



## Legislation Details (With Text)

**File #:** O-074-19      **Version:** 1      **Name:**  
**Type:** Ordinance      **Status:** Approved  
**File created:** 1/23/2019      **In control:** City Council  
**On agenda:** 2/5/2019      **Final action:** 2/5/2019  
**Title:** Declaring the vacation of a portion of Amherst Drive located south of the Anthony Wayne Trail and north of Dartmouth within the City of Toledo, Lucas County, Ohio; waiving all fees; and declaring an emergency.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Audio: Agenda Review 1/29/2019

Date	Ver.	Action By	Action	Result
2/5/2019	1	City Council	Dispense with the rules of Council requiring...	Pass
2/5/2019	1	City Council	declare emergency	Pass
2/5/2019	1	City Council	passage	Pass

Zoning & Planning Committee

**Declaring the vacation of a portion of Amherst Drive located south of the Anthony Wayne Trail and north of Dartmouth within the City of Toledo, Lucas County, Ohio; waiving all fees; and declaring an emergency.**

**SUMMARY & BACKGROUND:**

The Council of the City of Toledo, by Resolution No. 370-18 adopted on September 11, 2018, declaring its intent to vacate a portion of Amherst Drive, in the City of Toledo, Lucas County, Ohio, as more fully described in Section 1 hereof.

On November 1, 2018, the Toledo City Plan Commission recommended disapproval of the request for the vacation of a portion of Amherst Drive, and the City Council Zoning and Planning Committee on December 5, 2018, sent without recommendation the request for the vacation of a portion of Amherst Drive.

The Board of Revision met on January 18, 2019 and approved the request for the vacation of a portion of Amherst Drive.

All of the preliminary steps have been taken as required by law, the Charter of the City of Toledo, and the Toledo Plan Commission has made reports regarding the proposed vacations; and all things required by law to be done, have been done. During the vacation process it was determined the City of Toledo has waived all fees for this vacation.

NOW, THEREFORE, Be it ordained by the Council of the City of Toledo:

SECTION 1. That the Council of the City of Toledo does hereby vacate a portion of Amherst Drive, in the City of Toledo, Lucas County, Ohio; and more fully described as follows:

Legal Description Amherst Drive Vacation: Being part Lot 2 in Harvard Terrace, and part of the Subdivision of Lot 1, Harvard Terrace, as recorded in Plat Volume 27, Page 15, Lucas County records, in the City of Toledo, Lucas County, Ohio, bounded and described as follows:

Commencing at the North corner of the Subdivision of Lot 1, Harvard Terrace, said point also being the True Point of Beginning.

Thence South 00 degrees, 55 minutes, 59 seconds West, along the East Line of Amherst Drive, so called, and said line also being the East line of the Subdivision of Lot 1, Harvard Terrace and said line also being the East line of River Tract 13, a distance of 386.82 feet.

Thence North 89 degrees, 04 minutes, 01 second West a distance of 25.00 feet to the Westerly right-of-way of Amherst Drive.

Thence traversing a non-tangent arc to the left, along the Westerly right-of-way of Amherst Drive, said arc having a radius of 180.24 feet, a central angle of 02 degrees, 30 minutes, 15 seconds, a tangent length of 3.94 feet, a chord bearing of North 40 degrees, 20 minutes, 13 seconds East, a chord distance of 7.88 feet and an arc length of 7.88 feet.

Thence North 00 degrees, 55 minutes, 59 seconds East, along the Westerly right-of-way of Amherst Drive, a distance of 21.35 feet.

Thence North 46 degrees, 45 minutes, 00 seconds West, along the Westerly right-of-way of Amherst Drive, a distance of 6.76 feet.

Thence North 00 degrees, 55 minutes, 59 seconds East, along the Westerly right-of-way of Amherst Drive, a distance of 301.22 feet.

Thence North 42 degrees, 27 minutes, 42 seconds West, along the Westerly right-of-way of Amherst Drive, a distance of 21.81 feet to the North line of the Subdivision of Lot 1, Harvard Terrace.

Thence North 47 degrees, 33 minutes, 56 seconds East, along the North line of the Subdivision of Lot 1, Harvard Terrace, a distance of 55.00 feet to the True Point of Beginning.

Containing 9,466.53 square feet or 0.217 acres of land. Bearings used herein are based upon an assumed meridian and are intended to indicate angular measurement only. All ½" galvanized steel pipe set are capped with the company name and PLS #7476. This legal description is based upon a field survey prepared by Lewandowski Engineers on January 11, 2013.

