

ORDINANCE NO. 2020-_____
OF THE TOWN OF ZIONSVILLE, INDIANA

**AN ORDINANCE VACATING A PORTION OF A PUBLIC RIGHT-OF-WAY
WITHIN THE ZIONSVILLE CORPORATE BOUNDARIES
PURSUANT TO INDIANA CODE § 36-7-3-12**

WHEREAS, Indiana Code § 36-7-3-12 provides for the process by which public ways may be vacated; and,

WHEREAS, on April 6, 2020, Steven and Kathleen Morris & James and Rena Russell (collectively “Petitioner”), petitioned the Town of Zionsville (“Town”) to vacate a portion of a public right-of-way (an east-west platted alley) located between Hawthorne Street and Sycamore Street, west of Sixth Street pursuant to Indiana Code § 36-7-3-12; and,

WHEREAS, the Town caused to be published notice of the petition and the time and place of the public hearing in the May 19, 2020 issue of the Lebanon Reporter, a copy of which proof of publication was submitted to the Town Council of Zionsville, Indiana (“Town Council”) and the Petitioner notified by certified mail each owner of land abutting the portions of the public alley right-of-way proposed to be vacated; and,

WHEREAS, on June 1, 2020, the Town Council held a public hearing on the petition to vacate the portion of the right-of-way, with proper notice under Indiana Law to all interested and potentially aggrieved parties; and,

WHEREAS, no potentially aggrieved individual has objected under the statutory grounds provided under Indiana Code § 36-7-3-13; and,

WHEREAS, the Town Council, after due investigation and consideration, has determined that the nature and extent of the public use and the public interest to be served is such as to warrant vacation of the portion of the public alley right-of-way described herein.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Town Council of the Town of Zionsville, Indiana, that:

Section 1: Description of the Right-of-way. The Right-of-way legally described herein and schematically illustrated on Exhibit A attached hereto, under the terms set forth herein, is hereby vacated;

A part of the East-West Alley laying between Lots 21 and 36 in Laughlin, Fouts and Hardin's Addition to the Town of Zionsville, as per plat thereof recorded in Plat Book 3, Page 1, in the Office of the Recorder of Boone County, Indiana, being more particularly described as follows:

Beginning at the Southeast described corner of the Morris Parcel recorded in Instrument Number 201200009301, said Recorder's Office and the Southeast corner of said Lot 21; thence South 00 degrees 00 minutes 00 seconds West 16.50 feet to the Northeast described corner of the Russel Parcel recorded in Deed Record 230, Page 624, said Recorder's Office and the Northeast corner of said Lot 36; thence North 90 degrees 00 minutes 00 seconds West 70.00 feet along the Northern described line of said Russell Parcel to the Northwest corner thereof and the center of vacated Seventh Street; thence North 00 degrees 00 minutes 00 seconds East 16.50 feet along the center of said vacated Seventh Street to the Southwest described corner of said Morris Parcel; thence South 90 degrees 00 minutes 00 seconds East 70.00 feet along the Southern described line of said Morris Parcel to the Point of Beginning.

Containing 0.03 acres (1155 square feet), more or less, and being subject to all Legal Highways, Rights-of-way and Easements of Record. (See survey attached as Exhibit A.)

Section 2: Ownership, Maintenance, Repair and Liability. The portion of the Alley to be vacated is bordered on the north by property addressed as 713 West Hawthorne Street ("Property Owner One"), and is bordered on the south by property addressed as 640 West Sycamore Street ("Property Owner Two") measuring 70.00 lineal feet and is 16.50 feet in width ("Vacated Area"). This vacation will transfer the ownership of the Vacated Area, including all ongoing maintenance, repair obligations and all liability, to be transferred equally to Property Owner One and Property Owner Two.

Section 3: Utilities. The Town retains the right to maintain, operate, repair and replace, by itself or by any licensee or holder of a franchise from the Town, any poles, wires, pipes, conduits, sewer mains, water mains, or any other facility or equipment for the maintenance or operations of any utility now located in the portion of the public alley right-of-way vacated by this Ordinance.

Section 3: Costs. Petitioner for this public alley right-of-way vacation shall, within 90 days after the passage of this Ordinance, pay to the Town of Zionsville the amount necessary to defray all costs of removing any items from the Right-of-way, including paving and curb returns abutting the vacated Right-of-way, if any.

Section 4: Recording. The Director of Finance and Records of the Town of Zionsville, Indiana shall provide a copy of this Ordinance to the Boone County Recorder for recording and shall file the same with the Boone County Auditor.

Section 5: Construction of Clause Headings. The clause headings appearing herein have been provided for convenience and reference and do not purport and shall not be deemed to define, limit or extend the scope of intent of the clause to which the appertain.

Section 6: Repeal of Conflicting Ordinances. The provisions of all other Town ordinances in conflict with the provisions herein, if any, are of no further force or effect and are hereby repealed.

Section 7: Severability. If any part of the Ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remainder of this Ordinance.

Section 8: Duration and Effective Date. The provisions of this Ordinance shall become and remains in full force and effect upon passage and until its repeal by ordinance.

**TOWN COUNCIL OF THE TOWN OF ZIONSVILLE,
BOONE COUNTY, INDIANA**

	YEA Signature	NAY Signature
Josh Garrett, President		
Brian Traylor, Vice-President		
Brad Burke, Member		
Alexander Choi, Member		
Joe Culp, Member		
Craig Melton, Member		
Jason Plunkett, Member		

I hereby certify that the foregoing Resolution was delivered to the Town of Zionsville Mayor Emily Styron on the _____ day of _____ 2020, at _____ m.

ATTEST: _____
Amelia Lacy, Director, Department of
Finance and Records

MAYOR'S APPROVAL

Emily Styron, Mayor

DATE

**MAYOR'S
VETO**

Emily Styron, Mayor

DATE