

ADA Laws & Regulations

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ADA: It's the Law!



Architectural Barriers Act (ABA)

Act of Congress
1968

Requires facilities designed, built, altered or leased with Federal funds be accessible to the disabled.

Section 504 of the Rehabilitation Act

Act of Congress (1973)

Implemented May 1977

Applies to activities receiving “Federal financial assistance.”

Americans with Disabilities Act of 1990

United States Public Laws

101st Congress – 2nd Session

Public Law 101-336 (S. 933); 101 Enacted S. 933

101 P.L. 336; 104 Stat. 327; 1990 Enacted S 933;
101 Enacted S 933

ADA Act of 1990

- **Title I - Employment**
- **Title II – Public Services**
- **Title III – Public Accommodations and Services Operated by Private Entities**
- **Title IV - Telecommunications**
- **Title V - Miscellaneous**

ADA Act of 1990

- **Title II – Public Services**
 - **Subtitle A – Prohibition against discrimination and other generally applicable provisions**
 - **Subtitle B – Actions applicable to public transportation provided by public entities considered discriminatory**

ADA Act of 1990

- **Title II – Public Services**
 - **Subtitle A – Prohibition against discrimination and other generally applicable provisions**
 - **Section 202 – [No disabled person shall] be excluded from participation in or denied the benefits of the services, programs or activities of a public entity, or be subjected to discrimination by any such entity.**

ADA Act of 1990

- Title II – Public Services
 - Subtitle B – Actions applicable to public transportation provided by public entities considered discriminatory
 - Section 226 – Considered discrimination if
 - ...construct a new facility to be used in the provision of designated public transportation services unless such facility is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

ADA Act of 1990

- Title II – Public Services
 - Subtitle B – Actions applicable to public transportation provided by public entities considered discriminatory
 - Section 227 – Considered discrimination
 - ...fail to make such alterations...to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including [wheelchairs]

ADA Act of 1990

- Title I - Employment
- Title II – Public Services
- Title III – Public Accommodations and Services Operated by Private Entities
- Title IV - Telecommunications
- Title V - Miscellaneous

ADA Act of 1990

- Section 504 – Regulations by the Architectural and Transportation Barriers Compliance Board (ACCESS BOARD)
 - (a) Issuance of Guidelines
 - Minimum guidelines and requirements for accessible design for the purposes of Title II (public) and Title III (private)
 - UFAS (Uniform Federal Accessibility Standards)
 - ADAAG (Americans with Disabilities Act Accessibility Guidelines for buildings and facilities)
 - PROWAG (Public Rights-of-Way Accessibility Guidelines)
 - -Recreation Facilities and Outdoor Developed Areas
 - -Transportation

Implementation by DOJ – 1992

- **35.151 New Construction and Alterations**
 - (e) **All newly constructed or altered streets, roads, and highways must contain curb ramps at any intersection having curbs or other barriers to entry from a street level pedestrian walkway, and that all newly constructed or altered street level pedestrian walkways must have curb ramps at intersections to streets, roads, or highways.**

Where do you find the Standards?

US ACCESS BOARD

<http://www.access-board.gov/>

Access Board Guidelines

The US Access Board develops and updates design guidelines used by the DOJ and DOT “in setting enforceable standards the public must follow. “

Determining which guidelines apply is the rub.

Regulations and Guidelines

Buildings and Building Sites (including Parking Lots)

ADAAG – Americans with Disabilities Accessibility Guidelines

<http://www.access-board.gov/adaag/html/adaag.htm>

Streets and Multi-use Paths

PROWAG – Public Rights of Way Accessibility Guidelines (

<http://www.access-board.gov/prowac/index.htm>

Parks and Recreation

Recreation Facilities and Outdoor Developed Areas

<http://www.access-board.gov/guidelines-and-standards/recreation-facilities>

Public Transportation Buses, Trains, Stations, Boats, etc.

Transportation

<http://www.access-board.gov/guidelines-and-standards/transportation>

PROWAG Adoption Process

- Draft Guidelines are developed by the US Access Board
- Public comment on the draft guidelines are solicited
- Final Guidelines are published and a notice of final rulemaking is announced
- The Board's guidelines become enforceable when they are adopted by
 - Department of Justice (DOJ)
 - Department of Transportation (DOT).

PROWAG Adoption Process

- Draft Guidelines
 - 1992-1994 proposed guidelines
 - PROWAAC (Public Rights of Way Accessibility Advisory Committee) – 1999
 - PROWAG 2002 to supplement ADAAG
 - PROWAG 2005 stand-alone document
- FHWA Memorandum – January 23, 2006
 - “...the Draft Guidelines are the currently recommended best practices, and can be considered the state of the practice that could be followed for areas not fully addressed by the present ADAAG standards...”

Court Rulings

- providing, constructing, and maintaining a system of sidewalks is a government service covered by title II
- requirement for curb ramps would be meaningless if the sidewalks between the curb ramps were inaccessible
- Street resurfacing work must include curb ramp improvements to meet current standards

State Laws and Policies

ORS 366.460 Construction of sidewalks within highway right of way (1953)

Construction of sidewalks within highway right of way. The Department of Transportation may construct and maintain within the right of way of any state highway or section thereof sidewalks, footpaths, bicycle paths or trails for horseback riding or to facilitate the driving of livestock. Before the construction of any of such facilities the department must find and declare that the construction thereof is necessary in the public interest and will contribute to the safety of pedestrians, the motoring public or persons using the highway. Such facilities shall be constructed to permit reasonable ingress and egress to abutting property lawfully entitled to such rights.

