

**TOWNSHIP OF UPPER**

**CAPE MAY COUNTY**

**O R D I N A N C E**

**ORDINANCE NO. 013-2010**

**ORDINANCE AUTHORIZING THE VACATION OF A PAPER STREET  
KNOWN AS OCEAN AVENUE, WITHIN THE TOWNSHIP OF UPPER,  
COUNTY OF CAPE MAY AND STATE OF NEW JERSEY**

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**WHEREAS**, The Township Committee of the Township of Upper, Cape May County has determined that it is in the best interest of the Township to vacate a portion of Ocean Avenue, a paper street, and allow it to revert to the adjoining property owners; and

**WHEREAS**, vacation of a public street, or part thereof, which has not been opened by the municipality, may be authorized by the municipal governing body by Ordinance pursuant to N.J.S.A. 40:67-1 et. Seq., when there is no longer any need for the use of said area by the public; and

**WHEREAS**, Scott Halliday and Regina Hendricks are the owner of Block 636 Lot 6 and has requested that the Township vacate a portion of a certain street described in this Ordinance; and

**WHEREAS**, Thomas J. Breazeale; Scott Halliday and Regina Hendricks; and Warren and Kimberly Georgetti are the adjoining land owners to whom the vacated street shall revert.

**WHEREAS**, it is deemed to be in the public interest to vacate a portion of Ocean 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:

**1:** Pursuant to N.J.S.A. §40:67-19, et seq., all public right and interest in, along, upon and over Ocean Avenue, a paper street, from Stagecoach Road to Chestnut Street, particularly described on Schedule

“A” attached here to, is hereby vacated, surrendered and extinguished as follows:

**2:** This Ordinance vacates no portion of Ocean Avenue except that portion set forth and described in Schedule “A” attached hereto.

**3:** All rights and privileges now possessed by any public utility 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/ or replace their existing facilities in, adjacent, over or under Ocean Avenue, a paper street, are hereby expressly reserved and excepted from this vacation.

**4:** All ordinances or parts of ordinances which are inconsistent with this ordinance are repealed as to their inconsistencies only.

**5:** Once the unimproved paper street has been vacated, then the Township’s interest in and to the said unimproved paper street shall be released. To the extent that any portion(s) of the underlying vacated area does not transfer automatically to the adjacent property owners by operation of law, the Township hereby authorized the conveyance of said underlying area(s) to the adjoining property owner(s) by Deed, for nominal consideration, pursuant to N.J.S.A. 40:67-19, et. Seq., N.J.S.A. 40:60-28, and N.J.S.A. 40A:12-13(b)(5), so that these portions may be combined with and become part of the said adjacent properties.

**7:** The Township Clerk shall, within sixty (60) days of the effective date of this Ordinance, file a copy hereof, certified by the Clerk, under seal of the Township, to be a true and exact copy of the Ordinance, together with a copy of the proof of publication thereof, in the Office of the Cape May County Clerk for recordation in the County’s Book of “Vacation,” pursuant to N.J.S.A. 40:67-21.

This Ordinance shall take effect immediately upon final adoption and publication as required by law.

This Ordinance shall be known as Ordinance 013-2010.

ATTEST:

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WANDA GAGLIONE, Township Clerk

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RICHARD PALOMBO, Mayor

**SCHEDULE "A"**

DESCRIPTION  
FOR THE VACATION OF A PORTION  
OF AN UNIMPROVED STREET, OCEAN AVENUE  
IN THE TOWNSHIP OF UPPER  
COUNTY OF CAPE MAY, AND  
STATE OF NEW JERSEY

That portion of Ocean Avenue extending in a Northwesterly direction from Stagecoach Road (County Road 667) BEGINNING at a point at the intersection of the Northwesterly line of Stagecoach Road and the Northeasterly line of Ocean Avenue, extending in a Northwestwardly direction along the Northeasterly line of Ocean Avenue to a point at the intersection of the Southeasterly line of Chestnut Avenue and the Northeasterly line of Ocean Avenue; then 40 feet in a Southwestwardly direction across Ocean Avenue to a point in Lot 34 Block 636; then in a Southeastwardly direction along the Southwesterly line of Ocean Avenue and Block 636 to the point of intersection of the Northwesterly line of Stagecoach Road and the Southwesterly line of Ocean Avenue; then extending in a Northeastwardly direction across Ocean Avenue along the Northwesterly line of Stagecoach Road to the place of beginning; as shown on the current Official Tax Map of The Township of Upper, Cape May County, New Jersey.

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 22nd DAY OF NOVEMBER, 2010 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 DECEMBER, 2010 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

