

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

ORDINANCE NO. 014-2026

**RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE
CHAPTER IX (RECREATIONAL FACILITIES) OF THE 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 9 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:

9-1.2 – Definitions shall be revised to read as follows:

As used in this section:

BEACH — Shall mean that area consisting of natural sandy deposits within the Township
adjacent to and abutting the Atlantic Ocean, Corson's Inlet, Peck's Bay, Great Egg Harbor
Bay and the Tuckahoe River.

SEASONAL BEACH TAG – Shall mean a beach tag that is required by the Township for
use of specified public beaches within the Township of Upper during the bathing season
for which the beach tag is applicable by the purchaser of such beach tag.

BATHING SEASON – Shall mean between the Friday prior to Memorial Day and the end
of September in any calendar year.

ENFORCEMENT AGENT – Shall mean any agent(s) authorized by the Township of
Upper to enforce the terms and provisions of this Chapter of the Upper Township
Municipal Code and shall specifically include, but shall not be limited to, a beach tag
director, beach tag enforcement agents, the Upper Township Code Enforcement
Department, the Upper Township parking enforcement personnel, the New Jersey State
Police, and/or the Township Administration Department.

9-1.3 – Paid Beaches Established shall be revised to read as follows:

a. Paid beaches are hereby established in the Township of Upper for the public health,
recreation, and entertainment.

b. Such paid beaches shall be located upon all lands in the Township of Upper that
front along the Atlantic Ocean, Corson's Inlet, and Whale Beach. The Township Committee

reserves the right to revise this list of paid beaches, in their discretion, upon the adoption of an authorizing resolution.

9-1.4 – Beach Fees and Charges/Exemptions to Beach Fees shall be created to read as follows:

In order to provide the necessary funds to protect, guard, clean, police, maintain, and otherwise manage the beaches of the Township of Upper, the following fees shall be charged for use of the beaches proscribed in Section 1.3, above:

- a. No fees shall be charged or collected from any person under the age of sixteen (16) years.
- b. Beach tags for use on one (1) single day during the bathing season shall be charged at a rate of \$10.00 per beach tag.
- c. Beach tags for use during any continuous seven (7) calendar day period during the bathing season shall be charged at a rate of \$20.00 per beach tag.
- d. Beach tags for use during the entirety of a bathing season that are purchased between October 1st of a given calendar year and the Monday after President's Day shall be charged at a rate of \$30.00 per beach tag.
- e. Beach tags that are purchased between the Tuesday after President's Day and the end of September of a given calendar year shall be charged at a rate of \$45.00 per beach tag.
- f. No beach tag fees shall be charged to or collected from any person in active military service in any of the Armed Forces of the United States of America and up to one (1) additional guest of the active-duty service member. In order to obtain this exemption from the requirement for payment of beach tag fees, the active-duty service member shall be required to produce their military identification card when requested by the Enforcement Agent tasked with enforcing the provisions of this Chapter.
- g. No beach tag fees shall be charged to those persons who have served in any of the Armed Forces of the United States of America and who were discharged or released therefrom under conditions other than dishonorable and who either have served at least ninety (90) days in active duty or have been discharged or released from active duty by reason of a service-incurred injury or disability ("veterans"). In addition to a waiver of the requirement to purchase a beach tag for veterans, each veteran shall be permitted to obtain a beach tag for up to one (1) additional guest that is free of charge. In order to obtain a badge with no fee pursuant to this section, such veteran shall present to the Enforcement Agent documentation, consistent with laws, rules, and/or regulations promulgated by the Adjutant General of the New Jersey Department of Military and

Veteran's Affairs, sufficient to establish entitlement to a beach tag without payment of the otherwise required fee.

h. Records and Verification. As required by law, the Township shall maintain a list of all individuals to whom beach tags are issued pursuant to sections f and g, above, including the names of all individuals and, as applicable, their guests who qualify for the beach fee exemption. The Township Administrator shall also establish procedures for verifying that individuals who qualify for the beach tag exemption present the appropriate credentials that demonstrate active duty to veteran status.

9-1.5 – Revenue Depositing shall be created to read as follows:

All beach tag revenues shall be deposited into the Upper Township General Fund and from this fund shall be paid all operating and capital expenditures that are properly attributable to the beachfront operations of the Township of Upper.

