

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
ORDINANCE**

ORDINANCE NO. 021-2022

**AUTHORIZING THE EXCHANGE AND SALE OF CERTAIN PARCELS OF
VACANT GROUND WITHIN THE TOWNSHIP OF UPPER TO THE TUCKAHOE
VOLUNTEER FIRE COMPANY SUBJECT TO CERTAIN TERMS AND
CONDITIONS**

WHEREAS, the Township of Upper, (hereinafter “Township”), is the owner, in fee, of certain parcels of vacant ground (the “Township Land”) located within the Township of Upper, County of Cape May, and State of New Jersey; and

WHEREAS, the Township has received an offer from the Tuckahoe Volunteer Fire Company, (hereinafter “TVFC”), a duly incorporated volunteer fire company in the Township of Upper, to purchase the Township Land in exchange for a certain parcel of vacant ground owned by TVFC (the “TVFC Land”) within the Township of Upper, County of Cape May, and State of New Jersey; and

WHEREAS, after discussion and deliberation, the Township Committee has concluded that Township Land is not needed for Township purposes and the exchange and sale will be in the best interest of the Township; and

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: Subject to the provisions hereafter set forth, the Township is authorized to sell to the TVFC the Township Land in exchange for the TVFC Land, more particularly described as follows:

(A) The Township shall convey to the TVFC Block 296, Lots 1 & 2; Block 291, Lots 1 – 14; Block 292, Lots 1 – 20; and Block 295, Lots 1, 2, 5 – 14.

- 1) The parcels shall be deed restricted so as to provide that the property shall be used only for the purposes of the TVFC, and to render those services or to provide those facilities consistent with such purposes, and not any other purpose, including but not limited to a residential use or building, a commercial business, or a trade or manufacturing business, and that if the property is not used in accordance with that limitation, the property shall revert to the Township of Upper.

- 2) The TVFC shall maintain the property in compliance with Revised General Ordinance Chapter 11 of the Code of Upper Township.
- (B) TVFC shall convey to the Township Block 348, Lot 55.
- 1) The deed restriction placed on Block 348, Lot 55 in accordance with Ordinance 11-2019, as recorded with the County of Cape May on October 23, 2019, Book D3882, Pages 273-277 shall be terminated upon transfer of the property to the Township.
- (C) This transaction shall constitute a sale of the Township Land to the TVFC in accordance with the terms of N.J.S.A. 40A:12-21, where the consideration to be paid to the township shall consist of the TVFC Land.

SECTION 2: The exchange and sale of lands authorized in Section 1 hereof is expressly conditioned and contingent upon the following:

- (A) The Township makes no promise or warranty as to the physical condition or status of the title to the Township Land as it is transferred completely AS IS. In the event a defect in the title or physical condition of the land to be received by the TVFC is discovered prior to closing, the TVFC may cancel this exchange and sale whereupon there shall be no further obligations between the parties.
- (B) In the event a defect in the title or physical condition of the land to be received by the Township is discovered prior to closing, the Township may cancel this exchange whereupon there shall be no further obligations between the parties.
- (C) Title reports shall be prepared by a title abstracting company and title underwriter acceptable to the Township and the TVFC. The title reports must, at a minimum, provide evidence that the property to be exchanged is owned, in fee simple, by the parties who shall be conveying same, that title is marketable and insurable at regular rates, and that there are no liens, encumbrances or conditions, reservations or restrictions of record which would interfere with the intended use of the property by the Grantees.
- (D) Any property to be conveyed herein shall be conveyed by Bargain and Sale Deed. The Township shall pay for the cost of the title report and all title company settlement charges for the land to be received by the Township and the TVFC shall pay the cost of the title report and all title company

settlement charges for the land to be received by the TVFC. Each party shall bear the cost of preparation of the deed conveying the property to the other. Each party shall be solely responsible for the cost of title insurance covering the parcels received by such party as a result of the exchange of lands.

- (E) With respect to the property being conveyed by the Township, conveyance is under and subject to any riparian claim which may affect said property. In addition, the Township makes no representation as to the ability of the property to obtain a building permit or any other governmental approval. The property to be transferred by the Township may be situated in a flood hazard zone. The Township makes no warranties or representations, expressed or implied, as to the property being transferred, the condition or marketability of title or any other matter. The Township makes no warranties or representations, expressed or implied, as to whether or not the property being transferred contains wetlands anywhere on the property. The Township makes no warranties or representations, expressed or implied, as to any matter of an environmental nature, or otherwise, which may prevent or limit building or construction or use of the property.

SECTION 3: All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed, to the extent of such conflict or inconsistency.

SECTION 4: Should any section, paragraph, sentence, clause, or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this ordinance shall not be affected thereby and shall remain in full force and effect, and to this end the provisions of this ordinance are hereby declared to be severable.

SECTION 5: This Ordinance shall take effect immediately upon final adoption and publication as required by law.

ATTEST:

BARBARA L. YOUNG, Township Clerk

CURTIS T. CORSON, Jr., Mayor

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 8TH DAY OF AUGUST, 2022 AT THE TOWNSHIP HALL, AND WAS TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 12TH DAY OF SEPTEMBER, 2022 AT 4:30 P.M. AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY, AT WHICH TIME SAID ORDINANCE WAS ADOPTED.

BARBARA L. YOUNG, TOWNSHIP CLERK
TOWNSHIP OF UPPER

Legislative History:

Introduced: August 8, 2022

Publication: August 11, 2022

Newspaper(s): The Press of Atlantic City

Second Reading & Public Hearing: September 12, 2022

Final Adoption: September 12, 2022

Final Publication Date: September 15, 2022

I certify that the foregoing Ordinance was finally adopted by the Township Committee of the Township of Upper on September 12, 2022 and notice of adoption was thereafter published pursuant to law in the Press of Atlantic City on September 15, 2022.

BARBARA L. YOUNG, Township Clerk