

**BOROUGH OF HOPATCONG
ORDINANCE #18-2016**

**AN ORDINANCE TO RELEASE AND EXTINGUISH THE
RIGHT OF THE PUBLIC ON A PORTION OF BEAMS LANE**

WHEREAS, Beams Lane is a right-of-way and/or paper street located within the Borough of Hopatcong in the County of Sussex which was previously dedicated to, but not accepted by the Borough of Hopatcong, for public use; and

WHEREAS, the Borough Council has received a request from the attorney for the adjacent property owners requesting the vacation of a portion of Beams Lane; and

WHEREAS, the property owners are aware that upon successful adoption of the Vacation Ordinance, one half of the area to be vacated would be conveyed to each of the adjoining property owners; and

WHEREAS, the property owners have agreed to reimburse the Borough for all reasonable professional fees expended with regard to the vacation of the right-of-way and/or paper street; and

WHEREAS, the Borough counsel of the Borough of Hopatcong 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 Borough may have in and to the portion of Beams Lane bounded by Block 50305, Lot 12 to the north, Block 50208, Lot 28 to the south, Squaw Trail to the west and Lake Hopatcong to the east subject to the retention by the Borough of Hopatcong of a right of access for the purpose of fire protection; and

WHEREAS, it being determined that a portion of Beams Lane being described in this ordinance is not needed for public use and would not prevent police and emergency vehicles from accessing adjacent properties; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Hopatcong that:

Section 1. That portion of the right-of-way of Beams Lane illustrated on Schedule "A" annexed and incorporated in this Ordinance be vacated and the public rights in the road extinguished excepting the following rights and privileges:

1. The rights and privileges currently possessed by public utilities as defined in N.J.S.A. 48:2-13, and by an cable television company as defined in the "Cable Television Act", N.J.S.A. 48-5-A-1, et seq., to maintain, repair and replace their existing facilities in, adjacent to, over or under the road to be vacated;
2. Block 50305, Lot 12, and Block 50208 lot 28 shall have a driveway and pedestrian easement over the vacated portion of Beams Lane;
3. Block 50208, Lot 28, shall have an easement for overhead utility lines over and through the portion of Beams Lane to be vacated;
4. A Borough of Hopatcong, its agents, employees and assigns shall have a right-of-way over Beams Lane for use as a fire lane to Lake Hopatcong. The adjoining owners to the portion of Beams Lane to be vacated are prohibited from installing structures or walls or fences or modifying the topography in a manner in which would inhibit access to Lake Hopatcong by the Borough through use of the vacated portion of Beams Lane.

Section 2. The portion of the right-of-way of Beams Lane set forth in the description attached hereto as Schedule B shall be added to Block 50305 Lot 12. The portion of the right-of-way of Beams Lane set forth in the description attached hereto as Schedule C shall be added to Block 50208, Lot 28. A description of Block 50208, Lot 12 as augmented through the

annexation of the portion of Beams Lane to be vacated is set forth in Schedule D. A description of Block 50208, Lot 28 as augmented by the portion of Beams Lane to be vacated is set forth in Schedule E.

Section 3.

1. After being introduced and having 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.
2. At least (1) week prior to the time fixed for further consideration of this Ordinance for final passage, a copy thereof, together with notice of its introduction and the time and place when and where the Ordinance will be further considered for final passage, shall be mailed to every person whose lands are contiguous to the vacated portion of Beams Lane as described in Schedule "A" and to all other person the Borough Council reasonably believes are the owners of lands that may be affected by this Ordinance. The Borough Clerk shall mail said notice in accordance with N.J.S.A. 40:49-6.

Section 4. Copies of this Ordinance shall be on file in the Office of the Borough Clerk and are available for inspection. The Borough Clerk shall, within sixty (60) days of the effective date of this Ordinance, file a copy of this Ordinance certified by her under seal of the Borough to be a true copy thereof, together with a copy of the proof of publication thereof, with the Clerk of Sussex County.

Section 5. It is the interest of the Borough Council to vacate the aforementioned interests the public may have in the right-of-way, and to provide that all interest in the right-of-way, in its "as is" condition, be conveyed to the adjoining property owner. The property owner shall be responsible for all costs of preparing this Ordinance, costs of publication and cost of recording.

Section 6. The Mayor and Borough Clerk are authorized and directed to execute any documents as may be required to complete the transfer of whatever interest the public may have had, now vacated, in the property described above.

NOTICE

Notice is hereby given that the above ordinance was introduced and passed at first reading at the meeting of the Borough of Hopatcong Council of Hopatcong Borough held on June 15, 2016 and will be considered for final passage at a meeting of Township Committee to be held on July 6, 2016, at 7:30 p.m. in the Municipal Building located at 111 River Styx, Hopatcong, N.J. 07843.

CERTIFICATION

I, Catherine Schultz, Clerk of the Borough of Hopatcong, do hereby certify that the Borough of Hopatcong Council duly adopted the foregoing Ordinance on the 6th day of July, 2016.

Catherine Schultz, Clerk
Borough of Hopatcong