

Cape May Court House, NJ  
February 21, 2018  
REGULAR MEETING  
FLAG SALUTE  
THIS MEETING IS BEING RECORDED:

I hereby declare that notice has been given to the Herald Times, the Atlantic City Press and posted on the bulletin board of the Middle Township Municipal Building, stating the time and place of the following meeting, as required in P.L. 1975, Chapter 231 of the State of New Jersey (Sunshine Law).

The Township Committee met on the above date at 6:00 PM at the Middle Township Municipal Building. Members present were Mayor Clark, Deputy Mayor DeVico, Committeemember Donohue, Township Clerk Kimberly Krauss, Business Administrator Elizabeth Terenik, Municipal Solicitor Frank Corrado and Municipal Engineer Vincent Orlando.

1. QUESTION/ANSWER PERIOD ON AGENDA (*This question and answer session shall relate only to items as outlined and pending on current agenda. Issues and concerns not related to agenda item shall be withheld to public comment portion at the conclusion of meeting.*)
2. RESOLUTION – APPROVING PAYMENT FOR BILLS – BILL LIST A (General Bills) – On motion by \_\_\_\_\_ and passed on roll call, the following resolution was adopted.  
*NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that payment for the following bills in the amounts indicated are hereby approved:*  
*Current Acct. \$*
3. RESOLUTION – APPROVING MINUTES FROM PREVIOUS MEETINGS – On motion by \_\_\_\_\_ and passed on roll call, the following resolution was adopted.  
*NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that the following minutes are approved: 02/05/2018 regular and work session meetings.*
4. REPORTS: The following departments have submitted their reports for the months indicated: Sewer for the month of January, Sterback Harbor for the month of January, Tax Collector for the month of January,
5. ORDINANCE NO. 1551-18 - AN ORDINANCE ESTABLISHING THE COMPENSATION OF THE OFFICERS AND EMPLOYEES OF THE TOWNSHIP OF MIDDLE – Following second reading, hearing, and consideration for adoption, Ordinance 1551-18 was adopted on motion by \_\_\_\_\_ seconded by \_\_\_\_\_ and passed on roll call. Complete Ordinance is on file in the Clerk’s Office.  
*BE IT ORDAINED by the Township Committee, the Governing Body of the Township of Middle, County of Cape May, State of New Jersey as follows:*  
*SECTION 1. The positions listed in the attached schedule are hereby created.*  
*SECTION 2. The salary ranges specified in the attached schedule are hereby adopted for each and every position listed therein. In those cases where only one rate or figure appears in said schedule, said rate or figure shall be the maximum rate of figure applicable to said position. In those cases where a maximum and minimum salary are hereby established for a position, the exact salary to be paid to the holder of said position shall be as determined from time to time by resolution of the Township Committee.*  
*SECTION 3. The duties to be performed by each person holding any position listed in said schedule shall be those duties as outlined in Job Description of New Jersey Civil Service Department.*  
*SECTION 4. In addition to the salaries set forth in said schedule, those employees who have held full time positions for a minimum of five years, as hereinafter defined, shall be entitled to additional compensation as set forth in this section, based upon current salary. The additional compensation to which the employee is entitled on January 1 of any year shall be the additional compensation for the entire year. In determining years of service on January 1 of any year, for the purpose of this Ordinance only, no credit shall be given for less than six full months of service in any year, and credit for a full year shall be given for any year in which the employee served for six full months or more.*

<i>Years of Service</i>	<i>Additional Compensation</i>
<i>(Percent of Annual Salary)</i>	
<i>5 years or more</i>	<i>2%</i>
<i>10 years or more</i>	<i>4%</i>
<i>15 years or more</i>	<i>6%</i>
<i>20 years or more</i>	<i>8%</i>
<i>25 years or more</i>	<i>10%</i>

*Section 4 shall only apply to Township Employees hired before December 31, 1994.*  
*SECTION 5. All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed, to the extent of such conflict or inconsistency.*  
*SECTION 6. This Ordinance shall become effective, retroactive to January 1, 2018 immediately upon final passage and publication according to law.*

6. ORDINANCE NO. 1552-18 - AN ORDINANCE AMENDING CHAPTER 142 OF THE CODE OF THE TOWNSHIP OF MIDDLE ENTITLED FIRE PREVENTION – Following second reading, hearing, and consideration for adoption, Ordinance 1552-18 was adopted on motion by \_\_\_\_\_ seconded by \_\_\_\_\_ and passed on roll call. Complete Ordinance is on file in the Clerk’s Office.

*BE IT ORDAINED by the TOWNSHIP COMMITTEE, the governing body of the Township of Middle that Section 7(A) and Section 7(B) of Chapter 142 of the CODE OF THE TOWNSHIP OF MIDDLE are hereby amended in their entirety as follows:*

*Section 7(A)*

*In addition to the registrations required by the Uniform Fire Code, the following non-life hazard uses shall register with the Bureau of Fire Prevention. These uses shall be inspected once per year and pay an annual registration/ inspection fee. (The following fee schedule for non-life hazard use in the local enforcing agency’s jurisdiction shall be included in Sub-Chapter 2 of the Uniform Fire Code. These fees are not to be used for Life Hazard Uses as defined in the Uniform Fire Code.)*

(1)	<i>A – Assembly</i>	
	<i>A-1</i>	<i>Eating establishment under 50</i> \$72
	<i>A-2</i>	<i>Take-out food service (no seating)</i> \$48
	<i>A-3</i>	<i>Church or synagogue under 50</i> \$30
	<i>A-4</i>	<i>Recreation centers, multi-purpose rooms, etc. (less than 100)</i> \$72
	<i>A-5</i>	<i>Condominium centers less than 100</i> \$72
	<i>A-6</i>	<i>Senior citizen centers less than 100</i> \$72
(2)	<i>B – Business/ Professional</i>	
	<i>B-1</i>	<i>1 &amp; 2 story less than 500 sq. ft. per floor</i> \$60
	<i>B-2</i>	<i>1 &amp; 2 story more than 500 sq. ft. less than 2,000 sq. ft. per floor</i> \$72
	<i>B-3</i>	<i>1 &amp; 2 story more than 2,000 sq. ft. less than 3,000 sq. ft. per floor</i> \$84
	<i>B-4</i>	<i>1 &amp; 2 story more than 3,000 sq. ft. less than 5,000 sq. ft. per floor</i> \$96
	<i>B-5</i>	<i>1 &amp; 2 story more than 5,000 sq. ft. per floor</i> \$120
	<i>B-6</i>	<i>3 to 5 story less than 1,000 sq. ft. per floor</i> \$72
	<i>B-7</i>	<i>3 to 5 story more than 1,000 sq. ft. less than 5,000 sq. ft. per floor</i> \$180
	<i>B-8</i>	<i>3 to 5 story more than 5,000 sq. ft. per floor</i> \$240
(3)	<i>M – Mercantile (Retail)</i>	
	<i>M-1</i>	<i>1 &amp; 2 story less than 2,000 sq. ft. per floor</i> \$60
	<i>M-2</i>	<i>1 &amp; 2 story more than 2,000 sq. ft. less than 4,000 sq. ft. per floor</i> \$72
	<i>M-3</i>	<i>1 &amp; 2 story more than 4,000 sq. ft. per floor</i> \$120
	<i>M-4</i>	<i>3 to 5 story less than 2,000 sq. ft. per floor</i> \$90
	<i>M-5</i>	<i>3 to 5 story more than 2,000 sq. ft. less than 5,000 sq. ft. per floor</i> \$120
	<i>M-6</i>	<i>3 to 5 story over 5,000 sq. ft. per floor</i> \$150
(4)	<i>F – Factory (Manufacturing)</i>	
	<i>F-1</i>	<i>1 &amp; 2 story less than 5,000 sq. ft. per floor</i> \$96
	<i>F-2</i>	<i>1 &amp; 2 story more than 5,000 sq. ft. less than 10,000 sq. ft. per floor</i> \$120
	<i>F-3</i>	<i>1 &amp; 2 story more than 10,000 sq. ft. per floor</i> \$180
	<i>F-4</i>	<i>3 to 5 story less than 5,000 sq. ft. per floor</i> \$120
	<i>F-5</i>	<i>3 to 5 story more than 5,000 sq. ft. less than 10,000 sq. ft. per floor</i> \$240
	<i>F-6</i>	<i>3 to 5 story over 10,000 sq. ft. per floor</i> \$300
(5)	<i>S – Storage (moderate &amp; low hazard/ per building)</i>	
	<i>S-1</i>	<i>1 &amp; 2 story less than 3,000 sq. ft. per floor</i> \$60
	<i>S-2</i>	<i>1 &amp; 2 story more than 3,000 sq. ft. less than 5,000 sq. ft. per floor</i> \$90
	<i>S-3</i>	<i>1 &amp; 2 story more than 5,000 sq. ft. per floor</i> \$120
	<i>S-4</i>	<i>3 to 5 story less than 3,000 sq. ft. per floor</i> \$210
	<i>S-5</i>	<i>3 to 5 story more than 3,000 sq. ft. less than 5,000 sq. ft. per floor</i> \$240
	<i>S-6</i>	<i>3 to 5 story over 5,000 sq. ft. per floor</i> \$300
(6)	<i>R – Residential (Motels, Hotels, multiple dwelling &amp; rental units)</i>	

