



## Legislation Details (With Text)

**File #:** O-564-21      **Version:** 1      **Name:**  
**Type:** Ordinance      **Status:** Approved  
**File created:** 11/2/2021      **In control:** City Council  
**On agenda:** 11/9/2021      **Final action:** 11/9/2021  
**Title:** Declaring the vacation of a 200 x 100-foot portion of Marquette Parkway at Benore Road, adjacent to lots 103-111, of Marquette Place, in the City of Toledo, Lucas County, Ohio; and declaring an emergency.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
11/9/2021	1	City Council	Suspension	Pass
11/9/2021	1	City Council	Emergency	Pass
11/9/2021	1	City Council	Passage	Pass

Zoning & Planning Committee

**Declaring the vacation of a 200 x 100-foot portion of Marquette Parkway at Benore Road, adjacent to lots 103-111, of Marquette Place, in the City of Toledo, Lucas County, Ohio; and declaring an emergency.**

### SUMMARY & BACKGROUND:

The Council of the City of Toledo, by Resolution No. 201-21 adopted on April 13, 2021, declaring its intent to vacate a portion of Marquette Parkway at Benore Road, in the City of Toledo, Lucas County, Ohio; as more fully described in Section 1 hereof.

On June 10, 2021, the Toledo City Plan Commission recommended approval of the request for the vacation of a portion of Marquette Parkway at Benore Road, in the City of Toledo, Lucas County, Ohio.

The City Council Zoning and Planning Committee on July 14, 2021, sent as approved the request for the vacation of a portion of Marquette Parkway at Benore Road, in the City of Toledo, Lucas County, Ohio.

The Board of Revision met on October 21, 2021 and approved the request for the vacation of vacate a portion of Marquette Parkway at Benore Road, 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 that portion of Marquette Parkway at Benore Road, 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 conditions of approval are as follows and 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

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

1. An existing 8-inch diameter public water main is located in the proposed vacated right-of-way of Marquette Parkway. The water main was constructed within a 10-foot easement. Said easement shall remain retained by the City of Toledo
2. No objection to vacation, but the Applicant is hereby advised that future development of the parcel along North Detroit Ave. will need to continue to provide for flow through of drainage from west of North Detroit Avenue, to the storm system on Benore, whether by pipe or overland flow, either in the existing alignment of a drainage pathway or a rerouted alignment. A meeting on the matter between the city stormwater staff and the Applicant is recommended.

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. The proposed vacation cannot result in the loss of access for any abutting properties. The property located at 6221 Marquette Pkwy (Parcel ID: 2240941) shall be combined with the neighboring property prior to the vacation of Marquette Parkway.
5. 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.

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 \$1,410.00

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. 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