

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

ORDINANCE NO. 005-2025

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

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, Morgan DeLany, the owner of Block 757, Lot 6 and Block 762, Lot 1, has requested that the Township vacate a portion of Filmore 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 a portion of Filmore 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 land designated on the “Description of Area of Filmore Avenue to be Vacated”, prepared by Mark G. DeVaul, New Jersey Professional Land Surveyor, and attached hereto as Exhibit A, is hereby vacated, surrendered and extinguished.

SECTION 2: This Ordinance vacates no portion of the street except that portion set forth and described in Exhibit A.

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SECTION 4: REPEALER: All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency only.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

JOANNE R. HERRON, Township Clerk

CURTIS T. CORSON, JR., Mayor

Exhibit A

**Description of Area of Filmore Avenue to be
Vacated Upper Township, New Jersey**

BEGINNING at a point in the Southwesterly line of Filmore Avenue (60 feet wide, unimproved) at its intersection with the Northwesterly line of Bayview Drive (50 feet wide) said point being North 44 degrees 29 minutes 02 seconds East a distance of 221.20 feet as measured along the line of Bayview Drive from its intersection with the Northeasterly line of Taylor Avenue (60' wide) and runs thence;

1. Along the Southwesterly line of Filmore Avenue and the Northeasterly line of Lot 6 Upper Township Tax Block 757 North 40 degrees 30 minutes 30 seconds West a distance of 75.00 feet more or less to a point in the high water line or tidelands claim line (whichever is more landward) of Whale Creek; thence
2. Along said line North 44 degrees 29 minutes 02 seconds East a distance of 30.12 feet to a point in the centerline of Filmore Avenue; thence
3. Still along the same North 56 degrees 30 minutes 10 seconds East a distance of 30.23 feet to a point at the Northwesterly corner of Lot 1 Upper Township Tax Block 762; thence
4. Along the Southwesterly line of Lot 1 and the Northeasterly line of Filmore Avenue South 40 degrees 30 minutes 30 seconds West a distance of 70.00 feet to a point in said line at its intersection with the Northwesterly line of Bayview Drive; thence
5. Along the extended Northwesterly line of Bayview Drive South 46 degrees 59 minutes 25 seconds West a distance of 30.02 feet to a point in the centerline of Filmore Avenue; thence
6. Still along the same South 44 degrees 29 minutes 02 seconds West a distance of 30.12 feet to the point and place of beginning

CONTAINING within these bounds 4,425 square feet of land be the same more or less.

BEING the area of Filmore Avenue to be vacated.

ALSO SUBJECT TO ANY AND ALL RIGHTS, RESTRICTIONS AND CONDITIONS OF RECORD.

MARK G. DEVAUL

New Jersey Professional Land Surveyor # 34844

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 25TH DAY OF AUGUST, 2025 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 22ND DAY OF SEPTEMBER, 2025 AT 5:30 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: August 25, 2025

Publication: August 30, 2025

Newspaper(s): The Press of Atlantic City

Second Reading and Public Hearing: September 22, 2025

Final Adoption: September 22, 2025

Final Publication Date: September 27, 2025

I certify that the foregoing Ordinance was finally adopted by the Township Committee of the Township of Upper on September 22, 2025 and notice of adoption was thereafter published pursuant to law in the Press of Atlantic City on September 27, 2025.

JOANNE R. HERRON, Township Clerk