



## Legislation Text

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**File #:** O-309-23, **Version:** 1

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DPU Administration

Jamie Miller (ext. 1409)

Revised

**Authorizing the mayor to execute needed instruments for donating and granting a temporary easement to the Ohio Department of Transportation (ODOT), across certain portions of City-owned properties and dedicated right-of-way for the replacement of an underground storm water drainage culvert/pipe and all related improvements to be constructed at the Anthony Wayne Trail and Delaware Creek; dedicating certain portions of city-owned land as public right-of-way required as part of ODOT's storm water drainage improvement project; declaring and dedicating certain portions of City lands to be restricted for use solely and exclusively as and for storm water drainage, watercourse, ditch, culvert, channel, flow and/or drainage-related purposes and uses only; and declaring an emergency.**

### SUMMARY & BACKGROUND:

The City of Toledo is the fee simple owner of a certain parcels of land located at and known as 2520 Wildwood Boulevard (TD 18-07561) and 1707 Yaryan Drive (TD 18-08384), as well as dedicated right-of-way for both the Anthony Wayne Trail (aka State Route 25) and certain portions of Delaware Creek, at or near the Anthony Wayne Trail and Yaryan Drive.

The State of Ohio Department of Transportation (ODOT) will be constructing a new underground storm water drainage culvert/pipe, and related improvements, that will go under the Anthony Wayne Trail and extend into what is known as Delaware Creek. ODOT has requested a temporary easement across portions of the aforementioned City-owned properties and rights-of-way to construct the storm water drainage improvements, as well as to accommodate construction equipment and activities, and for property embankment stabilization purposes, at no cost.

The new culvert/pipe to be constructed will extend underneath the Anthony Wayne Trail and further into Delaware Creek. As a result, additional, permanent right-of-way needs to be dedicated for the additional surface improvements that will be constructed to accommodate, protect and preserve these new improvements.

ODOT will be making significant improvements to the flow of Delaware Creek and has requested that the portions to be improved, that are not required to be dedicated for right-of-way purposes and/or surface improvements, be dedicated and restricted for storm water drainage, ditch, culvert, channel, flow, and/or other drainage-related purposes and uses only.

The City of Toledo and ODOT have cooperated in the past and continue to cooperate extensively with one another in connection with numerous and extensive transportation and other public improvement projects in, around and throughout the City of Toledo. It is in the best interest of the City, as well as the public welfare, to convey the requested temporary easement, at no cost, to ODOT and to dedicate the required portion of City-

owned property as public right-of-way.

NOW, THEREFORE, Be it ordained by the Council of the City of Toledo:

SECTION 1. That the mayor is authorized to execute needed instruments for the granting of temporary right-of-way, over a portion of real property owned by the City of Toledo, to the State of Ohio Department of Transportation (ODOT) required for the Anthony Wayne Trail/Delaware Creek Culvert Project, as described in EXHIBIT “A”.

SECTION 2. That it is hereby found and determined that the temporary property rights to be conveyed herein are not needed by the City for any municipal purpose and are necessary for the construction of the Anthony Wayne Trail/Delaware Creek Culvert, and related improvements, within the City’s jurisdictional limits.

SECTION 3. That the mayor is authorized to enter into a Donation Agreement with ODOT for the conveyance of the temporary property rights, as described in Section 1.

SECTION 4. That the parcel(s) of land as described and labeled in EXHIBIT “B” are hereby dedicated as and for public right-of-way, highway and road purposes, as well as utilities and other public purposes as deemed necessary and appropriate by the City of Toledo.

SECTION 5. That the parcel(s) of land as described and labeled in EXHIBIT “C” are hereby dedicated for and restricted for storm water drainage, watercourse, ditch, culvert, channel, flow and/or other drainage-related purposes and uses only.

SECTION 6. That the declarations set forth in Section 5 shall run with the land and shall be binding upon the property and shall inure to the benefit of the City, and City’s successors, successors in interest, successors in title and permitted assigns and a specific reference to these declarations shall be included in any deed or instrument regarding the sale or transfer of all or any part of the property described in Exhibit C herein.

SECTION 7. That the Department of Public Utilities, Real Estate Section, is hereby directed to cause a copy of this Ordinance to be recorded in the records of the Lucas County Recorder.

SECTION 8. That it is 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 9. That this Ordinance is declared to be an emergency measure, and shall take effect and be in force immediately 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 in order to meet ODOT’s timetable for initiating and completing the proposed improvements at the Anthony Wayne Trail and Delaware Creek.

Vote on emergency clause: yeas 12, nays 0.

Passed: May 30, 2023, as an emergency measure: yeas 12, nays 0.

Attest:

Gerald E. Dendinger  
Clerk of Council

Matt Cherry  
President of Council

Approved:

May 30, 2023  
Wade Kapszukiewicz  
Mayor