinances have occurred.

This paper focuses the need for amendments to ordinances regarding low-impact home-based businesses, specifically Swatara Township. Section II, The Problem, focuses on the main issue which is that there is currently a lack of housing ordinances that address the increased demand of home occupations for not only a COVID-19 society, but also a post-pandemic society. Section III, How Existing Local Ordinances Cannot Adequately Address Post-Pandemic Home Occupation Needs, discusses how the Swatara Township ordinance currently lacks the ability to address the issue of COVID-19 and post-pandemic needs without the proper amendments. This section will also offer criticisms of what is currently in the Swatara Township

ordinance now and explain why these criticisms are justified. Section IV, How This Problem Has Been Addressed by Other Municipalities, will discuss the ordinances deployed by other municipalities and the lack thereof; the key elements of those ordinances; how the ordinances do not solve the problem; and the social, economic, and environmental benefits ordinances provided to address a COVID-19 and post-pandemic society. Section V, Recommendations will identify and describe the key elements of the amended Swatara Township ordinance and why these amendments should be added. This section will also explain options for funding the amended ordinance. This paper concludes in Section IV by addressing the key point of this narrative, which is that including amendments for a COVID-19 and post-pandemic society is critical for municipalities.

II. The Problem: Lack of Post-Pandemic Housing Ordinances to Facilitate Home Occupations

The main issue is that home occupation sections within current housing ordinances do not accommodate neither a COVID-19 nor a post-pandemic society. Local ordinances will need to have their restrictions loosened in order to allow a more diverse field of home occupations. To fix this problem, modifications and amendments need to be added to existing housing ordinances such as Swatara Township. When adding modifications and amendments to allow more types of businesses to be operated as a home business, townships must be aware of businesses that may be categorized as a public nuisance. A public nuisance is defined as “an unreasonable interference with a right common to the general public.”³ However, finding the limit between allowing businesses that should be categorized as a home business which may have certain

³ Restatement (Second) of Torts §821B

effects on the community and those that create a public nuisance may be a difficult task for townships. Therefore, finding this balance between what constitutes a home business with effects on the community while not allowing a business to create a public nuisance results in an underlying problem when trying to allow more businesses to be qualified as a home occupation. Preventing a public nuisance should be an important concern to townships and municipalities and should be kept in mind when ordinances are drafted or amended to include more home occupations.⁴

The lack of post-pandemic housing ordinances should not come as a surprise, as there has not been a national outbreak of a virus as such in over 100 years. Therefore, there has been no need to address increased home business conduct because of a pandemic in the present century. Due to this current outbreak, individuals are now seeking to either create or continue the management of their businesses within their homes. While there is no empirical data outlining the need for increased home-based businesses, it can be inferred from the unemployment rates in Pennsylvania which saw an increase from January 2020 at 4.7%, March 2020 at 5.8%, April at 16.1%, May at 13.4%, then a gradual decrease from June at 13.2%, July at 12.5%, August at 10.4%, September at 8.1%.⁵ These rates, while Pennsylvania saw a decline near the end of the 2020 year, show that the unemployment rates may be higher due to jobs lost and unrecoverable due to businesses not being able to survive a shutdown. Relaxing the guidelines, thus increasing the variation of home-based businesses permitted in townships, could help mitigate the unemployment rates.

⁴ *Pennsylvania Legislator's Municipal Deskbook*, 5th Ed. (2017).

⁵ Bureau of Labor and Statistics, U.S. Dep't of Labor,

https://data.bls.gov/timeseries/LASST420000000000006?amp%253bdata_tool=XGtable&output_view=data&include_graphs=true (2020)

As working from home is becoming more common within society, it can be opined that teleworking will continue after the pandemic. This is due to the fact that companies are managing to stay successful without having to manage a physical office.⁶ However, the United States may need to shift their focus from looking forward to a post-pandemic world to looking forward to a world where society learns to live with the pandemic, resulting in certain safety measures remaining in place for years to come. A need for ordinances that allow an expansion of home-based occupation is necessary to keep up with society's potentially new “norm.”

III. How Existing Local Ordinances Cannot Adequately Address Post-Pandemic Home Occupation Needs

After extensive research, we have found that the current local ordinances, including Swatara Township, lack the ability to address the issue of post-pandemic needs. Although the Swatara Township ordinance does discuss home-based occupations, it does not, however, address the increase of home-based uses resulting from the pandemic. The ordinance of Swatara Township currently only focuses on restricting the types of businesses allowed within low-impact occupations.

The ordinance of Swatara Township currently defines a home occupation as a “routine, accessory, and customary non-residential use conducted within, or administered from a portion of a dwelling or its permitted accessory building.”⁷ While this definition is sufficient, it should consider the potential businesses that could operate more effectively outside, but within the property lines, of the dwelling. This definition excludes a portion of the residence that could be

⁶ Sean Ludwig, *10 Pandemic-Inspired Business Trends That Are Here to Stay* (October 3, 2020) <https://www.uschamber.com/co/start/strategy/pandemic-business-trends-that-are-here-to-stay>

⁷ SWATARA TWP, PA., ORDINANCE ch. 295, art. 2 (2010).

of use for individuals that desire to operate a business that can only be conducted outdoors. The township currently prohibits anything more than a “low/minor occupation,” which it has defined as a home occupation that “[does] not routinely involve routine visits to the home occupation by customers or more than one non-residential employee at a time.”⁸ This creates a challenge for business owners to be approved for their home occupations because there are relatively few to no businesses which can successfully continue their operation at home with “only one person maximum working on site who does not reside in the dwelling.”⁹ The increase of allowance of employees within a home occupation ensures that a business can be operated and managed to the same standard it was prior to COVID-19. Further, this increase would allow businesses that have had commercial locations to be operated at the similar or close to same capacity that it did before relocating to a home. Having a maximum of one employee in the household at all times runs the risk of burnouts and inaccurate work which results in the business potentially shutting down. These criticisms can be justified by looking at the Pennsylvania unemployment rates from January 2020 to September 2020, which indicate that Pennsylvania may not see lower unemployment rates that it has seen before the pandemic due to various businesses shutting down permanently.

Prior to March 2020, there was not a need to address the issue of increased home-based occupations. Swatara Township represented by the Pennsylvania State Township Supervisors has created an ordinance that adequately governs the previous state of home-based occupations before the pandemic increased the need for remote work. However, this same ordinance tends to not be effective in addressing the current issues a COVID-19 society presents. Further, this

⁸ *Id.* at 122

⁹ *Id.* at 122.

ordinance will not be effective in mitigating the increase of home-based businesses in a post-pandemic society.

