



## Legislation Details (With Text)

**File #:** O-371-18      **Version:** 1      **Name:**  
**Type:** Ordinance      **Status:** Approved  
**File created:** 8/31/2018      **In control:** City Council  
**On agenda:** 9/11/2018      **Final action:** 9/11/2018  
**Title:** Declaring the vacation of the 16 foot wide alley running east of Doty Drive and between Lots 1 and 5 in the Plat of Chiefton, in the City of Toledo, Lucas County, Ohio; waiving the fees and declaring an emergency.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
9/11/2018	1	City Council		
9/11/2018	1	City Council		
9/11/2018	1	City Council		

Zoning & Planning Committee

**Declaring the vacation of the 16 foot wide alley running east of Doty Drive and between Lots 1 and 5 in the Plat of Chiefton, in the City of Toledo, Lucas County, Ohio; waiving the fees and declaring an emergency.**

### SUMMARY & BACKGROUND:

The Council of the City of Toledo, by Resolution No. 605-05 adopted August 23, 2005, declared its intent to vacate the 16 foot wide alley running east of Doty Drive and between Lots 1 and 5 in the Plat of Chiefton; in the City of Toledo, Lucas County, Ohio, as more fully described in Section 1 herein.

All actions have been performed as required by law, the Charter of the City of Toledo, and the Toledo Plan Commission and City Board of Revision of Assessments have made recommendations regarding the proposed vacations.

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 16 foot wide alley running east of Doty Drive and between Lots 1 and 5 in the Plat of Chiefton; in the City of Toledo, Lucas County, Ohio, as more fully described as follows:

Proposed Vacation of a 16 foot Alley located within the City of Toledo all within the Plat of Chiefton, Recorded in Lucas County Plat Records Volume 43 on Pages 49 and 50. City of Toledo, Lucas County, Ohio

All of a 16 foot alley lying between Lots 1 thru 5 within the Plat of Chiefton within the City of Toledo

and more fully described as follows:

Commencing at the Southwest corner of Lot Number 1 of said Chiefton Plat thence East along the south lot lines of Lots 1 thru 4 inclusively for a distance of 135.18 feet to the southeast corner of Lot Number 4;

Thence south for a distance of 16.00 feet to the northeast corner of Lot Number 5;

Thence west on the north lot line of Lot Number 5 for a distance of 135.18 feet to the Northwest corner of said Lot Number 5;

Thence north 16.00 feet to the place of beginning for this description;

Said area contained within parcel equal 2,162.88 Sq.Ft. or 0.0497 Ac. of land.

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

The following eleven (11) conditions are listed by agency of origin. Applicants are encouraged to contact each of the agencies to address compliance with their conditions.

Engineering Services

1. A pre-submittal meeting is not required; however, one may be requested. Contact information is as follows:

Division of Engineering Services 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. Eliminate access on Doty Drive by removing existing alley apron (stone), and installing new curb through existing right-of-way. The curb height should match the existing curb on Doty Drive. If the applicant chooses to use the existing curb drop as a drive apron, they must follow the 2018 City of Toledo Construction Standards (page 30 Residential Driveway Details).
3. 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.

Contact (419) 245-1341 for inspection of above-mentioned items.

4. We object to this vacation due to the presence of a sanitary sewer in the right-of-way which must be maintained by the City of Toledo. While retaining of the right-of-way is much preferred over an easement, which tends to be ignored as years go by, if our objection is overruled and the vacation is approved we request that the authorizing ordinance contain the following language which shall be recorded and a notation placed in the remarks section of the County's real estate records:

"That a full width (16 foot) easement is hereby retained over, across, under and through said vacated area as described in Section 1 herein, for the existing sewer and/or water facilities located in said vacated alley, together with any other utilities located therein, as they exist at the time of passage of this Ordinance. 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, nor plant trees or other large vegetation 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."

5. Applicant shall be required to televise existing City sanitary and storm sewers within the vacated area and line those sewers which are determined by the City to be in poor condition.

#### Division of Transportation

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. The vacated alley shall be combined with the residential property to the south (parcel #0340014).
8. No parking space may be located within the front yard and must be located beyond the front plane of the house.
9. Off-street parking and loading spaces, parking lots, maneuvering areas, aisles and driveways must be surfaced with concrete, bituminous asphalt, or other dust-free material other than gravel or loose fill and graded so not to drain on adjacent properties.
10. The paved area of driveway serving detached houses, attached houses, or duplexes may not cover more than forty (40%) percent of the front yard up to a maximum driveway width of twenty-four (24') feet.
11. Parking for Recreational Vehicles, Recreational Equipment and Utility Trailers shall adhere to TMC§1107.1802.

SECTION 3. Cost of Land in the amount of \$4,072.28 is hereby waived, at the request of Council, engineering costs of \$75.00 and recording fees in the amount of \$36.00 have been paid.

SECTION 4. That the Real Estate Section of the Department of Business and 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 5. That the Lucas County shall record this entire 16 foot alley to the applicant as a letter is attached by the adjacent property relinquishing rights to their share.

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 a 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