

ORDINANCE NO. 210

AN ORDINANCE OF THE TOWNSHIP OF MIDDLE SMITHFIELD, MONROE COUNTY, PENNSYLVANIA, AMENDING THE TOWNSHIP'S CODE OF ORDINANCES, PART I, "ADMINISTRATIVE LEGISLATION", CHAPTER 50, ENTITLED "PLANNING COMMISSION"; REVISING SECTION 50-2 "MEMBERSHIP; TERMS OF OFFICE", TO DECREASE THE MEMBERSHIP OF THE PLANNING COMMISSION FROM SEVEN TO FIVE MEMBERS AND TO REQUIRE THE APPOINTMENT OF AT LEAST ONE ALTERNATE PLANNING COMMISSION MEMBER; REVISING SECTION 50-3, "QUALIFICATIONS; COMPENSATION", TO REQUIRE THAT THE TOWNSHIP PLANNING COMMISSION BE COMPRISED OF AT LEAST THREE CITIZEN MEMBERS AND TO ADD QUALIFICATIONS FOR PLANNING COMMISSION 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, Article II, Section 201, 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 10201, entitled "Creation of planning agencies", authorizes the governing body of any municipality to create, by ordinance, a planning commission, and to provide for the powers, duties, and advisory functions of the same; and

WHEREAS, pursuant to Article II, Section 201, of the MPC, the Board of Supervisors, by Ordinance No. 89, enacted on November 11, 1998, recreated and reestablished the Planning Commission of the Township of Middle Smithfield; and

WHEREAS, Article II, Section 202, of the MPC provides that the governing body of any municipality shall create a planning commission that shall not have less than three nor more than nine members; and

WHEREAS, the Board of Supervisors desires to amend Section 50-2, entitled "Membership; terms of office", to decrease the membership of the Planning Commission from seven to five members; and

WHEREAS, Article II, Sections 203 and 207, as amended by the Act of October 7, 2015, P.L. 176, of the MPC provide for the appointment of alternate members to the planning commission to be designated by the chairperson of the planning commission to substitute for any absent commission members, for members needing to recuse themselves, or any member that may have been disqualified; and

WHEREAS, the Board of Supervisors desires to add to Section 50-2, entitled "Membership; terms of office", a requirement that the Board of Supervisors appoint at least one, but no more than three, alternate members and further clarify the duties and rights of duly-appointed alternate members, including those who are designated by the Planning Commission Chairperson to serve as voting alternate members; and

WHEREAS, Article II, Section 205, of the MPC provides that, on a six or seven member planning commission board, at least five members must be "citizen members", which are members who shall not be officers or employees of the municipality; whereas, on a planning commission board of four or five members, at least three shall be citizen members; and

WHEREAS, in accordance with Article II, Section 205, of the MPC, the Board of Supervisors desires to amend Section 50-3 to decrease the number of citizen members from at least five to at least three, commensurate with the decrease in total membership from seven to five members; and

WHEREAS, Chapter 50, "Planning Commission", Section 50-3, "Qualifications; compensation", provides regulations relating to the qualifications for membership on the Planning Commission; and

WHEREAS, the Board of Supervisors finds that Planning Commission members should meet certain additional qualifications

in order to promote proper, effective, and efficient fulfillment of the Planning Commission's responsibilities under Chapter 50 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 50-2, DECREASING TOTAL COMMISSION MEMBERSHIP AND ADDING ALTERNATE MEMBERS.**

Chapter 50, Section 50-2, entitled "Membership; Terms of Office", in Part I of the Administrative Legislation, of the Code of the Township of Middle Smithfield, is hereby restated and amended to provide as follows, to wit:

**§ 50-2 Membership; terms of office.**

- A. The Middle Smithfield Township Planning Commission shall consist of five members, to be appointed by the Board of Supervisors. The terms of each of the members of the Commission shall be for four years or until a successor is appointed and qualified. The terms of the members appointed hereunder shall be fixed so that no more than two shall be reappointed or replaced during any future calendar year. The Chairman of the Planning Commission shall promptly notify the Board of Supervisors concerning vacancies in the Commission, and such vacancies shall be filled for the unexpired term.
  