*Fee is for each building or structure*

RM-1	1 to 4 units	\$72
RM-2	4 to 10 units	\$84
RM-3	10 to 20 units	\$108
RM-4	21 to 50 units	\$142
RM-5	for each additional unit	\$12

*Common Areas (each building)*

RC-1	1 & 2 story less than 5,000 sq. ft. per floor	\$72
RC-2	1 & 2 story more than 5,000 sq. ft. less than 10,000 sq. ft. per floor	\$96
RC-3	1 & 2 story more than 10,000 sq. ft. per floor	\$120
RC-4	3 to 5 story less than 5,000 sq. ft. per floor	\$150
RC-5	3 to 5 story more than 5,000 sq. ft. less than 10,000 sq. ft. per floor	\$180
RC-6	3 to 5 story over 10,000 sq. ft. per floor	\$240

*Section 7(B)*

*Annual Registration/ Inspection fees for non-owner occupied (R3 and R4) single units or duplex units shall be \$60.00.*

*BE IT FURTHER ORDAINED that Section 8(A), Section 8(B) and Section 8(D) of Chapter 142 are amended in their entirety as follows:*

*Section 8(A)*

*Subsequent owners or those succeeding to control over a premises listed in Section 7 (Non-Life Hazard Uses) above shall be responsible for correcting unabated violations and for the payment of outstanding fees and/or penalties whether or not they have requested a Certificate of Fire Code Status. The owner, contract purchaser, transferee or the authorized agent of any of them shall request the issuance of a certificate stating if any of the above conditions exist.*

*Section 8 (B)*

*(1) The cost for the issuance of a Certificate of Fire Code Status shall be \$72.00*

*Before any Use Group R-3 or R-4 structure is sold, leased, or otherwise made subject to a change of occupancy for residential purposes, the owner or the authorized agent of the owner, shall apply for a Certificate of Smoke Detector and Carbon Monoxide Alarm Compliance (CSDCMAC). The application for a CSDCMAC will be on a certified form provided by the enforcing agency. The application shall be accompanied by the appropriate fee. The enforcing agency, may accept the certified form, in lieu of inspection. The fees for a CSDCMAC follow:*

- (1) Request for a CSDCMAC received more than 10 business days prior to settlement will be \$ 60.00*
- (2) Request for a CSDCMAC received four (4) to ten (10) business days prior to settlement will be \$90.00.*
- (3) Request for a CSDCMAC received fewer than four (4) business days prior to settlement will be \$161.00  
(Re-inspection fees will be 50% of the original application fee)*

*Section 8 (D)*

*The application fees for the permits listed in N.J.A.C. 5:70-2.7(b) and Section 8(c) of this ordinance shall be as follows:*

Type 1	\$ 54.00
Type 2	\$ 214.00
Type 3	\$ 427.00
Type 4	\$ 641.00

*BE IT FURTHER ORDAINED that Section 11(B) of Chapter 142 be amended in its entirety as follows:*

*Section 11(B)*

*Each applicant shall pay the following fees to the Bureau of Fire Prevention for review of any site or subdivision plans:*

- (1) Minor site plan \$60.00*
- (2) Major site plan \$96.00*
- (3) Minor subdivision \$120.00*
- (4) Major subdivision \$156.00*
- (5) Resubmission and review \$36.00 (only after the initial application and the review process has been completed.)*

*All other ordinances in Conflict of inconsistent with this Ordinance are hereby repealed, to the extent of such conflict of inconsistency.*

*Should any section, paragraph, sentence, clause or phase of this Ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this Ordinance shall not be affected thereby and shall remain in full force and effect, and to this end the provisions of this Ordinance are hereby declared to be severable.*

*This Ordinance shall become effective immediately upon final passage and publication, according to law.*

7. ORDINANCE NO. 1553-18 - AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF MIDDLE, CHAPTER 112, ARTICLE 1, SECTION 2(D) ENTITLED UNIFORM CONSTRUCTION CODES, FEES – Following second reading, hearing, and consideration for adoption, Ordinance 1553-18 was adopted on motion by \_\_\_\_\_ seconded by \_\_\_\_\_ and passed on roll call. Complete Ordinance is on file in the Clerk’s Office.

*BE IT ORDAINED by the TOWNSHIP COMMITTEE, the governing body of the Township of Middle that Chapter 112-2(D) of the CODE OF THE TOWNSHIP OF MIDDLE be and is hereby amended as follows (deletions in [brackets], additions underlined):*

*D. The administrative surcharge for private, on-site inspections and plan review agencies pursuant to N.J.A.C. 5:23-4.18(j) shall be [5]40% of the appropriate State of New Jersey Subcode fee schedule.*

*All other ordinances in Conflict of inconsistent with this Ordinance are hereby repealed, to the extent of such conflict of inconsistency.*

*Should any section, paragraph, sentence, clause or phase of this Ordinance be declared unconstitutional or invalid for any reason, the remaining portions or this Ordinance shall not be affected thereby and shall remain in full force and effect, and to this end the provisions of this Ordinance are hereby declared to be severable.*

*This Ordinance shall become effective immediately upon final passage and publication, according to law.*

8. ORDINANCE NO. 1554-18 - AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF MIDDLE, CHAPTER 218, ENTITLED SUBDIVISION/SITE PLAN - Following second reading, hearing, and consideration for adoption, Ordinance 1554-18 was adopted on motion by \_\_\_\_\_ seconded by \_\_\_\_\_ and passed on roll call. Complete Ordinance is on file in the Clerk’s Office.

*BE IT ORDAINED by the TOWNSHIP COMMITTEE, the governing body of the Township of Middle that the following fees listed under Chapter 218, Article VI, Section 47 of the CODE OF THE TOWNSHIP OF MIDDLE be and is hereby amended as follows:*

*Section 218-47 Development Fees shall be amended as follows (amendments in [brackets]; additions underlined):*

Category	Application Fee	Escrow Fee
12. Request for extension of preliminary or final site plan or subdivision approvals	\$100.00	<del>2</del> 300.00
<u>23.</u> <u>Zoning permit</u>	<u>\$50.00</u>	
<u>23(a).</u> <u>Revised Zoning Permit</u>	<u>\$25.00</u>	
24. Tax Map changes	<u>\$125.00 per lot for subdivisions and each easement</u>	
25. Zoning Permit – Sign Permit	<u>\$50.00</u>	
<u>25(a).</u> <u>Zoning Permit – Revised Sign Permit</u>	<u>\$25.00</u>	
26. Zoning Permit – Change of Use Permit	<u>\$25.00</u>	
27. Zoning Permit – Fence Permit	<u>\$25.00</u>	

*All other ordinances in conflict or inconsistent with this ordinance are hereby repealed, to the extent of such conflict or inconsistency.*

*Should any section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this ordinance shall not be affected thereby and shall remain in full force and effect, and to this end the provisions of this ordinance are hereby declared to be severable.*

*This ordinance shall become effective upon final passage and publication, according to law.*

9. ORDINANCE NO. 1556-18 – AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF MIDDLE, CHAPTER 84, ARTICLE 1, ENTITLED ALCOHOLIC BEVERAGES, LICENSES – On motion by \_\_\_\_\_ seconded by \_\_\_\_\_ and passed on roll call, Ordinance No.1556-18 passed first reading. Second reading, public hearing and consideration for adoption will be held on 03/19/2018 at 6:00 p.m.

