



## Legislation Text

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**File #:** O-608-22, **Version:** 1

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Zoning & Planning Committee

**Declaring the vacation of the dedicated public walkway running north of Swan Creek Drive adjacent to Lots 171 and 172 in the Ragan Woods Plat 5 Subdivision, in the City of Toledo, Lucas County Ohio; waiving fees; and declaring an emergency.**

### SUMMARY & BACKGROUND:

The Council of the City of Toledo, by Resolution No. 383-22 adopted on July 19, 2022, declaring its intent to vacate the dedicated public walkway running north of Swan Creek Drive and adjacent to Lots 171 and 172 in the Ragan Woods Plat 5 Subdivision, in the City of Toledo, Lucas County Ohio.

On September 8, 2022, the Toledo City Plan Commission recommended approval of the request for the vacation of vacate the dedicated public walkway running north of Swan Creek Drive and adjacent to Lots 171 and 172 in the Ragan Woods Plat 5 Subdivision, in the City of Toledo, Lucas County Ohio.

The City Council Zoning and Planning Committee on October 12, 2022, sent as approved the request for the vacation of the dedicated public walkway running north of Swan Creek Drive and adjacent to Lots 171 and 172 in the Ragan Woods Plat 5 Subdivision, in the City of Toledo, Lucas County Ohio.

The Board of Revision met on November 17, 2022 and approved the request for the vacation of the dedicated public walkway running north of Swan Creek Drive and adjacent to Lots 171 and 172 in the Ragan Woods Plat 5 Subdivision, 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.

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 dedicated public walkway running north of Swan Creek Drive and adjacent to Lots 171 and 172 in the Ragan Woods Plat 5 Subdivision, in the City of Toledo, Lucas County Ohio and more fully described as follows:

A public walkway running north of Swan Creek Drive and adjacent to Lots 171 and 172 in the Ragan Woods Plat 5 Subdivision, in the City of Toledo, Lucas County Ohio

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

The following condition is listed by agency of origin. Applicants are encouraged to contact the agency to address compliance with their conditions.

Division of Transportation

1. 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

2. Vacation of this alley cannot result in the creation of a landlocked parcel. Parcel # 2001345 shall need to be combined with Parcel # 2001344 prior to the vacation of the walkway.

SECTION 3. 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.

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 Land Fees have been waived. The engineering fee of \$75.00 and the Recording fee of \$75.00 have been paid.

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