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ADA Title II Public Rights of Way Transition Plan Update

Portland Bureau of Transportation

City of Portland

DRAFT

August 2020

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TABLE OF CONTENTS

1.	Introduction and Overview.....	3
1.1	Goals and Objectives.....	4
1.2	Commitment to Equity.....	5
1.3	City of Portland’s Title II ADA History and Efforts.....	6
1.4	Disability in Portland	8
2.	Legal Requirements	9
2.1	Federal	9
2.2	State	10
2.3	City	10
3.	Identification of Barriers.....	12
3.1	PBOT Self Evaluation	12
3.2	Curb Ramps	12
3.3	Pedestrian Signals	13
3.4	Sidewalks.....	13
3.5	Parking	14
3.6	Transit Stops.....	15
4.	Methods to Remove Barriers	16
4.1	Capital Improvements, Alterations, Maintenance, and Community Requests	16
4.2	Work by Others on City Right of Way	17
4.3	Curb Ramps by Request	17
4.4	ADA Community Requests, Concerns, Complaints	17
4.5	ADA Exceptions	19
4.6	Website Accessibility	20
4.7	Design Standards and Specifications	20
4.8	Review of Policies, Practices, and Procedures	21
4.9	Training	21
5.	Other Programs & Plans Enhancing Accessibility	22
5.1	City of Portland ADA Title II Transition Plan & Supplements.....	22
5.2	PedPDX Plan	23
5.3	Neighborhood Streets Program	24
5.4	Adaptive Cycling Program	24
5.5	Shared Streets.....	25
5.6	PDX WAV.....	25
5.7	Safe Routes to Schools.....	26
5.8	Transportation Wallet.....	26

6.	Priorities and Funding.....	27
6.1	Prioritization Criteria.....	27
6.2	Funding	29
7.	Public Outreach and Engagement	30
7.1	Public Events	30
7.2	Public Comments	30
7.3	Stakeholders	30
8 .	Schedule for Barrier Removal.....	31
8.1	Initial Schedule for Barrier Removal	31
8.2	Transition Plan Updates	32
9.	Person Responsible for Transition Plan	34
10.	Glossary of Terms & Acronyms	35
11.	Resources	38
11.1	City of Portland (as an organization):	38
11.2	Portland Area Resources:.....	39
11.3	Oregon Resources	39
11.4	Federal Resources	40
12.	Appendices	41
12.1	City Engineer Directive on Technical Infeasibility	42
12.2	City of Portland Technical Infeasibility and History Significance Exceptions Policy	44
12.3	ADA Transition Plan Public Involvement Stakeholder List.....	46



1. INTRODUCTION AND OVERVIEW

The City of Portland (the City) and the Portland Bureau of Transportation (PBOT) are committed to providing accessible services to the community. The needs of people with disabilities is a primary consideration for improvements to the right of way and to the delivery of PBOT services.

PBOT Mission Statement

The Bureau of Transportation is a community partner in shaping a livable city. We plan, build, manage, and maintain an effective and safe transportation system that provides people and businesses access and mobility. We keep Portland moving.”

PBOT’s values are safety, innovation, equity, openness, respect, and inclusion. PBOT’s ADA Title II Public Rights of Way Transition Plan Update (Transition Plan) replaces the 1996 plan and fulfills the requirements set forth in Title II of the Americans with Disabilities Act (ADA). The ADA states that a public entity must reasonably modify its programs, policies, practices, procedures, and infrastructure to avoid discrimination against people with disabilities.

All transition plans must include the following:

- Identify obstructions in the public rights of way that create barriers to people with disabilities.
- Identify limits to full program access including review of policies, practices, and procedures that limit full access.
- Describe the methods to remove identified barriers and how to make them accessible, including priority setting and funding.
- Create a schedule to remove barriers within the public right of way and barriers to other programs.
- Provide and allow for public review and comment on the transition plan.

- Identify and make available to the public the individual responsible for transition plan implementation.
- Establish and maintain an effective public concern and/or grievance procedure.

The Transition Plan will provide a framework for the continuous improvement of the Public Right of Way (PROW) and related PBOT programs for people with disabilities. This is a living document, intended to be regularly updated as barriers are removed, and new plans and changes are undertaken by the City and PBOT.

1.1 Goals and Objectives

The three core goals in PBOT's 2019-2022 Strategic Plan are:

- 1) safety
- 2) moving people and goods, and
- 3) asset management.

The primary goal of PBOT's updated Transition Plan is to provide full program access to people with disabilities. The Strategic Plan goals are encompassed in this Transition Plan goal. A fully accessible transportation system is one that is safe, allows all people to move through it, and appropriately built and maintained.. This Transition Plan provides PBOT with specific information on PROW and program barriers, identifying steps to eliminate them.

Through the in-process self-evaluation, PBOT is reviewing its programs, services, and activities offered to the public, including a review of policies and procedures which influence and maintain them. The self-evaluation will assist PBOT in how to provide those services to people with disabilities and identify gaps.

The Transition Plan is built on the self-evaluation work and identifies physical barriers in the PROW, provides the methods to remove those barriers, and develops a schedule for removal.

The Transition Plan also identifies the individual within PBOT who is responsible for the Transition Plan, which includes maintaining, implementing, and updating the plan, as well as acting as the point of contact to the public and a resource for internal bureau staff.

Finally, the Transition Plan provides information on PBOT's efforts to accept and address complaints from the community regarding ADA concerns or grievances.

1.2 Commitment to Equity

The City of Portland is committed to increasing diversity, advancing equity, and fostering inclusion in everything that we do. Equity, as defined by The Portland Plan in 2012, is when everyone has access to the opportunities necessary to satisfy their essential needs, advance their well-being, and achieve their full potential. We have a shared fate as individuals within a community and communities within society. All communities need the ability to shape their own present and future. Equity is both the means to healthy communities and an end that benefits us all. Simply put – equity is achieved when one's identity cannot predict the outcome.

Additionally, in 2015 the City of Portland adopted citywide racial equity goals and strategies, they are:

Citywide Racial Equity Goal.

1. We will end racial disparities within city government, so there is fairness in hiring and promotions, greater opportunities in contracting, and equitable services to all residents.
2. We will strengthen outreach, public engagement, and access to City services for communities of color and immigrant and refugee communities, and support or change existing services using racial equity best practices.
3. We will collaborate with communities and institutions to eliminate racial inequity in all areas of government, including education, criminal justice, environmental justice, health, housing, transportation, and economic success.

Citywide Equity Strategies

1. Use a racial equity framework
2. Build organizational capacity
3. Implement a racial equity lens
4. Be data driven
5. Partner with other institutions and communities
6. Operate with urgency and accountability

Transportation planning decisions often have significant equity impacts and therefore equity concerns are front and center in PBOT's work. At PBOT, we have taken several actions to advance these equity goals and strategies, including:

- Established the Equity and Inclusion program in the Office of the Director and created several positions across the organization whose sole purpose is to lead the implementations of the equity goals and strategies, including an ADA Right of Way Transition Coordinator position
- Developed a five-year Racial Equity Plan and integrated a Transportation Justice focus within the organizations three-year Strategic Plan
- Incorporated equity-specific datapoints to assess deficiencies in the Portland's transportation system; prioritize capital and safety project investments; strengthen community partnerships; and assess program and service outcomes.

Disability is a prominent focus within our equity and inclusion work, but this updated ADA Transition Plan will refresh our disability access workplan across the organization.

1.3 City of Portland's Title II ADA History and Efforts

February 5, 1992 - City Council unanimously adopted Resolution 34945, which affirmed that all programs, services, and activities provided by the City are accessible to people with disabilities. The resolution affirmed that people with disabilities should not be discriminated against when pursuing employment with the City.

May 5, 1993 - City Council adopted Resolution 35135, which affirmed the policy to provide access to City's programs, activities, and services by approving a Transition Plan.

October 4, 1996 - The City of Portland updated its ADA Transition Plan.