*WHEREAS, the population of Middle Township has increased to the point where, pursuant to the state Alcoholic Beverage Law, the Township is entitled to issue an additional plenary retail consumption alcoholic beverage license.*

*NOW, THEREFORE, BE IT ORDAINED by the TOWNSHIP COMMITTEE, the governing body of the Township of Middle that Chapter 84, Article I of the CODE OF THE TOWNSHIP OF MIDDLE be amended as follows (additions underlined; deletions [in brackets]):*

*Section 1.*

*§84-3 Number and type of licenses.*

*There shall not be issued and outstanding in this Township at any time alcoholic beverage licenses in excess of the following number:*

- A. Six [Five] plenary retail consumption licenses.*
- B. Two plenary retail distribution licenses.*
- C. Four club licenses.*

*Section 2. All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed, to the extent of such conflict or inconsistency.*

*Section 3. Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remaining portions or this Ordinance shall not be affected thereby and shall remain in full force and effect, and to this end the provisions of this Ordinance are hereby declared to be severable.*

*This Ordinance shall become effective immediately upon final passage and publication, according to law.*

10. ORDINANCE NO. 1557-18 – AN ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A: 4-45.14) - On motion by seconded by and passed on roll call, Ordinance No.1557-18 passed first reading. Second reading, public hearing and consideration for adoption will be held on 03/19/2018 at 6:00 p.m.  
*WHEREAS, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget up to 2.5% unless authorized by ordinance to increase it to 3.5% over the previous year’s final appropriations, subject to certain exceptions; and,*  
*WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,*  
*WHEREAS, the Township Committee of the Township of Middle in the County of Cape May finds it advisable and necessary to increase its CY 2018 budget by up to 3.5% over the previous year’s final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,*  
*WHEREAS, the Township Committee hereby determines that a 1.0% increase in the budget for said year, amounting to \$190,057.34 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,*  
*WHEREAS the Township Committee hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.*  
*NOW THEREFORE BE IT ORDAINED, by the Township Committee of the Township of Middle, in the County of Cape May, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2018 budget year, the final appropriations of the Township of Middle shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5%, amounting to \$665,200.69, and that the CY 2018 municipal budget for the Township of Middle be approved and adopted in accordance with this ordinance; and,*  
*BE IT FURTHER ORDAINED, that any that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,*  
*BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,*  
*BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.*

11. ORDINANCE NO. 1558-18 - AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF MIDDLE, CHAPTER 204, ARTICLE II, REGARDING SEWER RATES AND CONNECTION CHARGES – On motion by seconded by and passed on roll call, Ordinance No.1558-18 passed first reading. Second reading, public hearing and consideration for adoption will be held on 03/19/2018 at 6:00 p.m.  
*WHEREAS, Chapter 204 of the Middle Township Municipal Code establishes a township sewer system; and*  
*WHEREAS, Article II of Chapter 204 establishes rates and connection charges for that system; and*  
*WHEREAS, those rates must account for the township’s share of charges imposed by the Cape May County Municipal Utilities Authority; and*  
*WHEREAS, it is necessary from time to time to adjust the schedule of rates and charges to account for increased costs, increased sewerage flow, and an increased percentage of flow from the Township relative to other municipalities in Cape May County; and*  
*WHEREAS, the Middle Township Committee believes it necessary to adjust those rates and charges to reflect changes in the factors listed above,*  
*NOW THEREFORE, be it ORDAINED by the Township Committee of the Township of Middle that Chapter 204, Article II of the Middle Township Code is hereby amended as follows:*  
*Section 1. Schedule A of Section 204-7 of the Middle Township Code is hereby repealed in its entirety and replaced with the following schedule of rates:*

<b>SEWERS</b>	
<b>TOWNSHIP OF MIDDLE</b>	
<b>SCHEDULE A</b>	
<i>Type of User</i>	<i>Cost</i>
<i>Single-family dwelling</i>	<i>\$560</i>
<i>Multiple-family dwelling</i>	<i>\$560 per unit</i>
<i>Commercial establishments</i>	<i>Metered: \$640 per unit plus \$0.01 per gallon over 40,000 gallons</i> <i>Unmetered: \$640 per unit</i>
<i>Hotels and Motels</i>	<i>Metered: \$320 per unit plus \$0.01 per gallon over 20,000 gallons</i> <i>Unmetered: \$640 per unit</i>

Section 2. Section 204-16.1 of the Middle Township Code is hereby amended as follows (additions underlined):

Access to Meters. All commercial properties not serviced by a water utility or company shall install a flow meter to measure the water drawn from the property's well. Water meters shall be located on the exterior of the building and remain clear of all debris and obstacles allowing easy, unrestricted access by Township employees reading said meter. Property owners are prohibited from placing water meters in the interior of a building, in a confined space or placing locks or other restrictive instruments on water meters.

Section 3. All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed, to the extent of such conflict or inconsistency.

Section 4. Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this Ordinance shall not be affected thereby and shall remain in full force and effect, and to this end the provisions of this Ordinance are hereby declared to be severable.

Section 5. This Ordinance shall become effective immediately upon final passage and publication, according to law.

12. ORDINANCE NO. 1559-18 - AN ORDINANCE OF THE TOWNSHIP OF MIDDLE, COUNTY OF CAPE MAY, STATE OF NEW JERSEY REGARDING EXCESSIVE USE OF MUNICIPAL SERVICES - On motion by seconded by and passed on roll call, Ordinance No.1559-18 passed first reading. Second reading, public hearing and consideration for adoption will be held on 03/19/2018 at 6:00 p.m.

*BE IT ORDAINED* by the Township Committee of the Township of Middle in the County of Cape May and State of New Jersey as follows:

*SECTION 1: Excessive use: findings and purpose.*

A. The Township Committee finds and declares that there are properties located within the Township where nuisances exist and other activities occur which have resulted in the excessive consumption of municipal services.

B. The Township Committee finds and declares that the cost of the excessive consumption of municipal services relating directly to these nuisance properties should be paid by the property owner and, if applicable, the responsible tenant or occupant, and not by the public at large through taxes.

C. It is the purpose and intent of these regulations to identify these nuisance properties and provide for the timely payment of the cost of the excessive consumption of municipal services through summary proceedings pursuant to the due process requirements set forth in this article.

*SECTION 2. Definitions.*

As used in this article, the following terms shall have the following meanings unless the context clearly indicates a different meaning is intended. Those terms not defined herein shall have the meaning attributed to them in other provisions in the municipal code:

**EXCESSIVE MUNICIPAL SERVICES** — Any qualifying calls made about qualifying incidents occurring on a property when those calls exceed the number of calls shown on the schedule in Section 5 of this Ordinance.

**HEARING OFFICER** — The person selected by the Township to conduct the hearings required by this ordinance. The hearing officer shall be a neutral and impartial adjudicator.

**NUISANCE PROPERTY** — Properties on which qualifying incidents occur that result in qualifying calls for municipal services during any sixty-day period in excess of the number of such calls shown on the schedule in Section 5 shall be considered nuisance properties and shall be subject to the penalties and procedures as described in this article.

