

**ORDINANCE OF THE TOWNSHIP OF LAKEWOOD, COUNTY OF OCEAN, STATE OF NEW JERSEY, RELEASING, EXTINGUISHING AND VACATING THE RIGHTS OF THE PUBLIC OF A PORTION OF A PAPER STREET KNOWN AS ELIZABETH AVENUE, IN THE TOWNSHIP OF LAKEWOOD**

**WHEREAS**, pursuant to *N.J.S.A. 40:67-1(b)* and *N.J.S.A. 40:67-19*, the Township Committee may, by ordinance, vacate any public street or portion thereof, dedicated to public use, but not accepted by the Township, whether or not the same, or any part, has been actually opened or improved; and

**WHEREAS**, certain portions of Elizabeth Avenue, in the Township of Lakewood are paper streets and remains unimproved; and

**WHEREAS**, a portion of Elizabeth Avenue described in the attached Exhibit A has been determined to be unnecessary for public use; and

**WHEREAS**, both of the property owners with frontage on Elizabeth Avenue have requested this vacation; and

**WHEREAS**, by Memorandum dated August 28, 2018 from Ally Morris, the Lakewood Township Planning Board Administrator supported the vacation of a certain portion of Elizabeth Avenue described in the attached Exhibit A; and

**WHEREAS**, it has been determined by the Township Committee as follows:

- (1) That the portion of Elizabeth Avenue described in the attached Exhibit A is not needed for public road purposes; and
- (2) That the said portion of Elizabeth Avenue lends itself to higher and better use than for public road purposes and that it is in the best interest of the general public and the Township of Lakewood that the rights and interests in and to same shall as a public right of way be vacated, released and extinguished; and

**WHEREAS**, pursuant to *N.J.S.A. 40:67-1(b)*, the Township Committee must, by Ordinance, preserve the right of public utilities to maintain, repair and replace their existing utility facilities, including cable television facilities, in, adjacent to, over, or under the property or right-of-way to be vacated;

**NOW, THEREFORE, BE IT ORDAINED**, by the Township Committee of the Township of Lakewood, County of Ocean, State of New Jersey, as follows:

**SECTION 1.** All public easements, right and interests to a portion of Elizabeth Avenue as described in the attached Exhibit A are hereby vacated, released and extinguished except for all rights and privileges now possessed by public utilities, as defined in *N.J.S.A. 48:2-13*, and by any Cable Television Company, as defined in the "Cable Television Act," *N.J.S.A. 48:5A-1 et seq.*, to maintain, repair and replace their

existing facilities in, adjacent to, over or under the street, or any part thereof, to be vacated subject to the conditions described herein; all conditions, unless otherwise noted, shall be satisfied prior to said vacation being effective.

**SECTION 2.** The Township Clerk shall publish, this ordinance, after being introduced and having passed a first reading, at least once not less than ten (10) days instead of one (1) week prior to the time fixed for further consideration for final passage, pursuant to *N.J.S.A. 40:49-6*.

**SECTION 3.** The Township Clerk shall, at least one (1) week prior to the time fixed for final passage of such ordinance, mail a copy thereof, together with a notice of the introduction thereof, and the time and place when and where the ordinance will be further considered for final passage, to every person whose lands may be affected by the ordinance or any assessment which may be made in pursuance thereof, pursuant to *N.J.S.A. 40:49-6*.

**SECTION 4.** The Township Clerk shall within sixty (60) days after such ordinance becomes effective file a certified copy of the ordinance vacating the street with the office of the County Clerk in a special book set aside for dedications and vacations, pursuant to *N.J.S.A. 40:67-21*.


**SECTION 5.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

**SECTION 6.** If any section, subsection, paragraph, sentence or any part of this ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance not directly involved in the controversy in which such judgment shall have been rendered.

**SECTION 7.** This Ordinance shall take effect upon final passage and publication in accordance with law.


### **NOTICE**

**PUBLIC NOTICE** is hereby given that the foregoing Ordinance was introduced at a meeting of the Township Committee of the Township of Lakewood, in the County of Ocean and State of New Jersey on **January 24, 2019**, and was then read for the first time. The said Ordinance will be further considered for final passage by the Township Committee in the Town Hall at 7:30 p.m. on **February 7, 2019**. At such time and place or any time or place to which said meeting may be adjourned, all persons interested will be given an opportunity to be heard concerning said Ordinance.

  
Kathryn Hutchinson, RMC, CMC, CMR, RPPS  
Township Clerk

**CERTIFICATION**

I, Kathryn Hutchinson, Township Clerk of the Township of Lakewood, do hereby certify the foregoing to be a true and exact copy of the ordinance which was adopted by the Township Committee of the Township of Lakewood at a meeting held on **February 7, 2019** at 7:30 P.M., at the Municipal Building, located at 231 Third Street, Lakewood, NJ 08701.

  
Kathryn Hutchinson, RMC, CMC, CMR, RPPS  
Township Clerk

## Exhibit A

Description of a portion of Elizabeth Avenue, a 50 foot wide unimproved right of way to be vacated, as shown on the Lakewood Township Tax Map sheet 54, and being more particularly described as follows:

Beginning at the northwesterly corner of Lot 13, Block 223, said point also being in the southerly line of East Seventh Street and the easterly line of Elizabeth Avenue, an unimproved right of way, thence:

- 1) Southerly along the easterly line of Elizabeth Avenue for 100 feet to a point in the southerly terminus of Elizabeth Avenue, said point also being the southwest corner of Lot 13, Block 223, thence;
- 2) Westerly along the southerly terminus of Elizabeth Avenue for 50 feet, to a point in the westerly line of Elizabeth Avenue, said point also being in the easterly edge of Lot 4.01, Block 223, thence;
- 3) Northerly along the westerly side of Elizabeth Avenue for 100 feet, to a point in the southerly line of East Seventh Street, said point also being the northeasterly corner of Lot 4.01, Block 223, thence;
- 4) Easterly across the right-of-way of Elizabeth Avenue for 50 feet to a point in the easterly line of Elizabeth Avenue, to the point and place of beginning.

