

Chapter 905 SIDEWALK, SHARED-USE PATH, AND DRIVEWAY CONSTRUCTION AND REPAIR

905.01 Purpose.

The purpose of this ~~Chapter code~~ is to protect the health, safety and welfare of all persons by way of preventing and/or abating hazardous sidewalk, shared-use path and driveway approach conditions within the public rights-of-way of the city of Columbus by establishing minimum standards relative to:

- (A) The maintenance and construction of sidewalks, shared-use paths, and driveway approaches within the public right-of-way;
- (B) The control and abatement of hazardous sidewalks, shared-use paths, and driveway approaches within the public right-of-way.

905.02 Definitions. [RESERVED]

~~For purposes of this chapter, the following terms, phrases, words, and their derivations have the meanings set forth herein. When not inconsistent with the context, words in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.~~

- ~~(A) "Authorized agent" for the abutting property owner shall mean a contractor having an active valid home improvement contractor's (H.I.C.) license on file with the Department of Building and Zoning Services;~~
- ~~(B) "City" means the City of Columbus, Ohio;~~
- ~~(C) "Director" shall mean the director of the public service department or their designee;~~
- ~~(D) "Owner" means any of the following:~~
 - ~~(1) The owner of record as shown on the current tax list of the county auditor in which the property is located;~~
 - ~~(2) The mortgage holder of record, if any, as shown in the mortgage records of the county recorder in which the property is located;~~
 - ~~(3) Any person who has a freehold or lesser estate in the premises;~~
 - ~~(4) A mortgagee or vendee in possession. "In possession" means someone who evidences charge, care or control of the premises, and includes someone to whom the county sheriff in which the property is located has issued a deed for the premises whether or not the deed has been recorded;~~
 - ~~(5) Any person who has charge, care or control of the premises as agent, executor, administrator, assignee, receiver, trustee, guardian or lessee;~~
 - ~~(6) Any person who holds themselves out to be in charge, care or control of the premises as evidenced by negotiating written or oral lease agreements relative to the premises;~~

~~collecting rents for the premises, performing maintenance or repairs on the premises or authorizing others to perform maintenance or repairs on the premises.~~

~~(E) "Person" means, without limitation, a natural person, the person's beneficiaries, executors, administrators, or assigns, and also includes a corporation, partnership, an unincorporated society or association, or any other type of business or association, including respective successors or assigns, recognized now or in the future under the laws of the state or the city;~~

~~(F) "Right of way" means the surface of and the space above and below the paved or unpaved portions of any public street, public road, public highway, public freeway, public lane, public shared-use path, public way, public alley, public court, public sidewalk, public boulevard, public parkway, public drive and any other land dedicated or otherwise designated for the same now or hereafter held by the city;~~

~~(G) "Bikeway" as defined in 900.03.~~

905.03 Right to enforce.

The Director of ~~Public Service~~, shall have the authority to enforce Columbus City ~~Code~~ Codes Chapter 905.

905.04 Adoption of rules and regulations.

As necessary and appropriate, the Director may promulgate rules and regulations to carry out the express purposes and intent of this chapter. The Director shall promulgate proposed rules and regulations by filing the same with the city clerk for publication in the City Bulletin pursuant to Section 121.05 of Columbus City Codes ~~Code~~.

905.05 Supervision and control.

(a) ~~No person or business organization~~ shall construct, reconstruct, repair, or level any sidewalk, shared-use path, curb, curb & gutter or driveway entrance in the public right-of-way, or easement either by private or public agreement, until after having obtained a written sidewalk, shared-use path, curb replacement, or driveway entrance permit from the Director.

(b) All work shall be performed in accordance with the current Construction and Material Specifications of Columbus (CMSC), the city's current Standard Construction Drawings, and to the satisfaction and approval of the Director. Said CMSC and standard construction drawings shall be available to all members of the public for purchase or viewing within the Department of public service ~~offices~~ during normal business hours.

(c) Construction of or on any sidewalk, shared-use path, curb, curb and gutter, or driveway entrance within the public right-of-way or easement performed contrary to the provisions of this chapter, or the associated rules and regulations of the Director, shall constitute a violation of this code and may be ordered stopped and/or removed by the Director ~~transportation administrator~~. The Director may order replacement of a sidewalk, shared-use path, curb, curb and gutter, or driveway entrance subsequent to such ordered removal. Sidewalk, shared-use path, curb, curb and gutter, and or driveway entrance removal and replacement shall be completed pursuant to the provisions herein within thirty (30) days after receipt of such order.