**QUALIFYING CALLS** — Calls for police services resulting from qualifying incidents occurring on the property. Multiple calls for police services resulting from the same qualifying incident shall be deemed to be a single qualifying call.

**QUALIFYING INCIDENT** — As determined by the chief of police and township business administrator, reported violations of law pertaining to: (1) distributing, dispensing or possessing controlled dangerous substances; (2) aggravated assault; (3) criminal homicide; (4) disorderly conduct or noise; prostitution; (5) indecent exposure, including public urination or defecation.; and (6) code violations, pertaining to the condition of a particular property, including property maintenance, zoning and health code violations.

*SECTION 3. Designation of public officer.*

The Township Business Administrator, or his designee, shall serve as the public officer authorized to follow the procedures as set forth in this article.

*SECTION 4. Reporting of municipal services use.*

A. The Middle Township Police Department is responsible for keeping and maintaining records detailing information regarding the services provided, including the following information:

- (1) The exact location of the subject property;
- (2) The name and address of the property owners and tenants, if known and applicable;
- (3) The date and the nature of the call and services;
- (4) The nature of the violation or violations;
- (5) The name of each public employee providing the municipal services.

B. The Middle Township Police Department shall coordinate its responsibilities under this article with the public officer responsible for enforcing these regulations.

*SECTION 5. Criteria for determination of excessive use of municipal services.*

Properties on which qualifying incidents occur that result in qualifying calls for municipal services during any sixty-day period that exceed the number indicated on the schedule below shall be considered nuisance properties and shall be subject to the penalties and procedures as described in this article:

- A. Residential properties consisting of a one through four dwelling units: five qualifying calls.

B. All other property types including, but not limited to, multifamily dwellings in excess of 4 units, hotel/motels, commercial/retail uses, restaurants and bars: 10 qualifying calls.

**SECTION 6. Notice requirements; complaint procedure.**

A. Whenever the public officer, in consultation with the municipal chief of police or his designee, shall determine that any property has become a nuisance property by its consumption of excessive municipal services, the public officer shall prepare a complaint and notice of hearing setting forth the location of the property and the allegation as to the excessive use of municipal services, and a notice of hearing setting forth the date, time and place of the hearing which shall not be scheduled earlier than thirty (30) days from the date of service of the notice. The complaint shall also provide notice:

(1) Specifying the types and dates of qualifying calls made to the subject property; and

(2) Of the Township's demand for the abatement of the activities resulting in the qualifying calls.

B. The complaint and notice of hearing shall be served upon the property owner and, if a requisite number of qualifying calls involve the same tenant or occupant on the property, also the tenant or occupant. Service shall be made personally or by regular and certified mail, return receipt requested, by mailing the complaint and notice of hearing to the last known address of such person.

C. If the whereabouts of the property owner or the tenant/occupant are unknown and cannot be ascertained in the exercise of reasonable diligence, then service of the pleadings on such person shall be made as follows:

(1) By publishing the complaint and notice of hearing once in the official newspaper of the Township; and

(2) By posting the complaint and notice of hearing in a conspicuous place on the building affected by the complaint.

D. Whenever an individual dwelling unit within a multifamily dwelling has received five qualifying calls within a sixty-day period, the public officer shall notify the property owner and tenant/occupant, in the same manner as provided in Subsection B and C above, of the fact so that the property owner can take appropriate action to abate the nuisance. This notification shall be made even if the multifamily dwelling has not received the required number of qualifying calls within a sixty-day period which would trigger a notice of violation.

E. The public officer may also, but is not required to, notify the owner, tenant or occupant of any property at any time that the number of qualifying calls to that property is in excess of 50% of the number specified in the schedule in §5.

**SECTION 7. Hearing procedure; costs to be assessed; violations and penalties.**

A. The public officer shall present evidence and testify at the hearing and may produce witnesses in support of the allegations contained in the complaint. The property owner and any party of interest shall have the right to appear at the hearing and cross-examine the public officer, cross-examine any witnesses produced by the public officer, testify, produce witnesses, and be represented by an attorney. At least fifteen (15) days in advance of the hearing, the public officer shall provide the property owner with all available records pertaining to the qualifying calls, all documents and other evidence which the public officer intends to introduce at the hearing and the names and addresses of any witnesses. The New Jersey Rules of Evidence shall apply to the hearing.

B. The hearing officer shall determine at the hearing whether the subject property received qualifying calls during the subject sixty-day period in excess of that as indicated in §5 for the type of property being considered. If so, the hearing officer shall adjudge the property to be a nuisance property and shall, in his reasonable discretion, assess a fine in an amount that conforms to the monetary penalty provisions of Section 1-15 of the Middle Township Municipal Code, the "General Penalty" provision; provided, however, that the fine shall be calculated on the basis of the adjudication constituting a single violation. Any such fine shall be entirely assessed against the property owner unless a requisite number of qualifying calls involve the same tenant or occupant on the property, in which case the fee shall be divided and assessed, in equal parts, against the owner and each involved tenant/occupant.

C. The hearing officer may also, in his reasonable discretion, require the property owner to take specific steps to alleviate or eliminate the nuisance condition, including the 1) the installation of security lighting; and/or 2) the installation of security cameras or 3) the hiring of security personnel.

D. A copy of the order shall be served on the property owner and, if applicable, tenant and occupant, personally or by regular and certified mail, return receipt requested, by mailing the order to their last known address.

E. If the whereabouts of the property owner, tenant or occupant cannot be ascertained in the exercise of reasonable diligence, then service of the order shall be made on such person as follows:

(1) By publishing the order once in the official newspaper of the Township;

(2) By posting the order in a conspicuous place on the building affected by the order; and

(3) By recording the order in the Cape May County Clerk's office.

F. Within 45 days of the date of the hearing officer's order, the property owner or interested party may file a de novo appeal to the Superior Court of New Jersey styled as an action in lieu of prerogative writ.

G. Upon conclusion of the hearing and the hearing officer's determination, the property shall be considered to have no qualifying calls and a new sixty-day qualifying call cycle shall begin. In the event that a property again is deemed, after notice and hearing as set forth above, to be a nuisance property, the hearing officer shall have the discretion to impose a fine in an amount that conforms to the monetary penalty provisions of Section 1-15 of the Middle Township Municipal Code.

**SECTION 8. Assessment of lien.**

Upon the failure to comply with the terms of the order for the payment of money owed to the Township by any owner of property against which costs, fee or penalties was assessed in accordance with the provisions of this article, the total cost established shall be assessed as a lien against the subject property. The assessment shall be collected and the lien may be enforced in the same manner as real estate tax amounts and liens are assessed, collected and enforced. Such enforcement of unpaid moneys due under this article shall include the right by the Township to revoke, suspend or not issue or renew municipal licenses or permits related to the subject property in accordance with N.J.S.A. 40:52-1.2.

