

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
ORDINANCE**

**ORDINANCE NO. 008-2018**

**RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER X  
(BUILDING AND HOUSING) AND CHAPTER XI (PROPERTY MAINTENANCE) OF  
THE CODE OF UPPER TOWNSHIP**

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**WHEREAS**, the Township Committee finds it necessary to ensure public health, safety and welfare insofar as they are affected by the construction and maintenance of structures and premises;

**WHEREAS**, the Township Committee finds it necessary to promote safety and foster the beautification of the Township of Upper through the appropriate building and housing construction and maintenance standards as well as through the cleanup of litter, debris and unsightly properties.

**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 10 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:

Delete existing **Section 10-1.6 Fire Limits**

Delete existing **Section 10-2 NATIONAL EXISTING STRUCTURES CODE**, including Sections 10-2.1 through 10-2.9.

Replace in its entirety **Section 10-4 REMOVAL OF DANGEROUS STRUCTURES**, with the following:

**10-4 REMOVAL OF DANGEROUS STRUCTURES.**

**10-4.1 Dangerous Structures Prohibited.**

No building, wall or structure or any part thereof, which is or may become dangerous to life or health or which creates a fire hazard shall be permitted. This ordinance section is adopted pursuant to the authority granted by N.J.S.A. 40:48-2.5.

**10-4.2 Enforcement.**

The Construction Official shall perform all services necessary to insure the strict enforcement of this section, and is designated to exercise the powers prescribed by this section.

**10-4.3 Authorization for order of Construction Official.**

- a. Whenever a petition is filed with the Construction Official by a public authority or by at least five (5) residents of the Township charging that any building is unfit for human habitation or occupancy or use or whenever it appears to the Construction Official (on his own motion) that any building is unfit for human habitation or occupancy or use, the Construction Official

shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such building a complaint stating the charges in that respect and containing a notice that a hearing will be held before the Construction Official (or his/her designated agent) at a place therein fixed not less than seven (7) days nor more than thirty (30) days after the serving of said complaint; that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in the courts shall not be controlling in hearings before the Construction Official.

- b. If, after such notice and hearing, the Construction Official determines that the building under consideration is unfit for human habitation or occupancy or use he/she shall state in writing his/her findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof and parties in interest an order:
  1. Requiring the repair, alteration or improvement of the said building to be made by the owner, within a reasonable time, which time shall be set forth in the order or at the option of the owner to vacate or have the said building vacated and closed within the time set forth in the order; and
  2. If the building is in such a condition as to make it dangerous to the health and safety of persons on or near the premises, and the owner fails to repair, alter or improve the said building within the time specified in the order, then the owner shall be required to remove or demolish the said building within a reasonable time as specified in the said order of removal;
- c. If the owner fails to comply with an order to repair, alter or improve or, at the option of the owner, to vacate and close the building, the Construction Official may cause such building to be repaired, altered or improved, or to be vacated and closed; that the Construction Official may cause to be posted on the main entrance of any building so closed, a placard with the following words: "This building is unfit for human habitation or occupancy or use; the use or occupancy of this building is prohibited and unlawful."
- d. If the owner fails to comply with an order to remove or demolish the building, the Construction Official may cause such building to be removed or demolished or may contract for the removal or demolition thereof after advertisement for, and receipt of, bids therefor. By resolution, the Township Committee shall authorize the removal or demolition to put the premises in proper condition, and municipal funds expended for such purpose, the amount of which shall be determined by the Township Committee, shall be a lien against the premises as provided by this ordinance and the provisions of N.J.S.A. 40:48-2.5 and N.J.S.A. 40:48-2.12b.
- e. The amount of :
  1. The cost of the filing of legal papers, expert witnesses' fees, search fees and advertising charges, incurred in the course of any proceeding taken under this section, and
  2. Such cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition, if any, or the amount of the balance thereof remaining after deduction of the sum, if any, realized from the sale of materials derived from such building or from any contract for removal or demolition thereof, shall be a municipal lien against the real property upon which such cost was incurred. If the building is removed or demolished by the Construction Official, he/she shall sell the materials of such building. There shall be credited against the cost of the removal or demolition thereof, including the clearance and, if necessary, leveling of the site, the proceeds of any sale of such materials or any sum derived from any contract for the removal or demolition of the building. If there are no such credits or if the sum total of such costs exceeds the total of such credits, a detailed statement of the aforesaid costs and the amount so

