



## Legislation Details (With Text)

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**File #:** O-465-22      **Version:** 1      **Name:**  
**Type:** Ordinance      **Status:** Approved  
**File created:** 8/29/2022      **In control:** City Council  
**On agenda:** 9/13/2022      **Final action:** 9/13/2022

**Title:** Declaring the vacation of the alley bounded by Jackson, Adams, 13th and 14th. The 12-foot-wide alley and running from southwesterly to Northeasterly and lying between Lots 10-24 and 35-51 within a Plat of Central Addition, recorded in Lucas County Plat Volume 4 on page 61, all within the City of Toledo, Lucas County Ohio; and declaring an emergency.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
9/13/2022	1	City Council	Suspension	Pass
9/13/2022	1	City Council	Emergency	Pass
9/13/2022	1	City Council	Passage	Pass

Zoning & Planning Committee

**Declaring the vacation of the alley bounded by Jackson, Adams, 13<sup>th</sup> and 14<sup>th</sup>. The 12-foot-wide alley and running from southwesterly to Northeasterly and lying between Lots 10-24 and 35-51 within a Plat of Central Addition, recorded in Lucas County Plat Volume 4 on page 61, all within the City of Toledo, Lucas County Ohio; and declaring an emergency.**

### SUMMARY & BACKGROUND:

The Council of the City of Toledo, by Resolution No. 87-22 adopted on March 1, 2022, declaring its intent to vacate an alley bounded by Jackson, Adams, 13<sup>th</sup> and 14<sup>th</sup>. The 12-foot-wide alley and running from southwesterly to Northeasterly behind the north side of the 1300 block of Adams Street, Toledo, Lucas County Ohio; as more fully described in Section 1 hereof.

On March 10, 2022, the Toledo City Plan Commission recommended approval of the request for the vacation of an alley bounded by Jackson, Adams, 13<sup>th</sup> and 14<sup>th</sup>. The 12-foot-wide alley and running from southwesterly to Northeasterly behind the north side of the 1300 block of Adams Street, Toledo, Lucas County Ohio.

The City Council Zoning and Planning Committee on April 13, 2022, sent as approved the request for the vacation of an alley bounded by Jackson, Adams, 13<sup>th</sup> and 14<sup>th</sup>. The 12-foot-wide alley and running from southwesterly to Northeasterly behind the north side of the 1300 block of Adams Street, Toledo, Lucas County Ohio.

The Board of Revision met on August 18, 2022 and approved the request for the vacation of the alley bounded by Jackson, Adams, 13<sup>th</sup> and 14<sup>th</sup>. The 12-foot-wide alley and running from southwesterly to Northeasterly behind the north side of the 1300 block of Adams Street, Toledo, Lucas County Ohio.

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.

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 the alley bounded by Jackson, Adams, 13<sup>th</sup> and 14<sup>th</sup>. The 12-foot-wide alley and running from southwesterly to Northeasterly behind the north side of the 1300 block of Adams Street. and more fully described as follows:

The alley bounded by Jackson, Adams, 13<sup>th</sup> and 14<sup>th</sup>. The 12-foot-wide alley and running from southwesterly to Northeasterly and lying between Lots 10-24 and 35-51 within a Plat of Central Addition, recorded in Lucas County Plat Volume 4 on page 61, all within the City of Toledo, Lucas County Ohio.

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

The following six (6) conditions are listed by agency of origin. Applicants are encouraged to contact each of the agencies to address compliance with their conditions.

Division of Engineering Services

1. Arrangements shall be made so that rear garage access at 421-429 13<sup>th</sup> Street remains accessible for the lifespan of the building.
2. A full width easement shall be retained by the City of Toledo over vacated right of way. The following language shall appear in the authorizing vacation ordinance which shall be recorded and a notation placed in the remarks section of the County's real estate records:

“That a full width (13 foot) easement is hereby retained over, across, under and through said vacated area as described in Section 1 herein, for the existing sewer in said vacated right of way, together with any other utilities located therein, as they exist at the time of passage of this Ordinance. All City of Toledo facilities located within said easement are hereby dedicated to the City of Toledo, for City utility use only, to allow for future maintenance, repairs, replacements, etc. and shall not be combined with easements for other utilities. The easement hereby retained by the City of Toledo herein shall be primary in nature to any other utilities located therein, and any easement retained by any other utility as a result of this Ordinance shall be subject first to the easement rights of the City of Toledo. Said easement herein shall be permanent in nature for each utility currently located thereon and shall run with the land. Said easement also includes reasonable rights of ingress and egress over and through the utility easement area for the purpose of operating, maintaining, replacing, repairing and/or constructing any utilities located within the easement. The property owner shall not construct fences, walls or other barriers, nor plant trees or other large vegetation which would impede access onto the easement. No temporary or permanent structure including building foundations, roof overhangs or other barriers denying access, may be constructed on or within the easement. Driveways, parking lots, walkways and other similar improvements are acceptable. The property owner hereby releases the City of Toledo, only, from any liability, responsibility or costs resulting from the City's removal of any barriers which deny ingress or egress from the easement or which obstruct access to the public utilities located on said property, and the City of Toledo shall have no obligation or duty to restore or compensate the property owner for the

removed facilities. Further, any modification and/or release of any easement granted or retained by any utility as a result of this Ordinance shall be obtained by the owner separately from each utility, as to their interest(s) only, by separate, recordable instrument.”

#### Division of Transportation

3. 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.

#### Plan Commission

4. The adjacent parcels shall be rezoned to CM Mixed Commercial prior to vacation of the alley.
5. The proposed vacation cannot result in the loss of access for any abutting properties.
6. A Site Plan Review shall be required for any future developments within the vacated area in accordance with the provisions of the Toledo Municipal Code.

SECTION 3. 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 4. That the Real Estate Section of the Department of Economic Development is hereby directed to cause a copy of this Ordinance to be recorded in the records of the office of Lucas County Recorder. That costs of \$2,181.56 have been paid.

SECTION 5. 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 6. 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 11, nays 0.

Passed: September 13, 2022, as an emergency measure: yeas 11, nays 0.

Attest:

Gerald E. Dendinger  
Clerk of Council

Matt Cherry  
President of Council

Approved:

September 15, 2022  
Wade Kapszukiewicz  
Mayor