

Village of New Lexington

ORDINANCE No. 18-16

**ORDINANCE VACATING A PORTION OF AN ALLEY SOUTH OF LOT3 39 AND 40
IN T. J. TRACY'S FIRST ADDITION TO
THE VILLAGE OF NEW LEXINGTON, PERRY COUNTY, OHIO
AND DECLARING AN EMERGENCY**

Whereas, the Village of New Lexington, on or about March 5, 2018, did pass Ordinance No. 18-6, An Ordinance to Vacate a Portion of an Alley Situated in the Village of New Lexington, Ohio, and Declaring an Emergency; and

Whereas, Council desires to clarify its actions with regard to Ordinance No. 18-6, and takes this action in supplement of Ordinance No. 18-6; and

Whereas, pursuant to Ohio Revised Code § 723.04, the legislative authority of a municipal corporation, on petition by a person owning a lot in the municipal corporation praying that an alley in the immediate vicinity of such lot be vacated, and upon hearing and being satisfied that there is good cause for such vacation, that it will not be detrimental to the general interest, and that it should be made, may by Ordinance, declare such alley vacated; and

Whereas, pursuant to the original plat for J. T. Tracy's First Addition to the Village of New Lexington, in the Plat Records, Perry County Recorder, there exists a public way known as an Alley South of Lots 39-40, said Lots identified by the Perry County Auditor's Office as Parcel Number 270090180000 and currently owned by Village of New Lexington; and

Whereas, upon receipt of an offer to purchase said Lots 39-40 by the Board of County Commissioners, Perry County, Ohio, the Village of New Lexington did discover an encroachment of its building on Lots 39-40 into the aforementioned Alley South of Lots 39-40, and therefore brought its Petition requesting the vacation of a portion of said Alley; and

Whereas, the Planning Commission held a meeting and voted to approved the vacation of a portion of the Alley South of Lots 39-40 in T. J. Tracy's first addition to the Village of New Lexington; and

Whereas, the Planning Commission and this Council having heard the Petition of the Village of New Lexington, and being satisfied that there is good cause for such vacation, that it will not be detrimental to the general interest, and that it should be made, the Village Council hereby desires to take action in accordance with Ohio Revised Code § 723.04, but reserving to the Village all rights for public utilities purposes as provided herein below and as provided by Ohio Revised

Code § 723.041.

NOW THEREFORE, two thirds (2/3) of the members of the Council of the Village of New Lexington, Perry County, Ohio, concurring therein, **IT IS THEREFORE ORDAINED**:

Section 1. That certain tract of land consisting of approximately 0.04 acres, more or less, directly South of and immediately adjacent to Lots Numbered 39 and 40 of T. J. Tracy's First Addition to the Village of New Lexington, Ohio, as depicted in the Vacation Plat attached hereto and incorporated herein by reference, is hereby VACATED.

Section 2. Provided however, the Village of New Lexington reserves and retains a permanent easement in such vacated portion of Alley, for the purpose of installing, maintaining, operating, renewing, reconstructing, repairing, replacing, removing and accessing, by itself or by any licensees or a holder of a franchise from the Village, any poles, wires, pipes, conduits, sewer mains, water mains, or any other facility or equipment for the maintenance or operation of any utility now or hereafter located in the alley or portion thereof vacated by this Ordinance.

Section 3. In accordance with Ohio Revised Code § 711.39 and 723.04, a certified copy of this Ordinance and the Vacation Plat attached hereto and incorporated herein by reference shall be transferred in the office of the Perry County Auditor. Further, the vacated portion of Alley shall be returned to the tax duplicate and taxed to the owner of Lots 39-40 (or, if applicable, exempted as said Lots may be exempted from taxation due to their utilization for public purpose), the benefitting adjacent lots.

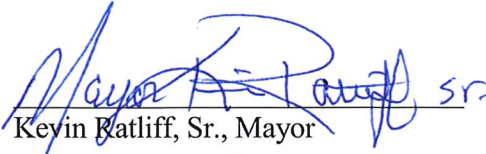
Section 4. In accordance with Ohio Revised Code § 723.04, a certified copy of this Ordinance and the Vacation Plat attached hereto and incorporated herein by reference shall be recorded in the office of the Perry County Recorder in the same manner as plats are originally transferred and recorded. Further, upon the filing of the Vacation Plat with the Perry County Recorder, a cross reference to the record of the vacated portion of the plat shall be made by the Recorder on the original plat of T. J. Tracy's First Addition to the Village of New Lexington.

Section 5: That this Ordinance is hereby passed as an emergency, necessary to complete a sale involving the subject vacated portion of alley that has been delayed due to survey needs and other matters, for the best interests and general welfare of the Village of New Lexington, and shall be effective upon passage.

1st Reading: Waived on 2/3 Vote

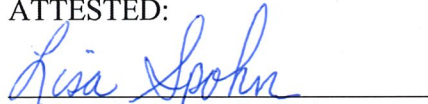
2nd Reading: June 4, 2018

Passed: June 4, 2018 .

 sr.
Kevin Ratliff, Sr., Mayor


Dan Bethel, Council President

ATTESTED:


Lisa Spohn, Council Clerk

Publication Certification

This ordinance was published by title only once a week for two consecutive weeks in a newspaper of general circulation within the Village of New Lexington, on the 13 day of June, 2018, and on the 20 day of June, 2018.

Lisa Spohn

Lisa Spohn, Council Clerk