

## **ORDINANCE NO. 3-2022**

### **ORDINANCE OF THE TOWNSHIP OF EAST HANOVER, COUNTY OF MORRIS, STATE OF NEW JERSEY, RELEASING, EXTINGUISHING AND VACATING THE RIGHTS OF THE PUBLIC IN A PORTION OF PAPER STREETS**

**WHEREAS**, there exists within the Lurker Park area of the Township of East Hanover various unimproved paper streets and/or portions of unimproved papers streets known as:

- Harvard Avenue between Fourth Street and River Road, as shown on the Official Tax Map of the Township of East Hanover.
- Yale Avenue between Fourth Street and River Road, as shown on the Official Tax Map of the Township of East Hanover.
- Columbia Avenue between the unimproved portion Fifth Street and River Road, as shown on the Official Tax Map of the Township of East Hanover.
- Princeton Avenue between Ridgedale Avenue and River Road, as shown on the Official Tax Map of the Township of East Hanover.
- Rutgers Avenue between Ridgedale Avenue and River Road, as shown on the Official Tax Map of the Township of East Hanover.
- Fifth Street from the Public Service and Electric and Gas Company's Transmission Line Right of Way to the intersection of the unimproved portion of Columbia Avenue, as shown on the Official Tax Map of the Township of East Hanover.
- Fourth Street from the Public Service and Electric and Gas Company's Transmission Line Right of Way to the intersection of the improved portion of Yale Avenue, as shown on the Official Tax Map of the Township of East Hanover.
- Third Street from the Public Service and Electric and Gas Company's Transmission Line Right of Way to Eagle Rock Avenue, as shown on the Official Tax Map of the Township of East Hanover.
- Second Street from the Public Service and Electric and Gas Company's Transmission Line Right of Way to Eagle Rock Avenue, as shown on the Official Tax Map of the Township of East Hanover.
- First Street from the Public Service and Electric and Gas Company's Transmission Line Right of Way to the unimproved portion of Yale Avenue, as shown on the Official Tax Map of the Township of East Hanover.

The above unimproved streets shall hereinafter be collectively referred to as the "Streets to be Vacated."

**WHEREAS**, the Streets to be Vacated serve no public purpose, require unwarranted maintenance costs by the Township of East Hanover, and need to be vacated; and

**WHEREAS**, the entirety of the Streets to be Vacated are neither open to the public for the purposes of vehicular traffic nor publicly maintained as a street; therefore, this 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 Township Council of the Township of East Hanover has considered evidence and concluded that the Streets to be 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 the Streets to be Vacated; and

**WHEREAS**, title to the Streets to be Vacated shall be apportioned to adjacent property owners, if any, 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, the rights of the public in and to the Street to be Vacated, as more particularly delineated in Exhibit “A” hereto, are hereby released, extinguished and vacated.

**SECTION 2.** Title to the Streets to be Vacated shall be apportioned to adjacent property owners, if any, in accordance with law.

**SECTION 3.** Pursuant to N.J.S.A. 40:67-1(b), all public easements, rights and interests to the Streets 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 4.** 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 5.** 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 6.** 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 7.** 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 8.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed as to such inconsistencies.

**SECTION 9.** 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: April 4, 2022

Adopted: May 2, 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 May 2, 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			

