



## Legislation Text

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**File #:** O-059-21, **Version:** 1

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### Zoning & Planning Committee

**Declaring the vacation of a portion of an alley 100 foot by 30 foot running NE and SW from 142<sup>nd</sup> Street to 144<sup>th</sup> Street and adjacent to lots 56, 57, 58 and 59 and 83, 84, 85 and 86 of the Warner Place 3<sup>rd</sup> Extension Subdivision, City of Toledo, Lucas County, Ohio; and declaring an emergency.**

#### SUMMARY & BACKGROUND:

The Council of the City of Toledo, by Resolution No. 161-19 adopted on April 2, 2019, declaring its intent to vacate that portion of the alley running NE and SW from 142<sup>nd</sup> Street to 144<sup>th</sup> Street and adjacent to Lots 56-59 and 83-86 of the Warner Place 3d Street Extension Subdivision, in the City of Toledo, Lucas County, Ohio, as more fully described in Section 1 hereof.

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 received 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 that portion of the alley running NE and SW from 142<sup>nd</sup> Street to 144<sup>th</sup> Street and adjacent to Lots 56-59 and 83-86 of the Warner Place 3d Street Extension Subdivision in the City of Toledo, Lucas County, Ohio; and more fully described as follows:

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

The following two (2) 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 storm sewer and catch basins exist within the proposed vacated area.

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. A Site Plan Review 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. 1111.0800, *Site Plan Review*.

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. Payment of fees for costs was paid at the rate of \$400.00

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. This property is to be split with all requested vacated property going to the applicant. This is per the request of the adjacent property owner who has relinquished his rights to the vacated property. Property shall be added to Lots 83, 84, 85 and 86 of the Warner Plate 3<sup>rd</sup> Extension.

SECTION 7. 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 8. 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