

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

ORDINANCE NO. 015-2023

**RE: AN ORDINANCE AMENDING CHAPTER 19 (LAND SUBDIVISION,
SITE PLAN AND LAND USE ADMINISTRATION) OF THE CODE OF UPPER
TOWNSHIP REGARDING TELECOMMUNICATIONS FACILITIES**

WHEREAS, the Township Committee of the Township of Upper desires to amend Chapter 19 of the Revised General Ordinances of the Township of Upper, also known as 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. Section 19-4.2 a. of the Township Code is hereby amended by adding the following development activity which will require site plan approval:

11. The removal of any telecommunications facility in accordance with the following conditions:

- (a) At such time that a licensed carrier plans to abandon or discontinue operation of a telecommunications facility, such carrier shall notify the Township Clerk by certified United States mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, the wireless telecommunications facility shall be considered abandoned upon discontinuation of operations.
 - (i) If tower lighting was required by the FAA, the tower owner shall be responsible for all violations and fines associated with its operation.
- (b) Upon abandonment or discontinuation of use, at the option of the Township, the carrier shall physically remove the telecommunications facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:
 - (i) Removal of antennas, mount, equipment shelters and security barriers for the subject property.
 - (ii) Proper disposal of the waste materials from the site in accordance with local, county and state solid waste disposal regulations.
 - (iii) Restoring the location of the telecommunications facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.
- (c) If a carrier fails to remove a telecommunications facility in accordance with this section, the Township shall have the authority to enter the subject property and physically remove the facility. The Planning Board will require the applicant to post a bond at the time of approval to cover costs for the removal of the telecommunications facility in the event the Township must remove the facility, which bond shall be required to be approved by the Planning Board Engineer.
- (d) The following definitions shall apply to this Section:

TELECOMMUNICATIONS FACILITY

A facility designed and used for the purpose of transmitting, receiving and relaying voice and data signals from various wireless communications devices including licensed transmission towers, antennas and ancillary facilities. For purposes of this section, amateur radio transmission facilities and facilities used exclusively for the transmission of television and radio broadcasts are not telecommunications facilities.

TELECOMMUNICATIONS OR TRANSMISSION TOWER

The monopole or lattice framework designed to support transmitting and receiving antennas. For purposes of this section, licensed amateur radio transmission facilities and facilities used exclusively for the transmission of television and radio signals are not transmission towers.

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 **23RD DAY OF OCTOBER, 2023**, 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 **13TH DAY OF NOVEMBER, 2023 AT 6:30 P.M.** AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY.

BY ORDER OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER.
JOANNE HERRON, TOWNSHIP CLERK
TOWNSHIP OF UPPER