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(for use with Local Laws, Ordinances, Bylaws, general
and permanent Resolutions)

Name of Municipality: Middle Township, 33 Mechanic Street, CMCH, NJ 08210

Type of enactment (ord., res., bylaw, local law) Ordinance

Number: 1399-11

Short Title:

AN ORDINANCE OF THE TOWNSHIP OF MIDDLE, COUNTY OF CAPE MAY, STATE OF NEW JERSEY, TO MAKE REVISIONS TO CHAPTER 218 OF THE TOWNSHIP CODE, ENTITLED SUBDIVISION OF LAND AND SITE PLAN REVIEW.

Relationship to Code:

Amends Chapter No. _____ Nos.
Repeals Chapter No. _____ Nos.
Adds Chapter No. _____ Nos.

Action	Date of Action	Page number in minutes
Introduction	<u>09/19/2011</u>	
Publication	<u>09/28/2011</u>	
Public Hearing	<u>10/17/2011</u>	
Adoption	<u>10/17/2011</u>	
Publish Notice of Adop.	<u>10/20/11</u>	
Signed by Mayor or Exec.	_____	
Signed by Clerk or Secy	_____	
Filed by State (Sec'y of St. Atty. Gen. DOT)	_____	

Copy sent to General Code Publishers date 10/25/11

(see other side for Veto and Referenda Information)
NOTE: A copy of this form may be made and placed with the Clerk's or Secretary's file copy of legislation at the time of introduction. The legislative history can then be compiled as the legislation passes through the required procedures. A copy of the form should be sent with the legislation to General Code Publishers for them to keep with your code files, the original being retained as a record in the Clerk's or Secretary's files.

*Levin's
S.A.H.
County*

TOWNSHIP OF MIDDLE,
COUNTY OF CAPE MAY,
STATE OF NEW JERSEY
ORDINANCE NO. 1399-11

AN ORDINANCE OF THE TOWNSHIP OF MIDDLE, COUNTY OF CAPE MAY, STATE OF NEW JERSEY, TO MAKE REVISIONS TO CHAPTER 218 OF THE TOWNSHIP CODE

WHEREAS, as part of the Plan Endorsement Process, the State of New Jersey has required that the Township adopt an Environmental Assessment Ordinance;

NOW THEREFORE BE IT ORDAINED by the Township Committee of the Township of Middle in the County of Cape May and State of New Jersey that the following changes and amendments shall be made to the code:

SECTION I

Section 18-47, Applications for Development – FEES, is hereby amended to include:

6.	Site plan, minor	
	b. Home Occupation	\$100
		\$250

Subpart a in the chart is to remain unchanged.

SECTION II

1. Section 218-72, Subsection C, Trees, shall be redesignated as Subsection G.
2. The newly designated Subsection G, Subpart (1) Definitions currently reads in pertinent part: “Definitions. For the purposes of this subsection (§ ~~218-72C~~), the following definitions shall apply.” Said Subpart shall be revised to read as follows: “Definitions. For the purposes of this subsection, the following definitions shall apply.”.
3. Section 218-72, Subsections A and B are deleted in their entirety, and are replaced with the following Section 218-72, Subsections A, B, C, D, E and F:

218-72 Environmental Assessment and Protection Ordinance

- A. Purpose. To identify and evaluate the impact of proposed development on environmental resources with a goal of significantly reducing or avoiding adverse impacts on the environment. As used here, environmental assessment means a written description and analysis of all possible direct and indirect effects the development will have on the site, as well as on the region, with particular attention to the potential effects on the preservation and enhancement of the natural environment and environmentally sensitive resources.
- B. Applicability. An Environmental Assessment Report shall be submitted with all major site plan and major subdivision applications. It is recognized that the level of detail required for the variety of development applications will vary depending on the size of the project, the site conditions, the location of the project and the information already in the possession of the Township.

An Environmental Assessment Report is not required for

1. Agricultural operations conducted in accordance with a plan approved by the Soil Conservation District,
2. Silviculture operations conducted in accordance with a plan prepared by a professional forester.

C. Definitions.

No significant adverse impact - The environmental quality and functions of natural resource features identified on-site will not be degraded or impacted in such a way that would decrease the function of ecological processes on site.

D. Submission Requirements.

1. The Environmental Assessment Report shall be prepared by one (1) or more qualified professional in the environmental assessment discipline. The qualifications and background of the professionals shall be provided, and the method of investigation shall be described.
2. All Environmental Assessment Reports shall consist of written and graphic materials which clearly present the information required by this ordinance, along with accompanying information, in a report format.
3. The Environmental Assessment Report shall be provided consistent with the number of copies required for each application to be submitted with development application prior to the determination of a complete application.

