



## Legislation Text

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**File #:** O-174-21, **Version:** 1

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Zoning & Planning Committee

**Declaring the vacation of a portion of the public alley (16 feet wide), 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. 373-20 adopted on September 22, 2020, declaring its intent to vacate a portion of the public alley (16 feet wide), within the block bounded by Washington Street, Erie Street, Lafayette Street and South Ontario Street, in the City of Toledo, Lucas County, Ohio,

On October 8, 2020, the Toledo City Plan Commission recommended approval of the request for the vacation of a portion of the public alley (16 feet wide), 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 November 18, 2020, sent without recommendation the request for the vacation of a portion of the public alley (16 feet wide), 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 **March 23, 2021** and approved the request for the vacation a portion of the public alley (16 feet wide), 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. During the vacation process it was determined the City of Toledo has waived 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, in the City of Toledo, Lucas County, Ohio:

A PORTION OF THE PUBLIC ALLEY (16 FEET WIDE), WITHIN THE BLOCK BOUNDED BY WASHINGTON STREET, ERIE STREET, LAFAYETTE STREET AND SOUTH ONTARIO STREET. THE PORTION OF SAID ALLEY BEING MORE PARTICULARLY DESCRIBED AS BOUNDED ON THE NORTHWEST BY LOTS 334, 335, AND THE SOUTHWESTERLY 39.33' OF LOT 336, AND BOUNDED ON THE SOUTHEAST BY LOTS 326, 327 AND THE SOUTHWESTERLY 39.33' OF LOT 325, AND BOUNDED ON THE SOUTHWEST BY THE FORMER ABANDONED MIAMI AND ERIE CANAL, ALL WITHIN 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, 140.93 FEET ALONG THE SOUTHEASTERLY LINE OF SAID ALLEY TO THE POINT OF BEGINNING; THENCE CONTINUING S33°07'53"W, 161.22 FEET ALONG THE SOUTHEASTERLY ALLEY LINE TO A POINT ON THE NORTHEASTERLY LINE OF THE ABANDONED MIAMI AND ERIE CANAL; THENCE N50°36'56"W, 16.10 FEET ALONG SAID ABANDONED MIAMI AND ERIE CANAL TO THE NORTHWESTERLY LINE OF THE ALLEY, SAID POINT ALSO BEING THE SOUTHERLY CORNER OF LOT 334; THENCE N33°07'53"E, 159.49 FEET ALONG THE NORTHWESTERLY ALLEY LINE; THENCE S56°47'32"E, 16.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.059 ACRES, in 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 seven (7) 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. Required permits for all approved work in the public right-of-way shall be obtained, before work begins, from One Stop Shop, (419)-245-1220.
3. If alley is vacated, the sanitary sewer in the alley shall become a private sewer and the responsible of the property owner to maintain. Owner shall provide easement/agreement for apartment complex located at the corner of Lafayette and Erie Street.

Toledo Edison

4. Toledo Edison does not object to the partial alley ROW vacation, but existing manhole and conduit facilities will need to remain.

Division of Transportation

5. Transportation does not object to the vacation of the portion of the alley but does recommend full vacation of the existing alley.
6. 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

7. All properties abutting the Vacation must have street access. Properties with the same ownership shall be combined to maintain access to public right-of-way.

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