

ORDINANCE NO. 221

AN ORDINANCE OF THE TOWNSHIP OF MIDDLE SMITHFIELD,
MONROE COUNTY, PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES OF THE
TOWNSHIP OF MIDDLE SMITHFIELD CHAPTER 150, ENTITLED "SHORT-TERM
RENTALS," REGARDING OCCUPANCY LIMITATIONS, INCLUDING PERSONS AND
VEHICLES, AND OTHER MISCELLANEOUS ITEMS, RELATING TO SHORT-TERM
RENTAL OF RESIDENTIAL DWELLING UNITS

WHEREAS, the Board of Supervisors of the Township of Middle Smithfield has heretofore adopted a comprehensive compilation of ordinances of the Township entitled the "Code of the Township of Middle Smithfield" (the "Code"); and

WHEREAS, any and all additions, amendments, deletions, or supplements to the Code, when passed and adopted in such form as to indicate the intention of the Board of Supervisors to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such changes; and

WHEREAS, whenever such additions, amendments, deletions, or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the post-bound book containing said Code as amendments and supplements thereto; and

WHEREAS, Section 1506 of the Second Class Township Code, Act of May 1, 1933, P.L. 103, No. 69, as amended by the Act of November 9, 1995, P.L. 350, No. 60, found at 53 P.S. 66506, entitled "General Powers", authorizes the Board of Supervisors to make and adopt ordinances necessary for the proper management, care and control of the Township, and its finances and the maintenance of peace, good government, health and welfare of the Township and its citizens, trade, commerce and manufacturers; and

WHEREAS, Section 1529 of the Second Class Township Code, 53 P. S. Sec. 67529, authorizes the Board of Supervisors to adopt ordinances prohibiting nuisances; and

WHEREAS, Section 1527 of the Second Class Township Code, 53 P. S. Sec. 67527, authorizes the Board of Supervisors to adopt ordinances to secure the safety of persons and property in the Township; and

WHEREAS, Section 1517 of the Second Class Township Code, 53 P. S. Sec. 67517, authorizes the Board of Supervisors to adopt codes and ordinances to govern and regulate the construction, alteration, repair, occupation, maintenance, sanitation, lighting, ventilation, water supply, toilet facilities, drainage, use and inspection of all building and housing constructed, erected, altered, designed or used for any use or occupancy and the sanitation and inspection of land in accordance with Article XVII-A of the Second Class Township Code; and

WHEREAS, on September 14, 2017, the Township Board of Supervisors adopted Ordinance 216 adding Chapter 150, entitled "Short-Term Rentals," to the Code of Ordinances of the Township of Middle Smithfield; and

WHEREAS, the Board of Supervisors desires to amend its rules and regulations concerning Short-Term Rentals regarding occupancy limitations, both persons and vehicles, and other miscellaneous items.

NOW, THEREFORE, BE IT HEREBY RESOLVED AND ADOPTED by the Board of Supervisors of Middle Smithfield Township, Monroe County, Pennsylvania, and it is hereby resolved as follows:

Section 1: The Code of the Township of Middle Smithfield Chapter 150, entitled "Short Term Rentals," is hereby amended and restated, in its entirety, as set forth in Exhibit "A" attached hereto, the provisions of which are incorporated by reference as though set forth at length.

Section 2: Severability. If any sentence, clause, section, or part of this Ordinance is, for any reason, declared unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect nor impair any remaining portions, sentences, clauses, sections, or parts of this Ordinance. It is hereby declared as the intent of the Board of Supervisors that such remainder shall be and shall remain in full force and effect.

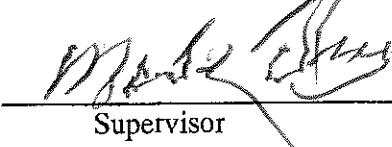
Section 3: Repeal. All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed insofar, but only insofar, as the same are inconsistent herewith. To the extent the provisions of this Ordinance are the same as any provisions of the Township Short-Term Rental Ordinance in force immediately prior to adoption of this Ordinance, the provisions of this Ordinance are intended as a continuation of such prior provisions and not as new provisions. The provisions of this Ordinance shall not affect any act done or liability incurred, nor shall such provisions affect any suit or prosecution pending or to be initiated to enforce any right or penalty or to punish any offense under the authority of any ordinance in force prior to adoption of this Ordinance.

Section 4: Effective Date. This Ordinance shall take effect five (5) days after the date of its enactment.

