

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

ORDINANCE NO. 011-2016

**RE: AMENDING REVISED GENERAL ORDINANCE CHAPTERS XIX (LAND
SUBDIVISION, SITE PLAN AND LAND USE ADMINISTRATION) AND XX
(ZONING) OF THE CODE OF UPPER TOWNSHIP**

WHEREAS, the Township Committee desires to amend land subdivision, site plan, land use administration and zoning; and

WHEREAS, Township Committee and the Upper Township Planning Board have identified elements in the Land Subdivision, Site Plan and Land Use Administration and Zoning ordinance that need modification, including clarification of zoning districts requiring sidewalks, penalty for violation of site plan provisions and existing non-confirming lot criteria; and

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 19 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:

19-7.4 Sidewalks.

Replace in its entirety Section 19-7.4a:

- a. Sidewalks shall be provided in the following zones as designated in the Upper Township Zoning Ordinance:*
- | | |
|-----|--------------------|
| RR | Resort Residential |
| RC | Resort Commercial |
| TC | Town Center |
| TCC | Town Center Core |
| TV | Tuckahoe Village |

19-10 PENALTY.

Replace in its entirety Section 19-10

10.1 Transfer or Sale of Land Prior to Final Approval.

- a. If, before final subdivision approval has been granted, any party transfers or sells or agrees to transfer or sell, except pursuant to an agreement expressly conditioned on final subdivision approval as owner or agent, any land which forms a part of a subdivision for which municipal approval is required by

ordinance pursuant to this act, then such person shall be subject to a penalty as described below.

b. Civil Action Instituted by Township.

In addition to the foregoing, the Municipality may institute and maintain a civil action:

- (1). For injunctive relief.
- (2). To set aside and invalidate any conveyance made pursuant to such a contract or sale if a certificate of compliance has not been issued in accordance with N.J.S.A. 40:55D-56.

c. Entitlement to Lien.

In any such action, the transferee, purchaser or grantee shall be entitled to a lien upon the portion of the land from which the subdivision was made that remains in the possession of the subdivider or his assigns or successors to secure the return of any deposit made or purchase price paid and also a reasonable search fee, survey expense and title closing expense, if any. Any such action must be brought within two (2) years after the date of the recording of the instrument or transfer, sale or conveyance of said land or within six (6) years, if unrecorded.

10.2 Site Plan Approval.

- a. If, before site plan approval has been granted any party clears any trees or underbrush from a lot, or changes any use on a property, or begins construction of any storage yard, building, structure or addition thereto, then such person shall be subject to a penalty as described below.
- b. Property owner shall be responsible for maintaining all improvements as shown on the approved final site plan approval and contained in the approving resolution. Any such person violating this section shall be subject to a penalty as described below.

10.3 Penalty

Any person(s) who is found to be in violation of the provisions of this Chapter shall be subject to a fine in the minimum amount of five hundred (\$500.00) dollars and not to exceed one thousand (\$1,000.00) dollars for each day. Except as otherwise provided, each and every day in which a violation of any provision of this Code or any other ordinance of the Township exists shall constitute a separate violation.

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:

Section 20-5.6g2(a) Nonconforming Uses, Structures and Lots.

Replace in its entirety Section 20-5.6g2(a):

- g. Any lots situated in the "AR," "C," "RR," "R," "R2," "TV," "TR," "PV," "RD," "F3," "F10," or "F25" Districts which:
 1. No change.
 2. Has a minimum frontage and width of one hundred (100') feet and a minimum area of thirty thousand (30,000) square feet; or has a minimum frontage of one hundred twenty (120') feet and a minimum area of twenty thousand (20,000) square feet; or is a developed residential lot that has an existing legally occupied structure; may have a construction permit issued for use permitted in the zoning district provided each of the following conditions are met:
 - (a) Such a lot shall have been created by a subdivision plat or deed duly recorded in the Office of the Cape May County Clerk on or before August 31, 1986 or if situated in the "AR" District on or before October 9, 2007, which plat or deed shall clearly designate the lot as an individual parcel of land having either a minimum frontage and width of one hundred (100') feet and a minimum area of thirty thousand (30,000) square feet or a minimum

frontage and width of one hundred twenty (120') feet and a minimum area of twenty thousand (20,000) square feet; or is an existing developed lot; and

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 Chapters 19 and 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 13th DAY OF JUNE, 2016 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 11th DAY OF JULY, 2016 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: June 13, 2016

Publication: June 17, 2016

Newspaper(s): The Press of Atlantic City

Second Reading and Public Hearing: July 11, 2016

Final Adoption: July 11, 2016

Final Publication Date: July 14, 2016

I certify that the foregoing Ordinance was finally adopted by the Township Committee of the Township of Upper on July 11, 2016 and notice of adoption was thereafter published pursuant to law in the Press of Atlantic City on July 14, 2016.


BARBARA L. YOUNG, Township Clerk