due shall be filed with the municipal tax assessor or other custodian of the records of tax liens and a copy thereof shall be forthwith forwarded to the owner by registered mail. If the total of the credits exceed such costs, the balance remaining shall be deposited in the Superior Court by the Township, shall be secured in such manner as may be directed by such court, and shall be disbursed according to the order or judgment of the court to the persons found to be entitled thereto by final order or judgment of such court. Any owner or party in interest may, within thirty (30) days from the date of the filing of the lien certificate, proceed in a summary manner in the Superior Court to contest the reasonableness of the amount or the accuracy of the costs set forth in the municipal lien.

#### **10-4.4 Summary Proceedings to Demolish Unsafe Building.**

If an actual and immediate danger to life is posed by the threatened collapse of any fire damaged or other structurally unsafe building, the Construction Official may, after taking such measure as may be necessary to make such building temporarily safe, seek a judgment in summary proceedings for the demolition thereof.

#### **10-4.5 Other Laws and Regulations Not Affected.**

Nothing in this section shall be construed to impair or limit in any way the power of the Township to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise, nor is anything in this act intended to limited the authority of the enforcing agency or Construction Official under the State Uniform Construction Code or any other law or ordinance.

### **Add Section 10-6 PILE INSTALLATION OPERATIONS AND DEMOLITION OF STRUCTURES.**

#### **10-6.1 Permits.**

A construction permit is required for piling installation and for demolition.

#### **10-6.2 Pile Installation – Control of Silt, Debris, Etc.**

Any firm or corporation performing pile installation operations within the Township shall be responsible for all sand, silt, sediment, debris and water leaving the site of the pile installation operation. Said person, firm or corporation shall be responsible to clean and maintain all alleys, gutters, streets, sidewalks and inlets and prior to completing their pile driving operations shall specifically remove or cause to be removed all sand, silt, sediment, or other debris arising from the pile driving operation. The persons, firms or corporation performing the pile installation operation shall also take any and all actions or steps necessary to prevent the accumulation of sand, soil, sediment and other debris upon any adjoining property, and to likewise take whatever action necessary to prevent damage to alleys, streets, gutters, curbs, adjoining property, infrastructure and other improvements by the utilization of pile driving equipment.

Prior to performing any pile installation activities involving jetting, the contractor shall construct and install silt traps at the stormwater inlets located at both ends of the block in which the contractor is performing the pile installation operations. Prior to obtaining the pile installation permit the contractor shall notify the Construction Code Office of the exact type of silt trap which shall be utilized. No pile installation permit shall be issued unless the Code Enforcement Office is notified and approves of the type of silt trap which shall be utilized.

#### **10-6.3 Notification to Adjacent Property Owners – Pile Installation and Demolition.**

Prior to the commencement of work to install piles or demolish a structure, the contractor shall notify the owner of all properties within two hundred (200') feet of the site on which he is working to drive pile or demolish a structure. If the pile installation is via mechanical boring/auger, and vibration, the notification shall be to the owner of all properties within one hundred (100') feet of the site. All notifications required by this section shall include the name, address and telephone number of the piling installation or demolition contractor and the owner of the property, the street address, lot and block of the property, and the

date(s) on which the piling installation or demolition is to be done, and shall be forwarded in writing, by certified mail, at least fourteen (14) calendar days prior to the commencement date of the pile installation activity or demolition work but not earlier than thirty (30) days prior. If the pile installation is via mechanical boring/auger, and vibration, the notification required by this section shall be forwarded at least ten (10) days prior to the commencement date of the pile installation. The notification shall be forwarded to the property's mailing address as set forth on the tax duplicate of the Upper Township Tax Assessor.