RESOLVED THIS 23rd DAY OF August, 2018, BY THE BOARD OF SUPERVISORS OF MIDDLE SMITHFIELD TOWNSHIP AT A LAWFUL SESSION DULY ASSEMBLED.


Chairperson


Vice Chairperson


Supervisor

ATTEST:

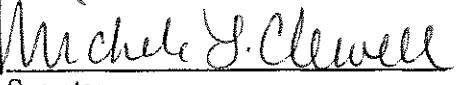

Secretary

EXHIBIT "A" TO ORDINANCE

Amended and Restated Chapter 150, entitled "Short-Term Rentals"

[attached hereto]

CHAPTER 150, SHORT-TERM RENTALS

§ 150 - 1 Title

This Chapter shall be known as and may be cited as "The Middle Smithfield Township Short-Term Rental Ordinance".

§ 150-2. Scope.

- A. The provisions of this Chapter shall apply to all residential dwelling units, conversions of nonresidential structures to residential dwellings, and all existing premises within the Township of Middle Smithfield. The owner of the subject property shall be responsible for compliance with the provisions of this Chapter and the failure of an owner, Person in Charge, or renting occupants to comply with the provisions of this Chapter shall be deemed noncompliance by the owner.
- B. This Chapter shall not apply to a hotel/motel/inn, bed and breakfast, boarding house, or group home, when the property owner, or a representative, is present on-site at the property on a 24 hour/day basis.

§150-3– Interpretation

This Chapter is not intended to, and does not, excuse any landowner from compliance with the Middle Smithfield Township Zoning Ordinance, as amended from time to time. Whenever possible, this Chapter and the Zoning Ordinance should be construed and interpreted as being consistent, and not in conflict.

§150-4 Definitions

For the purposes of this Chapter, words and terms used herein shall be interpreted as follows:

ANNUAL TERM – shall mean November 1st to October 31st the following year.

BEDROOM – A room or space designed to be used for sleeping purposes with two means of egress (one of which may be a window acceptable under the building code), a closet, and in close proximity to a bathroom. Space used for eating, cooking, bathrooms, toilet rooms, closets, halls, storage or utility rooms and similar uses are not considered Bedrooms. Space used or intended for general and informal everyday use such as a living room, den, sitting room or similar is not to be considered a Bedroom.

DAY GUEST – A visitor to the STR property, but not constituting an occupant.

DWELLING UNIT – A dwelling unit as defined by the Middle Smithfield Township Zoning Ordinance.

OCCUPANT - Person staying at the STR overnight. A person located on the STR premises shall be deemed an occupant unless established otherwise by the Owner, Person in Charge or Tenant.

OWNER - Person having legal or equitable ownership of the STR property. If there is more than one such person, then Owner shall mean each such person, individually and jointly.

PERSON IN CHARGE - A person or agent with actual authority to represent the Owner for purposes of contact and communication regarding the Owner's STRs. A Person in Charge must reside or have an office within fifteen miles of the STR property and be able to act as the legal agent for the Owner. The township must be notified, in writing, within fourteen days if there is a change in the identity of the Person in Charge.

SHORT-TERM RENTAL - Any Dwelling Unit utilized as a single-family residence rented for the purpose of overnight lodging for a period of thirty (30) days or less, and which meets the definition of "Hotel" for the purpose of imposing an excise tax by the County of Monroe as defined in the County of Monroe Ordinance No. 2004-03, as amended. Referred to as "STR" in this Chapter.

SHORT-TERM RENTAL LICENSE - Permission granted by the Township to utilize a Dwelling Unit for Short-Term Rental Use.

TENANT - For the purposes of this ordinance the term "tenant" shall refer to the primary individual who signed an agreement with the Owner or Owner's agent for the temporary use of the STR for 30 consecutive calendar days or less.

§ 150-5 License Required

No owner of any property in Middle Smithfield Township shall operate a Short-Term Rental in Middle Smithfield Township without first obtaining a Short-Term Rental License from the Zoning Officer. Operation of a Short-Term Rental without such Short-Term Rental License is a violation of this Chapter.

