

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

**ORDINANCE NO. 005-2024**

**AN ORDINANCE AUTHORIZING THE TOWNSHIP OF UPPER TO  
ACQUIRE THE TOWER ON PROPERTY KNOWN AS BLOCK 477, LOT 6  
ON THE OFFICIAL TAX MAP OF THE TOWNSHIP OF UPPER**

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**WHEREAS**, pursuant to N.J.S.A. 40A:12-1 et. seq., a municipality may acquire any capital improvements for public use; and

**WHEREAS**, the Township of Upper is the owner, in fee, of certain real property located at Block 477, Lot 6 on the official Tax Map of the Township of Upper, County of Cape May, State of New Jersey, commonly referred to as 2028 Tuckahoe Road, Tuckahoe, New Jersey 08250 (“Property”); and

**WHEREAS**, T-Mobile Northeast, LLC, (“T-Mobile”) owns a 149-foot monopole (“Tower”) which is located on the Property; and

**WHEREAS**, T-Mobile is the holder of a license from the Federal Communications Commission (“FCC”) permitting it to operate a wireless communications facility in the State of New Jersey; and

**WHEREAS**, the Township of Upper desires to acquire the Tower from T-Mobile and use same for public purposes in lieu of construction of a new monopole on the Property in consideration of a rent credit of \$1,000.00 per month for 60 months which the Township has determined is less than the value of the Tower; and

**WHEREAS**, the Township of Upper’s acquisition of the Tower is contingent upon a satisfactory structural inspection of the Tower performed by a licensed engineer; and

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

**SECTION 1: ACQUISITION OF THE TOWER ON BLOCK 477, LOT 6:** The Township of Upper is hereby authorized to acquire from T-Mobile the Tower located on the Property known as Block 477, Lot 6 on the official tax map of the Township of Upper.

**SECTION 2: AUTHORITY OF TOWNSHIP OFFICIALS:** All Township officers, officials, and employees are hereby authorized, empowered, and directed to take any and

all action necessary or required in order to carry out the intent and purpose of this Ordinance with respect to the Township of Upper's acquisition of the Tower located on Block 477, Lot 6. Without in any way intending to limit the generality of the foregoing, the Mayor and the Township Clerk are expressly authorized, empowered, and directed to sign any and all documents required to be executed in connection with the acquisition.

**SECTION 3: REPEALER:** All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency only.

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

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 11<sup>TH</sup> DAY OF MARCH, 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: March 11, 2024

Publication: March 16, 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