

ARTICLE XIII: MISCELLANEOUS PERFORMANCE STANDARDS AND REGULATIONS

DIVISION 120: MISCELLANEOUS PERFORMANCE STANDARDS AND REGULATIONS

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APPENDIX A: ZONING MAP

Section 3. Chapter 200, "Zoning" shall provide as follows:

ARTICLE I: GENERAL PROVISIONS

DIVISION 10: GENERAL PROVISIONS

Sec. 010-010. Short Title.

This chapter shall be known as and may be cited as the "Middle Smithfield Township Zoning Ordinance of 2010", as amended from time to time.

Sec. 010-020. Interpretation of Ordinance Provisions.

- A. The language of this Ordinance shall be interpreted, where doubt exists as to the intended meaning of the language, in favor of the property owner and against any implied extension of the restriction.
- B. Where more than one provision of this Ordinance controls a particular matter, the provision that is more restrictive upon uses and structures shall apply.
- C. The provisions of this Ordinance are in addition to any other federal, state or local applicable rules and regulations.
- D. The name Township, Township of Middle Smithfield and Middle Smithfield Township may be used interchangeably throughout this Ordinance with the same intent.
- E. The terms Ordinance and Chapter may also be used interchangeably with the same intent.
- F. The terms governing body, board of supervisors and the Middle Smithfield Township Board of Supervisors may be used interchangeably with the same intent.
- G. Chapter, division and section headings are not regulatory.

Sec. 010-030. Intent.

This Chapter constitutes a comprehensive amendment and revision of the Middle Smithfield Township Zoning Ordinance of 2004, including the zoning map, which divided the Township into districts with varying regulations.

This Chapter is intended to:

- A. Provide the regulations for permitting, prohibiting, regulating and determining, to the extent not superseded or preempted by federal or state law, the uses of land, watercourses and other bodies of water to be occupied by uses and structures and open space, as well as areas, courts, yards and other open spaces and distances to be left unoccupied by uses and structures.
- B. Regulate the size, height, bulk, location, erection, construction, repair, expansion, maintenance, alteration, razing, removal and use of structures;
- C. Establish the density of population and intensity of use;
- D. Provide for the protection and preservation of natural and historic resources, and prime agricultural lands and activities; and
- E. Provide for the administration and enforcement of this Chapter in accordance with the Pennsylvania Municipalities Planning Code as amended (hereinafter referred to as the "MPC"), including provisions for conditional uses to be administered by the governing body and for special exceptions and variances to be administered by a Zoning Hearing Board.

Sec. 010-040. Purpose and Community Development Objectives.

The purpose of the Ordinance is the implementation of the Middle Smithfield Township Comprehensive Plan Update: 2007, adopted February 14, 2008, (hereinafter referred to as "Comprehensive Plan") and the promotion of the health, safety, convenience, order, and welfare of present and future inhabitants of Middle Smithfield Township.

This Chapter is hereby adopted:

- A. In accordance with the requirements and purposes [including Sections 604 and 605 or their successor section(s), which are included by reference] of the MPC, as amended.
- B. In accordance with goals and objectives of the Comprehensive Plan which are hereby included by reference thereto.

Sec. 010-050. Effect of Comprehensive Plan on Zoning Ordinance.

This Ordinance is "generally consistent" with the Comprehensive Plan; however, where there is a conflict between the Comprehensive Plan and this Ordinance, then this Ordinance shall prevail on the grounds that it is regulatory in nature while the Comprehensive Plan is merely recommendatory.

Sec. 010-060. Effect of Ordinance. Following the effective date of this Ordinance:

- A. No structure shall be erected, constructed, razed, moved, altered, rebuilt or enlarged; and no use of a structure or land or water area shall be established or changed for any purpose nor in any manner except in conformity with all regulations, requirements and controls and after issuance of a zoning permit as specified in this Ordinance, except as hereinafter provided.
- B. No structure hereafter constructed, erected, rebuilt, enlarged or altered; nor any use of land or water areas established under a zoning permit shall be occupied or used in whole or in part for any use whatsoever and no change of use of any structure or land or water area shall hereafter be made until a Certificate of Occupancy Permit issued by a Township authorized Building Code Official and/or a Change of Use Permit and/or a Certificate of Compliance has been issued by the Zoning Officer indicating that the structure or use complies with all other applicable provisions of this Ordinance.

Sec. 010-070. Enactment.

Pursuant to Section 607 of the MPC, this Ordinance amendment was reviewed by the Middle Smithfield Township Planning Commission (hereinafter referred to as "Planning Commission") as well as the Monroe County Planning Commission.

Public notice of the public hearing held before the Board of Supervisors for their consideration of this Ordinance was properly advertised in the Pocono Record. The proposed Ordinance was also published on the Township's website at www.middlesmithfieldtownship.com.

