



Legislation Text

File #: 1713-2010, **Version:** 1

1. BACKGROUND

The purpose of this legislation is to create a reimbursement mechanism, for developers of property or public agencies who build public sidewalk curb ramps and required pedestrian pushbuttons off premises, in order to comply with maintaining a Pedestrian Accessible Route as required by the Americans with Disabilities Act of 1990, and all regulations and amendments promulgated thereto. This legislation establishes the authority of the Director of Public Service to, upon request by the developer or public agency building off-site curb ramps and required pedestrian pushbuttons, require reimbursement from the developer of the parcel abutting the off-site curb ramps for reasonable design, construction and bonding costs of building said improvements for a period of up to ten years following final acceptance of the off-site curb ramp construction.

This legislation is expected to ensure that public pedestrian facilities continue to be constructed compliant to the Americans with Disabilities Act of 1990 ("ADA"), and all regulations and amendments promulgated thereto, in a timely and equitable manner to the builders of curb ramps in the city of Columbus.

On February 9, 2009, Columbus City Council adopted Ordinance 0128-2009, reorganizing the Transportation Division into three new divisions, one of which is the Division of Mobility Options. Among the primary duties of the Division of Mobility Options is ADA services.

In March, 2009, the Division of Mobility Options began drafting updates to city ADA engineering standards and procedures. The Division met numerous times with representatives of the Building Services Review Committee ("BSRC") to review the draft changes with the BSRC and gain their input. Among other comments, the BSRC requested city staff explore the possibility of reimbursement from future developers benefitting from the construction of off-site curb ramps required to maintain ADA compliance for the first developer.

Columbus City Code neither presently allows for curb ramp construction reimbursement, nor authorizes the Director of Public Service to promulgate rules and regulations to do so. In the interest of fairness to the builder of off-site curb ramps, it is reasonable for the City of Columbus to allow for the possibility of reimbursement from a future benefitting developer, should the developer or public agency building off-site curb ramps and required pedestrian pushbuttons request reimbursement.

The proposed code changes within this ordinance create a reimbursement mechanism for the developer or public agency building off-site curb ramps and required pedestrian pushbuttons to be reimbursed for reasonable design, construction and bonding costs attributed to the construction of off-site curb ramps and required pedestrian pushbuttons up to ten years following final acceptance of the off-site curb ramp construction. Thus, if a developer of property abutting the off-site curb ramps applies for zoning site plan approval from the City within ten years after the off-site curb ramps are constructed, that developer will be required to reimburse the original developer or public agency who constructed the off-site curb ramps and required pedestrian pushbuttons for reasonable costs attributed to building said improvements, as well as reimburse the City for costs to monitor and process the reimbursement.

Following adoption of this ordinance, the Director of Public Service will promulgate rules and regulations detailing the process for reimbursement. It is anticipated that the rules and regulations will be in force by the end of January, 2011, or as soon as the code changes are effective. The rules and regulations will be promulgated according to City Code, and will apply to all zoning site plans and capital projects requiring off-site curb ramps and required pedestrian pushbuttons submitted for first review after February 1, 2011. While City Code and the subsequent promulgated rules and regulations create the law and process for reimbursement, it will be the responsibility of the developer or public agency building curb ramps and required pedestrian pushbuttons to request such reimbursement from the City.

On July 13, 2010, the Transportation and Pedestrian Commission reviewed and recommended adoption of these proposed code changes.

2. FISCAL IMPACT

There is no cost to the city of Columbus at this time.

3. EMERGENCY DESIGNATION

Emergency action is requested for this ordinance to allow these changes in City Code to be made in order that the rules and regulations detailing the process for reimbursement can be made and be in place by the end of January, 2011.

To amend Chapter 905 and Chapter 4307 of the Columbus City Code, 1959, to create a mechanism for reasonable curb ramp construction cost reimbursement and recoupment of reasonable city administrative costs pertaining thereto, and to declare an emergency.

WHEREAS, Chapter 905 of the Columbus City Code, 1959 requires the construction of public curb ramps in the right-of-way be compliant with the Americans with Disabilities Act of 1990 ("ADA"); and

WHEREAS, the development or redevelopment of land may trigger the requirement that public ADA-compliant curb ramps and required pedestrian pushbuttons be built off-premises, in order to maintain ADA compliance in the public right-of-way; and

WHEREAS, the construction of the off-premises public curb ramps and required pedestrian pushbuttons, while required to maintain ADA compliance within the public right-of-way, poses an economic hardship on the developer or public agency building said off-premises curb ramps and required pedestrian pushbuttons; and

WHEREAS, the city of Columbus has established reimbursement requirements on future developers benefitting from oversizing of sewers and waterlines, to which off-premises curb ramp and required pedestrian pushbutton construction can be considered analogous; and

WHEREAS, it is not unreasonable for the city of Columbus to establish a reimbursement requirement on the future developer benefitting from the construction of the off-site curb ramps and required pedestrian pushbuttons from the first developer or public agency; and

WHEREAS, on July 13, 2010, the Transportation and Pedestrian Commission reviewed and recommended adoption of these proposed code changes; and

WHEREAS, it is further not unreasonable for the city of Columbus to establish an expiration of reimbursement requirements from oversizing of public infrastructure, or in this case, construction of off-premises curb ramps and required pedestrian pushbuttons; and

WHEREAS, an emergency exists in the usual daily operation of the Department of Public Service, in that these changes to the City Code should take place at the earliest possible time in order to enact rules and regulations detailing the process for reimbursement by the end of January, 2011, thereby preserving the public health, peace, property, and safety; now, therefore

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1. That Section 905.075 of the Columbus City Code, 1959 is hereby enacted to read as follows:

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 his or her 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).

SECTION 2. That Section 4307.29 of the Columbus City Code, 1959 is hereby amended to read as follows:

4307.29 Sidewalk and bikeway requirements.

All subdivisions, site developments or sections thereof which, shall have installed in them sidewalks and bikeway facilities as specified in the Bicentennial Bikeways Plan to serve each lot or parcel therein. Such sidewalks and bikeway facilities shall be installed by the property owners abutting the street rights-of-way within the development and along the existing streets fronting the development, except as provided for in subsections (E), (F), (G) and (H) below, and they shall be constructed according to the requirements herein.

(A) Sidewalks and bikeways shall have a hard, improved surface constructed of materials and to standards established by the director of public service and/or their designee depending on type of street construction, anticipated permanence of sidewalk, and land uses being served. Such specifications shall be available for inspection in the department of public service offices.

(B) Sidewalks and bikeways shall be located in the right-of-way of the street or as close to the right-of-way line as possible, and shall extend across the entire dimension of each lot or parcel side adjacent to a public street.

(C) All sidewalks and bikeways required by this chapter shall be completed upon the occurrence of any one of the following conditions:

(1) Prior to final inspection by the department of the building, structure, or other improvement on the lot or parcel that the sidewalk serves.

(2) In the case of vacant lots or parcels, whenever seventy-five percent of the lots or parcels located on a given side of a dedicated street between two consecutive intersecting streets (a block) have been serviced with a final inspection by the department.

(3) Not later than the second anniversary after the date of acceptance of the improved streets by the city.

(D) Bikeways shall be located, configured and completed according to the Bicentennial Bikeways Plan and include separate shared-use paths, bike lanes and signed and marked shared bike routes.

(E) Notwithstanding the provisions stated earlier where a subdivision includes a dedicated street to provide access from an existing street to the subdivision, and such dedicated street bisects property and thereby creates parcels which are not a part of the subdivision but are adjacent to the dedicated street, then it shall be the responsibility of the developer or subdivider to install sidewalks and bikeway facilities within the dedicated street right-of-way or easement whenever sidewalks and bikeway facilities are required in the subdivision itself. Such sidewalks and bikeway facilities shall be installed along the dedicated street right-of-way or easement from the existing street to the first lots or parcels in the subdivision, and shall be completed prior to acceptance of the improved street by the city.

(F) Notwithstanding the foregoing provisions of this section, where the zoning code permits placement of continuous sidewalks in common space rather than in the public right-of-way, then the placement provisions of the zoning code shall govern.

(G) Sidewalk or Bikeway Fee in Lieu of Construction. It is the desire of the city to have required sidewalks and bike facilities built at the time of and congruent with development. However, there may be circumstances regarding safety, economic waste and geographical features that preclude such construction. The Director of Public Service has the authority to approve construction exemptions and collect a fee in lieu of as set out in properly promulgated rules and regulations. In no instance will a private or public entity not build or pay a fee in lieu of sidewalk or bike facility construction.

(H) Off-Premises Public Curb Ramp Construction. The developer ("First Developer") or public agency building off-premises public curb ramps to maintain ADA compliance of the public right-of-way as a result of his or her development or construction activity shall be eligible to be reimbursed for the reasonable design, construction and bonding cost to build said public off-premises curb ramps and other necessary accommodations including pedestrian pushbuttons. Said eligibility shall expire ten years following final acceptance of the off-premises public curb ramp construction. The First Developer or public agency shall request from the Director of Public Service reimbursement at the time of his or her site plan approval. The First Developer or public agency shall then provide within a reasonable time following construction of the off-premises curb ramps and other necessary accommodations including pedestrian pushbuttons documentation acceptable to the city of Columbus of actual reasonable design, construction and bonding costs to build the off-premises curb ramps and other necessary accommodations including pedestrian pushbuttons. The developer of property abutting constructed off-premises public curb ramp and other necessary accommodations including pedestrian pushbuttons ("Second Developer") shall reimburse the First Developer or public agency the documented reasonable design, construction and bonding cost as a condition of and at the time of his or her site plan approval if said site plan is approved within ten years of final acceptance of the off

-premises curb ramp construction. The First Developer shall also reimburse the city of Columbus for reasonable administrative costs associated with reviewing, approving and tracking the reimbursement. Said costs shall be determined by the Director of Public Service or designee.

SECTION 3. That the sections of Chapter 905 and Chapter 4307 of the Columbus City Code, 1959 as modified by this ordinance shall only apply to applications for rezoning and site plan approval and capital improvement project plans submitted for first review after February 1, 2011.

SECTION 4. That for the reasons stated in the preamble hereto, which is hereby made a part hereof, this ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor, or ten day after passage if the Mayor neither approves nor vetoes the same.