

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
ORDINANCE**

ORDINANCE NO. 005-2020

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

WHEREAS, pursuant to N.J.S.A. 40:55D-89 the Upper Township Planning Board undertook a reexamination of its Master Plan to determine the major problems and objectives relating to land development within the Township and to recommend specific changes to the Township's development regulations to address said problems and objectives to the betterment of the overall community; and

WHEREAS, on April 16, 2020, pursuant to Upper Township Planning Board Special Resolution 03-2020, the Upper Township Planning Board adopted the Upper Township 2020 Master Plan Reexamination Report and amended the Upper Township Master Plan; and

WHEREAS, the Township Committee, after review of Planning Board Special Resolution 03-2020 and the Upper Township 2020 Master Plan Reexamination Report, agrees that Chapter XX of the Code of Upper Township should be amended as recommended by the Upper Township Planning Board.

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 20-2.1 Definitions of Township Wide Application**:

Cupola shall mean a decorative roof structure that has a small roof and the shaft that supports it sitting on top of a building. A Cupola in the RR and RC district may exceed the maximum building height if it is decorative only, is no more than 4 feet above the maximum building height (not including spire or weather vane) and contains no more than thirty-six (36) Square Feet of space. If a cupola provides rooftop access in the RR and RC district it shall not exceed the maximum permitted building height.

Floor Area Ratio (FAR) shall mean all building area in a principal structure above Flood Protection Area divided by the lot area. In calculating FAR attics, elevators, and decks/ porches shall not be included. Additionally, when located below the Flood Protection Elevation, storage areas and garages shall not be included in the FAR. The value in the FAR numerator shall be the area (in square feet) established by measuring from the exterior faces of exterior walls and shall include all building area having a floor to ceiling joist height of seven feet (7') and greater (if attics have a floor to ceiling height of seven-feet or greater they shall be included in the total floor area).

Open Deck shall mean an exterior part of a building outside of and extending beyond the exterior walls of the building, the exterior boundaries of which are completely and permanently open to

the outside air and shall not have any enclosed space below or roof above (except for where two decks are stacked); provided that an open deck may have a solid wall in lieu of a railing, which wall extends not more than 36 inches above the floor of the deck or in accordance with applicable building code regulations. An open deck may be stacked such that a second open deck is above the lower deck.

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

Building shall mean any structure or extension therefor or addition thereto having a roof supported by such things as columns, posts, piers or walls intended for the shelter, business, housing or enclosing of persons, animals or property. Open uncovered decks or raised patios more than 18 inches above grade, are considered parts of the building. For purposes of permitted encroachments any overhangs, soffits, chimney, bay windows or similar structure that extends more than 18 inches beyond the face of the building shall be considered parts of the building.

Building coverage shall mean the square footage or other area measurement by which all buildings occupy a lot as measured on a horizontal plane around the periphery of the foundations and including the area under the roof of any structure supported by columns, but not having walls, as measured around the outside of the outermost extremities of the roof above the columns. In the RR district open decks, up to 200 square feet, as defined herein are exempt from building coverage and shall be included in lot coverage. The area of any open deck over 200 square feet shall be included in building coverage.

Building height shall mean the vertical distance measured to the highest point from the mean elevation of the finished grade five (5') feet away from the foundation along the side(s) of building facing a street or a street line, whichever is closer to the foundation. On a corner lot, the height shall be measured on the street having the greatest slope. In all cases where this Chapter provides for height limitations by reference to specified height the intent is to limit height to the specified maximum footage. Properties located in the special flood hazard area or the advisory flood hazard area shall have the height measured from the flood protection elevation. Properties in the RR and RC zoning districts shall be limited to two (2) habitable stories above the flood protection elevation except as provided in Section 20-4.5b2(d)(iii).

Revise **Section 20-3.1** as follows:

20-3.1 Zoning Districts.

For the purpose of this Chapter the Township is hereby divided into various districts. Within the Pinelands Area, these districts are consistent with the Pinelands Management Areas set forth in N.J.A.C. 7:50, Subchapter 5.

Symbol	Zoning District
AR	Agriculture and Rural Density Residential
R	Center Residential
R2	Moderate Density Residential
RR	Resort Residential
RC	Resort Commercial
TCC	Town Center Core
TC	Town Center
CM2	Commercial District
CM4	Rural Density Commercial District
CMP	Commercial District Pinelands
C	Conservation
RD	Rural Development
PV	Pinelands Village
F3	Rural Density Forest
F10	Low Density Forest
F25	Forest Conservation
RP	Recreation and Park
RPPV	Recreation and Park Pinelands Village
M	Mining
TV	Tuckahoe Village
TR	Tuckahoe Riverfront
MH	Mobile Home
AHGR	Affordable Housing Group Home

MTCD	Marmora Town Center District
ASH	Affordable Senior Housing
WTC	Waterfront Town Center

Revise **Section 20-3.2** as follows:

20-3.2 Zoning Map.

The map is amended to reflect the zoning boundary changes as set forth on the revised Zoning Map of the Township of Upper prepared by Paul E. Dietrich, Sr., Upper Township Engineer, dated January 12, 2004 and revised through December 19, 2019. The Zoning Map is located at the end of Chapter XX.

Revise **Section 20-4.5 Resort Districts: "RR" Resort Residential and "RC" Resort Commercial** as follows:

20-4.5 Resort Districts: "RR" Resort Residential and "RC" Resort Commercial.

a. *Purpose.* The purpose of the "RR" and "RC" Resort Districts are to provide for development specifically related to the barrier beach community of Strathmere and Whale Beach. The purpose of the "RR" District is to provide for the continuance of single-family dwellings on Strathmere and Whale Beach Building coverages, Floor Area Ratios and heights are utilized to ensure the scale of the residential structures maintain the charm of Strathmere & Whale Beach and not result in larger structures. The purpose of the "RC" District is to provide locations on Strathmere where relatively small retail and service establishments may be located. It is intended that any development will take place in accordance with the requirements specified under the FEMA Flood Hazard Regulations in recognition of the precarious environmental situation. Additionally, minimum ground floor elevations are established to ensure protection against flooding and allow for the continued improvement of street networks.

