

**TOWNSHIP OF SOUTH MIDDLETON  
CUMBERLAND COUNTY, PENNSYLVANIA**

**Ordinance 2022-07**

**AN ORDINANCE OF THE TOWNSHIP OF SOUTH MIDDLETON, CUMBERLAND COUNTY, PENNSYLVANIA, PROMOTING THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE IN THE TOWNSHIP AND FOR ITS CITIZENS; ADOPTING BY REFERENCE CERTAIN PROVISIONS OF THE 2018 EDITION OF THE INTERNATIONAL FIRE CODE, REGULATING AND GOVERNING THE SAFEGUARDING OF LIFE AND PROPERTY FROM FIRE AND OTHER HAZARDS ARISING FROM THE STORAGE, HANDLING, AND USE OF COMBUSTIBLE OR EXPLOSIVE SUBSTANCES, MATERIALS AND DEVICES, AND FROM CONDITIONS HAZARDOUS TO LIFE OR PROPERTY IN THE OCCUPANCY OF BUILDINGS AND PREMISES IN THE TOWNSHIP; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFOR; PRESCRIBING MINIMUM REQUIREMENTS NECESSARY TO ESTABLISH A REASONABLE LEVEL OF FIRE SAFETY AND PROPERTY PROTECTION; REEDIATING HAZARDS CREATED BY FIRE AND EXPLOSION; PROVIDING FOR PENALTIES AND VIOLATIONS THEREOF; AND REPEALING ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH.**

**WHEREAS**, Section 607(1) of the Second Class Township Code, 35 P.S. § 65107(1) grants to the Township the authority to make regulations as may be necessary for the health, safety, and welfare of the Township; and

**WHEREAS**, Section 1805 of the Second Class Township Code, 35 P.S. § 66805 grants to the Township the authority to adopt and enforce a fire prevention code.

**NOW, THEREFOR**, be it ordained and enacted by the Board of Supervisors of the Township of South Middleton as follows:

**Section 1: Title**

This Ordinance may be known as cited as the “South Middleton Township Fire Prevention and Safety Code.”

**Section 2: Construction**

In the interpretation of this Ordinance, the provisions shall be construed as follows:

- A. Any term in the singular shall include the plural and *vice versa*, unless the context otherwise clearly requires;
- B. Any term in the masculine shall include the feminine, neuter, or other;
- C. Any requirement or prohibition of any act shall respectively extend to and include the causing and procuring, directly or indirectly, of such act;

- D. Any reference to “this/the code” shall refer to the Township’s Fire Prevention and Safety Code;
- E. Any reference to the “Township” in this Ordinance or “jurisdiction” in this code shall be construed as, and deemed to reference, the Township of South Middleton;
- F. Any reference to the “Board of Supervisors” in this Ordinance or “appointing authority” in this code shall be construed as, and deemed to reference, the Board of Supervisors of the Township;
- G. Any reference or statement indicating the *Township* taking action, in an administrative, enforcement, or other official capacity, shall be construed as the Township officer, department, or committee, designated by the Board of Supervisors, as taking action;
- H. Any reference to the “*International Building Code*” in this Ordinance or this code shall be construed as, and deemed to reference, the “Township Building Code,” as adopted by Ordinance No. 2004-11, it being the intention of the Board of Supervisors that the Township Building Code be the controlling authority for the design and construction of new structures, as well as alterations, additions, changes in use or changes to occupied structures, in the Township;
- I. Any reference to “fire code official” in this Ordinance or this code shall be construed as, and deemed to reference, the “fire marshal” or his designee, depending on the circumstances;
- J. Any reference to the “Department of Fire Prevention” in this code shall be construed as, and deemed to reference, the “Office of Fire Marshal;”
- K. Any reference to “fire department” in this Ordinance or this code shall be construed as, and deemed to reference, the “Union Fire Company No. 1” and/or “Citizens Fire Company No. 1;”
- L. Any reference to “fire chief” in this Ordinance or this code shall be construed as, and deemed to reference, the fire chief(s) of the Township; and
- M. Any reference the “Township Manager” in this Ordinance shall include the “Assistant Township Manager,” or his designee;
- N. Unless the situation requires technical judgment that only the *fire code official* or other qualified emergency services official may render, any Township official has the authority to undertake any public safety enforcement action authorized under this code or other Township ordinance or regulation; and
- O. No provision hereof shall make unlawful any act necessarily performed by any officer or employee of the Township in line of duty or work as such, or by any person, his agent or employee, in the proper and necessary execution of the terms of any agreement with or employment of the Township.