*SECTION 9. Remedies; aggrieved persons.*

*Any person aggrieved by an order issued under this article may file an appeal with the New Jersey Superior Court, Law Division, within 45 days from the date of the adoption of the resolution in accordance with Rule 4:69 of the New Jersey Rules of Court.*

13. ORDINANCE NO. 1560-18 - AN ORDINANCE OF THE CODE OF THE TOWNSHIP OF MIDDLE, COUNTY OF CAPE MAY, NEW JERSEY REGARDING ABANDONED PROPERTY - On motion by seconded by \_\_\_\_\_ and passed on roll call, Ordinance No.1560-18 passed first reading. Second reading, public hearing and consideration for adoption will be held on 03/19/2018 at 6:00 p.m.  
*BE IT ORDAINED by the Township Committee of the Township of Middle in the County of Cape May and State of New Jersey as follows:*

*Section 1. DEFINITIONS*

*As used in this chapter, the following terms shall have the meanings indicated:*

**ABANDONED PROPERTY**

*Any property, except as provided in N.J.S.A. 55:19-83, that has not been legally occupied for a period of six months and which meets any one of the following additional criteria, as determined by the Public Officer:*

- A. The property is in need of rehabilitation in the reasonable judgment of the Public Officer, and no rehabilitation has taken place during that six-month period;*
- B. Construction was initiated on the property and was discontinued prior to completion, leaving the building unsuitable for occupancy, and no construction has taken place for at least six months as of the date of a determination by the Public Officer pursuant to this section; and*
- C. At least one installment of property tax remains unpaid and delinquent on that property in accordance with Chapter 4 of Title 54 of the Revised Statutes as of the date of a determination by the Public Officer pursuant to this section; or*
- D. The property has been determined to be a nuisance by the Public Officer in accordance with N.J.S.A. 55:19-82.*

**ABATEMENT OF NUISANCE PROPERTY**

*The repair or elimination of the conditions on a property that create the nuisance, including the demolition of any or all structures thereon.*

**BUILDING**

*Any building, structure or part thereof, whether used for human habitation or otherwise.*

**DAYS**

*Consecutive calendar days.*

**FORECLOSING**

*The process by which property, placed as security for real estate or other loans, is prepared for sale to satisfy the debt if the borrower is in default under the terms of the loan.*

**INITIATION OF THE FORECLOSURE PROCESS**

*Any of the following actions taken by a lienholder or mortgage holder or mortgagee.*

- A. Taking possession of the property.*
- B. Delivering a creditor's or mortgagee's notice of intention to foreclose to the borrower.*
- C. Commencing a foreclosure action or filing a lis pendens in the Superior Court of New Jersey.*

**LIENHOLDER or MORTGAGE HOLDER or MORTGAGEE**

*The creditor, including, but not limited to, service companies, lenders in a mortgage agreement and any agent, servant or employee of the mortgagee, or any successor in interest and/or assignee of the mortgagee's rights, interests or obligations under a mortgage agreement, collectively herein referred to as "creditor."*

**MUNICIPALITY**

*The Township of Middle, and shall include a qualified rehabilitation entity that may be designated by the Township pursuant to N.J.S.A. 55:19-90 to act as its agent to exercise any of the Township's rights pursuant thereto.*

**NUISANCE PROPERTY**

*Any property, except as provided in N.J.S.A. 55:19-83, which meets any one of the following criteria:*

- A. The property has been found to be unfit for human habitation, occupancy or use pursuant to N.J.S.A. 40:48-2.3*
- B. The condition and vacancy of the property materially increases the risk of fire to the property and/or adjacent properties.*
- C. The property is subject to unauthorized entry, leading to potential health and safety hazards; the owner has failed to take reasonable and necessary measures to secure the property; or the Township of Middle had secured the property to prevent such hazards after the owner has failed to do so.*
- D. The presence of vermin or the accumulation of debris, uncut vegetation or physical deterioration of the structure or grounds have created potential health and safety hazards, and the owner has failed to take reasonable and necessary measures to remove the hazards.*
  
- E. The dilapidated appearance or other condition of the property materially affects the welfare, including the economic welfare, of the residents of the area in close proximity to the property, and the owners have failed to take reasonable and necessary measures to remedy the conditions.*

**OWNER**

*Every person, entity, service company, property manager or real estate agency, who, alone or severally with others:*

- A. Has legal or equitable title to any dwelling, dwelling unit, mobile dwelling unit or parcel of land, vacant or otherwise; or*
- B. Has care, charge or control of any dwelling, dwelling unit or parcel of land, vacant or otherwise, in any capacity, including but not limited to agency, executor, executrix, administrator, administratrix, trustee or guardian, of the estate of the holder of legal title; or*



- C. Is a mortgagee in possession of any such property; or
- D. Is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or
- E. Is an officer or trustee of the association of unit owners of the condominium. Each such person is bound to comply as if he were the owner; or
- F. Every person who operates a rooming house; or
- G. Is a trustee who holds, owns or controls mortgage loans for mortgage-backed securities transactions and has initiated the foreclosure process.

**PARTIES IN INTEREST**

All individuals, associations and corporations who have interests of record in a property and any who are in actual possession thereof.

**PROPERTY**

Any real estate, residential property, or portion thereof, located in the Township of Middle, including buildings or structures situated on the property. For the purpose of this section only, "property" does not include property owned or subject to the control of the Township or any of its governmental bodies or agencies.

**PUBLIC OFFICER**

The person designated by the Township of Middle pursuant to N.J.S.A. 40:48-2.5.

**QUALIFIED REHABILITATION ENTITY**

An entity organized or authorized to do business under the New Jersey Statutes, which shall have as one of its purposes the construction or rehabilitation of residential or nonresidential buildings; the provision of affordable housing; the restoration of abandoned property; the revitalization and improvement of urban neighborhoods, or similar purpose, and which shall be well qualified by virtue of its staff, professional consultants, financial resources, and prior activities set forth in N.J.S.A. 55:19-78 to carry out the rehabilitation of vacant buildings in urban areas.

**RESIDENTIAL PROPERTY**

Any property that contains one or more dwelling units used, intended or designed to be occupied for living purposes.

**SECURING**

Taking measures that assist in making the property inaccessible to unauthorized persons.

**VACANT PROPERTY**

Any building used or to be used as a residence which is not legally occupied or at which substantially all lawful construction operations or residential occupancy has ceased, and which is in such condition that it cannot legally be re-occupied without repair or rehabilitation; provided, however, that any property that contains all building systems in working order and is being actively marketed by its owner for sale or rental should not be deemed vacant. Property determined to be "abandoned property" in accordance with the meaning of such term in the Abandoned Properties Rehabilitation Act, N.J.S.A. 55:19-78 et seq., shall also be deemed to be vacant property for the purpose of this chapter.

**Section 2. ESTABLISHMENT OF ABANDONED PROPERTIES LIST.**

- A. The Public Officer shall establish and maintain a list of abandoned properties to be known as the "abandoned properties list." The Public Officer may add properties to the list at any time when he finds that a property meets the definition of an abandoned property and the Public Officer may delete properties from the list at any time when he finds that a property no longer meets the definition of an abandoned property. The abandoned property list shall apply to the Township of Middle as a whole.
- B. The published list of notices shall identify the abandoned property, setting forth the name of the owner or owners of record, if known, tax lot and block numbers and the street address for the lot.
- C. An interested party may request that a property be included on the abandoned properties list, provided he follows procedures set forth in N.J.S.A. 55:19-105.
- D. A property shall not be included on the abandoned properties list if rehabilitation is being performed in a timely manner, as evidenced by building permits issued and diligent pursuit of rehabilitation work authorized by those permits. A property on which an entity other than the Township of Middle has purchased or taken assignment from the Township of a tax sale certificate which has been placed on the abandoned properties list may be removed in accordance with the provisions of N.J.S.A. 55:19-103.

**Section 3. NOTICE OF INCLUSION ON THE LIST.**

- A. The Public Officer, within 10 days of the establishment of the abandoned properties list, or any additions thereto, shall send a notice, by certified mail, return receipt requested, and by regular mail, to the owner of record of every property included on the list and shall cause the list to be published in the official newspaper of the Township of Middle, which publication shall constitute public notice. The mailed notice shall indicate the factual basis for the Public Officer's finding that the property is abandoned property, as that term is defined herein and the rules and regulations promulgated thereunder, specifying the information relied upon in making such finding.
- B. The published and mailed notices shall identify the property determined to be abandoned by the Public Officer, setting forth the owner of record, if known, the tax lot and block number and street address.
- C. When the owner of record is not known for a particular property and cannot be ascertained by the exercise of reasonable diligence by the Tax Collector, notice shall not be mailed but instead shall be made by posting a copy of the notice in a conspicuous place on the building affected by the notice pursuant to N.J.S.A. 40:48-2.7.
- D. The Public Officer, in consultation with the Tax Collector, shall also send out a notice by regular mail to any mortgagee, servicing organization or property tax processing organization that receives a duplicate copy of the tax bill pursuant to subsection "d" of N.J.S.A. 54:4-64.
- E. In all cases, a copy of the mailed or posted notice shall also be filed by the Public Officer in the office of the Cape May County Clerk. This filing shall have the same force and effect as a lis pendens under N.J.S.A. 2A:15-6. The notice shall be indexed by the name of the property owner as the defendant and the name of the Township of Middle as plaintiff as though an action had been commenced by the Township of Middle against the owner.

