

**FILE OF COUNCIL**

No. 19 of 2003

Presented in City Council on October 9, 2003

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**AMENDING FILE OF COUNCIL NO. 17 OF 1960, AS AMENDED, ENTITLED THE "CITY OF WILKES-BARRE ZONING ORDINANCE, AS AMENDED".**

**AN ORDINANCE FOR NO-IMPACT HOME BASED BUSINESSES**

*WHEREAS, the City Council of the City of Wilkes-Barre passed finally on October 18, 1960, a Zoning Ordinance and;*

*WHEREAS, City Council may enact amendments to the Zoning Ordinance subject to said amendments having prior review by the City of Wilkes-Barre Planning Commission in accordance with Article 6 of the City of Wilkes-Barre Zoning Ordinance, as amended, and P.L. 805, No. 247), known as the Pennsylvania Municipalities Planning Code, (PMPC Act 247, as amended);*

*WHEREAS, the General Assembly of the Commonwealth of Pennsylvania enacted amendments to the Pennsylvania Municipalities Planning Code, as amended, entitled Act of 2002, No. 43, which amended Section 105 of said Code relative to Purpose of Act, Section 107, including a definition to define a "no-impact home based business", Section 603, permitting no-impact home based in all residential zones of the municipality, and Sections 609.1, 908 (1.2) and (9) and 913.2(b) (2) relative to procedures and hearings;*

*WHEREAS, the City of Wilkes-Barre Planning Commission has reviewed and recommended the adoption of the amendments to the Zoning Ordinance provided herein;*

*WHEREAS, the City Council of the City of Wilkes-Barre desires to enact a zoning ordinance consistent with Pennsylvania Law 805, Act 247, as amended.*

***NOW, THEREFORE, IT IS HEREBY ORDAINED AND ENACTED*** by the City Council of the City of Wilkes-Barre that the following amendments to the City of Wilkes-Barre Zoning Ordinance, as amended, are hereby adopted.

**Section 1.**

**Article 2, Section 203.** Definition of Terms, is hereby amended to include the following definition:

***"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. The

business or commercial activity must satisfy the specific requirements of Section 1409-A of this Ordinance.

**Section 2.**

Article 14, Supplemental Requirements, is hereby amended to include Section 1409-A as follows:

**“Section 1409-A. “No-impact Home Based Business Requirements:**

No-impact home based business commercial activities shall be subject to the following requirements:

- a) The business activity shall be compatible with the residential use of the property and surrounding residential uses.
- b) The business shall employ no employees other than family members residing in the dwelling.
- c) There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
- d) There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights.
- e) The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
- f) The business activity may not generate any solid waste or sewage discharge in volume or type which is not normally associated with residential use in the neighborhood.
- g) The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area.
- h) The business shall not involve any illegal activity.
- i) The operator of a no-impact home based business shall make application for a zoning permit pursuant to all requirements of this ordinance together with the payment of an application fee applicable to residential zoning permit applications, as established by resolution, at the time of application. The applicant must complete and file the prescribed application for this activity in accordance with Section 1409-B of this Ordinance or as otherwise directed by the Department.
- j) A no-impact home based business shall not supersede any deed restriction, covenant or agreement restricting the use of land nor any master deed, bylaw or other document applicable to a common interest ownership community.
- k) A business or commercial activity which violates or exceeds any of the requirements applicable to no-impact home based businesses shall not be considered a no-impact home based business and shall be subject to all other applicable provisions of this ordinance.”

**Section 3.**

Article 14, Supplemental Requirements, is hereby amended to include Section 1409-B as follows:

**"Section 1409-B. Application for No-Impact Home Based Business.**

**ZONING PERMIT APPLICATION FOR NO-IMPACT HOME BASED BUSINESS**

1. Address of Subject Property: \_\_\_\_\_
  
2. Zoning District of Subject Property: \_\_\_\_\_
  
3. Applicant's Name, Address, and Phone Number:  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone #: \_\_\_\_\_
  
4. Property Owner's Name, Address, and Phone Number:  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone #: \_\_\_\_\_
  
5. Present Use of Subject Property: (Check One)  
\_\_\_\_\_ Single Family Dwelling      \_\_\_\_\_ Two Family Dwelling  
\_\_\_\_\_ Multi-Family Dwelling  
\_\_\_\_\_ Other (Please Explain) \_\_\_\_\_
  
6. Describe Proposed No Impact Home Based Business Use of Dwelling:  
\_\_\_\_\_
  
7. Percentage (%) of Habitable Floor Area Devoted to Proposed Business (Divide Square Foot of Habitable Floor area Devoted to Business/Activity by the Total Habitable Square Foot of Floor Area of Dwelling): \_\_\_\_\_ (%)

8. Will the proposed business or commercial activity be administered and conducted as an accessory use which is clearly secondary to the use as a residential dwelling?  
 (Please answer Yes or No) \_\_\_\_\_
9. Will the proposed business or commercial activity involve NO customer, client or patient traffic whether vehicular or pedestrian, delivery or removal functions to or from the premises, in excess of those normally associated with residential use?  
 (Please answer Yes or No) \_\_\_\_\_
10. Will the proposed no-impact home based business comply with the provisions of the City of Wilkes-Barre Zoning Ordinance, as amended, including, but not limited to Section 1409-A, copy attached and made part hereof? (Please answer Yes or No)  
 \_\_\_\_\_
11. Are there any deed restrictions, covenants or agreements restricting the use of land or any master deed, bylaw or other document applicable to a common interest ownership community placed upon or applicable to the subject property? (Please answer Yes or No) \_\_\_\_\_
12. Fee Paid: \_\_\_\_\_

***I CERTIFY THAT THE INFORMATION SUPPLIED ON THIS APPLICATION IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND FURTHER ATTEST AS A WITNESS THAT THE SIGNATURE IS IN FACT TRUE AND AUTHENTIC.***

Applicant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Property Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Zoning Permit # \_\_\_\_\_ Official Signature: \_\_\_\_\_ Date: \_\_\_\_\_”

**Section 4.**

***“Section 1101. Table of Use Requirements - Residential, is hereby amended to permit no-impact home based business as a permitted use in the R-1, R-2, R-3, and R-A zoning districts”***

**Section 5.**

The provisions of this ordinance shall be severable and if any of its provisions shall be deemed invalid for any reason, the validity of the remaining provisions of this ordinance shall not be affected. It is hereby declared as the intention of the City Council that this ordinance would have been adopted had such invalidity not been included therein.


**Section 6.**

All other ordinances or parts thereof, of the City of Wilkes-Barre which are in conflict with this ordinance, to the extent of such conflict are hereby repealed.

Passed finally by the City Council of the City of Wilkes-Barre on 10/23/03.

This Ordinance shall become effective on 11/2/03.

**ATTEST:**

  
\_\_\_\_\_  
*James Ryan, City Clerk*

THE UNDERSIGNED RECOMMEND THE PASSAGE OF THE FOREGOING ORDINANCE.

Abigail B. Fatwasi  
LATINSKI

Ramon M. Leighton  
LEIGHTON

Jim M. McCarthy  
MCCARTHY

Tom Thomas  
THOMAS

Shirley Marie Vitanovec  
VITANOVEC

Kathy Kane  
KANE

Paul J. McGinley  
MCGINLEY

ATTEST:

Janice [Signature]  
CITY CLERK

APPROVED:

\_\_\_\_\_  
THOMAS D. MCGROARTY  
MAYOR

\_\_\_\_\_  
DATE APPROVED

VETO:

\_\_\_\_\_  
THOMAS D. MCGROARTY  
MAYOR

\_\_\_\_\_  
DATE VETOED