

## ORDINANCE NO. 165

AN ORDINANCE OF THE TOWNSHIP OF MIDDLE SMITHFIELD, MONROE COUNTY, PENNSYLVANIA, SETTING FORTH AN AMENDMENT TO THE CODE OF THE TOWNSHIP OF MIDDLE SMITHFIELD, BY REPEALING ARTICLE II "GENERAL LEGISLATION", CHAPTER 94 "BURNING, OUTDOOR" IN ITS ENTIRETY (§§ 94-1 THRU 94-7) AND ADOPTING A NEW CHAPTER 94 ENTITLED "PROHIBITION AGAINST THE BURNING OF RECYCLABLES AND REGULATION OF OUTDOOR BURNING" WHICH ORDINANCE SHALL REGULATE OUTDOOR BURNING, PROHIBIT THE BURNING OF RECYCLABLES THAT MIDDLE SMITHFIELD TOWNSHIP COLLECTS NOW OR HEREAFTER AS PART OF ITS SOLID WASTE AND RECYCLING PROGRAM(S); PROVIDING FOR ENFORCEMENT AND PROVIDING PENALTIES FOR VIOLATION; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT HEREWITH.

CERTIFICATION

I hereby certify that the within Ordinance is a true and correct copy of an Ordinance proposed to be adopted for the above purposes by the Board of Supervisors of Middle Smithfield, Monroe County, Pennsylvania, on the 9th day of October, 2008.

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ORDINANCE PROHIBITING THE BURNING OF RECYCLABLES AND  
REGULATION OF OUTDOOR BURNING

ORDINANCE NO. 165

AN ORDINANCE OF THE TOWNSHIP OF MIDDLE SMITHFIELD, MONROE COUNTY, PENNSYLVANIA, SETTING FORTH AN AMENDMENT TO THE CODE OF THE TOWNSHIP OF MIDDLE SMITHFIELD, BY REPEALING ARTICLE II "GENERAL LEGISLATION", CHAPTER 94 "BURNING, OUTDOOR" IN ITS ENTIRETY (§§ 94-1 THRU 94-7) AND ADOPTING A NEW CHAPTER 94 ENTITLED "PROHIBITION AGAINST THE BURNING OF RECYCLABLES AND REGULATION OF OUTDOOR BURNING" WHICH ORDINANCE SHALL REGULATE OUTDOOR BURNING, PROHIBIT THE BURNING OF RECYCLABLES THAT MIDDLE SMITHFIELD TOWNSHIP COLLECTS NOW OR HEREAFTER AS PART OF ITS SOLID WASTE AND RECYCLING PROGRAM(S); PROVIDING FOR ENFORCEMENT AND PROVIDING PENALTIES FOR VIOLATION; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT HEREWITH.

WHEREAS, the Board of Supervisors of the Township of Middle Smithfield have heretofore adopted a comprehensive compilation of ordinances of the Township entitled the "Code of the Township of Middle Smithfield"; 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 take and adopt ordinances necessary for the proper management, care and control of the Township, and the maintenance of the health and welfare of the Township and its citizens; and

WHEREAS, it is in the best interests of the health, safety and welfare of the residents of Middle Smithfield Township to recycle rather than burn those specific items that are included now or hereafter in its recycling program(s);  
and

WHEREAS, the Commonwealth of Pennsylvania Department of Environmental Protection has mandated that Middle Smithfield Township enact this ordinance in order to continue to receive grant funds towards its local, voluntary recycling program;

**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:**        Short Title.        Ordinance No. 88 which adopted Article II, Chapter 94 "Burning, Outdoor" of the Code of the Township of Middle Smithfield, Monroe County, Pennsylvania, on October 14, 1998, is hereby repealed in its entirety and Article II, Chapter 94 shall hereafter be known as "Middle Smithfield Township Prohibition Against the Burning of Recyclables and the Regulation of Outdoor Burning".

**SECTION 2.**        Purpose.        The purpose of this ordinance is to provide for the health, safety and welfare of the residents of the Township of Middle Smithfield by requiring residents to recycle rather than burn those specific items that are included in its recycling program and to regulate outdoor burning, provide for enforcement and penalties for failure to comply with said regulation(s) and to repeal any and all inconsistent ordinances or parts thereof.

**SECTION 3.**        Intent.        Following the effective date of this Ordinance, it shall be unlawful for the residents of Middle Smithfield Township to burn any recyclable item now or hereafter included in its recycle program(s).

**SECTION 4.**        Outdoor Burning. Outdoor burning of items not included within the Middle Smithfield Township recycling program(s) is permitted as follows, to wit:

- (a)    Campfires and bonfires for recreational facilities related to their operations provided, however, that said outdoor burning is strictly prohibited during any fire-ban emergency declared within the municipality as well as when atmospheric conditions or local circumstances make such fires hazardous and must be supervised by a responsible adult at all times;
- (b)    Any fire set to prevent or abate a fire hazard, when approved by the Pennsylvania Department of Environmental Protection and when set by and under the supervision of a public officer;
- (c)    Any fire set for the purpose of instructing personnel in fire fighting, when approved by the Pennsylvania Department of Environmental Protection;

- (d) Any fire set for the prevention and control of disease or pests, when approved by the Pennsylvania Department of Environmental Protection.

**SECTION 4:** Enforcement. In addition to any police officer authorized to issue citations within the borders of Middle Smithfield Township, a Middle Smithfield Township Zoning Officer is also hereby authorized to enforce this ordinance.

**SECTION 5:** Penalties. Any person violating any of the provisions of this Ordinance shall first be issued a written warning. If within a thirty (30) day period, this person commits a second violation of this Ordinance, then a citation will be issued. If a summary conviction before a Magisterial District Judge is granted, then said person shall be sentenced to pay a fine of not less than Twenty Five (\$25.00) and not more than One Hundred and Fifty Dollars (\$150.00) and the cost of prosecution including reasonable attorney fees incurred by the Township Solicitor and costs related thereto; such fines to be collected as like fines are now collected by law, and/or shall undergo imprisonment not exceeding 10 days, or both. Any person continuing any such violation beyond one (1) calendar day, shall be deemed to have committed a separate offense for each calendar day such violation continues.

**SECTION 6:** Severability. The provisions of this Ordinance are severable. If any sentence, clause, or section 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 of the remaining provisions, sentences, clauses, or sections of the 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:** Liability for Damages. The township and its agents, officials, and representatives shall not, under any circumstances, be liable or responsible for damages caused to any person or property by reason of the conduct of any burning activity in compliance with the terms and provisions of this chapter. The person or party responsible for any fire shall bear sole liability for any damages caused as a result thereof.

**SECTION 8:** Effective Date: This ordinance shall become effective five (5) days after enactment.

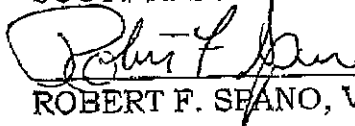
**SECTION 9:** Repeals: All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed insofar as they may be inconsistent herewith.

ORDAINED AND ENACTED into an Ordinance at a regular meeting of the Board of Supervisors of Middle Smithfield Township, Monroe County, Pennsylvania, this 9<sup>th</sup> day of October, 2008.

TOWNSHIP OF MIDDLE SMITHFIELD



SCOTT R. SCHALLER, CHAIRPERSON



ROBERT F. SEANO, VICE CHAIRPERSON



RONALD L. CLEWELL, Supervisor

(TOWNSHIP SEAL)



SHERRY A. PREDMORE, Secretary