*F. The abandoned property list shall become effective, and the Township of Middle shall have the right to pursue any legal remedy with respect to properties on the abandoned property list at such time as any one property has been placed on the list in accordance with the provisions herein, upon the expiration of the period for appeal with respect to the property or upon the denial of any appeal brought by the property owner.*

**Section 4. RIGHT TO APPEAL DETERMINATION OF PUBLIC OFFICER**

*A. An owner or lienholder may challenge the inclusion of the property on the abandoned properties list determined by the Public Officer, provided said appeal is received by the Township of Middle within 30 days of the owner's receipt of the certified notice or within 40 days from the date upon which the notice was sent. An owner whose identity was not known to the Public Officer shall have 40 days from the date upon which notice was published or posted, whichever is later, to challenge the inclusion of a property on the abandoned properties list. Upon good cause shown, the Public Officer shall accept a late filing of an appeal.*

*B. Within 30 days of the request for an appeal of the findings contained in the notice, the Public Officer shall schedule a hearing for redetermination of the matter.*

*C. Any property included on the list shall be presumed to be abandoned property unless the owner, through the submission of an affidavit or certification by the property owner indicating that the property is not abandoned and setting forth therein the reasons for such averment, can demonstrate that the property was erroneously included on the list. The affidavit or certification shall be accompanied by supporting documentation, such as but not limited to photographs, repair invoices, bills and construction contracts. The sole issue to be determined by the Public Officer is whether the property is deemed to be abandoned as that term is defined herein.*

*D. The Public Officer shall decide any timely filed appeal within 10 days of the hearing on the appeal and shall promptly, by certified mail, return receipt requested and regular mail, notify the property owner of the decision and the reasons therefor.*

*E. The property owner may challenge an adverse determination of an appeal with the Public Officer pursuant to Subsection D of this section, by instituting, in accordance with the New Jersey Court Rules, a summary proceeding in the Superior Court of New Jersey, Law Division, Cape May County. Such action shall be instituted within 20 days of the date the notice of decision was mailed by the Public Officer pursuant to Subsection D of this section. The sole issue to be presented to the Superior Court of New Jersey is whether the property in question is an abandoned property as that term is defined herein.*

**Section 5. DESIGNATION OF QUALIFIED REHABILITATION ENTITY.**

*The Township of Middle may exercise its rights under the Abandoned Properties Rehabilitation Act directly or the Township of Middle may designate a qualified rehabilitation entity to act as its designee for the purpose of exercising its rights under state law where the designation will further the rehabilitation and reuse of the property consistent with municipal plans and objectives. This designation shall be made by resolution of the Township Committee of the Township of Middle.*

**Section 6. NOTIFICATION TO TOWNSHIP COMMITTEE.**

*The Public Officer shall provide a written report to the Township Committee of the Township of Middle every six months which outlines the status of abandoned properties within the Township of Middle, said report shall include but is not limited to the following information:*

*A. Copy of the current abandoned properties list;*

*B. Status report on the property removed from the list since the date of the last report and the reasons for the removal;*

*C. Status report on any legal proceedings pending in connection with any properties appearing on the abandoned properties list;*

*D. Status report of any actions taken by any designated qualified rehabilitation entity in connection with any properties appearing on the list; and*

*E. Status report of any tax sale certificates purchased by or assigned to any entity for vacant property.*

**Section 7. ACTION TO TRANSFER PROPERTY TO TOWNSHIP.**

*A. The Township Committee may adopt an ordinance authorizing the transfer of possession and control of abandoned property in need of rehabilitation to the Township of Middle. Said action shall be in accordance with N.J.S.A. 55:19-78 et seq.*

*B. Should the owner of the property fail to successfully defend against a complaint filed pursuant to N.J.S.A. 55:19-84, any party in interest may seek to be designated in possession of the property pursuant to N.J.S.A. 55:19-98 and 55:19-99.*

**Section 8. MUNICIPAL LIEN AND TAX SALE.**

*A. With regards to any lien placed against any real property pursuant to the provisions of N.J.S.A. 40:48-2.3 or 40:48-2.5 the Township of Middle shall have recourse with respect to the lien against any asset of the owner of the property, if an individual; against any asset of any partner, if a partnership; and against any asset of any owner of a ten-percent or greater interest, if a corporation.*

*B. The Township of Middle may hold a special tax sale with respect to those properties eligible for tax sale pursuant to N.J.S.A. 54:5-19 which are also on an abandoned properties list established by the Township of Middle pursuant to this ordinance. Special tax sale shall be held in accordance with N.J.S.A. 55:19-101.*

*C. Any person holding a tax sale certificate on a property that meets the definition of abandoned property as set forth herein either at the time of the tax sale or thereafter may enter upon the property at any time after written notice to the owner by certified mail, return receipt requested, in order to make repairs or abate, remove or correct any condition which exists as the reason or reasons it is on the abandoned property list. Any sums incurred or advanced for such purpose may be added to the unpaid balance due the holder of the tax sale certificate at the statutory interest rate for subsequent liens.*

*D. When the Township of Middle is the purchaser of a tax sale certificate of any property on the abandoned properties list, it may foreclose the right of redemption in accordance with N.J.S.A. 54:5-86.*

**Section 9. NUISANCE PROPERTIES.**

*The Public Officer shall determine if a property is a nuisance property as defined herein. He shall further evaluate the input the nuisance property has on the welfare of the surrounding community including*

*economic welfare, the extent to which the condition of the property may increase crime, drug activity or the extent to which its condition may decrease property values. Should the Township of Middle abate the nuisance property, such action shall not be considered in determining whether the property is a nuisance property.*

*A. Complaint and notice of hearing.*

*(1) Where the Public Officer or his designee determines that a property meets the criteria of a nuisance property as is herein defined, he shall file a report with the Solicitor of the Township of Middle which identifies the property, its condition and its impact on the neighboring community. Upon receipt of the report, the Township Solicitor shall prepare a complaint setting forth the location and condition of the property and the remedy sought. He shall also prepare a notice of hearing setting forth the date, time and place of the hearing.*

*(2) The complaint and notice of hearing shall be served upon the property owner and all parties in interest in accordance with the notification procedures set forth in N.J.S.A. 40:48-2.3. Service shall be made personally or by regular and certified mail, return receipt requested, by mailing the complaint and notice of hearing to the last known address of such persons. When the owner of record or party in interest cannot be ascertained by the exercise of reasonable diligence, then service of the notice of complaint shall be made in the following manner:*

*(a) By publishing the complaint and notice of hearing once in the official newspaper of the Township of Middle;*

*(b) By posting the complaint and notice of hearing in a conspicuous place on the property which is the subject of the complaint; and*

*(c) By recording the complaint and notice of hearing in the Clerk's Office of Cape May County.*

*(3) The hearing shall be scheduled before the Township Committee of the Township of Middle at a place and time designated in the notice of hearing, which time shall be fixed not less than seven days or more than 30 days from the date of service of the notice of hearing and complaint.*

*B. Hearing and determination.*

*(1) The Public Officer shall provide testimony and other evidence in connection with the complaint. The property owners and any party in interest shall have the right to appear and question any witness, testify on their own behalf and produce witnesses. Said parties may be represented by an attorney, at their discretion.*

*(2) After the hearing, the Township Committee shall determine if the property is a nuisance property as defined herein and in so doing shall adopt a resolution stating its findings.*

*(3) If the property is determined to be a nuisance property, the resolution shall state the remedy required, including:*

*(a) The immediate abatement or removal of the condition causing the property to be a nuisance property.*