IV. How This Problem Has Been Addressed by Other Municipalities

A. Ordinances Deployed by Other Municipalities and Key Elements of These Ordinances

Currently, there are no ordinances that have been amended to solve the problem of an increase in low impact home occupations after the pandemic. Measures should be taken to expand the types of home-based businesses for two reasons: townships have found it to be good policy to allow more businesses to be conducted at home and to cope with the changes that the pandemic has brought. This section will discuss the differences between several townships, and their procedures in responding to the pandemic. Some townships have taken measures to mitigate the results of COVID-19, and other townships have not taken any. Although some of the information to follow is not tailored to home occupation pandemic, it still relates to the pandemic and can be considered when drafting new home occupation ordinances.

One township which has failed to tailor its ordinance to the post-pandemic needs of society is Ferguson Township. Ferguson Township serves as an example of a municipality that admittedly has more flexibility in some aspects of their ordinance than others but does not adequately address changes a COVID-19 society or a post-pandemic society would present for increased operations of home occupations. Although Ferguson Township is more flexible in its allowance of routine visits of non-residents, it forbids more than one occupation to be carried on in a single residence.¹⁰ This forbiddance creates an adversity for couples and the like who both

¹⁰ Ferguson Township, *Home Based Business/Home Occupations* (October 3, 2020) <https://www.twp.ferguson.pa.us/residents/work/pages/home-based-businesshome-occupations>

are business owners. Furthermore, the township requires that individuals pay an annual fee to receive a permit which allows them to conduct a low impact occupation out of their home.¹¹ Ferguson Township has an ordinance with restrictive measures that are not accommodating to current pandemic and post-pandemic needs because it has not been amended to do so. At this time, the township has canceled both permitting and inspection activity altogether until further notice. Lastly, Ferguson Township does not allow any other employees inside of the home besides family members.¹²

Similar to Ferguson Township, McKean Township does not allow business activity that uses equipment or processes that create noise or the business to be more than 20-25% of the dwelling.¹³¹⁴ Ferguson Township does not allow any other employees inside of the home besides family members, while McKean Township allows for not only employees who are family members, but also two non-familial employees.¹⁵ However, Ferguson Township does not expressly include a list of permitted or prohibited uses, but McKean Township does.¹⁶

Caln Township has also not tailored its ordinance to address post-pandemic needs, but the township has issued temporary protocols on how they accept and process permits, as well as perform in-home inspections.¹⁷ Previously, the inspection was done by a municipality officer.¹⁸ However, due to COVID-19 social distancing restrictions, the Use and Occupancy inspections are now self-inspections. The revised form for permit and inspection procedures states that with the new procedure, “a notation will be added that the inspection was done via self-inspection”

¹¹ *Id.*

¹² *Id.*

¹³ <https://www.twp.ferguson.pa.us/residents/work/pages/home-based-businesshome-occupations>

¹⁴ MCKEAN TWP, PA., ORDINANCE art. 6, 612(f) (1987).

¹⁵ *Id.* at 612(b)

¹⁶ *Id.* at 612(g)

¹⁷ *Caln Township Permit and Inspection Form*, (October 3, 2020)

http://www.calntownship.org/uploads/9/9/7/5/99755464/coronavirus_permits_and_inspections_form.pdf

¹⁸ *Id.*

when the Use and Occupancy certificate is issued.¹⁹ Similar to Ferguson Township, Caln Township has not amended their zoning ordinance to mitigate increased demand for a variation of home-based businesses. However, Caln Township has created simpler measures to obtain a Use and Occupancy certificate for their residents' home occupations because of the pandemic.

While some townships, such as Caln Township, have issued alterations to their permit and inspection procedures, there are no ordinances currently proposed by any municipality to solve the problem of increased variations of home occupancies. New Hanover township began responding to the governor's recommendations in taking safety precautions immediately by coming up with an "emergency plan."²⁰ This disaster declaration not only affected public and recreational activities, but it also resulted in a change of code enforcement and zoning.²¹ All new zoning, building, and applications of the like now had to be submitted and approved by email due to the township building being closed to the public.²² Residents who did not like the email option were allowed and encouraged to instead call code enforcement to discuss their applications over the phone.²³ Inspections were not completely enjoined, however, they were conducted on a limited basis.²⁴ If residents needed a permit for a home project or the like, these townships businesses remained open, but conducted the process through online or telephone services.²⁵

Similar to New Hanover, the township of State College began taking precautions to mitigate the spread of COVID-19. The Borough of State College emphasized the importance of

¹⁹ *Id.*

²⁰ New Hanover Township, *New Hanover Township COVID-19 Mitigation Measures* (March 14, 2020) <https://www.newhanover-pa.org/information/coronavirus.php>

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

teleworking and required that businesses begin to operate from home. The Borough however did not require a specified amount of hours to be completely remote, but required that the business operations resume either completely remote, or partly remote by the teleworking of each invidious employee.²⁶ Where working remotely was not realistically possible, such as essential businesses, State College allowed the business to continue operating so long as it complied with the safety, gathering and masking orders.²⁷

Many counties have implemented moratoriums to prohibit a landlord from evicting his or her tenant's during this time due to lack of payment, so long as the tenant proves that he or she was facing hardship or seeking medical attention from the pandemic.²⁸ These same ordinances are also prohibiting tenants from being evicted for allowing family members who are not on the lease to live with them during the pandemic.²⁹ These provisions were created in hopes of ensuring that all individuals had shelter during this worldwide crisis. These actions by various counties in Pennsylvania provide an example of how counties recognize the impact COVID-19 is having on the residents of Pennsylvania. Because counties are willing to place moratoriums on evictions, perhaps the next step is presenting counties with the possibility of allowing increased varieties of home-based businesses so that residents can generate income and pay their rent. Further, these moratoriums also show that Pennsylvania municipalities are able to adjust to the current needs of their residents. With the unemployment rate increasing due to COVID-19, it is safe to say that in a post pandemic society the unemployment rate may still increase due to the

²⁶ Borough of State College, *Local Updates on Coronavirus (COVID-19)* (September 18, 2020)

<http://www.statecollegepa.us/coronavirus>

²⁷ *Id.*

²⁸ Simone Chavoor, *Eviction moratoriums around the Bay Area during coronavirus pandemic: Ordinances city by city* (July 15, 2020) <https://www.msn.com/en-us/money/realestate/eviction-moratoriums-around-the-bay-area-during-coronavirus-pandemic-ordinances-city-by-city/ar-BB11Z6Pz#:~:text=The%20ordinance%20also%20prohibits%20property%20owners%20from%20evicting,more%20than%2014%20days%20after%20rent%20is%20due.>

²⁹ *Id.*

shutting down of businesses in the pandemic. Therefore, the municipalities should also adjust to the demands of their residents who desire to create or reopen their business at their homes.

