

ORDINANCE #2020-005

AN ORDINANCE OF THE TOWNSHIP OF LAKEWOOD, COUNTY OF OCEAN, STATE OF NEW JERSEY, RELEASING, EXTINGUISHING AND VACATING THE RIGHTS OF THE PUBLIC TO A PORTION OF A PAPER STREET KNOWN AS EVERGREEN BOULEVARD, 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, Evergreen Boulevard in the Township of Lakewood is a paper street and remains unimproved; and

WHEREAS, Evergreen Boulevard described in the attached Exhibit A has been determined to be unnecessary for public use; and

WHEREAS, by email communication dated January 8, 2020, the Planning Board Administrator supported the vacation of the portion of Evergreen Boulevard hereinafter described; and

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

- (1) That Evergreen Boulevard described in the attached Exhibit A is not needed for public road purposes; and
- (2) That the Evergreen Boulevard 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 Evergreen Boulevard 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.

EXHIBIT A

DESCRIPTION OF PORTION OF EVERGREEN BOULEVARD TO BE VACATED

Description of a portion of Evergreen Boulevard, a 50 foot wide unimproved right of way to be vacated, as shown on the Lakewood Township Tax Map sheet 143, and being more particularly described as follows:

Beginning at the northeasterly corner of Lot 4 Block 1094, said point also being in the southerly line of Chestnut Street, thence:

- 1) Southerly along the westerly line of Evergreen Boulevard to a point at the southeasterly corner of Lot 4 Block 1094, thence;
- 2) Easterly across Evergreen Boulevard, a 50 foot wide unimproved right of way, to a point at the southwesterly corner of Lot 21 Block 1087, thence;
- 3) Northerly along the easterly line of Evergreen Boulevard, to a point at the northwesterly corner of Lot 21 Block 1087, thence;
- 4) Westerly across Evergreen Boulevard to the point and place of beginning.