

**HAMPTON TOWNSHIP
ORDINANCE NO. 2022-05**

**AN ORDINANCE OF THE TOWNSHIP OF HAMPTON, COUNTY OF SUSSEX AND STATE
OF NEW JERSEY TO AUTHORIZE THE RELEASE AND ABANDONMENT OF CERTAIN
RIGHTS APPURTENANT TO TOWNSHIP-OWNED PROPERTY KNOWN AS 14
BLUEBERRY DRIVE, BLOCK 906, LOT 1, HAMPTON TOWNSHIP, TO THE USE AND
ENJOYMENT OF LAKE ANNE, BLOCK 907, LOT 22, HAMPTON TOWNSHIP.**

WHEREAS, N.J.S.A. 40A:12-13(b)(4) authorizes a municipality to release public rights in the nature of easements in, on, over or under any real property within the municipality 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;

WHEREAS, the Township of Hampton, a municipal corporation of the State of New Jersey, is the owner of certain vacant real property known and designated as 14 Blueberry Drive, Block 906, Lot 1, Hampton Township, Sussex County, New Jersey ("Township property"); and

WHEREAS, the Township property is located within the vicinity of a lake known as "Lake Anne", which lake is shown more particularly on a map entitled "Lot Layout No. 2, Lake Anne, Hampton Twp., Sussex Co. NJ", filed in the Sussex County Clerk's Office on August 29, 1962 as registered map 294 and "Lot Layout, Lake Anne, Hampton Twp., Sussex Co. NJ" filed in the Sussex County Clerk's Office on October 19, 1964 as registered map 294A"; and

WHEREAS, the chain of title for the Township property rests in a conveyance from a developer known as Galati Reservation, Inc. to a predecessor in title subject to restrictions and covenants set forth in a Deed from Galati Reservation, Inc. to Philip Peluso and Loretta Peluso, his wife, dated September 20, 1958 and recorded in Sussex County Clerk's office in Deed Book 638, Page 367 ("Master Deed"); and

WHEREAS, said Master Deed contains 19 restrictions of record, including at Restriction No. 16 a requirement that "the purchaser agrees to become a member of Lake Anne Club formed to insure the present and future character and welfare of the development and represents that he can and will conform to membership standards and requirements and all other provisions set forth in by-laws of said association and to pay a membership fee of \$10.00 per year, payable on or before May 1st in each year during his ownership, and in case default is made in said payment and continues for thirty days, the amount so due shall become and is hereby declared a lien on the premises which are the basis for said charge, it being particularly understood and agreed that said association is to be composed solely of owners of land within said development, not excluding the Seller, except that no dues or payment shall become due from the Seller under any circumstances."; and

WHEREAS, pursuant to the Master Deed Restriction No. 17: "Purchaser herein agrees not to sell, lease or otherwise, dispose of the lands and premises hereby purchased except to a person eligible to and approved for membership in said Lake Anne Club"; and

WHEREAS, pursuant to Master Deed Restriction No. 18: "All of said covenants and conditions shall run with the land and be in force and effect until such time as a general intention by property owners to abandon the plan or community scheme herein provided is evidenced and said covenants and restrictions

declared unenforceable by a Court of competent jurisdiction; or the owners of record of two thirds or more lots in number included within said development execute and acknowledge a declaration to the effect that said covenants and restrictions shall from thence forth be abandoned"; and

WHEREAS, pursuant to the Master Deed Restriction No. 19 "these Restrictions shall apply to the various sections of the Lake Anne development as shown on maps now or herein after filed in the office of Seller"; and

WHEREAS, upon information and belief, Lake Anne Club was never formed within the State of New Jersey, and property owners of lots subject to the Master Deed did not pay any membership fees as required by Restriction 16 and did not comply with the requirement to transfer only to purchasers approved for membership in Lake Anne Club as required by Restriction No. 17; and

WHEREAS, title to Lake Anne, the dam and a ring of property surrounding the entire shoreline of the lake, also known as Hampton Township Tax Block 907, Lot 22 ("Lake Anne") is vested in Lake Anne Waters, LLC by Deed from John Barry Dusault, dated February 6, 2012, recorded February 15, 2012 in the Sussex County Clerk's office in Deed Book 3285, Page 280; and

WHEREAS, the said transfer of Lake Anne was made "subject to the rights of lot owners on the filed maps referred to above (i.e. Registered Map 294 and 294A) to use Lake Anne for swimming, boating, fishing, etc. This paragraph is not to confirm or enlarge any such rights"; and

WHEREAS, the said transfer of Lake Anne contained the following statement: "[t]he property being conveyed hereby shall be free and released from the restrictions contained in Deed Book 638-367 or in any other deed in which these restrictions appear; or are referred to. The said restrictions shall in no way effect the property being conveyed by this Deed."