#### **10-6.4 Damage to Property During Pile Installation or Demolition.**

It shall be the responsibility of the pile installation contractor in the case of pile installation, or a demolition contractor in the case of demolition of structures, to prevent damage to alleys, streets, curbs, sidewalks, gutters, adjoining property, infrastructure and other improvements from pile installation and/or demolition construction.

#### **10-6.5 Control of Dust and Debris During Demolition.**

Dust and debris control at the site shall be the responsibility of the demolition contractor during the course of demolition. The contractor shall obtain, pay for, and transport water from its own source as required for dust control. Demolition activities may be limited if weather conditions warrant as determined by the Construction Official. Debris generated by demolition shall be confined to the site. All debris that leaves the site must be collected immediately.

#### **10-6.6 Restrictions on Pile Installation & Building Demolition Activity.**

Pile installation and demolition activity shall only be permitted within the Township of Upper as follows:

- a. From July 1st to August 31st of each year from 8:00 a.m. to 4:00 p.m., Monday through Friday. During this time period set up shall not be permitted before 7:00 a.m.
- b. During the remainder of the year from 7:00 a.m. to 5:00 p.m., Monday through Friday. During this time period set up shall not be permitted before 7:00 a.m.
- c. Pile driving activities shall be prohibited on the following holidays: Memorial Day, July 4th, Labor Day, Thanksgiving, Christmas, and New Year's Day.
- d. Pile installation and building demolition shall be prohibited on Saturday and Sunday.

#### **10-6.7 Signs.**

Every pile driving construction site in Upper Township shall have a sign eighteen (18") inches in width and twenty-four (24") inches in height posted at the site which shall contain a phone number given to the contractor by the Upper Township advising people to call if they believe any violation of this section has occurred.

#### **10-6.8 Penalties.**

Any person, firm or corporation convicted of a violation of this section shall be subject to a fine not to exceed one thousand two hundred fifty (\$1,250.00) dollars per violation as determined by the Municipal Court Judge. Each day of violation shall be considered a separate offense. Additionally, the Municipal Court Judge shall have the authority to order restitution for any damage done to the property by a pile driving or demolition contractor.

**SECTION 2.** Chapter 11 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:

Replace in its entirety existing **Section 11-1 REMOVAL OF FIRE HAZARDS AND NUISANCES** with the following:

## 11-1 PROPERTY MAINTENANCE CODE

### 11-1.1 Purpose, intent and scope.

- a. The purpose of this article is to ensure public health, safety and welfare insofar as they are affected by the maintenance of structures and premises.
- b. The intent is to foster the beautification of the Township of Upper through the cleanup and removal of litter, debris, brush, weeds and obnoxious growths. The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures and exterior property.

### 11-1.2 Definitions

*CODE ENFORCEMENT OFFICER* shall mean the official who is charged with the administration and enforcement of this code, or any duly authorized representative, including but not limited to code enforcement officer, zoning officer, construction official.

*CONDEMN* shall mean to adjudge unfit for occupancy.

*DUMPSTER* shall mean an exterior waste container designed to be mechanically lifted by and emptied into or carted away by a commercial vehicle.

*DWELLING* shall mean any building or structure or part thereof used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

*DWELLING UNIT* shall mean a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

*HABITABLE SPACE* shall mean a space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

*HEAVY DUTY EQUIPMENT* shall mean vehicles, designated for executing commercial construction tasks, such as bulldozers, backhoe, excavators, equipment with heavy hydraulics, etc.

*INOPERABLE TRAILER* shall mean a trailer on which the wheels or other parts have been removed, altered or damaged, missing doors or flat tires or allowed to deteriorate to the point where the trailer cannot be trailered on the road, including growth of mold or vegetation on or in the trailer.

*INOPERABLE VEHICLE* shall mean a vehicle on which the engine, wheels or other parts have been removed, altered or damaged or flat tires or allowed to deteriorate to the point where the vehicle cannot be driven, including growth of mold or vegetation on or in the vehicle.