E. Environmental Assessment Report Waiver.

1. The Board may, at the request of an applicant, waive the requirement for an Environmental Assessment Report if the Board finds that sufficient evidence is submitted to support a conclusion that the proposed development will have an insignificant environmental impact to warrant an Environmental Assessment Report.
2. Portions of the Environmental Assessment Report may be waived upon a finding by the Board that the complete report need not be prepared in order to adequately evaluate the environmental impact of a particular project.
3. Any site development affecting wetlands and C-1 waters shall not be granted a waiver from these requirements.

F. Contents of the Environmental Assessment Report. For each of the environmental resources listed, the goal is “*no significant adverse impact*” as defined above. Provide the requested assessment/existing conditions information, and propose sustainable actions intended to mitigate adverse impacts expected as part of the development. In some cases, suggested sustainable actions have been provided, however, applicant can choose any alternate means appropriate to mitigate impacts specific to their development. The Middle Township Natural Resource Inventory, available at www.middletownship.com, will assist in identifying area resources.

1. Project Description - A description of the development, specifying, in the form of maps, drawings, graphs or other visual aids and also by narrative, what is to be done and how it is to be done during and after construction of the development, including information and technical data adequate to permit a careful assessment of the environmental impact of the development.

2. Discuss the Proposed Project and how it relates to:

- (a) Middle Township Master Plan
- (b) Middle Township Zoning Ordinance and Subdivision & Land & Site Plan Review
- (c) Cape May County Comprehensive Plan

3. Wetlands and State open waters.

(a) Freshwater wetlands, transition areas, State open waters and coastal wetlands must be delineated and certified pursuant to the Freshwater Wetlands Protection Act Rules; Coastal Zone Management Rules; and other applicable regulations. This includes identification

of wetlands on adjacent properties that may require buffering on the subject site. The delineation report and plan shall be submitted as part of the Environmental Assessment Report and the preliminary application.

(b) NJDEP Upper Wetlands Boundary mapping (1971) and the NJDEP Freshwater Wetlands mapping (1986), United States Fish and Wildlife Services National Wetlands Inventory (NWI) maps, and the United States Soil Conservation Services County Soil Survey maps shall be consulted to determine whether a site is generally within a wetland area. These maps provide a general indication of the presence of wetlands; however, in order to accurately delineate the limit of freshwater wetlands on a property, an on-site examination of vegetation, soils and hydrology must be performed on the site in question.

(c) If the property in question appears to contain freshwater or coastal wetlands, it is the responsibility of the owner/applicant and their consultants to delineate any wetlands boundary and submit the information to the appropriate regulatory agency for their verification. Any mitigation plan issued by such regulatory agency shall be part of the Board approval.

4. Geology. Describe and assess the geologic formations, confining layers, etc., including surficial deposits.

5. Soils. A map identifying the soils based on the Cape May County Soil Survey map or using the USDA Web Soils Survey shall be submitted. A description of the soil characteristics shall be provided. Discuss impacts of construction, including compaction, on soil erosion and sedimentation resulting from surface runoff, and any mitigating actions that will be taken.

6. Surface waters. Identify and describe all surface water and open water features on the subject site including downstream receiving water bodies. Identify any waters classified as Category I under NJDEP rules. Identify the watershed that the project falls within.

If surface water is impacted by the proposed development, identify mitigating actions that will be taken. Suggested actions include bioswales, raingardens, permeable surfaces, native and well adapted species used in landscaping to eliminate the need for fertilization and pesticides.

7. Subsurface water. Describe subsurface water conditions on the site in terms of aquifers present and depth to ground water. If the area for development is proposed for “water supply wells”, provide the name of the aquifer to be utilized.

Discuss the impacts of the project on water supply and mitigating actions that will be taken. Suggested actions include: maximize preservation of existing natural landscaping; minimize areas that require irrigation; planting native, drought-tolerant and/or water efficient landscaping; installation of irrigation controls such as rain sensors; installation of Water Wise plumbing fixtures; employ water re-use; install rainwater capture system.

8. Topography and existing development features. Provide map showing the topographic contours on the site on the site and existing development features within one hundred (100) feet surrounding the site.

Discuss the impacts of the project on the natural topography and mitigating actions that will be taken. Suggested actions include: minimal grading, building placement based on topography.

