



## Legislation Text

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**File #:** O-225-22, **Version:** 1

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### Zoning & Planning Committee

**Declaring the vacation of the 33-foot wide alley, known as Ostrich Lane, constituting all that area between Elm Street to the S.W 30 Ft of Lot 414, south of Chestnut Street, in the Plat of Vistula, in the city of Toledo, Lucas County Ohio; declaring an emergency.**

#### SUMMARY & BACKGROUND:

The Council of the City of Toledo, by Resolution No. 448-21 adopted on August 17, 2022, declaring its intent to vacate the 33-foot wide alley, known as Ostrich Lane, constituting all that area between Elm Street to the S.W 30 Ft of Lot 414, south of Chestnut Street, in the Plat of Vistula, in the city of Toledo, Lucas County Ohio; as more fully described in Section 1 hereof.

On November 4, 2021, the Toledo City Plan Commission recommended approval of the request for the vacation of the 33-foot wide alley, known as Ostrich Lane, constituting all that area between Elm Street to the S.W 30 Ft of Lot 414, south of Chestnut Street, in the Plat of Vistula, in the city of Toledo, Lucas County Ohio.

The City Council Zoning and Planning Committee on November 4, 2021, sent as approved the request for the vacation of a the 33-foot wide alley, known as Ostrich Lane, constituting all that area between Elm Street to the S.W 30 Ft of Lot 414, south of Chestnut Street, in the Plat of Vistula, in the city of Toledo, Lucas County Ohio.

The Board of Revision met on January 27, 2022 and approved the request for the vacation of the 33-foot wide alley, known as Ostrich Lane, constituting all that area between Elm Street to the S.W 30 Ft of Lot 414, south of Chestnut Street, in the Plat of Vistula, 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. All fees have been paid in the amount of \$3,312.90.

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 33-foot wide alley, known as Ostrich Lane, constituting all that area between Elm Street to the S.W 30 Ft of Lot 414, south of Chestnut Street, in the Plat of Vistula, 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 eight (8) 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. 24” combined sewer runs thru alley. A full width easement shall be retained by the City of Toledo over vacated right of way. The following language shall appear in the authorizing vacation ordinance which shall be recorded and a notation placed in the remarks section of the County’s real estate records:

“That a full width (33 foot) easement is hereby retained over, across, under and through said vacated area as described in Section 1 herein, for the existing sewer facilities located in said vacated right of way, 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.”

#### Division of Transportation

3. A turnaround, via highway easement, shall be created at the end of the alley in order to prevent the creation of a dead-end alley.

#### Fire Prevention

4. A gate entrance allowing access through the alley shall be maintained via a Knox Box or similar method for Fire and Rescue. Gate entrance width shall be at least twenty-feet (20’) wide.
5. A minimum twenty foot (20’) wide drive aisle through the length of the vacated alley shall be

maintained to allow vehicular access for Fire and Rescue.

Plan Commission

6. The proposed vacation cannot result in the loss of access for any abutting properties. Arrangements shall be made with adjacent property owners to ensure vehicular access to garages facing the alleys remain. No gate shall be installed impeding access to the garage located at 1114 Superior Avenue from Elm Street.
7. The vacated portion of the alley shall remain publicly accessible to pedestrian and cyclists. An opening a minimum of five feet (5') wide shall be maintained wherever a gate, fence, or other obstruction is included along the vacated alley. No gate or fence shall be used to block said opening.
8. An easement, turnaround, or right-of-way dedication shall establish either a through-road or turn around to prevent the creation of a dead-end alley.

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 11, nays 0.

Passed: May 10, 2022, as an emergency measure: yeas 11, nays 0.

Attest:

Gerald E. Dendinger  
Clerk of Council

Matt Cherry  
President of Council

Approved:

May 11, 2022  
Wade Kapszukiewicz  
Mayor