

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
O R D I N A N C E**

**ORDINANCE NO. 006-2013**

**RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE  
CHAPTER XX (ZONING) OF THE CODE OF UPPER TOWNSHIP**

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**WHEREAS**, the Township Planning Board prepared and adopted a Conservation Plan Element Update and Master Plan Reexamination Report on February 17, 2011 in accordance with N.J.S.A.40:55D-89; and

**WHEREAS**, the FEMA has prepared Advisory Base Flood Elevations (ABFE) for New Jersey and the New Jersey Department of Environmental Protection has adopted an emergency rule requiring all new construction located in the Special Flood Hazard Zone in the State of New Jersey to comply with the ABFEs; and

**WHEREAS**, new flood hazard standards and insurance requirements encourage the elevation of existing structures in flood hazard areas; and

**WHEREAS**, the Township Committee desires to amend the Zoning Ordinance to provide a property owner the ability to raise their residence to meet the new ABFEs and protect their residence from flood; and

**WHEREAS**, the Township Committee referred this ordinance amendment to the Upper Township Planning Board; and

**WHEREAS**, the Township Planning Board discussed the proposed ordinance amendment at their January 17, 2013 meeting and reviewed this proposed ordinance and determined it is consistent with the Upper Township Master Plan Reexamination at their March 21, 2013 meeting; and

**WHEREAS**, the ordinance revisions and amendment herein are part of those recommended in connection with the periodic general reexamination of the Upper Township Master Plan as evidenced by the Master Plan Reexamination Report and Land Use Plan Amendment of January 2011, as amended; and

**WHEREAS**, the Township Committee finds that the ordinance revisions herein are substantially consistent with the Land Use Plan Element and Master Plan Reexamination to date;

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

**SECTION 1.** Chapter 20 of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, shall be amended and supplemented as hereinafter provided:

Add the following to **Section 20-5.6 Nonconforming Uses, Structures and Lots**:

- i. Structural alterations to permitted existing nonconforming uses and structures solely to elevate the structure to conform to the Flood Hazard Ordinance contained in Chapter 18 including but not limited to changes to height, stairs, steps, ADA-compliant ramps and related elements providing access to the first elevated floor shall not be considered an expansion of a nonconforming use or structure, and shall therefore be permitted without variance relief under N.J.S.A. 55d-70 providing the following:
  1. There is no expansion in the existing footprint of the structure except for stairs, steps, ADA-compliant ramps and related elements providing access to the first elevated floor.
  2. Stairs, steps, ADA-compliant ramps and related elements providing access to the first elevated floor shall not extend any closer than one (1') foot to the property line.
  3. The raising of the structure shall be limited to the minimum required to meet the requirements of Chapter 18.

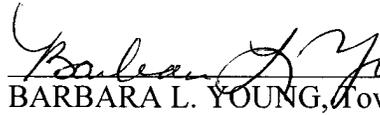
**SECTION 2: EFFECTIVE DATE:** This ordinance shall take effect immediately upon adoption and publication as required by law.

**SECTION 3: REPEALER:** All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency only.

**SECTION 4: SEVERABILITY:** If any section, paragraph, subdivision, subsection, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, subsection, clause or provision declared invalid and the remainder of this Ordinance shall remain in full force and effect and shall be enforceable.

**SECTION 5: CODIFICATION:** This Ordinance shall be codified as indicated in Chapter 20 of the Upper Township Code.

ATTEST:

  
BARBARA L. YOUNG, Township Clerk

  
RICHARD PALOMBO, Mayor

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 11<sup>TH</sup> DAY OF MARCH, 2013 AND WILL BE TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER TO BE HELD ON THE 8<sup>TH</sup> DAY OF APRIL 2013 AT 7:30 P.M. AT THE TOWNSHIP HALL, TUCKAHOE, NEW JERSEY.

BY ORDER OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER.

BARBARA L. YOUNG, TOWNSHIP CLERK  
TOWNSHIP OF UPPER

Legislative History:

Introduced: March 11, 2013

Publication: March 14, 2013

Newspaper(s): The Press of Atlantic City

Second Reading and Public Hearing: April 8, 2013

Final Adoption: April 8, 2013

Final Publication Date: April 12, 2013

I certify that the foregoing Ordinance was finally adopted by the Township Committee of the Township of Upper on April 8, 2013 and notice of adoption was thereafter published pursuant to law in the Press of Atlantic City on April 12, 2013.

  
BARBARA L. YOUNG, Township Clerk