### **Section 3: Scope**

The provisions of this Ordinance shall govern the minimum conditions and standards for fire prevention and safety to structures and exterior premises of structures, including fire safety facilities and equipment to be provided.

#### **Section 4: Responsibility**

The owner of the premises subject to this code shall provide and maintain such fire prevention and safety facilities and equipment in compliance with these requirements. A person shall not occupy any premises that do not comply with the requirements of this code.

#### **Section 5: Adoption of International Fire Code**

Adopt all Chapters of the International Fire Code, 2018 Edition including Appendices B, C and D, *except those Chapters where sections of the code are preempted by the PA Flammable and Combustible Liquids Act., and those sections preempted by Act 61 of 2002.* A copy of which is on file in the Codes Department of the Township, being marked and designated as the *"International Fire Code, 2018 Edition,"* as published by the International Codes Council be and is hereby adopted as the Fire Prevention and Safety Code of the Township of South Middleton, regulating and governing the safeguarding of life and property from fire hazards arising from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Fire Prevention and Safety Code on file in the office of the Township are hereby referred to, adopted, and made part hereof, as if fully set out in this Ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 6 of this Ordinance.

#### **Section 6: Modifications to Standards**

The following sections of the *International Fire Code, 2018 Edition* are hereby added, amended, revised, or deleted as hereinafter set forth. Subsequent chapters, articles, divisions, and section numbers used in Section 6 of this Ordinance refer to the like-numbered chapters, articles, divisions, and sections of the *International Fire Code, 2018 Edition*, unless otherwise specified:

A. *Section 101.1, Title*, is restated as follows:

**101.1 Title.** These regulations shall be known as the *Fire Prevention and Safety Code* of the Township of South Middleton, hereinafter referred to as "this/the code."

B. *Section 102.4, Application of building code*, is restated as follows:

**102.4 Application of building code.** The design and construction of any new structures shall comply with the Uniform Construction Code, administered and enforced under the Municipal Building Code of the Township, as adopted by Ordinance No. 2004-11. Any alternations, additions, changes in use or changes in structure required by this code, which are within the scope of the Township Building Code, shall be made in accordance therewith.

- C. Section 102.4.1 is added to state:

**102.4.1 Application of zoning ordinance.** Nothing in this code shall be construed to repeal, cancel, modify, amend, or set aside any provisions of, or actions taken pursuant to, the Township's Zoning Ordinance (*Ordinance No. 2007-03, as amended*).

- D. *Section 102.5, Application of residential code*, is amended by inserting the design and construction of any new structures shall comply with the Uniform Construction Code, administered and enforced under the Municipal Building Code of the Township, as adopted by Ordinance No. 2004-11. Any alternations, additions, changes in use or changes in structure required by this code, which are within the scope of the Township Building Code, shall be made in accordance therewith.

- E. Section 103 is amended by changing the title of the Section from "Department of Fire Prevention" to "Code Enforcement."

- F. *Section 103.1, General*, is restated as follows:

**Section 103.1 General.** The Office of Fire Marshal, within the Department of Community Development, is established and is under the direction of the Fire Marshal (hereinafter "*fire code official*"), who shall be appointed, together with any assistants, from time to time, by the Board of Supervisors. The function of the office shall be the implementation, administration and enforcement of the provisions of this code.

- G. *Section 103.2, Appointment*, is restated as follows:

**Section 103.2 Appointment.** The *fire code official* shall be appointed and removed pursuant to the prescribed procedures of the Township.

- H. *Section 103.3, Deputies*, is restated as follows:

**Section 103.3 Assistants.** In accordance with the prescribed procedures of the Township, and the concurrence of the Board of Supervisors, the *fire code official* shall have the authority to appoint one or more assistant fire marshals, other related technical officers, inspectors and other employees.

