

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
ORDINANCE**

**ORDINANCE NO. 003-2024**

**AN ORDINANCE VACATING VALLEY AVENUE, WITHIN THE TOWNSHIP OF  
UPPER, COUNTY OF CAPE MAY AND STATE OF NEW JERSEY**

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**WHEREAS**, N.J.S.A. 40:67-1 authorizes the Governing Body of a municipality to adopt an Ordinance, among other things, to vacate any street, highway, lane, alley, square, place or park, or any part thereof, dedicated to public use but not accepted by the municipality, whether or not the same, or any portion, has been actually opened or improved; and

**WHEREAS**, John D. Mayberry, the owner of Block 305, Lot 1 (the “Property”), has requested that the Township vacate Valley Avenue as described in this Ordinance and has agreed to pay the costs incurred by the Township to vacate said street including the costs of the revisions to the tax map; and

**WHEREAS**, the Township Committee has duly considered the matter and it appears reasonable to agree to the request since there is no present or foreseeable need or intention to utilize said roadway; and

**WHEREAS**, it is deemed to be in the public interest to vacate Valley Avenue within the Township of Upper, as hereinafter provided.

**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:** The public right in, along, upon and over the following described land is hereby vacated, surrendered and extinguished:

**Description**

Vacation of Valley Avenue,  
as shown on Current Municipal Tax Map Sheet No. 11.4  
Tuckahoe Section of Township of Upper

Beginning at the point of intersection of the Northeasterly corner of  
Valley Avenue (33 feet R.O.W.) and the Westerly line of Mackey Avenue  
(40 feet R.O.W.), and

- Thence #1: Extending in a Westerly direction along the Northerly line of Valley Avenue a distance of 295 feet to a point, and;
- Thence #2: Extending in a Southerly direction across the Westerly line of Valley Avenue a distance of 33 feet to a point, and;
- Thence #3: Extending in an Easterly direction along the Southerly line of Valley Avenue a distance of 295 feet to a point of intersection of Southeasterly

corner of Valley Avenue and the Westerly line of Mackey Avenue, and;

Thence #4: Extending in a Northerly direction across Valley Avenue a distance of 33.0 feet to the point and place of beginning.

**SECTION 2:** This Ordinance vacates no portion of the street except that portion set forth and described in **SECTION 1** above.

**SECTION 3: EXCEPTION:** This Ordinance expressly reserves and excepts from vacation all rights and privileges now possessed by public utilities, as defined in R.S. 48:2-13, and by any cable television company, as defined in the "Cable Television Act", P.L. 1972, c. 186, (C.48:5A-1, et seq.), to maintain, repair and replace their existing facilities in, adjacent to, over or under the street, highway, lane, alley, square, place or park, or any part thereof, to be vacated, as hereinabove described.

**SECTION 4: REPEALER:** All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency only.

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

**SECTION 6:** John D. Mayberry, owner of the Property, shall reimburse the Township of Upper for all expenses related to said vacation, including attorney's fees, costs and any recording fees.

ATTEST:

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JOANNE R. HERRON, Township Clerk

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JAY NEWMAN, 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 26<sup>TH</sup> DAY OF FEBRUARY, 2024 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 25<sup>TH</sup> DAY OF MARCH, 2024 AT 4:30 P.M. AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY, AT WHICH TIME SAID ORDINANCE WAS ADOPTED.

JOANNE R. HERRON, TOWNSHIP CLERK  
TOWNSHIP OF UPPER

Legislative History:

Introduced: February 26, 2024

Publication: March 2, 2024

Newspaper(s): The Press of Atlantic City

Second Reading and Public Hearing: March 25, 2024

Final Adoption: March 25, 2024

Final Publication Date: March 30, 2024

I certify that the foregoing Ordinance was finally adopted by the Township Committee of the Township of Upper on March 25, 2024 and notice of adoption was thereafter published pursuant to law in the Press of Atlantic City on March 30, 2024.

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JOANNE R. HERRON, Township Clerk