

MUNICIPALITY OF NORRISTOWN
A HOME RULE MUNICIPALITY
MONTGOMERY COUNTY, PENNSYLVANIA

RESOLUTION NO. 21-47 OF 2021

A RESOLUTION OF THE MUNICIPALITY OF NORRISTOWN, MONTGOMERY COUNTY, PENNSYLVANIA, ESTABLISHING A 2021 PRIVATE ALLEY POLICY FOR MUNICIPAL ACCEPTANCE, DEDICATION AND MAINTENANCE.

WHEREAS, the Municipality of Norristown ("Municipality") is a Home Rule Municipality organized operating in accordance with the Charter of the Municipality of Norristown ("Charter") as permitted by the Home Rule Charter and Optional Plans Law, 53 Pa. C.S. 2901 et seq.;

WHEREAS, Section 41.3-301 of the Charter grants to Municipal Council "All powers and duties of the Municipality, including those set forth in § 41.2-201 of this Charter and those in existence or hereafter conferred on the Municipality by the Constitution of Pennsylvania, or general law that includes the power to establish the policies, goals and objectives for the legislative, executive, administrative and advisory functions of the Municipality; and

WHEREAS, like many other Pennsylvania municipalities, there exist within the Municipality various alleyways that have not been accepted for dedication by the Borough and, therefore, are privately-owned either by operation of law and/or by recorded instruments with possible corresponding easements for use by others, including Municipal residents; and

WHEREAS, in the absence of language within its Charter, the Municipality has the right to exercise such powers and follow such procedures as set forth by the Borough Code; and

WHEREAS, Section 1721.1(a) of the Borough Code (8 Pa. C.S.A. § 1721.1(a)), Borough Council may "with or without petition of abutting property owners, lay out, open, widen, straighten, alter, extend and improve, and may establish or reestablish the grades of, and keep in order and repair and in safe passable condition, a street or portion of a street within the borough limits ... if deemed expedient for the public good and provide costs of alteration;" and

WHEREAS, the Borough Code further permits the use general funds for the grading, building, paving, regrading, rebuilding and repaving of streets; and

WHEREAS, other Pennsylvania municipalities have or continue to implement local programs or polices (written or unwritten) that permit local public works to perform minor, routine maintenance on privately owned alleyways typically limited to minor scraping and grading of gravel, infilling of minor depressions, minor pothole repair, and occasional street sweeping or snow plowing, when time and funds are available and in response to resident complaints or inquiries; and

WHEREAS, the Municipality, like other communities with private alleyways, receives inquiries from residents abutting private alleys requesting municipal maintenance, repair or other work to said private alleys, even though such private alleys are the property and therefore the maintenance obligation of the requesting resident and other abutting landowners; and

WHEREAS, Municipal Council, after careful review of the issues and concerns relating to private alleys, is mindful of: (1) the costs associated with alleyway maintenance, particularly for those with fixed incomes or of limited means; (2) the costs and difficulties associated with coordination and contribution for maintenance and repair from all abutting property owners; and (3) that private alleyways sometimes allow for public use and access that benefit other residents and visitors; and

WHEREAS, the Public Works director has proposed that the Municipality adopt a policy for the 2021 calendar year to address and respond to resident and landowner requests relating to private alleys by setting forth what criteria must be met for the Municipality to agree to provide limited maintenance or other work to a privately owned alley; and

WHEREAS, after discussion at a public meeting, Municipal Council now desires to set forth a policy for the 2021 calendar year to address municipal work on or within private alleyways as referenced above but with no intent to take, declare or acquire ownership of said existing privately-owned alleyways thereby leaving and re-confirming that primary responsibility and liability for said alleyways shall remain with the abutting property owners of the alleyway unless or until the Municipality takes ownership as set forth in the Borough Code or applicable law or is determined to be the legal owner by a court of competent jurisdiction;

NOW, THEREFORE, BE IT RESOLVED, by the Municipal Council of the Municipality of Norristown as follows:

- 1) This Resolution may be referred to as the 2021 Alleyway Maintenance Program.
- 2) The Public Works Department and Municipal Staff are hereby directed to continue to maintain all Municipally owned alleyways in accordance with existing Municipal standards and practices.
- 3) With regard to privately owned alleyways, all maintenance and other legal obligations shall lie with those landowner or landowners who abut or own the private alleyway as provided for by law.
- 4) Notwithstanding the legal ownership and maintenance obligations of private landowners for private alleyways, a petition may be filed with the Municipality requesting limited maintenance of a private alleyway for the duration of this program.
- 5) A petition filed under this program must be signed by 75% of the current abutting record property owners (as reflected in the Montgomery County land records) of the private alleyway in question and must include a statement or acknowledgment agreeing to the following terms and conditions:
 - a) All individuals signing the petition agree and acknowledge that: (i) the alleyway in question is privately owned; (ii) as a record owner of land abutting the private alleyway, they own or have a proportionate ownership interest in the private alleyway; and (iii) as an owner or proportionate owner in the private alleyway, they have the primary obligation to maintain the private alleyway.
 - b) All individuals signing the petition agree and acknowledge that any work performed by the Municipality and any of its employees or contractors shall not be interpreted or

construed to mean that the Municipality has accepted or agreed to accept dedication or ownership of said private alleyway.

c) All individuals signing the petition understand and acknowledge that, if paving is required or requested by the Municipality in order to commence or continue maintenance activities of the alleyway, those individuals agree to pay the Municipality an amount equal to the costs of the paving or overlay as determined by the Public Works Department. The costs to be paid shall be divided among those who have signed the petition according to their proportionate share based on the per liner foot of each individual's property along the alleyway, and the costs shall include both labor and materials.

d) All individuals signing the petition shall agree to hold the Municipality harmless with regard to any claims, actions, damages or other matters that may arise from or be related to the Municipality's work on, over or to the alleyway in question and all individuals shall execute a separate indemnity and hold harmless waiver if and when requested by the Municipality.

e) All individuals signing the petition shall agree and acknowledge that any maintenance or other work performed by the Municipality on the alleyway will be based on available funds and shall not take priority over existing streets and alleyways owned by the Municipality or for which the Municipality has a legal obligation to maintain.

f) All individuals signing the petition shall acknowledge that they have read the petition in full, that they have read or had access to this Resolution to understand the program terms, and that are signing the petition of their own free will after an opportunity to consult with an attorney of their choosing.

6) All petitions requesting the Municipality to provide certain limited maintenance to a private alley shall be submitted to the Public Works Director.

7) The Public Works Director shall be responsible for determining whether the Municipality has the resources, including the funds, manpower and other resources, to provide limited maintenance to the alleyway.

8) The Public Works Director shall also be responsible for determining the costs to be paid by the petitioning landowners/ residents in the event paving or overlay is required or such initial work that would incur a substantial cost to the Municipality and that should more reasonably be borne by the owners of the private alleyway. In calculating the total cost to be assessed, the Public Works Director may, in his discretion, defray up to \$1,000 per alleyway based on existing budgeted funding to the Public Works Department.

9) All maintenance work shall be performed by the Public Works Department and may consist minor, limited maintenance activities including, but not limited to, scraping and grading, infilling of depressions, rolling and minor pothole repair, and such similar activities as determined in the discretion of the Public Works Director or his designee.

10) The scope of activities performed through this program shall be based on available funding/ budgeting and existing timing and prioritization practices of the Public Works Department or the Municipality.

11) Any resident or property owner abutting a private alleyway or with easement rights to said private alleyway within the Municipality may request that the Municipality cease or refrain from performing work on its alleyway, in which case the Municipality shall cease and refrain from performing any further maintenance activities.

12) To the extent permitted by law, the Municipality shall not be responsible for any damage or injury caused by the use of said private alleyways.

13) It is not the intent of Municipal Council through this Resolution and this program/policy to take, declare, and/or acquire ownership of any existing privately-owned alleyways within the Municipality and that primary responsibility and liability for said private alleyways shall remain with the then existing abutting property owners of the alleyway unless or until Municipal Council acquires ownership as set forth in the Borough Code or is determined to be the legal owner by a court of competent jurisdiction.


14) The Municipality will make efforts to inform residents on a projected schedule of alley maintenance via web page updates or other appropriate means of communication, which does not require direct communications with each individual abutting landowner.

15) The maintenance and related work as authorized by this Resolution can be stopped or cancelled at any time by the Municipality without notice to the property owners.

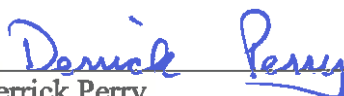
16) This Resolution and this policy shall automatically end by December 31, 2021 unless otherwise extended by subsequent resolution by Municipal Council and any petition that is submitted prior to the termination date of this Resolution shall be entitled to the benefits as conferred herein.

ADOPTED and RESOLVED this 19th day of May 2021.

ATTEST:


Crandall O. Jones,
Municipal Administrator
Municipal Secretary

**NORRISTOWN MUNICIPAL
COUNCIL**


Derrick Perry,
President