Although also not related to home occupations, other townships out of state have also begun implementing procedures in response to COVID-19. The township of Collierville has implemented temporary signage for established businesses during COVID-19.³⁰ In order to follow the guidelines of social distancing, many businesses have cut back on how many people are permitted in its establishment at one time.³¹ To accommodate this new safety requirement, the township has allowed businesses to post temporary signage without a permit.³² The purpose of the signage is to put customers on notice of occupancy and instruct them on how to follow these new adjustments.³³ Although a permit is not required, the township has set forth stipulations such as how many signs are allowed, what maximum size and height the sign may be, the appropriate locations for the signage, etc.³⁴

B. How These Ordinances Solve the Problem

While current ordinances do not solve the problem we have identified, townships have the ability to amend them. Ordinances such as Swatara and McKean Township have put a strong emphasis in creating their ordinances to allow home occupations in a manner which will not become a nuisance to the neighbors or the community. Their ordinances were established with the thought of having essentially no impact on the home so that these occupations would not be a

³⁰ Planning Division, *Temporary Signs on Commercial Property Associated with Closures/Information on Coronavirus (COVID-19)* (October 3, 2020) https://collierville.com/images/stories/staffreports/2020/webeditsMarch2020/Covid-19_Temp_Sign_Policy_3-25-20.pdf

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

burden to the area in which they are conducted. These ordinances currently allow for types of occupations which create minimal noise, has minimal visits to the home, and does not produce any odors or the like.³⁵ However, being that our post pandemic society is projected to have more businesses conducted remotely, these ordinances need to be amended to create more work-place flexibility.

COVID-19 has forced a dramatic change in how society continues to operate, and ordinances need to be sensitive to this change. For example, the Swatara ordinance only allows tutoring to a maximum of three students.³⁶ Schooling has been mandated to continue online. In order to continue online, teachers need to be provided with the means to educate their students. Several households within townships may have more than three children who all attend different levels of schooling. Therefore, instead of being taught by their assigned teachers, students should be allowed to be educated by a hired tutor. So long as safety implementations are followed, it is reasonable to say that the current number of students allowed in a tutoring session at one time is inadequate in consideration of COVID-19 and a post pandemic society.

C. Social, Economic, and Environmental Benefits or Opportunities These Ordinances Bring to Residents or Businesses of Municipalities

It has been found that home occupations have many societal, economic, and environmental benefits. Social benefits include increased productivity and performance of employees.³⁷ First, employees who are working remotely from home are able to concentrate better and be less prone to distractions, which makes them more productive and willing to get

³⁵ *Id.* at 612(e)

³⁶ SWATARA TWP, PA., ORDINANCE ch. 295, art. 4, §9(a)(9) (2010).

³⁷ Laurel Farrer, *5 Proven Benefits Of Remote Work For Companies (February 12, 2020)*

<https://www.forbes.com/sites/laurelfarrer/2020/02/12/top-5-benefits-of-remote-work-for-companies/#7e984fff16c8>

work done. Additionally, when employees are working in a location that they choose, they have more autonomy which leads to fewer defects as far as quality of the work is concerned.³⁸

Further, Working remotely from home is not only cost effective, but it also provides a method for people who are not feeling well to not have to come into work and spread their illness.³⁹

Finally, home occupations allow for employees to have more flexible schedules, which in result makes for “better family and community cohesiveness.” This work-life balance, allows an employee to manage stress in a more effective way as well as stabilize one’s workload.⁴⁰

Second, home occupations “are a key part of local economies” and “they can stimulate economic development.”⁴¹ Allowing a broader range of home occupation could prompt an even bigger increase of economic development - which in a post-pandemic society could be needed due to the loss of business cities have lost due to COVID-19. It can be opined that since parents work from home, they may not need a daycare which would eliminate daycare costs. However, daycares may see a financial loss due to the decreased need. Further, since home occupations reserve commuting for non-residents traveling to a home, it can also be opined that money is saved due to the decrease in gasoline needs.

Lastly, there are environmental benefits. Surveys show that an average employee commutes an hour traveling to and from work.⁴² The option to work remotely has decreased this weekly commute, which in response has mitigated greenhouse gas emissions.⁴³ Another benefit

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ Ashlee Anderson, *7 Amazing Benefits Of Working Remotely* (May 29, 2019)

<https://workfromhomehappiness.com/7-amazing-benefits-of-working-remotely/>

⁴¹ Glenn Pape, *Smart Home Business Regulations Can Spur Economic Development* (April 4, 2013)

https://www.canr.msu.edu/news/smart_home_business_regulations_can_spur_economic_development

⁴² Zoya Gervis, *Study reveals the environmental benefits of working from home* (April 21, 2020)

<https://nypost.com/2020/04/21/study-explores-the-environmental-benefits-of-working-from-home/>

⁴³ *Id.*

that working from home provides is the ability to cut down on energy usage.⁴⁴ Remote workers have the ability to decide how much energy they want to be used in their home. Whenever an employee is in the comfort of his own home, he can choose to have immediate control over the energy cost.⁴⁵ Lastly, allowing employees to work from home decreases office waste.⁴⁶ Instead of bearing the cost of office materials and supplies, working remotely allows employees to work more digitally.⁴⁷ Therefore, the use of physical resources such as plastic, paper, pencils, etc. are reduced.

VI. Recommendations

A. Identification and Description of the Key Elements or Aspects of Amended Ordinance.

This section will include section by section explanations of the amendments made to the Swatara Township Home Occupation Zoning Ordinance.

Under Chapter 1 Section 105 Definitions, the Swatara Township ordinance should be amended to include a broader and more expansive range of home occupations under home occupations. This begins in the definition section under the definition of low impact and home occupation. This will allow home occupations that were once considered high impact, to now be categorized as low impact.

⁴⁴ Sinead, *The Environmental Health Benefits of Remote Working*, (October 7, 2019) <https://www.capital-ges.com/the-environmental-benefits-of-remote-working/#:~:text=The%20Environmental%20Benefits%20of%20Remote%20Working%201%20Reduce,office%20waste.%20...%204%20Less%20energy%20usage.%20>

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

The model ordinance will include language that states that the conduct cannot involve a significant interference with public interests, more types conduct will be proscribed by the ordinance, and the effects are not negative permanent or long lasting, which are all consistent with the Restatement of Torts on Public Nuisances. Including this language in the model ordinance will give townships and municipalities the expansion needed as mentioned before to allow more home occupations in light of COVID-19 working restrictions.