9-1.6 – Rules and Regulations, which was previously codified in 9-1.3, shall be amended to read as follows:

The aforementioned facilities in subsection 9-1.1 shall be accessible to the public at all times, subject to the purchase of beach tags for those beaches identified in subsection 9-1.3(b), above, ensuring public access, use and enjoyment of those facilities in accordance with the following rules and regulation:

a. Beach Tag Required. No person 16 years of age or over shall bathe at or otherwise use or be upon the beaches identified in subsection 9-1.3, above, without having first acquired and then having in his or her possession a proper and effective beach tag, license, or permit to use the beach, which shall, in the event of a physical beach tag be worn conspicuously by the person during said use so that it is visible at all times and is able to be exhibited on demand to an Enforcement Agent. In the event that the holder of a beach tag does not possess a physical beach tag and instead possesses a digital beach tag, the holder of such beach tag shall be required to display the digital beach tag to an Enforcement Agent upon demand.

b. Regulations for Beach Tags. It shall be unlawful to violate any of the rules and regulations contained herein, or those rules and regulations which may be subsequently adopted by the Township by way of resolution, during the bathing season or any other times if specifically provided for:

1. The Township or its duly authorized representatives shall be the sole and exclusive vendor and/or lessor of the privileges, rights, badges, or permits, as it is hereby

deemed unlawful for any person or entity to purchase or lease the badges from anyone other than the Township or its duly authorized representatives.

2. The counterfeiting, copying, duplication, or other forms of reproduction of the beach badges or permits issued by the Township by anyone other than the Township or its duly authorized representatives is hereby prohibited.

3. The possession of counterfeit and/or fraudulently obtained beach tags or permits is hereby prohibited.

4. No later than December 1st of each calendar year, the Township's Chief Financial Officer shall provide the Township Committee with a report that includes the amount of revenue raised by beach tag fees, broken down by category of beach tag; the cost of operation of the beach utility for that calendar year; the amount of any excess or shortfall in revenue; and recommendations to the Township Committee as to whether the beach fee ordinance should be modified for the next calendar year. Township Committee shall review the information provided and, in its sole discretion, make any adjustments to the beach fee ordinance that it deems reasonable and necessary.

5. Any holder of a mercantile license within the Township of Upper that resells, leases for a fee, or marks up beach tags to its customers or guests, or distributes counterfeit or fraudulently obtained beach tags, shall be subject to possible suspension or revocation of its mercantile license.

c. Playing of Games. It shall be unlawful to throw, bat or catch a baseball, football, basketball or

d. Use of Objects in Water Prohibited; Exception. During the months of May, June, July, August, and September, it shall be unlawful to use lifebelts, inflatable rafts, water wings, innertubes or inflated objects or devices of any kind or description in the ocean adjacent to the beach, except on such areas of the beach designated by resolution of the Township Committee for the use of such objects, which resolution may be adopted and which, following adoption, may be amended, supplemented or rescinded. Such objects shall be utilized only in the designated areas and at no other place on the beach. The Township Committee shall cause the beach area designated for such specified purposes to be posted with appropriate notices.

e. Refuse and Debris. It shall be unlawful to throw, place, deposit or leave any bottles, glass, crockery, sharp or pointed article or thing, papers, refuse or debris of any kind, in beach areas except in the proper receptacles provided on the beach.

f. Orders and Directions of Lifeguards. It shall be unlawful to ignore or disobey all orders, directions, whistles or other signals used by Township lifeguards and police officers.

g. Alcoholic Beverages. It shall be unlawful to consume, openly display, dispense or offer to dispense or consume any beer, wine, whiskey or other alcoholic beverages upon the streets, highways, sidewalks, public or quasi-public places, or in automobiles or other vehicles while moving or parked upon the streets, highways, alleys, parking lots or other places not expressly licensed for the sale and consumption of such beverages upon the premises so licensed.²

h. Smoking and/or Vaping Prohibited. Pursuant to N.J.S.A. 26:3D-55 et seq., it shall be unlawful to smoke, burn, vaporize, or consume any tobacco product, cigar, cigarette, pipe, electronic smoking device/e-cigarette, cannabis, or cannabis item (as defined in N.J.S.A. 24:6I-33) upon any public beach, dune area, beach approach, or adjacent public boardwalk/pathway within the Township of Upper.

