

**BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH**

**ORDINANCE VACATING THE RIGHT-OF-WAY EASEMENT RESERVED TO
ATLANTIC COAST ENTERPRISES AND CONVEYED TO THE ATLANTIC
HIGHLANDS-HIGHLANDS REGIONAL SEWERARGE AUTHORITY OVER A
PORTION OF LOCUST STREET**

WHEREAS, pursuant to the Local Land and Buildings Law, N.J.S.A. 40A:12-13(b)(4), a municipality, by ordinance and at private sale, may “release the public rights in the nature of easements, in, on, over or under any real property within the county or the municipality, as the case may be, upon such terms as shall be agreed upon with the owner of such lands, if the use of such rights is no longer desirable, necessary or required for public purposes;” and

WHEREAS, by Deed dated May 12, 1969 and recorded in the Monmouth County Clerk’s Office in Deed Book 3636, Page 456 on May 26, 1969, John J. Torox reserved to Atlantic Coast Enterprises a right-of-way easement (for a sanitary sewer) over a portion of Locust Street in the Borough of Highlands, County of Monmouth, State of New Jersey (“the Easement”); and

WHEREAS, by Deed dated March 25, 1971, and recorded in the Monmouth County Clerk’s Office in Deed Book 3728, Page 20 on March 30, 1971, Atlantic Coast Enterprises conveyed the Easement to the Atlantic Highlands-Highlands Regional Sewerage Authority (“AHHRSA”); and

WHEREAS, the AHHRSA has since been dissolved by concurrent action by the Borough of Highlands and the Borough of Atlantic Highlands; and

WHEREAS, the Borough of Highlands will now administer, govern, and regulate water and sewerage operations in the Borough of Highlands, which includes regulation and administration of the Easement; and

WHEREAS, on or about March 13, 2014, memorialized in Resolution No. PB#2013-3, the Borough of Highlands Planning Board granted Final Site plan Approval to Navesink Capital Partners, LLC (“Navesink”) to construct a residential development; and

WHEREAS, the Borough must extinguish the Easement in order for Navesink to proceed with its development as approved by the Borough of Highlands Planning Board; and

WHEREAS, Navesink will relocate the sanitary sewer in accordance with its development plans and in accordance with the final site plan approval granted by the Planning Board; and

WHEREAS, the Borough Engineer has determined that it would be appropriate for the Borough to extinguish the Easement and for new easements to be provided, as appropriate.

WHEREAS, the Governing Body has determined that it would be appropriate to vacate and release the Easement; and

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Highlands, in the County of Monmouth, in the State of New Jersey, as follows:

SECTION ONE. The Borough hereby vacates and extinguishes any and all right, title and interest to the public in and to certain lands described as a portion of Locust Avenue to be vacated, and more fully described in the Deeds recorded with the Monmouth County Clerk's Office in Book 3636, Page 456 and Book 3728, Page 20, subject to all conditions set forth hereinabove. In the event Navesink does not comply with the terms of the Final Site Plan Approval, as approved by the Planning Board on March 13, 2014 and memorialized in Resolution No. PB#2013-3, this Ordinance shall be void *ab initio* upon adoption of an Ordinance rescinding this Ordinance.

SECTION TWO. The Borough Clerk, Mayor, his designee, and such Borough Professionals as are necessary, are hereby authorized and directed to take such actions as are necessary to effectuate the provisions of this Ordinance including but not limited to executing an Extinguishment of Easement in a form acceptable to the Borough Attorney.

SECTION THREE. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance, which shall otherwise remain in full force and effect.

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

SECTION FIVE. Effective. This Ordinance shall take effect after final passage as provided by law.