WHEREAS, the burden of maintaining Lake Anne rests solely on Lake Anne Waters, LLC as owner of the lake; and

WHEREAS, the Township as owner of the Township property did not contribute to the reconstruction of the dam on Lake Anne and has been advised that said reconstruction was funded solely by the then private dam owner; and

WHEREAS, the Township has no interest in retaining, through its ownership of the Township property, any right to the use and enjoyment of Lake Anne on the property of Lake Anne Waters, LLC; and Lake Anne Waters, LLC has requested that the Township release and abandon such rights and has further notified the Township that legal action will be taken to compel such release and abandonment by the Township and other property owners unless voluntarily released and abandoned; and

WHEREAS, the Township Committee has determined that it is in the best interest of the Township to grant the request of Lake Anne Waters, LLC to release and abandon said rights;

NOW THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Hampton, Sussex County, New Jersey, as follows:

Section 1: The Township Committee hereby directs the release and abandonment of all rights

appurtenant to its real property known and designated as 14 Blueberry Drive, Block 906, Lot 1, Hampton Township, Sussex County, New Jersey for the use and enjoyment of the property known as Lake Anne described in Deed from John Barry Dusualt to Lake Anne Waters, LLC dated February 6, 2012 and recorded February 14, 2012 in Deed Book 3286, Page 280 at the Sussex County Clerk's Office and further for the use and enjoyment of the said Lake Anne as accorded to the Township or its predecessors in title in its individual property records, if any, as referenced in the covenants and restrictions set forth in the Deed from Galati Reservation Inc. to Philip Peluso and Loretta Peluso, his wife, dated September 20, 1958 and recorded September 30, 1958 in the Sussex County Clerk's Office in Deed Book 638, Page 367.

Section 2: The Mayor and/or Clerk or Administrator are hereby authorized to execute any and all documents necessary for the release and abandonment of rights as set forth in this ordinance.

Section 3: All ordinances and parts of ordinances inconsistent herewith are hereby repealed. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

Section 4: A certified copy of this ordinance shall be forwarded to Lake Anne Waters, LLC, the owner of Block 907, Lot 22, Hampton Township.

Section 5: This ordinance shall take effect immediately on its final passage and publication as required by law.

CERTIFICATION

I hereby certify that Ordinance #2022-05 was adopted by the Hampton Township Committee at their regular meeting held on March 29, 2022 at the Hampton Township Municipal Building, Baleville, Sussex County, New Jersey.

Date: _____

Kathleen Armstrong, RMC
Township Clerk

HAMPTON TOWNSHIP NOTICE ORDINANCE 2022-05

NOTICE IS HEREBY GIVEN that the attached Ordinance #2022-05 was introduced at a regular meeting of the Township Committee of the Township of Hampton, Sussex County, New Jersey, held on February 22, 2022 and passed on first reading, and that such Ordinance will be further considered for final passage and adoption at the regular meeting of the Township Committee to be held on March 29, 2022 at 7:00p.m. at a hybrid meeting of the Township Committee Meeting. To attend in person: Hampton Township Municipal Building, 1 Rumsey Way, Newton, NJ 07860. To attend the meeting use the following link:

<https://us02web.zoom.us/j/4919500389> or to attend the meeting by phone, dial 929 205 6099
(Meeting ID: 491 950 0389) Formal action may be taken.

Kathleen Armstrong, RMC
Township Clerk

**HAMPTON TOWNSHIP
NOTICE
ORDINANCE 2022-05**

NOTICE IS HEREBY GIVEN that the foregoing Ordinance #2022-05 was adopted at Final Reading at the regular meeting of the Township Committee of the Township of Hampton, County of Sussex held on Tuesday, March 29, 2022 at the Hampton Township Municipal Building, Baleville, N.J.

Kathleen Armstrong, RMC
Township Clerk