

TOWNSHIP OF UPPER

CAPE MAY COUNTY

O R D I N A N C E

ORDINANCE NO. 012-2009

**AN ORDINANCE VACATING WHITTIER AVENUE ABUTTING
BLOCK 842, LOT 3 AND BLOCK 849, LOT 1 AS THE
SAME APPEAR ON THE CURRENT OFFICIAL TAX MAP OF
THE TOWNSHIP OF UPPER, CAPE MAY COUNTY, 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; and

WHEREAS, Francis J. Jankowski, Jr. and Laura C. Jankowski are the owners of an individual tax lot in Tax Block 842 and have requested that the Township vacate a portion of a certain street described in this Ordinance; and

WHEREAS, the Township Committee has duly considered the matter and it appears reasonable to agree to the request since: 1) there is no present or foreseeable need or intention to utilize said roadway; 2) the street was never improved; and 3) it will eliminate encroachments which have existed for many years; and

WHEREAS, it is deemed to be in the public interest to vacate a portion of Whittier 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
FOR THE VACATION OF
THOSE UNIMPROVED STREETS
IN THE TOWNSHIP OF UPPER
COUNTY OF CAPE MAY, AND
STATE OF NEW JERSEY BEING VACATED:

That portion of Whittier Avenue from Bayview Drive to Strathmere Bay and abutting Blocks 842 and 849 as shown on the current Official Tax Map of the Township of Upper, Cape May County, New Jersey.

SECTION 2: This Ordinance vacates no portion of Whittier Avenue 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.

ATTEST:

WANDA GAGLIONE, Township Clerk

RICHARD PALOMBO, 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 13th DAY OF APRIL, 2009 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 11th DAY OF MAY, 2009 AT 7:30 P.M. AT THE TOWNSHIP HALL, TUCKAHOE, NEW JERSEY.

BY ORDER OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER.

WANDA GAGLIONE, TOWNSHIP CLERK
TOWNSHIP OF UPPER

Legislative History:

Introduced: _____ April 13, 2009 _____

Publication: _____

Newspaper(s): _____ The Press of Atlantic City _____

Second Reading & Public Hearing: _____

Final Adoption: _____

Final Publication Date: _____

I certify that the foregoing Ordinance was finally adopted by the Township Committee of the Township of Upper on _____, 2009 and notice of adoption was thereafter published pursuant to law in _____ on _____, 2009.

WANDA GAGLIONE, Township Clerk