The governing body, acting on authority conferred by Section 608 of the MPC, and after public hearing, hereby enacts and ordains the Middle Smithfield Township Zoning Ordinance of 2010 and Revised Map, attached hereto and incorporated herein by reference, as Chapter 200, entitled "Zoning" of the Code of the Township of Middle Smithfield.

Sec. 010-080. Procedural Defects in Enactment.

Allegations that this Ordinance or any amendment hereto was enacted in a procedurally defective manner shall be appealed as provided in Pennsylvania law.

Sec. 010-090. Applicability.

This Ordinance shall apply throughout the Township of Middle Smithfield.

- A. Any of the following activities or any other activity regulated by this Chapter shall only be carried out in conformity with this Chapter, to wit:
 - (1). Erection, construction, movement, placement, expansion, extension, reduction and/or demolition of a structure, building, sign and/or area of land;
 - (2). Creation of a lot or alteration of lot lines; and/or
 - (3). Creation of a new use.

- B. A zoning permit is required to be issued prior to the start of any of the following activities:
 - (1). Erection, construction, movement, placement, expansion, extension, reduction and/or demolition of a structure, building, sign and/or area of land;
 - (2). Creation of a new use;
 - (3). Demolition of a building; and/or
 - (4). Site Alterations.

- C. Certificate of Compliance.
 - (1). It shall be unlawful to use and/or occupy any principal building and/or any accessory structure that requires Building Code compliance or establish any new or replacement principal nonresidential use and/or any replacement accessory structure that requires Building Code compliance until a Certificate of Use and/or Certificate of Compliance for such building, structure or use has been issued by the Zoning Officer.
 - (2). The Zoning Officer may allow the zoning permit application to serve as the application for the Certificate of Compliance depending on the Certificate of Occupancy being issued.
 - (3). A Certificate of Compliance shall only be issued by the Zoning officer if the Zoning Officer determines that the activity complies with this Chapter, to the best of the Zoning

Officer's knowledge, information and belief. The Township may also withhold issuance of the certificate until there is compliance with other Township ordinances.

- (4). The applicant shall keep a copy of the Certificate of Compliance as well as the Certificate of Occupancy, if applicable, available for inspection.
 - (5). Upon the request of an applicant, the Zoning Officer may issue a temporary Certificate of Compliance; such temporary certificate(s) may permit an activity to occur in all or part of a structure before the entire work covered by the permit has been completed.
 - (a). Temporary certificate(s) shall only be issued if the applicant proves to the satisfaction of the Zoning Officer that the activity or occupancy can occur safely without endangering public health or safety.
 - (b). The temporary certificate shall establish in writing a maximum time period under which it is valid; a six month maximum time period shall apply if not otherwise specified.
 - (c). Failure to receive a permanent Certificate of Use, Certificate of Compliance and/or Certificate of Occupancy (from the building department) within such time period shall be a violation of this Chapter.
 - (d). The temporary certificate may be conditioned upon compliance with certain specific requirements within certain time periods.
- D. Ordinary Repairs and Maintenance. An ordinary repair and/or maintenance to an existing structure shall not by itself be regulated by this Chapter; however, a construction permit under any Township Building Code may be needed for such work.

Sec. 010-100. Disclaimer of Liability.

These regulations shall not create any liability on the part of the Middle Smithfield Township Board of Supervisors, the Planning Commission, or any employee or lawfully appointed officer or consultant of the Township for damages that may result from reliance on this Chapter, any amendment thereto, or any administrative decisions lawfully made there-under.

Sec. 010-110. Severability.

If a court of competent jurisdiction declares any provision of this Ordinance to be illegal, invalid or unenforceable, in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be illegal, invalid or unenforceable, and all other provisions of this Ordinance shall continue in full force and effect.

If the entire Ordinance should be declared illegal, invalid, or unenforceable by a court of competent jurisdiction, then the Zoning Ordinance that was in effect immediately prior to the enactment of this new Ordinance shall automatically be reinstated as the Township's Zoning Ordinance.

Sec. 010-120. Effective Date.

This Ordinance shall take effect five days after the date of its enactment pursuant to 53 P.S. § 66601(a), subsection § 1601(a).

Sec. 010-130. Repealer.

On the effective date of this Ordinance, the Middle Smithfield Township Zoning Ordinance of 2004, as amended from time to time, is hereby repealed, as well as any other Township Ordinances, Resolutions or otherwise that are clearly in direct conflict with this Chapter.

ORDAINED AND ENACTED into an Ordinance at a special meeting of the Board of Supervisors of Middle Smithfield Township, Monroe County, Pennsylvania, this _____ day of _____, 2010.

TOWNSHIP OF MIDDLE SMITHFIELD

SCOTT R. SCHALLER, Chairperson

MITCHELL K. MARCUS, Vice Chairperson

ROBERT F. SPANO, SR., Supervisor

(TOWNSHIP SEAL)

MICHELE L. CLEWELL, Secretary