Second, under Chapter 3, 301(a) Specifications will include the requirements for a home occupation, which are the key elements of the model ordinance we seek to amend in the Swatara Township ordinance. We plan to modify the ordinance to allow for non-family members who are employees inside of the home for the home occupation with the requirement that the guidelines set forth by the county followed. Additionally, we plan to combine the requirements for a higher impact home-based business with the requirements of a low impact home-based business.

Currently under the Swatara Township “minor home occupation” requirements, routine visits by customers or more than one non-residential employee at a time is permitted. Key elements of the Swatara Township ordinance that should be amended to address home occupations in a post-pandemic society include: an increase from a 25% use of the home to accommodate a business that may require more space; allow for non-family member employees to work in the home; allow for clients to visit the home for services; allow for salons and doctors to render services of within reason from inside their home; and allow for more students for tutoring or teaching.

Furthermore, under Chapter 3, 301(b) Applicability, this section will now state the zones in which home occupations are a use by right. Any other home occupation not listed in this section must be decided on a case-by-case basis by the township. Upon approval, there may be

certain restrictions imposed on the use by the township. This section was included to convey that all low impact home occupations with the revised requirements should be allowed in all zones where an individual could potentially reside.

Third, Chapter 5 Section 501(b) Submission will lay out the submission requirements for a permit have been modified so that applicants now submit applications and documents electronically. The applicant may only submit paper copies if they are unable to submit application and documents electronically. Permit approvals have been modified to only be issued via email and inspections of the home occupation are now done by self-inspection. These modifications have been made because there must be considerations for the current COVID-19 safety guidelines.

In Section 505 Fees, the fees associated with obtaining and maintaining a zoning permit will be established and approved by the Permit Fee Schedule of Swatara Township. However, the annual fee for a Home Occupation zoning permit shall be payable no later than January 1 of each year.

In Section 506 Appeals, any person aggrieved by the decision of the Zoning Officer concerning the approval of a zoning permit may appeal to the Zoning Hearing Board in writing, within 30 days after the decision of the Zoning Officer. The Zoning Board will then set a time and place between 10-30 days of the written appeal to conduct a hearing. Notice of the time and place at which the appeal will be heard will then be given to the parties. After such hearing, if a person still feels aggrieved, he or she may then appeal the Zoning Board's decision to the Commonwealth of Pennsylvania.

In Section 507 Revocation, the ordinance will allow that upon an applicant receiving a zoning permit due to fraudulent means or misrepresentations of fact on his or her application, the Zoning Officer may revoke the zoning permit or approval issued.

Fourth, Chapter 7 Section 701 Prohibitions will include the types of conduct prohibited as a home occupation. It is important to note that the prohibition on some businesses being conducted at home, such as salons and doctor's offices have been rescinded. COVID-19 and the idea of a post pandemic society must change the way in which municipalities should view home occupations so long as it does not present a major nuisance to neighbors. In order to determine a nuisance, Under the Restatement, Townships will look at:

“(1) Whether the conduct involves a significant interference with the public health, the public safety, the public peace, the public comfort or the public convenience; or

(2) Whether the conduct is proscribed by a statute, ordinance or administrative regulation; or

(3) Whether the conduct is of a continuing nature or has produced a permanent or long lasting effect, and, as the person knows or has reason to know, has a significant effect upon the public right.”⁴⁸

Also, in this section is Section 703 Incentives, which states that Residents who comply with the home occupation guidelines and refrain from violation of the provisions in the home occupation permit will be given 25% discount upon renewal of their permit. They will also be entitled to receive an annual award for every year that their permit is not violated. Further, a one-time tax reduction on that current year's property tax is available for residents who do not violate their permit for three consecutive years. This was included to encourage residents to remain in

⁴⁸ Restatement (Second) of Torts §821B

compliance with their home occupation permit. These incentives are especially helpful with individuals who have a home occupation that may produce a public nuisance if the provisions of their permit are violated.

B. Options for Funding the Ordinance

It is anticipated that the ordinance will be funded through the same means as the Zoning Hearing Board. The township is only accountable for issuing inspections and zoning permits, as well as collecting the fees associated with doing so. Fees gathered from the permit process will be “combined with the Zoning Hearing Board’s general fund, ensuring the funds associated with home occupations are available to cover expenses for the maintenance of the home-occupation ordinance.”⁴⁹

VII. Conclusion - Key Points

In conclusion, it is crucial to note that home occupations are likely to become more common not only during the pandemic, but also in the post-pandemic society. Due to this, ordinances need to be more flexible in the type of impact, as well as the type of occupation it allows to be conducted within the home to ensure that more businesses may offer remote work.

While there are currently no published zoning ordinances that address the increase in home businesses brought on by the pandemic, townships have been taking alternative measures to make the process manageable while COVID-19 is being navigated. By amending the Swatara Township ordinance, we plan to create a model ordinance that is updated with an increased number of occupations that may not have been considered prior to COVID-19. These

⁴⁹ 2018 Home Based Business Narrative

recommendations can be followed by townships and municipalities of other areas in order to accommodate those who are instructed to remain working from home even after the stay at home order is no longer in effect.

Proposed Ordinance for Home Occupations

**SWATARA TOWNSHIP DAUPHIN COUNTY,
PENNSYLVANIA ORDINANCE
NO. 20-XX**

**AN AMENDMENT TO THE ZONING ORDINANCE OF THE TOWNSHIP OF
SWATARA, DAUPHIN COUNTY, PENNSYLVANIA TO ESTABLISHED ZONING
REGULATIONS RELATED TO ADDRESSING THE NEED FOR POST-PANDEMIC
HOUSING ORDINANCES TO FACILITATE LOW-IMPACT HOME OCCUPATIONS.**

**NOW, THEREFORE, be it enacted and ordained by the Board of Commissioners of
SWATARA Township, Dauphin County, Pennsylvania, and the same is hereby ordained
and enacted as follows, to wit:**

ENACTED this _____ day of _____, 2020 in public session duly assembled.

ATTEST:

**BOARD OF COMMISSIONERS
OF SWATARA TOWNSHIP**

[Secretary]

President Thomas Connolly
Board of Commissioners

Chapter 1

Preliminary Provisions

Section 101. Title.

This ordinance shall be known as and may be cited as the “Swatara Township Post-Pandemic Housing Ordinance.”

Section 102. Purpose.

The purpose of this ordinance is to expand the types of home occupations permitted, which will not only promote social, economic and environmental benefits, but also maintain the sufficient regulations necessary to protect the attributes of the zoning district and limit disruptions to neighboring property owners.

