

ORDINANCE NO. 2021-2

**AN ORDINANCE OF THE TOWNSHIP OF BARNEGAT,
COUNTY OF OCEAN AND STATE OF NEW JERSEY,
RELEASING, EXTINGUISHING AND VACATING THE
RIGHTS OF THE PUBLIC IN A PORTION OF PAPER
STREETS.**

WHEREAS, pursuant to N.J.S.A. 40:67-1 et seq., a municipality may, by ordinance, vacate any public street or portion thereof, dedicated to public use, but not accepted by the municipality; and

WHEREAS, the Township Committee of the Township of Barnegat, County of Ocean, State of New Jersey (the "Township"), is of the opinion that the public interest would be best served by abandoning, vacating, releasing and extinguishing any and all public rights which the Township may have in and to a right-of-way and/or paper streets known as Northerly Way, West Drive, Heading Drive, Meridian Turn West, Polaris Drive and Meridian Turn as shown on Schedule A attached hereto and made a part hereof; and

WHEREAS, the paper streets are located in the Compass Point and Shoreline Redevelopment Area, adjacent to West Bay Avenue; and

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

(1) That these portions of right-of-way and/or paper streets known as Northerly Way, West Drive, Heading Drive, Meridian Turn West, Polaris Drive and Meridian Turn as shown on Schedule A attached hereto and made a part hereof for public road purposes; and

(2) Said portions of right-of-way and/or paper streets known as Northerly Way, West Drive, Heading Drive, Meridian Turn West, Polaris Drive, and Meridian Turn as shown on Schedule A attached hereto 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

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Barnegat that the rights and interests in and to same shall as a public right of way be vacated, released, and extinguished, on the terms set forth above; 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 Township Engineer has investigated this matter and has issued a memorandum dated December 11, 2020 indicating that there are no public improvements on the paper streets to be vacated, copy of said December 11, 2020 memorandum is attached hereto as Schedule B.

NOW, THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Barnegat, County of Ocean, State of New Jersey, as follows:

SECTION 1. All public easements, right and interests to portions of right-of-way and/or papers streets known as Northerly Way, West Drive, Heading Drive, Meridian Turn West, Polaris Drive, and Meridian Turn as shown on Schedule A attached hereto 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 Northerly Way, West Drive, Heading Drive,
Meridian Turn West, Polaris Drive, and Meridian Turn, Barnegat
Township, being vacated: See Schedule A, attached hereto.

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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, shall be published at least once in a newspaper published and circulated in the Township, pursuant to N.J.S.A. 40:49-6.

SECTION 3. The Township hereby vacates the aforementioned interests that the public may have in property.

SECTION 4. 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 and 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, as shown on the current tax map duplicates, to be located within 200 feet in all directions of Northerly Way, West Drive, Heading Drive, Meridian Turn West, Polaris Drive and Meridian Turn Vacation Area (as shown on Schedule A), pursuant to N.J.S.A. 40:67-19 and N.J.S.A. 40:49-6.

SECTION 5. 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 6. After introduction, this Ordinance shall be referred to the Barnegat Township Planning Board for review and comment pursuant to the Municipal Land Use Law N.J.S.A. 40:55D-1 et seq., since vacation of a public street or portion thereof constitutes a change to the official map of Barnegat Township, Ocean County and the closing of a public street, albeit a paper unimproved street.

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SECTION 7. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 8. 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 9. This Ordinance shall take effect upon final passage and publication in accordance with law.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed by the Township Committee on first reading at a meeting of the Township Committee of the Township of Barnegat on the 1st day of January, **2021**, and will be considered for second and final passage at a meeting of the Township Committee to be held on the _____ day of _____, **2021**, at _____ AM/PM. at the Municipal Building located at 900 West Bay Avenue, Barnegat, New Jersey, at which time and place any persons desiring to be heard upon the same will be given the opportunity to be so heard.

MICHELE RIVERS, RMC, Clerk
Township of Barnegat

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