



## Legislation Text

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**File #:** O-340-23, **Version:** 1

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Zoning & Planning Committee

**Declaring the vacation of the 16-foot alley, within the block bounded by Washington Street, Erie Street, Lafayette Street and South Ontario Street, in the City of Toledo, Lucas County Ohio; and declaring an emergency.**

### SUMMARY & BACKGROUND:

The Council of the City of Toledo, by Resolution No. 418-22 adopted on August 16, 2022, declaring its intent to vacate a portion of the 16-foot alley, within the block bounded by Washington Street, Erie Street, Lafayette Street and South Ontario Street, in the City of Toledo, Lucas County Ohio.

On December 1, 2022, the Toledo City Plan Commission recommended approval of the request for the vacation of the 16-foot alley, within the block bounded by Washington Street, Erie Street, Lafayette Street and South Ontario Street, in the City of Toledo, Lucas County Ohio.

The City Council Zoning and Planning Committee on January 4, 2023, sent as approved the request for the vacation of the 16-foot alley, within the block bounded by Washington Street, Erie Street, Lafayette Street and South Ontario Street, in the City of Toledo, Lucas County Ohio.

The Board of Revision met on May 25, 2023 and approved the request for the vacation of the 16-foot alley, within the block bounded by Washington Street, Erie Street, Lafayette Street and South Ontario Street, 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 portion of the 16-foot alley, within the block bounded by Washington Street, Erie Street, Lafayette Street and South Ontario Street in the City of Toledo, Lucas County Ohio; and more fully described as follows:

THE PORTION OF SAID ALLEY BEING MORE PARTICULARLY DESCRIBED AS BOUNDED ON THE NORTHWEST BY THE SOUTHWESTERLY 80.87' OF BARTLEY LOFTS CONDOMINIUM AS RECORDED IN INSTRUMENT NO. 20050916-0069101, AND BOUNDED ON THE SOUTHEAST BY THE SOUTHWESTERLY 60.00' OF LOT 324 AND BY THE NORTHEASTERLY 20.87 FEET OF LOT 325, AND BOUNDED ON THE SOUTHWEST BY THE VACATED 16' WIDE ALLEY OF THE PORT LAWRENCE DIVISION OF THE CITY OF TOLEDO, LUCAS COUNTY, OHIO, AS RECORDED IN VOLUME 16, PAGE 47 AND BEING FURTHER DESCRIBED AS: COMMENCING AT THE INTERSECTION OF THE SOUTHWESTERLY LINE OF WASHINGTON STREET (80 FEET WIDE) AND

THE SOUTHEASTERLY LINE OF A PUBLIC ALLEY (16 FEET WIDE), ALSO BEING THE NORTHERLY CORNER OF LOT 324; THENCE S33°07'53"W, 60.05 FEET ALONG THE SOUTHEASTERLY LINE OF SAID ALLEY TO THE POINT OF BEGINNING; THENCE CONTINUING S33°07'53"W, 80.87 FEET ALONG THE SOUTHEASTERLY ALLEY LINE TO A POINT ON THE NORTHEASTERLY LINE OF THE VACATED ALLEY; THENCE N56°47'32"W, 16.00 FEET ALONG SAID VACATED ALLEY TO THE NORTHWESTERLY LINE OF THE ALLEY; THENCE N33°07'53"E, 80.87 FEET ALONG THE NORTHWESTERLY ALLEY LINE; THENCE S56°49'01"E, 16.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.030 ACRES.

SECTION 2. That the vacation(s) herein shall be subject to compliance of the following 3 conditions:

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

Division of Engineering & Construction

1. Sewer in alley in vacated area will become private and the responsibility of the property owner to maintain. A manhole shall be installed where the transition from private to public occurs.

Division of Transportation

2. 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

3. Parcels 12-15984, 12-16016 and 12-16015 shall be combined.

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 paid in the amount of \$ 3,448.24. The engineering fee of \$75.00 and the Recording fee of \$100.00 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 12, nays 0.

Passed: June 13, 2023, as an emergency measure: yeas 12, nays 0.

Attest:

Gerald E. Dendinger  
Clerk of Council

Matt Cherry  
President of Council

Approved:

June 13, 2023  
Wade Kapszukiewicz  
Mayor