

TOWNSHIP OF MIDDLE SMITHFIELD  
MONROE COUNTY, PENNSYLVANIA

CERTIFICATION OF ENACTED ORDINANCE

I, MICHELE L. CLEWELL, BEING 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 ENACTED TOWNSHIP ORDINANCE TITLED AS FOLLOWS:

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; ADDING A CHAPTER 179, ENTITLED "USE AND OCCUPANCY OF REAL PROPERTY"; REGULATING USE AND OCCUPANCY OF LEASED PROPERTIES AND PROPERTIES IN WHICH TITLE OF OWNERSHIP IS TRANSFERRED IN ORDER TO ENSURE THAT THE USE AND OCCUPANCY OF SUCH PROPERTIES WILL BE CONDUCTED IN ACCORDANCE WITH PUBLIC HEALTH, SAFETY, AND WELFARE; PROVIDING PENALTIES FOR VIOLATION THEREOF; AND PROVIDING FOR OTHER MISCELLANEOUS MATTERS.



TOWNSHIP SEAL

*Michele L. Clewell*  
MIDDLE SMITHFIELD TOWNSHIP

*6-5-2017*  
DATE

ORDINANCE NO. 214

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; ADDING A CHAPTER 179, ENTITLED "USE AND OCCUPANCY OF REAL PROPERTY"; REGULATING USE AND OCCUPANCY OF LEASED PROPERTIES AND PROPERTIES IN WHICH TITLE OF OWNERSHIP IS TRANSFERRED IN ORDER TO ENSURE THAT THE USE AND OCCUPANCY OF SUCH PROPERTIES WILL BE CONDUCTED IN ACCORDANCE WITH PUBLIC HEALTH, SAFETY, AND WELFARE; PROVIDING PENALTIES FOR VIOLATION THEREOF; 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 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, the Board of Supervisors, pursuant to such authority, finds that it is in the best interests of the Township residents' health, safety, and welfare, to regulate use and occupancy of leased properties and properties in which title of ownership is transferred; 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 Code of the Township of Middle Smithfield is hereby amended by adding a Chapter 179, entitled "Use and Occupancy of Real Property", as set forth in Exhibit "A" hereto, the provisions of which are incorporated by reference as though set forth at length.

SECTION 2: 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: 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.

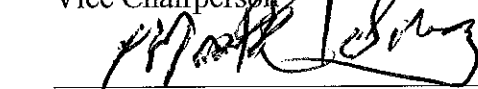
SECTION 4: This ordinance shall take effect five (5) days after the date of its enactment.


ORDAINED AND ENACTED into an Ordinance at a regular meeting of the Board of Supervisors of Middle Smithfield Township, Monroe County, Pennsylvania this 25th day of May, 2017.

TOWNSHIP OF MIDDLE SMITHFIELD BOARD OF SUPERVISORS

  
Chairperson

  
Vice Chairperson

  
Supervisor

  
Township Secretary

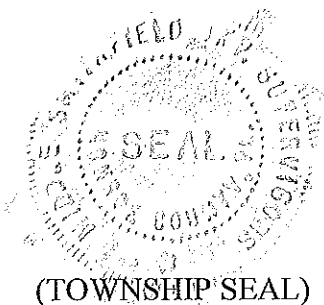


EXHIBIT "A" TO ORDINANCE

Chapter 179, entitled "Use and Occupancy of Real Property"

(attached hereto)

## CHAPTER 179, USE AND OCCUPANCY OF REAL PROPERTY

### §179-010 — Purpose

The purpose of this Chapter is to regulate the use and occupancy of leased properties and properties in which title of ownership is transferred, in order to prevent use and occupancy of said properties from adversely affecting the public health, safety or welfare of any individual or the community as a whole.

### §179-020 — Definitions

Where the following words are used in this chapter, they shall be defined as follows:

**BUILDING INSPECTOR** – Any of the following person or persons, either singly or in combination, who shall serve at the pleasure of the Board of Supervisors to make the inspections, and issue certificates, under this Ordinance:

- A. The Building Inspector of Middle Smithfield Township,
- B. The Building Code Official,
- C. Zoning Officer, or
- D. Any other person that the Board of Supervisors, by resolution, may designate from time to time.