- I. Section 104.11.4 is added to state:

**Section 104.11.4 Unlawful boarding or tampering with fire department equipment.** A person shall not, without proper authorization from the fire official in charge of said fire department equipment, cling to, attach to, climb upon or into, or swing upon any fire department vehicle, whether the same is in motion or at rest, operate any emergency warning equipment, or

manipulate or tamper with any levers, valves, switches, starting devices, brakes, pumps, or any equipment or protective clothing on, or part of, any fire department vehicle.

J. Section 105.3.9 is added to state:

**Section 105.3.9 Permit issuance.** A permit granted hereunder shall not be transferable nor shall any permit be extended beyond the time set fourth therein unless approved by the *fire code official*. When work is started without a permit, the permit fee shall be doubled.

K. *Section 109.1, Board of appeals established*, is restated as follows:

**Section 109.1 Board of appeals.** In order to hear and decide appeals of orders, decisions or determinations made by the *fire code official* relative to the application and interpretation of this code, any such appeals shall be made to the Township Board of Appeals established under the Township Building Code.

L. Section 109.1.1 is added to state:

**Section 109.1.1 Application for appeal.** Any person directly aggrieved by an order, decision, or determination made by the *fire code official* relative to the application and interpretation of this code shall have the right to appeal to the Board of Appeals provided that a written application for an appeal on a form provided by the Township is filed within ten (10) days after receipt or posting of such order, decision or determination, along with the payment of an appeal hearing fee in an amount set from time to time by resolution of the Board of Supervisors.

M. *Section 110.4, Violation penalties*, is restated as follows:

**Section 110.4 Violations and penalties.** Any person who shall violate any provision of this code, or fail to comply with any of the requirements thereof, or any person who is in charge or stands in *loco parentis* to any child or children who have not arrived at the age of criminal responsibility and who have violated any provision of this code, or any person who shall erect, install, alter, repair or do work in violation of the *approved construction documents* or directive of the *fire code official*, or of a permit or certificate issued under provisions of this code, shall be guilty of a summary offense, and upon conviction thereof, shall be punished by a fine of not less than \$100 or more than \$1,000, together with costs of prosecution, and in default of payment thereof, be committed to and imprisoned in the County Prison for a period not exceeding thirty (30) days.

N. Section 110.5 is added to state:

**Section 110.5 Prohibited parking; exceptions; bus-loading zone; violations.** Except if necessary to avoid conflict with other traffic or in compliance with the law or directions of a police officer, fire official, or traffic control device, a person shall not park a vehicle in any of the following places or manners:

- a. Within 15 feet of a fire hydrant;
- b. Within 20 feet of the driveway entrance to a fire station or within 75 feet of a fire station entrance on the opposite of the street;
- c. Alongside or opposite a street excavation or obstruction, if the stopping, standing, or parking would obstruct traffic;
- d. Within 500 feet of an accident at which a police officer, fire official, or other emergency personnel is in attendance;
- e. In a place or in a manner that blocks immediate egress from an emergency exit conspicuously marked as an emergency exit;
- f. In a place or in a manner that blocks or hampers the immediate egress from a fire escape conspicuously marked as a fire escape providing an emergency means of egress from a building;
- g. Within 500 feet of a fire at which fire apparatus is in attendance. However, volunteer firefighters responding to an emergency event may park within 500 feet of the event in a manner not to interfere with fire apparatus at the scene. A vehicle parked legally previous to the fire is exempt from this subsection; or
- h. In a place or in a manner that blocks access to a space clearly designated as a fire lane.

A person shall not move a vehicle not owned by the person into a prohibited area or away from a curb a distance that makes the parking unlawful.

O. Section 110.5.1 is added to state:

**Section 110.5.1 Fines.** For any violation of the parking requirements listed in Section 110.4 of this code, the fine for such an offense shall be \$25 per violation if paid within then (10) days of the violation, and, if not paid in this time, shall be increased to \$50 per violation.

P. Section 110.5.2 is added to state:

**Section 110.5.2 Towing and storage fees.** In addition to the above penalties, a person who violates this Section shall be responsible for all vehicle towing and storage costs incurred if the fire official in command at an emergency determines that the vehicle parked in violation of Section 110.5 must be towed to ensure public safety or fire department access to a building or emergency scene.

Q. Section 110.6 is added to state:

**Section 110.6 Enforcement.** The *fire code official* or other designated Township official may issue tickets or citations for violations of this code.