SECTION 2. That the vacation(s) herein shall be subject to compliance of the following condition(s):

The following seven (7) conditions are listed by agency of origin. Applicants are encouraged to contact each of the agencies to address compliance with their conditions.

Engineering Services

1. A pre-submittal meeting is not required; however, one may be requested. Contact information is as follows:

Engineering Services: ph. 419-245-1315, fax 419-936-2850

Right-of-Way and Inspection: 419-245-1341

Roadway: 419-245-1344

Water: 419-936-2163

Stormwater Drainage: 419-245-3221; 419-245-1338

Sanitary Sewers: 419-936-2276

2. Eliminate access of Amherst Drive by installing new curb and sidewalk through existing right-of-way. The curb height should match the existing curb on Dartmouth. The same procedure needs to be followed at the Anthony Wayne Trail end.
3. Required permits for all approved work in the public right-of-way shall be obtained, before work begins, from One Stop Shop, (419)-245-1220.

Contact (419) 245-1341 for inspection of above mentioned items.

4. Easement shall be retained at north end for public sewer in that area.

#### Division of Transportation

5. Within the limits allowed by law, the applicant shall indemnify the City of Toledo, its officials, agents or employees, from any and all claims, demands, causes of action, suits or liability in connection with the performance of any and all acts authorized or permitted under this vacation. Said indemnification language shall be contained within and evidenced by the endorsement on a certified copy of the final vacating legislation by the owner which indemnification shall be kept in the permanent file of the Clerk of Council.
6. The owner of the newly vacated Amherst shall be required to work with the Division of Transportation to come up with a suitable termination at Dartmouth and Zoo gated entrance.

#### Plan Commissions

7. An Institutional Campus Master Plan update shall be required for any future developments on the Vacation area in accordance with the provisions of the Toledo Municipal Code Part Eleven, Planning and Zoning, Sec. 1111.1300, *Institutional Master Plan*.

SECTION 3. That fees for vacation are waived in the amount of \$1,749.91.

SECTION 4. That a full width easement in favor of the City is retained across, under and through said vacated area as described in Section 1 herein for the City's future maintenance, repair, and replacement of the existing sewer, water and/or storm water facilities located in the vacated area. All City facilities located within said vacated area are hereby dedicated to the City for exclusive City utility use only and shall not be combined with easements or rights for other utilities. The easement retained by the City shall be primary to any other utilities located therein, and any easement retained by any other utility shall be subordinate to and subject to the easement rights of the City of Toledo. Said easement shall be permanent in nature for each utility and shall run with the land. Said easement also includes reasonable rights of egress and ingress over and through the vacated

area. No fence, wall, building foundation, roof overhang, or other barrier which would impede access to the easement shall be constructed or maintained. Driveways, parking lots, walkways and other similar improvements are permitted subject to the prior written consent of the City. The City shall be released and held harmless for any liability, responsibility costs, or damages resulting from the City’s removal of any barriers which impede the City ingress or egress from the easement or which obstruct access to the utilities located within the vacated area. The City shall have no obligation or duty to restore or compensate the barrier owner for any barrier removed in whole or in part by the City. Any modification and/or release of any easement granted or retained by any utility as a result of this Ordinance shall be obtained separately from each utility, as to their interest(s) only, by separate recordable instrument.

SECTION 5. That the Real Estate Section of the Department of Development is hereby directed to cause a copy of this Ordinance to be recorded in the records of the office of Lucas County Recorder.

SECTION 6. That it is hereby found and determined that all formal actions of Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of Council, and that all deliberations of Council and any of its committees that result in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 7. That this Ordinance is hereby declared to be an emergency measure and shall be in force and effect from and after its passage. The reason for the emergency lies in the fact that same is necessary for the immediate preservation of the public peace, health, safety and property, and for the further reason that this Ordinance must be immediately effective so that the vacations can be expeditiously completed to enable the property owner(s) to obtain the resulting benefits at the earliest time.

Vote on emergency clause: yeas \_\_\_\_\_, nays \_\_\_\_\_.

Passed: \_\_\_\_\_, as an emergency measure: yeas \_\_\_\_\_, nays \_\_\_\_\_.

Attest: \_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
President of Council

Approved: \_\_\_\_\_

\_\_\_\_\_  
Mayor

I hereby certify that the above is a true and correct copy of an Ordinance passed by Council

\_\_\_\_\_.

Attest: \_\_\_\_\_  
Clerk of Council