

**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 OLD  
BROOK ROAD, SAID PORTIONS BEING AT ITS  
INTERSECTION WITH BROOK ROAD AND TO FURTHER  
ACCEPT A DEDICATION OF PROPERTY AND  
TRANSFER A PORTION OF PROPERTY TO ADJOINING  
PROPERTY SO AS TO ALIGN OLD BROOK ROAD WITH  
IMPERIAL COURT 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**, pursuant to law, the municipality may enter into an exchange of lands when the governing body determines that the lands or rights or interests therein to be conveyed to such municipality or such lands or rights or interests therein are at least of equal value to, and their acquisition is more advantageous to, the municipality for public use, than the lands or rights or interests therein to be conveyed by the municipality, and that it is in the public interest that such exchange of lands or rights or interests therein be consummated; and

**WHEREAS**, N.J.S.A. 40A:12-13(b)(5) authorizes the Township to sell or transfer municipally owned real property at a private sale to an owner of real property contiguous thereto where the Township owned Property is less than the minimum size required for development under the municipal zoning ordinance and is without any capital improvement thereon; and

**WHEREAS**, N.J.S.A. 40A:12-13(a)(5) provides that a sale or exchange with the owner of real property contiguous to the real property being sold or exchanged may proceed when there is only one owner with real property contiguous to the property being sold or transferred, and the property is less than an eighth of the minimum size required for development under the municipal zoning ordinance and is without any capital improvement thereon, then the fair market value of that property may be determined by negotiation between the local unit and the owner of the contiguous real property; and

**WHEREAS**, a certain portion of Old Brook Road in the Township of Lakewood is a street intersecting with Brook Road near Imperial Court but not geometrically aligned therewith; and

**WHEREAS**, a portion of Old Brook Road hereinafter described has been

determined to be unnecessary for public use; and

**WHEREAS**, Lakewood Township is the owner of Block 174.03 Lot 1, an undersized, small generally triangular-shaped lot approximately less than 7,000 square feet, completely undevelopable in its present configuration; and

**WHEREAS**, Lakewood Township is also the owner of Block 174.02 Lot 7, an approximate 2 acre parcel that in part fronts on Old Brook Road, and along with Block 174.03 Lot 1 aforementioned, these two lots only would receive the benefit of the vacation of the portion of Old Brook Road described in the legal descriptions annexed hereto; and

**WHEREAS**, the owners and developers of Block 175 Lots 6 and 7, have proposed a vacation of a portion of Old Brook Road and a dedication of portions of their properties (approx. 6,514 sq. ft.) with the Township's dedication of a portion of Lot 1 in Block 174.03 (approx. 3,216 sq. ft.) for a proposed realignment of Old Brook Road with Imperial Court and a transfer of the remaining portions of said Lot 1 in Block 174.03 (approx. 2,566 sq. ft.) to the owner of Block 175 Lot 7 and a further consolidation of the remaining portion of Block 174.03 Lot 1 (approx. 883 sq. ft.) into township-owned Block 174.02 Lot 7; and

**WHEREAS**, a portion of Old Brook Road hereinafter described, may be vacated and returned to the owner of Lots 1 in Block 174.03, and Lot 7 in Block 174.02 (i.e., Lakewood Township) as part of this land exchange to realign Old Brook Road with Imperial Court; and

**WHEREAS**, the Township of Lakewood now desires to undertake an exchange of the aforementioned properties pursuant to N.J.S.A. 40A:12-16 as part of this overall transaction; and

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

(1) That the portion of Old Brook Road described herein is not needed for public road purposes; and

(2) Said portion of Old Brook Road 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

(3) This proposed vacation of a portion of Old Brook Road, dedication of a portion of Block 174.03 Lot 1 for a new portion of Old Brook Road, acceptance of a dedication of a portion of Block 175 Lot 7, and transfer of a portion of Block 174.03 Lot 1 to the adjoining owner of Block 175 Lot 7 is in the best interest of the Township of Lakewood, by way of consolidating township-owned property and

realigning Old Brook Road as detailed herein and depicted on the attached plans;  
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; and

**WHEREAS**, the owners and/or the contract purchasers of Block 175 Lots 6 and 7, in requesting this vacation, dedication and land exchange and accepting same have agreed to reconstruct and relocate the Old Brook Road roadway depicted on the attached maps to RSIS standards and line same up with the Imperial Court. The development of this reconstructed roadway would be at the cost and expense of the property owners/contract purchasers of Block 175 Lots 6 and 7, respectively.

**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 Old Brook Road as described hereinbelow 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.

Description of the portions of Old Brook Road being vacated (along with portions being dedicated and transferred):

See attached plans and metes and bounds description prepared by Charles Surmonte, P.E. & L.S., N.J. License # 35885, dated October 10, 2018.

**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.** The Township Clerk shall within sixty (60) days after such ordinance becomes effective file a certified copy of the ordinance accepting the dedication of 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 6.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

**SECTION 7.** 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 8.** 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 **November 29, 2018**, 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 **December 13, 2018**. 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 **December 13, 2018** 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