§150-6 License Requirements

- A. Short-Term Rental License applications shall contain all of the following information:
 1. The name, address, email and 24-hour telephone number of the owner.
 2. The name, address, email and 24-hour telephone number of the Person in Charge if different from the Owner. A local person in charge shall have written authorization to accept service for the owner.
 3. If the building is a multi-unit structure, the total number of dwelling units in the structure and the number of dwelling units being used as Short-Term Rentals.
 4. If not on a central sewer system, the location, approximate age and capacity of the sewage disposal system. The owner of the property shall provide to the Township, for approval by the Sewage Enforcement Officer, satisfactory proof that the septic system has been inspected and is in working condition, and that the tank was pumped within three (3) years of the owner's application. The owner shall maintain the STR property's septic system on a pumping schedule of not more than every three (3) years, and provide the Township satisfactory written proof of compliance upon its request, or license application renewal.

5. Copies of current Monroe County Hotel Room Excise Tax Certificate and current Pennsylvania Sales and Use Tax Permit.
6. Signatures of both the owner and the local Person in Charge.
7. Trespass waiver signed by the owner allowing access to the property for the Enforcement Officer for the purpose of inspection to verify compliance with this Ordinance.
8. Copy of the current recorded Deed for the Property establishing ownership.

B. A Short-Term Rental License shall be issued only to the owner of the Short-Term Rental property.

1. A separate Short-Term Rental License is required for each Dwelling Unit; for Two-Family or Multi-Family Dwellings, a separate License shall be required for each Dwelling Unit being rented as a Short-Term Rental.
2. A Short-Term Rental License is effective for a period of one Annual Term, or until any of the conditions of the Short-Term Rental which are governed by this Chapter are changed, whichever shall first occur. A Short-Term License must be renewed annually and also when any of the conditions of the Short-Term Rental which are governed by this Chapter are changed.
3. The Township will prescribe forms and procedures for the processing of License Applications under this Ordinance.
4. Licenses are non-transferrable. If ownership of a STR changes, the new Owner(s) must complete a new license application form before renting out any part of the dwelling unit for a short-term rental and must pay the annual fee.
5. The owner or Person in Charge shall respond to the Code Official within one (1) hour after being notified of the existence of a violation of this Ordinance or any disturbance requiring immediate remedy or abatement. If the Person in Charge is not the owner, they shall immediately advise the Owner of any notification of a violation.

§150-7 Short-Term Rental Standards

- A. Occupancy of a Short-Term Rental shall be limited to no more than: (i) two (2) persons per bedroom plus four (4) additional persons, or (ii) a maximum of fourteen (14) occupants, whichever is less.
- B. The maximum number of day guests allowed at any one time, in addition to the occupants, shall be seventy-five percent (75%) for the maximum permitted occupancy of the Short-Term Rental.
- C. The number of bedrooms permitted for a Short-Term Rental shall not exceed the number of bedrooms approved for the Dwelling Unit on the sewage permit issued for such property.

Where there is no sewage permit on record, the Short-Term Rental shall be limited to three (3) bedrooms unless proof is provided to the Sewage Enforcement Officer that the septic system is adequate to handle additional flows. Any Short-Term Rental advertising more than five (5) bedrooms shall provide proof that the septic system is adequate to handle such flows by having the system approved by the Sewage Enforcement Officer, or by providing a septic permit previously issued by a Sewage Enforcement Officer. If a sewage system malfunction occurs, Short-Term Rental of the Dwelling Unit shall be discontinued until the malfunction is corrected in accordance with Township and Pennsylvania Department of Environmental Protection requirements.

- D. Outdoor parking for occupants and day guests shall be limited to available parking areas on the Short-Term Rental property. In no event shall parking for Short-Term Rental tenants include spaces in any public street right-of-way or on any lawns or vegetated areas. A maximum of one car per bedroom is permitted for any Short Term Rental unit.
- E. A Short Term Rental Property shall not have any outside appearance indicating a change of use from the surrounding residential uses.
- F. Neither Short-Term Rental occupants nor guests shall engage in disorderly conduct or disturb the peace and quiet of any nearby neighborhood or person by loud, unusual or excessive noise, by tumultuous or offensive conduct, public indecency, threatening, traducing, quarreling, challenging to fight, or fighting, or creating a dangerous or physically offensive condition.
- G. The owner shall use best efforts to assure that the occupants or guests of the Short-Term Rental do not create unreasonable noise or disturbances, engage in disorderly conduct, or otherwise violate provisions of the Middle Smithfield Township Code or any state law pertaining to noise or disorderly conduct including, but not limited to, notifying the occupants of the rules regarding Short-Term Rentals and responding when notified that occupants are violating laws, ordinances or regulations regarding their occupancy.
- H. The owner shall, upon notification that occupants or guests of the Short-Term Rental have created unreasonable noise or disturbances, engaged in disorderly conduct or otherwise violated provisions of the Middle Smithfield Township Code or state law pertaining to noise or disorderly conduct, promptly use best efforts to prevent a recurrence of such conduct by those occupants or guests.
- I. Overnight occupancy of recreational vehicles, camper trailers and tents at the property where the Short-Term Rental is located shall not be allowed. Outdoor overnight sleeping of occupants or guests of the Short-Term Rental is prohibited.
- J. All Short-Term Rentals shall have a clearly visible and legible notice posted within the dwelling unit on or adjacent to the front door containing the following information:
 - 1. The name of the owner of the unit or the Person in Charge and a telephone number at which that party can be reached on a 24-hour basis.
 - 2. The 911 address of the property.