*LITTER* shall mean any used or unconsumed substance or waste material which has been discarded, whether made of aluminum, glass, plastic, rubber, paper or other natural or synthetic material, or any combination thereof, including but not limited to any bottle, jar or can or any top, cap or detachable tab of any bottle, jar or can; any unlighted cigarette, cigar, match or any flaming or glowing material; any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste; newspapers or magazines; glass, metal, plastic or paper containers or other packaging; or construction material; but does not include the waste of the primary processes of mining or other extraction processes, logging, sawmilling, farming or manufacturing.

*LITTER RECEPTACLE* shall mean a container suitable for the depositing of litter.

*MOTOR VEHICLE* shall mean car, truck, motorcycle, boat, jet ski or other motorized means of transportation.

*OCCUPANT* shall mean any person or persons, regardless of age, in actual possession of and living in any room or rooms in a hotel, lodging house, motel, or dwelling unit designed and normally used for sleeping and living purposes, or the right to the use or possession of the furnishings or the services and accommodations accompanying the use and possession of such room, rooms or dwelling unit, regardless of whether such use and possession is as lessee, tenant, guest, invitee or licensee.

*OWNER* shall mean the holder of the title in fee simple.

*PARTIES IN INTEREST* shall mean all individuals, associations and corporations who or which have interests of record in a dwelling and any who or which are in possession thereof.

*PUBLIC AUTHORITY* shall mean any housing authority or any officer who is in charge of any department or branch of the government of the municipality, county or state relating to health, fire or building regulations or to other activities concerning dwellings in the municipality.

*TRACTOR TRAILER* shall mean any semi-trailer (with or without wheels) to be used for the purpose of storing tangible property

*TRAILER* shall mean any trailer, boat trailer, camper, travel trailer, recreational vehicle, motor home, jet ski trailer, utility trailer or equipment trailer.

### **11-1.3 Duty to Maintain Premises.**

- a. It shall be the duty of the owner, lessee, tenant, occupant and/or person in charge of any structure or property to maintain the property in strict conformance with this article. The owner of the premises shall maintain the structures and exterior property in compliance with these requirements.
- b. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter.
- c. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premises which they occupy and control.
- d. Exterior walls shall be free of holes, breaks, loose or rotting boards or timbers, and any other conditions which might admit rain or dampness to the interior portions of the walls or occupied spaces of the building. All exterior surface materials, including wood, composite, metal, stucco, vinyl or other materials shall be maintained weatherproof and shall be properly surface coated when required to prevent deterioration.
- e. The roof shall be structurally sound, tight and not have defects which might admit rain. Roof drainage, gutters and downspouts shall be adequate and in good working order and shall not discharge in a manner that creates a nuisance to owners or occupants of adjacent premises or that creates a public nuisance.
- f. Every basement hatchway shall be so constructed and maintained as to prevent the entrance of pests, animals, rain and surface drainage water into the structure.

### **11-1.4 Liability.**

The Code Enforcement Officer or employee charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an

act or by reason of an act or omission in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The Code Enforcement Officer or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code.

#### **11-1.5 Duties and Powers of Code Enforcement Officer.**

- a. **General.** The Code Enforcement Officer is hereby authorized and directed to enforce the provisions of this code. The Code Enforcement Officer shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.
- b. **Inspections.** The Code Enforcement Officer shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The Code Enforcement Officer is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.
- c. **Right of entry.** Where it is necessary to make an inspection to enforce the provisions of this code, or whenever the Code Enforcement Officer has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this code, the Code Enforcement Officer is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this code, provided that if such structure or premises is occupied the Code Enforcement Officer shall present credentials to the occupant and request entry. If such structure or premises is unoccupied, the Code Enforcement Officer shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the Code Enforcement Officer shall have recourse to the remedies provided by law to secure entry.
- d. **Identification.** The Code Enforcement Officer shall carry proper identification when inspecting structures or premises in the performance of duties under this code.
- e. **Notices and orders.** The Code Enforcement Officer shall issue all necessary notices or orders to ensure compliance with this code.
- f. **Department records.** The Code Enforcement Officer shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records for the period required for retention of public records.