R. Section 110.6.1 is added to state:

**Section 110.6.1 Payment of fees; fines.** Payment for any permit fees or fines arising from violations of this code shall be paid to the Township Treasurer for the general use of the Township, unless otherwise stated.

S. *Section 111.3, Summary abatement*, is amended by adding the following text:

**Section 111.3 Summary abatement.** Where conditions exist that are deemed hazardous to life and property, the *fire code official* or the fire department official in charge of the incident is authorized to abate summarily such hazardous conditions that are in violation of this code, and the Township may collect the cost of abatement, together with a penalty of ten percent (10%) of the cost, in the manner provided by law for the collection of municipal claims, or by action of assumpsit, or may seek relief by bill in equity.

T. *Section 112.4, Failure to comply*, is amended to insert “\$600” in the first reference of [AMOUNT] and “\$1,000” in the second reference of [AMOUNT].

U. A new section, Section 114 is added to state:

#### **SECTION 114 FALSE ALARMS**

**114.1 False alarms prohibited.** It shall be unlawful for any person owning, leasing, or occupying any premises to make or cause to be made a false alarm, directly or indirectly, when the alarm is caused by faulty detection or alarm equipment or by the negligence of said person. The status of an alarm is to be determined by the responding fire department or emergency services organization, and the decision as to the cause of the alarm, shall be final.

**114.2 False alarm remediation.** Upon notification of a false alarm, a written report shall be made within fourteen (14) days by the owner, lessee, or occupant to the *fire code official* outlining what steps have been taken to remedy future false alarms.

**114.3 False alarm service fees.** Service fees for false alarms assessed by the Township will follow the current fee schedule.

V. *Section 202, General Definitions*, is amended by amending or adding the following terms:

**APPLICANT.** The person applying for a permit under this code or the person or group sponsoring an activity or event that requires a permit under this code.

**CENTRAL STATION.** An office of a private company to which remote alarm and supervisory signaling devices are transmitted and where personnel are in attendance at all times to supervise the circuits and investigate signals.

**CLEAN WOOD.** Natural wood which has not been painted, varnished, or coated with a similar material; has not been pressure treated with preservatives, and does not contain resins or glues as in plywood or other composite wood products.

**NORMAL AGRICULTURAL OPERATION.** As that term is defined in the Pennsylvania Right to Farm Act (3 P.S. § 952)

**PUBLIC SAFETY SERVICES.** Any public or private activity, including but not limited to, police, fire, emergency medical services, hazmat, security, or transportation.

**SCHOOL DISTRICT.** South Middleton School District.

**STREET.** Any paved or unpaved road, thoroughfare, avenue, boulevard, parkway, drive, or other public way or highway set aside or open for purposes of vehicular traffic, including any berm, shoulder, or median strip thereof. The term may also be referred to as "road" or "highway."

W. *Section 307.1.1, Prohibited open burning*, is amended by inserting the following wording:

**Section 307.1.1, Prohibited open burning.** Open burning that is offensive or objectionable because of smoke emissions or when atmospheric conditions or local circumstances make such fires hazardous shall be prohibited. Furthermore, no open burning shall be permitted between dusk and dawn of any day or at any time on Sunday.

X. *Section 307.1.2* is added to state:

**Section 307.1.2 Burning of waste material prohibited.** Open burning of waste material, including, but not limited to, trash/rubbish, grass clippings, and other vegetative matter, construction and demolition waste, but excluding trees, logs, brush.

Y. Section 307.2, *Permit required*, is restated as follows:

**Section 307.2, Permit; notification required.** A permit shall be obtained from the *fire code official* in accordance with Section 105.6.32 prior to kindling a fire for recognized silvicultural or range or wildlife management practices, prevention or control of disease or pests, or a bonfire. Application for such approval shall only be presented by and permits issued to the owner of the land upon which the fire is to be kindled. Prior to engaging in any open burning activity exempted from this code, the person shall notify the *fire code official* and the County Emergency Communications Center at least 24 hours prior to such activity.

Z. Section 307.2.1 is added to state:

**Section 307.2.1, Authorization.** Where required by State law or regulation, open burning may only be permitted with prior approval from the PA Department of Environmental Protection or other State authority, provided that all conditions specified in the authorization are adhered to.

