

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
ORDINANCE**

**ORDINANCE NO. 011-2013**

**RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE  
CHAPTER XVIII (FLOOD DAMAGE CONTROL) AND CHAPTER XX  
(ZONING) OF THE CODE OF UPPER TOWNSHIP**

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**WHEREAS**, the Township Committee desires to amend the Flood Damage Control Ordinance to provide the appropriate flood protection to those properties located in the Special Flood Hazard Zone; and

**WHEREAS**, the Township wishes apply to FEMA to lower the Community Rating System (CRS) class rating which will lower flood insurance premiums; and

**WHEREAS**, the FEMA has prepared Preliminary Work Maps 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 best available data provided by FEMA;

**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 18 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 18-2 Definitions**:

*Best Available Flood Hazard Data* shall mean the most recent available flood risk guidance FEMA has provided. The Best Available Flood Hazard Data may be depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps or Preliminary FIS and FIRM.

*Best Available Flood Hazard Data Elevation* shall mean the most recent available flood elevation FEMA has provided. The Best Available Flood Hazard Data Elevation may be depicted on an Advisory Flood Hazard Area Map; Work Map; or Preliminary FIS and FIRM.

Replace the following **Section 18-2 Definitions** as follows:

*Flood Protection Elevation* shall mean the elevation that a structure must be elevated to in all Special Flood Hazard Areas and Advisory Flood Hazard Areas. Said elevation shall be one (1') foot higher than the best available flood hazard data elevation.

*Floodproofing* shall mean any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood

damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

*Lowest floor* shall mean the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement, is not considered a buildings lowest floor provided that such enclosure is not built so as to render the structure in violation of other applicable non-elevation design requirements of CFR Section 60.3.

(Ord. #21-1987, Ord. #14-2012, Ord. #02-2013, Ord. #11-2013 §3.2)

Replace the following **Section 18-3.2** as follows:

**18-3.2 Basis for Establishing the Areas of Special Flood Hazard.**

The areas of special flood hazard identified by the Federal Emergency Management Agency are identified and defined on the following documents:

- a. Scientific and engineering report entitled "The Flood Insurance Study (FIS) for the Township of Upper, Cape May County, New Jersey" dated December 1, 1983, with accompanying Flood Insurance Rate Map, revised June 1, 1984, is hereby adopted by reference and declared to be a part of this Chapter. The Flood Insurance Study and the Flood Insurance Rate Map is on file in the office of the Township Clerk, Township Hall, Tuckahoe, New Jersey.
- b. Best Available Flood Hazard Data. These documents shall take precedence over effective panels and FIS in construction and development regulations only. Where the Special Flood Hazard Area (SFHA) and the advisory Flood Hazard Area (AFHA) maps conflict or overlap, whichever imposes the more stringent requirement shall prevail.

(Ord. #21-1987, Ord. #02-2013, Ord. #11-2013 §3.2)

Replace the following **Section 18-5.1** as follows:

**18-5.1 General Standards.**

In all areas of special flood hazards, compliance with the applicable requirements of the Uniform Construction Code (N.J.A.C. 5:23) and the following standards, whichever is more restrictive, is required:

a. *Anchoring.*

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
2. All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

b. *Construction Materials and Methods.*

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

c. *Utilities.*

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;
3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. Engineering drawings shall be submitted to show compliance of this section prior to issuance of a building permit. Drawings shall show protection from scour from wave action, flood proofing of tank access which is located below flood protection elevation and protection of electrical components located below flood protection elevation; and
4. Replacement Electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding or one (1') foot above grade if not part of substantial improvement or new construction.

d. *Subdivision and Site Plan Proposals.*

1. Shall be consistent with the need to minimize flood damage;
2. Shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
3. Shall have adequate drainage provided to reduce exposure to flood damage; and
4. Base flood elevation and flood hazard area data shall be provided for all subdivision proposals, as well as all applications for site plan approval and other proposed development.
5. All subdivision proposals shall construct a sign no smaller than 12"x12" with the following wording "Entering Flood Hazard Area" at a location as directed by the Township Engineer.