9. Floodplains and Riparian Lands. Floodplains and Riparian Lands shall be identified on the site plan. The New Jersey Department of Environmental Protection, Division of Land Use Regulation, Flood Hazard Area program must approve construction within the one hundred (100) year floodplain, and in many instances, the riparian zone. Any requirements of such approval shall be part of the site plan or subdivision approval.

10. Hazard Mitigation. Review Middle Township Hazard Mitigation Plan (HMP) and identify whether development:

(a) Is on a parcel identified as a “repetitive loss” or “severe repetitive loss” property as defined by FEMA (and contained in the HMP);

(b) Will have a significant impact on identified evacuation routes that are included in the HMP;

(c) Will negatively impact the areas identified as having flooding issues.

If project results in impacts to the areas identified in the HMP, propose mitigating measures such as: additional open space preserved by deed restriction or conservation easement to serve as a buffer to flood hazards; installing higher standards of stormwater management on site.

11. Solid waste recycling, reuse and disposal. Per municipal ordinance 158-11, a designated recyclable materials plan shall be filed. The plan shall include provisions for the recovery of all designated recyclable materials generated during construction, renovation and demolition activities. Identify where waste will be sent for recycling, reuse, reprocessing, or disposal. Provide a list of environmentally preferred building materials used in construction, including recycled, environmentally certified, emissions-free or minimally toxic, and locally produced.

12. Endangered or threatened species. No development shall be carried out unless it is designed to avoid irreversible adverse impacts on habitats that are critical to the survival of any local populations of those threatened or endangered animals designated by the Department of Environmental Protection pursuant to N.J.S.A. 23:2A-1 et seq.

Identify any endangered or threatened species (plant or animal) protected by the State or Federal government which may utilize any portion of the site.

The following databases shall be used to determine endangered or threatened species on site:

- The U.S. Fish and Wildlife Service database
- NJDEP Natural Heritage Program Priority Sites files
- NJDEP Fish Game & Wildlife Endangered and Non-game Species Program

A description of the type of habitat utilized by any species identified within the limits described above shall be provided, as well as the identification of such habitat, which is found on-site. The on-site evaluation shall take place during the active period of the identified species.

If the proposed project anticipates any impacts to wildlife or habitat, identify how the project is designed to protect the species.

13. Air quality. Discuss the impacts of the project on air quality. Provide a calculation of the site's carbon footprint based on the completed project, and identify measures that will be taken to reduce the project's carbon footprint, including voluntary carbon trading.

14. Energy utilization. Generally discuss what type of energy will be used for the project. Provide a list of alternative energy; energy savings devices/appliances and fixtures that will be utilized for this project.

15. Noise. Discuss any noise impacts from the project and whether they will be in compliance with the Township Noise Ordinance, including a discussion about noise impacts during construction.

16. Historic/Cultural Resources. Discuss any resources that are on site, and what measures will be taken to preserve such resources.

17. Land Use. Describe existing land uses on site and within two hundred (200) feet of the site.

18. Vegetation. Describe the existing vegetation on the site. A map shall be prepared showing the location of major vegetative groupings such as woodlands and open fields. Where woodlands are delineated, the forest types shall be indicated.

19. Trees. Specimen trees (those within 85% of the State record tree for each species) shall be identified on the landscape plan and preserved to the maximum extent possible.

Any tree removal shall be limited to that which is necessary to accommodate a permitted activity, use or structure. Existing wooded areas shall not be cleared and converted to lawns with the exception of those specifically intended for active human use such as play fields, golf courses and lawns associated with a residence or other principal non-residential use. In all cases, the amount of lawn shall be the minimum necessary to accommodate such use.

20. Other Required Approvals. Provide an inclusive listing of all licenses, permits and approvals required by Federal, State, County or municipal law. The status or copies of these permits and approvals shall also be included.

SECTION III

1. Section 218-81, Subsection A, Design Standards, General, is amended to include:

(10) All clearing and soil disturbance activities shall be limited to that which is necessary to accommodate a permitted activity, use or structure.

(11) Permanent lawn or turf areas shall be limited to those specifically intended for active human use such as play fields, golf courses and lawns associated with a residence or other principal non-residential use. In all cases, the amount of lawn shall be the minimum necessary to accommodate such use. A statement regarding compliance with State regulations regarding use of pesticides and herbicides shall be included in the Environmental Assessment Report.

