

BOARD OF SUPERVISORS
TOWNSHIP OF MIDDLE SMITHFIELD
MONROE COUNTY, PENNSYLVANIA

RESOLUTION # 01-2019-1

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF MIDDLE SMITHFIELD AMENDING AND RESTATING, IN ITS ENTIRETY, RESOLUTION # 02-2015-1, WHICH ESTABLISHED THE POSITION OF TOWNSHIP CODE ENFORCEMENT OFFICER, PROVIDING FOR THE POSITION OF ASSISTANT CODE ENFORCEMENT OFFICER, AND PROVIDING FOR OTHER MISCELLANEOUS MATTERS

WHEREAS, the Township of Middle Smithfield (the "Township") is a Township of the Second Class duly organized and situated in the County of Monroe, Commonwealth of Pennsylvania; and

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

WHEREAS, the Pennsylvania Second Class Township Code, Section 607(3), authorizes the Board to employ persons as may be necessary for the general conduct of the business of the Township;

WHEREAS, the Pennsylvania Second Class Township Code, Section 1601(7), authorizes the Board to delegate the initial determination of ordinance violation and the service of notice of violation to such officers or agents as the township shall deem qualified for that purpose;

WHEREAS, on February 26, 2015, the Board adopted Resolution # 02-2015-1 (the "Prior Resolution"), formally establishing the position of Township Code Enforcement Officer for enforcement generally of the provisions of the Township Code;

WHEREAS, the Board desires to amend and restate, in its entirety, the Prior Resolution so as to clarify that the Board may also appoint Assistant Township Code Enforcement Officers, subject to the administrative supervision of the Township Code Enforcement Officer, but otherwise having full authority and power to enforce the provisions of the Township Code.

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. Township Code Enforcement Officer: The Board hereby establishes the position of Township Code Enforcement Officer. The Board may appoint a person to such position by resolution or motion. Such person may be an individual or entity. The appointed person shall serve at the pleasure of the Board, with no right or entitlement to continued employment, and shall not have a term of office. Any such person may be removed or replaced by the Board at any time. The appointed person may be an employee of the Township, or independent contractor, as determined by the Board, and shall receive such compensation as determined by Board. Any such appointed person

shall be subject to the direction of the Board, including hours and scheduling of work, and shall report directly to the Board.

Section 2. Assistant Township Code Enforcement Officer: The Board hereby establishes the position of Assistant Township Code Enforcement Officer. There may be one or more Assistant Township Code Enforcement Officers. The Board may appoint persons to such position by resolution or motion. Such persons may be individuals or entities. All such persons shall serve at the pleasure of the Board, with no right or entitlement to continued employment, and shall not have a term of office. Any appointed person may be removed or replaced by the Board at any time. Persons appointed to the position may be employees of the Township, or independent contractors, as determined by the Board, and shall receive such compensation as determined by Board. All such appointed persons shall be subject to the administrative supervision of the Township Code Enforcement Officer. In the event of a vacancy in the position of the Township Code Enforcement Officer, the Assistant Township Code Enforcement Officer shall serve as the acting Township Code Enforcement Officer during the period of such vacancy.

Section 3. Authority and Powers:

(a) The Township Code Enforcement Officer and each Assistant Township Code Enforcement Officer (together, "Code Enforcement Officer") is authorized generally to enforce the Township Code. Each Code Enforcement Officer shall have full power to enforce the Township Code, and act independently of each other, except that an Assistant Township Code Enforcement Officer shall be subject to the administrative supervision of the Township Code Enforcement Officer. The enforcement authority of the Code Enforcement Officer(s) shall be in addition to any other enforcement authority provided to other persons by virtue of the provisions of the Township Code. The appointment of a Code Enforcement Officer is not intended to, and does not, diminish or limit the enforcement authority of such other persons.

(b) Subject to the foregoing, each Code Enforcement Officer is delegated the authority and is empowered to make initial determinations of ordinance violations and serve notice of violation, to file and serve citations and complaints for summary offenses for violations of Township ordinances, as well as civil enforcement actions, and to request, obtain and serve search warrants and subpoenas as may be authorized by law, except to extent that enforcement of a particular Township ordinance is expressly delegated exclusively to another Township official under Pennsylvania law, or Township ordinance, such as the Zoning Ordinance or the Building Code.

(c) Notwithstanding the foregoing provisions of this Resolution, a Code Enforcement Officer shall not be authorized to enforce a provision of the Township Code if (i) he or she would not be authorized or qualified to do so under federal or state law, or (ii) such authority has been granted exclusively to another person.

Section 4. Authority and Powers Non-exclusive: The authority and powers of Code Enforcement Officers are not exclusive. The Board retains complete authority to commence, or to direct the commencement of, any civil or criminal enforcement action, including equity action, or to provide for the issuance and service of notices of violation.


Section 5. Severability: The provisions of this Resolution shall be severable, and if any of the provisions hereof shall be found to be invalid or unenforceable, the remaining provisions shall remain in effect.

Section 6. Construction: This Resolution supercedes Board Resolution # 08-2013-03, and the Prior Resolution. Any Ordinance in conflict with this Resolution shall take precedence over this Resolution, but only as to the conflicting provision. Except as stated above, any resolution conflicting or inconsistent with any of the provisions in this Resolution is hereby repealed, but only insofar as it is inconsistent. The provisions of this Resolution 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 or Resolution in force prior to adoption of this Resolution. If any provision of this Resolution is the same or similar to a provision of the Prior Resolution, such provision is intended to constitute a continuation of such provision and not a new provision.


Section 7. Effectiveness: This Resolution shall be effective immediately and shall remain in effect until modified, revoked or repealed by further Resolution of the Board.

RESOLVED THIS 7TH DAY OF JANUARY, 2019, BY THE BOARD OF SUPERVISORS OF MIDDLE SMITHFIELD TOWNSHIP AT A LAWFUL SESSION DULY ASSEMBLED.




Chairperson


Vice Chairperson


Supervisor

ATTEST:

Secretary