905.06 Sidewalk, ~~shared-use path~~ and driveway entrance maintenance and repair.

(a) The abutting private property owner ~~of record~~ shall be responsible for the proper maintenance and repair of all sidewalks, ~~shared-use paths~~ and driveway entrances within the abutting right-of-way or easement for any improved or unimproved street, alley, or other public way within the city, which provides access around, in, or to said private property. For driveway entrances, this includes any curb, to the nearest tool joint, constructed as a part of, or to accommodate the driveway entrance. This shall include dropped curb, mountable curb, combination curb and gutter or other curb condition at the street entrance to the approach, as well as any flairs and radii of the driveway approach.

(b) All sidewalks, ~~shared-use walk~~ paths, curb ramps, and driveway entrances shall be constructed, reconstructed, and/or repaired through the use of Portland Cement Concrete except where existing sidewalk is composed of alternate materials that have been previously approved by the Director, as outlined within the city's standard construction drawings, or, as authorized by the Director. All shared-use paths shall be constructed, reconstructed, and/or repaired through the use of either Portland Cement Concrete or hot mix asphalt concrete except where existing shared-use paths are composed of alternate materials that have been previously approved by the Director, as outlined within the city's standard construction drawings, or, as authorized by the Director. Where existing sidewalks or shared-use paths are composed of alternate city approved materials, they shall be replaced in kind unless otherwise authorized by the Director.

(c) In accordance with Chapter 912 of Columbus City Codes ~~C~~ode, trees, bushes, nor shrubs located within the public right-of-way or easement may be damaged or removed, including limbs and roots, to accommodate sidewalk, ~~shared-use path~~ or driveway approach construction or repair without the prior approval of the Recreation and Parks Department, ~~in the form of a plant "maintenance" or "removal permit."~~

(d) All work related to the construction, maintenance, or repair of a sidewalk, ~~shared-use path~~, driveway approach, or curb shall be performed in accordance with the permit conditions and restrictions as well as the rules and regulations promulgated by the Director pursuant to Section 905.03.

905.07 Sidewalk specifications—Grade.

(a) Sidewalks shall be constructed so as to conform with the specified locations, lines, grades, and widths on file in the ~~D~~epartment of public service offices and shall generally slope toward the street centerline where practicable ~~practical~~. In no case shall these sidewalks be less than a minimum width of four (4) feet for all streets having a right-of-way width of twenty (20) or more feet, and shall be so located that the nearest edge of sidewalk to the back of the curb or edge of pavement along the street shall not be less than three (3) feet, unless otherwise approved by the Director. When a sidewalk is specified, or permitted, to be placed next to a curb in no case shall it be less than a minimum width of six (6) feet. Public sidewalks associated with this chapter shall be constructed within the existing public right-of-way, so as not to encroach upon private property, unless previously approved by the Director. Where the Director has approved the construction of a public sidewalk outside of existing right-of-way, said approval shall be contingent upon the property owner's granting of additional right-of-way or pedestrian access easement to the city under said sidewalk area. The form of acceptable property rights transfer shall be at the Director's discretion.

(b) The line, grade, and cross-slope of sidewalks and ~~walk~~ shared-use paths shall comply with all requirements of the Americans with Disabilities Act of 1990, and all regulations and amendments promulgated thereto, and the city's standard construction drawings. No depression or lowering of the level or grade of such sidewalks or ~~walk~~ shared-use paths shall be recognized or permitted for the purpose of

making or constructing a driveway or entrance to private or public property or premises bounding or abutting on such street from the roadway thereof except as permitted by an approved driveway entrance.

(c) All sidewalks and/or ~~walk~~ shared-use paths constructed, reconstructed, or repaired at an intersection shall include the construction of an Americans with Disabilities Act of 1990 compliant curb ramp in accordance with the current CMSC, the city's standard construction drawings, and the rules and regulations associated with this chapter.

905.071 Shared-use path specifications—Grade.

(a) Shared-use paths shall be constructed so as to conform with the specified locations, lines, grades, and widths on file in the ~~D~~epartment of ~~public service offices~~ and shall generally slope toward the street centerline where practicable ~~practical~~. In no case shall these shared-use paths be less than a minimum width of ten (10) feet for all streets having a right-of-way width of thirty-five (35) or more feet, and shall be so located that the nearest edge of sidewalk to the back of the curb or edge of pavement along the street shall not be less than three (3) feet, unless otherwise approved by the Director. When a shared-use path is specified, or permitted, to be placed next to a curb in no case shall it be less than a minimum width of eleven (11) feet.