October 17, 2001 -City Council adopted resolution 36035, which established the City's Diversity Development/Affirmative Action Guiding Principles and Strategic Development Plan. The Strategic Development Plan called for an ADA Coordinating Committee to establish a Citywide committee to coordinate the ADA

initiative and training. Presently, the ADA Title II Policy Coordinator manages a Citywide group of ADA Title II representatives.

May 25, 2006 - Then Mayor Tom Potter drafted a letter to all Bureau Directors outlining a Program Accessibility Policy to ensure compliance with Title II of the ADA and provide a system to provide accommodations requested by persons with disabilities.

June 19, 2013 - The City of Portland adopted the Civil Rights Title VI plan with the commitment to ensure that the City's programs, services, and activities are accessible to all persons.

July 2014 - The Civil Rights Title VI and ADA Title II Program transferred to the Office of Equity and Human Rights.

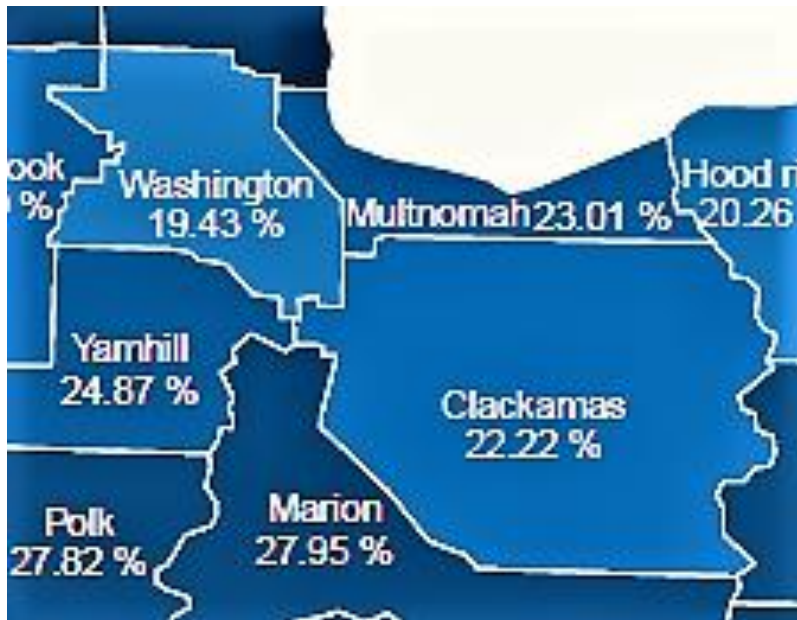
November 2014 - City Council accepted the City of Portland ADA Title II Transition Plan Update. This Transition Plan covered all facilities owned, managed, or operated by the City of Portland.

August 2015 - Portland Parks and Recreation completed their Amendment to City of Portland ADA Transition Plan.

February 2016 - PBOT completed an ADA Transition Plan Strategic Effort Report for PROW.

1.4 Disability in Portland

According to data from the Behavioral Risk Factor Surveillance System (BRFSS), 23% of people living in Multnomah County have a disability. In Clackamas County, 22% of people have a disability and in Washington County, 19% has a disability. This map from data from the Behavioral Risk Factor Surveillance System (BRFSS) 2013-2015 compiled by Oregon Health and Sciences University (OHSU) shows statistics by county.



According to data from the 2013-2018 American Community Survey (ACS) 5-year estimate, the percentage of the population that reports having a disability increases with age. The types of disability include mobility, hearing, vision, cognitive, self-care, and independent living. Of Portlanders between 5 and 17 years of age, 6.3% have a disability. Portlanders who are 75 years of age and older report a rate of disability at 53.5%.



2. LEGAL REQUIREMENTS

Legal requirements at the federal, state, and local levels identify that policies, practices, procedures, priorities, and funding strategies are in alignment with regulations. PBOT follows these legal requirements in its plans, programs, policies, practices, and activities.

2.1. Federal

Section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794] prohibits discrimination against individuals with disabilities under any program or activity receiving federal financial assistance. Title II of the Americans with Disabilities Act (ADA) of 1990 was passed to prohibit discrimination and ensure equal opportunity for people with disabilities in employment, state, and local government services, commercial facilities, transportation, and both public and private spaces which are open to the public. Title II of the ADA extends the prohibition on discrimination to all state and local government entities, ensuring that people with disabilities aren't excluded from participation in or the benefits of the entity's services, programs, or activities.

The US Access Board developed the Americans with Disabilities Act Accessibility Guidelines (ADAAG) in 1991 and updated them in 2004. Both the US Department of Justice (US DOJ) and the US Department of Transportation (US DOT) have ADA standards developed from ADAAG that apply to elements related to their specific responsibilities. US DOT's ADA standards apply specifically to public transportation facilities. US DOJ's ADA standards apply to all facilities except public transportation facilities. In 2005, the US Access Board developed the Public Right of Way Accessibility Guidelines (PROWAG). These were subsequently updated in 2011 and 2013 but have not yet been officially adopted. For accessibility related to transportation facilities, PROWAG is the primary guidance used.

2.2. State

Applicable Oregon law resides in Oregon Revised Statutes Chapter 267 – Transportation Districts, Chapter 447 – Standards and Specifications for Access by Persons with Disabilities (sections 447.210 to 447.310).

City

In compliance with Title II of the ADA, it is the policy of the City of Portland that no person shall be excluded from participation in, denied the benefits of, or be subjected to discrimination in any City program, service, or activity on the grounds of disability. To help ensure access to City programs, services, and activities, the City of Portland reasonably provides accommodations to people with disabilities.

City and PBOT Policies

Audible Pedestrian Signal Policy identified in 3.2 below

ADM-18.02 – Title VI Civil Rights Complaint Procedures

ADM-18.20 – ADA Title II Complaint Procedures

HRAR-2.01 Equal Employment Opportunity (EEO) Affirmative Action

HRAR-2.02 Prohibition Against Workplace Harassment, Discrimination, and Retaliation

HRAR-2.06 Title I Reasonable Accommodation for People with Disabilities

HRAR-3.01 Recruitment Processes

Policy 1.09 Title II and Title VI Information Policy

Policy 1.10 Confidential and Sensitive Personnel Information

2035 Comprehensive Plan Policies:

9.9 Accessible and age-friendly transportation system

9.19 Pedestrian safety and accessibility

9.21 Accessible Bicycle system

9.25 Transit Equity

Civil Rights Education and Enforcement Center Consent Decree

In the summer of 2016 the Civil Rights Education and Enforcement Center (CREEC), notified the City that it lacked adequate curb ramps in the pedestrian right of way that comply with applicable federal disability rights laws. This notification of an intent to sue was made on behalf of three named Plaintiffs and a class of similarly situated individuals who are residents of or visitors to the City of Portland with mobility disabilities, including, but not limited to, those who use

a wheelchair, scooter, or other assistive devices (collectively, the “Settlement Class”).

In the fall of 2016, the City entered into a Negotiated Agreement with plaintiffs and attorneys for the Settlement Class to work cooperatively to resolve the allegations and to improve access to the City’s pedestrian right of way.

The Consent Decree from this agreement can be accessed in the link below. The main elements are:

- The City will perform a survey of all City corners at street segments with sidewalks (pedestrian walkways) to identify and inventory all curb ramps throughout the City. The results of this inventory will be used to identify where curb ramps are needed and what curb ramps require fixes to be fully ADA compliant.
- The City will install or remediate (fix) 1,500 curb ramps for twelve years, commencing July 1, 2018.
- Curb ramps will be remediated through existing projects that trigger them and using the federally identified priorities.
- The City’s Curb Ramp by Request program will also identify curb ramps to be remediated.
- An update to the PBOT PROW Transition Plan within three years of the effective date of the Consent Decree; by September 2021.
- Extensive outreach to the settlement class as well as to any other users of the transportation system who wanted to comment on the agreement.