**BUSINESS** – Occupancy of a building, in whole or in part, for any for-profit or non-profit business activity, commerce, industry, professional services or other services for hire.

**RESIDENTIAL** – Occupancy of a building for non-business dwelling purposes such as personal living, sleeping, cooking and eating purposes.

**BUILDING** – Any building, building structure, temporary building or temporary building structure, intended for human occupation, either for residential or business purposes located in the Township of Middle Smithfield.

**OWNER** – Any person, who alone, or jointly with others, holds legal or equitable title to any building.

**PERSON** – Any individual, firm, corporation, association, partnership or other legal entity, including without limitation any executor, administrator, guardian, or representative of a deceased or incompetent individual.

**SUBSTANTIAL VIOLATION** – A violation of an adopted building, housing, property maintenance code, fire code, or maintenance, health or safety nuisance ordinance that makes a

building, structure or any part thereof unfit for human habitation and is discovered during the course of a municipal inspection of a property.

TEMPORARY ACCESS CERTIFICATE – A certificate issued as a result of the municipal inspection of a property that identifies at least one substantial violation, and the purpose of the certificate is to authorize access to the property for the purpose of correcting substantial violations pursuant to the maintenance and repair provisions of this Ordinance. No person may occupy a property during the term of a temporary access certificate, but the owner shall be permitted to store personalty that is related to the proposed use or occupancy of the property or is needed to repair the substantial violations during the time of the temporary access certificate.

TEMPORARY USE AND OCCUPANCY CERTIFICATE – A certificate issued as a result of the municipal inspection of a property that reveals a violation but no substantial violation, and the purpose of the certificate is to authorize the purchaser or tenant to fully utilize or reside in the property while correcting violations pursuant to the maintenance and repair provisions of this Chapter.

UNFIT FOR HUMAN HABITATION – A condition which renders a building or structure, or any part thereof, dangerous or injurious to the health, safety or physical welfare of an occupant or the occupants of neighboring dwellings. The condition may include substantial violations of a property that show evidence of: a significant increase to the hazards of fire or accident; inadequate sanitary facilities; vermin infestation; or a condition of disrepair, dilapidation or structural defects such that the cost of rehabilitation and repair would exceed one-half of the agreed-upon purchase price of the property.

USE AND OCCUPANCY CERTIFICATE – A certificate issued stipulating that the property meets all ordinances and codes and may be used or occupied as intended.

VIOLATION – A violation of a properly adopted building, housing, property maintenance code, fire code, or maintenance, health or safety nuisance ordinance that does not rise to the level of a substantial violation and is discovered during the course of a municipal inspection of a property.

**§179-030 — Use and Occupancy certificate required prior to lease or sale**

- A. If the Owner of a Business or Residential Building desires to lease or sell the Building, or portion thereof, the Owner shall apply for and obtain, no later than fifteen (15) days prior to leasing or sale, a Use and Occupancy Certificate from the Building Inspector of the Township of Middle Smithfield. The application for a Use and Occupancy Certificate may be made by an agent of the person or persons whose responsibility it is to obtain the Use and Occupancy Certificate.
- B. The application shall be on the Township's form, and the applicant shall pay any required fee at the time of application, which fee may be set by the Board of Supervisor, from time to time, by resolution. If more than one inspection is required because the property does not pass occupancy requirements, the applicant shall be responsible for the costs of all

subsequent inspections, unless the application is withdrawn, and may be required to pay a fee or reasonable deposit in advance.

- C. Any issued Use and Occupancy Certificate for a Building, or portion thereof being sold or leased, shall only be valid for a leasing or sale occurring within thirty (30) days after the date of issuance of the Certificate.
- D. An applicant for a Use and Occupancy Certificate shall inform the renter, lessee, or buyer of said property of the result of the inspection, prior to the lease, rental, or sale.
- E. An Use and Occupancy Certificate shall be issued in the following manner:
  - 1. If the municipal inspection reveals no Violations.
  - 2. If the municipal inspection reveals at least one Violation, but no Substantial Violations, a Temporary Use and Occupancy Certificate shall be issued. Once corrections have been made and subsequent inspections show the property to be in compliance, a Use and Occupancy Certificate shall be issued.
  - 3. If the municipal inspection reveals at least one Substantial Violation, a Temporary Access Certificate shall be issued to allow access to the property for the purpose of correcting Substantial Violations that are specifically noted on the inspection report. Once corrections have been made and subsequent inspections show the property to be in compliance, a Use and Occupancy Certificate shall be issued.
- F. Use and occupancy of a Building without a required Use and Occupancy Certificate is illegal, and shall constitute a violation of this Chapter, unless permitted pursuant to a validly issued Temporary Use and Occupancy Certificate or Temporary Access Certificate.

**§179-040 — Temporary Certificates**

- A. Where a Temporary Use and Occupancy Certificate or Temporary Access Certificate has been issued, the Owner, at its option, shall either:
  - a. Correct any Violations and/or Substantial Violations that are specifically noted on the inspection report within the following time frames:
    - i. where the municipal inspection occurred prior to a purchase, within twelve (12) months of the date of purchase; or
    - ii. where the municipal inspection occurred prior to lease of the property, within ninety (90) days of the date the Certificate was issued.
  - b. Demolish the Building in accordance with law.

- B. All necessary permits required to complete any type of corrections to bring the property into compliance must be applied for and obtained in compliance with building, property maintenance, fire codes or other health or safety codes.
- C. Failure to comply with the requirements of Subsection A. shall result in:
  - i. Revocation of the temporary certificate;
  - ii. The Owner being subject to any existing Township ordinances or codes relating to the occupation of a property without a use and occupancy certificate.
  - iii. Violation of this Chapter

**§179-050 — Inspections**

- A. Prior to issuing a Use and Occupancy Certificate, the Building Inspector shall inspect the Business or Residential Building, or portion thereof to be sold or leased, to determine whether or not it complies with the requirements as set forth in this Ordinance.
- B. Any Person or Persons authorized to make occupancy inspection, as defined in §179-020 as the Building Inspector, shall enjoy all privileges, rights and immunities which would inure to the Building Inspector of the Township of Middle Smithfield.

**§179-060 — Violations and penalties**

Any person who shall violate any provision of this Chapter shall, upon conviction thereof in any action brought in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, be sentenced to pay a fine of not less than three hundred dollars (\$300.00) and not more than one thousand dollars (\$1,000.00) plus costs of prosecution, including without limitation the Township’s reasonable attorneys fees in the enforcement proceeding. Each day that a violation of this Chapter continues, and each section of this Chapter which shall be found to have been violated, shall constitute a separate offense.

**§179-070 – Interpretation**

This Ordinance is intended to be consistent with, shall be interpreted, and construed, in accordance with the Municipal Code and Ordinance Compliance Act, 68 P.S. Sec. 1081, et seq, and as it amended from time to time. In the event conflict between this Chapter and Municipal Code and Ordinance Compliance Act, or any other applicable State statute, such State statute shall govern.

**§179-080 — Applicability**

- A. Except as set forth in subsection (b), this act shall not apply to, and a municipality may not require, a certificate of occupancy, a temporary use and occupancy certificate or a temporary access certificate for a real estate transfer, including a residential or nonresidential transfer, as provided under 68 Pa.C.S. § 7103(b)(2) (relating to application



of part), to any of the following which take title to property for the purpose of holding the property for sale to offset losses incurred on a loan or other obligation in default secured by a mortgage, deed of trust or other lien on the property:

- (1) Bank.
- (2) Savings association.
- (3) Credit union.
- (4) Mortgage lender.
- (5) Financial institution similar to an institution listed in paragraphs (1) through (4).
- (6) Subsidiary of a financial institution listed in paragraphs (1) through (5).

- B. A financial institution not subject to this Chapter under subsection A. may be required by the Township to correct a substantial violation.
- C. This Chapter shall not apply to residential rentals less than thirty (30) days in length, provided that the Owner of the Building has applied for and received a Use and Occupancy Certificate within one year of the rental.