

# Village of Newcomerstown

Resolution No. 25-2022    Passed: NOVEMBER 21, 2022

**A Resolution establishing a proper procedure to vacate alley or street in the Village of Newcomerstown.**

WHEREAS, Council has deemed it necessary to establish a policy to establish guidelines that meet or exceed the requirements for the purchases of vacating an alley or street in village corporation limits.

NOW, THEREFORE, BE IT ORDAINED by the council of the Village of Newcomerstown, Tuscarawas County, Ohio as follows:

Section 1: That the policy attached hereto as Exhibit "A" and incorporated herein shall be the Proper procedure to be followed by an resident of the Village of Newcomerstown when requesting to vacate alley/street.

Section 2: All provisions of Ordinances and/or Resolutions in conflict with the provisions and terns of this resolution shall be and is herewith amended in accordance with this resolution.

First Reading: October 21, 2022

Second Reading: November 07, 2022

Third Reading: November 21, 2022

ADOPTED THIS            DAY OF            2022

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**Lisa M. Stiteler, Fiscal Officer**

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**Patrick M. Cadle, Mayor**

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## **Exhibit A**



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**TO:     Applicants for Street or Alley Vacation**

**FROM: Village Mayor**

Village law requires persons requesting the vacation of a street or alley to file a petition with Village Council. The Village Council makes the final ruling on the request.

## **ATTACH A TAX MAP SHOWING THE ALLEY AND ALL ABUTTING PROPERTIES**

### **WHAT VACATING AN ALLEY MEANS TO THE ABUTTING PROPERTY OWNERS?**

1. In most cases, the vacated alley is divided by operation of law so that the adjacent property owners gain the additional land equally. However, this will depend on how the alley was originally dedicated. Abutting property owners have complete responsibility to have the vacated alley surveyed. The village has no legal role in dividing the vacated alley surveyed and assumes all costs required. The village has no legal role in dividing the vacated property or resolving resolving ownership disputes.
2. Any utilities occupying the alley will continue to have the right to do so, and the ordinance vacating the alley should so reflect. Furthermore, the alley may be subject to easements, which were granted to private individuals in the original instrument of platting or conveyance, and the Village has no role in resolving such concerns.
3. The abutting property owners are responsible for the maintenance of the vacated alley if they want to continue to use it as access to their property. The Village has no further responsibility whatsoever for the care of the property.
4. The abutting property owners are responsible for the security of the vacated alley.

### **VILLAGE COUNCIL WILL USE THE FOLLOWING GUIDELINES WHEN MAKING ITS DECISION:**

1. There is no public purpose for the alley; and/or
2. All of the property owners abutting the alley concur and sign the petition to vacate; and/or
3. If vacating the alley does not create undue hardship for others in the area of the alley.  
    These guidelines are not law. In any decision to vacate an alley, Council must find that good cause exists for vacating it, and that vacating the alley will not be detrimental to the general interest.

### **SCHEDULE FOR VACATING AN ALLEY**

1. File a petition with the Fiscal Officer or Mayor's office.
2. The petition is reviewed by the Planning Commission. If the petition is approved a referral will be made to the council and the petitioner will be required to submit a survey

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of the alley at the petitioner's own cost. The survey should be prepared and sealed by a professional land surveyor licensed in the state of Ohio.

3. The process takes six weeks to vacate a right of way, which covers the time required for public notifications, consultations with utility agencies, site inspections, use evaluation and report preparation.
4. The village council will hold the public hearing after the six-week waiting periods has expired.
5. Village council will vote on the petition to vacate the alley. This is usually done during the meeting immediately following the public hearing.
6. If village council approves the petition with an emergency clause, the action will take effect immediately upon the signatures by the President of Council and the Mayor. Without the emergency clause, the effective date will be thirty days after the council action and upon the signatures by the President of Council and the Mayor.