

ORDINANCE NO. 2022-3331

**TOWNSHIP OF MIDDLETOWN
COUNTY OF MONMOUTH**

**AN ORDINANCE AUTHORIZING THE VACATION OF A PORTION OF
TEXAS AVENUE WITHIN THE TOWNSHIP OF MIDDLETOWN**

WHEREAS, the 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. 40:67-19, et seq., when there is no longer any need for the use of said area by the public; and

WHEREAS, the Township of Middletown (the “**Township**”) has determined that a portion of Texas Avenue, as shown on the official tax map of the Township, is not needed for any public purposes, and that the public interest would be best served by vacating and extinguishing all public right, title and interest in and to that portion of Texas Avenue, so that the underlying lands may be combined with, and become and form part of, adjacent properties; and

WHEREAS, the area of Texas Avenue to be vacated (the “**Subject Area**”) consists of approximately 1,386 square feet, and is located adjacent to Block 234, Lot 8; and

WHEREAS, the Subject Area is properly depicted on a survey prepared by Thomas Finnegan Land Surveying, dated August 6, 2021, a copy of which is attached hereto as “**Exhibit A**” and made a part hereof, and is more particularly described in a legal description attached hereto as “**Exhibit B**” and made a part hereof; and

WHEREAS, it is the intention of the Township that once the Subject Area has been vacated, the ownership of the underlying real property shall revert to the adjoining property owners of the adjacent Block 234, Lot 8 by operation of law subject to proposed Sanitary Sewer and Drainage Easements as further described in “**Exhibit C**” attached hereto and made a part hereof; and

WHEREAS, the Township Committee believes that the vacation of all public right, title and interest in and to in the Subject Area, is in the best interests of the Township, as well as the adjacent property owners.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Middletown in the County of Monmouth, State of New Jersey, as follows:

1. Pursuant to N.J.S.A. 40:67-19, et seq., the Township hereby vacates, extinguishes, releases and abandons all public right, title and interest in and to an unpaved portion of Texas Avenue, which is located immediately adjacent to Block 234, Lot 8, as more particularly shown on Exhibit A attached hereto, and as more particularly described in Exhibit B attached hereto.
2. It is the intention of the Township that once the subject area has been vacated, then ownership of the underlying lands shall revert to the owners of the adjacent properties by operation of law subject to Sanitary Sewer and Drainage Easements, as further described in Exhibit C attached hereto.
3. That the provisions of this Ordinance shall not be deemed to vacate any rights and privileges which may be possessed by any public utility company under N.J.S.A. 48:2-13, or by any cable television company under N.J.S.A. 48:5A-1, et seq., to maintain, repair, and replace any existing facilities in, adjacent to, over or under the vacated Subject Area.
4. Following the introduction of this Ordinance, the Township Clerk shall provide notice of its pending status as mandated by N.J.S.A. 40:49-6, and

at least one week prior to the time fixed for further consideration and final passage of the Ordinance the Township Clerk shall mail a copy of the Ordinance, together with a notice of the introduction thereof, and information as to the time and place of when and where the Ordinance will be further considered for final passage, to every person whose lands may be affected by the Ordinance, by certified mail return receipt requested and regular mail, to their last known post office addresses.

- 5. Pursuant to N.J.S.A. 40:67-21, following the adoption of this Ordinance, the Township Clerk shall within 60 days of the effective date thereof, file a copy of this Ordinance along with the attached exhibits, certified by the clerk, under the 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 Monmouth County Clerk for recordation in the County’s Book of Vacations.
- 6. The Mayor, Township Administrator, Township Clerk, Township Attorney and Township Engineer are hereby authorized and directed to undertake all actions and to prepare all documents that are necessary in order to effectuate the intentions of this Ordinance.
- 7. That all costs and expenses associated with this matter shall be the responsibility of the owner of Block 234, Lot 8, and sufficient funding shall be posted by said property owner prior to the adoption of the within Ordinance in order to cover all the Township’s expenses associated with this matter.
- 8. That the provisions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgement shall be limited in its effect only to the portion of the Ordinance actually adjudged invalid and shall not be deemed to affect the operation of any other portion thereof, which shall remain in full force and effect.
- 9. That all other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.
- 10. That this Ordinance shall take effect immediately upon final passage and publication in accordance with the law.

PASSED ON FIRST READING:
PASSED AND APPROVED:

ATTEST:

HEIDI R. BRUNT, Township Clerk

ANTHONY S. PERRY, Mayor