*(b) The abatement or removal of the condition causing the property to be a nuisance property within a reasonable time, as set forth in the resolution, provided evidence has been presented that substantial work is required to abate or remove the condition and that reasonable steps have been taken towards this goal.*

*(c) The demolition of any building or structure creating the condition causing the property to be a nuisance property, provided evidence has been presented that it is not economically feasible to abate or remove the condition.*

*(4) A copy of the resolution shall be served upon the property owner and all parties in interest, in a manner as is set forth for the service of the notice of hearing and complaint herein above.*

*C. Failure to comply with resolution. In the event that the property owner and/or all parties in interest fail to comply with the resolution of the Township Committee, the Public Officer may proceed without further notice to enforce the provisions of the resolution by such measures as are necessary to carry out the purpose and intent of the resolution, including but not limited to the abatement and removal of the condition which caused the property to be a nuisance property. The cost of abating or removing the condition shall constitute a municipal lien against the property.*

*D. Cost as municipal liens.*

*(1) Any and all costs incurred by the Township in the course of any proceeding wherein it was determined that the property constitutes a nuisance property, as well as any costs associated with abating said condition, shall constitute a municipal lien against the property. Said costs shall include but not be limited to legal fees, expert witness fees, search fees and advertising expenses.*

*(2) The Public Officer shall prepare a detailed statement of said costs and shall file it with the Township Clerk. Thereafter, the Township Committee of the Township of Middle shall consider a resolution certifying the amount due to be a municipal lien. The resolution shall be filed with the Tax Assessor and Collector, and a copy shall be forthwith mailed to the property owner by regular and certified mail, return receipt requested. The property owner or any party in interest may, within 30 days of the filing date of the municipal lien certificate, institute a summary proceeding in the Superior Court, Law Division, Cape May County, contesting the accuracy or reasonableness of the cost set forth in the municipal lien certificate.*

*E. Transfer of property prohibited. Except as provided herein, upon the service of a complaint and notice of hearing on the property owners in accordance herewith, the property owner shall be prohibited from transferring any interest in the property until the final disposition of the legal proceedings and compliance with any resolution issued by the Township Committee. The filing of a copy of the complaint and notice of hearing or resolution with the Cape May County Clerk shall have the same force and effect as a notice of lis pendens.*

*F. Other laws not affected. Nothing in this ordinance shall be interpreted to impair or limit in any way the powers afforded the Township of Middle by the Abandoned Properties Rehabilitation Act nor is anything in this ordinance intended to limit the authority of the enforcing agency or Construction Official under the State Uniform Construction Code Act or any rules or regulations adopted thereunder.*

14. RESOLUTION – APPOINTMENTS – NEW HIRES – On motion by                      seconded by                      and passed on roll call, the following resolution was adopted.

*NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Middle, County of Cape May, State of New Jersey, that the following employees are hereby appointed to the following position at the salaries opposite their name:*

NAME	DEPARTMENT	TITLE	SALARY/RATE	EFFECTIVE
Christopher Hines	Recreation	P/T T/A Recreation Aide	\$10.00 per hour	02/22/2018

15. RESOLUTION – AUTHORIZING THE EXECUTION OF AGREEMENT – On motion by                      seconded by                      and passed on roll call, the following resolution was adopted.

*NOW THEREFORE BE IT RESOLVED, that the Mayor and Township Clerk are hereby authorized to execute the final settlement agreement and general release, as reviewed and approved by counsel, between Jeff Salvesen and the Township of Middle.*

16. RESOLUTION - APPROVAL FOR PAYMENT TERMINAL LEAVE – JIM COLLINS – On motion by                      seconded by                      and passed on roll call, the following resolution was adopted.

*WHEREAS, Jim Collins has resigned with an effective date of January 31, 2018; and WHEREAS, it is the policy of Middle Township to compensate retiring employees for accumulated vacation, compensation, personal and sick time; and WHEREAS, the Human Resources Department has provided sufficient documentation verifying the amount of time accumulated and the Finance Officer has certified that time; and NOW, THEREFORE, BE IT RESOLVED, by the Township Committee, the Governing Body of the Township of Middle, County of Cape May, State of New Jersey that payment be issued to the employee in the amount referenced below:*

*TERMINAL LEAVE PAY                      Effective: 01/31/2018*

*Public Works Department:*

*Jim Collins*

*Vacation Hours:                      180.00 Hours*

*Personal Hours:                      2.00 Hours*

*Sick Days:                      98.75 Days                      \*Hired prior to 1/1/1987–entitled up to 260 days.*

**\$ 24,175.83** *(inclusive of payroll tax expense to the Township)*

17. RESOLUTION – CHANGE ORDERS (ITEM A THROUGH B) – On motion by                      seconded by                      and passed on roll call, the following resolution was adopted.

*(A) WHEREAS, Lexa Concrete was awarded the “2016 Road Program” project on November 21, 2016; and*

*WHEREAS, Change Order No. 4 credit was approved August 7, 2017, and*

*WHEREAS, the change order summary needs to be adjusted to reflect the correct amount for Change Order No. 4*

*NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Middle, County of Cape May, State of New Jersey, that the attached Change Order No. 4 for the project awarded to Lexa Concrete, be and is hereby approved in a **credit** amount of \$6,590.54 for an amended contract price of \$534,953.10.*

*(B) WHEREAS, Lexa Concrete was awarded the “2016 Road Program” project on November 21, 2016; and*

*WHEREAS, due to unanticipated field conditions and adjustments to as-built quantities, the following change order was requested; and*

*NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Middle, County of Cape May, State of New Jersey, that the attached Change Order No. 4 for the project awarded to Lexa Concrete, be and is hereby approved in an **increase** amount of \$2,828.68 for an amended contract price of \$537,781.78.*

18. RESOLUTION – AWARD OF BID (ITEMS A THROUGH C) – On motion by                      seconded by                      and passed on roll call, the following resolution was adopted.

*(A) WHEREAS, it has been deemed necessary and desirable to solicit bids for the Home Rehabilitation Program for Contract No 2018-1, and*

*WHEREAS, bids were received on February 8, 2018, and*

*WHEREAS, it appears that the following bid submitted below represents a figure equal to the lowest bid received, which complies with specifications.*

*NOW THEREFORE BE IT RESOLVED by the Township Committee of the Township of Middle, the governing body thereof, that the contract for the following Home Rehabilitation Programs be and hereby is awarded as described:*

Contract No.	Awarded to:	Total Bid Amount
2018-1	HJ Graber	\$24,984.00

*FURTHER BE IT RESOLVED, that these awards are conditioned upon certification of availability of funds.*

*(B) WHEREAS, it has been deemed necessary and desirable to solicit bids for the Home Rehabilitation Program for Contract No 2018-2, and*

*WHEREAS, bids were received on February 8, 2018, and*

*WHEREAS, it appears that the following bid submitted below represents a figure equal to the lowest bid received, which complies with specifications.*

NOW THEREFORE BE IT RESOLVED by the Township Committee of the Township of Middle, the governing body thereof, that the contract for the following Home Rehabilitation Programs be and hereby is awarded as described:

Contract No.	Awarded to:	Total Bid Amount
2018-2	Watson & Sons	\$8,875.00

FURTHER BE IT RESOLVED, that these awards are conditioned upon certification of availability of funds.

(C) WHEREAS, it has been deemed necessary and desirable to solicit bids for the Home Rehabilitation Program for Contract No 2018-3, and

WHEREAS, bids were received on February 8, 2018, and

WHEREAS, it appears that the following bid submitted below represents a figure equal to the lowest bid received, which complies with specifications.

