

TOWNSHIP OF MIDDLE SMITHFIELD
MONROE COUNTY, PENNSYLVANIA

CERTIFICATION OF ENACTED ORDINANCE

I, MICHELE L. CLEWELL, BEING THE DULY APPOINTED TOWNSHIP SECRETARY OF THE TOWNSHIP OF MIDDLE SMITHFIELD, MONROE COUNTY, PENNSYLVANIA, HEREBY CERTIFY THAT ATTACHED HERETO IS A TRUE AND CORRECT COPY OF THE TOWNSHIP ORDINANCE TITLED AS FOLLOWS:

AN ORDINANCE OF THE TOWNSHIP OF MIDDLE SMITHFIELD, MONROE COUNTY, PENNSYLVANIA, AMENDING THE TOWNSHIP'S CODE OF ORDINANCES, PART II, "GENERAL LEGISLATION", CHAPTER 200 "ZONING", DIVISION 83 "ZONING HEARING BOARD"; REVISING SECTION 083-010, "MEMBERSHIP, TO PERMIT THE APPOINTMENT OF ALTERNATE ZONING HEARING BOARD MEMBERS, AND TO ADD ADDITIONAL QUALIFICATIONS FOR ZONING HEARING BOARD MEMBERS; AND PROVIDING FOR OTHER MISCELLANEOUS MATTERS.



TOWNSHIP SEAL

Michele L. Clewell

TOWNSHIP SECRETARY,
TOWNSHIP OF MIDDLE
SMITHFIELD

March 24, 2017

DATE

ORDINANCE NO.213

AN ORDINANCE OF THE TOWNSHIP OF MIDDLE SMITHFIELD, MONROE COUNTY, PENNSYLVANIA, AMENDING THE TOWNSHIP'S CODE OF ORDINANCES, PART II, "GENERAL LEGISLATION", CHAPTER 200 "ZONING", DIVISION 83 "ZONING HEARING BOARD"; REVISING SECTION 083-010, "MEMBERSHIP, TO PERMIT THE APPOINTMENT OF ALTERNATE ZONING HEARING BOARD MEMBERS, AND TO ADD ADDITIONAL QUALIFICATIONS FOR ZONING HEARING BOARD MEMBERS; AND PROVIDING FOR OTHER MISCELLANEOUS MATTERS.

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 Pennsylvania 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 1516 of the said Second Class Township Code, found at 53 P.S. 66516, entitled "Land Use Regulations", authorizes the Board of Supervisors to plan for the development of the Township through zoning, subdivision and land development regulations under the Act of July 31, 1968 (P.L. 805, No. 247), known as the "Pennsylvania Municipalities Planning Code" (hereafter "MPC"); and

WHEREAS, pursuant to such authority, the Township has enacted the Middle Smithfield Township Zoning Ordinance of 2010-A, which is codified in the Code of the Township of Middle Smithfield, as heretofore amended, as Part II, "General Legislation", Chapter 200 "Zoning" (the "Zoning Ordinance"); and

WHEREAS, Article VI, Section 609 of the MPC, Act of July 31, 1968, P.L. 805, No. 247, as amended and reenacted by the Act of December 21, 1988, P.L. 1329, No. 170, found at 53 P.S. 10609, entitled "Enactment of Zoning Ordinance Amendments", sets forth provisions for the enactment of amendments to zoning ordinances pursuant to certain procedural formalities;

WHEREAS, Article IX, Section 901, of the Municipalities Planning Code ("MPC"), reenacted and amended by the Act of December 21, 1988, P.L. 1329, No. 170, found at 53 P.S. Section 10901, entitled "General Provisions", requires every municipality which has enacted a zoning ordinance to create a Zoning Hearing Board("ZHB"); and

WHEREAS, the Township Zoning Ordinance, Division 83, "Zoning Hearing Board", Section 083-010, "Membership", provides the Township's regulations relating to membership on the ZHB; and

WHEREAS, Article IX, Sections 903 and 906 of the MPC, as amended by the Act of November 19, 2004, P.L. 831, No. 99, found at 53 P.S. Sections 10903 and 10906, provides for the appointment of alternate members to the ZHB to be designated by the chairperson of the ZHB to replace any absent or disqualified member(s); and

WHEREAS, the Board of Supervisors desires, for the sake of expediency and convenience, to amend Section 083-010, entitled "Membership", so as to permit the Board of Supervisors to appoint as many as three alternate members to the ZHB; and

WHEREAS, in addition, the Board of Supervisors finds that ZHB members should meet certain additional qualifications in order to promote proper, effective, and efficient fulfillment of the ZHB's responsibilities under Chapter 200 of the Township Ordinance.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of Middle Smithfield Township, Monroe County, Pennsylvania, and it is hereby ordained and enacted by the authority of the same, to wit:

SECTION 1. AMENDMENTS TO SECTION 083-010 PERMITTING THE APPOINTMENT OF ALTERNATE MEMBERS AND ADDING QUALIFICATION REQUIREMENTS.

Chapter 200, Section 083-010, entitled "Membership", of the Code of the Township of Middle Smithfield, is hereby restated and amended to provide as follows, to wit:

§ 083-010 Membership.

The Zoning Hearing Board shall be organized pursuant to the provisions of the MPC, as amended from time to time.

- A. Creation of Board. The Township Board of Supervisors hereby creates a Zoning Hearing Board consisting of five (5) members, appointed by the Board of Supervisors pursuant to the MPC, as amended from time to time, who shall perform all the duties and have all the powers prescribed by state statutes and as herein provided.
- B. Membership of Board. The Zoning Hearing Board shall consist of five (5) residents of the Township appointed by the Board of Supervisors. The existing terms of office shall continue, with terms of office being five (5) years, and with the terms being so fixed that the term of office of one member shall expire each year. Members of the Board shall hold no other office in the Township, either elected or appointed.
- C. Alternate members. The Board of Supervisors may, by resolution, appoint at least one (1), but not more than three (3), residents of the Township of Middle Smithfield to serve as alternate members of the Zoning Hearing Board. The term of office of alternate members shall be three (3) years. Alternates shall hold no other elected or appointed office in the Township of Middle Smithfield, including service as a member of the Planning Commission or as a

Zoning Officer, nor shall any alternate be an employee of the Township of Middle Smithfield.

D. Removal of members. Any member may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by a majority vote of the governing body which appointed the member, taken after the member has received fifteen (15) days' advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it, in writing, within ten (10) days after receipt of the notice of intent to take a vote.

E. Vacancies. Appointments to fill vacancies shall be only for the unexpired portion of a term and shall be made by the Board of Supervisors.

F. Additional Qualifications. Each Zoning Hearing Board member must:

- (1) Demonstrate a working knowledge of zoning prior to appointment.
- (2) Become familiar with the Pennsylvania Municipalities Planning Code.
- (3) Within one (1) year of the member's appointment to the Zoning Hearing Board (or the amendment of §083-010 providing for this requirement), attend Pennsylvania Municipal Planning Education Institute's ("PMPEI's") core course on Zoning; and within two (2) years of the member's appointment to the Zoning Hearing Board (or the amendment of §083-010 providing for this requirement), attend PMPEI's core course on Zoning Administration. The Township shall pay the member a \$30 per hour stipend for course time to meet these requirements, plus (1) a stipend of \$15 per hour for travel time in excess of one hour, roundtrip, (2) mileage at the allowable Township rate, and (3) the cost of the course;
- (4) After a member's second year of appointment to the Zoning Hearing Board, the member shall attend, annually, three (3) hours of continuing education

pertaining to municipal planning and/or zoning, through one or more seminars, trainings and/or workshops (collectively, "seminar"). The Township shall pay the member's seminar costs and related expenses, but no stipend. The seminar shall be sponsored by a Township approved provider, which shall include, without limitation, the Penn State Extension, Pennsylvania Municipal Planning Education Institute, Pennsylvania State Association of Boroughs, Pennsylvania State Association of Township Supervisors, or similar nationally or state recognized planning organization or municipal association, or the Monroe County Planning Commission.

(5) A member's failure to comply with these training requirements shall not disqualify the member from hearing any appeal that comes before the Zoning Hearing Board, but may constitute "just cause" for removal of the member under Subparagraph D., "Removal of members" of this Section.

SECTION 2: SEVERABILITY.

If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any remaining provisions, 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: REPEALER.

All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed insofar, but only insofar, as the same are inconsistent herewith. 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 in accordance with the Pennsylvania Second Class Township Code.

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ORDAINED AND ENACTED into an Ordinance at a regular meeting of the Board of Supervisors of Middle Smithfield Township, Monroe County, Pennsylvania this _____ day of _____, 2017.

TOWNSHIP OF MIDDLE SMITHFIELD
BOARD OF SUPERVISORS

Amber Atkinson

Chairperson

Michael D. Dyer

Vice Chairperson

Mark Jones

Supervisor

Michele L. Clewell

Township Secretary



(TOWNSHIP SEAL)