

AN ORDINANCE AMENDING CHAPTER 42 OF THE CITY CODE REGARDING THE PAVING OF PRIVATELY CONTROLLED, NONDEDICATED ALLEYS

#0115

Sponsor:

Council
Member
Darby

WHEREAS, City Council seeks to ensure equitable access to safe and functional infrastructure across all neighborhoods and communities; and

WHEREAS, the City has established a program to assist in the paving of privately controlled, nondedicated alleys whereby the City pays a portion of the paving costs and/or provides the labor for the project through a cost-sharing agreement between abutting property owners and the City; and

WHEREAS, the existing program requires abutting property owners to pay at least sixty percent (60%) of the estimated cost of the paving project, with the City contributing the remaining cost; and

WHEREAS, this financial requirement has historically been a barrier for low-income residents, effectively preventing them from participating in the program to obtain much-needed infrastructure improvements; and

WHEREAS, City Council recognizes the need to provide financial assistance to property owners in low-income neighborhoods, which are historically underinvested, for the paving of private alleys; and

WHEREAS, City Council desires to establish a program whereby the City pays for all of the costs associated with the paving of privately controlled, nondedicated private alleys for qualified property owners in low-income neighborhoods; and

WHEREAS, the City Council finds that the creation of such a program is necessary to ensure the equitable distribution of resources and to target the areas of greatest need within the City.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON
HEREBY ORDAINS:

SECTION 1. Chapter 42 is hereby amended by adding the underlined language and deleting the stricken language to read as follows:

Sec. 42-10. – Paving private alleys.

- (a) *Authorization.* The department of public works is hereby authorized and empowered to contract with abutting property owners to assist in the paving of privately controlled, nondedicated alleys by paying a portion of the paving cost and/or by supplying labor for the same. The department may so act only when the following conditions have been met:
- (1) The public works commissioner shall have made the determination that such alley is regularly used by city-owned vehicles for sanitation, police or fire emergency purposes;
 - (2) The public works commissioner and the director of finance shall have determined that sufficient funds are available and can be spent for such paving projects without undue interference with other projects of the department of public works;
 - (3) A written agreement, executed by the owners of more than one-half of the parcels of property abutting such alley, shall have been submitted to the commissioner and approved by the city solicitor; and
 - (4) The abutting owners shall have paid into an escrow fund maintained by the city a sum sufficient to equal at least 60 percent of the estimated cost of the paving project
- (b) *Establishment of program for qualified maintenance corporations.* There is hereby established a program in which affected abutting property owners who have established a qualified maintenance corporation may apply for funding as such. If ~~approved~~ authorized by the department of public works, such corporation may pay a sum sufficient to equal at least ten percent of the estimated cost of the paving project into an escrow account maintained by the city for such purpose.
- (1) *Qualifications.* In order to qualify for the program, the maintenance corporation must submit a proposal to the department of public works demonstrating its status as a bona fide maintenance corporation, that it has adequate provisions for funding continued maintenance of the alleyway, and that it intends to be responsible for ongoing maintenance subject to city Code requirements. The department of public works shall select maintenance corporations to participate in the program based on the submitted proposal.

(2) The program shall be reviewed for effectiveness after one year of operation.

(c) Establishment of program for qualified property owners in low-income neighborhoods. There is hereby established a program in which affected property owners in low-income neighborhoods may apply to the department of public works for funding to pave privately controlled, nondedicated alleys. If authorized by the department of public works, the city shall pay the entire cost of the paving project.

(1) Qualifications. In order to qualify for this program, the owners of more than one-half of the parcels of property abutting a privately controlled, nondedicated alley must submit a proposal to the department of public works demonstrating that:

- i. The neighborhood in which the abutting properties are located is classified as a Qualified Census Tract (QCT) for the Low-Income Housing Tax Credit Program, as defined under section 26 U.S.C. § 42(d)(5)(B)(ii);
- ii. The household income of the occupants of at least one of the abutting properties must not exceed sixty (60) percent of the Area Median Income, as determined by the U.S. Department of Housing and Urban Development for the Wilmington metropolitan area; and
- iii. The privately controlled, nondedicated private alley must not have been paved within the previous ten (10) years.

(2) Rules and regulations. The department of public works shall publish all applicable criteria, procedures, and application forms for this program on the city's official website within sixty (60) days of the effective date of this ordinance.

(3) Funding. This program shall be funded through the following mechanisms:

- i. Each year, this program may be appropriated funds as part of the annual operating budget for the department of public works, and shall be funded by the general fund. The appropriation for the program shall be a line item in the operating budget for the department of public works.
- ii. Any available state or federal grant funds.

(ed)Nothing in this section shall be construed as acceptance by the city of any privately owned alleys as dedicated to the public use, nor do the provisions of this section constitute an action that would render the city liable for the continued care, maintenance or upkeep of any such alley nor render the city liable in damages for any injury or death sustained by reason of the condition of the alley.

SECTION 2. This Ordinance shall become effective immediately upon its date of passage by the City Council and approval by the Mayor.

First Reading.....October 2, 2025

Second Reading...October 2, 2025

Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____

City Clerk

Approved this _____ day of _____, 2025

Mayor

SYNOPSIS: This Ordinance amends Section 42-10 of the City Code by establishing a program whereby qualified abutting property owners in low-income neighborhoods can apply to the Department of Public Works to fund the costs of paving privately controlled, nondedicated alleys.

FISCAL IMPACT: The fiscal impact is unknown at this time.