

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

ORDINANCE NO. 016-2019

**RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE
CHAPTER XIX (LAND SUBDIVISION AND SITE PLAN) AND CHAPTER XX
(ZONING) OF THE CODE OF UPPER TOWNSHIP**

WHEREAS, the Township Planning Board reviewed and discussed the proposed zoning ordinance amendment and adopted a resolution approving this proposed zoning ordinance amendment finding said amendment is consistent with the Upper Township Master Plan Reexamination; and

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

Revise the following definition in **Section 19-3b. Definitions**:

Change of Use shall mean any change of a commercial property resulting in any enlargement of any building or structure; the addition of any other business entity onto a commercial property; any modification to a commercial property which will result in an increase in required off street parking or sanitary flow.

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 definitions to **Section 20-2.1 Definitions of Township Wide-Application**:

Coastal A Zone shall mean the portion of the Special Flood Hazard Area (SFHA) starting from a Velocity (V) Zone and extending up to the landward Limit of the Moderate Wave Action delineation. Where no V Zone is mapped the Coastal A Zone is the portion between the open coast and the landward Limit of the Moderate Wave Action delineation. Coastal A Zones may be subject to wave effects, velocity flows, erosion, scour, or a combination of these forces. Construction and development in Coastal A Zones is to be regulated the same as V Zones/Coastal High Hazard Areas.

Elevated building shall mean a non-basement building (a) built in the case of a building in an area of special flood hazard to have the top of the elevated floor, or in the case of a building in a coastal high hazard area or Coastal A Zone, to have the bottom of the lowest horizontal structural member of the elevated floor,

elevated above the base flood elevation plus freeboard by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water; and (b) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In an area of special flood hazard, "elevated building" shall also include a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In areas of coastal high hazard and Coastal A Zones, "elevated building" shall also include a building otherwise meeting the definition of "elevated building" even though the lower area is enclosed by means of breakaway walls.

Storage Container shall mean any container, semi-trailer (with or without wheels), storage unit or portable structure designed to be used on a temporary basis and without a foundation for the purpose of storing tangible property and not for occupancy by persons.

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, boat trailer, camper, travel trailer, recreational vehicle, motor home, jet ski, jet ski trailer, utility trailer or equipment trailer.

Revise the following definitions in **Section 20-2.1 Definitions of Township Wide-Application:**

Area of special flood hazard shall mean the land in the floodplain within a community subject to a one (1%) percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone V, VE, V1-30, A, AO, A1-A30, AE, A99, or AH.

Base flood elevation shall mean the flood elevation shown on a published Flood Insurance Study (FIS) including the Flood Insurance Rate Map (FIRM). For zones AE, AH, AO, and A1-30 the elevation represents the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year. For zones VE and V1-30 the elevation represents the stillwater elevation (SWEL) plus wave effect (BFE = SWEL + wave effect) resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

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 two (2') foot higher than the best available flood hazard data elevation.

Add the following subsections to **Section 20-5.1 Accessory Buildings:**

- e. Storage container. Shall be permitted on a lot by permit from the Zoning Official for a period up to forty-five (45) days during any 365 day period.
- f. Tractor trailers shall be prohibited. Existing tractor trailers must show conformance with Section 20-5.6.

Add the following subsection to **Section 20-5.5a Lighting:**

To control light spillage off-premises onto adjacent properties or streets, the maximum vertical illumination, when measured at a point five feet within the adjacent property line at a height of five feet and facing the light fixture(s), shall be no greater than 0.1 vertical footcandles.

Add the following subsection to **Section 20-5.10a Signs:**

- 15. Temporary signs for advertising contractor services shall be permitted in accordance with the following:
 - (i). Sign may be placed for a period of thirty (30) days after a Certificate of Occupancy or Approval has been issued (permanent or temporary) or thirty (30) days for work that does not require a construction permit at a residence where the work is being performed.

- (ii). No more than five (5) signs may be placed throughout the Township at any given time for a single contractor.
 - (iii). The sign shall be non- illuminated, not larger than four (4) square feet in area.
 - (iv). Only one contractor sign may be placed at any given residence unless the work being performed is in conjunction with a construction permit and all signs must be placed on a common sign board no larger than thirty-two (32) square feet in size.
 - (v). The Zoning Officer shall be notified in writing before the sign is placed at the residence.
16. Flags. Decorative or informational flags such as "open" or "welcome," with a limit of one (1) flag per business. Flags and flagpoles shall not be in the right-of-way.

Revise and add the following subsections to **Section 20-11.1b Zoning Permit Required:**

1. Creation, construction, excavation, erection, alteration, conversion or enlargement of any building, structure, land or part thereof.
2. Changing or allowing a change of use as defined by this ordinance.
3. Unchanged.
4. Unchanged.
5. Any change of occupancy from one permitted use to another.

Revise **Section Schedule A** as follows:

Remove Pole Barns and Note #8

Revise Note # 4 – Trailers to be parked or stored in the rear and side yards only. Their dimensions shall not be counted in determining the total building coverage and shall not be used for temporary or permanent living quarters while situate on a lot. Tractor Trailers are not permitted.

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


RICHARD PALOMBO, Mayor

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR THE FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE **23RD DAY OF SEPTEMBER, 2019** AT THE TOWNSHIP HALL, AND WAS TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE **28TH DAY OF OCTOBER, 2019** AT 7:30 P.M. AT THE TOWNSHIP HALL, TUCKAHOE, NEW JERSEY, AT WHICH TIME SAID ORDINANCE WAS ADOPTED.

BARBARA L. YOUNG, CLERK
TOWNSHIP OF UPPER

Legislative History:

Introduced: September 23, 2019

Publication: September 27, 2019

Newspaper(s): The Press of Atlantic City

Second Reading and Public Hearing: October 28, 2019

Final Adoption: October 28, 2019

Final Publication Date: October 31, 2019

I certify that the foregoing Ordinance was finally adopted by the Township Committee of the Township of Upper on October 28, 2019 and notice of adoption was thereafter published pursuant to law in the Press of Atlantic City on October 31, 2019.


BARBARA L. YOUNG, Township Clerk