Section 103. Legal Authority.

This ordinance is enacted and ordained by section 601 under the grant of powers by the General Assembly of the Commonwealth of Pennsylvania under the act of July 31, 1968 (P.L. 805, No. 247), known as the Pennsylvania Municipalities Planning Code.⁵⁰

By the First-Class Township Ordinance which states, [t]he corporate power of a township of the first class shall be vested in the board of township commissioners. The board shall have power: to adopt resolutions and ordinances prescribing the manner in which powers of the township shall be carried out, and generally regulating the affairs of the township.⁵¹

⁵⁰ 53 Pa. Stat. Ann. § 10101

⁵¹ 54 Pa. Stat. Ann. § 56502

In recognition of the Swatara Township planning code which states, [a]ll ordinances of a general and permanent nature adopted subsequent to the date given in § 1-4A and/or prior to the date of adoption of this ordinance are hereby deemed to be a part of the Code and shall, upon being printed, be included therein. Attested copies of all such ordinances shall be temporarily placed in the Code until printed supplements are included.⁵²

Section 104. Definitions.⁵³--The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly states otherwise:

“Applicant.” A landowner or developer, who has filed an application for development, including heirs, successors and assigns.⁵⁴

“Board.” The Swatara Township Board of Commissioners.

“Building.” A structure having a permanent roof and walls and that is intended for the shelter, work area, housing or enclosure of persons, animals, vehicles, equipment or materials and that has a total area under roof of greater than 50 cubic feet.⁵⁵

“Business.” A home occupation business.

“Dwelling.” A building used as non-transient living quarters. The term includes a sectional home. The term does not include a boarding house, hotel, motel, hospital, nursing home or dormitory.

“Home Occupation.” Any use customarily carried on entirely within a dwelling by occupants which is clearly incidental and subordinate to the use of the dwelling for dwelling purposes and

⁵² SWATARA TWP., PA. ORDINANCE art. I, § 1-5 (2010).

⁵³ NOTE: Some of these terms have already been defined by the Swatara Township Ordinance. However, definitions from other ordinances may have been used to replace them due to being more thorough and easier to comprehend.

⁵⁴ MCKEAN TWP., PA. ORDINANCE art II, § 201 (1983).

⁵⁵ SWATARA TWP., PA. ORDINANCE art II, § 202 (2010).

which does not change the residential character of the dwelling. A home occupation shall not be considered, construed or interpreted as being a no-impact home occupation.⁵⁶

“Homeowner.” The owner of a residential dwelling.

“Illegal Activity.” Any activity which may be classified or prosecuted relating to classes of offenses.

“Main office.” Any home office which is used by the medical practitioner as a location to conduct in-person and telehealth visits.

“Nonconforming use.” A use of land or a structure, which does not comply with the applicable use provisions in this act, use was lawfully in existence prior to the effective date of this act. This term does not include use granted by variance.⁵⁷

“Non-Resident Employee.” An employee of the home occupation who is not a resident of the dwelling. The term includes individuals with a familial and non-familial relationship to the resident.

“Nuisance.” Any activity specified under section 404(a)(1).

“Number of employees.” The highest number of workers part-time, full-time, compensated and volunteer employees and contractors present on a lot at any one time, other than clearly temporary and occasional persons working on physical improvements to the site.⁵⁸

“Office.” Any use that involves administrative, clerical, financial, governmental or professional operations and similar operations. The term includes business offices, medical offices, laboratories, photographic studios or television or radio broadcasting studios. The term does not include retail or industrial use. ⁵⁹

⁵⁶ *Id.*

⁵⁷ SWATARA TWP., PA. ORDINANCE art. II, § 202 (2010).

⁵⁸ SWATARA TWP., PA. ORDINANCE art. II, § 202 (2010).

⁵⁹ *Id.*

“Parking.” Off-street parking and aisles for vehicle movement.⁶⁰

“Pennsylvania Municipalities Planning Code.” The act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code.⁶¹

“Permitted Use.” Any home occupational use which does not require special by the zoning hearing board to be a special exception.

“Permittee.” Any individual who is granted a zoning permit.

“Principal Dwelling Unit.” The location of the home occupation listed on the zoning permit.

“Public Hearing.” A formal meeting held prior to acting in accordance with the Pennsylvania Municipalities Planning Code.⁶²

“Public use.” A municipally owned or operated use.⁶³

“Resident.” An individual who resides at the location of the home occupation listed on the zoning permit application.

“Residential Property.” A property that a municipality has designated for single family homes, apartments, co-operatives, townhouses and any other place where people live.⁶⁴

“Road.” The entire right-of-way of a public or private street or highway.⁶⁵

“Routine Visits.” Any sequence or series of appointments to occur as a normal part of doing business.

⁶⁰ *Id.*

⁶¹ 2018 Home-Based Businesses Narrative

⁶² *Id.*

⁶³ MCKEAN TWP., PA. ORDINANCE art. II, § 201 (1983).

⁶⁴ "Residential property." *Financial Glossary*. 2011. Campbell R. Harvey 23 Oct. 2020 <https://financial-dictionary.thefreedictionary.com/residential+property>

⁶⁵ MCKEAN TWP., PA. ORDINANCE art. II, § 201 (1983).

“Sign.” Any physical device for visual communication that is used for the purpose of attracting attention from the public and that is visible from beyond an exterior lot line, including all symbols, words, models, displays, banners, flags, devices or representations. ⁶⁶

“Special Exceptions.” An authorized use which may be granted only by the Zoning Hearing Board in accordance with this ordinance after public hearing. ⁶⁷

“Township.” Swatara Township, Dauphin County, Pennsylvania. ⁶⁸

“Use.” The purpose, activity, occupation, business or operation for which land or a structure is designed, arranged, intended, occupied or maintained. The term includes the following:

- (i) Activity within a structure.
- (ii) Activity outside of a structure.
- (iii) Any structure.
- (iv) Recreational vehicle storage.
- (v) Parking of commercial vehicles on a lot.⁶⁹

“Zoning Hearing Board.” That board assigned the duties of judging various appeals of persons aggrieved by the interpretation of the terms of this Ordinance.⁷⁰

“Zoning Officer.” The person charged with the duty of enforcing the zoning ordinance, and any officially designated assistant. ⁷¹

⁶⁶ SWATARA TWP., PA. ORDINANCE art. II, § 202 (2010).

⁶⁷ MCKEAN TWP., PA. ORDINANCE art. II, § 201 (1983).

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ MCKEAN TWP., PA. ORDINANCE art. II, § 201 (1983).