#### **11-1.6 Vacant Structures and Land.**

All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health, safety or general welfare of the surrounding property owners, the neighborhood, or the community as a whole.

#### **11-1.7 Exterior Property Areas.**

All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

## 11-1.8 Litter and Waste.

All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

- a. It shall be unlawful for any person to throw, drop, discard or otherwise place litter of any nature upon any public or private property, other than in a litter receptacle. Every occupant of a structure shall dispose of all litter in a clean and sanitary manner by placing such litter in approved containers.
- b. No person shall sweep into or deposit in any gutter, street, catch basin or other public place any accumulation of litter from any public or private sidewalk, driveway, curb or property.
- c. It shall be unlawful for any owner, agent or contractor in charge of a construction or demolition site to permit the accumulation of litter, trees, stumps and/or cleaning debris before, during or after completion of any construction or demolition project on the job site or on any vacant lot situate in a residential district.
- d. It shall be unlawful for any residential or commercial property owner to permit open or overflowing waste disposal bins or litter receptacles on his or her property.
- e. It shall be unlawful for any person or entity to store or permit storage of any trash, garbage, rubbish, or bulky household waste, including household appliances, furniture and mattresses, except in a fully enclosed structure or during days designated for the collection of bulky items.
- f. It shall be unlawful for any property owner to store or permit the storage of tires, except in a fully enclosed structure or on days designated for the collection of tires.
- g. It shall be unlawful for any vehicle to be driven, moved, stopped or parked on any highway unless such a vehicle is constructed or loaded to prevent any of its load from dropping, sifting, leaking or otherwise escaping there from. Any person operating a vehicle from which any debris, glass or any objects have fallen or escaped, which could cause an obstruction, damage a vehicle or otherwise endanger travelers or public property, shall immediately cause the public property to be cleaned of all debris, glass or any objects and shall pay the cost therefore.
- h. Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage and recycling in an approved garbage or recycling containers.
- i. The owner, lessee, tenant, occupant and/or person in charge of any structure or property shall provide a litter and recycling receptacle and service therefor at the following public places:
  1. Self-service refreshment areas: one litter and recycling receptacle per location.
  2. Gasoline service station islands: one litter and recycling receptacle per island.
  3. Shopping centers: minimum of one litter and recycling receptacle per store or unit to be placed at the entrances of stores/units.
  4. Campgrounds: minimum of one litter and recycling receptacle in each of the following areas: pools, restrooms, laundry facilities, common areas.

5. Mobile home parks: minimum of one litter and recycling receptacle in each of the following areas: pools, restrooms, laundry facilities, common areas.
6. Marinas, boat moorage and fueling stations, boat-launching areas and public and private piers: minimum of one litter and recycling receptacle in each of the following areas: pools, restrooms, laundry facilities, common areas.

**11-1.9 Grass, Weeds and Debris.**

- a. All premises and exterior property shall be maintained free from weeds or plant growth in excess of 10 inches in height. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs; provided however, this term shall not include cultivated flowers and gardens. This prohibition against such weeds and plant growth shall not apply to undeveloped wooded tracts or fields utilized for farming or residential agriculture. All premises and exterior property shall also be maintained free from brush, dying trees, filth, garbage, trash and debris. Upon failure of the owner or agent having charge of a property to abate a violation within 10 calendar days after notice to remove or destroy same, he or she shall be subject to prosecution in accordance with 11-1.16, including the abatement or removal of the violation by the Township. Each day shall be counted as a separate offense. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds and grass growing thereon, and the costs of such removal plus a 20% administrative fee shall be paid by the owner or agent responsible for the property.
- b. Each separate twenty-four-hour period during which a violation continues shall be deemed to be a separate and distinct violation of this article.

**11-1.10 Grading and Drainage.**

All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure or container located thereon with the exception of approved retention areas and reservoirs. Such grading and drainage shall not be directed to neighboring properties.