2. Section 218-81, Subsection F, Plant material requirements, is amended to include:

(8) Native shrubs and trees shall be used for revegetation or landscaping purposes to accommodate nutrient poor soil. Other shrubs and trees may be used in the following circumstances:

- (a) When the parcel to be developed or its environs contain a predominance of non-native shrubs and tree species;
- (b) For limited ornamental purposes around buildings and other structures; or
- (c) When limited use of other shrubs or tree species is required for proper screening or buffering.

SECTION IV

Section 218-64 Preliminary major subdivision plats, at subsection A is amended to include:

(32) Environmental Assessment Report in accordance with Section 218-72.

SECTION V

Section 218-67 Preliminary major site plan, subsection A, paragraph 45, is deleted and replaced with the following:

(45) Environmental Assessment Report in accordance with Section 218-72.

SECTION VI

Section 218e, checklist number 4, Application for Preliminary Major Subdivision Approval, is amended to include:

18. _____ Environmental Assessment Report in accordance with Section 218-72.

SECTION VII

Section 218i, checklist number 8, Major Site Plans (Preliminary), is amended to include:

38. _____ Environmental Assessment Report in accordance with Section 218-72.

SECTION VIII

Section 218-77 Off-street parking, subsection B is deleted in its entirety and replaced with the following:

B. Minimum off-street parking spaces required.
(1) Specific minimum off-street parking requirements.

Use	Parking Requirements
Automotive repair garage, body shop, tire service, muffler shop, lubrication service	1 space for each 200 square feet of GFA and 1 space per employee on the maximum shift
Automobile service stations (full service)	5 spaces for first service bay, plus 3 parking spaces for each additional bay
Automobile service stations (gas only)	0.5 space for each gasoline pump exclusive of parking area in front of pumps used for filling purposes, plus 1 space per employee on the maximum shift
Banks, savings and loans, fiduciary institutions	5 spaces for each teller window and automatic teller machine, plus 8 on-site stacking spaces per each drive-in window
Bars, cocktail lounges, nightclubs, taverns	1 space for each \geq 4 seats, plus 1 for each 400 square feet of GFA
Barber- and beauty shops	3 spaces for each chair
Car washes Car washing-self service	5 on-site stacking spaces for each lane, plus 1 space for each vacuum cleaner, plus 1 space for each employee on the maximum shift Equivalent of 2.5 spaces per wash bay. Spaces may be provided in open paved area for drying cars.
Church, synagogue, chapel or other houses of worship	1 space for each 3 seats or 48 inches of pew length
Club, lodge, association	1 space for each 100 square feet of GFA
Community center, library, museum, art gallery	1 space for each 200 square feet of GFA
Community club, private club, lodge	1 space for each 100 square feet of GFA

Convalescent home, nursing home, rest home	1 space for each 5 beds, plus 1 space for each employee on the maximum shift
Driving range, miniature golf	1 space for each tee or hole
Dwelling units	Parking for all residential pursuant to Residential Site Improvement Standards
Funeral homes, mortuaries	1 space for each 30 square feet of GFA in slumber rooms, funeral service rooms and parlors, plus 1 space for each employee on the maximum shift
Golf course	2 spaces for each hole, plus 1 space for each employee. Additional parking may be required for each accessory use.
Government, county and municipal offices	1 space for each 200 square feet of GFA
Hospitals (all types)	Two (2) spaces per 1,000 building gross square footage or one (1) space per two patient beds, whichever is greater.
Hotels, motels	
Single-room units	1 space for each single-room unit exclusive of bathrooms and kitchen areas, plus 1 space for each employee on-site during the maximum shift of employees
Suites	1.5 spaces for each room per suite, including bedrooms, parlors and living rooms (exclusive of bathrooms and kitchen areas), regardless of gross floor area, plus 1 space for each employee on-site during the maximum shift of employees
Laundromats or similar coin-operated cleaning	1 space for each 3 cleaning units
Marina, boatyard or boat sales, including boat slips that are accessory uses for any commercial or residential use	0.6 spaces per boat slip, plus 1 space for each employee. plus 1 space for each 400 square feet of GFA for sales offices, plus 1 space per 1,000 square feet of gross outdoor sales area, plus 1 space per 300 square feet of gross indoor sales area . Plus 1 space if a manager's residential unit is provided.
Meeting rooms, assembly halls, auditoriums, exhibition halls	1 space for each 100 square feet of GFA or 1 space for each 3.5 seats, whichever is greater
Medical offices, including physicians, dentists, chiropractors, therapists	1 space for each 150 square feet of GFA
Offices, business and professional (nonmedical)	1 space for each 200 square feet of GFA
Personal service establishments	1 space for each 200 square feet of GFA, plus 1 space for every vehicle used in the business

