



## Legislation Text

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**File #:** O-301-18, **Version:** 1

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### Zoning & Planning Committee

**Declaring the vacation of the 12 foot north and south alley running adjacent to lots 22-30 and then the east west portion of the alley adjacent to lots 31-36, in the Humboldt Addition, Pettees Subdivision in the City of Toledo, Lucas County, Ohio; this internal alley is bounded by Sylvania Avenue, Gradolph Street, Castener Street and Catawba 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. 79-18 adopted on February 27, 2018, declaring its intent to vacate the north and south alley running adjacent to lots 22-30 and then the east west portion of the alley adjacent to lots 31-36, in the Humboldt Addition, Pettees Subdivision in the City of Toledo, Lucas County, Ohio; This internal alley is bounded by Sylvania Avenue, Gradolph Street, Castener Street and Catawba Street; 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 the north and south alley running adjacent to lots 22-30 and then the east west portion of the alley adjacent to lots 31-36, in the Humboldt Addition, Pettees Subdivision in the City of Toledo, Lucas County, Ohio; This internal alley is bounded by Sylvania Avenue, Gradolph Street, Castener Street and Catawba Street; in the City of Toledo, Lucas County, Ohio; and more fully described as follows:

The 12 foot alley running north and south in the block from Gradolph Street towards Sylvania Avenue and east and west to Castener Street.

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

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: ph. 419-245-1344

Water: ph. 419-936-2163

Stormwater Drainage: 419-245-3221; 419-245-1338

Sanitary Sewers: ph. 419-936-2276

2. Eliminate access on Castener Road by removing existing ally apron, and installing new curb through existing right-of-way. The curb height should match the exiting curb on Castener Road.

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 Joe Warnka at (419) 245-1341 for inspection of above mentioned items.

4. Sanitary sewer to be reroute by property owner. Plans to be submitted for review and approval.

#### Fire Prevention

5. The city hydrants adjacent to the proposed vacated area must stay.

#### Plan Commission

6. A vehicular access easement to the remaining alley from Castener Street shall be established and maintained through the parking lot to the south of the subject area for property owners with access along the alley.

7. A Site Plan Review shall be required for the future expansion 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.

In addition to the foregoing, the City further retains a full width easement over, across, under, and through the vacated area for purposes of access to the adjacent bridge and right-of-way for purposes of

inspection and repair.

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 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 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