⁷¹ SWATARA TWP., PA. ORDINANCE art. II, § 202 (2010).

“Zoning Permit.” A statement signed by the zoning officer indicating that the application for permission to construct, alter or add is approved and in accordance with the requirements of the terms of this ordinance.⁷²

Chapter 3

General Provisions

Section 301. Low-impact home occupation businesses.

(a) Specifications.--For the home occupation to qualify as a low-impact home occupation in each zoning area, home occupations shall meet the following requirements:

(1) The use shall be conducted primarily by a permanent resident of the dwelling and involve [a maximum of one person] not more than two non-resident employees working on-site at any one time who does not reside within the dwelling. [A maximum of one non-resident employee] Not more than two non-resident employees may visit the property on a daily basis or operate a vehicle based at the property. Each said employee shall have a designated parking spot which does not disrupt the traffic circulation of the neighborhood.

(2) The use [shall be conducted indoors] may be conducted indoors or outdoors. No [Outdoor] storage or display related to the home occupation shall be permitted so long as it is located in the back of the dwelling. No changes shall occur to the exterior of a building that would reduce its residential appearance as viewed from a street.

⁷² MCKEAN TWP., PA. ORDINANCE art. II, § 201 (1983).

(3) The use shall occupy an area that is [not greater] no more than [25 percent] 50% of the total floor area of the principal dwelling unit. The use shall [clearly] be secondary to the residential use.

(4) One off-street parking space shall be required [per] for each non-resident employee. [In addition,] [f]For a [Major Home Occupation] low-impact home occupation, the [Z]zoning [H]hearing [B]board shall require additional off-street parking if the [B]board determines it is necessary for customer parking.

(5) The use [shall] may [not] require delivery by [tractor-trailer trucks] common carriers such as Amazon, UPS, USPS, etc.

(6) [The regulations of Section 403.A.14.d. regarding parking of trucks shall apply to a home occupation.] [No] [e]Excavating equipment [shall] may not be parked overnight on a residential lot or an adjacent street as part of a home occupation.

(7) [No] [e]Equipment or machinery [shall be permitted] that produces noise, noxious odor, vibration, glare, electrical or electronic interference detectable on another property may not be permitted.

(8) Equipment and machinery are permitted to produce low or no noise. The noise of the equipment or machinery shall be measured by the zoning officer conducting the home inspection.

(9) The use [shall] may not involve the storage or use of hazardous, flammable or explosive substances, other than types and amounts typically found on a residential property.

(10) The use [shall] may not involve the storage or use of toxic or highly hazardous substances.

(11) A home occupation shall not be conducted in a manner that is perceptible to other residents between the hours of 9 p.m. and 7:30 a.m.

(12) Any tutoring or instruction shall be limited to a maximum of [3] 5 students at a time.

(13) A barber or beauty shop [shall not include any] may not include more than 2 non-resident employees.

(14) The main office of a medical doctor, chiropractor or dentist [shall not be permitted] shall be permitted as a home occupation. Medical services may not include more than 1 patient at a time.

(15) A home occupation may include a single one square foot non-illuminated sign, [as permitted by Article 7] in accordance with Section 301(a)(2). The sign shall have a maximum height above the ground of six feet and may be attached to a building or a pole. The sign shall not be allowed within the street right-of-way.

(16) The Zoning Hearing Board shall deny a [Major] low impact home occupation application, or limit its intensity through conditions, if the Board determines the use would be too intense for the proposed location. In making such determination, the Board shall review the likely amounts of traffic, the types of deliveries needed, the types of operations involved and related nuisances, the amount of off-street and on-street parking that is available, the density of the neighborhood, whether the use would be adjacent to another dwelling, and setbacks from other dwellings.

(17) The use [shall not] may involve manufacturing, [other than of] including, but not limited to, custom crafts and sewing. The use [shall not] may involve commercial repair of motor vehicles.

(18) The use may include sales using telephone, mail order, or electronic methods. Onsite retail sales [shall be prohibited, except for sales of hair care products as accessory to a barber/beauty shop] may be permitted.

(19) If more than one home occupation is accessory to a dwelling, the total aggregate impact of the home occupations shall be considered in determining compliance with this Ordinance. [Additional Requirements for Specific Uses Page 4-29 Swatara Township Zoning Ordinance – As Adopted July 27, 2010 Section 403.D.]

(20) A zoning permit shall be required for a [Major] Low Impact home occupation, after obtaining approval.

(21) Masks must be worn during routine visits to home occupations by any non-resident employee, customer, or patient in accordance with the Order of the Secretary of the Pennsylvania Department of Health Requiring Universal Face Coverings [signed by the Pennsylvania Department of Health Secretary Dr. Rachel Levine.]⁷³

[In addition to the requirements listed in (a) above, the following additional requirements shall apply to a "Minor Home Occupation:"]

(22) The use [shall not] may routinely involve routine visits to the home occupation by [customers] no more than one customer at a time [or] and no more than one non-resident employee at a time.

(23) The use may [only] involve the following activities:

(i) Work routinely conducted within an office.

⁷³ Pennsylvania Department of Health, *Order of the Secretary of the Pennsylvania Department of Health Requiring Universal Face Coverings*, October 23, 2020. <https://www.governor.pa.gov/wp-content/uploads/2020/07/20200701-SOH-Universal-Face-Coverings-Order.pdf>

- (ii) Custom sewing and fabric and basket crafts.
- (iii) Cooking and baking for off-site sales and use.
- (iv) Creation of visual arts ([such as] including painting or wood carving).
- (v) Repairs to and assembly of computers and computer peripherals.
- (vi) A construction tradesperson, provided that no non-resident employees routinely operate from the lot.

(vii) A use that the applicant proves would meet the definition of use in section 105 and the specifications in section 201(a) which otherwise may be considered a nuisance.

(b) Applicability.--Subsection (a) shall apply to all low-impact home occupations for the following zoning areas as a use by right:

(1) Use by right:

- (i) Agricultural zone⁷⁴
- (ii) Village zone⁷⁵
- (iii) Manufactured housing park zone⁷⁶
- (iv) Neighborhood Commercial Zone⁷⁷
- (v) Highway commercial zone⁷⁸
- (vi) Industrial zone⁷⁹
- (A) Conservation zone⁸⁰

⁷⁴ MONROE TWP., PA. ORDINANCE art. II, § 200 (1998).

⁷⁵ *Id.* at §203.

⁷⁶ *Id.* at §205.

⁷⁷ *Id.* at §210.

⁷⁸ *Id.* at §211.

⁷⁹ *Id.* at §220.

⁸⁰ *Id.* at §200.

