

**ORDINANCE NO. 2021-21**

**AN ORDINANCE OF THE TOWNSHIP OF BARNEGAT,  
COUNTY OF OCEAN AND STATE OF NEW JERSEY  
AUTHORIZING THE SALE OF BLOCK 125, LOT 3, (56  
CAPE MAY AVENUE), OF THE TOWNSHIP OF  
BARNEGAT, COUNTY OF OCEAN AND STATE OF NEW  
JERSEY, PURSUANT TO N.J.S.A. 40A:12-1 ET SEQ.**

**WHEREAS**, the Township of Barnegat is the owner of real property known as Block 125, Lot 3 otherwise known as 56 Cape May Avenue in the Township of Barnegat (the “Property”); and

**WHEREAS**, the Property is an undersized 50’ X 100’ Lot in the R-40 Zone; and

**WHEREAS**, the Township Committee of the Township of Barnegat has determined that the property as delineated on the tax map of the Township of Barnegat is not needed for public use; and

**WHEREAS**, a sale of the property will return the property to the tax rolls of the Township of Barnegat and create revenues for the Township; and

**WHEREAS**, the Township Committee has determined that it is in the best interests of the Township of Barnegat to offer the property for sale, pursuant to N.J.S.A. 40A:12-1 et seq.; and

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

**WHEREAS**, N.J.S.A. 40A:12-13(b)(5) further provides for a sale to the owner of the real property contiguous to the real property being sold; provided that the real property being sold is less than the minimum size required for development under the municipal zoning ordinances without any capital improvement thereon.

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**NOW THEREFORE BE IT ORDAINED** on this 7<sup>th</sup> day of September, 2021 by the Mayor and Township Committee of the Township of Barnegat, County of Ocean, and State of New Jersey as follows:

**SECTION 1.** The Township is the owner of the land located in the Township of Barnegat known as Block 125, Lot 3 otherwise known as 56 Cape May Avenue, Barnegat Township, New Jersey (the “Property”) and is located in the R-40 Zone and subject to all easements and restrictions of record and not of record.

**SECTION 2.** The Township Committee has determined it to be in the public interest to sell said property at a private sale to an owner of real property contiguous thereto in accordance with N.J.S.A. 40A:12-13(b)(5).

**SECTION 3.** N.J.S.A. 40A:12-13(b)(5) further provides that the sale shall not be for less than fair market value of said real property.

**SECTION 4.** The Township Committee declares the property to be surplus and not needed for public use.

**SECTION 5.** The following conditions for the sale of the property shall apply:

- a. The minimum bid for the property shall be \$1,800.00
- b. Full payment of the purchase price shall be received within 30 days of the date of the acceptance of the bid. The successful bidder will be required to pay, either by cash or bank check, the deposit in the amount of ten percent (10%) of the minimum price of the bid at the close of bidding with the balance to be paid by either cash or bank check. The successful bidder shall pay all legal expenses including, but not limited to, Township legal fees, the pro rata cost of advertisement, recording fees, realty transfer fee and all other

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reasonable fees and costs incurred as part of the consideration on the date of closing.

- c. The property is being sold in “as is” condition. The successful bidder is responsible for conducting any and all inspections and testing of the property at its own cost and expense. The property is sold subject to any and all conditions, including but not limited to, title issues, environmental issues, existing encumbrances, liens, easements, zoning ordinances, other restrictions of record, such facts as an accurate survey would reveal, any future or present assessment for the construction of improvements benefiting the property, and a survey of the property may be conducted by any prospective bidder at its discretion, as part of its due diligence.
- d. The land to be sold is undersized for development under the Township zoning ordinance. Bids will be limited to contiguous landowners only. The successful bidder shall consolidate the property purchase with other contiguous lot or lots so as to be part of a reconfigured lot in conformance with the zoning requirements. This requirement shall be incorporated into the Quit Claim Deed as a deed restriction. The contiguous landowners for the purpose of this sale shall be limited to the legal owner of record as of the date of sale. Contract purchasers and tax lien owners are not deemed contiguous for the purpose of this sale.
- e. Should the property be developed, it shall be done in accordance with all applicable Township ordinances as well as County and State laws, rules, and regulations. No representation, express or implied, is made

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that the successful bidder on an undersized lot will be able to secure a variance to develop, construct, or otherwise utilize any undersized lots hereby being sold.

- f. The Deed must be recorded within 30 days of closing or title to the property shall automatically revert back to the Township of Barnegat without the necessity of entry or re-entry.
- g. With respect to the sale of the property herein, no real estate commission is owed.
- h. The Deed given by the Township for the property will be a Quit Claim Deed. No title contingencies or conditions are permitted.
- i. The Township reserves the right to accept the highest responsive bid, if equal to or greater than the minimum bid price, or to reject all bids and not to award to the highest bidder. The Township reserves the right to waive any and all defects in formalities in any proposal, and to accept or reject the highest responsive bid deemed to be in the best interest of the Township.
- j. In the event the Township cannot convey marketable title to said premises, its sole liability shall be to return, without interest, all monies paid by the purchaser to the Township. This obligation will not survive the closing of title. It is suggested and recommended that the potential bidders perform title searches and/or last owner and lien searches on the properties they are interested in bidding upon prior to the date of bid submission so that the potential bidder may be adequately apprised of any encumbrances or restrictions of record effecting the use and germane of property. The Township of Barnegat

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shall not be responsible for the cost associated with such searches in the event the Township of Barnegat is unable to convey title and/or if a bid is rejected.

**SECTION 6.** Notice of the Township's intention to sell the property and the minimum bid price therefore shall be sent by certified mail, return receipt requested, to all property owners listed on the municipal tax records who own properties contiguous to the property. It shall be the responsibility of the successful bidder to pay all closing costs and expenses incurred by both the Township of Barnegat and the successful bidder relating to the sale, transfer and exchange of the property.

**SECTION 7.** The Sale shall be advertised in the official newspaper of the Township by two insertions, at least once a week during two consecutive weeks, the last publication to be no later than seven (7) days prior to the sale.

**SECTION 8.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

**SECTION 9.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

**SECTION 10.** This ordinance shall take effect after second reading and publication as required by law.

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**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 7<sup>th</sup> day of September, 2021, at 6:30 PM and will be considered for second and final passage at a meeting of the Township Committee to be held on the 5<sup>th</sup> day of October, 2021, at 10:00 AM 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.

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Donna M. Manno, RMC  
Township Clerk

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