b. *"RR" Resort Residential District.*

1. Permitted Uses. The permitted uses pertaining to the "RR" Resort Residential District is provided on Schedule A Residential Districts—Permitted Principal, Conditional and Accessory Uses except as modified or supplemented by this section.
2. Area and Yard Requirements. The area and yard requirements pertaining to all permitted uses in the "RR" District are provided on Schedule C Area and Yard Requirements for Zone Districts except as modified or supplemented by the specific standards of the RR district under 20-4.5(b) in its entirety:
 - (a) Lot depth: Any existing lot appearing on the Tax Map as of July 1, 1995 which has a depth of ninety-five (95') feet and a minimum frontage of forty (40') feet shall be deemed to meet the requirements of this section. (All lots located in Strathmere on the west side of Commonwealth Avenue generally have a depth of ninety-five (95') feet.
 - (b) Roof top decks are permitted provided they do not exceed 25% of the total building footprint.
 - (c) A maximum building coverage of 27% is permitted. Open decks are excluded from the building coverage in the RR district or in the RC district when developed as single-family detached residential.
 - (d) A maximum Floor Area Ratio (FAR) of 0.54 is permitted.
 - (i) In calculating the floor area ratio decks/porches are excluded from the total floor area.
 - (ii) If a property owner encloses a deck or porch that area shall become part of the calculated floor area and subject to the maximum FAR.
 - (iii) Foyers, habitable space and storage areas are permitted above the flood protection elevation on the ground floor with two (2) stories above provided such areas do not exceed more than 30% of the total floor area on the ground level. All area above the flood protection elevation shall be included in the FAR calculation as floor area.
 - (e) Side yard setbacks shall be provided in accordance with the following:

Lot Width	Individual Side Yard	Aggregate Side Yard Setback
less than 50 feet	6 feet	12 feet
50 feet to less than 70 feet	6 feet	15 feet
70 feet to less than 90 feet	6 feet	16 feet
90 feet or greater	6 feet	18 feet

Existing single-family dwellings with less than the required aggregate are grandfathered and may raise and/or expand their footprint provided that no one setback is less than 6-feet and all other provisions of section 20-4.5 are met.

- (f) All outside showers, HVAC equipment and generators shall be setback from the property line a minimum of 6-feet.

3. Building Height

- (a) Buildings shall not be more than thirty-five (35) feet above the Flood Protection Elevation.
- (b) Roof structures or cupolas for stairway or elevator access are not permitted above the maximum permitted building height.
- (c) No more than eighteen (18) inches of exposed rail is permitted on roof decks.
- (d) Any building having a roof slope less than 4:1 for more than 25% of the building shall be considered a flat roof and the prescribed building height limit shall be reduced by four (4') feet.
- (e) Building height shall be measured from the Flood Protection Elevation.

4. Minimum Gross Floor Area. Minimum gross floor area for a single-family detached dwelling shall be one thousand (1,000) square feet.

5. Private residential swimming pools are prohibited in the "RR" District.

6. Garages shall not be converted to habitable space.

c. "RC" Resort Commercial District.

1. Permitted Uses.

- (a) The permitted uses pertaining to the "RC" Resort Commercial District are provided on Schedule B Commercial and Mixed Use Districts Permitted Principal Condition and Accessory Uses.
- (b) Single-Family Detached Residential uses in the RC district are a permitted conditional use except in Block 850, with the conditions being the standards under Section 20-4.5(b). Any variation from these standards require a variance under N.J.A.C. 40:55D-70d from the Board of Adjustment.

2. Area and Yard Requirements. The area and yard requirements pertaining to all permitted uses in the "RC" District are provided on Schedule C Area and Yard Requirements for Zone Districts except as modified or supplemented by this section.

3. Building Height

- (a) Buildings shall not be more than thirty-five (35') feet above the Flood Protection Elevation
- (b) Roof structures or cupolas for stairway or elevator access are not permitted above the maximum permitted building height.
- (c) No more than eighteen (18) inches of exposed rail is permitted on roof decks.
- (d) Any building having a roof slope less than 4:1 for more than 25% of the building shall be considered a flat roof and the prescribed building height limit shall be reduced by four (4') feet
- (e) Building height shall be measured from the Flood Protection Elevation.

4. General Requirements.

- (a) One (1) building may contain more than one (1) use provided that the total building coverage of the combined uses does not exceed the maximum building

coverage specified for the district and, further, that each use occupies a minimum gross floor area of five hundred (500) square feet.

- (b) No merchandise, products or similar material or objects shall be displayed or stored outside unless appropriately screened and maintained. Any use resulting in the storage of vehicles outside shall have such area entirely enclosed by a fence, wall, plant material or combination thereof in order to provide a visual barrier between the storage areas and any street, residential zoning district or existing residential use. Such outside storage area shall not exceed thirty (30%) percent of the lot area and shall be located in the rear yard only.
- (c) All buildings shall be compatibly designed whether constructed all at one time or in stages over a period of time. All building walls facing any street or residential district line shall be suitably finished for aesthetic purposes which shall not include unpainted or painted cinder block or concrete block walls.
- (d) All areas not utilized for buildings, parking, loading, access aisles and driveways or pedestrian walkways shall be suitably landscaped with shrubs, ground cover, seeding or similar plantings and maintained in good condition.
- (e) Each activity shall provide for off-street loading and unloading with adequate ingress and egress from streets and shall provide for such an area at the side or rear of the building.
- (f) There shall be at least one (1) trash or garbage pickup location provided by each building which shall be separated from the parking spaces by either a location within the building or in a pickup location outside the building. The trash and/or garbage shall be stored in a steel-like, totally enclosed container located in a manner to be obscured from view from parking areas, streets and adjacent residential uses or zoning districts by a fence, wall, planting or combination of three (3). If located within the building, the doorway may serve both the loading and trash/garbage functions. If a container is used for trash/garbage functions and is located outside the building, it may be located adjacent to or within the general loading area(s) provided the container in no way interferes with or restricts loading and unloading functions.

