

SMITHFIELD TOWNSHIP
MONROE COUNTY
COMMONWEALTH OF PENNSYLVANIA

ORDINANCE NO. ____

AN ORDINANCE OF SMITHFIELD TOWNSHIP, COUNTY OF MONROE, COMMONWEALTH OF PENNSYLVANIA, AMENDING THE TOWNSHIP CODE OF ORDINANCES OF SMITHFIELD TOWNSHIP, CHAPTER 27 – ZONING TO SET FORTH UPDATED STANDARDS AND CRITERIA FOR WETLANDS AND REPEAL ALL PARTS OF ORDINANCE INCONSISTENT HERewith; AND TO REPEAL OTHER LANGUAGE FOR VALIDITY CHALLENGES.

WHEREAS, Smithfield Township (the “Township”) is a political subdivision of the County of Monroe, Commonwealth of Pennsylvania and is a Second Class Township with offices located at 1155 Red Fox Road, East Stroudsburg, Pennsylvania, 18301; and,

WHEREAS, the Township has adopted a Zoning Ordinance found in the Township Code of Ordinances, Chapter 27 (hereinafter “Ordinance”); and,

WHEREAS, the Ordinance § 27-401 District Regulations(3)(D) establishes standards and criteria on Wetlands; and § 27-802(1)(B) had established standards and criteria on Validity; and,

WHEREAS, the Township is of the opinion that THESE regulations of Wetlands need to be updated to preserve, maintain and promote the health, safety, and welfare of the residents of Smithfield Township; and that THE regulations on validity need to be removed; and,

WHEREAS, the Township Board of Supervisors Board hereby adopts the following zoning amendments.

NOW THEREFORE BE IT ENACTED AND ORDAINED by the Board of Supervisors of Smithfield Township, Pennsylvania, and it is enacted and ordained as follows:

SECTION 1: § 27-401 District Regulations(3)(D) shall be repealed and replaced in its entirety with the following:

D. Wetlands.

(1) Need and Basis for a Wetlands Delineation:

(a) An on-site investigation shall be conducted to determine if wetlands are present on the site by a licensed engineer, hydrogeologist, soil scientist or similarly qualified professional experienced in wetlands ecology, selected by the applicant in accordance with the Federal Manual for Identifying and Delineating Jurisdictional Wetlands dated January 10, 1989, or as later amended if the National Wetlands Inventory maps indicate wetlands on a site; or where a site contains hydric soils as depicted by a soil survey by the County of Monroe,

and/or in USDA NRCS Hydric Soils Lists; hydrophytic vegetation or evidence of hydrology. The resultant wetland delineation study must be approved by the governing body. A landowner may also use a wetlands delineation validated by the U.S. Army Corps of Engineers. Should a wetlands delineation validated by the U.S. Army Corps of Engineers vary from a wetlands boundary derived from Subsection 3D(1)(a) above, the Corps delineation shall govern.

(2) Note of determination that wetlands are not located on the site.

(a) If, after examination of the site, a qualified professional as defined in (D)(1) determines that wetlands are not located on the site, the following note must appear on the plan or application being submitted:

"This site has been examined by [name and address], a qualified professional, and no wetlands were found to exist."

(b) Submissions containing this note must be accompanied by a written statement, signed by the examining professional and attesting to the fact that the site was examined in accordance with the Federal Manual for Identifying and Delineation Jurisdictional Wetlands, and no wetlands were found to exist. In addition, a written statement of the qualifications of the professional who examined the site shall accompany the submission.

(3) No development, filling, draining, piping, diverting, or earth disturbance activities shall be permitted within a wetland. No more than 40% of the wetlands margin area shall be altered, regraded, or filled (noting that such limitation does not permit the alteration, regrading, filling of or building upon a wetland area, and noting further that the permitted encroachment into a wetlands margin area shall be measured independent of any other noncontiguous wetlands margin areas on a property). If this provision is found to be in conflict with any provisions of Chapter 26: Water, or any other local ordinance, or Pennsylvania or Federal law, the provision which is more restrictive or which establishes the higher standard shall control.

(4) No on-lot sewage disposal system proposed to exceed 1000 gallons per day for a single lot, and no on-lot water supply proposed to exceed 2500 gallons per day for a single lot shall be located within a wetlands margin area. No on-lot sewage disposal systems, or on-lot water supply shall be located within in a wetland.

(5) No cutting of any vegetation within the wetland. Up to 40% of the wetlands margin area may have limited forestry activities that do not clear cut the wetlands margin area (e.g., selective regeneration harvest) in accord with an approved forestry management plan. If this section is in conflict with any provision of Chapter 26: Water, or any other local ordinance, or Pennsylvania or Federal law, the provision which is more restrictive or which establishes the higher standard shall control.

(6) There shall be no storage of construction-related materials such as vehicles, topsoil, or timbers within the wetland or wetlands margin area.

(7) There shall be no storage or use of toxic, potentially hazardous, or contaminating compounds within the wetland or the wetlands margin area. Prohibited substances include but are not limited to petroleum-based products, stains/finish substances, industrial substances, polyfluorinated substances (PFAS), chlorinated substances, road salt/deicer substances, fertilizers, or pesticides.

(8) In no case shall sewer lines or other liquid transport pipelines be constructed in the wetland, except to cross a wetland on the minimum traversal distance and then only if every precaution is taken to prevent leaks and to prevent any possible draining of the wetland, and if all methods and available technologies are used to avoid open trench cutting of the wetland.

(9) Any road or driveway proposed to cross a wetland must:

(a) Clearly be providing access which is impossible from any other location;

(b) Be designed and constructed to cause the minimum disruption of the wetland area.

(c) Have a plan for the establishment of replacement wetland areas (on or off the site, and within the same sub-watershed and within Smithfield Township) the size of the area lost to the road or driveway, and that will also comply with all applicable mitigation requirements imposed by the U.S. Army Corps of Engineers or the Pennsylvania Department of Environmental Protection.

SECTION 2: § 27-802(1)(B) shall be repealed and revoked in its entirety.

SECTION 3. Severability. If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word in this Ordinance is declared invalid, such invalidity shall not affect the validity or enforceability of the remaining portions of the Ordinance.

SECTION 4. Repealer, Continued Application, and Interpretation Clause: If one of the Township's existing ordinance or regulations conflicts with these provisions herein, the more restrictive provision shall prevail.

SECTION 5. Effective Date. This Ordinance shall become effective five (5) days after the date of enactment as provided by law and shall remain in force until modified, amended, or rescinded by Smithfield Township, Monroe County, Pennsylvania

ADOPTED this _____ day of _____, 2024 at a public meeting held by the Board of Supervisors of the Township of Smithfield, Monroe County, Pennsylvania