

ORDINANCE NO. 2-2022

**ORDINANCE OF THE TOWNSHIP OF EAST HANOVER, COUNTY OF MORRIS,
STATE OF NEW JERSEY, AMENDING AND REPLACING ORDINANCE NO. 5-2009
VACATING AND EXTINGUISHING ANY AND ALL PUBLIC RIGHT IN AND TO
MELROSE ROAD AND A PORTION OF KAHL ROAD**

WHEREAS, on April 7, 2009 the Governing Body of the Township of East Hanover adopted Ordinance No. 5-2009, which Ordinance was titled “An Ordinance Vacating and Extinguishing Any and All Public Right in and to Melrose Road and a Portion of Kahl Road.” The Ordinance was adopted in response to an application filed by the owners of the adjacent properties (Block 137, Lot 33, Block 136, Lots 13 and 17), Glenn and Lauren Torkos (collectively the “Torkos”); and

WHEREAS, through inadvertence of mistake, Ordinance No. 5-2009 improperly identified the portion of Kahl Road to be vacated and the Torkos’ have requested that Ordinance No. 5-2009 be amended so as to properly identify the portion of Kahl Road vacated; and

WHEREAS, the Governing Body of the Township of East Hanover has considered the Torkos’ request and determined that it is appropriate to amend and restate Ordinance No. 5-2009 in its entirety so as to avoid any uncertainty; and

WHEREAS, Melrose Road and the portion of Kahl Road vacated serve no public purpose and require unwarranted maintenance costs by the Township of East Hanover; and

WHEREAS, Melrose Road and the portion of Kahl Road vacated are neither open to the public for the purposes of vehicular traffic nor publicly maintained as a street; therefore, this amended vacation ordinance is not subject to review by the Commissioner of the New Jersey Department of Transportation with regard to the traffic regulations thereon pursuant to N.J.S.A. 39:4-8; and

WHEREAS, N.J.S.A. 40:67-1(b) and N.J.S.A. 40:67-19 empowers the governing body of a municipality to make, amend, repeal and enforce ordinances to vacate any public street, including the vacation of any portion of any public street, and to vacate any street, or any part thereof, dedicated to public use but not accepted by the municipality, whether or not the same, or any part, has been actually opened or improved; and

WHEREAS, the Governing Body of the Township of East Hanover has considered evidence and concluded that Melrose Road and the portion of Kahl Road vacated are not needed by the general public as a public thoroughfare and lend themselves to higher and better uses than as and for a public thoroughfare and for use by the general public, and that the public interest will best be served by abandoning, vacating, releasing and extinguishing any and all public rights which the Township may have in and to Melrose Road and the portion of Kahl Road vacated; and

WHEREAS, title to Melrose Road and the portion of Kahl Road vacated shall be apportioned to adjacent property owners in accordance with law; and

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, by the Mayor and Township Council of the Township of East Hanover that:

SECTION 1. Subject to the conditions set forth herein, Melrose Road, an unimproved right-of-way extending 450 +/- feet from its intersection with Schoener Road, more or less easterly to its intersection with Clinton Road is not needed for public use and therefore the Township of East Hanover hereby vacates, releases, discharges and extinguishes all public rights in said Melrose Road, apportioning the vacated right-of-way to the adjacent property owners as measured to the center line of the vacated right-of-way, as more particularly delineated in Exhibit "A" hereto.

SECTION 2. Subject to the conditions set forth herein, that portion of Kahl Road, an unimproved right-of-way extending 125 +/- feet from its intersection with Melrose Road, more or less northerly is not needed for public use and therefore the Township of East Hanover hereby vacates, releases, discharges and extinguishes all public rights in that portion of Kahl Road, apportioning the vacated right-of-way to the adjacent property owners as measured to the center line of the vacated right-of-way, as more particularly delineated in Exhibit "A" hereto.

SECTION 3. Any and all expenses associated with the extension of the improved portion of Kahl Road necessitated by this Amended Ordinance, including but not limited to the extension of the existing public utilities, private connections to public utilities, the extension of the paved improved surface of Kahl Road and/or repairs necessitated thereby, if any, shall be the sole and exclusive obligation of the owners, purchasers, successors or assigns of the property commonly known as Block 137, Lot 33 as separately and independently agreed to by and between such parties.

SECTION 4. Pursuant to N.J.S.A. 40:67-1(b) all public easements, rights and interests to Melrose Road and that portion of Kahl Road to be vacated, as more particularly delineated in Exhibit "A" hereto, are hereby vacated, released and extinguished except for said easements and rights specifically set forth herein and 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.

SECTION 5. Pursuant to N.J.S.A. 40:67-21, the Township Clerk shall within 60 days after this ordinance becomes effective file a copy of this ordinance, certified by her, under the seal of the Township of East Hanover, to be a true copy of such ordinance, together with a copy of proof of publication, if publication be required, in the office where conveyances of lands are recorded in Morris County and such certified copy shall be recorded in a book with proper index to be provided for the purpose and entitled "Vacations."

SECTION 6. After introduction, this Ordinance shall be referred to the Planning Board of the Township of East Hanover for review and comment pursuant to N.J.S.A. 40:55D-26, -32, and -33, since vacation of a public street or portion thereof constitutes a change to the official map of the Township of East Hanover, Morris County and the closing of public streets, albeit paper unimproved streets.

SECTION 7. At least seven (7) days prior to the time fixed for the consideration of this Ordinance for final passage, a copy of this Ordinance, together with a notice of its introduction and the time and place when and where the Ordinance will be further considered for final passage, shall be given by the Township Clerk to the owners of all real property whose lands may be affected by this Ordinance or any assessment which may be made in pursuance thereof, so far as the same may be ascertained, directed to his last known post-office address. At least ten (10) days prior to the time fixed for the consideration of this Ordinance for final passage, a copy of this Ordinance, together with a notice of its introduction and the time and place when and where the Ordinance will be further considered for final passage, shall be published at least once in a newspaper published and circulated in the Township of East Hanover. This is the notice required by N.J.S.A. 40:67-19 and N.J.S.A. 40:49-6.

SECTION 8. If any article, section, subsection, paragraph, phrase or sentence is, for any reason, held to be unconstitutional or invalid, said article, section, subsection, paragraph, phrase or sentence shall be deemed severable.

SECTION 9. All ordinances or parts of ordinances inconsistent herewith are hereby repealed as to such inconsistencies.

SECTION 10. This Ordinance shall take effect upon final publication as provided by law.

Attest:

TOWNSHIP OF EAST HANOVER

Paula A. Massaro, Township Clerk

Joseph Pannullo, Mayor

Introduced: March 7, 2022
Adopted: April 4, 2022

I, Paula A. Massaro, Township Clerk of the Township of East Hanover, County of Morris, hereby certify the foregoing to be a true copy of an Ordinance adopted by the Township Council at a duly convened meeting held on April 4, 2022.

Paula A. Massaro, RMC, Township Clerk

Councilman DeMaio
Councilwoman Jandoli
Councilman Martorelli
Council President Brokaw
Mayor Pannullo

YES	NO	ABSTAIN	ABSENT
X			
X			
X			
X			
X			