i. Damaging Township Property. It shall be unlawful to climb upon or stand on the railings, fences or benches so as to cause or to likely cause damage to such, or approaches thereto, or tamper with or handle the lifeguard boats or other equipment used by the lifeguards on the beach.

j. Conduct on the Beach. It shall be unlawful to revel, disport or behave in a noisy and boisterous manner, emitting loud cries and other noises, so as to inconvenience others, or otherwise disrupt and disturb the public peace and dignity within the defined areas. It shall be unlawful to act in a loud, indecent, obscene, offensive or lascivious manner within the defined areas.

k. Loitering. It shall be unlawful to loiter, assemble, band or crowd together, so as to interfere or to likely interfere with the ingress and egress of others at the street ends approaching the beach or within the areas defined as the beach and approaches thereto.

l. Hours of Swimming. It shall be unlawful for any person to swim, bathe or enter any waterway from any public beach after sunset and before sunrise, except where permission to do so has been provided the Township of Upper or their designated representative, or unless the person entering the ocean is doing so in an attempt to assist or save someone else in the waterway.

m. Hours Where Beach Tags are Required. Beach tags shall be required on the beaches proscribed in subsection 9-1.3, above, between the hours of 9:00 a.m. and 5:00 p.m. EST. The Township of Upper reserves the right to close beaches or other areas during periods of inclement weather or other emergent situations.

n. Vehicles and Horses Prohibited; Exceptions. It shall be unlawful to drive a motorcycle, bicycle or any motor operated or horse drawn vehicle or to ride a horse upon the beach or approaches thereto. This provision shall not apply to Township-owned vehicles in the course of public needs or requirements.

o. Changing in Public; Sleeping in Cars. It shall be unlawful to use any vehicle within the boundaries of the Township, or any public rest room or other public shelter or place not designed for that purpose, as a place for the changing from street attire into bathing suits or vice versa, or to sleep in cars at any time, either day or night.

p. Fires. It shall be unlawful to build beach fires upon and within the amusement or recreational areas as defined in this section.

q. Use of Public and Private Property.

1. It shall be unlawful to use any public or quasi-public bench or seat, upon and within the defined recreational and amusement areas, for sleeping, or to lie upon them, or to usurp the uses thereof for the storage of baskets, bundles, clothing or other like objects so as to prevent the reasonable use thereof by others.

2. It shall be unlawful to enter upon any public or quasi-public place or private property, without the consent of the owner or person in lawful control and possession thereof, to change apparel, dress or undress, perform any of the functions of the human body, or commit any other nuisance.

r. Fishing. It shall be unlawful to fish on any public beach within 250 feet of any lifeguard stand between the hours of 9:00 a.m. and 7:00 p.m.

s. The Township Committee of the Township of Upper is hereby authorized and empowered to:

1. Adopt by resolution, in addition to the rules and regulations set forth herein, such other rules and regulations as may be necessary for the proper control and regulation of the beachfront and other areas and the waters adjacent thereto.

2. Designate by resolution the protected bathing beaches where lifeguards are attendant equipment are to be provided by the Township and from which beaches persons shall be permitted to bathe or swim; however, the Township Administrator may change or abolish the precise location of any one or more bathing beaches from time to time as safety and attending circumstances shall require.

3. To determine and establish by resolution the period during each calendar year when the Township's paid bathing beaches shall be opened and closed to the public.

Editor's Note: For regulation of dogs in public parks, playgrounds and beaches, see subsection 8-5.4 of Chapter 8, Animal Control. For regulations concerning the protection of sand dunes, see Section 3-4 of Chapter 3, Police Regulations.

9-1.7 Use of Surfboards, Sailboats, Catamarans, and Other Similar Non-Inflatable Devices, which was previously codified in 9-1.4, shall read as follows:

During the months of May, June, July, August and September, the use of surfboards, sailboats, catamarans and other similar devices, shall be permitted only on one or more beaches so designated by resolution of the Township Committee, which resolution may be adopted and which, following adoption, may be amended, supplemented or rescinded. The use of surfboards, sailboats, catamarans and other similar devices shall be permitted only on the designated beach or beaches and shall be permitted at any time between the hours of 6:00 a.m. and 9:00 p.m. Swimming and bathing on such beach or beaches designated for the use of surfboards, sailboats, catamarans and other similar devices is absolutely prohibited. The Township Committee shall cause the designated beach or beaches to be posted with appropriate notices.