e. *Encroachments.* Any proposed development shall be analyzed to determine effects on flood carrying capacity of the area of special flood hazard as set forth in subsection 18-4.3, paragraph a, 3, Permit Review. Encroachments, including fill, new construction, substantial improvements, and other development shall be prohibited in any floodway unless a technical evaluation demonstrates that the new encroachments will not result in any increase in the flood levels during the occurrence of the base flood discharge.

f. *Enclosure Openings.* For all new construction and substantial improvements, fully enclosed areas below the flood protection level that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1') foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

g. *Enclosure conversion.* No enclosure below the flood protection level shall be converted to habitable living space and shall not be utilized for any use other than access, utility and storage. The owner shall file a deed restriction for this area agreeing to this subsection and shall be to the benefit of the Township of Upper.

(Ord. #21-1987; Ord. #14-2012, Ord. #02-2013, Ord. #11-2013 §5.1)

Replace the following **Section 18-5.2** as follows:

**18-5.2 Specific Standards.**

In all areas of special flood hazards where base flood elevation data has been provided as set forth in subsection 18-3.2 the following standards are required:

- a. *Residential Construction.* New construction and substantial improvement of any residential structure shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor, including basement and utilities (electrical, heating, ventilation, plumbing, duct work and air conditioning equipment), be elevated to or above the flood protection elevation.
- b. *Nonresidential Construction.* New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor, including basement and utilities (electrical, heating, ventilation, plumbing, duct work and air conditioning equipment), be elevated to or above the flood protection elevation; or together with attendant utility and sanitary facilities, shall:
  1. Be flood proofed so that below the flood protection elevation the structure is watertight with walls substantially impermeable to the passage of water;
  2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
  3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in subsection 18-4.3, paragraph c, 2.

c. *Manufactured Homes.*

1. Manufactured homes shall be anchored in accordance with subsection 18-5.1, paragraph a, 2.
2. All manufactured homes to be placed or substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the bottom of the lowest horizontal structural member of lowest floor including utilities (electrical, heating, ventilation, plumbing, duct work and air conditioning equipment), is at or above the flood protection elevation.  
(Ord. #21-1987; Ord. #14-2012; Ord. #02-2013, Ord. #11-2013 §5.2)

**SECTION 2.** 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 20-2.1 Definitions of Township Wide Application:**

*Flood Protection Elevation* shall mean the elevation that a structure must be elevated to in all Special Flood Hazard Areas and Advisory Flood Hazard Areas. Said elevation shall be one (1') foot higher than the best available flood hazard data elevation.

**SECTION 3: EFFECTIVE DATE:** This ordinance shall take effect immediately upon adoption and publication as required by law.

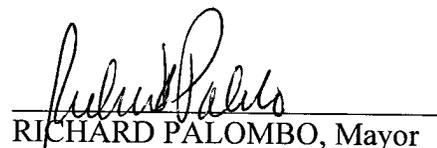
**SECTION 4: REPEALER:** All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency only.

**SECTION 5: 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 6: CODIFICATION:** This Ordinance shall be codified as indicated in Chapter 18 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 9<sup>th</sup> DAY OF SEPTEMBER, 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 23<sup>rd</sup> DAY OF SEPTEMBER 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: September 9, 2013

Publication: September 13, 2013

Newspaper(s): The Press of Atlantic City

Second Reading and Public Hearing: September 23, 2013

Final Adoption: September 23, 2013

Final Publication Date: September 27, 2013

I certify that the foregoing Ordinance was finally adopted by the Township Committee of the Township of Upper on September 23, 2013 and notice of adoption was thereafter published pursuant to law in the Press of Atlantic City on September 27, 2013.

  
BARBARA L. YOUNG, Township Clerk