

**ORDINANCE OF THE TOWNSHIP OF LAKEWOOD,
COUNTY OF OCEAN, STATE OF NEW JERSEY,
RELEASING, EXTINGUISHING AND VACATING THE
RIGHTS OF THE PUBLIC OF PORTIONS OF PAPER
STREET KNOWN AS CHARITY TULL 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 Charity Tull Avenue, in the Township of Lakewood are paper streets and remains unimproved; and

WHEREAS, portions of Charity Tull Avenue hereinafter described have been determined to be unnecessary for public use; and

WHEREAS, portions of Charity Tull Avenue were previously vacated via Ordinance No. 2014-36, but said vacation was reversed by Court Order dated July 7, 2017 in a matter entitled Yad Enterprises v. Township of Lakewood, OCN-L-3400-14 PW ; and

WHEREAS, the parties to that litigation consent to the vacation of the portion of Charity Tull Avenue that is proposed to be vacated by way of this ordinance, as more specifically set forth on the attached metes and bounds description;

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

(1) That the portions of Charity Tull Avenue described herein below are not needed for public road purposes; and

(2) That the said portions of Charity Tull Avenue lend 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 the portions of Charity Tull Avenue as described herein below are hereby vacated, released and extinguished except for: (1) rights and privileges now being retained by the Township of Lakewood by way of a Multi-Purpose Easement to Lakewood Township and other entities within the descriptions of the streets being vacated; this Multi-Purpose Easement is hereby dedicated to the respective utility companies including but not limited to the New Jersey-American Water Company, Inc., and/or the Township of Lakewood for the construction and maintenance of storm, sanitary, water, electric, telephone, CATV, and any other utility or facility necessary for the use and enjoyment of the public; and (2) 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 Charity Tull Avenue being vacated are annexed hereto as Exhibit A, "Description of Property Right-of-Way Vacation Charity Tull Avenue" Lakewood Township, Ocean County, New Jersey prepared by Christopher J. Bouffard, PLS of Newlines Engineering and Surveying, last revised October 3, 2017.

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 the **22nd day of March, 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 **April 26, 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 **April 26, 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