**11-1.11 Sidewalks, Driveways and Parking Lots.**

All sidewalks, walkways, stairs, driveways, parking spaces and similar areas abutting the building, structure, or property shall be kept in a proper state of repair, clean, and maintained free from hazardous conditions or nuisances of every kind. Any parking lot that services the public shall be kept free from potholes.

**11-1.12 Rodent/ Insect Harborage and Pest Elimination.**

All structures and exterior property (residential and nonresidential) shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and exterminate, and the costs of such action shall be paid by the owner or agent responsible for the property along with a reasonable administrative fee to be determined by the Township.

- a. The owner of any structure shall be responsible for pest elimination within the structure prior to renting or leasing the structure.

- b. The occupant of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for pest elimination on the premises.
- c. The owner of a structure containing two or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure shall be responsible for pest elimination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant and owner shall be responsible for pest elimination.
- d. The occupant of any structure shall be responsible for the continued rodent- and pest-free condition of the structure.
- e. Exception: Where the infestations are caused by defects in the structure, the owner shall be responsible for pest elimination. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and exterminate the pests. The costs of such removal shall be paid by the owner or agent responsible for the property, along with an administrative fee.

**11-1.13 Accessory Structures.**

All accessory structures, including but not limited to detached garages, fences and walls, shall be maintained structurally sound and in good repair.

**11-1.14 Motor Vehicles, Trailers, Boats, RV's and ATV's.**

- a. Except as provided for in other regulations, only one (1) unregistered or inoperable motor vehicle, trailer, boat, recreational vehicle, heavy equipment or ATV shall be parked, kept or stored on any exterior premises, and no vehicle or similar apparatus or equipment shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Notwithstanding the foregoing, an owner or occupant shall be permitted to keep up to three (3) unregistered or inoperable motor vehicles, or parts thereof, in the exterior rear yard of a premises provided such motor vehicles are part of an ongoing restoration process, the activity and use complies with Chapters 19 and 20, the motor vehicles are not located within the setback lines of the property, the motor vehicles are screened from view by neighboring properties and there exists no environmental or other hazard associated with such motor vehicles.
- b. No person, firm or corporation shall park or store any unregistered or inoperable motor vehicle, trailer, boat, jet ski, recreational vehicle, heavy equipment or ATV on any street within the limits of the Upper Township. In addition, no registered trailer that is not attached to a registered motor vehicle shall be parked or stored on any street within the limits of Upper Township.
- c. Registered, operable motor vehicles, trailers, boats, jet skis, recreational vehicles, ATVs and any other motorized vehicles being stored or kept must be parked in accordance with Chapter 20 of the Revised General Ordinances of the Township of Upper. No portion of the motor vehicle or trailer may encroach upon any public right-of-way, including sidewalks.
- d. Existing nonconforming parked boats, trailers, and campers are not exempt from the above provisions, as of the effective date of this article.
- e. Any such recreational vehicle stored in accordance with this section and Chapters 19 and 20 shall not be occupied and shall not have bump outs or awnings extended for occupancy and shall not be provided with utility connections other than water and electric service reasonably required for vehicle use off site and shall not be used for storage or space for the permanent conduct of a business, profession, occupation or trade.

**11-1.15 Defacement of Property.**

- a. No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti.
- b. It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

**11-1.16 Violations and Penalties.**

- a. Unlawful acts. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.
- b. Notice of violation. The Code Enforcement Officer shall serve a notice of violation in writing.
- c. Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with this Section shall be deemed guilty of a local ordinance violation as determined by the local municipality. If the notice of violation is not complied with, the Code Enforcement Officer shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.
- d. Violation penalties. Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate and distinct offense, subject to additional fines and penalties. Each day any offense shall exist may subject the person to cumulative fines and penalties established by this Ordinance without need to file separate complaint.
- e. Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the enforcement officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises and collect the costs of same as set forth in Section 11-1.19 below in addition to any other penalty for the violation. If a violation is abated after the prescribed time period allotted by the violation notice, prosecution and penalties may still be implemented and assessed.