3. The maximum number of occupants permitted to stay in the dwelling unit and the maximum number of day guests permitted at any one time.
4. The maximum number of all vehicles allowed to be on the property and the requirement that all guest parking must be parked in the available parking areas on the property and not in or along any private, community or public street right-of-way or on any lawn or vegetated area on the property.
5. The trash pick-up day and notification that trash and refuse shall not be left or stored on the exterior of the property.
6. Notification that an occupant or guest may be cited and fined for creating a disturbance or for violating other provisions of the Middle Smithfield Township Code, including parking and occupancy limits.
7. Notification that Short-Term Rental occupants and guests are required to make the dwelling unit available for inspection by the Zoning Officer upon request.

K. All Short-Term Rentals shall be equipped with the following:

1. Smoke detectors in each bedroom;
2. Smoke detectors outside each bedroom in common hallways;
3. Smoke detectors on each floor;
4. GFI outlets for outlets located within six (6) feet of water source;
5. Aluminum or metal exhaust from dryer;
6. Carbon monoxide detector if open flame (oil or gas) furnace, gas or wood fireplace, or wood-burning stove;
7. Carbon monoxide detector if garage is attached;
8. Fire extinguisher in kitchen conspicuously located;
9. Stairs (indoor and outdoor) in good condition;
10. Swimming pools, hot tubs and spas must meet the barrier requirements as indicated in Appendix G of the 2009 International Residential Code; and
11. Any other occupancy requirements which may be added by Ordinance revision by the Board of Supervisors.

§150-8 Fees, term and renewal

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- A. Short-Term Rental fees, payable to Middle Smithfield Township upon the filing of a Short-Term Rental License application, shall be in such amount as may be established by resolution duly adopted by the Board of Supervisors
- B. Any Short-Term Rental License is good for a period not to exceed one (1) year from the date of issuance and must be renewed annually. Short-Term Rental License renewal fees, payable to Middle Smithfield Township upon the filing of a Short-Term Rental License renewal application, shall be in such amount as may be established by resolution duly adopted by the Board of Supervisors.
- C. Short-Term Rental License renewal applications shall contain information regarding any changes from the immediately preceding application with respect to matters governed by this Ordinance.
- D. In connection with the establishment and adoption of fee schedule under this Chapter, the Board of Supervisor may adopt a policy of exempting a property owner from License renewal fees in a calendar year based on the property owners' compliance with this Chapter, and all other Township regulations, in the prior calendar year.

§150-9 Enforcement Officer

- A. The administrator of this article shall be the Zoning Officer, which shall include any appointed Assistant Zoning Officers. The Zoning Officer shall have the responsibility and authority to administer and enforce all provisions of this Chapter.
- B. The issuance of a Short-Term Rental License is not a warranty that the premises is lawful, safe, habitable, or in compliance with this Chapter.
- C. If there is reason to believe that any provision of this Chapter is being violated, the Board of Supervisors may or may cause, through an authorized representative of the Township, entry onto premises for the purpose of inspection of any and all premises, properties, buildings and/or structures located within the Township for ascertaining the existence of violations. In those matters where the nature of an alleged violation is such that an inspection of the interior of a building or structure is necessitated, prior arrangements must be made with the owner or his agent to secure access thereof.

§150-10 Marketing

The marketing of a Short-Term Rental in which the advertised occupancy exceeds the maximum occupancy requirements permitted by this Chapter, or which promotes any other activity which is prohibited by this Chapter, shall be a violation of this Chapter.

§150-11 Notice of Violation

If it appears to an Enforcement Officer that a violation of this Chapter exists or has occurred, the Enforcement Officer shall send a written Notice of Violation to the owner or Person in Charge by personal delivery or to the owner by both United States first class and certified mail. The Enforcement Notice shall identify the premises which is the subject of the violation, enumerate the conditions which

constitute the violation, cite the specific sections of this Chapter which are violated, indicate the action required to correct the violation, and provide a time frame (established by the Enforcement Officer based upon the nature of the violation) to correct the violation.