AA. Section 307.3, *Extinguishment authority*, is amended by inserting the following wording:

**Section 307.3 Extinguishment authority.** The *fire code official* is authorized to add additional restriction on, or to order the extinguishment by the permit holder, another person responsible, or the fire department of open burning that creates or adds to a hazardous or objectionable situation

BB. Section 307.3.2 is added to state:

**Section 307.3.2 Environmental conditions.** During periods of low humidity, drought, high wind or other adverse weather conditions, the *fire code official* may restrict open burning.

CC. Section 307.4, *Location*, is amended by inserting the following wording:

**Section 307.4, Location.** Excepting delineated distances for normal agricultural operations as provided for in Section 307.2 of this code, the location for open burning shall not be less than 50 feet (15,240 mm) of any structure....

DD. Section 307.4.1 *Bonfires*, is restated as follows:

**Section 307.4.1 Bonfires.**

A. A bonfire shall not be conducted within 100 lineal feet of a structure, combustible material, or a boundary line of the tract of land on which said bonfire occurs. Conditions that could cause a fire to spread to within 100 lineal feet of a structure shall be eliminated prior to ignition.

- B. The fuel for a bonfire shall not be more than five (5) feet long by five (5) feet wide by five (5) feet high in dimension and shall not burn longer than three (3) hours. The size and duration of a bonfire shall only be increased with the approval of the *fire code official*.
- C. Fuel for a bonfire shall consist of only seasoned, dry firewood and shall be ignited with a small quantity of paper.
  
- EE. Section 311.1.1, Abandoned premises, is amended by removing the reference to the *"International Property Maintenance Code."*
  
- FF. Section 501.3, Construction documents, is amended by replacing the term "fire department" with "Department of Community Development."
  
- GG. Section 506.3 is added to state under Key Box:

**Section 506.3 Key box installation notification.** Upon written notice by the Township, the owner of a structure subject to this Section shall have 30 days to install a key lockbox.

**Section 506.4 Location.** The key lock box required by this code shall be installed on the front of the building (side 1) near the main entry door and between five (5) and six (6) feet above the ground unless approved at a higher or lower level the by the *fire code official*.

- HH. *Section 5601.2.4, Financial responsibility,* is amended by inserting the following wording at the end of paragraph:

**Section 5601.2.4.** The permittee or licensee shall hold or obtain a bond or liability insurance in an amount no less than \$1,000,000 in case of damages caused to any person or persons, and to any property by reason of the licensed display and arising from any acts of the licensee, or licensee's agents, employees or subcontractors. The certificate of insurance, or other satisfactory evidence to the Township of proof of insurance, shall be filed with the Township Secretary before any permit for a supervised fireworks display is issued.

- II. *Section 5608.2, Permit application,* is amended by inserting the following wording

**Section 5608.2 Permit application.** A permit shall be obtained from the *fire code official* in accordance with Section 105.6. Prior to issuing permits for fireworks display, plans for the fireworks display, inspections of the display site, and demonstrations of the display operations shall be *approved*. A plan establishing procedures to follow and actions to be taken in the event that a shell fails to ignite in, or discharge from, a mortar or fails to function over the fallout area or other malfunctions shall be provided to the *fire code official*. An application for a fireworks display must be completed and submitted for Township approval at least 45 days in advance of the display.

JJ. *Section 5608.2.1, Outdoor fireworks display*, is amended by inserting the following wording:

**5608.2.1 Outdoor fireworks display.** In addition to the requirements of Section 403, permit applications for outdoor fireworks displays shall include the following:

1. A copy of the Certification of Insurance in accordance with Section 5601.2.4;
2. Written permission from the owner or operator of the property on which the display will be located for use of the property for the fireworks display;
3. Written comments from the *fire code official*;
4. In accordance with Section 5608.2.3, a copy of the notice that will be sent to impacted properties or placed in the newspaper, if applicable;
5. A list of three (3) references from the fireworks display company or operator including the names, addresses, and phone numbers of individuals/organizations responsible for organizing the reference fireworks display;
6. Graphic representation of the display site using NFPA 1123 (current edition), *Code for Fireworks Display* as a guide. DISTANCES FOR OUTDOOR AERIAL SHELL DISPLAY SITES: A GUIDE FOR MINIMUM SEPARATION DISTANCES FROM MORTARS TO SPECTATORS FOR LAND AND WATER DISPLAYS AND THE NOTIFICATION OF IMPACTED PROPERTIES.
7. Size of the largest shell to be used for the fireworks display.