5. Private residential swimming pools are prohibited in the "RC" District.

d. Stormwater Control

- 1. Each property shall provide stormwater control to help alleviate the stormwater runoff in the RC and RR zones as set forth below.
- 2. Stormwater control shall meet Section 19-7.7 for all new development or shall provide the following minimum which the Municipal Engineer has calculated to meet the standards:
 - (a) Provide drywell constructed in accordance with NJAC 7:8-5.9(a).iii.
 - (b) Drywell shall be at least one hundred feet (100') of 24"x24" clean stone trench with 6" perforated pipe connected to downspouts that direct the runoff from at least 90% of the roof area.
 - (c) Prior to placement of stone in the drywell the excavation shall be inspected by the Municipal Engineer to verify that the soils meet the permeability standards of NJAC 7:8.
- 3. Pervious paving for driveway area is recommended and shall not be included in the calculation of impervious lot coverage.

e. Ground Floor Elevation

- 1. All new construction and substantial improvement to any structure shall have the ground floor elevated to Elevation 7.0 N.A.V.D. or higher except if the following conditions are met:
 - (a) the change in slope from the roadway to ground floor Elevation 7.0 N.A.V.D. shall be more than two (2') feet; and
 - (b) If the ceiling height of the ground floor and all door jamb headers are constructed to allow for future construction of a ground floor at Elevation 7.0 N.A.V.D. without having to raise the entire structure.

Delete Section 20-4.9 "U" Utility.

20-4.9. Reserved.

Revise the following subsections in **Section 20-4.20 "MTCD" Marmora Town Center District**:

20-4.20c. Permitted Principal Uses.

The permitted principal uses pertaining to the "MTCD" District shall require a mixed-use development limited to the following:

1. Mixed-use projects shall provide a combination of residential and non-residential development in accordance with the following:
 - a. Mixed-use developments shall have 40% of the total habitable space for non-residential development uses and 60% of the total habitable space for residential development uses.
 - b. The residential may be upper level apartments or stand-alone developments on the same parcel or contiguous parcel.
 - c. All development along Route 9 shall be non-residential with the option for upper level residential. No stand-alone residential building will be permitted along Route 9
 - d. Phasing is required in accordance with Subsection "1." below.
 - e. All residential must provide a set aside for affordable housing required by Subsection "3f" below.

2. Within the mixed-use development the following non-residential uses are permitted:
 - a. Retail stores, restaurants and personal service uses.
 - b. General or professional offices.
 - c. Repair and servicing, indoors only, of any article for sale which is permitted in this district.
 - d. Banks and Similar Financial Institutions. Drive-through provided that such are compatible with the design of the building and are appropriately located at the side or rear of a building. Drive-through facilities servicing such uses shall be permitted provided that the scale of the drive through windows and lanes is compatible with the design of the building and site design. A maximum of three (3) drive-through lanes shall be permitted (inclusive of lanes for ATMs).
 - e. Day Care Centers.
 - f. Indoor theaters and bowling alleys.
 - g. Retail garden centers.
 - h. School of dance, drama. Karate, or any similar instructional institution.
 - i. Recreation, exercise and health clubs and facilities.
 - j. Shopping Centers including any of the above uses.
 - k. Hotels and Motels including ancillary uses such as conference halls, banquet rooms, and recreational facilities.

20-4.20d. Permitted Accessory Uses.

1. Recreational and/or open space facilities, including, but not limited to, walkways, courtyards and plazas.
2. Off-street parking and loading located to the rear of principal buildings or appropriately screened from public view.
3. Signage standards shall be compatible to the architectural design of the buildings. Monument signs, wall and hanging signs shall be limited in size and compatible with the pedestrian scale of the center. Pylon signs are prohibited.
4. Street furnishings, planters, street lights, and exterior, garden type, shade structures (gazebos).
5. Sidewalk cafes associated with permitted restaurants.
6. Fences and walls, which shall complement the architectural style, type and design of the building and the overall project design.
7. Decks, patios and terraces, which shall complement the architectural style, type and design of the building and the overall project design.
8. Parking Garages.

20-4.201.1 Phasing

A phasing plan is required within the MTCDD zone for each development tract as part of the site plan approval. The phasing plan shall demonstrate that there is a ratio of 40% non-residential habitable area to 60% residential habitable area before any approval may be granted for the proposed mixed-use development. The permitted residential density is 12 units per acre.

Add new **Section 20-4.22 "WTC" Waterfront Town Center** as follows:

- a. *Purpose.* The purpose of the "WTC" District is intended to promote the redevelopment of the BL England property and surrounding area while promoting the waterfront area. Existing land uses enhancing the waterfront area include restaurants, beach access, and water related recreational rentals.
- b. *Goals.* The goals of the "WTC" District include an appropriate reuse and/or redevelopment of the existing BL England property.
- c. *Permitted Principal Uses.*
The permitted principal uses pertaining to the "WTC" District are as follows:
 1. Recreational Facilities and Entertainment uses.
 2. Jet-ski rental facilities.
 3. Restaurants.
 4. Retail stores and personal service uses.
 5. General or professional offices.
 6. Hotels and Motels including ancillary uses such as conference halls, banquet rooms, and recreational facilities.
 7. Parks, plazas and playgrounds.
 8. Building structures and uses owned or operated by the Upper Township for municipal purposes.
- d. *Permitted Accessory Uses.* The permitted accessory uses are as follow:
 1. Marinas.
 2. Recreational and/or open space facilities, including, but not limited to, walkways, courtyards and plazas.
 3. Off-street parking and loading located to the rear of principal buildings or appropriately screened from public view.
 4. Signage standards shall be compatible to the architectural design of the buildings. Monument signs, wall and hanging signs shall be limited in size and compatible with the pedestrian scale of the center. Pylon signs are prohibited.
 5. Street furnishings, planters, street lights, and exterior, garden type, shade structures (gazebos).
 6. Outdoor cafes associated with permitted restaurants.
 7. Fences and walls, which shall complement the architectural style, type and design of the building and the overall project design.
 8. Decks, patios and terraces, which shall complement the architectural style, type and design of the building and the overall project design.
- e. *Permitted Conditional Uses.*
 1. Electrical Substations.
 - a. The total land area devoted to electrical substations shall not exceed 10 acres.
 - b. Electrical substations are permitted but must be located at least 1,200 feet from the most waterward side of Lot 76.01 and 1,400 feet from North Shore Road.
 - c. Any new connections to the existing or future substations shall be underground.
- f. *Area and Yard Requirements.* The area and yard requirements pertaining to all permitted uses within the "WTC" District are provided on Schedule C Area and Yard Requirements for Zone Districts except as modified or supplemented by this section.

Revise the following subsection **Section 20-5.3a:**

20-5.3 Fences.

- a. *In the "R," "R2," "AR," "MTCD," "TC," "TCC," "RR," "RC," "C," "PV," "RD," "F-3," "F-10," "F-25," "TV," "TR," "WTC" Zones.* No fence shall be erected of barbed wire, topped with metal spikes or constructed of any material or in any manner which may be dangerous to persons or animals. Fences or walls permitted under this subsection shall not be erected or altered to be over four (4') feet in height in the front yard areas and six (6') feet in height in the side and rear yard areas.

Revise following **Section 20-5.9 Principle Use:**

20-5.9 Principal Use.

- a. Structures. No more than one (1) principal structure shall be permitted on one (1) lot, except as allowed in the MTCD, TC, TCC, WTC, CM2, CM4 and CMP or otherwise specified for in a particular zoning district.
- b. Use. No more than one (1) principal use shall be located on one (1) lot, except for forestry, agriculture, horticulture, fish and wildlife management, recreational development or agricultural lands and as allowed in the MTCD, TC, TCC, WTC, CM2, CM4 and CMP zones or otherwise specified for in a particular zoning district.

Revise following subsections in **Section 20-5.10 Signs**

20-5.10 Signs.

- a.2. Freestanding signs, where permitted, shall be supported by one (1) or more columns or uprights which are firmly embedded in the ground, except within the MTCD, WTC, TC and TCC zone districts, pole signs shall not be permitted. Exposed guy wires, chains or other connections shall not be made in permanent support of the freestanding signs.
- b.3. Commercial "MTCD," "TC," "TCC," "WTC", "CM2," "CM4," and "CMP" District (lot size under three (3) acres).

- (a) Attached signs: One (1) unlighted or lighted sign for each occupant of the building. The total area of the sign shall not exceed ten (10%) percent of the areas of the face of the wall upon which such sign is attached or thirty (30) square feet, whichever is smaller. Where building(s) is (are) designed for rear or side entrances, one (1) unlighted sign may be attached flat against the building at the rear and side entrances, each sign not to exceed an area equivalent to half that of the sign on the front of the building.

- (b) Freestanding signs: One (1) unlighted or lighted freestanding sign for each principal building or group of attached principal buildings (except auto service stations) except all freestanding signs in the MTCD, WTC, TC or TCC zones shall be monument signs.

- (1) Height: Thirty-five (35') feet or the height of the principal building, whichever is shorter except within the MTCD, WTC, TC or TCC zone where the height shall not exceed eight (8') feet.

- (2) Setback: At least twenty (20') feet from all street lines and fifty (50') feet from all side property lines. Where existing development or roadway alignment prevent adequate visibility of signs meeting the setback requirements of this Chapter, signs may be constructed up to the street line provided that adequate sight distance is provided and further provided that no portion of any sign extends beyond the street line.

- (3) Area:

Lot frontage: <150' Not to exceed thirty-two (32) square feet.

Lot frontage: >= 150' Not to exceed seventy-five (75) square feet.

- b.4. Commercial "MTCD," "TC," "TCC," "WTC," "CM2," "CM4," and "CMP" District (lot size of three (3) acres).

- (a) Attached signs: One (1) unlighted or lighted sign for each occupant of the building. The total sign area of the sign shall not exceed ten (10%) percent of the areas of the face of the store wall upon which such sign is attached or seventy-five (75) square feet, whichever is smaller. Where building(s) is (are) designed for rear or side entrances, one (1) unlighted sign may be attached flat against the building at the rear and side entrances, each sign not to exceed an area equivalent to half that of the sign on the front of the building.

- (b) Freestanding signs: One (1) unlighted or lighted freestanding sign for each principal building or shopping center except all freestanding signs in the MTCD, WTC, TC or TCC zones shall be monument signs.
 - (1) Height: Thirty- five (35') feet or the height of the principal building, whichever is shorter except within the MTCD, WTC, TC or TCC zone where the height shall not exceed eight (8') feet.
 - (2) Setback: At least thirty (30') feet from any street or lot line. Where existing development or roadway alignment prevent adequate visibility of signs meeting the setback requirements of this Chapter, signs may be constructed up to the street line provided that adequate sight distance is provided and further provided that no portion of any sign extends beyond the street line.
 - (3) Area:
 - Lot frontage: <250' Not to exceed seventy-five (75) square feet.
 - Lot frontage: >= 250' Not to exceed one hundred (100) square feet.

Revise Section 20-6.3 Height Limits as follows:

20-6.3 Height Limits

- a. No building shall exceed the height limits as prescribed in Section 20-4.
- b. Roof structures for the housing of stairways, tanks, ventilating fans, air conditioning equipment or similar equipment required to operate and maintain the building; skylights; spires; cupolas; flagpoles; chimneys; or similar structures may be erected above the height limits prescribed by this Chapter, but in no case more than twenty-five (25%) percent more than the maximum height prescribed for the use in the district. Farm silos shall have no height restrictions. Roof structures or cupolas for stairway or elevator access are not permitted above the required building height in the RR and RC Zones.
- c. Any building having a roof slope less than 4:1 for more than 25% of the building shall be considered a flat roof and the prescribed building height limit in Section 20-4 shall be reduced by four (4') feet.

Revise the following subsections to Section 20-11.1c:

- c. Application. Application for zoning permit shall be:
 - 1. Unchanged
 - 2. Unchanged
 - 3. Unchanged.
 - 4. Unchanged.
 - 5. Accompanied by a plot plan with the following information:
 - (a.) Drawn to scale with dimensions showing the exact size, shape, and location of all existing and proposed buildings and structures.
 - (b.) The proposed building or structure in its exact relation to lot and street lines.
 - (c.) Zoning schedule showing existing and proposed area and yard requirements.
 - (d.) Existing and proposed grading to show there will not be an impact to off-site properties.
 - (e.) The Zoning Officer may waive the plot plan requirements on minor applications not affecting structural change.
 - (f.) The Zoning Officer may require an as-built survey showing compliance with the information provided in (a) through (d) above.

Revise the following subsection Section 20-15.4a1 Residential Development Fees:

- a. Imposed Fees.
 - 1. Within all residential zone districts, Marmora Town Center District (MTCD), Waterfront Town Center (WTC), Town Center (TC) and Town Center Core (TCC) Zone Districts, and other zone districts which permit residential uses, residential developers, except for developers of the types of development specifically exempted below, shall pay

a fee of one and one-half (1.5%) percent of the equalized assessed value of the land and improvements for all new residential construction on an unimproved lot or lots provided no increased density is permitted.

Replace **Schedule B** with the attached **Schedule B**.

Replace **Schedule C** with the attached **Schedule C**.