(B) Suburban residential zone⁸¹

(C) Village overlay zone⁸²

(2) Conditional use:

- (i) Any other home occupation not included in subsection (a) which the applicant wishes to conduct will be decided on a case by case basis. The township must approve the type of home occupation and has the option of imposing certain reasonable conditions on the use.

Chapter 5

Zoning Permit Process⁸³

Section 501. Applications.

(a) Administration.--The following shall apply:

- (1) The Zoning Hearing Board shall prepare and issue the Zoning Permit.
- (2) The inspection for the zoning permit shall be conducted by the Applicant due to COVID-19. When COVID-19 restrictions are lifted, a Zoning Officer shall conduct the inspection.⁸⁴
- (3) The Applicant shall obtain the inspection checklist provided by the Township in the application.

⁸¹ *Id.* at §202.

⁸² *Id.* at §204.

⁸³ NOTE: The permit process for a “use by right” will be the same as the permit process for a conditional use, considering the permit to effectively be pro forma.

⁸⁴ NOTE for Professor: After speaking with Mr. Coburn, he said this recommendation does not need changed.

(4) The Zoning Hearing Board reserves the right to deploy a Zoning Officer to conduct an inspection of the home occupation within a 10 days' notice to ensure compliance with this ordinance.

(b) Submission.--Each application for a Zoning Permit or an appeal or decision by the Zoning Hearing Board shall be made in writing on a form provided by the Township. A completed application, with required fees, shall be submitted to a designated Township staff-person.⁸⁵

All applicants shall comply with the following submission procedures:

(1) The applicant shall submit a zoning permit application and documents electronically.⁸⁶

(2) If the applicant is unable to submit the application electronically, the applicant may submit paper copies to the Township mailbox.⁸⁷

(3) An application and accompanying documentation that cannot be submitted in accordance with subsection (b) shall be submitted in a manner determined by the zoning board.

(4) Zoning permit approvals shall only be issued via email.⁸⁸

(5) An inspection shall be conducted prior to the zoning permit approval.⁸⁹

(6) A self-inspection of the use or occupancy shall be required.⁹⁰

⁸⁵ *Id.* at §103.D.

⁸⁶ Caln Twp. Coronavirus Permits and Application Form
http://www.calntownship.org/uploads/9/9/7/5/99755464/coronavirus_permits_and_inspections_form.pdf

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.*

(c) Application Information.--Any application under this Ordinance shall include the following information, unless the Zoning Officer determines such information is unnecessary to determine compliance with this Ordinance:

(1) the address of the lot;

(2) name and address of the applicant, and of the owner of the property if different from the applicant;

(3) if the applicant is not the landowner of record, information shall be presented with the application, such as an agreement of sale or lease, to demonstrate that the applicant has the legal right to make the application;

(4) a current deed for the property;

(5) a description of the existing and proposed use(s) of the property, with the proposed use described in sufficient detail for the Zoning Officer to determine compliance with this Ordinance;

(6) all other applicable information listed on the official Township application; if the applicant is incorporated, the legal names and day telephone numbers of officers of the organization or corporation;

(7) such additional information that the Zoning Officer may determine is reasonably necessary to determine compliance with this Ordinance; and

(8) a listing of all special exception approvals and/or variances which the applicant is requesting and/or a description with a date of any such approvals that were previously granted for this property that relate to this application.⁹¹

⁹¹ SWATARA TWP., PA. ORDINANCE art. I, § 103.A(1) (2010).

(d) Decision.--An application for a zoning permit shall either be approved or disapproved within ninety (days after the application is filed.⁹² If the application is contested or denied, the decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons for such conclusions. References shall be provided to the most pertinent section(s) of this Ordinance and/or the Pennsylvania Municipalities Planning Code for conclusions based upon such law, as well as why the conclusion is appropriate in light of the facts.⁹³

Section 502. Notice.--A copy of the final decision shall be delivered or mailed to the applicant or applicant's representative not later than thirty days after the decision is made.

Section 503. Permit.--A Zoning Permit indicates that a zoning application complies with this Ordinance to the best knowledge of the applicable Township Staff.

(a) A Zoning Permit is required to be issued prior to the start of any of the following activities:

(1) Erection, construction, movement, placement, relocation or expansion of a structure, building or sign;

(2) Change of the type of use or expansion of the use of a structure or area of land;

(3) Creation of a new use; or

(4) Alterations affecting matters regulated by this Ordinance;

(b) A self-inspection of the use or occupancy shall be required.

(c) A home occupation is not transferable to subsequent occupants of a residence and cannot be transferred to a new residence. A home occupation shall cease to be valid once an active business license is not maintained. ⁹⁴

⁹² WEST HEMPFIELD TWP., PA. ORDINANCE ch. 145, art. CM, § 902.1(C) (1993).

⁹³ SWATARA TWP., PA. ORDINANCE art. I, § 112.C(2) (2010).

⁹⁴ *Id.*

(d) At least one copy of each zoning permit application and any other zoning approval shall be retained in Township files.⁹⁵

Section 504. Time Limit.--The following shall apply:

(a) After [a variance is approved or other zoning approval (such as special exception approval) is officially authorized] a home occupation is approved, any applicable zoning permit shall be secured by the applicant within 12 months after the date of such approval or authorization. The work authorized by zoning permits shall then be completed within 12 months after the issuance of the zoning permits. The Zoning Hearing Board may approve a differing period, such as a longer period for a phased project or a shorter time period if the matter involves a violation of this Ordinance.⁹⁶

(b) If an applicant fails to obtain the necessary zoning permit or begins construction within the above time periods, or allows interruptions in substantial construction of longer than 12 months, the Zoning Officer shall conclusively presume that the applicant has waived, withdrawn or abandoned approvals, variances and zoning permit under this Ordinance and all such approvals, variances and zoning permit shall be deemed automatically rescinded by the Township.⁹⁷

(c) Home Occupation permits shall expire on December 31 of each year and, once granted, may be renewed without additional approvals and/or hearings, subject to the provisions of this section. An application form for zoning permit renewal must be completed and submitted to the

⁹⁵ SWATARA TWP., PA. ORDINANCE art. I, § 103.E(1) (2010)

⁹⁶ YORK TWP., PA. ORDINANCE art. XI, § 201 (2012).