§150-12 Nuisance

In the interest of promoting the public health, safety and welfare, and minimizing the burden on Township and community services and impacts on residential neighborhoods posed by Short-Term Rentals, a violation of any of the provisions of this Chapter is declared to be a public nuisance.

§150-13 Violations and penalties

- A. This Chapter shall be enforced by action brought before a Magisterial District Judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Any person, partnership, corporation or other entity who or which violates or permits a violation of the provisions of this Chapter shall, upon conviction in a summary proceeding, pay a fine of not less than \$100 nor more than \$1,000 per violation, plus all court costs and reasonable attorney's fees incurred by Middle Smithfield Township in the enforcement proceedings, and/or be imprisoned to the extent allowed by law for the punishment of summary offenses. Each day or portion thereof that a violation exists or continues shall constitute a separate violation. Further, the appropriate officers or agents of Middle Smithfield Township are hereby authorized to seek equitable relief, including injunction to enforce compliance with this Chapter. All fines, penalties, costs and reasonable attorney's fees collected for the violation of this Chapter shall be paid to Middle Smithfield Township for its general use.
- B. In addition to, but not in limitation of, the provisions of Subsection A. and §150-12, the Zoning Officer may either revoke, or deny an application to renew, a Short-Term Rental License for three (3) uncured or repeated violations of this Chapter in any rolling twelve (12) calendar month period. The revocation or denial to renew a Short-Term Rental License shall continue for six (6) months for the first set of three (3) uncured or repeated violations, and continue for one (1) year for any subsequent sets of violations.

§150-14 Owners severally responsible

If the premises are owned by more than one owner, each owner shall severally be subject to prosecution for a violation of this Chapter.

§150-15 Appeals

- A. Appeals of a determination of the Zoning Officer under this Chapter to deny any application for, or to renew, a Short-Term Rental License, or to revoke a Short-Term Rental License, shall be filed with the Board of Supervisors within thirty (30) days of the date of the denial of application or revocation of License. Appeal shall be processed as follows:
 1. All appeals shall be in writing and signed by the Appellant on forms prescribed by the Township, and shall be accompanied by a fee, the amount of which shall be established by the Township Supervisors, which may include notice and advertising costs, and necessary administrative overhead in relation to the hearing.

2. Each appeal shall fully set forth the determination appealed from, a detailed reason or basis for the appeal, and the relief sought. Every appeal shall refer to the specific provision of circumstances of the case.

B. Hearings

The Board of Supervisors shall conduct hearings and make decisions pursuant to the Act of December 2, 1968 (P.L. 1133, No. 353), known as the "Local Agency Law", and in accordance with the following requirements:

1. Written notice shall be given to the Appellant, the Zoning Officer, and to any person who has made timely request for same. Written notices shall be given at such time and in such manner as shall be prescribed by rules of the Board of Supervisors, but not less than fifteen (15) days prior to the hearing.
2. The hearing shall be held within 60 days from the date the appeal is filed, unless the Appellant has agreed in writing to an extension of time.
3. The hearings shall be conducted by the Board of Supervisors. The decision or, where no decision is called for, the findings shall be in writing by the Board of Supervisors within forty-five (45) days after the conclusion of the hearing, unless the Appellant has agreed in writing to an extension of time, and shall be communicated to the Appellant and any other parties who have entered their written appearance and requested a copy of the decisions, at the addresses provided by them either by personal delivery or by United States First Class mail postage prepaid.
4. The Chairman or Acting Chairman of the Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by parties.
5. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
6. Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
7. The Board of Supervisors may, but is not required to, make a stenographic record of the proceedings. In the event a stenographic record of the proceedings is not provided by the Board of Supervisors, a stenographic record shall be made and kept at the request of any party agreeing to pay the costs thereof. Any party or other person desiring a copy of the stenographic record shall order the copy directly from the stenographer who prepared the same and shall pay the cost imposed by the stenographer for the copy directly to the stenographer.

8. The Board of Supervisors shall not communicate, directly or indirectly, with any party or any party's representatives in connection with any issue involved except upon notice and opportunity for all parties to participate; shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed; and shall not inspect the site or its surroundings after the commencement of hearings with any party or any party's representative unless all parties are given opportunity to be present.