[Consent Decree](#)



3. IDENTIFICATION OF BARRIERS

3.1 PBOT Self Evaluation

As one of the obligations under Title II of the ADA was a self-evaluation survey, which was administered to PBOT managers and staff whose work regularly involves public communication, public engagement, or delivery of services to members of the public. PBOT will continue to evaluate its operations and make appropriate adjustments to provide full accessibility. Survey responses identified that PBOT programs and employees are generally aware of ADA requirements. The responses also indicated that there may be gaps in policies and practices of specific programs in terms of how employees communicate with and provide services to people with disabilities. Recommendations were made and are being implemented in several areas. As noted above, PBOT will continue to self-evaluate and make adjustments as necessary.

3.2 Curb Ramps

As part of the Consent Decree, the City was required to perform a survey of all City-owned street corners at street segments with pedestrian walkways to identify the number and types of curb ramps at each corner, as well as curb ramps and associated ramp landings that were missing or not compliant. The survey collected data at locations that had curb ramps and those that were missing curb ramps. Where curb ramps were present, the survey identified the type, position, slopes, and measurements of each curb ramp. The detailed collection information is available in the Consent Decree, Section V., Paragraph B., subsection 2., c. i. – xv. Results of the survey and all collected data will be electronically recorded in the City's GIS database.

3.3 Pedestrian Signals

Pedestrian signals are an important part of PBOT's transportation system.. Pedestrian signals can be automatic or triggered. Automatic pedestrian signals are timed with the vehicular traffic signal to identify when a pedestrian should walk or should wait. Triggered pedestrian signals are triggered by a pedestrian pushing a button to indicate they want the sign to change to "walk" so they can cross. Some of these pedestrian push button locations are also audible. New audible pedestrian signals can be requested. City staff and a mobility specialist from the Oregon Commission for the Blind will consult with the person making the request to understand the pedestrian's needs. The City's policy to evaluate these requests identifies that:

- The intersection must be signalized.
- The location be evaluated for safety, noise level, and neighborhood acceptance.

Full details of the policy and process can be viewed at this link:

[Audible Pedestrian Signals | Signals | The City of Portland, Oregon](#)

PBOT adds and improves pedestrian signals through projects, including installation of audible signals in projects that are upgrading or adding signals. When signals are added or modified, data will be collected to identify whether signals are audible and compliant.

3.4 Sidewalks

Pedestrian access via compliant, obstruction-free sidewalks is an important part of an accessible transportation system. Per City code, property owners, including homeowners, business owners, schools, other large institutions, and homeowner associations, are responsible for constructing, maintaining, and repairing sidewalks abutting their property. Traditionally the requirement to construct sidewalks where they are missing or deficient is triggered when development or redevelopment projects occur. However, City charter and City code also grants the City the authority to require the construction and maintenance of sidewalks outside the development process.

In response to complaints, PBOT inspectors assess sidewalks and notify the property owner of needed repairs. In the event timely repairs are not made by the property owner, PBOT hires a private contractor to make the repairs and bills

the property owner for the costs. There is currently an option for property owners to finance the cost of City completed repairs. The possibility of developing a proactive sidewalk inspection program is being evaluated. Details of the current sidewalk program can be found through this link:

[Sidewalk Maintenance Posting Program](#)

While building and maintaining sidewalks remains a private obligation, PBOT does invest in sidewalk construction, particularly on busy streets that are deficient and could serve a large number of pedestrians. Sidewalks are also constructed through PBOT's capital projects and private development projects.

PedPDX is, PBOT's Pedestrian Master Plan. Strategy 8 of PedPDX (Construct and Maintain Obstruction-Free Sidewalks), identifies 14 actions to support a fully accessible sidewalk system, including the evaluation of a proactive sidewalk inspection program. The specifics of these action items are available through this link:

[PedPDX Plan The City of Portland](#)

Funding for an inventory and condition survey of sidewalks along city-owned or operated buildings and properties is proposed for the 2020-2021 budget cycle:

[Transportation System Plan \(TSP\) | The City of Portland, Oregon](#)

3.5 Parking

Accessible Parking in the Public Right of Way

There are designated accessible parking spaces on city streets throughout Portland. To increase the accessibility of short-term parking, the City adopted new policies for people using state-issued Disabled Person Parking Placards. The program extends parking meter times for people holding Disabled Parking Placards and adds reserved parking spaces for people holding these placards, including some specifically for wheelchair placard holders.

PBOT considers property owner requests for an accessible on-system parking space fronting their property. A more specific process or policy related to these requests will be developed as part of implementing the Transition Plan.

A map of accessible parking on the public right of way and in city-owned parking garages is available at this link: [Accessible Parking Map](#)

Parking Structures

PBOT owns and/or operates structured parking facilities in Portland, primarily downtown. These parking facilities are subject to ADA Title II and are required to be included in a transition plan, however, this Transition Plan is focused on the public right of way. PBOT completed a transition plan for its buildings, including parking structures, in October 2014. Barriers, inventories, and methods for removing in PBOT parking structures are included in the City of Portland ADA Title II Transition Plan Update in sections 3.3 and 4.1.

Website: [City of Portland ADA Title II Transition Plan](#)

3.6 Transit Stops

Transit stops for buses, Max and the Portland Streetcar exist on city streets managed by PBOT. While transit stops are in the PROW, they are the responsibility of the transit provider. For buses and the Max, these transit stops are the responsibility of Tri-Met. As the owner and operator of the Portland Streetcar, PBOT is responsible for those locations. Amenities and conditions at transit stops vary related to shelters, access, sidewalks, and related signage. Where accessibility needs to be improved at bus and Max stops, PBOT will work with Tri-Met to identify any modifications required in the PROW. Accessibility modifications required to the Portland Streetcar stations will be identified and included in the Transition Plan's remediation schedule.



People using wheelchairs wait to board the Portland Streetcar.

An inventory of the Portland Streetcar stations is in the Portland Streetcar Transit Asset Management (TAM) Plan. The condition assessment is updated annually. There are 66 open stations and 2 additional stations that are located on public plazas, which are not PROW.



4. METHODS TO REMOVE BARRIERS

4.1 Capital Improvements, Alterations, Maintenance, and Community Requests

PBOT uses several different methods to install and repair curb ramps, pedestrian signals, sidewalks, and other accessible transportation elements.

- **Capital Improvement Projects** include new construction and planned improvement projects. These projects may require adding, replacing, or updating accessible elements in the PROW.
- **Alterations** in the PROW include repaving projects and all other work that may require installing and fixing accessible elements.
- **Maintenance** work in the PROW may also require work to repair or replace non-compliant or missing accessible elements. Related to curb ramps, PBOT's Maintenance & Operations work plan includes a goal of 700-1000 curb ramps annually. The 700-1,000 commitment is re-stated in the 2004 Sidewalk System Management Plan.
- **Community requests** take many forms through opportunities specifically identified in Section 4.4 below and often result in work to bring accessible transportation elements into compliance with ADA.

4.2 Work by Others on City Right of Way

The City of Portland's Bureau of Development Services (BDS) provides permits for developments such as residential, office, industrial, and commercial buildings, and housing, which may trigger public improvements. Public improvements may include accessibility elements such as sidewalks, ramps, and signals. These permittees are required to construct the improvements to the full accessibility standard to the maximum extent feasible.

4.3 Curb Ramps by Request

In 1997, the ADA Curb Ramp Request Program was developed to respond to requests from community members to build curb ramps on local streets throughout the city. Rebuilding and installing new corners to provide curb ramps by request is one way the City provides access for people who have limited mobility or who use wheelchairs or other mobility devices.

Requested sites are evaluated in the order received and prioritized according to these guidelines:

- Requests made by or for the benefit of people with disabilities.
- Requests that appear hazardous or cause a dangerous condition for people with disabilities.
- High pedestrian crash locations with missing or non-compliant curb ramps.
- High pedestrian use areas.
- Places with higher concentration of people with disabilities.
- Locations that fill in gaps in the pedestrian network to serve key destinations.

For more information on this program, follow this link: [ADA Curb Ramp Request Program | The City of Portland, Oregon](#)

4.4 ADA Community Requests, Concerns, Complaints

In addition to the Ramps by Request program, the City has several ways for community members to make requests, submit concerns or file complaints regarding PROW accessibility and compliance with the ADA.

823-SAFE

Community members can contact the City regarding maintenance or traffic safety issues including signage, signals, pavement, sidewalks and potholes.

Contact the [Transportation Safety and Neighborhood Livability Hotline](#) at 503-823-SAFE (7233), or [submit a request online](#). Issues may include, but are not limited to, concerns about crosswalks, proper signage, visibility, and traffic speed and volume.

PDX Reporter

The PDX Reporter is a convenient way to interact with city bureaus and report problems and maintenance issues within Portland city limits. This app can be used on any web-enabled smartphone, tablet or desktop computer.

To use the app, visit www.pdxreporter.org and log in using your PortlandOregon.gov account, or the account you used with the previous version of the app. Login is required, but registration is free and open to the public--just use the “sign up” link on the login page. If you save the app to your home screen, you can use it just like any other app on your smartphone or tablet. See the in-app help page for more information.

Submitting an ADA Title II Complaint

Any person who believes they have been the object of unequal treatment or discrimination on the grounds of disability may file a complaint with the City of Portland’s Title II Program Manager. This process applies to all complaints filed under Title II of the ADA arising from any program, service of or activity of the City of Portland or its sub-recipients. This is an administrative process that does not provide for compensatory or punitive damages.

The City’s process is not exclusive. A person filing a complaint with the City may also file a complaint with other state or federal agencies or the courts. Other agencies will have time limits for filing complaints. Generally, federal agencies require Title II complaints to be filed within 180 days of the date of the discrimination.

More information on how to file an ADA Title II complaint, including the form to use, can be found at this link: [File a Complaint | The City of Portland, Oregon](#)

Accessible Pedestrian Signal

This program allows the Public to request accessible pedestrian signals. Please refer to section 3.3

4.5 ADA Exceptions

ADA, Title 28 of the Code of Federal Regulations, Section 35.150(a) (also referred to as the ADA Rules), provides that public entities will operate their services, programs, and activities to be sure they are readily accessible and usable by people with disabilities. The ADA Rules also provide for some exceptions:

Technically Infeasible

Under some conditions, the City may be limited in its ability, or completely unable, to provide fully compliant curb ramps, sidewalks, pedestrian signals, or other elements because of the existing physical or site restraints. For example, clear space at the top of the ramp is obstructed by a building, or the slope of a hill is so extreme as to prevent a reasonable slope for a curb ramp in both directions. Under these circumstances, the City may identify that a curb ramp is technically infeasible or structurally impractical. PBOT has adopted an administrative rule to govern its use of this evaluation. It is attached in Appendix 12.1.

Undue Burden

The ADA Rules also state that the City may not be required to provide a modification if doing so would fundamentally alter the nature of a service, program, or activity or result in undue financial or administrative burdens.

Whether an alteration or accommodation is an undue burden requires evaluating all available resources and is a determination that must be made by the head of the agency.

The following factors shall be considered in determining whether a program modification would create an undue burden: the nature and cost of the modification, the financial resources of the city available to make the modification, the impact the expense of the accommodation will have on the affected city operation, and the permanence of the alterations affecting the site.

If a modification is determined to cause an undue burden, the City shall identify other options for providing access to facilities or services.

Program Access

The regulation also acknowledges that a public entity isn't required to make each of its existing facilities accessible to and usable by individuals with disabilities, as long as the program as a whole is accessible. For example, the City's decision not to install curb ramps at some locations (or to install them as a lower priority later), as long as a reasonable path of travel is available even without those curb ramps.

4.6 Website Accessibility

In 2017, the City of Portland began planning the replacement of its then 15-year-old internet site. The Portland Oregon Website Replacement (POWR) team spent a year working with PBOT and other bureau staff on the new site. The new website, launched June 2020, is easy to use for all community members and conforms with Web Content Accessibility Guidelines, WCAG 2.1 Level AA. The site is usable and neutral in tone, which will help community members find what they are looking for efficiently.

Website: [City of Portland, Oregon | Portland.gov](#)

4.7 Design Standards and Specifications

PBOT has developed technical guidance in specifications and plans to ensure that when curb ramps, pedestrian signals, parking, sidewalks, and other accessible elements on or along PROW are constructed, they are designed and built compliant with ADA standards. The primary guidance is from the Manual on Uniform Traffic Control Devices (MUTCD), Federal Highway Administration (FHWA), and the 2010 ADA regulations. These standards and more information on accessible transportation system design can be found in PBOT's Standard Drawings & Details Webpage and on the ADA Page at these links. PBOT standards and specifications in some elements exceed the federal minimum ADA requirements.

Website: [Standard Drawings & Details | The City of Portland, Oregon](#)

Website: [ADA Page | For Engineers, Contractors & Consultants | The City of Portland, Oregon](#)

4.8 Review of Policies, Practices, and Procedures

PBOT operates using many written policies, procedures, ordinances, and codes. New or modified policies and procedures will be reviewed with the intention of ensuring that all PBOT programs support full accessibility. Existing policies and procedures will be reviewed to ensure that each supports full accessibility.

4.9 Training

PBOT offers an ADA curb ramp workshop to staff and consultants, to educate and explain design and construction requirements. Staff has also attended Oregon Department of Transportation (ODOT) trains of best practices in curb ramp design and inspection. PBOT also has a mandatory equity training that provides a broader perspective on transportation justice as serving the needs of all transportation system users. These trainings and others as appropriate, will evolve in the future to provide current, pertinent content to staff and consultants.



5. OTHER PROGRAMS & PLANS ENHANCING ACCESSIBILITY

PBOT is committed to full accessibility on the transportation system and in its programs. In addition to a barrier removal schedule within this Transition Plan, there are several other PBOT or City programs and plans that address elements of transportation system accessibility.

5.1 City of Portland ADA Title II Transition Plan & Supplements

The City of Portland provides many different programs and services in multiple facilities to its residents and as a benefit to city visitors. Municipal facilities include City buildings, public parking lots, and City-owned and managed facilities operated by private or other public entities. Where the responsibility of one bureau ends and another begins is probably not apparent or important to residents and visitors but access to all City facilities, programs, and services is. Due to the unique business of various bureaus, several ADA Title II Transition Plans exist for the City.

In November 2014, the City Council approved a transition plan that addresses broader and more common elements of City facilities. The City of Portland's Transition Plan is the result of a detailed evaluation of all City of Portland municipal facilities where programs, activities, and services are available to the public. This Transition Plan also includes parking structures, which directly relate to transportation access.

Website: [City of Portland ADA Title II Transition Plan](#)

In August 2015, the City Council approved the Parks Facilities Update to the abovementioned Transition Plan. Portland Parks & Recreation (PP&R) facilities were evaluated as part of the Transition Plan, though due to the large number (260) of publicly accessible park facilities, the evaluations took longer to accomplish than those of other bureaus resulting in the parks-specific update.

Website: [City of Portland ADA Title II Transition Plan Parks Update](#)

In December 2016, the City Council approved the Performing Arts Venues update to the base Transition Plan. The City owns three performing arts facilities – the Portland’s Centers for the Arts – the Keller Auditorium, Arlene Schnitzer Concert Hall and Antoinette Hatfield Hall. To ensure consistency with the rest of the effort, the same consultant team and methodology were used to perform assessments at the Portland’s venues in early 2016.

Website: [City of Portland ADA Title II Transition Plan Performing Arts Venues Update](#)

This transportation-focused Transition Plan update is intended to provide a framework for the continuous improvement of City facilities for people with disabilities. This is a living document, regularly updated as barriers are removed, and new facilities come under ownership or control of the City.

5.2 PedPDX Plan

PedPDX is Portland’s Citywide Pedestrian Master Plan. Through PedPDX, the City of Portland affirms walking as a fundamental human right and the most fundamental means of transportation. PedPDX ensures walking is a safe, accessible, and attractive experience for everyone in Portland by putting pedestrians at the forefront of City policy, investments, and design. It prioritizes sidewalk and crossing improvements, along with other investments to make walking safer and more comfortable across the city.

The plan identifies the key strategies and tools to make Portland a great walking city for everyone, including people with disabilities. The strategies that most directly support accessibility include addressing gaps in the pedestrian priority network, constructing and maintaining obstruction-free sidewalks, and working with developers, residents, and property owners to provide pedestrian improvements.

Website: [PedPDX Documents | The City of Portland, Oregon](#)

5.3 Neighborhood Streets Program

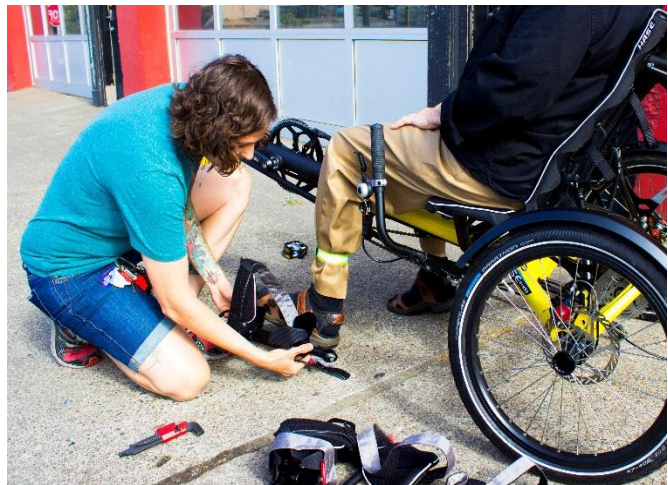
In Portland, less than 4% (50 miles of the 1,181 miles) of streets are unimproved – dirt and gravel. Another 17% (200 miles) of streets are under-improved – some pavement and/or sidewalks, but no street curb. These 250 miles of unimproved streets make it difficult for people to safely and easily walk through their communities. Based on community input, the Neighborhood Streets program framework has been developed to include additional program elements to further address deficient neighborhood streets infrastructure.

Website: [Neighborhood Streets Framework | The City of Portland, Oregon](#)

5.4 Adaptive Cycling Program

Began as a pilot in spring of 2017 and now a standard PBOT program, Portland has coordinated a program to offer physical accommodation with its BIKETOWN bike share system. Designed in partnership with stakeholders from the people with disability community, Adaptive BIKETOWN is Portland's adaptive bike rental program. The goal is to increase biking access for people with disabilities. PBOT partners with Kerr Bikes to provide a fleet of 15 bicycles, including handcycles, trikes, tandems, and electric adaptive bikes. The focus is on short to medium-length bicycle rentals, of one to three hours. Adaptive BIKETOWN ridership has grown each year.

Website: <http://adaptivebiketown.com/>



5.5 Shared Streets

Acquiring additional right of way for projects occurs occasionally but the PROW is a fixed commodity in most areas of Portland. As new modes of transportation are available to users and competition increases for use of the fixed PROW, PBOT is aware of the need to ensure safe and flexible use of it. Many City programs, plans, and projects are defining shared street strategies related to their specific efforts. For example, PedPDX, Strategy 5.2 includes a section on Pedestrian Shared Streets. A consultant will provide expertise to the Bureau in development of strategies to evaluate appropriate street designs. Through current efforts and over the life of this Transition Plan, PBOT will develop policies and procedures to apply to future projects.

5.6 PDX WAV

To improve on-demand service to people who use mobility devices, PBOT developed PDX WAV, a program which makes reliable, safe vehicle-for-hire services more easily accessible.

Unlike other transportation programs for people with disabilities, PDX WAV serves customers who need a ride now. On-demand service by providers including taxi and TNC (Uber and Lyft) companies in Portland should be easy to obtain, safe and reliable. There is no need to be pre-registered with PDX WAV and you don't have to share a ride with somebody you don't know.

Website: [PDX WAV](#)

5.7 Safe Routes to Schools

PBOT's Safe Routes to School (SRTS) program is a partnership between the City of Portland, schools, neighborhoods, community organizations, and other agencies to make walking and biking around neighborhoods and schools fun, easy, safe and healthy. The SRTS traffic engineer works year-round on improvements to streets, signs, and signals around schools. These improvements benefit not just the students and their families, some of whom may be people with disabilities, but the communities and neighborhoods around the schools.

Website: [Safe Routes to School | The City of Portland, Oregon](#)



5.8 Transportation Wallet

The Transportation Wallet is a collection of passes and credits for use on transit, the Portland Streetcar, bike share, and scooters. It is an effective, low-cost strategy to reduce parking demand and congestion by increasing trips taken on transit, and by biking, walking, and scooting. While not specifically designed for or targeted to people with disabilities, the program is available to all users and when used, makes getting around Portland more accessible.



6. PRIORITIES AND FUNDING

6.1 Prioritization Criteria

Curb Ramps

The CREEC consent decree directs the City of Portland to annually provide a list of the locations at which the City plans to install accessible curb ramps for the upcoming calendar year.

The following prioritization methodology will be used for curb ramps other than those installed or remediated in connection with new construction, including capital projects and private development.

The CREEC consent decree specifies the order in which the City shall prioritize curb ramps at the locations that serve the areas, as follows:

1. Government offices, facilities, schools, and parks (including the pedestrian rights of way adjacent to facilities owned or operated by the City, and the paths of travel leading from such adjacent pedestrian rights of way to the primary entrances to such facilities);
2. Transportation corridors;
3. Hospitals, medical facilities, assisted living facilities, and other similar facilities;
4. Places of public accommodation, such as commercial and business zones;
5. Facilities containing employers; and
6. Residential neighborhoods.

PBOT will select the locations for installing accessible curb ramps on an annual basis following the proposed methodology.

1. Map government offices, facilities, schools, and parks.

The City will start at locations ranked first in the CREEC consent decree priority, specifically government offices, facilities, schools, and parks (including the pedestrian rights of way adjacent to facilities owned or operated by the City, and the paths of travel leading from such adjacent pedestrian rights of way to the primary entrances to such facilities).

2. Use existing inventory to identify where curb ramps are lacking or require remediation.

The City will compare the locations of facilities in ‘step one’ with the curb ramp inventory of locations lacking a ramp or where the existing ramp is technically non-compliant. Curb ramps installation will be prioritized for the paths of travel (within the PROW leading to the primary entrances to the facilities).

3. Use PBOT’s Pedestrian Priority Network to address the City’s pedestrian demand, safety and equity policies.



A before and after photo of curb ramps in Portland.

The Pedestrian Priority Network directly reflects pedestrian demand-based priorities. Public priorities relating to safety (“Streets where people walking have been killed or injured”) and equity needs (“Areas that serve people who need to rely on walking the most”) were overlaid on the Pedestrian Priority Network as part of the PedPDX prioritization framework. PBOT spent two years working with the community to develop PedPDX, to guide Portland’s policies and investments over the next 20 years. The Plan gives each of the streets within a pedestrian classification a score that reflects the level of demand for pedestrian movement

on that street. This demand-based approach ensures that improvements are prioritized on streets that provide access to the walking destinations where demand is highest.

4. Identify Overlap with Locations Ranked Lower in the CREEC Settlement Priority

- Prioritize locations that provide access to other Areas identified lower in priority in the CREEC consent decree, specifically in the order below:
- Transportation corridors;
- Hospitals, medical facilities, assisted living facilities, and other similar facilities;
- Places of public accommodation, such as commercial and business zones;
- Facilities containing employers; and
- Residential neighborhoods.

To the extent possible, PBOT will apply this same prioritization strategy to pedestrian signals, sidewalks, transit stops, parking, and other transportation system elements when those are installed or remediated outside of capital projects and private developments.

6.2 Funding

There are multiple ways funds are committed to address curb ramps, pedestrian signals, transit stops, accessible parking, sidewalks, and other accessible elements along or within the PROW and modifications of PBOT's policies, practices, and procedures to provide full program accessibility. Sections 4.0 and 5.0 identify projects and programs that remediate these elements as part of their efforts.

As a part of the CREEC consent decree, PBOT has committed to remediating 1,500 curb ramps per year for 12 years through 2030. This equates to approximately \$14 million per year of the agreement. The Ramps by Request Program is part of this funding commitment.

Projects to deliver modal plans will include funding for related and appropriate accessible elements within those project scopes.

All Capital Improvement Projects (CIP) and maintenance projects will fund accessible transportation elements that their projects trigger for remediation.



7. PUBLIC OUTREACH AND ENGAGEMENT

7.1 Public Events

The draft Transition Plan was released in summer 2020. It is available on the website with links sent to the stakeholders listed below. Printed copies of the plan were provided to organizations and individuals identified in Appendix 12.3 and made available to anyone by request.

Due to COVID-19, outreach will be conducted through a regularly updated online open house. Interactive sessions will be offered to allow participants to ask questions of PBOT staff. PBOT staff will also offer presentations to organizations at their request, providing the same information as on the website and the interactive sessions while being able to engage on specific elements of the Transition Plan.

7.2 Public Comments

Public comments are encouraged. At meetings and during Q & A sessions, public comments will be captured. An online form is available until the public outreach and engagement period ends. All comments will be reviewed and considered in development of the final Transition Plan.

7.3 Stakeholders

PBOT communicated the availability of the draft Transition Plan and engagement opportunities to individuals and organizations identified in Appendix 12.3. The stakeholder list includes advocacy organizations, non-profits, and government agencies that serve people with disabilities. The list also includes advocacy organizations, non-profits, and government agencies that serve culturally specific populations where there are likely members or clients with disabilities who may not use disability-specific programs.



8. SCHEDULE FOR BARRIER REMOVAL

8.1 Initial Schedule for Barrier Removal

Barriers to full PBOT program access can include buildings, curb ramps, pedestrian signals, on-system parking, sidewalks, policies, practices, and procedures. Building barriers are addressed in City of Portland ADA Title II Transition Plan Update, adopted by Portland City Council in October 2014.

The City has committed to installing or remediating 18,000 curb ramps over 12 years which started in 2018. The scheduled work to achieve this goal will be a combination of community member requests by people with disabilities, capital improvement projects, alterations in the right of way (which includes street repaving, maintenance and private development).

The City intends to review and evaluate the Transition Plan, the schedule and the ADA programs for the PROW on an annual basis. The review and evaluation will include the following tasks:

- Annually update information on curb ramp status as curb ramps are installed and remediated.
- Annually assess progress and make any recommendations to update schedules and plan documents in the Transition Plan.
- Review requests for services and grievances received throughout the year and evaluate decision making and responsiveness.
- Provide annual updates on the above evaluations to the public via the City's public website: <http://www.portland.gov>

For system elements other than curb ramps and policies, practices, and procedures that need updating or development, the schedule in Table 8.1 demonstrates PBOT’s plan to identify deficiencies and make modifications over the 20-year life of the Transition Plan.

Transition Plan 20-Year Target for Barrier Removal

	First Five Years <u>2021- 2022</u>	First Five Years <u>2022- 2023</u>	First Five Years <u>2023- 2024</u>	First Five Years <u>2024- 2025</u>	First Five Years <u>2025- 2026</u>	Second Five Years <u>2026 - 2031</u>	Third Five Years <u>2031- 2036</u>	Fourth Five Years <u>2036 - 2041</u>
Curb Ramp Inventory	25%	25%	5%	5%	5%	25%	10%	
Curb Ramp Remediation & Installation	1500	1500	1500	1500	1500	7500	750/*	*
Pedestrian Signal Condition Collection		10%	10%	20%	20%	40%		
Pedestrian Signal Remediation		5%	5%	10%	10%	20%	25%	25%
On-System Accessible Parking Inventory	25%	25%	25%	25%				
On-System Accessible Parking Remediation					10%	30%	30%	30%
Identify Policies Needing Modification	100%							
Policy Modifications		25%	25%	25%	25%			
Transit Stop Inventory		25%	25%	25%	25%			
Transit Stop Remediation					10%	30%	30%	30%
Inventory Sidewalks Along City-owned Frontage		50%	50%					
City Frontage Sidewalk Remediation					25%	25%	25%	25%
Enhance Sidewalk Enforcement & Remediation		10%	10%	10%	10%	20%	20%	20%

*Targeted progress after Consent Decree curbs ramps are complete will be reviewed after 5 years of experience with the Decree.

Table 8.1 Transition Plan Target for Barrier Removal

Where barriers cannot be removed and/or before barriers are removed under the proposed schedule, PBOT will provide interim programmatic accommodations when requested.

8.2 Transition Plan Updates

As barriers are eliminated through projects, development, and changes to the transportation system, annual reports will be provided to the Portland City Council and Transition Plan updates will be published at least every five years.



9. PERSON RESPONSIBLE FOR TRANSITION PLAN

As required by the ADA when completing a Transition Plan, the City has made the following individual as responsible for the implementation of this Transition Plan.

PBOT ADA Coordinator

Lisa B. Strader

Lisa.Strader@portlandoregon.org

503-823-5703

10. GLOSSARY OF TERMS & ACRONYMS

Accessible: compliant with the applicable provisions of Title II of the Americans with Disabilities Act (ADA) or any ADA standards adopted by the U.S. Department of Justice and U.S. Department of Transportation for application in the pedestrian right of way.

Accessible Elements: Public right of way curb ramps, sidewalks, transit stops, parking, and pedestrian signals that provides a transportation system accessible to all users.

Accessible Pedestrian Signal (APS): A device that communicates information about the WALK phase in audible and vibrotactile formats.

Americans with Disabilities Act (ADA): The Americans with Disabilities Act; Civil rights legislation passed in 1990 and effective July 1992. The ADA sets design guidelines for accessibility to public facilities, including sidewalks and trails, by individuals with disabilities.

Americans with Disabilities Act Accessibility Guidelines (ADAAG): Contains scoping and technical requirements for accessibility to buildings and public facilities by individuals with disabilities under the Americans with Disabilities Act (ADA) of 1990.

Alteration: A change to a facility in the public right-of-way that effects of could affect pedestrian access, circulation, or use.

Federal Highway Administration (FHWA): A branch of the United States Department of Transportation that administers the federal-aid Highway Program, providing financial assistance to states to construct and improve highways, urban and rural roads, and bridges.

Manual on Uniform Traffic Control Devices MUTCD –: National standard for traffic control devices for the United States. It was adopted by the State of Oregon. This manual provides guidance on signal button locations and heights.

ODOT – Oregon Department of Transportation

PBOT – Portland Bureau of Transportation

“Pedestrian Facility” or “Pedestrian Facilities”: Any portion of an intersection or street that is provided for pedestrian travel, and any Pedestrian Walkway, crosswalk, curb, curb ramp, walkway, pedestrian right of way, pedestrian undercrossing, pedestrian overcrossing, or other pedestrian pathway or walk of any kind, that is, in whole or in part, owned, controlled, or maintained by or otherwise within the responsibility of the City of Portland.

Pedestrian Priority Network: The network of Portland streets and paths that provide important pedestrian connections to transit and other key destinations.

Pedestrian Signal: Devices used at signalized intersections to notify pedestrians when it is safe to cross the street. Some, but not all, provide audible notifications.

Pedestrian Walkway: A sidewalk or other prepared exterior surface provided for pedestrian travel in the public right of way that is, in whole or in part, owned, controlled, or maintained by or otherwise within the responsibility of the City of Portland.

PPP – Policy, Planning, & Projects

PROWAG: An acronym for Public Right-of-Way Accessibility Guidelines; guidance for accessible public rights-of-way issued in 2005 by the U. S. Access Board. This guidance addresses roadway design practices, slope, and terrain related to pedestrian access to walkways and streets, including crosswalks, curb ramps, street furnishings, pedestrian signals, parking, and other components of public rights-of-way. Although not yet adopted by US DOJ and US DOT, it is used as the standard by many jurisdictions.

Public Right-of Way (PROW): Public land or property, usually in interconnected corridors, that is acquired for or dedicated to transportation purposes.

“Remediate” or “Remediation”: The correction of an existing non-compliant curb ramp, pedestrian signal, sidewalk, or other element to make it compliant with ADA standards.

Section 504: The section of the Rehabilitation Act that prohibits discrimination by any program or activity conducted by the federal government.

United States Access Board: An independent federal agency that develops and maintains design criteria for buildings and other improvements, transit vehicles, telecommunications equipment, and electronic and information technology. It also enforces accessibility standards that cover federally funded facilities.

United States Department of Justice (DOJ): The United States Department of Justice (often referred to as the Justice Department or DOJ), is the United States federal executive department responsible for the enforcement of the law and administration of justice.

11. RESOURCES

11.1 City of Portland (as an organization):

- For employment related questions, concerns, complaints, accommodations (includes the application and hiring process):
 - Human Resources 503-823-3572
- For Portland Police Discrimination Concerns:
 - Independent Police Review 503-823-0146
- For connections with City government
 - The Office of Community and Civic Life 503-823-4519
- For issues of systemic barriers in government
 - The Office of Equity and Human Rights 503-823-4433
- General Complaints about City Services & Practices:
 - Ombudsman, 503-823-0144
- For questions about building standards and codes (for non-city of Portland owned or occupied buildings):
 - Resources Counter at the Development Services Center: 503-823-7300
 - City of Portland Code Enforcement/Code Violations: 503-823-CODE (2633)
- All requests for access (accommodations, language services, etc.) should be made directly to those overseeing that specific program, service, or activity (or the bureau).
 - For a general bureau directory call City County Information 503-823-4000
- Civil Rights Title VI: 503-823-2595

- ADA Title II: 503-823-2709
- Language Access: 503-823-4432
- Request an accommodation or contact an ADA Coordinator
 - <https://www.portlandoregon.gov/oehr/66525?a=454403>
- Contact a bureau Civil Rights Title VI liaison
 - <https://www.portlandoregon.gov/oehr/67053>

11.2 Portland Area Resources:

- Tri-Met
 - Director of Diversity and Transit Equity: 503-962-2217
 - General: 503-238-RIDE (7433)
- Multnomah County
 - County's Civil Rights Administrator: 503-988-4201
 - Aging and Disability Resource Connection (ADRC) Helpline: 503-988-3646
- Clackamas County
 - Aging and Disability Resource Connection: 503-650-5622
- Washington County
 - Aging and Disability Resource Center: 503-673-2372
- Independent Living Resources
 - (503) 232-7411
 - www.ilr.org

11.3 Oregon Resources

- NW ADA Center
 - 800-949-4232 or 425-233-8913

- Civil Rights Division, Bureau of Labor and Industry, State of Oregon
 - Technical Assistance: 971-673-0764
 - PDX line: 971-673-0764
- The State of Oregon Building Codes Division
 - 503-378-4133
- Oregon Aging and Disability Resource Center
 - State: 1-855-ORE-ADRC (673-2372)
 - Multnomah County: 503-988-3646

11.4 Federal Resources

- Civil Rights Division, Department of Justice: 202-514-4609
- Civil Rights Division, Complaint Line: 888-736-5551 or 202-514-3847
- Civil Rights Title VI Hotline, Department of Justice: 1-888-848-5306
- ADA Information Line (national): 800-514-0301
- Access Board: 800-872-2253 or 202-272-0080

1.2 APPENDICES

12.1 City Engineer Directive on Technical Infeasibility

PBOT

PORTLAND BUREAU OF TRANSPORTATION

1120 SW Fifth Avenue, Suite 800 Portland, OR 97204

503.823.5185

Fax 503.823.7576



TTY 503.823.6868

www.portlandoregon.gov/transportation

Chloe Eudaly Commissioner

Chris Warner Interim Director

CITY ENGINEER DIRECTIVE

Number	Supersedes ST	Effective Date	Cancellation Date
ST 002-02	002-01	February 21, 2019	
Subject		Issuer	
City of Portland ADA Curb Ramp Design Criteria Curb Ramps On or Along ODOT Roadways Criteria for One Diagonal/Two Single Curb Ramps Technical Infeasibility Review and Approval		 Steve Townsen, P.E., City Engineer 	

PURPOSE:

Provide clarification and guidance on (a) approvals of variances to the City of Portland ADA curb ramp criteria provided on the ADA Curb Ramp Design Form; (b) ODOT requirements for curb ramps built on or along ODOT roadways; (c) criteria for approval of one diagonal corner ramp in lieu of two single curb ramps at the corner; and (d) technical infeasibility review and approvals.

DIRECTIVE:

The City of Portland ADA Curb Ramp Design Criteria

The design criteria for City of Portland curb ramps is provided on the PBOT ADA Curb Ramp Design Form. Variance from these criteria requires a written justification and approval by the PBOT ADA Technical Advisor as shown on the ADA Curb Ramp Design Form.

Curb Ramps On or Along ODOT Roadways

ODOT requirements apply to curb ramp designs for ramps proposed on or along ODOT roadways. Specifically, obtain ODOT reviews and approvals and use ODOT forms and design exception procedures. Additionally, use ODOT Curb Ramp Inspection Forms for curb ramps constructed on or along ODOT roadways.

One Diagonal Ramp in lieu of Two Single Ramps Is a Variance to City of Portland ADA Curb Ramp Criteria

The City's preference is to build two single curb ramps at a corner, rather than one diagonal ramp. However, FHWA provides for a variety of curb ramp types and configurations. See https://www.fhwa.dot.gov/environment/bicycle_pedestrian/publications/sidewalk2/pdf/08chapter7.pdf.



Constructing one diagonal curb ramp at a corner instead of two single ramps at a corner constitutes a variance from the City's criteria and requires approval of the PBOT ADA Technical Advisor. When one diagonal ramp is proposed, the Engineer of Record provides written justification on the ADA Curb Ramp Design Form in the area designated "Space for Additional Comments." Upon review and agreement, the ADA Technical Advisor approves by signing as provided on the ADA Curb Ramp Design Form.

In the case where additional right-of-way is necessary to construct two ramps at a corner, the City will first attempt to acquire said right-of-way, provided that the additional right-of-way does not contain a structure (such as a building). However, if acquiring additional right-of-way is not a viable option, another type of curb ramp configuration that fits within the existing right-of-way is allowable.

In the rare case where even one curb ramp cannot be constructed within the constrained right-of-way footprint, the crossing at this location may be closed, under the direction and authority of the City Traffic Engineer. City of Portland City Code 16.10.200 Duties of the City Traffic Engineer.

Technical Infeasibility Review and Approval

For an alteration project, the public agency must incorporate the ADA accessibility standards to the maximum extent feasible. 28 CFR §35.151(b). The feasibility meant by this standard is physical possibility only. A public agency is exempt from meeting the ADA standards in the rare instance where physical terrain or site conditions restrict constructing or altering the facility to the standard. ADA Accessibility Guidelines 4.1.6(1)(j). Cost is not a factor in determining whether meeting standards has been completed to the maximum extent feasible. DOJ's ADA Title II Technical Assistance Manual, § II-6.3200(3)-(4), 1993.

The ADA Curb Ramp Design Form is used to document the decision to enable the City to explain the decision of technical infeasibility. The PBOT ADA Technical Advisor will work with you to determine if the particular situation meets the technical infeasibility standard and to assist you in providing the written justification necessary to support this determination. Exceptions due to technical infeasibility require a written justification and approval by an ADA Technical Advisor.

The City Engineer designates ADA Technical Advisors. PBOT has the following five ADA Technical Advisors:

Chon Wong, P.E., Jimi Joe, P.E., Raphael Haou, P.E., Chris Wier, P.E., and Eva Huntsinger, JD, P.E.

The ADA Curb Ramp Design Form is located on the PBOT website at:

<https://www.portlandoregon.gov/transportation/article/642921>

For additional information, please contact a PBOT ADA Technical Advisor.

12.2 City of Portland Technical Infeasibility and History Significance Exceptions Policy

AMERICANS WITH DISABILITIES ACT TITLE II PROCESS FOR DOCUMENTING TECHNICAL INFEASIBILITY AND HISTORICAL SIGNIFICANCE EXCEPTIONS

Administrative Rule Adopted by the Director of the Office of Equity and Human Rights pursuant to rule-making authority

The City of Portland must comply with Title II of the Americans with Disabilities Act (ADA). The ADA allows governmental entities to make exceptions to full and strict compliance with the requirements to alter existing buildings or facilities for accessibility. This administrative rule establishes the responsibilities and processes in the City of Portland for documenting and approving the exceptions to the ADA requirements in such alterations.

The exceptions described in this administrative rule include technical infeasibility and historical significance.

The City project bureau that identifies the need for an exception to full and strict compliance with ADA requirements to remove barriers shall provide documentation to the ADA Title II program manager in the Office of Equity and Human Rights (OEHR) that describes:

The rationale for requesting an exception for the identified element(s) or feature(s) in the alteration on the grounds of technical infeasibility or historical significance.

The efforts the bureau has made to achieve ADA compliance on the project to the maximum extent feasible. This could include steps the bureau has taken beyond the minimum legal requirements to offset potential accessibility limitations posed by the element or feature including accessible programmatic alternatives and/or equivalent facilitation.

The ADA Title II program manager may:

Request additional documentation or supporting information;

Recommend alternatives that could better meet ADA Title II requirements;

Request a meeting to discuss;

Determine the documentation is insufficient; or

Concur with request for exception with or without comments.

Criteria and Documentation

Technical Infeasibility

An exception to design compliance may be approved for an identified element or feature in an existing building or facility on the basis that the alteration has little likelihood of being accomplished because of one or more of the following criteria.

The existing structural conditions would require removing or altering a load bearing member that is an essential part of the structural frame.

Other existing physical or site constraints prohibit modifications that are in full compliance with the minimum requirements.

Other existing physical or site constraints prohibit the addition of features, elements, or space that are in full compliance with the minimum requirements.

Supporting documentation should identify steps taken or proposed to be taken that would ensure that compliance with ADA was or can be accomplished to the maximum extent feasible.

Historical Significance

For a qualified historic site, building or facility, City bureaus may identify an exception for an identified element or feature if compliance with the ADA would threaten or destroy the historic significance of the building or facility.

For purposes of this administrative rule, a qualified historic building or facility is defined as a building or facility that meets one or more of the following criteria.

Listed on the National Register of Historic Places or as a contributing structure in a National Register Historic District;

Certified as historic property by the State Historic Preservation Officer pursuant to ORS Chapter 358; or, Designated as a local or Portland historic landmark under Portland City Code Title 33 or as a contributing structure in a locally designated Conservation District.

As part of its documentation requesting an exception under historical significance, the City bureau should include documentation of the building's or site's historic designation and historically significant features, and documentation regarding how the alteration would threaten, diminish or destroy the historically significant features and/or elements described in the historic listing, historic designation, or in a City, State, or Federal historic properties inventory.

Supporting documentation should identify steps taken or proposed to be taken that would ensure that compliance with ADA was or can be accomplished to the maximum extent feasible without threatening or destroying the historic significance of the building or facility. Final decision maker(s), ADA Title II program manager and project bureau must jointly ensure that an alteration provides the level of accessibility to the maximum extent feasible and the City's noncompliance with ADA design standards fully and strictly is a reasoned decision that is supported with adequate documentation. City project bureaus are responsible for providing timely, accurate and complete documentation for request for exceptions. The ADA Title II program manager is responsible for reviewing the requests and accompanying documentation and providing the City decision-maker with an assessment on the sufficiency of the exceptions request. Unless otherwise directed by the Commissioner-in-Charge, the Bureau Director is responsible for final review and approval of any requests for exceptions. Approval authority may be delegated to senior level supervisor in writing.

Consultation with the City Attorney's Office and/or technical experts in ADA accessibility design is encouraged during all steps of the request process. The final approval shall be maintained in the project file with copy provided to ADA Title II program manager.

12.3 ADA Transition Plan Public Involvement Stakeholder List

AARP Oregon & chapters
American Council of the Blind, Metro PDX Chapter
AOCIL
APANO
Asian Health & Services Center
Association of Oregon Counties
AYCO Health and Disability Program
Beyond Black
Black Parent Initiative
Brain Injury Alliance of Oregon
Central Northeast Neighborhood Coalition
Charles Jordan Community Center
Clackamas County Aging & Disability Resource Connection
Coalition of Communities of Color
Community Vision
Congo Peace Project
Connecting Communities Coalition (c/o Relay Resources)
Council on American Islamic Relations
CYMA space
Czech School of Portland
Disability Arts and Culture Project
Disability Awareness Resource Team
Disabled Refugee Alliance
Disability Rights Oregon
Division Midway Alliance
East Portland Community Office
Easter Seals Oregon
El Programa Hispano
Epilepsy Foundation of Oregon
Family and Community Together (FACT)
Hearing Loss Association of Oregon
Hispanic Metropolitan Chamber of Commerce
Hollywood Senior Center
Housing and Community Services of Oregon
Hygiene 4 All
Immigrant and Refugee Community (IRCO)

Impact NW
Independent Living Resources
Invisible Disabilities Association
Latino Network
League of Oregon Cities
Learning Disability Association of Oregon
Lewis & Clark College - Student Services
Lutheran Community Services
Metro
Metropolitan Family Services
Momentum Alliance
Morrison Child & Family Services
Multnomah County Aging & Disability Resource Connection
Multnomah County Aging & Disability Services
Multnomah County Developmental Disabilities Services
Multnomah County Disability Services Advisory Council
Multnomah County Mental Health Services
National Alliance on Mental Illness (NAMI) Multnomah
National Federation of the Blind, Oregon Chapter
National Organization on Disability
Native American Youth and Family Center (NAYA)
Neighbors West/Northwest (NW/NW)
North Portland Neighborhood Services
Northeast Coalition of Neighborhoods
Northwest ADA Center
Northwest Down Syndrome Association
NW Pilot Project
ODOT Region 1
OHSU Avel Gordly Center for Healing
On-the-Move Community Integration
OPAL Environmental Justice Oregon
Open Signal
Oral Hull Foundation for the Blind
Oregon Advocacy Commissions Office
Oregon Association of the Deaf
Oregon Bureau of Labor and Industries
Oregon Commission for the Blind
Oregon Community Health Workers Association

Oregon Council on Developmental Disabilities
Oregon Disabilities Commission
Oregon Food Bank
Oregon Health Authority
Oregon Department of Justice Civil Rights Division
Oregon Department of Veterans' Affairs
Oregon Mental Health Consumers Association
Oregon Parks and Recreation Department
Oregon Self Advocacy Coalition
Oregon Spinal Cord Injury Connection
Oregon Vocational Rehabilitation
Oregon Walks
Paralyzed Veterans of America, Oregon Chapter
Portland African American Leadership Forum (PAALF)
Portland Community College - Disability Services
Portland Police Bureau Vulnerable Adult & Elder Crimes Unit
Portland State University-Disability Resource Center
Portland VA Medical Center
Public Transportation Advisory Council Disability Workshop
Rahab's Sisters
Reed College - Disability Support Services
Real Choice Initiatives
Ride Connection
Right to Survive
Rose Community Development
Rosewood Initiative
Self Enhancement Inc
Spinal Coordinated
Somali American Council of Oregon (SACOO)
Southeast Uplift Neighborhood Coalition
Southwest Neighborhoods, Inc.
State Independent Living Council
Street Roots
Street Trust
Symbiosis PDX
The Arc Multnomah-Clackamas
TriMet
Unite Oregon

United Cerebral Palsy Association
United Cerebral Palsy of Oregon & South Washington
United Congolese Community Group
United Spinal Association
Urban League of Portland
Verde
Veterans Administration, Portland Regional Office
VOZ Workers Rights
Washington County Disability, Aging, and Veteran Services
Western Conexiones