



## Legislation Text

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**File #:** O-450-21, **Version:** 1

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Zoning & Planning Committee

### **Declaring the vacation of right of way sidewalk at the corner of Adams and Jackson Streets, in the City of Toledo, Lucas County, Ohio; and declaring an emergency.**

#### SUMMARY & BACKGROUND:

The Council of the City of Toledo, by Resolution No. 200-21 adopted on April 13, 2021, declaring its intent to vacate a portion of Jackson Street and Adams Street right of way in the City of Toledo, Lucas County, Ohio; as more fully described in Section 1 hereof.

On May 13, 2021, the Toledo City Plan Commission recommended approval of the request for the vacation of a portion of the public right of way near Adams and Jackson Streets, in the City of Toledo, Lucas County, Ohio.

The City Council Zoning and Planning Committee on June 16, 2021, sent as approved the request for the vacation of a portion of the public right of way near Adams and Jackson Streets, in the City of Toledo, Lucas County, Ohio.

The Board of Revision met on August 3, 2021 and approved the request for the vacation of a portion of the public right of way near Adams and Jackson Streets, in the City of 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. During the vacation process it was determined the City of Toledo has been paid 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 the public right of way near Adams and Jackson Streets, in the City of Toledo, Lucas County, Ohio; as more fully described as follows:

#### Vacating of a portion of Jackson Street Right of Way

A parcel of land being part of the West 90 acres of the Northwest Quarter of Section 36, Town 9 South, Range 7 East adjacent to lot 21 in Phillip's Addition as recorded in Plat Vol. 2A, Pg. 31 in Lucas County Plat records, and being Part of the existing Jackson Street right of way, all in the City of Toledo, Lucas County, Ohio and being more particularly described as follows:

Commencing at a found Monument box containing a stone with a drill hole at the intersection of Adams Street and Ontario Street;

Thence, North fifty-six (56) degrees, fifty-one (51) minutes, and thirty-one (31) seconds West, along the centerline of Adams Street (66 feet wide), a distance of two thousand forty-eight and seven hundredths

(2,048.07) feet to a point;

Thence, North thirty-three (33) degrees, eight (08) minutes, twenty-nine (29) seconds East, a distance of fifty-three and forty hundredths (53.40) feet to a point of intersection of the southerly extension of the East right of way line of Vermont Avenue (sixty (60) feet wide) with the south right of way line of Jackson Street (sixty (60) feet wide);

Thence, North eighty-nine (89) degrees, four (04) minutes, nineteen (19) seconds East along the south right of way line of Jackson Street, a distance of twenty-nine and forty-four hundredths (29.44) feet to the "Point of Beginning";

Thence, North zero (00) degrees, fifty-five (55) minutes, forty-one (41) seconds West, a distance of twelve (12.00) feet to a point;

Thence, North eighty-nine (89) degrees, four (04) minutes, nineteen (19) seconds East along a line parallel to the south right of way line of Jackson Street, a distance of thirty-seven (37.00) feet to a point;

Thence, South zero (00) degrees, fifty-five (55) minutes, forty-one (41) seconds East, a distance of twelve (12.00) feet to a point on the south right of way line of Jackson Street;

Thence, South eighty-nine (89) degrees, four (04) minutes, nineteen (19) seconds West along the south right of way line of Jackson Street, a distance of thirty-seven (37.00) feet to the "Point of Beginning";

Said parcel of land containing an area of 444.00 square feet, or 0.010 acres of land, more or less.

All part of the Jackson Street right of way.

The above described parcel of land is subject to any and all leases, easements and restrictions of record.

The bearings used hereon are based on the Ohio State Plane coordinate system North Zone (3401). Bearings used are for the express purpose of showing angular measurement only.

The above description is based on a survey performed under my supervision during July 2021.

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. A pre-submittal meeting is not required, however one may be requested. Contact information is as follows:  
Division of 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. A water main replacement project has been designed and bid for Jackson Street between Adams Street and 13th Street. A proposed hydrant will be located within the proposed vacated right of way. Right of way is needed to maintain the hydrant.

A 10-foot by 10-foot easement shall be retained by the City of Toledo over the vacated right of way at the hydrant location. 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:

Division of Engineering Services

“That a 10-foot by 10-foot easement is hereby retained over, across, under and through said vacated area as described in Section 1 herein, for the proposed hydrant to be located in said vacated right of way. 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, 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. The only right-of-way vacation that shall be considered is for building addition on Jackson Street, at least 6' shall be maintained from curb line. (A permanent encroachment maybe considered as well.) The rest of vacation along Adams and Jackson shall not be allowed.
4. 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

5. All proper permits shall be received the Division of Building Inspections for the proposed building addition.
6. A variance shall be granted by the Board of Zoning Appeals for a twenty-foot (20' reduction of the required twenty-foot (20') front yard setback to allow for the building addition along Jackson Street.

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 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 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 \_\_\_\_\_, 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