⁹⁷ *Id.*

Zoning Officer with the annual zoning permit fee by January 1. Failure to pay for the annual zoning permit and/or failure to apply for renewal in a timely manner shall be grounds for revocation of a zoning permit.⁹⁸

Section 505. Fees. --The following shall apply:

(a) Fees.--The annual fee for securing a zoning permit for a home occupation shall be in the amount established and approved by the Permit Fee Schedule of Swatara Township. The annual fee for a Home Occupation zoning permit shall be payable no later than January 1 of each year.⁹⁹

(b) No zoning permit to begin work for the construction, alteration, repair, extension, replacement and/or use of any structure, sign and/or land for construction or use purposes shall be issued until the fees prescribed by the Commissioners pursuant to resolution shall be paid. The payment of fees under this section shall not relieve the applicant or holder of said zoning permit from payment of other fees that may be required by this Ordinance or any other ordinance or law.¹⁰⁰

Section 506. Appeals.--The following shall apply:

(a) Any person aggrieved by any action or decision of the Zoning Officer concerning the administration of the provisions of this article may appeal to the Zoning Hearing Board. Such appeal must be filed, in writing, within 30 days after the decision, determination or action of the Zoning Officer.¹⁰¹

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ YORK TWP., PA. ORDINANCE art. X, § 265-1002(H) (2012).

¹⁰¹ SPRINGGETTSBURY TWP., PA. ORDINANCE art. XVIII, § 325-77(M) (2007).

(b) Upon receipt of such appeal, the Zoning Hearing Board shall set a time and place, within not less than 10 nor more than 30 days, for the purpose of considering the appeal. Notice of the time and place at which the appeal will be considered shall be given to all parties.¹⁰²

(c) Any person aggrieved by any decision of the Zoning Hearing Board may seek relief therefrom by appeal to the court, as provided by the laws of this commonwealth.¹⁰³

Section 507. Revocation.--The Zoning Officer may revoke a zoning permit or approval issued under the provisions of this chapter in case of any false statement or misrepresentation of fact in the application or on the plans on which the zoning permit or approval was based or for any other cause under chapter 4.¹⁰⁴

Chapter 7

Prohibitions and Incentives

Section 701. Prohibitions.--Any resident of the Township who wishes to operate a low-impact home occupation within the Township shall not operate a home occupation without first obtaining an approved inspection and zoning permit from the Zoning Officer. No zoning permittee of the Township is excluded from the prohibitions set forth in Section this Chapter.

The following activities are prohibited, even with a zoning permit:

The disposal of all materials, fluids, and gases shall be in no manner other than those that comply with all regulations of Swatara Township and all other applicable government codes.¹⁰⁵

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ SPRINGETTSBURY TWP., PA. ORDINANCE art. XXXII, § 325-187(G) (2007).

¹⁰⁵ PENN TWP., PA. ORDINANCE art. XVI, § 1613(2)(f) (1998).

Sales of goods on the premises shall not go beyond the scope of goods made on the premises and goods which are incidental to services performed on the premises.¹⁰⁶

Deliveries shall not restrict traffic circulation.¹⁰⁷

In addition to the required parking for the dwelling, parking spaces for the home occupation shall not be stacked.¹⁰⁸

Traffic generated by the Home Occupation shall not exceed volumes that would normally be expected in a residential neighborhood.¹⁰⁹

The business shall not involve illegal activity.¹¹⁰

The business shall not involve any home activity in the residential dwelling that contributes to any of the following:¹¹¹

- (i) Substantial noise that is not associated with residential use.
- (ii) Emission of odorous gases or other odorous matter that is offensive at property boundary lines.
- (iii) A production of intense glare or heat that extends beyond the property lot.
- (iv) Vibrations, discernible to the human sense of feeling, that extend beyond the property lot.
- (v) Unsightly outside storage.
- (vi) A significant increase of traffic.

¹⁰⁶ *Id.* at §152.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.* at §97.

¹⁰⁹ *Id.*

¹¹⁰ JACKSON TWP., PA. ORDINANCE art. VII, § 133-126(H) (1995).

¹¹¹ FUQUAY-VARINA, NORTH CAROLINA CODE OF ORDINANCES § 9-1255

Section 702. Enforcement.

(a) Notice.--If the Zoning Officer determines that a violation of this Ordinance has occurred, the Zoning Officer shall initiate enforcement proceedings by sending an enforcement notice as provided below:

(1) The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that and to any other person requested, in writing, by the owner of record.

(2) An enforcement notice shall state at least the following:

(A) The name of the owner of record and any other person against whom the Township intends to take action.

(B) The location of the property in violation.¹¹²

(C) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Ordinance.¹¹³

(D) The deadline for compliance must be commenced and the date before which the steps must be completed.¹¹⁴

(E) That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible disciplinary actions.¹¹⁵ These sanctions may include:

¹¹² YORK TWP., PA. ORDINANCE art. X, § 265-1005(B)(2) (2012).

¹¹³ *Id.* at (B)(3).

¹¹⁴ *Id.* at (B)(4).

¹¹⁵ *Id.*

- (1) Civil penalties not to exceed \$600 per violation.¹¹⁶
- (2) Revocation of the zoning permit.
- (3) Denial of future home occupation applications.

(b) Process.--If penalties are imposed for violations of the ordinances of the Township, a permittee may appeal the penalty in the same process as prescribed in section 307. If the penalty is upheld and the penalty is not voluntarily paid to the Township, the Township shall initiate a civil enforcement proceeding before a District Justice.¹¹⁷ The civil enforcement proceeding shall be initiated by complaint or by such other means as may be provided by the Pennsylvania Rules of Civil Procedure.¹¹⁸

Section 703. Incentives.--The following shall apply:

- (a) Residents who refrain from violating any provisions of the resident's home occupation zoning permit will be given a one-time 25% discount when renewing the zoning permit, the following year.
- (b) Residents who refrain from violating any provisions of the resident's home occupation zoning permit will also be granted an annual award in recognition of complying with the provisions of the zoning permit.
- (c) Residents who refrain from violating the provisions of his or her home occupation for a minimum of three consecutive years may receive a one-time tax reduction on that current year's property taxes.

¹¹⁶ UNION TWP., PA. ORDINANCE art. III, § 1-18 (2004).

¹¹⁷ *Id.*

¹¹⁸ *Id.*

Chapter 9

Repeals and Severability

Section 901. Repeals.--All ordinances or parts of ordinances in conflict with this Zoning Ordinance or inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.¹¹⁹

Section 902. Severability.--Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.¹²⁰

Section 903. Effective Date.--This Zoning Ordinance shall become effective five (5) days after its enactment by the Board of Supervisors of Swatara Township, County of Dauphin, Commonwealth of Pennsylvania.

¹¹⁹ PENN TWP., PA. ORDINANCE art. VII, § 707 (1998).

¹²⁰ PERRY TWP., PA. ORDINANCE art. VII, § 702 (1998).