

ORDINANCE NO. 206

AN ORDINANCE OF THE TOWNSHIP OF MIDDLE SMITHFIELD, MONROE COUNTY, PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES OF THE TOWNSHIP OF MIDDLE SMITHFIELD, AS HERETOFORE AMENDED; AMENDING PART II, "GENERAL LEGISLATION", CHAPTER 200 "ZONING"; PROVIDING USE CATEGORY B2, DWELLING, APARTMENT COMPLEX, SHALL BE A CONDITIONAL USE IN THE C1 AND C2 ZONING DISTRICTS; ADDING A DENSITY LIMITATION AND OTHER SUPPLEMENTARY REGULATIONS FOR USE CATEGORY B2, DWELLING, APARTMENT COMPLEX; AMENDING THE REQUIREMENTS OF AN H8 NO-IMPACT HOME-BASED BUSINESS AS AN ACCESSORY USE; AMENDING AND RESTATING SECTION 081-050, ENFORCEMENT; 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 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; 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, Section 609 of the Pennsylvania Municipalities Planning Code, 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, from time to time the Board of Supervisors reviews the Zoning Ordinance for possible amendments that would be in the best interests of residents, property owners, and businesses, among others, in the Township;

WHEREAS, the Board of Supervisors finds that it is in the best interests of the Township residents' health, safety and welfare to amend the Zoning Ordinance as provided herein for one or more of the following purposes: (i) provide for reasonable use of land including the requirement for open space, as well as areas, courts, yards, and other open spaces and distances to be left unoccupied by uses and structures; (ii) regulate the size, height, bulk, location and use of structures; (iii) establish the density of populations and intensity of use of land; (iv) preservation of the beauty and unique character of the Township; (v) furtherance of economic development; and (vi) provide for efficiency in transportation; and

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: The "Table of Use Regulations Within Zoning Districts" (200 Attachment 3) of the Zoning Ordinance is amended so as to provide that the Use Category B2, Dwelling,

Apartment Complex, shall be a conditional use (noted as "C") in the C1 and C2 Zoning Districts. All other aspects of the "Table of Use Regulations Within Zoning Districts" shall remain the same.

SECTION 2: Subsection B. of Section 044-020 B Residential uses, of Division 44 "Supplementary Regulations Governing Specific Uses", of the Zoning Ordinance, is amended and re-stated, in its entirety, as follows:

B. B2 Dwelling, apartment complex. This use is subject to the following supplementary regulations:

- (1) Maximum density shall be six (6) dwelling units per acre of "adjusted tract area", calculated in accordance with §130-020 of the Zoning Ordinance.
- (2) A dwelling unit shall not be leased for periods of less than 30 days.
- (3) In addition to any sidewalk along a street that may be required under the Subdivision and Land Development Ordinance (SALDO), a sidewalk or other Township-approved pedestrian pathway shall connect a pedestrian entrance of each apartment building to a street.
- (4) A minimum of 20 percent of the total land area shall be landscaped in trees and shrubs, maintained in existing trees and natural vegetation and/or improved for outdoor recreation uses. See also the recreation land and/or fee requirements in the SALDO.
- (5) Exterior accessibility of buildings by emergency equipment shall be reviewed by local fire officials.
- (6) An architectural elevation of each proposed new principal building shall be provided to the Township for review at least 45 days prior to the intended date of issuance of a construction permit for the building.
- (7) Major resident pedestrian entrances to buildings shall include a roof overhang, awning, canopy, inverted entrance or roof extension to provide protection from inclement weather.

- (8) Rooftop heating and air conditioning equipment shall be screened from view from public streets by rooflines, parapet walls, grading or architectural screens with materials and colors consistent with the materials of the building.
- (9) Each dwelling unit shall be served by both public water and public sewage services, unless prohibited by law, or such service is not available to the property.
- (10) This use shall comply with all applicable federal, state and Middle Smithfield Township laws, rules, ordinances and/or regulations.

SECTION 3: The following amendments are made to 200 Attachment 11, "Table of Performance Standards" (the "Table") of the Zoning Ordinance:

- (a) The reference "Table 130-30A" is added to the general heading of the Table, between the phrases "Township of Middle Smithfield" and "Table of Performance Standards".
- (b) References to the Use Category "B-15", and "Division 60", are deleted.
- (c) The performance standards for the Use Category "All Other Use Categories" in the C1 and C2 Zoning Districts shall be:

Minimum Lot Area: 21,780 sq.ft. (1/2 acre);  
Minimum Lot Width: 150 ft.;  
Minimum Front Yard Setback: 50 ft.;  
Minimum Rear Yard Setback: 50 ft.;  
Minimum Side Yard Setback: 30 ft.;  
Maximum Building Coverage: 40%; and  
Maximum Impervious Coverage: 60%.

