

**ORDINANCE 16-11**  
**ORDINANCE OF THE MAYOR AND BOROUGH COUNCIL OF THE**  
**BOROUGH OF KEYPORT AUTHORIZING**  
**VACATION OF A PORTION OF ATLANTIC STREET**

**BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE BOROUGH**  
**OF KEYPORT AS FOLLOWS:**

**SECTION I. Purpose:**

N.J.S.A. 40:67-1, *et seq.*, authorizes a municipality to adopt ordinances to vacate and abandon any street or any part thereof, dedicated to public use but no longer needed by the municipality, whether or not the same or any part, has been actually opened and improved. A portion of Atlantic Street north of its intersection with First Street lying between Lots 17, 18, 19 and 21 in Block 94 of the Tax Map of the Borough of Keyport, as depicted in the attached map entitled "Map Showing Portion of Atlantic Street to be Vacated" (hereinafter Schedule "A"), is no longer needed for public use.

**SECTION II. Property Vacated.**

Pursuant to N.J.S.A. 40:67-1, *et seq.*, and other statutes the property described in documents entitled, "Map Showing Portion of Atlantic Street to be Vacated," "Description of Parcel 'A,'" and "Description of Parcel 'B,'" consisting of three pages, prepared by Michael S. Finnegan, P.L.S., dated July 18, 2011, attached hereto and made part hereof as Schedule "A", is hereby vacated and abandoned and title to the same shall revert to the contiguous landowners as fee owners.

Notice of this vacation shall be given pursuant to N.J.S.A. 40:49-2 and N.J.S.A. 40:49-6.

The Mayor and Borough Clerk are hereby authorized to execute all necessary instruments and take all necessary action with regard to the vacation of a portion of Atlantic Street.

**SECTION III. Reservations of Rights.**

All rights, privileges and easements possessed by public utilities as defined in N.J.S.A. 48:2-13 and the cable television company as defined in N.J.S.A. 48:5A-1, *et seq.*, in the property described in Schedule "A", are excepted from the vacation of the street in order to permanently construct, maintain, replace and repair their existing facilities including, but not limited to, water, sewer, or gas utility lines. The owner or its successors or assigns shall not be allowed to construct any structures and/or additions or improvements over these utility lines.

The property remains subject to the paramount authority of the United States Government over navigable waters and its right to fix navigation and pier lines without compensation, and possible title rights or claims of the Borough of Keyport or the County of Monmouth or the State of New Jersey to any part of the property which is or may be alleged by the State to be, or is hereafter determined to be, salt

marsh, tidelands, meadowlands or land now or formerly flowed by the waters of the Ocean or any bays, rivers, streams, creeks or their tributaries, and to any other restrictions, rights, revisions or covenants of record.

The Borough retains an easement to preserve and ensure public access to the tidelands and bay pursuant to the laws of the United States and the State of New Jersey, subject to the riparian and other rights of the contiguous owners.

#### **SECTION IV. Notice to Contiguous Owners and Recording.**

Notice of this vacation shall be given pursuant to N.J.S.A. 40:49-2 and N.J.S.A. 40:49-6.

A copy of this Ordinance and Schedule "A" attached shall be filed and recorded with the Monmouth County Clerk pursuant to N.J.S.A. 40:67-2 and N.J.S.A. 40:67-21.

#### **SECTION V. Severability:**

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

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

#### **SECTION VI. Effective date:**

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

Introduced: August 9, 2011

Public Hearing: September 6, 2011

Adopted: September 6, 2011

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Valerie T. Heilweil, RMC  
Borough Clerk  
Borough of Keyport

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Robert E. McLeod, Mayor  
Borough of Keyport