(b) Public shared-use paths associated with this chapter shall be constructed within the existing public right-of-way, so as not to encroach upon private property, unless previously approved by the ~~D~~irector. Where the ~~D~~irector has approved the construction of a public shared-use path outside of existing right-of-way, said approval shall be contingent upon the property owner's granting of additional right-of-way or access easement to the city under said shared-use path area. The form of acceptable property rights transfer shall be at the ~~D~~irector's discretion.

(c) The line, grade, and cross-slope of shared-use paths shall comply with all requirements of the Americans with Disabilities Act of 1990, and all regulations and amendments promulgated thereto, and the city's standard construction drawings. No depression or lowering of the level or grade of such shared-use paths shall be recognized or permitted for the purpose of making or constructing a driveway or entrance to private or public property or premises bounding or abutting on such street from the roadway thereof except as permitted by an approved driveway entrance.

(d) All shared-use paths constructed, reconstructed, or repaired at an intersection shall include the construction of an Americans with Disabilities Act of 1990 compliant curb ramp in accordance with the current CMSC, the city's standard construction drawings, and the rules and regulations associated with this chapter.

905.075 Curb ramp requirements.

All curb ramps constructed, reconstructed, or repaired shall comply with the Americans with Disabilities Act of 1990 and any subsequent modifications or amendments thereto, current Construction and Material Specifications of Columbus (CMSC), current City of Columbus Standard Construction Drawings, and applicable rules and regulations. In order to maintain a compliant Pedestrian Accessibility Route as defined by the Americans with Disabilities Act of 1990, off-premises public curb ramps and other necessary accommodations including pedestrian pushbuttons shall be required opposite the public curb ramps built or reconstructed by a developer adjacent to the property or by a public agency constructing an improvement. Said off-premises public curb ramps and other necessary accommodations including pedestrian pushbuttons shall be eligible for reimbursement according to the provisions of Section 4307.29(H).

905.08 Permits and fees.

(a) Prior to requesting a driveway entrance permit for ~~all~~ any new commercial or multi-family development driveway entrance(s), or a new single- or two-family residential driveway on any roadway, the applicant shall submit site plans to the Director ~~in accordance with of Columbus City Code.~~. The fee for permits to construct, reconstruct, or repair sidewalks or shared-use paths or driveway entrances shall be established by the Director. Such fees shall include the cost to issue, perform necessary inspections, and plan review as needed and required. Such fee shall be charged and collected by the Director and deposited with the City Treasurer to the credit of the development services revenue fund.

(b) All permits herein provided for shall become null and void ninety (90) days from the date of issuance, if not used, and any money paid therefore shall in no case be refunded. No permit shall be issued except to the owner of the abutting property, a contractor holding a valid City of Columbus Home Improvement, or General Contractor's License, and in the case of commercial and multi-family unit (4 units or more) properties, their the property's authorized agent. The Director may refuse to issue any permit when design is not in compliance with the associated rules and regulations of the Department of public service, the city's standard construction drawings, and/or standard engineering profession principles, and shall refuse any permit where the Director has not approved the plans for construction of the requested driveway entrance.

905.09 Driveway widths—Compliance.

No single driveway entrance shall exceed thirty-five (35) feet in width at the curb line or edge of pavement without the consent of the Director. Only where traffic conditions, type of vehicle and/or volume of traffic using the proposed driveway entrance warrant may this maximum width be exceeded, but only with the Director's written consent. Where such driveway entrance is built, it must be built as a street intersection in accordance with current standard drawings and CMSC on file in the Department of ~~public service offices.~~ Upon proper application and payment of the required fee by the owner of the premises, or the owner's authorized agent, and approval by the Director, a driveway entrance permit in excess of thirty-five (35) feet may be issued. All new driveway entrances shall be constructed so as to maintain a minimum of six-foot of clearance from existing water fire hydrants.

905.10 Maintaining pedestrian and bicycle access.

Where public sidewalks or bikeways exist within the City of Columbus, they may not be eliminated, nor removed for any purpose other than their legal replacement, without the express written consent of the Director.