9-1.8 – Hours of Lifeguard Protection, which was previously codified in 9-1.5, shall read as follows:

- a. The Township beach known and designated as the Beesley's Point Beach shall be protected by Township lifeguards between the hours of 9:00 a.m. and 5:00 p.m.
- b. All other public beaches within the Township, with the exception of the beach at Tuckahoe, shall be protected by lifeguards between the hours of 10:00 a.m. and 6:00 p.m.
- c. No lifeguard protection shall be provided at the beach at Tuckahoe. The area shall be designated as an unprotected beach and appropriate signs and notices to that effect shall be posted.

9-1.9 – Public Bathing Beach at Beesley's Point, which was previously codified in 9-1.6, shall read as follows:

- a. **Swimming Prohibited.** It shall be unlawful for any person to swim or dive from the general westerly side of the pier located in the public bathing area of Beesley's Point. Swimming shall only be permitted off the beach area.
- b. **Fishing and Crabbing Prohibited.** It shall be unlawful for any person to engage in fishing or crabbing from the pier or floating dock located at the public bathing beach at Beesley's Point.
- c. **Penalty.** Any person who violates the provisions of this subsection shall, upon

conviction, be subject to the penalty stated in Chapter 1, Section 1-5.

9-3.12 - Impounding of Unlicensed and Abandoned Vessels, shall be amended to read as follows:

The Upper Township Code Enforcement Official or their designee is hereby authorized and directed to remove or have removed any catamarans left unattended after 4:00 p.m. on the beach, dunes or surf and/or on which is not displayed the official decal, as well as any single-hull sailboat left unattended at any time on the beach, dunes or surf and/or on which is not displayed the official decal. Such vessel shall continue to be impounded until claimed. The Township Clerk shall notify the legal owner of the vessel, where such owner is known or can be reasonably ascertained, in writing, by personal service, or by certified mail, at the last known address of the owner that such vessel has been removed from the beach, the reason for such removal, and the location of the vessel. Such vessel shall be retained and impounded until the owner shall have paid the costs of such taking and removal, the charge to be \$50, together with a storage charge of \$5 for each and every day such vessel is retained and impounded. In the event that an owner fails to claim a vessel within 30 days of the aforementioned notice, then the Township is hereby empowered to dispose of same at public sale and apply the proceeds thereof to the aforementioned charges. Notwithstanding anything contained herein to the contrary, the Township expressly reserves the right to institute an action in a Court of competent jurisdiction against the owner of the vessel to recover the aforementioned charges.

9-7.7 – Violation of Rules/Regulations, shall be amended to read as follows:

Any person who violates any section of this Chapter or the rules and regulations set forth under this Chapter shall be immediately removed from the property. In addition, any person convicted of violating the provisions of this Chapter or the rules and regulations promulgated hereunder shall be guilty upon a first offense of a fine not to exceed \$200.00 and a second offense of a fine not to exceed \$500.00. For any person convicted of a third or subsequent offense for violation of the provisions of this Chapter and/or the rules and regulations promulgated hereunder, the fine to be levied for such conviction shall be the maximum fine permitted pursuant to Chapter 1-5.1 of the Code of the Township of Upper.

SECTION 2: REPEALER: All Ordinances or parts of Ordinances which are in conflict or inconsistent herewith are hereby repealed to the extent of such inconsistency or conflict only.

SECTION 3: 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 4: EFFECTIVE DATE: This Ordinance shall take effect upon final adoption and publication as required by law.

SECTION 5: CODIFICATION: This Ordinance shall be codified in the Upper Township Code in 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 AUGUST, 2026, 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 HELD ON THE 24th DAY OF AUGUST, 2026, AT 5:30 P.M. AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY.

JOANNE R. HERRON, TOWNSHIP CLERK
TOWNSHIP OF UPPER