

**AN ORDINANCE VACATING A PORTION OF FIFTH STREET LOCATED IN THE  
TOWNSHIP OF NORTH BRUNSWICK, COUNTY OF MIDDLESEX,  
STATE OF NEW JERSEY AND CONVEYING SUCH VACATED LANDS TO THE  
ADJACENT PROPERTY OWNERS**

**WHEREAS**, a portion of Fifth Street is an unimproved, paper street located in the Township of North Brunswick, Middlesex County, New Jersey; and

**WHEREAS**, Michael and Manuela Clark are the owners of property at 760 Darmody Avenue adjacent to Fifth Street on the east side, known as Block 148, Lot 71, on the Official Tax Map of the Township of North Brunswick, Middlesex County, New Jersey; and

**WHEREAS**, Charles and Bernadine Knights are owners of the property at 780 Darmody Avenue adjacent to Fifth Street on the west side, known as Block 148 Lot 70.01, on the Official Tax Map of the Township of North Brunswick, Middlesex County, New Jersey; and

**WHEREAS**, these property owners have requested that the Township of North Brunswick vacate the 40' wide right-of-way of a portion of Fifth Street in accordance with a map entitled, "Map of East Adams Township of North Brunswick, Middlesex County, New Jersey," filed in the Middlesex County Clerk's Office on November 12, 1912 as Map #696 File #524, made a part hereof as Exhibit "A"; and

**WHEREAS**, N.J.S.A. 40:67-1(b) authorizes the governing body of every municipality to adopt an ordinance to vacate any public street or any part thereof; and

**WHEREAS**, pursuant to N.J.S.A. 40:67-19, a municipality may vacate a public street where there has been a dedication of lands as a public street and same has not been accepted by the municipality and it shall appear to the governing body of the municipality that the public interest will be better served by releasing those lands or a part thereof from such dedication and the lands or part thereof released from the dedication shall be effectively discharged therefrom as though the dedication had not taken place; and

**WHEREAS**, pursuant to N.J.S.A. 40:49-6, a municipality must publish ordinances authorizing vacations or dedications of land in the manner required by N.J.S.A. 40:49-2, except that every such ordinance, after being introduced and having passed a first reading, shall be published at least once not less than ten (10) days instead of one week prior to the time fixed for further consideration for final passage, and, at least one week prior to the time fixed for final passage, a copy of such ordinance, together with a notice of the introduction thereof and the time and place when and where the ordinance shall be considered for final passage shall be mailed to every person whose lands may be affected by the ordinance; and

**WHEREAS**, pursuant to N.J.S.A. 40A:12-5 and N.J.S.A. 40 A:12-13, a municipality has the power to acquire or sell any real property for a public purpose through negotiated agreement; and

**WHEREAS**, the Township Council of the Township of North Brunswick has determined that it would fulfill a public purpose to vacate a portion of Fifth Street (as shown and more fully described in Exhibit “A” attached hereto and made a part hereof) as same is not needed nor used as a public street, and to convey the vacated lands to the adjacent property owners in accordance with law.

**NOW, THEREFORE, BE IT ORDAINED**, by the Township Council of the Township of North Brunswick, County of Middlesex and State of New Jersey that a portion of Fifth Street, as more fully described in the attached Exhibit “A” be and is hereby vacated; and

**BE IT FURTHER ORDAINED**, that the vacated lands formerly comprising a portion of Fifth Street are to be conveyed to the adjacent property owners, Michael and Manuela Clark, and Charles and Bernadine Knights, in accordance with law, and shall merge, consolidate with, and made part of their respective properties identified as Block 148 Lot 71 and Block 148 Lot 70.01 on the Official Tax Map of the Township of North Brunswick, Middlesex County, New Jersey; and

**BE IT FURTHER ORDAINED**, that the Mayor and Township Clerk are hereby authorized and directed to execute any documents which may be required to convey the aforesaid vacated lands; and

**BE IT FURTHER ORDAINED**, that the Township of North Brunswick, pursuant to the provisions of N.J.S.A. 40:67-1(b), hereby expressly reserves and excepts from vacation all rights and privileges currently 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. 48:5-1 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; and

**BE IT FURTHER ORDAINED**, that, pursuant to N.J.S.A. 40:49-6, the Township Clerk shall publish this Ordinance in the manner required by N.J.S.A. 40:49-2, except that after same has been introduced and passed a first reading, this Ordinance shall be published at least once not less than ten (10) days prior to the time fixed for further consideration for final passage, and the Clerk shall, at least one week prior to the time fixed for final passage, mail a copy of this Ordinance, together with a notice of the introduction thereof and the time and place when and this Ordinance shall be considered for final passage to every person whose lands may be affected by this Ordinance; and

**BE IT FURTHER ORDAINED**, that within sixty (60) days after this Ordinance becomes effective, the Township Clerk shall file a copy thereof, certified by her, under the Seal of the Township of North Brunswick to be a true copy of such Ordinance, together with a proof of publication thereof, in the office of the Middlesex County Clerk to be recorded in a book with proper index to be provided for this purpose entitled “vacations”, in accordance with the provisions of N.J.S.A. 40:67-21; and

**BE IT FURTHER ORDAINED**, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall

apply only to the section paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

**BE IT FURTHER ORDAINED**, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; and

**BE IT FURTHER ORDAINED**, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

**TITLE**

This Ordinance shall be known and may be cited as the Ordinance Authorizing  
the Vacation of a portion of Fifth Street

\_\_\_\_\_  
Michael C. Hritz  
Director of Community Development

\_\_\_\_\_  
Justine Progebin  
Business Administrator

\_\_\_\_\_  
Ronald Gordon, Township Attorney  
(Approved legal form)

**RECORDED VOTE FIRST READING: AUGUST 1, 2022**

<b>COUNCIL MEMBER</b>	<b>YES</b>	<b>NO</b>	<b>ABSTAIN</b>	<b>NOTES</b>
MEHTA				
GUADAGNINO				
LOPEZ				
ANDREWS				
SOCIO				
DAVIS				
MAYOR WOMACK				

**RECORDED VOTE SECOND READING: SEPTEMBER 5, 2022**

<b>COUNCIL MEMBER</b>	<b>YES</b>	<b>NO</b>	<b>ABSTAIN</b>	<b>NOTES</b>
MEHTA				
GUADAGNINO				
LOPEZ				
ANDREWS				
SOCIO				
DAVIS				
MAYOR WOMACK				

**CERTIFICATION**

I hereby certify that the above Ordinance was duly adopted by the Township Council of the Township of North Brunswick, County of Middlesex, at its meeting held on September 5, 2022.

\_\_\_\_\_  
Lisa Russo, Township Clerk

**EFFECTIVE DATE**

This Ordinance shall take effect upon passage and publication in accordance with applicable law.

- APPROVED
- REJECTED

\_\_\_\_\_  
Francis M. Womack III, Mayor  
Township of North Brunswick

Date signed: \_\_\_\_\_, 2022