NOW THEREFORE BE IT RESOLVED by the Township Committee of the Township of Middle, the governing body thereof, that the contract for the following Home Rehabilitation Programs be and hereby is awarded as described:

Contract No.	Awarded to:	Total Bid Amount
2018-3	HJ Graber	\$19,900.00

19. RESOLUTION - AUTHORIZING THE TOWNSHIP OF MIDDLE PLANNING BOARD TO CONDUCT A PRELIMINARY INVESTIGATION TO ESTABLISH A CONDEMNATION REDEVELOPMENT AREA WITHIN THE TOWNSHIP OF MIDDLE, CAPE MAY COUNTY AND RESCINDING RESOLUTIONS 438-17 AND 513-17 – On motion by \_\_\_\_\_ seconded by \_\_\_\_\_ and passed on roll call, the following resolution was adopted.

WHEREAS, N.J.S.A. 40A:12A-6, authorizes the Governing Body of any Municipality, by Resolution to have its Planning Board conduct a preliminary investigation to determine whether any area of the Municipality is a redevelopment area pursuant to the criteria set forth in N.J.S.A. 40A:12A-5; and

WHEREAS, the Committee of the Township of Middle (the "Township") considers it to be in the best interest of the Township to have the Township's Planning Board (the "Planning Board") conduct such an investigation regarding Block(s) 169, 170, 171, 172, 173, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 210, 211 (the "Study Area"), as described and delineated on the attached list of Block and Lot numbers and the official Tax Map of the Township; and

WHEREAS, certain parcels of land located within the Study Area appear to be in a state of deterioration, appear to be vacant, obsolete and/or underutilized and/or otherwise appear to be in need of redevelopment; and

WHEREAS, the present conditions at the aforementioned Study Area may be detrimental to the safety and welfare of the community, thereby requiring redevelopment to better serve the Township; and

WHEREAS, any resulting redevelopment area determination shall authorize the Municipality to use all those powers provided by the Legislature for use in a redevelopment area, including the use of eminent domain (hereinafter referred to as a "Condemnation Redevelopment Area"); and

WHEREAS, Resolution 438-17, dated October 2, 2017, authorizing the Planning Board to conduct a preliminary investigation and Resolution 513-17, dated December 4, 2017, clarifying the Planning Board's authority to utilize eminent domain, are hereby rescinded.

NOW, THEREFORE, BE IT RESOLVED by the Committee of the Township of Middle, County of Cape May, that:

1. The Planning Board is hereby directed to conduct a preliminary investigation to determine whether the Study Area identified herein is a Condemnation Redevelopment Area according to the criteria set forth in N.J.S.A. 40A:12A-5.

2. The Planning Board is hereby directed to prepare a report of its findings and transmit the report to the Committee of the Township of Middle for their review and approval in accordance with the provisions of the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.

3. This Resolution shall take effect immediately.

20. RESOLUTION - REFERRING A PROPOSED REHABILITATION AREA DESIGNATION WITHIN THE TOWNSHIP OF MIDDLE COUNTY OF CAPE MAY TO THE TOWNSHIP OF MIDDLE PLANNING BOARD - On motion by \_\_\_\_\_ seconded by \_\_\_\_\_ and passed on roll call, the following resolution was adopted.

WHEREAS, N.J.S.A. 40A:12A-14, authorizes the governing body of any municipality, by Resolution, to determine whether, pursuant to the criteria set forth therein, an area within the municipality is in need of rehabilitation, and that a program of rehabilitation, as defined in N.J.S.A. 40A:12A-3, may be expected to prevent further deterioration and promote overall development of the community; and

WHEREAS, N.J.S.A. 40A:12A-14 further authorizes the governing body to extend a finding of need of rehabilitation to the entire area of a municipality where warranted by consideration of the overall conditions and requirements of the community; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-14(a), the Township of Middle Committee must refer the proposed Resolution to the Planning Board for the Board's recommendation regarding the proposed declaration as an area in need of rehabilitation.

NOW, THEREFORE, BE IT RESOLVED by the Township of Middle Committee, County of Cape May, that:

1. The attached proposed resolution entitled "RESOLUTION DESIGNATING AN AREA IN NEED OF REHABILITATION WITHIN THE TOWNSHIP OF MIDDLE, COUNTY OF CAPE MAY" is hereby referred to the Planning Board for its statutory review pursuant to N.J.S.A. 40A:12A-14(a).

2. *The Planning Board shall provide its recommendation within the statutorily mandated forty-five (45) day period.*
3. *This Resolution shall take effect immediately.*

21. RESOLUTION - AUTHORIZING THE EXECUTION OF A SUBORDINATION AGREEMENT FOR BLOCK 355.01 LOT 24, IN MIDDLE TOWNSHIP – On motion by \_\_\_\_\_ seconded by \_\_\_\_\_ and passed on roll call, the following resolution was adopted.

*WHEREAS, 1155 Rt 9, LLC, is the record owner of 1155 Route 9 South, a/k/a Block 355.01 Lot 24 on the Middle Township tax map, and is seeking approval to refinance the property and to pay off the existing first mortgage on the property; and*

*WHEREAS, Middle Township currently holds a second mortgage on the property, dated February 26, 2010, and recorded in the Cape May County Clerk’s office on March 2, 2010 in Mortgage Book 4988, page 238, with an outstanding principal balance of \$84,321.29; and*

*WHEREAS, 1155 Rt 9, LLC, currently has a first mortgage on the property from it to J. Phillips Enterprises, dated May 20, 2007 and recorded in the Cape May County Clerk’s office on May 10, 2007 in Mortgage Book 4578, page 501, with an outstanding principal balance of \$292,000; and*

*WHEREAS, the township’s mortgage is currently subordinate to that first mortgage; and*

*WHEREAS, 1155 Rt 9 LLC now proposes to borrow \$300,000 from Crest Savings Bank to pay off the current first mortgage on the property; and*

*WHEREAS, as a condition of that mortgage, Crest Savings requires the township to subordinate its existing second mortgage to the refinancing loan; and*

*WHEREAS, Crest Savings has obtained an appraisal of the premises and has provided that appraisal to the township; and*

*WHEREAS, that appraisal finds that the value of the property is \$400,000, which is sufficient to secure both the Crest Savings loan and the township’s outstanding loan; and*

*WHEREAS, the Township has an interest in the plan to refinance because it reduces the amount of the combined liens against the property, reduces the combined loan to value ratio, and improves the Township’s individual lien position; and*

*WHEREAS, after considering the matter, the Township Committee believes that granting and conveying a Subordination Agreement to Crest Savings to effectuate refinancing of the property is in the Township’s best interest,*

*NOW, THEREFORE, be it RESOLVED by the Township Committee of Middle Township as follows:*

1. *The averments of the preamble are incorporated by reference.*
2. *The Township of Middle hereby authorizes the execution of a Subordination Agreement, in the form attached hereto, regarding the Mortgage from 1155 Rt 9 So, LLC, to the Township of Middle, County of Cape May, dated February 26, 2010, and recorded in the Cape May County Clerk’s office on March 2, 2010 in Mortgage Book 4988, page 238, with an outstanding principal balance of \$84,321.29, and to subordinate said mortgage to the First Mortgage of Crest Savings Bank, in accordance with the refinancing plan described herein.*
3. *This resolution shall take effect immediately, according to law.*

22. RESOLUTION – RELEASE OF PERFORMANCE BOND – LA TERRA STONE – On motion by \_\_\_\_\_ seconded by \_\_\_\_\_ and passed on roll call, the following resolution was adopted.

*WHEREAS, \$104,371.36 is being held as a performance guarantee for La Terra Stone for site improvements at Block 124, Lot 5, otherwise known as 904 Route 9 North; and*

*WHEREAS, the Township Engineer for the project has conducted his inspection and certified that all improvements have been completed; and*

*WHEREAS, the Land Use Administrator for the Township of Middle has recommended that the performance bond be released; and*

*WHEREAS, the Land Use Law of the State of New Jersey (N.J.S.A. 40:55D-1 et. seq.) requires such a release upon recommendation by the Township Engineer; and*

*NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that the bond in the amount of \$104,371.36(includes interest) is hereby released.*

23. PUBLIC COMMENT:

Motion to adjourn meeting –

1<sup>st</sup>

2<sup>nd</sup>

Pass on Roll Call: