

**TOWNSHIP OF UPPER
2100 TUCKAHOE ROAD
PETERSBURG, NJ 08270
CAPE MAY COUNTY
MINUTES FOR NOVEMBER 10, 2025**

WORKSHOP MEETING OF THE TOWNSHIP COMMITTEE – 5:00 P.M.

SUNSHINE ANNOUNCEMENT

Mayor Corson read the following Open Public meeting notice into the record:

“In compliance with the Open Public Meetings Law, I wish to state that on November 7, 2025 the notice of this Workshop meeting of the Upper Township Committee was posted on the official Township Bulletin Board and the Upper Township Website, emailed to the Atlantic City Press, the Ocean City Sentinel-Ledger, the Herald Times and filed with the Township Clerk. I hereby direct that this announcement be made a part of the minutes of this meeting.”

ROLL CALL

Tyler Casaccio	Present
Victor Nappen	Absent
Samuel Palombo	Absent
Zachary Palombo	Present
Curtis Corson	Present

Also present were Municipal Clerk Joanne Herron, Municipal Attorney John Amenhauser, and Chief Financial Officer Barbara Ludy.

DISCUSSION

1. 2026 Reorganization Meeting Date. **After a brief discussion, there was a consensus amongst the Committee members present to schedule the 2026 Reorganization for Monday January 5, 2026 at 6:00 pm. A Resolution for formal action will be prepared for tonight’s regular meeting.**

ADJOURNMENT OF WORKSHOP MEETING

Motion by Curtis Corson, second by Tyler Casaccio, to adjourn the workshop meeting. During roll call vote all three Committee members present voted in the affirmative.

There was then a brief recess before the regular meeting began.

REGULAR MEETING OF THE TOWNSHIP COMMITTEE – 5:30 P.M.

CALL TO ORDER

SUNSHINE ANNOUNCEMENT

Mayor Corson read the following Open Public meeting notice into the record:

“In compliance with the Open Public Meetings Law, I wish to state that on November 7, 2025, the notice of this meeting of the Upper Township Committee was posted on the official Township Bulletin Board, the Upper Township Website, and emailed to the Atlantic City Press, the Ocean City Sentinel-Ledger, the Herald Times and filed with the Township Clerk. Tonight’s meeting is being video recorded up until the closed session portion of this meeting and will be available on the Upper Township website. I hereby direct that this announcement be made a part of the minutes of this meeting.”

SALUTE TO THE FLAG

ROLL CALL

Tyler Casaccio	Present
Victor Nappen	Absent
Samuel Palombo	Absent
Zachary Palombo	Present
Curtis Corson	Present

Also present were Municipal Clerk Joanne Herron, Municipal Attorney John Amenhauser, and Chief Financial Officer Barbara Ludy.

APPROVAL OF MINUTES - October 27, 2025 Workshop, Regular, and Closed Session Minutes

Motion by Tyler Casaccio, second by Zachary Palombo, to approve the October 27, 2025 Workshop, Regular, and Closed Session Minutes as submitted. During roll call vote all three Committee members present voted in the affirmative.

REPORT OF GOVERNING BODY MEMBERS

Tyler Casaccio, Committeeman, thanked Township residents for their support during the November 4th election for himself and Committeeman Nappen and stated that he is looking forward to a productive and exciting three years. He then reported that a Veterans Day Ceremony will be hosted by the Osprey Point Community on November 11th at 10:00 am and, due to weather conditions, it will be held inside. Next, he reported that Judge Sheppard, the Assignment Judge for the Atlantic and Cape May Vicinage, has approved the shared service agreement between the Township and the Borough of Woodbine for municipal court services beginning January 1, 2026.

Zachary Palombo, Committeeman, wished the United States Marine Corps a Happy Birthday on their 250th anniversary. He then thanked all the veterans who have served and continue to serve. Next, he reported that the Public Works Department will begin leaf pickup on November 17th starting at Beesley's Point and moving south, and at Luke Court and moving north. The trucks will make multiple rounds throughout the Township with collection ending the second week in December. Lastly, he reported that he and Mayor Corson recently had a productive meeting with the Township's CFO, Registered Municipal Accountant, and Administrator regarding the 2026 budget and bonding for some needed Public Works machinery repairs and replacements.

Curtis Corson, Mayor, reported that the Township Committee will be taking a more proactive and more efficient approach to bonding moving forward. He then reported that he is looking forward to attending the annual Osprey Point Veterans Day Ceremony tomorrow. Next, he reported that the Upper Township Business Association will be holding their Annual Community Night on Wednesday, November 12th at the Upper Township Elementary School from 5:30 pm to 7:30 pm. He then reported that the Upper Township annual tree lighting ceremony will be held after the Committee Meeting at Town Hall on November 24th at 7:00 pm. Next, he reported that he will be attending the Cape May County Mayors Roundtable on Friday, November 14th hosted by Freeholder Desiderio. Lastly, he reported that the Committee will be discussing in closed session the hiring of a lobbying firm to represent the Township's interests with regard to federally funded projects for beach replenishment and other projects and hopes to have a resolution at the next committee meeting.

ADMINISTRATOR OVERVIEW

John Amenhauser, Municipal Attorney, requested that Consent Agenda Item #13 be removed and a Resolution to set the Reorganization meeting date for January 5th, 2026, at 6:00 pm be added as Item #29.

PUBLIC COMMENT ON AGENDA ITEMS ONLY – LIMITED TO FIVE (5) MINUTES PER PERSON

There was no Public Comment.

CONSENT AGENDA

All Consent Agenda items listed below are routine in nature and will be enacted by one motion. If the Mayor or any Committee member wishes a particular agenda item to be considered separately, it will be removed from the consent agenda and acted on separately.

Motion by Tyler Casaccio, second by Zachary Palombo, to remove agenda item #13, add agenda item #29, a Resolution Setting the Date and Time of the 2026 Reorganization Meeting of the Township of Upper, and approve the remaining consent agenda items listed below. During roll call vote all three Committee members present voted in the affirmative.

FILING OF REPORTS BY CONSENT

1. Animal Control
2. Clerk's Office
3. Construction Code
4. Division of EMS
5. Finance Office
6. MUA Report
7. Municipal Court
8. Public Works
9. Tax Collector

RESOLUTIONS TO BE APPROVED BY CONSENT

10. Accepting the 2026 Solid Waste and Recycling Collection Rules and Regulations Resident Information packet pursuant to Chapter 24 of the Revised General Ordinances of Upper Township.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 329-2025

**ACCEPTING THE 2026 SOLID WASTE AND RECYCLING COLLECTION
RULES AND REGULATIONS RESIDENT INFORMATION PACKET
PURSUANT TO CHAPTER 24 OF THE REVISED GENERAL
ORDINANCES OF UPPER TOWNSHIP**

WHEREAS, the Township of Upper has adopted rules and regulations with regards to collection and disposal of solid waste and recyclables pursuant to Chapter 24 of the Revised General Ordinances; and

WHEREAS, the aforesaid rules and regulations are assembled into a summary entitled “Residents Information-2026” to be distributed to Township residents and attached hereto as Exhibit “A”;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township Committee has determined that the summary attached as Exhibit “A” is

in accordance with Chapter 24 of the Revised General Ordinances of Upper Township and is hereby accepted.

Resolution No. 329-2025

Offered by: Casaccio

Seconded by: Z. Palombo

Adopted: November 10, 2025

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Casaccio	X			
Nappen				X
S. Palombo				X
Z. Palombo	X			
Corson	X			

11. Adopting revisions to the Upper Township Personnel Policies and Procedures Manual Division of Emergency Medical Services (EMS) Standard Operating Policies and Procedures.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 340-2025

**RE: ADOPTING REVISIONS TO THE UPPER TOWNSHIP
PERSONNEL POLICIES AND PROCEDURES MANUAL DIVISION OF EMERGENCY
MEDICAL SERVICES (EMS) STANDARD OPERATING POLICIES AND PROCEDURES**

WHEREAS, the Township Committee of the Township of Upper has determined there is a need to adopt revisions to the Township’s Personnel Policies and Procedures Manual (the “Manual”) to revise the section entitled “Division of Emergency Medical Services (EMS) Standard Operating Policies and Procedures” (the “Policy”); and

WHEREAS, the Township Committee of the Township of Upper has reviewed and approved such revisions attached hereto as Exhibit A; and

WHEREAS, the Township Committee has determined that these revisions should be adopted to revise the existing Township Personnel Policies and Procedures Manual Division of Emergency Medical Services (EMS) Standard Operating Policies and Procedures; and

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.
2. The revisions to the Personnel Policies and Procedures Manual Division of Emergency Medical Services (EMS) Standard Operating Procedures set forth in the attached Exhibit A are hereby adopted and approved and modify the existing personnel policies, procedures, manuals and handbooks of the Township. Said revisions shall replace in its entirety the Policy set forth in the Manual.
3. All Township officials and officers are hereby authorized and empowered to take all action deemed necessary or advisable to carry into effect the intent and purpose of this Resolution.

Resolution No. 340-2025

Offered by: Casaccio

Seconded by: Z. Palombo

Adopted: November 10, 2025

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Casaccio	X			
Nappen				X
S. Palombo				X
Z. Palombo	X			
Corson	X			

12. Appointing Triad Advisory Services, Inc. to provide administrative services with regard to the Upper Township affordable housing programs.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 341-2025

**RE: APPOINTING TRIAD ADVISORY SERVICES, INC. TO PROVIDE
ADMINISTRATIVE SERVICES WITH REGARD TO THE UPPER TOWNSHIP AFFORDABLE
HOUSING PROGRAMS**

WHEREAS, Township of Upper has developed an Operating Manual for the Administration of providing Affordability Assistance to Homeowners (Affordability Assistance Manual) in accordance with the Uniform Housing Affordability Controls and the New Jersey Fair Housing Act; and

WHEREAS, the Township of Upper requires administrative services for the Township's Affordability Assistance and Market to Affordable programs; and

WHEREAS, the Township has decided to acquire the services of Triad Advisory Services, Inc. (trading as Triad Associates) as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, Triad Advisory Services, Inc. has completed and submitted a Business Entity Disclosure Certification, which certifies that Triad Advisory Services, Inc. has not made any reportable contributions to a political or candidate committee in the Township that would bar the award of this contract and that the contract will prohibit Triad Advisory Services, Inc. from making any reportable contributions through the term of the contract; and

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.
2. Triad Advisory Services, Inc. with offices at 1301 W. Forest Grove Road, Vineland, New Jersey 08360, is hereby appointed Administrative Agent for the Township of Upper for the purposes in as specified in this Resolution and the attached Professional Service Agreement.
3. The contract shall have a term of one (1) year from date of full execution.
4. This Contract is awarded without competitive bidding as a professional service in accordance with N.J.S.A. 40A:11-5(1)(a) of the New Jersey Local Public Contract Law because Triad Advisory Services, Inc. has professional knowledge which is particularly valuable to the Township Committee and this service is acquired as a non-fair and open contract pursuant to N.J.S.A. 19:44A-20.5.

NOTICE OF CONTRACT AWARD

5. The Township Committee of the Township of Upper, State of New Jersey has awarded the contract without competitive bidding as a professional service pursuant to N.J.S.A. 40A:11-5(1)(a) to. This contract and the resolution authorizing same shall be available for public inspection in the office of the municipal clerk of the Township of Upper, State of New Jersey.

6. A certificate from the Chief Financial Officer of Upper Township showing the availability of adequate funds for this contract and showing the line item appropriation of the official budget

to which this contract will be properly charged has been provided to the governing body and shall be attached to this Resolution and kept in the files of the municipal clerk.

7. The contractor has registered with the State of New Jersey pursuant to c.57, Laws of 2004 and will provide proof of that registration to the Township of Upper.

8. The Mayor and the Township Clerk are hereby authorized and directed to execute, on behalf of the Township of Upper, a Professional Service Agreement with Triad Advisory Services, Inc. in accordance with the terms and provisions of the Local Public Contracts Law, subject to and in accordance with the limitations imposed herein. Upon execution of all parties thereto-said contract shall become effective.

8. A copy of this Resolution shall be published in the official newspaper of the Township of Upper within ten (10) days from the date of adoption.

9. This Resolution shall be effective as of adoption.

Resolution No. 341-2025

Offered by: Casaccio Seconded by: Z. Palombo

Adopted: November 10, 2025

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Casaccio	X			
Nappen				X
S. Palombo				X
Z. Palombo	X			
Corson	X			

13. Authorizing a Shared Services Agreement with the Salem County Improvement Authority for CDL-A training services. **This matter was removed from consideration for formal action.**

14. Authorizing a construction permit fee refund to Big Wave Roofing and Solar, LLC for 34 Peach Orchard Road in Upper Township.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 342-2025

**RE: AUTHORIZING A CONSTRUCTION PERMIT FEE REFUND TO
BIG WAVE ROOFING AND SOLAR, LLC
FOR 34 PEACH ORCHARD ROAD IN UPPER TOWNSHIP**

WHEREAS, Big Wave Roofing and Solar, LLC applied for a permit to install roof mounted solar system at 34 Peach Orchard Road in Upper Township; and

WHEREAS, after the permit was issued, the roof mounted solar system installation was cancelled; and

WHEREAS, the Upper Township Construction Official has recommended granting the request for a refund of the original permit fees for the property as indicated below, minus a 20% plan review cost.

NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Upper, Cape May County, that a refund is hereby authorized, and the Chief Financial Officer is hereby directed to refund monies to Big Wave Roofing and Solar, LLC, 1719 Ginesi Dr., Freehold, NJ 07728 as indicated below:

VOIDED PERMIT #	BLOCK / LOT	AMOUNT
25-00344	453.10 / 379	\$ 544.80

Resolution No. 342-2025

Offered by: Casaccio

Seconded by: Z. Palombo

Adopted: November 10, 2025

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Casaccio	X			
Nappen				X
S. Palombo				X
Z. Palombo	X			
Corson	X			

15. A Resolution of the Township of Upper authorizing the Township of Upper to join the NJ Solutions Joint Health Insurance Fund.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 343-2025

**A RESOLUTION OF THE TOWNSHIP OF UPPER AUTHORIZING
THE TOWNSHIP OF UPPER TO JOIN
THE NJ SOLUTIONS JOINT HEALTH INSURANCE FUND**

WHEREAS, a number of public entities in the State of New Jersey have joined together to form the NJ Solutions Joint Health Insurance Fund, hereafter referred to as the “Fund”, as permitted by N.J.A.C. 11:15-3.1 et. seq., N.J.S.A. 17:1-8.1 et. seq., and N.J.S.A. 40A:10-36 et. seq.; and

WHEREAS, the Fund was approved to become operational by the Department of Banking and Insurance and the Department of Community Affairs (collectively, the “Departments”) and has been operational since that date; and

WHEREAS, the statutes and regulations governing the creation and operation of a joint insurance fund in the State of New Jersey contain certain restrictions and safeguards in connection with the administration of the public interest entrusted to such a Fund; and

WHEREAS, the Township Committee of the Township of Upper, hereinafter referred to as “Local Unit” has studied the feasibility of joining the Fund and has determined that membership in the Fund is in the best interest of the Local Unit.

NOW, THEREFORE, BE IT RESOLVED that the Township Committee of the Local Unit hereby agrees and authorizes the following:

- i. Execution of the application for membership to the Fund, including any and all documents and/or certifications as may be necessary, in order for the Local Unit to complete the application process and join the Fund.
- ii. The Local Unit shall become a member of the Fund for an initial period outlined in the Local Unit’s Indemnity and Trust Agreement, subject to the approval of the Fund Commissioners, which in no event shall exceed three (3) years as prescribed in N.J.A.C. 11:15-3.3(a).
- iii. The Local Unit shall participate in the following type(s) of coverage(s) offered by the Fund: Health Insurance and/or Prescription Insurance and/or Dental Insurance and/or Medicare Advantage/Employer Group Waiver Program as defined pursuant to N.J.S.A. 17B:17-4, the Fund’s Bylaws, and Plan of Risk Management.
- iv. Adoption and approval of the Fund’s Bylaws, a true and correct copy of which is annexed hereto as Attachment A, which has been approved by the Departments.
- v. Execution of the Local Unit’s Indemnity and Trust Agreement, a true and correct copy of which is annexed hereto as Attachment B, which has been approved by the Departments.

BE IT FURTHER RESOLVED that the Township Committee of the Local Unit certifies, pursuant to N.J.A.C. 11:15-3.3(a), that the Local Unit has never defaulted on claims under a self-insured plan and that it has not had its insurance canceled for nonpayment of premium for a period of at least two (2) years prior to this application.

BE IT FURTHER RESOLVED that the Township Committee of the Local Unit is authorized and directed to execute the Indemnity and Trust Agreement and such other documents signifying membership in the Fund as required by the Fund’s Bylaws, and to deliver these documents to the Fund’s Executive Director with the express reservation that these documents shall become effective only upon on acceptance of the Fund’s By-laws as prescribed in N.J.A.C. 11:15-3.3(a).

BE IT FURTHER RESOLVED that this resolution shall take effect upon its passage.

Resolution No. 343-2025

Offered by: Casaccio

Seconded by: Z. Palombo

Adopted: November 10, 2025

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Casaccio	X			
Nappen				X
S. Palombo				X
Z. Palombo	X			
Corson	X			

16. Authorizing the Chief Financial Officer to sign a Horizon application, notification about disclosures of private information to group health plan vendors form, and a plan sponsor certification form for enrollment in the NJ Solutions JHIF.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 344-2025

RE: AUTHORIZING THE CHIEF FINANCIAL OFFICER TO SIGN A HORIZON APPLICATION, NOTIFICATION ABOUT DISCLOSURES OF PRIVATE INFORMATION TO GROUP HEALTH PLAN VENDORS FORM AND A PLAN SPONSOR CERTIFICATION FORM FOR ENROLLMENT IN THE NJ SOLUTIONS JHIF

WHEREAS, the Township wishes to complete a Horizon application, Notification About Disclosures of Private Information to Group Health Plan Vendors form and a Plan Sponsor Certification form attached hereto as Exhibits A, B and C, respectively, to enroll in the NJ Solutions JHIF for eligible employees effective January 1, 2026; and

WHEREAS, said enrollment will be for a period from January 1, 2026 to December 31, 2026.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.

2. The Horizon application, Notification About Disclosures of Private Information to Group Health Plan Vendors form and a Plan Sponsor Certification form between the Township of Upper and the NJ Solutions JHIF is approved, and the Chief Financial Officer is hereby authorized, directed and empowered to execute said documentation on behalf of the Township of Upper.

3. All Township officials, officers and employees are empowered to take such action as may be necessary or advisable in order to carry out the intent and purpose of this Resolution.

Resolution No. 344-2025

Offered By: Casaccio

Seconded By: Z. Palombo

Adopted: November 10, 2025

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Casaccio	X			
Nappen				X
S. Palombo				X
Z. Palombo	X			

Corson	X			
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17. Authorizing the Chief Financial Officer to sign a spending account service center benefits design guide for an employee health reimbursement account.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 345-2025

RE: AUTHORIZING THE CHIEF FINANCIAL OFFICER TO SIGN A SPENDING ACCOUNT SERVICE CENTER BENEFITS DESIGN GUIDE FOR AN EMPLOYEE HEALTH REIMBURSEMENT ACCOUNT

WHEREAS, the Township wishes to complete a Spending Account Service Center Benefits Design Guide with Business Solver attached hereto as Exhibit A, to renew the Health Reimbursement Account (HRA) for eligible employees effective January 1, 2026; and

WHEREAS, said HRA will be for a period from January 1, 2026 to December 31, 2026.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.

2. The Spending Account Client Renewal Confirmation form between the Township of Upper and Business Solver is approved, and the Chief Financial Officer is hereby authorized, directed and empowered to execute said agreement on behalf of the Township of Upper.

3. All Township officials, officers and employees are empowered to take such action as may be necessary or advisable in order to carry out the intent and purpose of this Resolution.

Resolution No. 345-2025
 Offered By: Casaccio Seconded By: Z. Palombo
 Adopted: November 10, 2025
 Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Casaccio	X			
Nappen				X
S. Palombo				X
Z. Palombo	X			
Corson	X			

18. Withdrawing prior authorization for an award of a contract with Starr Construction, LLC for demolition of unsafe structures.

**CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 346-2025

**RE: WITHDRAWING PRIOR AUTHORIZATION FOR AN AWARD OF A CONTRACT WITH
STARR CONSTRUCTION, LLC FOR DEMOLITION OF UNSAFE STRUCTURES**

WHEREAS, it is necessary for Township of Upper to demolish certain unsafe structures;
and

WHEREAS, pursuant to Resolution No. 231-2025 adopted on July 28, 2025, the Township previously authorized the award of a contract with Starr Construction, LLC for the demolition of two unsafe structures in the amount of \$28,500.00; and

WHEREAS, Starr Construction, LLC was not able to provide the necessary Public Works Contractor Registration Certificate pursuant to N.J.S.A. 34:11-56.48 et seq.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township Committee of the Township of Upper, County of Cape May, New Jersey,

hereby withdraws their prior authorization for the award of a contract with Starr Construction, LLC as herein described.

Resolution No. 346-2025

Offered By: Casaccio Seconded By: Z. Palombo

Adopted: November 10, 2025

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Casaccio	X			
Nappen				X
S. Palombo				X
Z. Palombo	X			
Corson	X			

19. Authorizing the award of a contract with KCS Recycling, LLC for demolition of unsafe structures in the amount of \$32,000.00.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 347-2025

RE: AUTHORIZING THE AWARD OF A CONTRACT WITH KCS RECYCLING, LLC FOR DEMOLITION OF UNSAFE STRUCTURES IN THE AMOUNT OF \$32,000.00

WHEREAS, it is necessary for Township of Upper to demolish certain unsafe structures; and

WHEREAS, the Township’s Qualified Purchasing Agent has reviewed and approved the quote for demolition of two unsafe structures from KCS Recycling, LLC of Franklinville, New Jersey in the amount of \$32,000.00 and a contract pursuant to N.J.S.A. 19:44A-20.5 is required; and

WHEREAS, KCS Recycling, LLC has completed and submitted a Business Entity Disclosure Certification which certifies that KCS Recycling, LLC has not made any reportable contributions to a political or candidate committee in the Township in the previous one year, and that their contract will prohibit KCS Recycling, LLC from making any reportable contributions through the term of their contract; and

WHEREAS, the Chief Financial Officer of the Township has certified the availability of funds to allow the award of a contract for the demolition of two unsafe structures and has certified that adequate funds have been appropriated for this purpose in the 2025 Municipal Budget.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township Committee of the Township of Upper, County of Cape May, New Jersey, hereby authorizes the Qualified Purchasing Agent to enter into a contract with KCS Recycling, LLC as herein described.
3. The Qualified Purchasing Agent is hereby authorized, directed and empowered to execute any and all necessary documents in order to implement the intent of this Resolution.

Resolution No. 347-2025

Offered By: Casaccio

Seconded By: Z. Palombo

Adopted: November 10, 2025

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Casaccio	X			
Nappen				X
S. Palombo				X

Z. Palombo	X			
Corson	X			

20. Authorizing Change Order No. 1 to the Replacement of Roof for Historic Structure contract with Kupex Exteriors LLC resulting in an increase in the amount of \$696.18.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 348-2025

RE: AUTHORIZING CHANGE ORDER NO. 1 TO THE REPLACEMENT OF ROOF FOR HISTORIC STRUCTURE CONTRACT WITH KUPEX EXTERIORS LLC RESULTING IN AN INCREASE IN THE AMOUNT OF \$696.18

WHEREAS, the Township of Upper awarded the Replacement of Roof for Historic Structure to Kupex Exteriors LLC of Trenton, New Jersey, in the original Contract amount of \$96,238.00 for the replacement of the Tuckahoe Train Station roof; and

WHEREAS, a change order to the contract is necessary to adjust materials and quantities required for the roof replacement; and

WHEREAS, the Chief Financial Officer has issued a certification as to the availability of funds for this Change Order No. 1; and

WHEREAS, the aggregate amount of Change Order No. 1, which includes an increase of \$6,014.48 and a decrease of \$5,318.00, does not exceed twenty percent (20%) of the original contract award; and

WHEREAS, the Construction Official has requested this Change Order and has indicated that it is permitted under the applicable regulations and that, pursuant to N.J.A.C. 5:30-11.8, it is an unforeseeable problem, which is defined as conditions or circumstances that could not be foreseen at the time the specifications were written and the contract awarded; and that a substantial amount of the construction would be delayed, which would result in substantial increases in costs above the original contract amount or substantial inconvenience to the public if bidding were to be required; and

WHEREAS, this Change Order is in the best interests of the Township.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.
2. Change Order No. 1 to the Replacement of Roof for Historic Structure contract with Kupex Exteriors LLC in the amount of \$696.18 is hereby authorized.
3. A copy of the Change Order detailing the nature and the extent of the work to be done, together with all other prior Change Orders, if any, are attached to this Resolution as Exhibit "A".
4. The Mayor and Chief Financial Officer are hereby authorized, directed and empowered to execute the Change Order on behalf of the Township of Upper.
5. All Township officials and officers are hereby authorized and directed to take all action necessary to carry out the intent and purpose of this Resolution.

Resolution No. 348-2025

Offered by: Casaccio

Seconded by: Z. Palombo

Adopted: November 10, 2025

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Casaccio	X			
Nappen				X
S. Palombo				X
Z. Palombo	X			
Corson	X			

21. Budget Transfers.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 349-2025

RE: BUDGET TRANSFERS

WHEREAS, budgetary transfers between line items can be made after November 1st; and

WHEREAS, it is necessary to make transfers between certain line items of the Municipal Budget of the Township of Upper.

NOW, THEREFORE BE IT RESOLVED by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The following transfers between line items in the Municipal Budget of the Township of Upper shall be made immediately:

TO

FROM

MAYOR & COMM O/E	GENERAL ADMIN S/W
\$60,000.00	\$40,000.00
COMPUTER SERVICES	COLLECTION OF TAXES S/W
\$31,000.00	\$14,000.00
COLLECTION OF TAXES O/E	SPECIAL LITIGATION
\$2,000.00	\$60,000.00
ASSESSMENT OF TAXES O/E	MISC REGIONAL DISPATCH
\$7,000.00	\$15,200.00
ENGINEERING O/E	EMERGENCY MGT O/E
\$20,000.00	\$15,000.00
CONSTRUCTION CODE S/W	PARKING ENFORCEMENT S/W
\$4,600.00	\$4,400.00
CONSTRUCTION CODE O/E	PARKING ENFORCEMENT O/E
\$1,500.00	\$2,300.00
ZONING/CODE OFFICIAL S/W	AFFORDABLE HOUSING O/E
\$500.00	\$500.00
ZONING/CODE OFFICIAL O/E	SPORTS & RECREATION S/W
\$500.00	\$10,000.00
SUI CONTRIBUTION	BEACH PATROL S/W
\$4,000.00	\$6,000.00
DIVISION OF EMS S/W	STREET LIGHTING
\$53,000.00	\$39,410.00
ROAD REPAIRS & MAINT. S/W	MUNICIPAL COURT O/E
\$10,000.00	\$13,000.00
SHORE PROTECTION	
\$4,500.00	
PERS	
\$12,510.00	
SOCIAL SECURITY	
\$8,400.00	
DCRP	
\$300.00	

Resolution No. 349-2025

Offered By: Casaccio

Seconded By: Z. Palombo

Adopted: November 10, 2025

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Casaccio	X			
Nappen				X
S. Palombo				X
Z. Palombo	X			
Corson	X			

22. Appointing Gabriella Culmone as a part-time Emergency Medical Technician to the Upper Township Division of Emergency Medical Services.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 350-2025

**RE: APPOINTING GABRIELLA CULMONE AS A PART-TIME
EMERGENCY MEDICAL TECHNICIAN TO THE UPPER TOWNSHIP**

DIVISION OF EMERGENCY MEDICAL SERVICES

WHEREAS, a need exists to appoint qualified personnel as part-time Emergency Medical Technician to the Upper Township Division of Emergency Medical Services to ensure optimal operation; and

WHEREAS, Gabriella Culmone possesses all the requisite qualifications for appointment to said position; and

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.

2. Gabriella Culmone is hereby appointed to the Division of Emergency Medical Services as a part-time Emergency Medical Technician, effective November 17, 2025, at a rate of \$22.00 per hour, in accordance with the Salary Ordinance.

3. All Township officials and officers are hereby authorized and empowered to take all action deemed necessary or advisable to carry into effect the intent and purpose of this Resolution.

Resolution No. 350-2025

Offered by: Casaccio

Seconded by: Z. Palombo

Adopted: November 10, 2025

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Casaccio	X			
Nappen				X
S. Palombo				X
Z. Palombo	X			
Corson	X			

23. Appointing Sean Brannon as a part-time Emergency Medical Technician to the Upper Township Division of Emergency Medical Services.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 351-2025

**RE: APPOINTING SEAN BRANNON AS A PART-TIME
EMERGENCY MEDICAL TECHNICIAN TO THE UPPER TOWNSHIP
DIVISION OF EMERGENCY MEDICAL SERVICES**

WHEREAS, a need exists to appoint qualified personnel as part-time Emergency Medical Technician to the Upper Township Division of Emergency Medical Services to ensure optimal operation; and

WHEREAS, Sean Brannon possesses all the requisite qualifications for appointment to said position; and

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.
2. Sean Brannon is hereby appointed to the Division of Emergency Medical Services as a part-time Emergency Medical Technician, effective November 17, 2025, at a rate of \$22.00 per hour, in accordance with the Salary Ordinance.
3. All Township officials and officers are hereby authorized and empowered to take all action deemed necessary or advisable to carry into effect the intent and purpose of this Resolution.

Resolution No. 351-2025

Offered by: Casaccio

Seconded by: Z. Palombo

Adopted: November 10, 2025

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Casaccio	X			
Nappen				X
S. Palombo				X
Z. Palombo	X			
Corson	X			

24. Appointing Zoey Allegretto as a part-time Emergency Medical Technician to the Upper Township Division of Emergency Medical Services.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 352-2025

**RE: APPOINTING ZOELY ALLEGRETTO AS A PART-TIME
EMERGENCY MEDICAL TECHNICIAN TO THE UPPER TOWNSHIP
DIVISION OF EMERGENCY MEDICAL SERVICES**

WHEREAS, a need exists to appoint qualified personnel as part-time Emergency Medical Technician to the Upper Township Division of Emergency Medical Services to ensure optimal operation; and

WHEREAS, Zoey Allegretto possesses all the requisite qualifications for appointment to said position; and

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.
2. Zoey Allegretto is hereby appointed to the Division of Emergency Medical Services as a part-time Emergency Medical Technician, pending successful pre-employment testing, at a rate of \$22.00 per hour, in accordance with the Salary Ordinance.
3. All Township officials and officers are hereby authorized and empowered to take all action deemed necessary or advisable to carry into effect the intent and purpose of this Resolution.

Resolution No. 352-2025

Offered by: Casaccio

Seconded by: Z. Palombo

Adopted: November 10, 2025

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Casaccio	X			
Nappen				X
S. Palombo				X
Z. Palombo	X			
Corson	X			

25. Appointing Jacob Campsmith as a part-time Emergency Medical Technician to the Upper Township Division of Emergency Medical Services.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 353-2025

**RE: APPOINTING JACOB CAMPSMITH AS A PART-TIME
EMERGENCY MEDICAL TECHNICIAN TO THE UPPER TOWNSHIP
DIVISION OF EMERGENCY MEDICAL SERVICES**

WHEREAS, a need exists to appoint qualified personnel as part-time Emergency Medical Technician to the Upper Township Division of Emergency Medical Services to ensure optimal operation; and

WHEREAS, Jacob Campsmith possesses all the requisite qualifications for appointment to said position; and

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.
2. Jacob Campsmith is hereby appointed to the Division of Emergency Medical Services as a part-time Emergency Medical Technician, pending successful pre-employment testing, at a rate of \$22.00 per hour, in accordance with the Salary Ordinance.
3. All Township officials and officers are hereby authorized and empowered to take all action deemed necessary or advisable to carry into effect the intent and purpose of this Resolution.

Resolution No. 353-2025

Offered by: Casaccio Seconded by: Z. Palombo

Adopted: November 10, 2025

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Casaccio	X			
Nappen				X
S. Palombo				X
Z. Palombo	X			
Corson	X			

26. Appointing Matthew Jefferson as a part-time Emergency Medical Technician to the Upper Township Division of Emergency Medical Services.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 354-2025

**RE: APPOINTING MATTHEW JEFFERSON AS A PART-TIME
EMERGENCY MEDICAL TECHNICIAN TO THE UPPER TOWNSHIP
DIVISION OF EMERGENCY MEDICAL SERVICES**

WHEREAS, a need exists to appoint qualified personnel as part-time Emergency Medical Technician to the Upper Township Division of Emergency Medical Services to ensure optimal operation; and

WHEREAS, Matthew Jefferson possesses all the requisite qualifications for appointment to said position; and

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.
2. Matthew Jefferson is hereby appointed to the Division of Emergency Medical Services as a part-time Emergency Medical Technician, pending successful pre-employment testing, at a rate of \$22.00 per hour, in accordance with the Salary Ordinance.
3. All Township officials and officers are hereby authorized and empowered to take all action deemed necessary or advisable to carry into effect the intent and purpose of this Resolution.

Resolution No. 354-2025

Offered by: Casaccio

Seconded by: Z. Palombo

Adopted: November 10, 2025

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Casaccio	X			
Nappen				X
S. Palombo				X
Z. Palombo	X			
Corson	X			

27. Tax refund Block 479, Lot 14.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 355-2025

**TAX REFUND
BLOCK 479, LOT 14**

WHEREAS, certain corrections have been recommended by the Upper Township Tax Collector in order to refund monies; and

WHEREAS, the title company and property owner paid the 2025 4th quarter taxes on the

above property; and

WHEREAS, the above mentioned property was purchased by the DEP on October 21, 2025, therefore becoming exempt from property taxes; and

WHEREAS, Stewart Title has requested a refund payable to the prior property owner; and

NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Upper, Cape May County, that corrections to the Tax records are hereby authorized and the Tax Collector is hereby directed to correct said records or take such action as indicated on the attached sheet.

Resolution No. 355-2025

Offered by: Casaccio

Seconded by: Z. Palombo

Adopted: November 10, 2025

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Casaccio	X			
Nappen				X
S. Palombo				X
Z. Palombo	X			
Corson	x			

REFUND TAX 2026

BLOCK/LOT

479/14

AMOUNT

\$82.45

NAME

Donna Linblad
218 Arlington Ave
Linwood, NJ 08221

28. Amending Resolution No. 314-2025 canceling and refunding tax on exempt property Block 453, Lot 264.13.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 356-2025

**AMENDING RESOLUTION NO. 314-2025
CANCELING AND REFUNDING TAX ON EXEMPT PROPERTY
BLOCK 453, LOT 264.13**

WHEREAS, Resolution No. 314-2025 authorized the Tax Collector to cancel and refund monies on Block 453, Lot 264.13; and

WHEREAS, the purpose of this resolution is to amend and correct the amount of the cancellation; and

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Upper,

in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township Committee hereby authorizes the Tax Collector to make corrections to the Tax records as set forth on the below list.
3. All Township officials and officers are hereby authorized and empowered to take all action deemed necessary or advisable to carry into effect the intent and purpose of this Resolution.

Resolution No. 356-2025

Offered by: Casaccio

Seconded by: Z. Palombo

Adopted: November 10, 2025

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Casaccio	X			
Nappen				X
S. Palombo				X
Z. Palombo	X			
Corson	X			

CANCEL TAX 2025

BLOCK/LOT

453/264.13

AMOUNT

\$5,106.67

NAME

Ryan and Laura Tassone
23 Indian Walk Rd
Seaville, NJ 08230

100% Totally Disabled Veteran

ORDINANCES

29. Public hearing and final adoption of Ordinance No. 007-2025 RE: AN ORDINANCE AMENDING CHAPTER 10, SECTION 2 (LEAD-BASED PAINT INSPECTION IN RESIDENTIAL DWELLINGS) OF THE MUNICIPAL CODE OF UPPER TOWNSHIP.

During the public hearing portion there were the following speakers:

Elsie Jamison, Seaville, inquired as to what is being changed with this Ordinance. The Municipal Attorney stated that this Ordinance increases the fees for the inspections so that the Township is not incurring any costs.

Mayor Corson then closed the public hearing. Motion by Tyler Casaccio, second by Zachary Palombo to adopt Ordinance No. 007-2025. During roll call vote all three Committee members present voted in the affirmative.

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

ORDINANCE NO. 007-2025

**AN ORDINANCE AMENDING CHAPTER 10, SECTION 2
(LEAD-BASED PAINT INSPECTION IN RESIDENTIAL DWELLINGS)
OF THE MUNICIPAL CODE OF UPPER TOWNSHIP**

WHEREAS, pursuant to P.L. 2021, c.182, all municipalities are required, with certain exceptions, to inspect every single-family, two-family, and multiple rental dwelling located within the municipality for lead-based paint hazards; and

WHEREAS, pursuant to P.L. 2021, c. 182, the Township Committee of the Township of Upper desires to amend Chapter 10, Section 2, of the Revised General Ordinances of the Township of Upper, also known as the Municipal Code of Upper Township, with respect to the requirements and regulations for inspections of lead-based paint in rented residential dwellings.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Upper, in the 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:

Amend Section 2: LEAD-BASED PAINT INSPECTION IN RESIDENTIAL DWELLINGS as follows:

§10-2.1 Definitions.

Rental Dwelling Units

Shall mean any residential property, regardless of the number of units, which is not occupied by the owner.

Dust Wipe Sampling

Shall mean a sample collected by wiping a representative surface and tested in accordance with a method approved by the United States Department of Housing and Urban Development.

Lead Abatement

Shall mean measures designed to permanently eliminate lead-based paint hazards in accordance with standards established by the Commissioner of Community Affairs in compliance with standards promulgated by the appropriate federal agencies.

Lead Evaluation Contractor

Shall mean a person certified by the New Jersey Department of Community Affairs to perform lead inspection and risk assessment work pursuant to N.J.A.C. 5:171.1 et seq.

Lead-based Paint Hazard

Shall mean any condition that causes exposure to lead from lead-contaminated dust or soil or lead-contaminated paint that is deteriorated or present in surfaces that would result in adverse human

health effects.

Visual Assessment

Shall mean a visual examination for deteriorated paint or visible surface dust, debris, or residue.

Tenant Turnover

Shall mean the time at which all existing occupants vacate a dwelling unit and all new tenants move into the dwelling unit.

§10-2.2 Lead-Based Paint Inspection.

- (1) The owner, landlord and/or agent of every rental dwelling unit shall be required to obtain an inspection of the rental dwelling unit for lead-based paint hazards every three years.
- (2) If lead-based paint hazards are identified, then the owner, landlord, and/or agent of the dwelling shall remediate the lead-based paint hazard using lead abatement or lead-based control methods in accordance with N.J.S.A. 52:27D-437.16(d). Upon the remediation of the lead-based paint hazard, the Township of Upper's lead evaluation contractor shall conduct an additional inspection of the rental dwelling unit to certify that the hazard no longer exists. If no lead-based paint hazards are identified, then the Township of Upper's lead evaluator shall certify the rental dwelling unit as lead-safe on a form prescribed by the Department of Community Affairs, which shall be valid for two (2) years.
- (3) Pursuant to N.J.S.A. 52:27D-437.16(e), property owners shall:
 - a. Provide evidence of valid lead-safe certification and the most recent tenant turnover at the time of the cyclical inspection
 - b. Provide evidence of a valid lead-safe certification obtained pursuant to this Section to new tenants of the property at the time of tenant turnover unless not required to have had an inspection by a lead evaluation contractor or permanent local agency pursuant to this Chapter.
 - c. Maintain records of lead-safe certification, which shall include name(s) of the unit tenant(s), if inspection was conducted during a period of tenancy.

§10-2.3 Rental Dwelling Units Required to be Inspected.

(1) Inspections for lead-based paint hazards through visual assessment and dust wipe sampling in rental dwelling units shall be governed by the standards set forth in N.J.S.A. 52:27D-437.1 et seq. Any rental dwelling unit in the Township of Upper shall be subject to a lead-based paint inspection as set forth in this Section, unless said rental dwelling unit meets one of the following conditions:

- (i) has been certified to be free of lead-based paint;
- (ii) was constructed during or after 1978;
- (iii) is in a multiple dwelling that has been registered with the Department of Community Affairs as a multiple dwelling for at least 10 years, either under the current or a previous owner, and has no outstanding lead violations from the most recent cyclical inspection performed on the multiple dwelling building under the "Hotel and Multiple Dwelling Law," P.L. 1967, c.76 (C.55:13A-1 et seq.);
- (iv) is a single-family or two-family seasonal rental dwelling which is rented for less than six months duration each year by tenants that do not have consecutive lease renewals; or
- (v) has a valid lead-safe certification.

§10-2.4 Fee for Inspection.

a. The Township of Upper shall charge the rental dwelling unit owner or landlord, and the rental dwelling unit owner or landlord shall pay the Township of Upper in advance of any inspection, a fee sufficient to cover the cost to the Township of Upper of the inspection, which shall be dedicated to meeting the costs of implementing and enforcing this section, which shall include the following:

- a. \$250.00 per rental dwelling unit for a visual assessment performed by the lead inspector.
- b. \$50.00 per rental dwelling unit filing fee.
- c. If necessary, a fee of \$295.00 per rental dwelling unit for reinspection of a rental dwelling unit.

b. In accordance with N.J.S.A. 52:27D-437.16(h), an additional fee of \$20.00 per rental dwelling unit inspected by the Township of Upper's lead evaluation contractor or the owner's private lead evaluation contractor shall be addressed for the purpose of the Lead Hazard Control Assistance Act, unless the owner demonstrates that the Department of Community Affairs has already assessed an additional inspection fee of \$20.00. The fees collected pursuant to this subsection shall be deposited into the Lead Hazard Control Assistance Fund.

c. In a common interest community, any inspection fee charged pursuant to this subsection shall be the responsibility of the rental dwelling unit owner and not the homeowners' association, unless the association is the owner of the rental dwelling unit.

d. In lieu of having the dwelling inspected by the Township's lead evaluator, a dwelling owner or landlord may directly hire a private lead evaluation contractor who is certified to provide lead paint inspection services by the Department of Community Affairs to perform the lead-based paint inspection in accordance with N.J.S.A. 52:27D-437.1 et seq.

§10-2.5 Violations.

a. If a property owner has failed to conduct the required inspection or initiate any remediation as required by N.J.S.A. 52:27D-437.1 et seq. the owner shall have thirty (30) days to cure the violation. If a property owner fails to cure the violation after thirty (30) days, the property owner shall be subject to a penalty not to exceed one thousand (\$1,000.00) dollars per week until the required inspection has been conducted or remediation efforts have been initiated.

SECTION 2: REPEALER: All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency only.

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

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.

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 14TH DAY OF OCTOBER, 2025 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 TO BE HELD ON THE 10TH DAY OF NOVEMBER, 2025 AT 5:30 P.M. AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY, AT WHICH TIME SAID ORDINANCE WAS ADOPTED.

JOANNE R. HERRON, TOWNSHIP CLERK
TOWNSHIP OF UPPER

30. Public hearing and final adoption of Ordinance No. 008-2025 RE: AN ORDINANCE AMENDING CHAPTERS 19 AND 20 OF THE MUNICIPAL CODE OF UPPER TOWNSHIP TO ABSOLISH THE UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT AND TO GRANT THE UPPER TOWNSHIP PLANNING BOARD THE POWERS FORMERLY HELD BY THE UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT PURSUANT TO THE NEW JERSEY MUNICIPAL LAND USE LAW. **During the public hearing portion there were no speakers. Motion by Tyler Casaccio, second by Zachary Palombo to adopt Ordinance No. 008-2025. During roll call vote all three Committee members present voted in the affirmative.**

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
ORDINANCE**

ORDINANCE NO. 008-2025

ORDINANCE AMENDING CHAPTERS 19 AND 20 OF THE UPPER TOWNSHIP MUNICIPAL CODE TO ABOLISH THE UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT AND TO GRANT THE UPPER TOWNSHIP PLANNING BOARD THE POWERS FORMERLY HELD BY THE UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT PURSUANT TO THE NEW JERSEY MUNICIPAL LAND USE LAW

WHEREAS, the Municipal Land Use Law of the State of New Jersey, set forth at N.J.S.A. 40:55D-1, *et seq.*, specifically permits municipalities with a population of 15,000 residents or less to grant the powers of a zoning board of adjustment to the municipal planning board by ordinance; and

WHEREAS, the Township of Upper has a total resident population of less than 15,000 residents, as confirmed by the most recent federal census; and

WHEREAS, pursuant to Chapter 20-7.2 of the Municipal Code of the Township of Upper, a Zoning Board of Adjustment presently exercises the powers afforded to it pursuant to the Upper Township Municipal Code and the New Jersey Municipal Land Use Law; and

WHEREAS, pursuant to Chapter 20-7.1 of the Municipal Code of the Township of Upper, a Planning Board presently exercises the powers afforded to it pursuant to the Upper Township Municipal Code and the New Jersey Municipal Land Use Law; and

WHEREAS, the governing body of the Township of Upper believes it is in the best interests of the Township of Upper and its residents to consolidate the functions and powers of the Upper Township Zoning Board of Adjustment into the Upper Township Planning Board in order to streamline the land use application and review processes, to reduce administrative expenses, and to ensure uniform and consistent application of land use regulations and procedures within the Township of Upper; and

WHEREAS, through consolidation of the land use functions of the Township of Upper into the Upper Township Planning Board, as set forth above, Chapters 19 and 20 of the Upper Township Municipal Code shall be revised to effectuate that purpose.

NOW THEREFORE BE IT ORDAINED by the Township Committee of the Township of Upper, in the County of Cape May, and State of New Jersey, as follows:

SECTION 1: Chapter 19-3 of the Municipal Code of the Township of Upper shall be amended to replace the current definition of “Board” as follows:

BOARD — Shall mean the Planning Board of the Township of Upper.

SECTION 2: Chapter 19-4 of the Municipal Code of the Township of Upper shall be amended to read as follows upon the effective date of this Ordinance:

§ 19-4.1. Planning Board and Zoning Board of Adjustment.

A Planning Board is hereby established pursuant to N.J.S.A. 40:55D-23 et seq. and amendments thereto and Subsection 20-7.1 of the Zoning Ordinance of the Township of Upper, as amended.

The Planning Board Secretary is the administrative officer given the responsibility for ensuring orderly and expeditious processing of subdivision and site plan applications. For zoning permits, the administrative officer remains the Zoning Officer.

§ 19-4.2. Jurisdiction.

Pursuant to the authority provided for in N.J.S.A. 40:55D-25, the Planning Board shall have powers and authority to review all aspects of a development plan, including applications for variance relief pursuant to N.J.S.A. 40:55D-70(c) and/or N.J.S.A. 40:55D-70(d), minor and/or major site plan, and minor and/or major subdivision, subject to the limitations in the Municipal Land Use Law.

SECTION 3: Chapter 19-5 of the Municipal Code of the Township of Upper shall be amended to read as follows upon the effective date of this Ordinance.

§ 19-5.3. Application.

a. Assignment. The applicant shall have the option of seeking the direction of the Zoning Official as to which approvals are required and the Planning Board for hearing same. The administrative official's determination shall be presumed to be correct. The following applications may be filed:

1. Minor subdivision - subdivision classification.
2. Major subdivision, preliminary.
3. Major subdivision, final.
4. Site plan preliminary.
5. Site plan final.
6. Site plan waiver.

(Note: Certain applications may involve a combination of actions and may require simultaneous applications for variances under N.J.S.A. 40:55D-70.)

b. Content. An application for development shall include the items specified in § 19-9 of this chapter which constitutes a checklist of items to be submitted for subdivision and site plan review.

c. Complete Application. A subdivision and/or site plan application shall be complete for purposes of commencing the applicable time period for action by the Planning Board when so certified by the Planning Board or its authorized committee. For an application to be certified complete, it must include each item in the checklist in § 19-9 of this chapter.

d. Waiver. The applicant may request that one or more of the submission requirements in the checklist be waived. Such request shall be made in writing. If a waiver is requested, the applicable time period shall toll until the regular Planning Board Meeting.

Nothing herein shall be construed as diminishing the applicant's obligation to prove in the application process that the applicant is entitled to approval of the application. The Planning Board may subsequently require correction of any information found to be in error and submission of additional information not specified in the Chapter or any revisions in the accompanying documents, as are reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application for development have been met. The application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required by the Planning Board.

Any applications deemed complete by December 31, 2025 shall proceed under this Ordinance after January 1, 2026 without re-notice, unless the relief sought materially changes.

§ 19-5.4. Minor Subdivision/Subdivision Classification Procedure.

- a. Any applicant requesting classification of a proposed subdivision or approval of a minor subdivision as defined in this chapter shall submit to the Planning Board Secretary 20 copies of the plat and the items required in § 19-9 of this chapter, together with an executed application form, the prescribed fees, and evidence that no taxes or assessments are outstanding against the property, no more than 35 or less than 21 days before the regular scheduled monthly meeting of the Planning Board.
- b. The application shall be declared complete or incomplete within a 45-day period from the date of its submission according to the provisions of Subsection 19-5.3c of this section.
- c. The Planning Board shall take action on minor subdivision/subdivision classification applications within 45 days after the submission of a complete application or within 120 days, if a variance under N.J.S.A. 40:55D-70 is sought, or within such further time as may be consented to by the applicant.
- d. Any subdivision determined by the Board to be creating, imposing, aggravating or leading to the possibility of an adverse effect upon either the original property being subdivided or upon any adjacent properties may be required to be revised by the subdivider to remove such adverse effect(s) prior to further review, classification or approval by the Board, or where the remaining portion of the original tract is of sufficient size to be subdivided further, the subdivider may be required to

submit a sketch plat of the entire remaining portion of the tract to indicate a feasible plan whereby the applied for subdivision together with subsequent subdivision(s) may be submitted that will not create, impose or aggravate or lead to any such adverse effect.

- e. The Planning Board shall condition any approval that it grants upon the timely receipt of a favorable report on the application by the Cape May County Planning Board or approval by the County Planning Board by its failure to report thereon within the required 30-day time period.
- f. If classified and approved as a minor subdivision, the Board may waive notice and hearing thereon, except where relief is requested pursuant to C. 40:55D-60 or C.40:55D-76, and the subdivision shall be deemed approved. However, no action shall be taken by the Planning Board unless either the applicant or the applicant's attorney is present.
- g. Approval of a minor subdivision shall expire 190 days from the date of municipal approval unless within such period a plat in conformity with such approval and the provisions of the Map Filing Law, N.J.S.A. 46:23-9.9 et seq., or a deed clearly describing the approved minor subdivision is filed by the developer with the County Recording Officer, the Municipal Engineer and the Municipal Tax Assessor as specified by N.J.S.A. 40:55D-1 et seq. Any such plat or deed proposed by filing shall be presented to the Board Solicitor with a copy of the plat approved by the Planning Board. He shall conform the plat and descriptions and form and, if acceptable, direct the Board Chairman and Secretary to sign the document for the Planning Board.
- h. The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor subdivision approval was granted, shall not be changed for a period of two years after the date of minor subdivision approval.
- i. If the plat is classified as a major subdivision, a notation to that effect shall be made on the plat which shall be returned to the subdivider.

SECTION 4: Chapter 19-8 of the Municipal Code of the Township of Upper shall be amended to read as follows upon the effective date of this Ordinance.

§ 19-8.1. Performance Guarantee Estimate.

Before recording of final subdivision plats or as a condition of final site plan approval, the Planning Board shall require the provision of performance and maintenance guarantees in accordance with the following standards. If improvements are installed prior to final subdivision approval, construction plans and specifications shall be approved by the Township Engineer prior to construction of the improvements.

- a. A performance guarantee estimate shall be prepared by the developer's design engineer and forwarded to the Township Engineer for his approval. The performance guarantee estimate shall set forth the costs of all required improvements, which shall be limited to the following:
 1. Those improvements required by an approval or developer's agreement, ordinance, or regulation to be dedicated to a public entity, and that have not yet been installed, which cost shall be determined by the municipal engineer, according to the method of calculation set forth in N.J.S.A. 40:55D-53.4, for the following improvements as shown on the approved plans or plat: streets, pavement, gutters, curbs, sidewalks, street lighting, street trees, surveyor's monuments, as shown on the final map and required by "the map filing law," N.J.S.A. 46:23-9.9 et seq. or N.J.S.A. 46:26B-1 through N.J.S.A. 46:26B-8, water mains, sanitary sewers, community septic systems, drainage structures, public improvements of open space, and any grading necessitated by the preceding improvements, showing quantity, unit price and total amount;
 2. Privately owned perimeter buffer landscaping; and
 3. For safety and stabilization guarantee, which shall be solely for the purpose of returning property that has been disturbed to a safe and stable condition or otherwise implementing measures to protect the public from access to an unsafe or unstable condition during the time periods and subject to the conditions set forth in N.J.S.A. 40:55D-53(d), as may be amended from time to time.
- b. The Township Committee shall pass a resolution either approving or adjusting this performance guarantee estimate and a resolution to the developer for use in obtaining and posting a performance guarantee.
- c. The approved performance guarantee estimate shall fix the requirements of maintenance of the utilities and improvements to be installed and completed by the developer. A surety company or

cash bond meeting the requirements hereinabove set forth may be furnished to secure the maintenance guarantee, or the performance bond may be styled or amended to provide such security in reduced amount in keeping with the requirements.

§ 19-8.6. Conditions for Acceptance of Municipal Improvements.

The approval of any plat under this chapter by the Planning Board shall in no way be considered as acceptance of any street or drainage system, or any other improvement required by this chapter, nor shall such plat approval obligate the Township in any way to maintain or exercise jurisdiction over such street or drainage system or other improvement. No improvements shall be accepted by the Township Committee unless and until all of the following conditions have been met:

- a. The Township Engineer shall have certified that the improvements are complete and that they comply with the requirements of this chapter.
- b. The final plat shall have been approved by the Planning Board.
- c. The developer for major subdivision shall have filed with the Township Committee a maintenance guarantee in an amount equal to not more than 15% of the original estimate of the cost of installing the improvements and shall run for a period of two years. The procedures and requirements governing such maintenance guarantee shall be identical with the procedures and requirements for a performance guarantee set forth in Subsection 19-8.1 of this chapter. The requirements for a maintenance guarantee may be waived by the Township Committee only if the Township Engineer has certified that the improvements have been in continuous use for not less than two years from the date the Township Engineer certified completion of such improvements in accordance with the provisions of Subsection 19-8.6a of this section and that during this period, the subdivider has maintained the improvements in a satisfactory manner.
- d. The subdivider shall file with the secretary of the Planning Board deeds for all street rights-of-way, easements, and lands shown on the final plat that are dedicated to the Township. Deeds will be filed by the Township after approval by the Board and Township Solicitor.
- e. During the period covered by the maintenance bond the developer is responsible for any damage to the subdivision improvements including pavements, curbs, sidewalks, driveways, storm drains, and drainage structures.

Minor Subdivision	\$150	—
Major Subdivision		
1 to 5 lots	\$240	—
6 to 15 lots	\$325	—
Over 15 lots	\$440	—
Street Vacation	\$100	—
Lot Consolidation	\$100	—
Zoning Permit for fence, sign, shed	\$10	—
Zoning Permit for pool, detached garage, clearing	\$25	—
Zoning Permit for revision of house	\$25	—
Zoning Permit for buildings, additions or for any other purpose	\$50	—

* Partial acres are considered full acres for purposes of determining escrow amount.

** If applicant is applying for simultaneous preliminary and final site plan approval, the applicant shall deposit fees equal to both preliminary and final approval.

*** Applications for concept plan review require full notice to property owners and publication pursuant to N.J.S.A. 40:55D-12.

- b. All application fees and escrow review fees pursuant to the Schedule listed above shall be submitted at the time of the application. These monies are intended to cover all necessary and reasonable costs incurred by the technical and/or professional staff retained by the Planning Board to review and make recommendations on such applications. The technical and professional staff is intended to include but not be limited to the following: Board Attorneys, Municipal Planner, Municipal Engineer, other professionals as may be required on particular applications. The fee for the services of the technical and professional staff shall be determined by resolution of the Planning Board or Township, as appropriate.
- c. The amount specified for escrow deposits are estimates, and it is recognized additional escrow fees may be necessary in particular applications. In the event that more than the amount specified for escrow is required in order to pay the reasonable costs incurred, the applicant shall, prior to being permitted to move forward in the approval procedure, or prior to obtaining construction permits or

Certificates of Occupancy for any portion of the application project, pay all additional required sums.

- d. Escrow fees shall be controlled by the Township Chief Financial Officer. In the event that the escrow deposit is more than required to pay necessary and reasonable costs of the technical and professional staff, the excess funds shall be returned to the applicant within 180 days of publication of the resolution approving the application.
- e. Additionally, if the Planning Board creates as a condition of any approval a requirement that ongoing inspections or approvals are necessary by the professional staff or Township officials to insure compliance of a condition of approval by an applicant, then it shall be the obligation of the applicant to bear the cost of the additional fees by placing a sum designated by the Planning Board or the Township, as appropriate, in an escrow fund. When all approvals or inspections have been completed to the satisfaction of the Planning Board or Township as appropriate, any excess escrow fund shall be returned to the applicant within 60 days of the last approval or inspection.
- f. When applications for preliminary and final approval are made simultaneously the Planning Board shall have the right to waive the payment of additional deposits.

SECTION 6: The terms of all members of the Upper Township Zoning Board of Adjustment shall expire upon the effective date of this Ordinance. All applications pending before the Zoning Board of Adjustment as of December 31, 2025 are hereby transferred to the Planning Board without prejudice; all statutory time periods are tolled from December 31, 2025 to January 15, 2026.

SECTION 7: Chapter 20-7 of the Township of Upper Municipal Code shall be amended to read as follows upon the effective date of this Ordinance:

§ 20-7 PLANNING BOARD.

§ 20-7.1. Planning Board.

- a. Establishment of the Planning Board.

- 1. A Planning Board is hereby established consisting of nine members in accordance with the State Municipal Land Use Law, set forth at N.J.S.A. 40:55D-23, et seq. Up to four (4) alternate members may be appointed in accordance with N.J.S.A. 40:55D-23, et seq.

b. Powers and Jurisdiction of the Planning Board. The Planning Board shall have the power to:

1. Pursuant to N.J.S.A. 40:55D-25(c)(1), the Planning Board shall exercise, subject to the same extent and subject to the same restrictions, all the powers of a zoning board of adjustment; but the Class I and Class III members shall not be permitted to participate in the consideration of any applications for development which involve relief pursuant to N.J.S.A. 40:55D-70(d).
2. Make and adopt and amend a Master Plan for the physical development of the Township, including any areas outside its boundaries, which, in the Board's judgment, bear essential relation to the planning of the Township.
3. Administer the provisions of Chapter 19, Land Subdivision and Site Plan and Chapter 20, Zoning of the Township in accordance with the provisions of these ordinances.
4. Participate in the preparation and review of programs or plans required by State or Federal law or regulations.
5. Assemble data on a continuing basis as part of a continuous planning process.
6. May annually, prepare a program of municipal capital improvement projects projected over a term of six years, and amendments thereto, and recommend same to the governing body.
7. Consider and make report to the governing body within 35 days after referral as to any proposed development regulation submitted to it and also pass upon other matters specifically referred to the Planning Board by the Township Committee.
8. The Planning Board shall have such other powers as prescribed by law.
9. The Planning Board shall exercise the powers and perform the duties set forth in N.J.A.C. 7:50-6.153(a) and shall issue Certificates of Appropriateness pursuant to Subsection 20-5.14 (1)(2) of this chapter.
10. Direct Issuance of a Permit Within the Bed of a Mapped Street or Flood Control Basin.
Direct issuance of a construction permit for the construction of a building or structure within the bed of a mapped street or public drainageway, flood control basin or public area as shown on a duly adopted Official Map Ordinance of the Municipality whenever one or more parcels of land within the bed cannot yield a reasonable return to the owner unless a

construction permit is granted. The Board may grant such relief only by an affirmative vote of a majority of the full authorized membership of the Planning Board, ensuring that such relief will tend to cause a minimum change of the Official Map Ordinance and will not significantly add to the cost of opening any proposed street. The Planning Board shall impose reasonable requirements as a condition of granting the construction permit so as to promote the health, morals, safety and general welfare of the public.

11. Direct Issuance of Permit When Lot Not Abutting a Street. Direct issuance of a construction permit for the construction of a building or structure on a lot not abutting a street which is shown on a duly adopted Official Map Ordinance of the Municipality, or which is a) an existing State, County or Municipal street or highway, or b) a street shown upon a plat approved by the municipal Planning Board, or c) a street on a plat duly filed in the office of the County Recording Officer. The Planning Board may grant such relief only where the enforcement of the statute requirement that a building lot abut a street would entail practical difficulty or unnecessary hardship or where the circumstances of the case do not require the building or structure to abut a street. The Planning Board shall impose requirements or conditions that will provide adequate access for firefighting equipment, ambulances and other emergency vehicles necessary for the protection of the health and safety and will protect any future street layout shown on the Official Map Ordinance or on the general circulation plan element of the municipal Master Plan.
12. Any municipal variance approval which grants relief from the density or lot area requirements set forth in subsections 20-4.4, 20-4.10 or 20-4.13 for a residential or principal nonresidential use in the PV Zone, in that portion of the TV Zone located in the Pinelands Area or in that portion of the CM Zone located in a Pinelands Village shall require that Pinelands Development Credits be used for all dwelling units or lots in excess of that permitted without the variance.

c. Actions by the Planning Board

1. Appeals to the Planning Board

(a) Appeals to the Planning Board may be taken by an interested party affected by any decision of the Construction Official of the Municipality based on or made in the enforcement of this Chapter or Official Map. Such appeal shall be taken within 45 days by filing a notice of appeal with the officer from whom the appeal is taken, specifying the grounds of such appeal. The officer from whom the appeal is taken shall immediately transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

(b) A developer may file an application for development with the Planning Board for action under any of its powers without prior application to the Construction Official.

2. Time for Decision.

(a) The Planning Board shall render a decision not later than one hundred twenty (120) days after the date (1) an appeal is taken from the decision of the Construction Official, or (2) the submission of a complete application for development to the Planning Board, as determined by the Secretary of the Planning Board.

(b) Failure of the Planning Board to render a decision within such one hundred twenty (120) day period or within such further time as may be consented to by the applicant shall constitute a decision favorable to the applicant.

(c) The Planning Board may reverse or affirm, wholly or in part, or may modify the action, order, requirement, decision, interpretation, or determination appealed from and to that end have all the powers of the Construction Official from whom the appeal is taken.

(d) An appeal to the Planning Board shall stay all proceedings in furtherance of the action in respect to which the decision appealed from was made, unless the officer from whose action the appeal is taken certifies to the Planning Board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by an order of the Superior Court upon notice to the officer from whom the appeal is taken and on due cause shown.

(e) Unless otherwise specified by the Planning Board, a variance granted by the Planning Board shall expire and become null and void two (2) years from the grant by the Planning Board, unless within the period, the applicant obtains a construction permit or otherwise avails himself of

the grant or approval. The Planning Board, upon application and within the period, may extend the period for one (1) year, but not to exceed three (3) extensions.

3. Use Variances Involving Subdivision and/or Site Plan and/or Conditional Use Approval.

(a) Whenever an application for development requests relief pursuant to this subsection, the Planning Board shall grant or deny approval of the application within one hundred twenty (120) days after submission by a developer of a complete application to the Secretary of the Planning Board or within such further time as may be consented to by the applicant. Failure of the Planning Board to act within the period prescribed shall constitute approval of the application, and a certificate of the Secretary of the Planning Board as to the failure of the Planning Board to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval herein required and shall be so accepted by the County Recording Officer for purposes of filing subdivision plats.

(b) Applicants seeking simultaneous approvals under this subsection shall follow the procedures and details outlined under Chapter 19, Site Plan Review, and, if applicable, Land Subdivision.

4. Notice of Decision.

(a) The Secretary of the Planning Board shall mail a copy of the decision to the applicant within ten (10) days of the date of the decision. If the applicant was represented by an attorney, a copy of the decision shall also be mailed to the attorney. One (1) copy of the decision shall be filed with the Township Clerk and one copy retained for the Planning Board's file.

(b) The Secretary of the Planning Board shall cause a brief notice of the decision to be published in the official newspaper of the Planning Board or a newspaper of general circulation within the Township of Upper. The period of time in which an appeal of the decision may be made, pursuant to the requirements of the New Jersey Municipal Land Use Law, set forth at N.J.S.A. 40:55D-1, et seq., shall run from the first publication of the decision.

§ 20-7.2. Provisions Applicable to the Planning Board.

1. Conflicts of Interest. No member of the Planning Board shall act on any matter in which he has either directly or indirectly any personal or financial interest. Whenever any such member shall disqualify himself from acting on a particular matter, he shall not continue to sit with the Board on the hearing of such matter nor participate in any discussion or decision relating thereto.

2. Meetings.

(a) Meetings of the Planning Board shall be scheduled no less often than once a month, and any meeting so scheduled shall be held as scheduled unless cancelled for lack of applications for development to process.

(b) Special meetings may be provided for at the call of the chairman or on the request of any two (2) Planning Board members, which shall be held on notice to its members and the public in accordance with all applicable legal requirements.

(c) No action shall be taken at any meeting of the Planning Board without a quorum of the Planning Board membership being present.

(d) All actions of the Planning Board shall be taken by majority vote of a quorum except as otherwise required by a provision of N.J.S.A. 40:55D-1, et seq.

(e) All regular meetings and all special meetings of the Planning Board shall be open to the public. Notice of all such meetings shall be given in accordance with the requirements of the Open Public Meeting Law, C.231, Laws of New Jersey, 1975. An executive session of the Planning Board for the purpose of discussing and studying any matters to come before the Planning Board shall not be deemed a regular or special meeting of the Planning Board in accordance with the provisions of N.J.S.A. 40:55D-9.

SECTION 8: Chapter 20-8 of the Township of Upper Municipal Code shall be amended to read as follows upon the effective date of this Ordinance:

§ 20-8. APPEALS OF PLANNING BOARD DECISION.

All appeals of decisions made by the Planning Board shall be filed directly to the Superior Court of New Jersey and not to the Upper Township Committee.

SECTION 9: Chapter 20-9 of the Township of Upper Municipal Code shall be amended to read as follows upon the effective date of this Ordinance:

§ 20-9. NOTICES, HEARINGS AND RECORDS.

§ 20-9.1. Public Notice of a Hearing.

a. Application of Requirements. Public notice of a hearing on any application for development shall be given in accordance with the strict requirements of N.J.S.A. 40:55D-12.

b. Responsibilities of the Applicant.

1. The Secretary of the Planning Board shall notify the applicant at least two (2) weeks prior to the public hearing at which the application will be discussed. Notice of a hearing requiring public notice pursuant to Subsection a, above, shall be given as follows at least ten (10) days prior to the date of the hearing:

(a) By publication in the official newspaper of the Planning Board, if there be one, or in a newspaper of general circulation in the Township of Upper.

(b) To all owners of real property as shown on the current tax duplicate located within two hundred (200) feet in all directions of the property which is the subject of the hearing, which notice shall be given by serving a copy thereof on the property owner as shown on the current tax duplicate or his agent in charge of the property; or by mailing a copy thereof by certified mail to the property owner at his address as shown on the current tax duplicate. It is not required that a return receipt be obtained. Notice is deemed complete upon mailing (N.J.S.A. 40:55D-14). The current tax duplicate is considered to be a list of property owners within two hundred (200) feet in all directions of the subject property which is no more than six (6) months old at the date of the mailing of the certified notices.

(c) Notice to a partnership owner may be made by service upon any partner; notice to a corporate owner may be made by service upon its president, a vice president, secretary, or other person authorized by appointment or by law to accept service on behalf of the corporation.

(d) To the clerk of any adjoining municipality or municipalities and to the Cape May County Planning Board when the property involved is located within two hundred (200) feet of the adjoining municipality or municipalities, which notice shall be given by personal service or certified mail.

(e) To the Cape May County Planning Board when the application for development involves property adjacent to an existing County Road or proposed road shown on the official Cape May County map or a Cape May County Master Plan or adjoins other County land.

(f) To the Commissioner of Transportation of the State of New Jersey when the property abuts a State highway.

(g) To the Director of the Division of State and Regional Planning in the Department of Community Affairs when the hearing involves an application for development of property which exceeds one hundred fifty (150) acres or five hundred (500) dwelling units, in which case the notice shall include a copy of any maps or documents required to be on file with the Municipal Clerk pursuant to N.J.S.A. 40:55D-10b.

(h) Within the Pinelands Area, to the Pinelands Commission when the application is subject to Subsection 20-11.5, such notice shall contain at least the following information:

(1) The name and address of the applicant;

(2) The docket number of the Certificate of Filing, if any, issued by the Pinelands Commission and the date on which it was issued;

(3) The date, time and location of the meeting, hearing, or other formal proceeding;

(4) The name of the approval agency or representative thereof which will be conducting the meeting, hearing, or other formal proceeding;

(5) Any written reports or comments received by the approval agency on the application for development which have not been previously submitted to the Commission;
and

(6) The purpose for which the meeting, hearing, or other formal proceeding is to be held.

(i) To the New Jersey Department of Environmental Protection when development includes land located in the CAFRA Zone, involves more than twenty-five (25) dwelling units, or when development includes or borders lands designated as freshwater wetlands, or tidal wetlands.

(j) Such other parties as may be required by existing statutes and regulations.

2. Upon the written request of an applicant, the Township Clerk shall make and certify a list from the current tax duplicates of names and addresses of owners to whom the applicant is required to give notice pursuant to Subsection b1(b). The applicant shall be entitled to rely upon the information contained in such list, and failure to give notice to any owner not on the list shall not invalidate any hearing or proceeding.

3. The applicant shall file an affidavit or proof of service with the Planning Board.

c. Contents of Notice. The notice shall state the date, time, and place of the hearing and the nature of the matters to be considered, and an identification of the property proposed for development by street address, if any, or by reference to lot and block numbers as shown on the current tax duplicate in the Municipal Tax Assessor's office, and the location and times at which any maps or documents for which approval is sought are available for inspection.

§ 20-9.2. Notice of Decisions.

a. Any decision of the Planning Board or the Township Committee when acting on an application for subdivision or site plan approval, variance, conditional use, or appeal shall require notice. Notice shall be given in the following ways:

1. A copy of the decision shall be mailed to the applicant or his attorney within ten (10) days of the date of the decision, without charge, and likewise a copy of the decision shall be mailed to all persons who have requested that a copy of the decision be sent to them; and

2. A notice of the decision shall be published in the official newspaper of the Planning Board, if there is one, or in a newspaper of general circulation in the Township of Upper. The publication of such notice shall be arranged for by the Secretary of the Planning Board or Township Clerk, depending upon which agency makes the decision.

3. A copy of the decision shall also be filed with the Township Clerk.

4. Within the Pinelands Area, to the Pinelands Commission pursuant to Subsection 20-11.5d of this chapter.

b. The period of time in which an appeal to the Township Committee or court of competent jurisdiction may be made shall run from the first publication.

§ 20-9.3. Hearing.

- a. The Planning Board shall hold a hearing on each application for a request for site plan or subdivision approval, zoning variance, conditional use, or direction for the issuance of a permit.
- b. Planning Board shall make the rules governing such hearings. Any maps and documents for which approval is sought at a hearing shall be on file and available for public inspection at least ten (10) days before the date of the hearing, during normal business hours in the office of the Planning Board Secretary. The applicant may produce other documents, records, or testimony at the hearing to substantiate or clarify or supplement the previously filed maps and documents.
- c. The Chairman presiding at the hearing (or such person as he may designate) shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the "County and Municipal Investigations Law," P.L. 1953, C.38 (C.2A:67A-1 et seq.) shall apply.
- d. The testimony of all witnesses relating to an application shall be taken under oath or affirmation by the Chairman, and the right of cross-examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.
- e. Technical rules of evidence shall not be applicable to the hearing, but the Planning Board may exclude irrelevant, immaterial, or unduly repetitious evidence.
- f. The Pinelands Commission may participate in a hearing held by the Township involving the development of land in the Pinelands Area pursuant to N.J.A.C. 7:50-4.36.

§ 20-9.4. Records.

- a. Minutes of every regular or special meeting shall be kept and shall include the names of the persons appearing and addressing the Planning Board and of the persons appearing by attorney, the action taken by the Planning Board, the findings, if any, made by it and reasons therefore. The minutes shall thereafter be made available for public inspection during normal business hours at the office of the Township Clerk. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceeding concerning the subject matter of such minutes.

- b. A verbatim recording shall be made of every hearing on an application required under Subsection 20-9.3. The recording of the proceedings shall be made by either stenographer, mechanical or electronic means. The Planning Board or Township Committee shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at his expense.

§ 20-9.5. Application Requirements.

- a. Application Forms. The Planning Board shall approve application forms for Site Plan Preliminary, Site Plan Final, Minor Subdivision, Major Subdivision - Classification, Major Subdivision - Preliminary, Major Subdivision — Final, Environmental Assessment Checklist, Site Plan Waiver, and Variances to the Planning Board. Current application forms are available from the Planning Board Secretary.
- b. Content. An application to the Planning Board shall include the items specified in Subsection 19-9.9.
- c. Complete Application. An application shall be complete for purposes of commencing the applicable time period for action by the Planning Board when so certified by the Planning Board or its authorized committee. For an application to be certified complete, it must include each item in the checklist specified in Subsection 19-9.9.
- d. Waiver. The applicant may request that one or more of the submission requirements in the checklist be waived. Such request shall be made in writing.

SECTION 10: Chapter 20-10 of the Township of Upper Municipal Code shall be amended to read as follows upon the effective date of this Ordinance:

§ 20-10. FEES.

Application and escrow fees for every application for review by the Planning Board shall be submitted by the applicant at the time of application submission in accordance with § 19-11.

SECTION 11: Any sections of Chapter 19 and/or Chapter 20 of the Upper Township Municipal Code that are not expressly amended through this Ordinance shall remain in full force and effect subsequent to adoption of this Ordinance.

SECTION 12: This Ordinance shall take effect as of January 1, 2026, a date certain that will arise after final adoption by the governing body of the Township of Upper and after publication as required by law.

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 14TH DAY OF OCTOBER, 2025 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 TO BE HELD ON THE 10TH DAY OF NOVEMBER, 2025 AT 5:30 P.M. AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY, AT WHICH TIME SAID ORDINANCE WAS ADOPTED.

JOANNE R. HERRON, TOWNSHIP CLERK
TOWNSHIP OF UPPER

31. Introduction and first reading of Ordinance No. 010-2025 RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER 13 (STREETS, SIDEWALKS AND SANITATION) OF THE MUNICIPAL CODE OF UPPER TOWNSHIP. **Motion by Tyler Casaccio, second by Zachary Palombo, to introduce Ordinance No. 010-2025 with the public hearing scheduled for December 8, 2025. During roll call vote all three Committee members present voted in the affirmative.**

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

ORDINANCE NO. 010-2025

**RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE
CHAPTER 13 (STREETS, SIDEWALKS AND SANITATION) OF THE
MUNICIPAL CODE OF UPPER TOWNSHIP**

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 13 of the Revised General Ordinance of the Township of Upper, also known as the Code of Upper Township, shall be amended and supplemented as hereinafter provided:

Replace Chapter 13, Section 1 in its entirety with the following:

13-1. EXCAVATION AND CONSTRUCTION OF PUBLIC STREETS.

§ 13-1.1. Permit Required.

It shall be unlawful to dig, excavate, open or in any manner interfere with or disturb within the right-of-way of any municipal street within the Township of Upper for any purpose whatsoever without first securing a permit therefor as hereinafter provided.

§ 13-1.2. Application.

An application for permission to make an excavation between the curblines of any street under Township control shall be made to the Township Clerk. Such application shall be made on the required application form and shall be signed by the applicant and shall specify:

1. The applicant's name, address and phone number (local and out-of-town, if applicable);
2. The name, address and phone number of the person or firm who will be performing the work;
3. The length and width of such excavation;
4. The purpose for which the excavation is to be made;
5. The estimated time required to complete the work and restore the surface; and
6. Such other information as may be required by the Township Engineer.

0§ 13-1.3. Fees/Escrow Requirement

- a. For all excavations within the paved areas under Township control, an administrative application fee of \$250.00 and construction inspection fee of \$1,000.00 shall be paid to the Clerk's Office prior to the issuance of the permit. If said paved area to be opened, disturbed, or undermined exceeds six (6) square yards, the additional yardage shall be classified as excess yardage, and an additional fee shall be due and payable by the applicant for all yardage in excess of six square yards at a rate of \$10 per square yard. The \$1,000.00 inspection fee will not be required to be paid if the Applicant is a utility company who is in compliance with Section 13-1.3(d), below.
- b. The applicant shall be responsible to provide all additional fees associated with multiple re-inspections that are necessary due to defective workmanship, lack of coordination, lack of work progression and any aspect of work that is unacceptable to the Township. The Township Engineer shall advise the applicant, in writing, of said additional fee, if warranted.
- c. If necessary, the area to be opened, disturbed or undermined by the applicant may be measured and determined by the Township Engineer and the Department of Public Works.
- d. All utility companies, including companies with existing franchise agreements with public utilities, shall be required to post one general inspection escrow in an amount to be determined by the Township Engineer based upon the application(s) submitted and the scope of work to be performed and/or an amount estimated and projected to be completed within one calendar year. The general escrow account shall be maintained by the Township and shall have a minimum balance maintained at all times, which shall not be less than 25% of the initial escrow amount required to be posted. All escrow fund balances shall be calculated by the Engineer.

§ 13-1.4. Performance and Maintenance Surety.

Before any permit is issued for any work in a public street, certain performance and maintenance sureties are to be posted with the Township Clerk's Office.

- a. Performance Surety.
 1. The performance surety shall be in the form of either a corporate guaranty bond or a surety guaranty bond issued by a company authorized to do business in the State of New Jersey, in a form satisfactory to the Township Clerk and in the penal sum of 100% of the full amount of the total estimated construction costs. A certified check drawn in favor of the Township of Upper for the same amount (100% of the total estimated construction costs) may be substituted for the performance surety. The estimated costs of the

proposed work shall be based upon current market values, and said amount shall be prepared by the applicant and approved by the Township Engineer.

2. In lieu of the above-mentioned performance surety, public utility companies or authorities may post an annual performance surety for \$20,000 or for an increased amount determined by the Township Engineer. The form of surety shall be approved by the Township Solicitor.
- b. Maintenance Surety.
1. In addition to the posting of a performance surety, and as a condition to the release of same, the Township of Upper may, at their discretion, require the applicant to post a maintenance surety in the form of either a surety or guaranty bond issued by a company authorized to do business in the State of New Jersey, in a form satisfactory to the Township Solicitor and in the penal sum of 15% of the performance surety. A certified check, drawn in favor of the Township of Upper, for the same percentage (15% of the performance surety) may be substituted for the maintenance surety.
 2. Public utility companies or authorities posting and continually maintaining a performance surety in accordance with this section will not be required to post a separate maintenance surety.
- c. The applicant shall be responsible for all maintenance and repairs required at the site for a period of one year following completion of construction.

§ 13-1.5. Insurance; Indemnification and Hold Harmless Clause.

- a. All applicants and their agents and employees are required to be covered by a policy or policies of liability insurance. Said insurance shall provide coverage for public liability of at least \$100,000 per person per occurrence, \$300,000 per occurrence for bodily injury liability and at least \$50,000 per occurrence for property damage. A certificate of insurance that confirms the aforementioned coverage and naming the Township as an additional insured under the insurance policy shall be submitted to the Township Clerk at the time of submittal of the application.
- b. The applicant shall also agree, in writing, to indemnify and hold harmless the Township, its agents, servants, and employees from any damage or liability sustained by any person or property arising out of the negligence of the applicant or its agents, servants and employees during the course of any construction, excavation, restoration or refilling of any road or street under the control of the Township. The agreement shall require the applicant, in the event a claim is made against the Township, its agents, servants and employees arising out of the applicant's construction activities, to provide the Township with a legal defense and to pay any and all attorneys' fees or costs incurred by the Township in connection with any claims, suit or litigation.

§ 13-1.6. Issuance of Permit/Restrictions.

- a. The Township Engineer, upon receipt and examination of the application and the fee referred to hereinabove, shall authorize the Township Clerk to issue a permit for the excavation. The permit shall specify that it is good for a ninety-day period from the date of issuance and shall further specify that such work shall be completed and restored within 48 hours after work is commenced or within a duration of time which in his opinion is reasonable and fair. The applicant shall notify the Township Engineer 24 hours before the commencement of any work so that appropriate inspection can be made where required.
- b. Whenever the Township resurfaces or reconstructs a street, no permit shall be issued for the

opening of said street for a period of five years subsequent to the completion of the reconstruction and acceptance of such work by the Township, provided the property owners have been properly notified. The Township Clerk shall give written notice of any such proposed road opening by way of publication in a newspaper of general circulation within the Township no less than four months prior to commencing the Township's construction. The notice shall specify the anticipated start date for the construction and advise the property owner that any anticipated new facilities or repairs to their existing facilities must be completed prior to the start of the Township's project. Emergency situations are exempt from the five-year restriction.

- c. Between May 20 and September 10 work authorized pursuant to a permit issued under this chapter is restricted to Tuesday through Thursday within the Strathmere section of Upper Township. No scheduled work will be permitted between Friday and Monday during this time period, unless approved by the Engineer and the Township Committee.

§ 13-1.7. Restoration of Excavated Area.

- a. The applicant to whom such permit is issued shall, within the time limited in such permit, replace the earth and pavement in the excavation in such manner that the same shall be left in as good condition as it was before the excavation was commenced. Except as otherwise herein stated, all street work performed shall be in accordance with the applicable provisions of the New Jersey Department of Transportation (NJDOT) Standard Specifications for Road and Bridge Construction, including all amendments. Reference to articles or sections hereinafter refer to said NJDOT standard specifications.

- 1. Trenches shall be backfilled in layers not to exceed six inches, and a vibratory tamper must be used. Compaction of 95% shall be required. Puddling of backfill is strictly prohibited. Should there be a deficiency, additional backfill material shall be supplied by the permittee. Whenever the Township Engineer shall deem the material unsatisfactory for backfill, the permittee shall provide acceptable material for the backfill.
- 2. Roadways with a concrete base shall be restored using a combination of concrete and asphalt. The amount of concrete and asphalt to be used at each such excavation shall be as directed by the Township Engineer. See detail at end of chapter.
- 3. Hot mix asphalt street restoration specifications.

- (a) Gravel.

- (1) Gravel shall be installed six inches thick. The gravel shall consist of compact soil aggregate, Type I-5. The use of a recycled asphalt product (RAP) or recycled concrete product may be substituted for the soil aggregate as long as it meets the NJDOT requirements for I-5 materials. The Township Engineer may, at his discretion, submit samples of the soil aggregate for a gradation analysis, with the costs of said analysis borne by the applicant.

- (b) Temporary restoration.

- (1) Less than 100 square feet.

- (i) For openings in asphalt roadways that are less than 100 square feet, the temporary restoration will consist of the installation of six inches of soil aggregate, Type I-5, to a level of six inches below the level of adjacent paved surfaces, a four-inch lift of hot mix asphalt base course, Mix I-2, followed by a two-inch lift of a bituminous concrete cold patch installed to grade.

- (ii) These temporary surfaces shall be in place for a period of not less than 45 days to allow sufficient settlement to occur. Should settlement continue to occur, the Township Engineer shall determine when the work is acceptable for final restoration. The permittee shall be responsible for all maintenance deemed necessary by the Township Engineer until such time as the final restoration is completed.
 - (2) Greater than 100 square feet.
 - (i) For openings in asphalt roadways that are greater than 100 square feet, the temporary restoration will consist of the installation of six inches of soil aggregate, Type I-5, to a level six inches below the level of the adjacent paved surfaces. A six-inch lift of hot mix asphalt, Mix I-2, shall then be installed to grade.
 - (ii) These temporary surfaces shall be left in place for a period of not less than 45 days to allow sufficient settlement to occur. Should settlement continue to occur, the Township Engineer shall determine when the work is acceptable for final restoration. The permittee shall be responsible for all maintenance deemed necessary by the Township Engineer until such time as the final restoration is completed.
 - (c) Final Restoration.
 - (1) Less than 100 square feet.
 - (i) For openings less than 100 square feet, the final restoration will involve the removal of the top two inches of bituminous concrete cold patch. All edges shall be saw cut six inches beyond the actual trench width disturbed to produce a clean edge, and said edges shall be prepared with an asphaltic tack coat. A two-inch lift of hot mix asphalt surface course, Mix I-5, shall then be placed to a level even with the existing road grade.
 - (2) Greater than 100 square feet.
 - (i) For openings greater than 100 square feet, the trenches shall be milled to a depth of two inches to a distance of at least 12 inches beyond the actual trench width to produce a clean edge. All edges shall be coated with an asphaltic tack coat prior to a two-inch lift of hot mix asphalt surface course, Mix I-5, being placed to a level even with the existing road grade.
 - (d) No surface water shall be entrapped or ponded on the resurfaced areas. If any ponding occurs, the permittee will be responsible for performing whatever remedial action is required by the Township Engineer.
4. If more than two individual excavations would be required within a 100-foot length, a single trench must be used rather than the individual excavations. Final restoration will require a minimum of 1/2 width of the cartway. The trench shall be milled to a depth of two inches to a distance of at least 12 inches beyond the actual trench limit from the center line of the cartway to the curblineline. (See construction detail at end of section.) All edges shall be coated with an asphaltic tack coat prior to a two-inch lift of hot mix asphalt surface course, Mix I-5, being placed to a level even with the existing road grade.
 5. In all cases where concrete has to be removed prior to any excavation, saw cut methods of removal shall be used. The restoration of the concrete shall be according

to the following specifications:

- (a) It shall be NJDOT Class B with a class design strength of 3,700 psi at 28 days.
 - (b) It shall have a minimum thickness of not less than four inches for sidewalk, six inches for driveway aprons and eight inches for gutter.
 - (c) It shall have a minimum width of not less than five feet for sidewalks.
 - (d) It shall have control joints not more than five feet for sidewalk, 10 feet for curb and gutter and expansion joints not more than 20 feet for sidewalk, curb and gutter.
- b. By the acceptance of such a permit, the applicant shall be deemed to have agreed to comply with the terms hereof, and upon his failure to do so to pay on demand any cost or expense that the Township may incur by reason of any shrinkage or settlement in the excavated area resulting from such excavation if such shrinkage or settlement shall occur within three months from the time the surface thereof is restored.

§ 13-1.5. Newly Paved Streets.

No permit shall be issued for any street opening which would disturb the pavement of any road having been constructed, reconstructed or overlaid until a period five years after the completion of said construction, reconstruction or overlay, except in the event of an emergency or hardship as described below. The five- year period as articulated herein shall be calculated from December 31 of the year in which said road was constructed, reconstructed or overlaid and run five years thereafter.

- a. **Emergency Opening.** In the event that an entity shall be required to open a street and/or roadway as a result of an emergency, said emergency opening shall be reviewed by the Township Engineer, and if the said Township Engineer shall determine that no such emergency existed, then the entity so opening the street and/or roadway shall have a fine imposed upon such entity in the amount of \$5,000 for the first nonemergency opening, a fine of \$10,000 for a second nonemergency opening, and a fine of \$15,000 for a third nonemergency opening.
- b. **Hardship Condition.** In the event in which a property owner has a hardship condition which requires a street opening permit to be issued contrary to paragraph a above, the Township of Upper may grant relief if all of the following conditions are met:
 1. A letter addressed to the Township, c/o the Township Clerk, is received detailing the hardship and necessity of opening the street in lieu of waiting the prescribed period of time.
 2. Upon receipt of the letter, a public meeting date will be set for the Township Committee to take formal action.
 3. The property owner making request shall serve a notice to all property owners within 200 feet, by certified mail, return receipt requested, or by personal hand delivery, a minimum of 10 days prior to the public meeting.
 4. The property owner shall file a copy of the notice served to adjoining property owners with an affidavit of proof of delivery of notice with the Township Clerk at least three days prior to the public meeting. The notice must:
 - (a) Identify the property by street address and block and lot;

- (b) State the reason for the hardship;
 - (c) State the type of size of the utility opening;
 - (d) Advise the adjoining property owners that if they have any objections, they must advise the Township Clerk, in writing, as to their objections to proposed street opening at least three days in advance of the public meeting;
 - (e) State the date and time of the public meeting; and
 - (f) Be approved by the Township Clerk prior to mailing
5. The Township Committee shall consider the request at a public meeting and review all objections received in writing. Approval or denial of the request shall be through formal adoption of a resolution.
 6. A request based solely on economic savings shall not be considered and will be automatically denied.
 7. An additional fee of \$500 will be assessed for all street openings applications located within the asphalt pavement.
- c. Roadway restoration.
1. In the event that an emergency or hardship requires the opening of a roadway that has been resurfaced by the Township during the previous five years, a full width, infrared restoration will be required. The restoration will consist of six-inch dense graded aggregate base course, and a six- inch hot mix asphalt base course, Mix I-2, brought to existing grade, within the excavated area. A full width, curb-to-curb milling two inches in depth to extend 20 feet beyond the limit of excavations will be performed after proper settlement in the trench area. The allowable time for the settlement shall be 45 days unless otherwise directed by the Township Engineer. The final surface course shall be a two-inch hot mix asphalt surface course, Mix I-5. See detail at end of chapter.
 2. Infrared restoration for repair of asphalt streets that are less than five years old and have been opened for utility work shall be utilized after the one-hundred-twenty-to one-hundred-eighty- day settlement period has elapsed.
 - (a) The following methods of construction shall apply:
 - (1) After completion of permanent restoration, the permittee shall provide infrared restoration.
 - (2) The area shall be swept clean of dirt, loose aggregate, or standing water.
 - (3) A chalk line shall be drawn 12 inches back from the seam of the original opening to use as a guide for raking.
 - (4) The infrared chamber shall be lowered over the repair, being sure to allow at least 12 inches to 18 inches of heated area beyond the perimeter of the original opening.
 - (5) To insure the proper heating time, the contractor shall check the surface temperature of the asphalt at seven minutes and every minute thereafter using an infrared thermometer so as not to allow the surface temperature to exceed 350° F. This is required since the ambient temperature, the color of the pavement, the size of the aggregate, and the moisture content influence the heating time.

- (6) After the appropriate heating time (typically eight to 10 minutes), the asphalt surface will be softened to a depth of two to 2 1/2 inches.
 - (7) The infrared chamber shall be then removed from the heated area.
 - (8) The back side of a steel rake shall be used to neatly square off the repair, cutting 12 inches back from the original excavation along the chalk line.
 - (9) The area inside the repair shall be deeply scarified, taking special care to eliminate the original seam between the repair and the road.
 - (10) Approximately 1/2 to one inch of existing three-fourths-inch stones shall be raked out and removed from the patch.
 - (11) Maltenes rejuvenator shall be applied to the repair and surrounding heated asphalt surface. Emulsified maltenes recycling agent (rejuvenator) shall be applied in a ratio of 1:1 with water. This solution shall be well dispersed with a commercial-grade sprayer at a rate of eight ounces per square yard of heated area. This application area shall include both the area under repair as well as the area heated but left undisturbed around the perimeter of the repair. The application shall take place after the area has been scarified and just prior to the addition of new asphalt. The rejuvenator replaces the light oil component of asphalt, which has oxidized out over time.
 - (12) Hot mix asphalt I-5 (1/4 to 3/8 aggregate) shall be added to the area to bring it up to proper grade and luted smooth.
3. Trench restoration may be permitted under special circumstances and at the option of the Township of Upper and Township Engineer for openings having a minimum impact on the longevity and serviceability of the street in question. See detail at end of section.

§ 13-1.8. Clearance for Fire Equipment.

The excavation work shall be performed and conducted so as not to interfere with access to fire stations and fire hydrants. Materials or obstructions shall not be placed within 15 feet of fire hydrants. Passageways leading to fire escapes or fire-fighting equipment shall be kept free of debris, construction materials or other obstructions.

§ 13-1.9. Protection of Traffic.

- a. The permittee shall erect and maintain suitable barriers to confine the earth from trenches or other excavations so as to encroach upon highways as little as possible.
- b. The permittee shall construct and maintain adequate and safe crossings over excavations and across highways under improvement to vehicular and pedestrian traffic at all street intersections.
 1. Vehicular crossings shall be constructed and maintained of plant, timbers and blocking of adequate size to accommodate vehicular traffic safely. Decking shall be not less than four inches thick and shall be securely fastened together with heavy wire and staples.
 2. Pedestrian crossings shall consist of planking three inches thick, 12 inches wide and of adequate length, together with necessary blocking. The walk shall be not less than three feet in width and shall be provided with a railing, as required by the Township Engineer.
- c. Traffic control plans and devices shall conform to the latest edition of the Manual of Uniform Traffic Control Devices (MUTCD).

§ 13-1.10. Responsibility and Liability of the Township.

The Township shall not be responsible for any injury or damage to persons or property resulting from the negligence of the applicant or his servants, agents, or employees in making, grading, or filling any excavation permitted under the terms of this section. This section shall not be construed as imposing upon the Township or any official or employee any liability or responsibility for damages to any person injured in the performance of any excavation work for which an excavation permit is issued hereunder; nor shall the Township or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized hereunder, the issuance of any permit or the approval of any excavation work.

§ 13-1.11. Violations and Penalties.

Any person, firm or corporation violating any of the provisions of this section shall, upon conviction thereof before the Municipal Judge of the Township’s Municipal Court, be subject to a fine not exceeding \$1,000 or to imprisonment in the county jail for a period not exceeding 90 days, or both. Penalties for violating the emergency road opening provisions are contained above in subsection 13-1.5a.

§ 13-1.12. Exemptions.

Street openings and excavations performed by the Township of Upper or agents of the Township of Upper are exempt from the provisions of this chapter.

Replace Chapter 13, Section 2 in its entirety with the following:

§ 13-2. SIDEWALK AND CURB CONSTRUCTION AND MAINTENANCE.

§ 13-2.1. Premises Owner to Maintain Sidewalks and Curbs.

The owner of any premises in the Township of Upper abutting a sidewalk or curb shall, at his/her own expense, keep and maintain such sidewalk or curb in good condition and state of repair and shall not permit the same to fall into a state of disrepair or to become unfit or unsafe to walk upon. In the event that such sidewalk or curb or any part thereof becomes unsafe or hazardous to the public or unfit to walk upon, the abutting owner, at his own cost and expense, shall forthwith reconstruct or repair, as the facts may require, such sidewalk or curb or that part thereof which requires reconstruction or repair. This section shall not apply to situations where, in an approved subdivision, a developer is required to install curbs and sidewalks and where responsibilities for construction and maintenance are more particularly delineated in the subdivision ordinance of the Township. Additionally, the owner of any premises in the Township of Upper abutting the sidewalk or curb shall, at his or her own expense, maintain such sidewalk or curb in a clean condition, free of debris, and shall also maintain, in a clean condition, that portion of the gutter/roadway abutting the sidewalk extending from the edge of the curblines to a distance of 18 inches into the street.

§ 13-2.2. Notice of Condition to Owner.

The Township of Upper Engineer, Construction Official, or Code Enforcement Officers or their designees are authorized to issue notices of violations upon a determination that a sidewalk or curb is in an unsafe or hazardous condition as required herein. Whenever any lands are occupied and the owner cannot be found within the Township, said notice may be mailed, postage prepaid, to his or her post office address as it is ascertained from the latest tax rolls of the Township of Upper. In a case where an owner is a nonresident of the municipality or his or her post office address cannot be ascertained, then a notice may be inserted for four weeks, once a week in the official newspaper of the Township of Upper.

§ 13-2.3. Permit Required; Fee.

- a. An application for the excavation, repair, replacement, or reconstruction of an existing sidewalk, curb, or driveway shall be made to the Township Construction Official. Such application shall be made on the required application form and shall be signed by the applicant and shall specify:
 - 1. The applicant's name, address and phone number (local and out-of-town, if applicable);
 - 2. The name, address and phone number of the person or firm who will be performing the work;
 - 3. The length and width of such excavation;
 - 4. The purpose for which the excavation is to be made;
 - 5. The estimated time required to complete the work and restore the surface; and
 - 6. Such other information as may be required by the Township Engineer.
- b. For major excavations of more than forty (40) linear feet of curbing or two hundred (200) square feet of sidewalk, an administrative application fee of \$250.00 and construction inspection fee of \$1,000.00 shall be paid to the Construction Office prior to the issuance of the permit .
- c. For minor excavations of less than forty (40) linear feet of curbing or two hundred (200) square feet of sidewalk, an administrative application fee of \$50 shall be paid to the Township Construction Office prior to the issuance of the permit.
- d. The applicant shall be responsible to provide all additional fees associated with multiple re-inspections that are necessary due to defective workmanship, lack of coordination, lack of work progression and any aspect of work that is unacceptable to the Township. The Township Engineer shall advise the applicant, in writing, of said additional fee, if warranted.
- e. If necessary, the area to be opened, disturbed or undermined by the applicant may be measured and determined by the Township Engineer and the Department of Public Works.

§ 13-2.4. Standards and Specifications.

All sidewalks, curbs and driveways, including repairs, replacement and reconstruction thereof, shall be constructed to the strict line and grade as established by the Township Engineer and of the materials as specified by this section.

- a. Concrete Curbs.
 - 1. Concrete curbs shall be 16 inches in depth having a top width of six inches and a bottom width of eight inches. The top and face shall be troweled to produce a smooth finish. The face shall be troweled to a depth of nine inches. Mechanical vibration of the concrete will be permitted to produce a smooth curb face. Where vibrating produces the desired uniform smooth surface, troweling will not be required.
 - 2. Expansion joints shall be provided at twenty-foot intervals along the curb and shall consist of one-half inch pre-molded compressible material.
- b. Concrete Sidewalks.
 - 1. Concrete sidewalks shall be four inches in depth having a width of four or five feet

which shall be determined by the width of existing sidewalk on any particular street. The sidewalk shall be finished with a wooden float to provide a uniform surface.

2. Grooves shall be formed at intervals, equal to the width of the sidewalk and expansion joints provided at twenty-foot intervals and shall consist of one-half inch pre-molded compressible material.
 3. Sidewalks shall be located within the sidewalk area in accordance with the established practice on any particular street and shall slope upward from the established curb grade toward the property line at the rate of one-quarter inch per foot.
- c. Materials. The following shall govern the type of materials to be used:
1. Mix. Concrete shall consist of one part portland cement, two parts of sand and four parts of coarse aggregate using only sufficient water to make a workable mix.
 2. Cement. Cement shall be approved portland cement.
 3. Sand. Sand shall be clean washed concrete sand.
 4. Coarse aggregate. The coarse aggregate shall be five-eighths inch or three-fourths inch broken stone or washed gravel and shall be in practical compliance with the requirements for five- eighths inch or three-fourths inch as indicated in the 2019 NJDOT Standard Specification for Road and Bridge Construction, including updated revisions.
- d. Whenever a sidewalk corner curb is repaired or replaced, the repair or replacement shall comply with the requirements of the Americans with Disabilities Act (ADA), requiring a ramp leading from the sidewalk to the road, through the curb, so as to provide a smooth unrestricted passageway between the road and the sidewalk. In connection with the repair or replacement of any other curbs, the same compliance with ADA may be required, depending upon the availability of other ramps in the general vicinity. The owner and/or contractor doing the work must apply at the Township Construction Office for a permit and shall be advised of the applicability of the ADA requirements at that time. Specifications therefor are on file in the Township Construction office.

§ 13-2.5. Liability of Contiguous Landowner and Notice to Repair.

- a. The responsibility of maintaining the existing sidewalk, curb, and private driveway, all lying within the bed of a public street, is upon the contiguous property owner, who should maintain said areas so that they do not become dangerous to the public. Said owner should replace, reconstruct, or repair same as needed. The responsibility of said owner does not depend upon being notified to make a repair by the Township. However, in the event the Township of Upper should determine that any existing sidewalk, curb or driveway, which is located within the public right-of-way, is in such condition that it has become dangerous to the public, or is in such condition that it should be replaced, reconstructed, or repaired, or does not conform to the provisions of this chapter, the Township of Upper Engineer, Construction Official, or Code Enforcement Officers or their designee is authorized to give notice to the property owner to replace, repair or reconstruct the same within 30 days from the service of such notice.
- b. Whenever any lot, tract or parcel of land is located in an area where public convenience and necessity require the construction of a curb or sidewalk, or both, the Construction Official is hereby authorized and empowered to give notice to the property owner to cause the same to be constructed within 30 days from the service of the notice. Such areas are intended to mean those where the general public would be likely to pass or repass with reasonable frequency; those located where the lands abutting have improvements erected thereon, and lands located in a vicinity which has been developed by the construction of improvements on other lands.

§ 13-2.6. Failure to Comply; Work to Be Done by the Township.

In the event the owner does not make the replacement, repair or reconstruction as required by the notice and the provisions of subsection 13-2.5 hereof, the Township may make the necessary replacement, repair or reconstruction, and the cost of the work shall be assessed against the lands of the owner in the manner prescribed by law. Additionally, whenever directed to act by the Township Committee specific instances, the Construction Official shall utilize the provisions of N.J.S.A. 40:65, by giving notice to the owner that unless the owner completes the particular replacement, repair or reconstruction of a sidewalk, curb or driveway within 30 days after service of the notice, the Township will make the improvement at the sole expense of the owner. The cost of the work shall be assessed against the real estate of the owner in the manner prescribed by law. All applicable provisions of N.J.S.A. 40:65 shall be followed.

§ 13-2.7. Enforcement; Appeals; Penalties.

- a. The Construction Official is hereby empowered to enforce this section and several provisions thereof. The Construction Official is hereby further empowered to enforce the discretionary powers which are considered necessary in order to make the provisions hereof properly effective and useful for the benefit of the public.
- b. In order to prevent injustice, the possible abuse of discretion and to correct the possibility of error in judgment, any owner who receives a notice from the Township Construction Official has the right to appeal to the Township Committee by filing a notice of appeal with the Township Clerk within the thirty-day period heretofore mentioned. Upon receipt of any such notice of appeal, the Township Committee will hear the appeal at its next regular meeting, at which time the owner and any other persons appearing in the matter will be heard or will be afforded the opportunity to be heard. After the hearing, the Township Committee will consider the matter, reach a decision, and notify the owner thereof.
- c. Any person, firm or corporation violating any of the provisions of this section shall, upon conviction thereof before the Municipal Judge of the Township's Municipal Court, be subject to a fine not exceeding \$1,000 or to imprisonment in the county jail for a period not exceeding 90 days, or both. Each day's persistence in the things or acts prohibited by this section shall be and constitute a separate and distinct offense subject to any and all penalties prescribed in this section.

Replace Chapter 13, Section 4 in its entirety with the following:

§ 13-4. MAP OF UTILITIES.

§ 13-4.1. Map Required.

Every person owning, using or controlling pipes, conduits, ducts or other facilities under the surface of any street used for the purpose of supplying gas, electricity, communications, water or steam to or from the Township or its inhabitants, or for any other purpose, shall file with the Township Construction Office accurate information showing the location, size and description of all installations.

§ 13-4.2. Changes.

On or before January 31st of each year, all persons subject to this section shall file with the Township Construction Office additional information showing all installations made or abandoned during the previous year. If no changes have been made to the installations during the previous year, a written statement to that effect may be filed with the Township Construction Office within the period of time specified above. Any person subject to this section may, at his option, elect to provide

additional information throughout the year as it is available.

Replace Chapter 13, Section 5 in its entirety with the following:

§ 13-5. STREET VACATIONS.

§ 13-5.1. Request for Street Vacation.

Any person seeking the vacation of a street pursuant to N.J.S.A. 40:67-1 et seq. shall make such request to the Township Clerk, in writing. Said request must include an identification of the applicant's property, and a depiction of the premises to be vacated, and a list of all owners of adjacent property, with current mailing addresses. Consent from all affected adjacent landowner(s) shall be submitted with said request. The consent shall include the adjacent landowner(s) street address and block and lot number.

§ 13-5.2. Initial Review.

- a. Upon receipt of the request and consents, the Township Clerk shall forward a copy of the request and consents to the Administrator for review. He/she shall also forward a copy of the request to the following for investigation and submission of reports:
 1. Township Solicitor;
 2. Township Engineer;
 3. Superintendent of Public Works;
 4. Zoning Officer;
 5. Tax Assessor.
- b. The aforementioned group shall determine whether the roadway is needed for any future Township land development, municipal facilities such as storm drainage, or recreational facilities; is under Green Acres jurisdiction or was ever used for municipal recreational purposes in the past; or whether the utility companies have need for the right-of-way.

§ 13-5.3. Application Fees.

The applicant shall pay a minimum fee of \$50.00 to cover the initial costs incurred by the Township of Upper in processing the application. In addition, the applicant shall reimburse the Township for the legal and engineering costs incurred by the Township in preparation and review of the vacation ordinance. Said sums due and owing shall be certified to the Township Clerk by the Township Solicitor and Township Engineer. The Township Clerk shall further certify the costs of public advertising and recording fees. The total amount due and owing for reimbursement for the legal, engineering, publication, certified mailing costs, and recording fees shall be paid by the applicant prior to the adoption of the vacation ordinance.

§ 13-5.4. Preparation and Submission of Documentation.

Prior to preparation of the vacation ordinance, the applicant shall prepare or have prepared on its behalf, the following:

- a. Survey maps and metes and bounds descriptions of the area to be vacated and the method of division of the vacated property subsequent to adoption of the ordinance. The survey map shall indicate all existing encumbrances, drainage facilities, utility locations and any other topographical feature pertinent to the area to be vacated. The maps shall depict the portions of the street or right-of-way to be conveyed to each abutting property owner having interest

in the title to the centerline of the street to be vacated, unless the title searches disclose that the interest in title is otherwise. In that event, it shall show to the appropriate line required, based upon the chain of title, of the street to be vacated. The description for all the vacated streets shall be prepared by metes and bounds for the vacation ordinance. The ending statement of the vacation description shall include the following wording:

"The above description is and is intended to be all of that portion as shown on the Official Tax Map of the Township of Upper. It is further intended that all rights of the public which may exist are to be vacated within the portion of the right-of-way described, reserving there out and therefrom all rights and privileges now possessed by public and private utilities to maintain, repair and replace their existing facilities in, adjacent to, over or under the roadway being vacated, including but not limited to, gas, water, cable, telephone, electric, sanitary sewers, storm sewers and any appurtenances and rights of ingress and egress relating thereto. The description has been prepared in accordance with the map entitled _____."

§ 13-5.5. Adoption Process.

Upon certification by the Township Solicitor and Township Engineer that all necessary documents are in order, the Township Solicitor shall prepare a vacation ordinance for discussion and introduction by the Township Committee. The Township Committee shall adhere to the procedures set forth in N.J.S.A. 40:67-1 et seq. and N.J.S.A. 40:49-2 with regard to introduction, publication, public hearing and adoption of said ordinance. In addition, the Township Clerk, after introduction of said ordinance, shall notify by certified mail, return receipt requested, all adjacent and adjoining property owners within 200 feet of the proposed road vacation area, of the introduction of the ordinance and advise them of the date of public hearing at which they may attend and make their comments known. Upon adoption of the ordinance, the Township Clerk shall record same with the County Clerk of the County of Cape May as required by law. Upon certification from the County Clerk that the ordinance has been recorded, the necessary tax records shall be revised by the Township Tax Assessor and the vacation indicated on the Tax Map of the Township of Upper.

§ 13-5.6. Additional Provisions.

The obligation of the Township with regard to the adopted vacation ordinance shall cease with its recording of same with the County Clerk and updating of its tax map. In the event that the applicant or the adjacent property owners who may receive an interest in the vacated area wish to have a deed prepared evidencing the property vacated, such deed shall be the obligation of the owner acquiring title to said portion of the roadbed. In the event that any such deed is prepared, it shall describe, by metes and bounds, the original property, including within the description that portion of the street being incorporated with the owner's original land holdings. The deed shall contain a reference to the new tax lot number created and assigned to the combined lot and the road vacation area as determined by the Township Tax Assessor. It shall also include a reference to the survey map upon which the deed description is based and a reference to the ordinance number by which the portion of the street was vacated. The deed shall be transferred by the owner to themselves.

Replace Chapter 13, Section 6 in its entirety with the following:

§ 13-6. SPEED HUMPS

§ 13-6.1. Purpose.

The purpose of this section is to provide a transparent and defensible mechanism, through guidance and objectivity, pertaining to the evaluation and selection of roadways within the Township for the installation of speed humps. Prior to the approval and installation of speed humps, the Township shall authorize a traffic study of the impacted area. Where appropriate, other temporary traffic

calming measures should be considered and/or implemented prior to the installation of speed humps.

§ 13-6.2. Definitions.

85TH PERCENTILE SPEED – The speed at or below which 85% of the traffic is moving. The 85th percentile speed is used as one of the criteria to determine if a street shall qualify for the installation of speed humps.

COMMISSIONER – The Commissioner of the New Jersey Department of Transportation.

RESIDENTIAL STREET – A street of which the primary function is to provide initial access to the collector and arterial roadways. These facilities are characterized by short trips, low speeds, and small traffic volumes.

SPEED HUMP – A raised area of pavement or other materials created to control vehicular speeds in conformity with New Jersey Law, Title 39 of the Revised Statutes and New Jersey Department of Transportation and the design specifications therein, including the engineering specifications for maximum height, profile, and minimum and/or maximum length. Speed humps include speed tables, cushions, and lumps.

TRAFFIC/SPEED STUDY – A twenty-four (24) hour survey of traffic speeds and volumes conducted by the use of a magnetic sensor(s) or air pressure hose(s) to determine the percentage of traffic that exceeds the speed limit.

§ 13-6.3. Requests for Installation and Eligibility Requirements.

- a. Requests for speed hump installations shall be made in writing and shall be directed to the attention of the Township Administrator. The Township Administrator shall provide a copy of the request to the appropriate internal departments, including the Township Engineer. A request for installation of a speed hump shall only qualify for consideration if the following criteria are met:
 1. The roadway must be a Township-owned and Township-maintained street;
 1. The initial request must originate from a resident(s) living on the street upon which the installation is requested;
 2. The roadway must have a posted speed limit of thirty (30) miles an hour or less and must be traversed by less than three thousand (3,000) vehicles per day; or the street must be located within five hundred (500') feet of a school or any property used for school purposes subject to the provisions of Section 3 of P.L. 2004, c. 107 (N.J.S.A. 39:4-8.11);
 3. The street must be in reasonably good condition, as determined by the Township Engineer in their sole discretion, or be incorporated as part of a roadway resurfacing project;
 4. Speed humps may be located on streets that contain horizontal curves, but the speed hump, itself, must not be located within the horizontal curve. Safe stopping sight distance must always be provided;
 5. Speed humps may not be located on a street with a vertical grade with more than an eight (8%) percent change on the immediate approaches where the visibility of the speed hump may be restricted;
 6. Special consideration must be given to streets without curbing and gutter in order to accommodate drainage and to prevent vehicular runarounds; and
 7. The Township shall provide appropriate notice to any municipality or county that may be

- impacted by the installation of a speed hump.
- b. A resident petition must be included with the request for installation of a speed hump and such petition shall describe the conditions sought to be remediated through the installation of a speed hump. The petition must be signed by at least sixty-seven (67%) percent of the property owners living on the street in which the speed hump is requested to be installed.
 - c. After verification of the petition and the request made for installation of a speed hump, the Township Engineer's office shall be notified and requested to conduct a traffic/speed study in order to make a determination on the street's eligibility for installation of a speed hump.
 - d. In the event that the street is determined to be ineligible for the installation of a speed hump, the applicant(s) will be notified by the Township and/or its agents, in writing, pertaining to such determination.
 - e. Any determination through which a request for installation of a speed hump is denied may be appealed, in writing, to the Township Administrator and must include reasons for the appeal. Upon receipt of such appeal, the Township Administrator shall present the appeal to the Township Committee for a determination as to whether the determination of the City Engineer shall be upheld or shall be overturned based on the information contained in the filed appeal.
 - f. In the event that the street is determined to be eligible for the installation of a speed hump, the street will be placed on a list of streets eligible for such installation, which list shall be maintained by the Township.

§ 13-6.4. Evaluation of Requests for Installation of Speed Humps.

All requests for installation of speed humps which meet the initial eligibility requirements, as set forth in Chapter 13-6.3, above, will be formally evaluated by the Township as set forth below:

1. After a determination of the impact of installation of a speed hump, as determined by the Township Engineer, the applicant shall provide notice to all residents living along the street on which the speed hump is proposed informing all residents of their right to object to the installation of a speed hump by providing written notice of any such objection to the attention of the Municipal Clerk within ten (10) days of the receipt of such notice. All required notices shall be sent by certified mail, return receipt requested. Proof of mailing shall be required to be provided by the applicant to the Municipal Clerk with receipts from each resident required to receive notice and/or proof of mailing and failure of a resident to accept notice.
2. A traffic/speed study shall indicate that the 85th percentile speed is at least five (5) or more miles per hour over the posted speed limit for the street.
3. The street segment must be a minimum of seven hundred fifty (750') feet in length between traffic controls, four-way intersections, and/or curves with less than a two hundred fifty (250') foot radius; or the street must be comprised of contiguous segments with no stop controls between the segments and all side streets entering at four-way intersections are stop controlled. The total length of the contiguous segments must be at least seven hundred fifty (750') feet in length.

- a. Pursuant to the provisions of Section 3 of P.L. 2004, c. 107 (N.J.S.A. 39:4-8.11):
 1. Prior to a municipality or county constructing a speed hump which places any impact on roadways in an adjoining municipality or county, the governing board or body of the municipality or county shall provide appropriate notice to the adjourning municipality or county;
 2. Prior to a municipality or county constructing a speed hump which places any impact on a state roadway, the county or municipality shall obtain the approval of the Commissioner.
- b. The installation of a speed hump on a street must be approved by the Director of Public Works, the applicable Fire Department Chief for the fire company that is tasked with servicing the street upon which a speed hump installation is proposed, and the New Jersey State Police. The written approval of each individual and/or entity referenced above must be received and placed on file with the Township Clerk's Office prior to any speed hump being installed within the Township.
- c. All applications that have met the eligibility requirements and have received approval from the individuals and/or entities referenced in subsection e, above, shall be submitted to the Township Engineer's Office for review and approval.
- d. The Township Engineer's Office shall make the final determination as to whether the requested speed hump is appropriate for installation at the requested location based on the criteria set forth herein. If a speed hump is approved by the Township Engineer's Office, it shall thereafter be presented to the Township Committee for final approval. If approved by the Township Committee, the approved speed hump installation shall be passed to the prioritization phase.

§ 13-6.5. Prioritization of Speed Humps.

- a. The installation of speed humps will be prioritized on a Township-wide basis. Speed hump installations shall be prioritized based upon the following factors, which shall be formally evaluated by the Township Administrator:
 1. Date of approved application;
 2. Comparison of the operating speed or the 85th percentile speed to the statutory limit;
 3. Daily traffic count average;
 4. Accident history; and
 5. Proximity to schools, parks, playgrounds, or other facilities with large volumes of children, bicycles, or pedestrian use.
- b. Lower prioritized, but less costly speed hump installations, may be implemented ahead of higher priority speed hump installations if funding levels do not allow for the installation of the higher priority speed hump(s) at any given time.

§ 13-6.6. Design, Construction, and Location of Speed Humps.

- a. Speed hump layout and design shall be determined by the Township Engineer. All construction shall conform to the New Jersey Department of Transportation technical standards in place at the time of installation.
- b. The street upon which a speed hump is to be installed must have adequate sight distance to safely accommodate the hump as determined by the Township Engineer's Office.

- c. Speed humps near drainage inlets should be placed just downstream of the inlet. Drainage consideration can affect speed hump location and/or spacing.
- d. Speed humps shall not be located within ten (10') feet from the nearest driveway.
- e. All speed humps constructed shall conform in design and construction to the technical standards established by the New Jersey Department of Transportation.
- f. Advance warning, including, but not limited to, the erection of appropriate signage giving notice of the presence of a speed hump before the first speed hump in a series of speed humps and pavement markers shall be placed at the location of the first speed hump. The signage and pavement markings for a speed hump shall conform to the current standards prescribed in the Manual of Uniform Traffic Control Devices for Streets and Highways, as adopted by the Commission of Transportation.
- g. The speed hump shall be located at minimum of two hundred fifty (250') feet from the nearest intersecting street.
- h. The distance between speed humps shall be at the discretion of the Township Engineer and within the requirements of the New Jersey Department of Transportation.
- i. All signage and pavement markings shall conform to the Manual of Uniform Traffic Control Devices for Streets and Highways.

§ 13-6.7. Removal of Speed Humps.

- a. The process for requests for the removal of speed humps will follow the same procedure that was utilized for installation of speed humps, as set forth in this Chapter. Absent any design faults or unforeseen issues that result in unsafe conditions, the cost of any speed hump removal shall be borne by the property owners requesting such removal, which amount shall be paid to the Township prior to the removal taking place.
- b. In the case of any unforeseen circumstance or changes in circumstance that no longer require the continued use of a speed hump, the Township reserve the right to remove any such speed humps at any time and without notice to any affected parties.

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.

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 10TH DAY OF NOVEMBER, 2025 AT THE TOWNSHIP HALL, 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 8TH DAY OF DECEMBER, 2025 AT 5:30 P.M. AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY.

JOANNE R. HERRON, TOWNSHIP CLERK
TOWNSHIP OF UPPER

32. Introduction and first reading of Ordinance No. 011-2025 RE: AUTHORIZING THE SALE OF LAND TO WIT, A PORTION OF BLOCK 455, LOT 29, TO THE STATE OF NEW JERSEY DEPARTMENT OF TRANSPORTATION. **Motion by Tyler Casaccio, second by Zachary Palombo, to introduce Ordinance No. 011 -2025 with the public hearing scheduled for December 8, 2025. During roll call vote all three Committee members present voted in the affirmative.**

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

ORDINANCE NO. 011-2025

RE: AUTHORIZING THE SALE OF LAND TO WIT, A PORTION OF BLOCK 455, LOT 29 TO THE STATE OF NEW JERSEY DEPARTMENT OF TRANSPORTATION

WHEREAS, the Township of Upper, County of Cape May, State of New Jersey, is the owner, in fee, of certain real property located within the Township of Upper, County of Cape May, and State of New Jersey, identified on the municipal tax map as Block 455, Lot 29 (the "Property"); and

WHEREAS, the Township has received notice from the New Jersey Department of Transportation ("NJDOT") that it will be acquiring a portion of the Property for the purpose of a planned transportation improvement project known as the Rt 50 Upper Bridge Road to Carl Road project; and

WHEREAS, the Township Committee has determined that it is in the best interests of the Township to authorize the sale of the Property to the NJDOT for the public purpose of facilitating the transportation improvement project; and

WHEREAS, the Township of Upper is authorized under N.J.S.A. 40A:12-13(b) to dispose of real property in accordance with the provisions of the New Jersey Local Land and Buildings Law; and

WHEREAS, the NJDOT has provided an Administrative Determination of Just Compensation, dated October 3, 2025, establishing the fair market value of the Property at the sum of \$2,950.00; and

WHEREAS, the full terms and conditions of the sale have been negotiated and are set forth in an

agreement between the Township and the NJDOT.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Upper, County of Cape May, State of New Jersey, as follows:

SECTION 1: AUTHORIZATION OF SALE

The Township Committee hereby authorizes the sale of the Property described as a portion Block 455, Lot 29, to the New Jersey Department of Transportation for the sum of \$2,950.00, in accordance with the terms and conditions of the agreement between the Township and NJDOT.

SECTION 2: EXECUTION OF DOCUMENTS

The Mayor and Township Clerk are hereby authorized and directed to execute any and all documents necessary to effectuate the sale, including but not limited to a deed of bargain and sale and any other documents required by NJDOT to complete the transaction.

SECTION 3: CONDITIONS OF SALE

The sale shall be subject to all applicable laws, including the review and approval of the sale by the New Jersey Department of Transportation, and any other necessary regulatory approvals.

SECTION 4: EFFECTIVE DATE

This Ordinance shall take effect immediately upon final adoption and publication as required by law.

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 10TH DAY OF NOVEMBER, 2025 AT THE TOWNSHIP HALL, 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 8TH DAY OF DECEMBER, 2025 AT 5:30 P.M. AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY.

JOANNE R. HERRON, TOWNSHIP CLERK
TOWNSHIP OF UPPER

CORRESPONDENCE

NEW BUSINESS

33. Country Shore Women’s Club request to hold Bing BA-610 and Raffle RA-611 at the Upper Township Community Center on March 21, 2026. **Motion by Tyler Casaccio, second by Zachary Palombo, to approve the request. During roll call vote all three Committee members present voted in the affirmative.**
34. Aaron Wittkamp Colwell Post #239, American Legion request to hold Raffle RA #612 at the Heritage Links Golf Course, 1375 Route 9, on August 15, 2026. **Motion by Tyler Casaccio,**

second by Zachary Palombo, to approve the request. During roll call vote all three Committee members present voted in the affirmative.

35. Historical Preservation Society request to install sheds at the Gandy farmstead. **Motion by Curtis Corson, second by Tyler Casaccio, to approve the request pending the Historical Society’s compliance with any other necessary governmental approval. During roll call vote all three Committee members present voted in the affirmative.**
34. JIF 2025 Dividend Announcement. **The CFO reported on the options the Township has to receive the JIF dividend and recommended that the Committee deposit the total dividend of \$29,664.00 into the Aggregate Excess Loss Contingency Fund for future use. After a brief discussion there was a consensus to follow the CFO’s recommendation. A Resolution for formal action will be placed on the next agenda.**

UNFINISHED BUSINESS

35. Noise Ordinance discussion. **The Municipal Attorney reported that at the last meeting a member of the public and the Committee had requested further information on quiet hours of other Cape May County Municipalities. He stated that that information has been provided to the Committee and the Township’s proposed cutoff time at 10:00 pm is in line with other towns. There was a consensus to keep the 10:00 pm time as proposed. There was then a discussion regarding prohibited times for construction activity. Mayor Corson requested that in the Resort Residential and Resort Commercial zones, construction activities should be prohibited on Saturdays, Sundays, and holidays. After a brief discussion, there was a consensus to prohibit construction in the RR and RC zones during Saturdays from Memorial Day to Labor Day, and Sundays and holidays year round. The Municipal Attorney will prepare the Ordinance as discussed.**

PAYMENT OF BILLS

36. **“I hereby move that all claims submitted for payment at this meeting be approved and then incorporated in full in the minutes of this meeting.” Motion by Zachary Palombo, second by Tyler Casaccio. During roll call vote Committeeman Casaccio abstained from voting on PO #25-00615 and Zachary Palombo abstained from voting on PO #25-0065 and #25-1726, with both voting in the affirmative on the remaining items along with Mayor Corson.**

Bills approved for payment: **\$282,753.87**
Payroll: **\$221,834.34**

PUBLIC COMMENT – LIMITED TO FIVE (5) MINUTES PER PERSON

Spencer Belles, spoke in support of a regulated cannabis business in Upper Township.

CLOSED SESSION

37. Resolution to conduct a closed meeting pursuant to N.J.S.A. 10:4-12, from which the public shall be excluded.

**RESOLUTION NO. 358-2025
MOTION GOING INTO CLOSED SESSION
NOVEMBER 10, 2025**

I hereby move that a resolution be incorporated into the minutes authorizing the Township Committee to enter into an executive session for the following matters pursuant to the Open Public Meetings Act:

MATTERS:

1. Personnel
2. Contract negotiation – Special Legal Counsel
3. Contract negotiation – Warwick Group Consultants
4. Contract negotiation – Cape Assist

I also include in my motion the estimated time and the circumstances under which the discussion conducted in closed session can be disclosed to the public as follows:

- A. It is anticipated that the matters discussed in closed session may be disclosed to the public upon the determination of the Township Committee that the public interest will no longer be served by such confidentiality.
- B. With respect to employment and personnel matters such discussions will be made public if and when formal action is taken or when the individuals involved consent that it can be made public.
- C. With respect to contract negotiations such matters will be made public when negotiations have ceased and there is no longer a reason for confidentiality.

Moved by: Zachary Palombo

Motion seconded by: Tyler Casaccio

Roll Call Vote with all three Committee members present voting in the affirmative.

RECONVENE PUBLIC PORTION OF MEETING

Motion by Zachary Palombo, second by Tyler Casaccio, to reconvene the public portion of the meeting. During roll call vote all three Committee members present voted in the affirmative.

ADJOURNMENT

There being no further business this evening the meeting was adjourned at 6:25 P.M., with a motion by Curtis Corson, second by Tyler Casaccio, and all three Committee members present voting in the affirmative. The next regular Committee meeting is scheduled for November 24, 2025 at 5:30 P.M.

Minutes prepared by,

Joanne R. Herron, RMC
Township Clerk

Bill List

86471 11/10/25 A0025 ADVANTAGE RENTAL & SALES 509.29 3449
86472 11/10/25 A0061 AMANJ 40.00 3449
86473 11/10/25 A0075 ADAMS, JOSHUA 99.98 3449
86474 11/10/25 A0091 ATLANTIC CITY ELECTRIC 483.33 3449
86475 11/10/25 A0191 ACTION UNIFORM CO. LLC 544.00 3449
86476 11/10/25 A0193 ATLANTIC INVESTIGATIONS, LLC 325.50 3449
86477 11/10/25 A0212 ANCERO, LLC 992.51 3449
86478 11/10/25 A0218 ATLANTIC CITY CYCLE CENTER LLC 518.39 3449
86479 11/10/25 A0225 AUTOZONE NORTHEAST LLC 1,099.35 3449
86480 11/10/25 A0235 AMAZON CAPITAL SERVICES, INC. 171.21 3449
86481 11/10/25 A0248 AIRESRING, INC. 1,288.39 3449
86482 11/10/25 A0251 ACT ENGINEERS, INC. 964.61 3449
86483 11/10/25 A0260 AMENHAUSER, JOHN P. 7,500.00 3449

86484 11/10/25 B0032 BLANEY DONOHUE & WEINBERG, PC 420.00 3449
86485 11/10/25 B0076 BOND,LAURENCE E. 942.00 3449
86486 11/10/25 B0287 BIGLEAF NETWORKS, INC. 732.88 3449
86487 11/10/25 C0042 CAMPBELL SUPPLY COMPANY 1,784.25 3449
86488 11/10/25 C0068 COMCAST 594.27 3449
86489 11/10/25 C0143 CODY'S POWER EQUIPMENT 28.49 3449
86490 11/10/25 C0223 CASA PAYROLL SERVICE 270.70 3449
86491 11/10/25 C0246 CRAFT OIL CORPORATION 533.50 3449
86492 11/10/25 C0279 CASA REPORTING SERVICES LLC 228.60 3449
86493 11/10/25 C0346 CME ASSOCIATES 12,053.25 3449
86494 11/10/25 C0352 COLUMN SOFTWARE, PBC 669.07 3449
86495 11/10/25 C0364 CAB VENTURES LLC 300.00 3449
86496 11/10/25 D0237 KERRY SCALFARO 250.00 3449
86497 11/10/25 D0252 DEBLASIO & ASSOCIATES PC 28,703.88 3449
86498 11/10/25 E0012 EHRlich PEST CONTROL INC 155.58 3449
86499 11/10/25 E0099 EASTERN EQUIPMENT SERVICES LLC 190.79 3449
86500 11/10/25 F0016 FAZZIO, JOSEPH INC. 361.70 3449
86501 11/10/25 F0048 LESLIE G. FOGG INC 2,572.29 3449
86502 11/10/25 F0080 FAMILIES UNITED NETWORK 300.00 3449
86503 11/10/25 G0028 GENTILINI FORD, INC. 662.14 3449
86504 11/10/25 G0120 PATRICK F. MARTIN 2,291.67 3449
86505 11/10/25 G0147 GREATAMERICA FINANCIAL SVCS. 217.00 3449
86506 11/10/25 G0169 GROFF TRACTOR MID ATLANTIC LLC 767.65 3449
86507 11/10/25 G0211 GRACETOWN LUMBER CO., LLC 815.63 3449
86508 11/10/25 H0002 H.A. DEHART & SON CORP. 2,351.82 3449
86509 11/10/25 H0057 HISTORICAL PRESERVATION Societ 300.00 3449
86510 11/10/25 H0073 HOME DEPOT CRC/GECF 3,322.87 3449
86511 11/10/25 H0096 HARBOR OUTFITTERS 209.50 3449
86512 11/10/25 H0142 HUB, THE 1,289.96 3449
86513 11/10/25 H0169 Hemby John M. 73.20 3449
86514 11/10/25 J0023 JED'S SHEDS, INC. 650.00 3449
86515 11/10/25 J0079 JAMES WYERS LANDSCAPING, LLC 150.00 3449
86516 11/10/25 K0038 KINDLE FORD LINCOLN, INC. 210.00 3449
86517 11/10/25 K0086 K D NATIONAL FORCE SECURITY 3,312.50 3449
86518 11/10/25 L0031 LORCO PETROLEUM SERVICES 285.00 3449
86519 11/10/25 L0075 LEXISNEXIS 444.00 3449
86520 11/10/25 L0117 LETS PARTY EVENTS, LLC 450.00 3449
86521 11/10/25 L0146 LAWSON PRODUCTS, INC. 111.92 3449
86522 11/10/25 M0019 MAXIMUM MARINE,LLC 64.80 3449
86523 11/10/25 M0032 MARINE RESCUE PRODUCTS,INC. 157.00 3449
86524 11/10/25 M0277 EQUITABLE FINANCIAL LIFE INS. 192.17 3449
86525 11/10/25 M0303 MALEY GIVENS, A PROF CORP 258.00 3449
86526 11/10/25 M0313 MAVIS TIRE SUPPLY, LLC 907.64 3449
86527 11/10/25 N0004 NJ-AMERICAN WATER CO. 527.08 3449
86528 11/10/25 N0068 NJ MOTOR VEHICLE COMMISSION 150.00 3449
86529 11/10/25 N0100 N.J. LEAGUE OF MUNICIPALITIES 990.00 3449
86530 11/10/25 N0143 NATIONAL TIME SYSTEMS 455.60 3449
86531 11/10/25 N0144 NJ E-ZPASS SERVICE CENTER 350.00 3449
86532 11/10/25 N0154 NEW HORIZON COMMUNICATIONS 1,275.22 3449
86533 11/10/25 O0064 OC & UT Rotary 300.00 3449
86534 11/10/25 O0065 OCHS Band Boosters 300.00 3449
86535 11/10/25 O0066 OCHS Girls Soccer 300.00 3449
86536 11/10/25 O0067 OCHS Boys Soccer 300.00 3449
86537 11/10/25 O0076 OCHS Color Guard Boosters 300.00 3449
86538 11/10/25 P0032 PEDRONI FUEL CO. 2,937.63 3449
86539 11/10/25 P0140 PIONEER MANUFACTURING CO, INC 1,999.65 3449
86540 11/10/25 P0195 PHOENIX ADVISORS, LLC 1,600.00 3449
86541 11/10/25 P0201 PUBLIC SAFETY TRAINING OF SJ 4,357.00 3449
86542 11/10/25 P0221 PITNEY ELM, LLC 375.00 3449
86543 11/10/25 R0030 RIGGINS, INC. 4,359.90 3449
86544 11/10/25 S0056 SEASHORE ASPHALT CORPORATION 1,946.08 3449
86545 11/10/25 S0196 STEWART BUSINESS SYSTEMS LLC 41.40 3449
86546 11/10/25 S0254 SHOPRITE 83.93 3449

86547 11/10/25 S0264 SOUTH SHORE STITCHERS 300.00 3449
86548 11/10/25 S0282 SUSTAINABLE JERSEY, INC. 40.00 3449
86549 11/10/25 S0361 SOUTH JERSEY WATER TEST, LLC 144.00 3449
86550 11/10/25 S0363 STARR SEPTIC, LLC. 1,180.00 3449
86551 11/10/25 S0377 SHONE, JOSEPH 219.98 3449
86552 11/10/25 T0085 TREASURER, STATE OF NEW JERSEY 160.00 3449
86553 11/10/25 T0089 TREASURER, STATE OF N.J. 200.00 3449
86554 11/10/25 T0192 MARSH & McLENNAN AGENCY/TRION 209.00 3449
86555 11/10/25 T0213 TREASURER, STATE OF NEW JERSEY 157,196.04 3449
86556 11/10/25 U0037 UT Parent Teacher Organization 300.00 3449
86557 11/10/25 U0038 UPPER TOWNSHIP RESCUE SQUAD 181.01 3449
86558 11/10/25 U0056 UPPER TWP SOCCER ASSN U15 BOYS 300.00 3449
86559 11/10/25 U0063 UT Green Team 300.00 3449
86560 11/10/25 U0064 U. T. Business Association 300.00 3449
86561 11/10/25 U0067 UT HEALTH REIMB. ACCOUNT 10,534.27 3449
86562 11/10/25 U0076 U.S.BANK NATIONAL ASSOCIATION 547.98 3449
86563 11/10/25 V0025 V.E. RALPH & SON,INC. 319.85 3449
86564 11/10/25 V0052 VIKING TERMITE & PEST CONTROL 88.43 3449
86565 11/10/25 V0053 VERIZON CONNECT FLEET USA LLC 545.60 3449
86566 11/10/25 W0087 W.B. MASON EGG HARBOR 88.54 3449
86567 11/10/25 W0135 THE LAW OFFICE OF BRANDON D 1,048.46 3449
86568 11/10/25 X0008 XEROX FINANCIAL SERVICES 157.21 3449
86569 11/10/25 Z0017 ZOLL DATA SYSTEMS, INC. 322.73 3449
Total: \$282,753.87 .