**11-1.17 Notices and Orders.**

- a. Notice to person responsible. Whenever the Code Enforcement Officer determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed to the person responsible for the violation as specified in this code.
- b. Form. Such notice shall be in accordance with all of the following:
  - 1. Be in writing.
  - 2. Include a description of the real estate sufficient for identification.
  - 3. Include a statement of the violation or violations and why the notice is being issued.
  - 4. Include a correction order allowing a reasonable time (or such specific time as set forth elsewhere in this Ordinance) to make the repairs and

improvements required to bring the dwelling unit or structure into compliance with the provisions of this code.

5. Include a statement of the right to file a lien in accordance with this chapter.
6. Method of service. Such notice shall be deemed to be properly served if a copy thereof is either:
  - (a) Delivered personally;
  - (b) Sent by certified or first-class mail addressed to the last known address; or
  - (c) If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.
7. Unauthorized tampering. Signs, tags or seals posted or affixed by the Code Enforcement Officer shall not be mutilated, destroyed or tampered with, or removed without authorization from the Code Enforcement Officer.

**11-1.18 Penalties.**

- a. Any person or entity that shall violate Section 11-1.9, Grass, Weeds and Debris, shall be subject to a fine as follows:
  1. First offense: The violator shall, upon conviction, compensate the Township, as restitution, for all costs incurred in cleaning the premises. A lien shall issue against the premises in this regard until paid. Additionally, the violator shall be fined One Hundred Fifty Dollars (\$150.00).
  2. Second offense: The violator shall, upon conviction, compensate the Township, as restitution, for all costs incurred in cleaning the premises. A lien shall issue against the premises in this regard until paid. Additionally, the violator shall be fined Two Hundred Fifty Dollars (\$250.00).
  3. Third and all subsequent offenses: The violator shall, upon conviction, compensate the Township, as restitution, for all costs incurred in cleaning the premises. A lien shall issue against the premises in this regard until paid. Additionally, the violator shall be fined Five Hundred Dollars (\$500.00).
- b. Any person or entity that shall violate any other provision of this Section 11-1 shall, upon conviction, be subject to a fine not to exceed One Thousand Dollars (\$1,000) per occurrence. Each separate twenty-four-hour period during which a violation continues shall be deemed to be a separate and distinct violation of this section.

**11-1.19 Abatement.**

- a. A Code Enforcement Officer shall keep an accurate record of all expenses incurred in causing the abatement or removal and upon completion of the work he shall certify in writing the total costs thereof.
- b. Upon receipt of any such certification the same shall be examined and if found to be correct, the governing body shall declare by the passage of a resolution that the costs be certified to the Tax Collector as a lien against the land in question. Upon receipt by the Tax Collector of any such certification of costs, the same shall be entered upon the Tax Collector's records as a lien against the property and shall become and form a part of the taxes next to be assessed and levied upon the property. Thereafter, if the lien remains unpaid it shall bear interest when it becomes delinquent at the same rate as other delinquent taxes and shall be collected and enforced by the same officers and in the same manner as taxes.

**SECTION 3: EFFECTIVE DATE:** This ordinance shall take effect immediately upon the following 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 in the Upper Township Code at the sections referred to above.

ATTEST:

  
BARBARA L. YOUNG, Township Clerk

  
EDWARD BARR, Deputy 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 JULY, 2018 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 13<sup>TH</sup> DAY OF AUGUST, 2018 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: July 9, 2018

Publication: July 13, 2018

Newspaper(s): Press of Atlantic City

Second Reading & Public Hearing: August 13, 2018

Final Adoption: August 13, 2018

Final Publication Date: August 17, 2018

I certify that the foregoing Ordinance was finally adopted by the Township Committee of the Township of Upper on August 13, 2018 and notice of adoption was thereafter published pursuant to law in The Press of Atlantic City on August 17, 2018.

  
BARBARA L. YOUNG, Township Clerk