- B. The Board of Supervisors shall, by resolution, appoint at least one, but no more than three, resident(s) of the Township of Middle Smithfield to serve as alternate members of the Middle Smithfield Township Planning Commission. The term of office of the alternate member shall be four years. Alternates shall not serve as members of the Zoning Hearing Board or as a Zoning Hearing Officer.
  
- C. The Chairman of the Planning Commission may designate duly-appointed alternate members to substitute, as voting alternate members, for any absent members or members who

have recused themselves or have been disqualified. If, by reason of absence, recusal or disqualification of a member, a quorum is not reached, the Chairman of the Middle Smithfield Township Planning Commission shall designate as many duly-appointed alternate members to serve as voting alternate members on the Middle Smithfield Township Planning Commission as may be needed to reach a quorum. Any alternate member of the Middle Smithfield Township Planning Commission shall continue to serve on the commission in all proceedings involving the matter or case for which the alternate was initially appointed until the Middle Smithfield Township Planning Commission has made a final decision on the matter or case. Designation of an alternate pursuant to this Section shall be made on a case-by-case basis in rotation according to declining seniority among all alternates.

D. When seated by the Chairman of the Planning Commission as a voting alternate member, an alternate member shall be entitled to participate in all proceedings and discussions of the Planning Commission to the same and full extent as any other member of the Planning Commission, including, specifically, the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in this Ordinance. Any alternate may participate in any proceeding or discussion of the Planning Commission but shall not be entitled to vote unless designated by the Chairman of the Planning Commission as a voting alternate member.

E. A Planning Commission member currently in office at the time of the effective reduction of the number of the Planning Commission's membership shall continue to serve the remainder of that member's term, subject to the Township's right of removal.

**SECTION 2. AMENDMENTS TO SECTION 50-3 DECREASING CITIZEN MEMBERS, CLARIFYING REIMBURSEMENT FOR ALTERNATE MEMBERS, AND ADDING QUALIFICATIONS.**

Chapter 50, Section 50-3, entitled "Qualifications; compensation", in Part I of the Administrative Legislation, of

the Code of the Township of Middle Smithfield, is hereby restated and amended to provide as follows, to wit:

**§ 50-3 Qualifications; compensation.**

A. All of the members of the Planning Commission shall be residents of the municipality. Pursuant to the Municipalities Planning Code, a certain number of the members, designated as citizen members, shall not be officers or employees of the municipality. Since the Middle Smithfield Township Planning Commission is comprised of five members, at least three Planning Commission members shall be citizen members.

B. All members shall serve without compensation. Without exception, members of the Planning Commission may be reimbursed for necessary and reasonable expenses. Alternate Planning Commission members are not entitled to reimbursement, except when designated by the Chairman of the Planning Commission as a voting alternate member. Elected or appointed officers or employees of the municipality shall not, by reason of membership on the Planning Commission, forfeit the right to exercise the powers, perform the duties or receive the compensation of the municipal offices held by them during such membership.

C. Each Planning Commission member, including alternate members, should:

- (1) Demonstrate a working knowledge of subdivision and land development regulation prior to appointment.
- (2) Become familiar with the Pennsylvania Municipalities Planning Code.
- (3) Attend at least one (1) seminar, training and/or workshop (collectively, "seminar") pertaining to municipal planning and/or land use regulation within each calendar year. The Township shall pay the member's seminar costs and related expenses, provided the seminar is sponsored by a Township approved

provider such as 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. Failure to attend one (1) seminar within each calendar year may constitute just cause for removal of the Planning Commission member under Section 50-4, "Removal from office", of this Chapter.

**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 the first day of January, 2017.

**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 \_\_\_\_\_, 2016.

TOWNSHIP OF MIDDLE SMITHFIELD  
BOARD OF SUPERVISORS



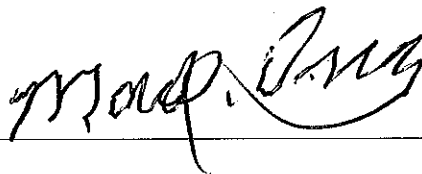
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Chairperson



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Vice Chairperson



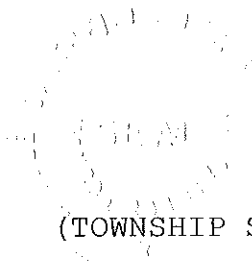
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Supervisor



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Township Secretary



(TOWNSHIP SEAL)