It is also the intent and purpose of this chapter that pedestrian and bicycle access be maintained at all possible times during sidewalk, bikeway, and driveway approach maintenance and repair operations. Pedestrian and bicycle access and the re-routing of pedestrian and bicycle traffic where access cannot be maintained during maintenance and repair operations shall be performed in accordance with the Department of public service's s rules and regulations relating thereto.

905.11 Code maintenance violation criteria.

(a) No abutting property owner shall allow the condition of the sidewalk, ~~shared-use path,~~ and/or driveway approach within the public right-of-way or easement to deteriorate beyond the criteria herein established. Criteria for ordering the replacement or repair of sidewalks, shared-use paths, or driveway approaches shall be any or all of the conditions described as follows:

Offset of one-half (1/2) inch or greater;

Crack which has a gap of greater than one-half (1/2) inch;

An area where there exists a difference in elevation of material of one-half (1/2) inch or greater;

Excessive deterioration, spalling or exposed gravel of one-half (1/2) inch or greater in depth;

Excessive slope caused by a shifting of the sidewalk, shared-use path or driveway approach.

(b) Patching shall not be permitted as a means of eliminating criteria for replacement. The complete removal or leveling of existing concrete shall be required of a concrete panel from joint to joint. If a construction tool joint is not present, then the entire area shall be corrected unless authorized otherwise by the Director. Where offsets, elevation differences, deterioration, and/or spalling exceeds one and one-half (1.5) inches in depth within a sidewalk, shared-use path or driveway approach, and/or where excessive sidewalk or shared-use path cross slope is equal to or greater than ten (10) percent, these conditions shall be considered just cause for emergency barricade and/or repair by the Director, as outlined within Section 905.1305, Emergency Orders.

905.12 Notice of violation. [RESERVED]

(A) ~~Issuance of Notice of Violation. Whenever the Director determines, or has reasonable grounds to believe, that there exists a condition that violates any provisions or requirements set forth within this chapter, they may issue a notice setting forth the alleged violation(s) and advising the abutting property owner or person having charge that such violation(s) must be corrected.~~

(B) ~~Content of Notice of Violation.~~

(1) ~~All notices of violation, except emergency orders, shall be in writing and shall be served on the abutting owner, from whom action, forbearance or compliance is required;~~

(2) ~~All notices of violation shall identify the sections of this chapter to which the order applies;~~

(3) ~~All notices of violation shall provide a description of the premises where the violations are alleged to exist or to have been committed;~~

(4) ~~All notices of violation shall specify a thirty (30) daytime frame for compliance with the order, except in the case of an emergency order, as described in Section 905.13;~~

(5) ~~All notices of violation shall advise the abutting property owner or person of the right to appeal, within fifteen (15) days of receipt of notice;~~

(6) ~~All notices of violation shall advise the owner and/or responsible party that if the order is not complied with by the time specified, the Director may initiate a civil and/or criminal complaint against the owner and/or responsible party; and/or the Director may, by city personnel or private contractor, cause the violation(s) to be corrected with the cost of such correction(s) to be charged as a lien upon the real estate.~~

(C) ~~Service of Notice of Violation. A notice of violation shall be served upon the abutting owner any permittee person from whom action, forbearance or compliance is required. Such notice shall be served by any one (1) of the following methods:~~

(1) ~~Personal service; or~~

(2) ~~Certified mail; or~~

(3) ~~Publication in a newspaper of general circulation in the county; or~~

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- (4) ~~Regular mail service to an address that is reasonably believed to be:~~
- (a) ~~A place of residence of the owner, or~~
 - (b) ~~A location at which the owner regularly receives mail; or~~
- (5) ~~Posting the notice of violation on the abutting property, except that if the structure or abutting property is vacant, then the notice shall be posted on the structure or premise and one (1) of the above methods of service shall also be used.~~
- (D) ~~When the notice of violation has been properly serviced, the order shall be effective as to anyone having any interest in the premises whether recorded or not at the time the order was issued, and shall be effective against any subsequent owner of the premises as long as the violation exists and there remains a city record of the order in a public file maintained by the director;~~
- (E) ~~Written or oral acknowledgment by the owner of receipt of a notice of violation shall be evidence that the owner received the notice of violation. An appeal of the notice of violation by the abutting owner pursuant to Section 905.14 shall constitute evidence of written acknowledgment by the owner of service of notice of violation.~~