SECTION 2: EFFECTIVE DATE: This ordinance shall take effect immediately upon the following 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 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 FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 27TH OF APRIL, 2020 AND WAS TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD EXCLUSIVELY BY ELECTRONIC MEANS, ON THE 26TH DAY OF MAY, 2020 AT 7:30 P.M. AT THE TOWNSHIP HALL, TUCKAHOE, NEW JERSEY, AT WHICH TIME SAID ORDINANCE WAS ADOPTED.

BARBARA L. YOUNG, TOWNSHIP CLERK
TOWNSHIP OF UPPER

Please be advised, the Tuesday May 26, 2020 Upper Township Committee meeting will be conducted exclusively by electronic means.

The public will be able to attend the meeting and participate in public comment by utilizing a computer, tablet, or smartphone that has a microphone and speaker, or by dialing in on a telephone.

The meeting will commence electronically on Tuesday May 26, 2020 at 7:30 p.m.

From your computer, tablet or smartphone:

Please go to <https://www.gotomeet.me/UpperTownship-NJ/ut-public-meeting-room>.

To dial in using your phone:

United States: 1 (872) 240-3311

Access Code: 617 672 469

New to GoToMeeting? Get the app now and be ready when the first meeting starts:

<https://global.gotomeeting.com/install/617672469>

For any questions please contact the Clerk's Office at 609-628-2011 ext. 200.

Legislative History:

Introduced: April 27, 2020

Publication: May 6, 2020

Newspaper(s): The Press of Atlantic City

Second Reading and Public Hearing: May 26, 2020

Final Adoption: May 26, 2020

Final Publication Date: May 29, 2020

I certify that the foregoing Ordinance was finally adopted by the Township Committee of the Township of Upper on May 26, 2020 and notice of adoption was thereafter published pursuant to law in the Press of Atlantic City on May 29, 2020.


BARBARA L. YOUNG, Township Clerk

SCHEDULE B - March 9, 2020

COMMERCIAL AND MIXED USE DISTRICTS
 PERMITTED PRINCIPAL (P), CONDITIONAL (CU) AND ACCESSORY (A) USES

	RC	CM2	CM4	CMP	M	TV	TC	TCC
<i>Uses</i>	<i>Resort Comm.</i>	<i>Comm. District</i>	<i>Rural Comm.</i>	<i>Comm. Pinelands</i>	<i>Mining</i>	<i>Tuckahoe Village</i>	<i>Town Center</i>	<i>Town Center Core</i>
1. Retail sale of goods and services	P	P	P	P		P	P	P
2. Restaurants, bars and taverns	P	P	P	P		P	P	P
3. Offices and office buildings	P	P	P	P		P	P	P
4. Banks (See Note #1)	P	P	P	P		P	P	P
5. Marinas	P	P	P	P		P		
6. Day care centers	P	P	P	P		P	P	P
7. Indoor theaters and bowling alleys		P	P	P			P	P
8. Retail garden centers (See Note #2)		P	P	P		P	P	P
9. School of dance, drama, karate, or any similar instructional institution		P	P	P			P	P
10. Recreation, exercise and health clubs and facilities		P				P	P	P
11. Shopping centers (See Note #13)		P	P	P			P	P
12. House of worship	P	P	P	P		P	P	P
13. Laboratories of an experimental, research or testing nature (See Note #3)		P	P	P				
14. Wholesale distribution centers and warehousing (See Note #4)		P	P	P			P	P
15. Public park-and-ride facilities		P	P			P	P	P
16. Museums, art galleries and other cultural and civil facilities of a similar nature						P	P	P
17. Mixed use buildings						P	P	P
18. Home occupations						P	P	P
19. Bed and breakfast facilities						P		

Schedule B—Continued

	RC	CM2	CM4	CMP	M	TV	TC	TCC
	Resort Comm.	Comm. District	Rural Comm.	Comm. Pinelands	Mining	Tuckahoe Village	Town Center	Town Center Core
Uses								
38. Travel trailers and campers (See Note #6)						A		
39. Temporary construction trailers (See Note #7)	A	A	A	A	A	A	A	A
40. One dwelling unit (See Note #12)	A	A				A		
41. Boat mooring slips, catwalks, piers, docks, landings or observation decks (See Note #8)	A	A						
42. Garages to house delivery trucks and other commercial vehicles, storage buildings and other customary uses incidental to the principal use (See Note #9)	A	A	A	A	A	A	A	A
43. Employee cafeterias (See Note #10)					A			
44. Concrete and asphalt recycling (See subsection 20-4.10)					A			
45. One (1) tool shed not to exceed an area of 120 square feet						A		
46. Private residential swimming pools (See subsection 20-5.11)						A		
47. Residential agriculture						A		
48. Affordable accessory apartment	A	A					A	A

Schedule B Notes

1. Banks with drive-through facilities are permitted in the CM2, CM4, CMP Districts. For the TC and TCC District, see subsection 20-4.7c.5.
2. Maximum outdoor storage, sale or display for retail garden centers shall not exceed four (4) times the building coverage.
3. Process shall occur only within completely enclosed buildings which do not produce noticeable noise, vibration, smoke, dust, odors, hear or glare outside of building(s) on a minimum three (3) acre site.
4. Activities shall be conducted entirely within enclosed buildings on minimum three (3) acre site.
5. Residential dwelling units are permitted in the TC and TCC Districts as part of mixed use projects. Additionally, freestanding residential buildings may be constructed within the TC District in accordance with the specific requirements set forth in subsections 20-4.7c2 and 20-4.7c3.

6. Travel trailers and campers to be parked or stored only. Their dimensions shall not be counted in determining total building coverage and they shall not be used for temporary or permanent living quarters while situate on a lot.
7. Temporary construction trailers and one (1) sign not exceeding thirty-two (32) square feet advertising the prime contractor, subcontractors, architect, financing institution, or similar data for the period of construction beginning with the issuance of a construction permit and concluding with issuance of a Certificate of Occupancy, or one (1) year, whichever is less, provided said trailer(s) and sign are on the site where construction is taking place and set back at least fifteen (15') feet from the street and lot lines. Temporary construction trailers may not be located on the street or on the right-of-way unless application is made to the Construction Official, who may, for exceptional reasons, grant a temporary permit for the location of such construction trailer on the street or road right-of-way, which permit shall be effective for a period of ninety (90) days and be renewed for good cause shown, for an additional period of ninety (90) days. Within the "M" Mining District, the sign may not exceed one hundred (100) square feet.
8. On waterfront properties boat mooring slips, catwalks, piers, docks, landings or observation decks. Such structures shall be built on pilings, and the width of the structure shall not exceed twice the clearance between the structure and the surface of the wetlands (as defined and mapped under the Wetlands Act of 1970 N.J.S.A. 139A-1 et seq.). These uses will necessitate New Jersey Department of Environmental Protection approval for a type "A" permit pursuant to the Wetlands Act of 1970 (N.J.S.A. 13:9A-1 et seq.). The structure shall meet applicable side yard and building coverage requirements of this Chapter. (Rear yard requirements do not apply.) No boats moored at a residential property shall be lived in.
9. Garages shall not exceed twenty (20') feet in height and storage sheds shall not exceed fifteen (15') feet in height.
10. Use of the cafeteria is limited to service the employees of the principal use.
11. Minimum three (3) acre site.
12. The minimum gross floor area for the dwelling unit shall be six hundred fifty (650) square feet. The floor area for the dwelling unit shall not be construed to fulfill the minimum gross floor area required for the commercial use. Within the Pinelands Area, such attached dwellings shall be located on a lot of at least three and two-tenths (3.2) acres and shall otherwise comply with the standards of subsection 20-5.14. For any dwelling unit added after January 1, 2016, said dwelling unit must be an "Affordable Accessory Apartment" and comply with subsection 20-4.19. (Ord. #003-2016)
13. Shopping centers shall include the above listed permitted uses numbers 1-10.

SCHEDULE C - Revised March 9, 2020

AREA AND YARD REQUIREMENTS FOR ZONE DISTRICTS

	Zoning District	Principal Building										Accessory Building					
		Minimum Lot Area (s.f.)	Minimum Lot Frontage (feet)	Minimum Lot Width (feet)	Minimum Lot Depth (feet)	Minimum Yards (feet)			Height (1) (feet)	Maximum Building Coverage	Maximum Impervious Lot Coverage	Tree Preservation (11)	Landscape Buffer (11) (feet)	Minimum Yards (feet)		Distance to Other Building (feet)	Maximum Building Coverage
						Front	Side one/both	Rear						(Side one/both	Rear		
Residential Zones																	
AR	Agriculture and Rural Density Residential	120,000	200	200	300	80	50/100	100	35	3%	5%	70%	40	25/50	50	20	1.0%
	House of Worship and Cemeteries	120,000	200	200	200	50	50/50	50	55	5%	10%	50%	25	15/30	15	15	2.5%
	9-Hole Golf Courses	50 acres	600	600	1,000	200	200/400	200	35	1%	10%	35%	20	50/100	50	20	0.1%
	18-Hole Golf Courses	200 acres	600	600	1,000	200	200/400	200	35	1%	10%	35%	20	50/100	50	20	0.1%
R	Center Residential	40,000	140	140	175	50	25/50	50	35	10%	30%	35%	10	15/30	15	15	5.0%
	House of Worship and Cemeteries	60,000	200	200	200	50	50/50	50	55	10%	30%	35%	10	15/30	15	15	5.0%
R2	Moderate Density Residential	40,000	140	140	175	50	25/50	50	35	8%	20%	35%	10	15/30	15	15	4.0%
	House of Worship and Cemeteries	60,000	200	200	200	50	50/50	50	55	10%	30%	35%	10	15/30	15	15	5.0%
	9-Hole Golf Courses	50 acres	600	600	1,000	200	200/400	200	35	1%	10%	35%	20	50/100	50	20	0.1%
	18-Hole Golf Courses	200 acres	600	600	1,000	200	200/400	200	35	1%	10%	35%	20	50/100	50	20	0.1%
RR	Resort Residential	4,000	40	40	100	15	(14)	30	35	27%	45%	0%	0	6/6	10	10	2.5%
	Houses of Worship	6,000	50	50	100	15	8/8	30	55	20%	50%	0%	0	8/8	10	10	5.0%
TR	Tuckahoe Riverfront	2 acres	150	150	250	50	35/70	50	35	3%	5%	50%	25	35/70	50	20	1.5%
MH	Mobile Home	20 acres	200	200	400	75	7/150	75	35	35%	70%	25%	50	15/30	50	15	5.0%
AHGR	Affordable Housing Group Home	5 acres	200	200	400	100	60/120	60	45	30%	40%	25%	35	15/30	50	15	5.0%
C	Conservation	10 acres	400	400	400	(4) 200	50/50	70	35	1.5%	3%	70%	25	40/40	40	20	0.5%
PV	Pinelands Village	1 acre	120	120	150	(2) 70	25/50	50	35	6%	10%	50%	10	15/30	15	15	5.0%

Schedule C—Continued

Zoning District	Principal Building										Accessory Building						
	Minimum Lot Area (s.f.)	Minimum Lot Frontage (feet)	Minimum Lot Width (feet)	Minimum Lot Depth (feet)	Minimum Yards (feet)			Height (1) (feet)	Maximum Building Coverage	Maximum Impervious Lot Coverage	Tree Preservation (11)	Landscape Buffer (11) (feet)	Minimum Yards (feet)		Distance to Other Building (feet)	Maximum Building Coverage	
					Front	Side one/both	Rear						(Side one/both	Rear			
Residential Zones																	
RD	Rural Development	3.75 acres	150	150	300	(4) 200	30/60	70	35	5%	10%	50%	10	30/30	30	15	2.0%
	House of Worship and Cemeteries	60,000	200	200	200	50	50/50	50	55	5%	10%	50%	25	15/30	15	15	2.0%
	9-Hole Golf Courses	50 acres	600	600	1,000	200	200/400	200	35	1%	10%	35%	20	50/100	50	20	0.1%
	18-Hole Golf Courses	200 acres	600	600	1,000	200	200/400	200	35	1%	10%	35%	20	50/100	50	20	0.1%
F3	Rural Density Forest	3.2 acres	(5) 150	150	325	(4) 200	50/100	75	35	3%	5%	70%	25	30/60	30	15	1.0%
F10	Low Density Forest	10 acres	(6) 175	175	350	(4) 200	50/100	100	35	2%	4%	70%	25	30/60	30	15	0.5%
F25	Forest Conservation	25 acres	(7) 200	200	350	(4) 200	50/100	100	35	0.5%	3%	70%	25	50/100	50	20	0.5%
RP	Recreation and Park	3.75 acres	150	150	300	200	50/100	75	35	5%	10%	70%	25	30/60	30	15	2.0%
	9-Hole Golf Courses	50 acres	600	600	1,000	200	200/400	200	35	1%	10%	35%	20	50/100	50	20	0.1%
	18-Hole Golf Courses	200 acres	600	600	1,000	200	200/400	200	35	1%	10%	35%	20	50/100	50	20	0.1%
RPPV	Recreation and Park Pinelands Village	3.75 acres	150	150	300	200	50/100	75	35	5%	10%	70%	25	30/60	30	15	2.0%
	9-Hole Golf Courses	50 acres	600	600	1,000	200	200/400	200	35	1%	10%	35%	20	50/100	50	20	0.1%
	18-Hole Golf Courses	200 acres	600	600	1,000	200	200/400	200	35	1%	10%	35%	20	50/100	50	20	0.1%

Schedule C—Continued

Zoning District	Minimum Lot Area (s.f.)	Minimum Lot Frontage (feet)	Minimum Lot Width (feet)	Minimum Lot Depth (feet)	Principal Building						Accessory Building						
					Minimum Yards (feet)			Height (1) (feet)	Maximum Building Coverage	Maximum Impervious Lot Coverage	Tree Preservation (11)	Landscape Buffer (11) (feet)	Minimum Yards (feet)		Distance to Other Building (feet)	Maximum Building Coverage	
					Front	Side one/both	Rear						(Side one/both	Rear			
Mixed Use Zones																	
MTCD	Marmora Town Center District (12)	40,000 < 10 ac.	250	250	300	0	(12) 5/10	50	(13) 5 stories	45%	70%	15%	15	10/20	10	10	5.0%
		10 ac. and over	300	300	600	0	(12) 5/10	50	(13) 5 stories	45%	70%	15%	25	10/20	10	10	5.0%
TCC	Town Center Core (10)	40,000-<5 ac.	100	100	200	50	(9) 25/50	(9) 50	45	35%	60%	15%	10	10/20	25	25	5.0%
		5 ac.-<10 ac.	250	250	300	50	(9) 25/50	(9) 50	45	25%	70%	15%	15	10/20	25	25	5.0%
		10 ac. and over	300	300	600	100	(9) 50/100	(9) 50	45	20%	70%	25%	25	10/20	25	25	5.0%
TC	Town Center (10)	40,000-5 ac.	125	125	200	50	(9) 25/50	(9) 50	45	30%	50%	15%	10	10/20	25	25	5.0%
		5 ac.-<10 ac.	250	250	300	50	(9) 25/50	(9) 50	45	20%	60%	15%	15	10/20	25	25	5.0%
		10 ac. and over	300	300	600	100	(9) 50/100	(9) 50	45	15%	60%	25%	25	10/20	25	25	5.0%
WTC	Waterfront Town Center (10)	40,000-<5 ac.	100	100	200	50	(9) 25/50	(9) 50	(13) 45	35%	60%	15%	10	10/20	25	25	5.0%
		5 ac.-<10 ac.	250	250	300	50	(9) 25/50	(9) 50	(13) 45	25%	70%	15%	15	10/20	25	25	5.0%
		10 ac. and over	300	300	600	100	(9) 50/100	(9) 50	(13) 45	20%	70%	25%	25	10/20	25	25	5.0%
TV	Tuckahoe Village	15,000	50	50	100	10	10/10	25	35	50%	70%	25%	10	6/12	6	10	5.0%
Commercial Zones																	
RC	Resort Commercial	6,000	50	50	100	15	8/16	30	35	30%	60%	0%	5	8/16	10	10	5.0%
CM2	Commercial	40,000-<5 ac.	150	150	200	50	(9) 25/50	(9) 50	35	20%	30%	50%	15	15/30	25	25	5.0%
		5 ac.-<10 ac.	250	250	300	100	(9) 25/50	(9) 50	35	15%	35%	50%	20	15/30	25	25	5.0%
		10 ac. and over	300	300	600	100	(9) 50/100	(9) 100	35	15%	35%	50%	25	15/30	25	25	1.0%
CM4	Rural Density Commercial	2 acres	200	200	250	100	50/100	50	35	5.0%	15%	70%	15	15/30	25	25	1.0%
CMP	Commercial Pinelands	3.2 acres	200	200	250	100	50/100	50	35	5.0%	15%	70%	15	15/30	25	25	1.0%

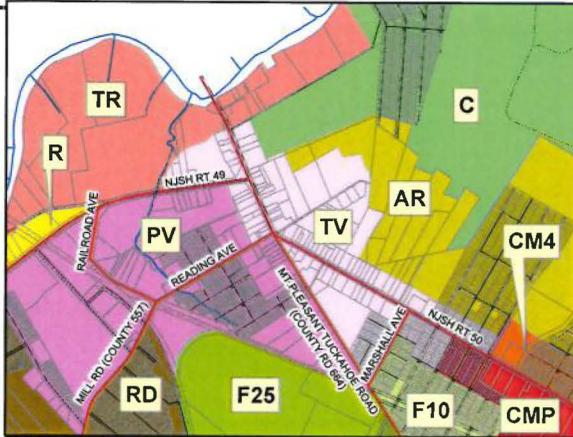
Schedule C Notes

- ¹ No building shall exceed maximum specified height, except that churches shall not exceed fifty-five (55') feet in height and except further as allowed in subsection 20-6.3.
- ² May be reduced to the average setback of the five (5) closest principal buildings.
- ³ Reserved.
- ⁴ May be reduced to one hundred (100') feet in agricultural areas or where environmental limitations require reduction.
- ⁵ The lot frontage requirements may be reduced to fifty (50') feet for 3.2 acre flag lot.
- ⁶ The lot frontage requirements may be reduced to fifty (50') feet for a 10 acre flag lot.
- ⁷ The lot frontage requirements may be reduced to fifty (50') feet for a 25 acre flag lot.
- ⁸ Reserved.
- ⁹ An additional side and rear setback of twenty-five (25') feet shall be provided when the adjacent property is in a residential district.
- ¹⁰ See additional WTC, MTCD, TC and TCC front yard and side yard setback and height standards in subsection 20-4.7e.
- ¹¹ Tree Preservation and Landscape Buffer shall not be required for properties with existing structures that existed prior to October 15, 2007.
- ¹² See additional front yard and side yard setback and height standards in subsection 20-4.20e.
- ¹³ Except for buildings attached to a hotel use there shall be no maximum limit on stories or height
- ¹⁴ Side yard setbacks shall be provided in accordance with 20-4.5b2(e)