SECTION 4: Subsection H. H8 No-impact home-based business, of Section 044-080. H Accessory uses and structures, of the Zoning Ordinance, is amended by deleting Subparagraph (9).

SECTION 5: Section 081-050, Enforcement, of the Zoning Ordinance, is amended and re-stated, in its entirety, as set forth in Exhibit "A" hereto.

SECTION 6: 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 7: 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 the amended Zoning Ordinance are the same or similar in substance to Zoning Ordinance provisions 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.

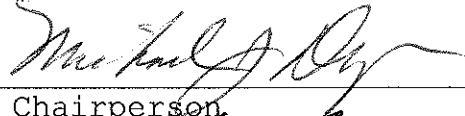
SECTION 8: This Ordinance shall take effect five (5) days after the date of its enactment.

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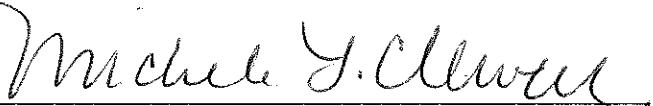
ORDAINED AND ENACTED into an Ordinance at a regular meeting of the Board of Supervisors of Middle Smithfield Township, Monroe County, Pennsylvania this 10th day of March, 2016.

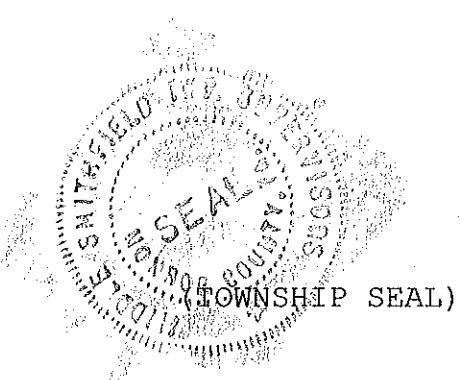
TOWNSHIP OF MIDDLE SMITHFIELD  
BOARD OF SUPERVISORS

  
Chairperson

  
Vice Chairperson

  
Supervisor

  
Township Secretary



## EXHIBIT "A" TO ORDINANCE

Amended Section 081-050, Enforcement, of the Zoning Ordinance,  
re-stated in its entirety:

**Sec. 081-050. Enforcement.**

A. General. Enforcement of this Zoning Ordinance shall be in accordance with the Pennsylvania Municipalities Planning Code (MPC). If it appears that a violation of the Zoning Ordinance has occurred, the Zoning Officer shall initiate enforcement proceedings by sending an enforcement notice as provided for in the MPC, and notify, in writing, the Governing Body. Prior to sending an official enforcement notice, the Zoning Officer may, at his/her discretion, informally request compliance.

B. Formal Notice. An official enforcement notice shall be sent via certified mail, return receipt requested and postage prepaid, to the owner of record of the parcel on which the alleged violation has occurred to the address the owner of record has provided to the Township, or, if none given, to the most recent address maintained with the Monroe County Tax Assessment Office or Tax Claim Bureau for real estate tax notifications, to any person who has filed a written request to receive enforcement notices regarding the parcel, and to any other person requested in writing by the owner of record. Formal Notice may also be served by personal delivery.

C. Notice Requirements. An enforcement notice shall state at least the following:

- (1) The name of the owner of record and any other person against whom the municipality intends to take action;
- (2) The location of the property in violation;
- (3) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the ordinance;
- (4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed;

(5) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within 20 days of receipt of the notice of violation; and

(6) That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation.

D. Presenting Party. In any appeal of an enforcement notice to the Zoning Hearing Board, the municipality shall have the responsibility of presenting its evidence first.

E. Filing Fees. Any filing fee paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to the appealing party by the Township if the Zoning Hearing Board, or any court in a subsequent appeal, rules in the appealing party's favor.

F. Causes of Action. The enforcement provisions of this Section are not in lieu of, and are not intended to limit in any way, the Township's causes of action under Section 617 of the MPC, and authority, to institute any appropriate action or proceeding at law or in equity to enforce, prevent, restrain, correct or abate zoning violation(s) or to require the removal or termination of the unlawful use of the structure, building, sign, landscaping, land or other activity in violation of the provisions of this Chapter. Further, the enforcement provisions, and the Township's causes of action under Section 617 of the MPC are in addition to, and not exclusive to, any other remedies available to the Township as a result of violation of the Zoning Ordinance.