

**TOWNSHIP OF FRANKLIN,
O-17-21**

**ORDINANCE AMENDING O-4-21 RELEASING, EXTINGUISHING AND VACATING
THE RIGHTS OF THE PUBLIC IN A PORTION OF PAPER STREETS**

WHEREAS, there exists in the Township of Franklin a portion of an unimproved paper street known as Triumph Road between Station Avenue and Waddell Avenue, as shown on the Official Tax Map of Franklin (the “Unimproved Street”) that serves no public purpose, requires unwarranted Township maintenance costs, and needs to be vacated; and

WHEREAS, the entirety of Unimproved Street, including the portion to be vacated, is 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. 40:67-1b 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 Planning Board of Franklin Township has recommended to the Township Committee the vacation of the public right-of-way being a portion of the Unimproved Streets; and

WHEREAS, the Township Committee of the Township of Franklin has considered evidence that the portion of the Unimproved Street to be vacated is not needed by the general public as a public thoroughfare and lends itself to higher and better use than as and for a public thoroughfare and for use by the general public, and 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 below described portion of the Unimproved Street; and

WHEREAS, the portion of the Unimproved Street to be vacated known as a portion of the Triumph Road between Station Avenue at Block 4104, Lot 1, and where it ceases in the direction of Waddell Avenue at Block 4104, Lot 5 adjacent to Block 4103 Lot 1 and 2, as depicted on the Tax Map of the Township of Franklin attached hereto as Exhibit A (hereafter the area to be vacated shall be referred to as the “Triumph Road Vacation Area”); and

WHEREAS, the public right-of-way to be vacated shall revert to the corresponding property owners of the property, each getting a portion, identified as Block 4104, Lot 1, Block 4104, Lot 5, Block 4103 Lot 1 and Block 4103 Lot 2 and

WHEREAS, the Township Committee of the Township of Franklin does determine that the public right-of-way being a portion of the Unimproved Streets is no longer needed for public purposes; and

WHEREAS, the Township Committee of the Township of Franklin does determine that the vacation of the public right-of-way being a portion of the Unimproved Streets identified as Triumph Road Vacation Area will better serve the public interest; and

WHEREAS, the Township Committee of the Township of Franklin finds it to be in the best interests of the Township and its citizenry to vacate the public right-of-way with the Township’s property interests reverting to the owners of Lots as more particularly described herein.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Township Committee of the Township of Franklin, County of Gloucester and State of New Jersey as follows:

1. Subject to the conditions set forth herein, the rights of the public in and to a portion of the Unimproved Streets, identified as Triumph Road Vacation Area, is hereby released, extinguished and vacated.
2. The Triumph Road Vacation Area, being a portion of the Unimproved Street, which is hereby vacated, shall revert to the owner of, and shall merge, consolidate with, and become a part of the property identified as Station Avenue, Block 4104, Lot 1, on the Official Tax Map of the Township of Franklin.
3. The Triumph Road Vacation Area, being a portion of the Unimproved Street, which is hereby vacated, shall revert to the owner of, and shall merge, consolidate with, and become a part of the property identified as Waddell Avenue, Block 4104, Lot 5, on the Official Tax Map of the Township of Franklin.
4. The Triumph Road Vacation Area, being a portion of the Unimproved Street, which is hereby vacated, shall revert to the owner of, and shall merge, consolidate with, and become a part of the property identified as Station Avenue, Block 4103, Lot 1, on the Official Tax Map of the Township of Franklin.
5. The Triumph Road Vacation Area, being a portion of the Unimproved Street, which is hereby vacated, shall revert to the owner of, and shall merge, consolidate with, and become a part of the property identified as Station Avenue, Block 4103, Lot 2, on the Official Tax Map of the Township of Franklin.
6. Pursuant to N.J.S.A. 40:67-1b, all public easements, right and interests to the portions of the Unimproved Street described hereinbelow, are hereby vacated, released and extinguished except for said easements and rights specifically set forth in the description hereinbelow 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 subject to the conditions described herein, all conditions, unless otherwise noted, shall be satisfied prior to the said vacation being effective.
7. Pursuant to N.J.S.A. 40:67-21, the Township Clerk shall within sixty (60) days after this Ordinance becomes effective file a copy of this Ordinance, certified by her, under the seal of the Township of Franklin, 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 Gloucester County and such certified copy shall be recorded in a book with proper index to be provided for the purpose and entitled "Vacations."
8. After introduction, this Ordinance shall be referred to the Franklin Township Planning Board 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 Franklin Township, Gloucester County and the closing of a public street, albeit a paper unimproved street.
9. 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, as shown on the current tax map duplicates, to be located within 200 feet in all directions of the Triumph Road Vacation Area between Station Avenue and Waddell Avenue. 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 the 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. This is the notice required by N.J.S.A. 40:67-19 and N.J.S.A. 40:49-6.
10. This Ordinance shall take effect upon final passage, adoption and publication according to law, and the recording of this Ordinance with the Gloucester County Clerk's Office.

11. 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.

ATTEST:

TOWNSHIP OF FRANKLIN

Barbara Freijomil, Clerk

John Bruno, Mayor

CERTIFICATION

I, Barbara Freijomil, Clerk of the Township of Franklin, County of Gloucester, do here certify that the foregoing Ordinance was introduced at the Regular Meeting of the Township of Franklin held on December 14, 2021 and thereafter duly advertised in the legal newspaper of the Township at least seven (7) days prior to it being considered for final passage and adoption at a subsequent meeting to be held on December 28, 2021 at which time any person interested therein will be given an opportunity to be heard.

Barbara Freijomil, Municipal Clerk

Introduced December 14, 2021

<u>Name</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
<u>Doyle</u>				
<u>Deegan</u>				
<u>Petsch-Wilson</u>				
<u>Flaim</u>				
<u>Bruno</u>				

Adopted December 28, 2021

<u>Name</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
<u>Doyle</u>				
<u>Deegan</u>				
<u>Petsch-Wilson</u>				
<u>Flaim</u>				
<u>Bruno</u>				