KK. New Section 5608.2.3 is added to state:

**5608.3.1 Pyrotechnic devices prohibited.** It shall be unlawful for any person to ignite or launch a pyrotechnic device, other than PA State approved consumer fireworks sold at approved PA Fireworks vendor, within the limits of the Township.

LL. *Section 5608.8, Fireworks Display Supervision*, is amended by inserting the following wording:

**5608.8 Fireworks display supervision.** In the event of any violation of this Section or the terms, conditions, or limitations noted on the permit for the display of fireworks, or in the event of any unsafe condition occurring before or during the course of a fireworks display, or in the event of any unsafe condition occurring as a result of any use of fireworks, a police officer, the fire code official, fire department personnel, or any other authorized Township representative may, before or during the unsafe and/or violating occurrence, order such activity to cease or fireworks use or display to be discontinued immediately.

MM. New Section 5608.11, *Weather disruption*, is added to state:

**5608.11 Weather disruption.** If by reason of unfavorable weather, the display for which a permit has been granted does not take place at the time authorized, the person to whom such permit was issued may apply to the Township within 24 hours, setting forth under oath the fact that such display was not made, the reason, and request for a continuance of such permit for a specifically designated day, no later than one (1) week after the day fixed originally in said permit. Upon receiving such application for a continuance, the Township, if it believes the facts stated therein are true, shall extend the provisions of the permit to the day fixed in the application, no later than one (1) week after the original day designated in the permit. Such extension of time shall be granted without the payment of any additional fee and without requiring any additional bond or proof of insurance other than the one given for the original permit, provided however that the extended time period and display shall meet the requirements of this code.

NN. New Section 5608.12, *Warning and disclaimer of liability*, is added to state:

**5608.12 Warning and disclaimer of liability.** The degree of protection sought by the provisions of this Ordinance is considered reasonable for regulatory purposes and is based on acceptable safety methods for pyrotechnic displays. The use of fireworks, even by a competent operator in a properly-secured location and conducted in a sound manner, still has the potential for harming, injuring, or resulting in the death of people and animals, damaging or destroying property, and harming the environment. This code shall not create liability on the part of the Township or any officer or employee thereof for any injury or damage that result from reliance on this code or any administrative decision lawfully made there under.

## **Section 6: Severability**

If any chapter, article, division, section, sentence, clause, or part of this Ordinance is found to be unconstitutional, illegal, or invalid, such findings shall not affect or impair any of the remaining parts of this Ordinance. It is hereby declared to be the intent that this Ordinance would have been adopted had such part not been included.

## **Section 7: Repeals**

This Ordinance shall repeal the following:

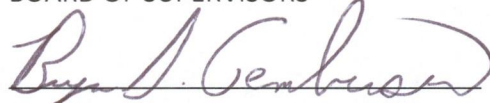
- A. Ordinance Nos. 1993-11, 1993-12, 2001-14, 2004-18, 2013-01, and 2016-07, 2017-03; and
- B. Any other Township regulation or policy which is inconsistent herewith.

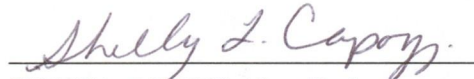
**Section 8: Effective Date**

This ordinance shall take effect 60 days after adoption.

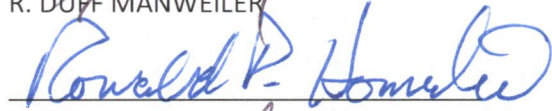
ENACTED AND ORDAINED this 15 day of December, 2022.

TOWNSHIP OF SOUTH MIDDLETON  
BOARD OF SUPERVISORS

  
BRYAN A. GEMBUSIA, Chairman

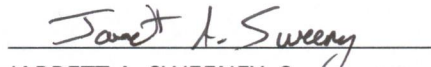
  
SHELLY L. CAPOZZI, Vice Chairman

  
R. DUFF MANWEILER

  
RONALD P. HAMILTON

  
WALTER G. REIGHARD

ATTEST

  
JARRETT A. SWEENEY, Secretary