905.13 Emergency order. [RESERVED]

~~Whenever the Director finds that an emergency exists, as described in Section 905.11, which requires immediate action to protect the health and safety of any person, they may issue an oral or written emergency order reciting the existence of such an emergency and requiring such action as they deem necessary shall be taken to eliminate the emergency. Notwithstanding the other provisions of this code, such emergency order shall be effective immediately and complied with immediately.~~

~~In cases where it reasonably appears that there is imminent danger to the health and safety of any person unless the emergency condition is immediately corrected and if after reasonable attempts to notify the abutting property owner it appears that the abutting property owner will not or cannot immediately correct the condition, the Director may initiate whatever reasonable actions are necessary to eliminate such emergency. These actions may include the temporary barricade of the area, re-routing of pedestrian, bicycle and/or vehicular traffic, or whatever actions are deemed necessary to eliminate the emergency on an interim or permanent basis.~~

~~The Director shall further cause the cost of all such temporary and/or permanent abatement to be billed to the abutting property owner as a municipal lien or to be recovered in a civil suit against the owner and/or responsible party at the current hourly rates of the Department of Public Service's equipment and personnel, or those of its contractual agent, including the cost for materials provided that cannot be reasonably salvaged by the city.~~

905.14 Appeal procedure. [RESERVED]

~~Any persons affected by any notice issued in connection with this chapter may request and shall be granted a hearing before the Property Maintenance Appeals Board on all matters set forth in such notice, provided that:~~

- (A) ~~Such person shall file a written petition requesting such appeal hearing with the Department of Building and Zoning Services, within fifteen (15) calendar days after the notice is served; and,~~
- (B) ~~The petition shall set forth the factual reasons why a particular violation or violations is being appealed.~~

~~Appeal hearings shall be conducted and the notice of Board findings shall be completed as set forth in the Columbus Housing Code, Chapter 4509.03.~~

~~905.15 Prohibition against failure to comply with notice of violation.~~ [RESERVED]

~~No person shall violate any provision of this Sidewalk, Shared Use Path, and Driveway Construction and Repair Chapter or any rules or regulations promulgated by the Director in accordance with this chapter.~~

~~No owner or person having charge or authority over a violation of this Sidewalk, Bikeway and Driveway Construction and Repair Chapter shall fail to comply with a notice of violation or emergency order of this Chapter, or any rules or regulations promulgated by the Director in accordance with this chapter, or obstruct or interfere with the execution of such order, or fail to comply with said notice of violation or emergency order.~~

~~No person shall fail to comply within the time frame specified in a notice of violation or emergency order after receiving notice of being in violation of this Sidewalk, Bikeway and Driveway Construction and Repair Chapter, or any rules or regulations promulgated by the Director in accordance with this chapter.~~

905.16 Procedure upon failure to comply with notice of violation. ~~[RESERVED]~~

Whenever, upon inspection by the Director or their designee, there are reasonable grounds to believe there is a violation of this Sidewalk, Bikeway and Driveway Construction and Repair Chapter which results in the existence of an actual or potential public nuisance or creates conditions that adversely affect the health, safety or welfare of any person, or when notices or orders issued pursuant to this chapter or other notice sections of city codes do not alleviate such public nuisance or condition, the Director or their designee may:

(A) ~~cause the correction or abatement of any public nuisance or condition by acquiring the necessary labor and materials.~~

Upon completion of the work to correct or abate any public nuisance or condition, , the Director shall, with respect to each parcel of land, provide City Council with a statement of the charges for the labor and materials used and the fees of the officers who made the service of the notice and return.

Upon receipt of the statement and approval of City Council, the City Clerk shall make a return in writing to the auditor of the applicable county of such statement that shall be entered upon the tax duplicate of the county for the purpose of assessing these costs.

(B) ~~cause to be filed a civil complaint, in a court of competent jurisdiction and pursuant to the Ohio Rules of Civil Procedure for injunctive relief seeking abatement of the public nuisance ; or~~

(C) ~~cause to be filed a criminal complaint in a court of competent jurisdiction.~~

905.99 Penalty.

(a) ~~Notwithstanding any additional civil injunctive action or finding, whoever~~ Subject to the provisions of Section 908.02, aAny person who violates any provision of this chapter shall be guilty of a misdemeanor of the third degree.

(b) ~~Each successive day such of violation is committed, or permitted to continue, shall constitute a separate offense and shall be punishable as such.~~

(c) Strict liability is intended to be imposed for violations of this chapter.

(d) Organizational criminal liability as provided for in City Code Section 2301.23 is intended for violations of this chapter.