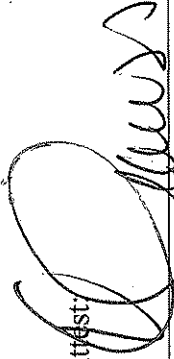
Recreation, Batting Cages	2 spaces per cage, with other uses calculated separately.
Recreation, Bowling alleys	4 spaces for each alley, plus all required spaces for other commercial uses within the same building
Recreation, Miniature Golf	1.5 spaces per hole, with other uses calculated separately
Recreation, commercial swimming pool	1 space per 1,000 square feet of gross recreation area, with other uses calculated separately
Recreation, skating rink	1 space per 1,000 square feet of lot area, plus 1 space per 2 employees
Restaurant, Fast-food, drive-through	1 space for each 50 square feet of GFA devoted to customer service, plus 1 space for each 4 seats, plus 10 on-site stacking spaces for each drive-through lane
Restaurant, including cafe, diner, other	1 space per 4 seats
Retail Sales	
Furniture, hardware, home center, appliance stores, automotive supply	1 space for each 400 square feet of GFA, plus 1 space for each vehicle used in connection with the business
Outdoor sales, i.e. lumberyards, Automobile, boat and truck sales	1 space per 1,000 square feet of gross outdoor sales area, plus 1 space per 400 square feet of gross indoor sales area, plus 1 space for each employee on maximum shift.
Retail stores other than those specified	1 space for each 200 square feet of GFA
Schools, colleges, educational uses (public, parochial, private)	
Elementary (grade), nursery, junior high schools and day camps	1 space for each employee, plus 1 space for each vehicle used to transport students, plus 20% for visitors
High schools, prep schools	1 space for each administrator, teacher and other employees, plus 1 space for each vehicle used to transport students, plus 1 space for every 8 students in grades 9 through 12, plus 20% for visitors
College, junior college, academy, trade or technical school, or similar institution	1 space for every 2 students, plus 1 space for each teacher, administrator and any other employee, plus 1 space for each school use vehicle
Self Storage facilities	1 space for every 200 storage units (a minimum of 4 spaces including the handicapped parking space), and 2 covered parking spaces if a manager's residential unit is provided.
Shopping centers	4.5 spaces per 1,000 square feet of GFA, plus all parking required herein

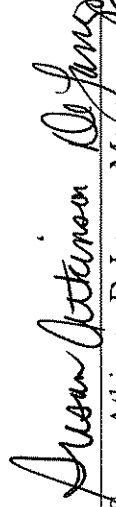
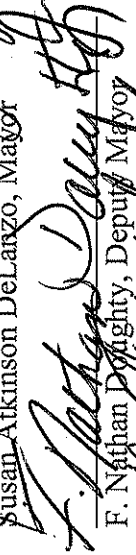
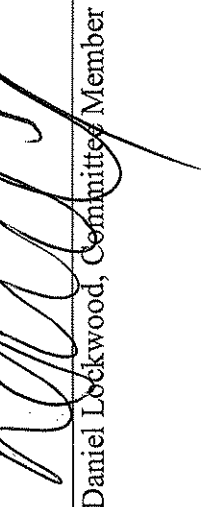
	for restaurants, offices, theaters and other nonretail uses
Studio, instructional (art, music, dance), health spa, fitness center	1 space for each 100 square feet of GFA used for instructional or patron use
Theaters Theaters in Shopping Centers	1 space for each 3 seats, plus 5 spaces for employees 1 space for each 5 seats, plus 5 spaces for employees
Theater, Performance	1 space per 4 fixed seats
Veterinary or animal hospital	1 space for each 200 square feet of GFA, plus 1 space for each staff veterinarian and employee
Wholesale, machinery, large equipment sales	1 space for each 1,000 square feet of GFA, plus 1 space for each vehicle used in the business operation, plus 1 space for each 200 square feet of GFA of office use
Warehouse- storage only	1 space per 500 square feet of GFA plus one per employee.
Multi-use facility /Shared Parking Provision	When a building or structure contains more than 1 proposed use, the parking shall be calculated for each individual use, except for mixed use buildings and developments, where up to 25% of residential parking requirement may be reduced.

SECTION IX. All other Ordinances in conflict or inconsistent with this Ordinance are hereby repealed, to the extent of such conflict or inconsistency.

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

Attest:

Kimberly Krauss, Township Clerk


Susan Atkinson DeLanzo, Mayor

F. Nathan Doughty, Deputy Mayor

Daniel Lockwood, Committee Member