Township of Upper Zoning Map

Prepared by:
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Upper Township Engineer
2100 Tuckahoe Road
Tuckahoe, NJ 08250-0205

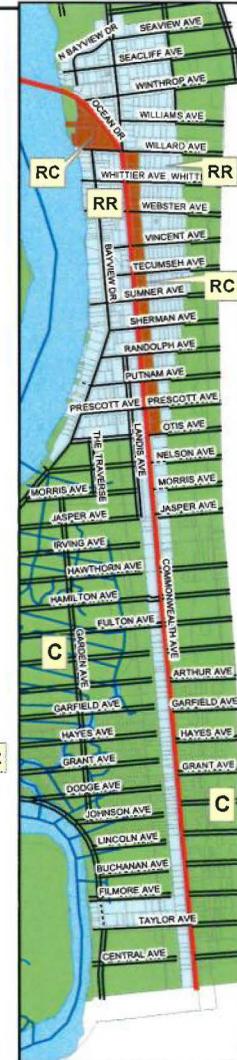
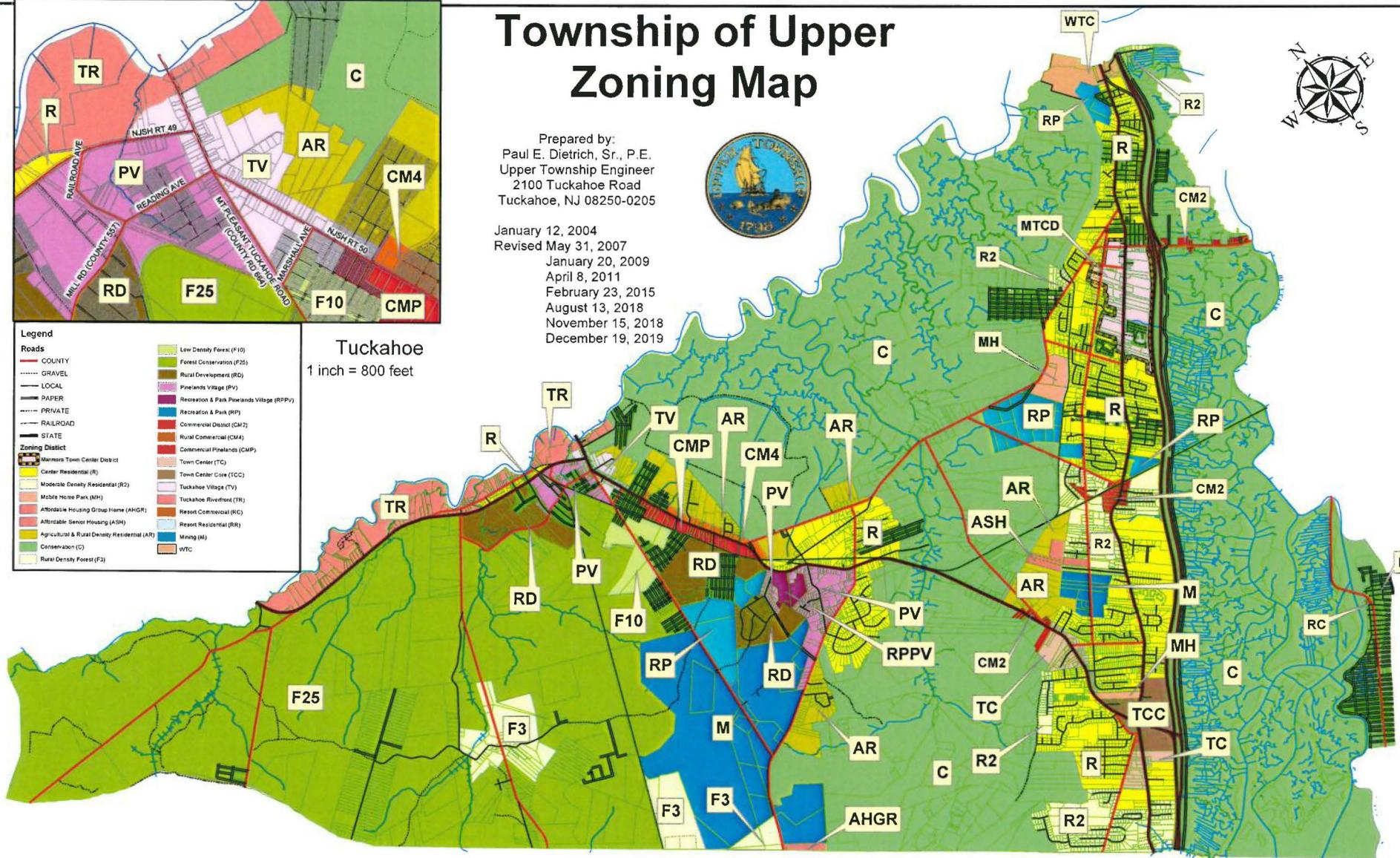
January 12, 2004
Revised May 31, 2007
January 20, 2009
April 8, 2011
February 23, 2015
August 13, 2018
November 15, 2018
December 19, 2019



Legend

Roads	Low Density Forest (F10)
— COUNTY	Forest Conservation (F25)
--- GRAVEL	Rural Development (RD)
— LOCAL	Pine Lands Village (PV)
— PAPER	Recreation & Park (RP)
--- PRIVATE	Commercial District (CM2)
--- RAILROAD	Rural Commercial (CM4)
— STATE	Commercial Pine Lands (CMP)
Zoning District	Town Center (TC)
Mariners Town Center District	Town Center Core (TCC)
Carlele Residential (R)	Tuckahoe Village (TV)
Moderate Density Residential (R2)	Tuckahoe Riverfront (TR)
Mobile Home Park (MH)	Resort Commercial (RC)
Affordable Housing Group Home (AHGR)	Resort Residential (RR)
Affordable Senior Housing (ASH)	Mining (M)
Agricultural & Rural Density Residential (AR)	Conservation (C)
Conservation (C)	WTC
Rural Density Forest (F3)	

Tuckahoe
1 inch = 800 feet



Strathmere
1 inch = 600 feet



1 inch = 0.5 miles