State Laws and Policies

ORS 366.514 Use of highway fund for footpaths and bicycle trails (1971)

Use of highway fund for footpaths and bicycle trails. (1) Out of the funds received by the Department of Transportation or by any county or city from the State Highway Fund reasonable amounts shall be expended as necessary to provide footpaths and bicycle trails, including curb cuts or ramps as part of the project. Footpaths and bicycle trails, including curb cuts or ramps as part of the project, shall be provided wherever a highway, road or street is being constructed, reconstructed or relocated. Funds received from the State Highway Fund may also be expended to maintain footpaths and trails and to provide footpaths and trails along other highways, roads and streets.

Triggers



Legal Digest 65

NCHRP 20-6

- Alterations Trigger ADA Upgrades
 - “...if a public entity chooses to make changes rising to the level of alterations {see DOJ/ FHWA memo} to a facility, it must use that opportunity to make the altered portions of the facility accessible.”
 - New and altered facilities must meet ADA. All others must be addressed in the Transition Plan

Legal Digest 65

NCHRP 20-6

- Street alterations are defined by:
 - Kinney V Yerusalim – “an alteration {in this case an overlay} is a change that affects the usability of the facility involved.”
 - DOJ/FHWA 2013 Memorandum – which defined which types of paving operations are alterations per the ADA.
 - Work zones are included

Legal Digest 65

NCHRP 20-6

Defenses

– Transition Plan

- Implementation and COMPLIANCE

– Feasibility

- Maximum Extent Feasible – feasible is defined by physical constraints not budgetary (row is not an out)

– Undue Burden {fuh-get-about it}

- Agency head must certify (CEO)
- Very difficult to defend

Resurfacing

DOJ/FHWA Memorandum – August 9, 2013

Alterations that trigger ADA (regardless of funding source federal, state, local, private)

- Resurfacing – triggers ADA if:
 - The work goes from one intersection to the next
 - It spans the street (curb to curb)
 - Examples include:

Overlays

Thin lift overlays

Reconstruction

Cape Seals

Concrete rehabilitation/
reconstruction

In-place asphalt recycling

Open-graded surfacing

Resurfacing a crosswalk

Micro-surfacing

Widening

Resurfacing

DOJ/FHWA Memorandum – August 9, 2013

Activities that DO NOT trigger ADA

- Painting
- Striping
- Crack filling and sealing
- Surface sealing
- Chip seals
- Slurry seals
- Fog seals
- Scrub sealing
- Joint repairs/sealing
- Dowel bar retrofit
- Spot high friction treatments
- Diamond grinding – no overlay
- Pavement spot patching

Signal Maintenance

Signal Alterations that trigger push button upgrades:

- Pedestrian push button pole replacement
- Installation of Audible push buttons
- Ped signal head upgrades
- New controller and firmware (what's a controller?)
- Signal pole knockdown requiring complete replacement

PROWAG

There are multiple parts:

- Chapter 1 – Application and Administration
- Chapter 2 – Scoping Requirements
- Chapter 3 – Technical Requirements
- Chapter 4 – Supplementary Technical Requirements

Scoping Requirements
PROWAG
Chapter 2

The Scoping Requirements specify what pedestrian facilities must comply with the which guideline.

Scoping Requirements

PROWAG

Chapter 2

The ADA is triggered when a facility is provided

It applies to New Construction and Alterations

PROWAG

Chapter 2 - Alterations

Alterations are changes that affect or could affect pedestrian access, circulation or use.

- Resurfacing*
- Rehabilitation
- Reconstruction
- Historic Restoration
- Structural rearrangement

PROWAG

Chapter 2 - Alterations

Upgrades are required to the extent that the project in question ALTERS an ADA element.

Examples:

- Signal mast arm/Signal Pole Base
- Sidewalk Bench

PROWAG

Chapter 2 - Alterations

“Maximum Extent Feasible”

MEANS

Comply with the ADA Guidelines to the maximum extent possible, given the physical constraints

PROWAG

Chapter 2 - Alterations

“Extent Practicable”

Limitations may include:

- Terrain
- Right-of-way limitations
- Underground Structures
- Adjacent development
- Drainage
- Notable Historic or Natural Features
- Cost is not an out

ADAAG, ABA and 504 Regulations

“Path of Travel”

The Path of Travel to a “Primary Function” area must be accessible.

The Path of Travel must be upgraded at the time the Primary Function is upgraded, unless the cost exceeds 20% of the cost of the Primary Function area’s remodel costs.

ADAAG, ABA and 504 Regulations

“Path of Travel”

“Primary Function” = the use for which the facility was intended.

Sidewalks, curb ramps, on-street parking, etc. may be part of the Path of Travel to a Primary Function Area.

Makes your eyebrows twitch doesn't it?

Sidewalks

PROWAG

There are multiple parts:

- Chapter 1 – Application and Administration
- Chapter 2 – Scoping Requirements
- Chapter 3 – Technical Requirements
- Chapter 4 – Supplementary Technical Requirements

PROWAG

Alterations to:

Sidewalks, Curb Ramps, Crosswalks, On-Street Parking, Parking Meters and Pay Stations, Passenger Loading Zones, Ped Signals, Ped Signal Push Buttons, Transit Stops and Shelters, Street Furniture, Public Toilets

Must be brought up to current (ADAAG, ABA and PROWAG) Standards, “to the extent practicable.”

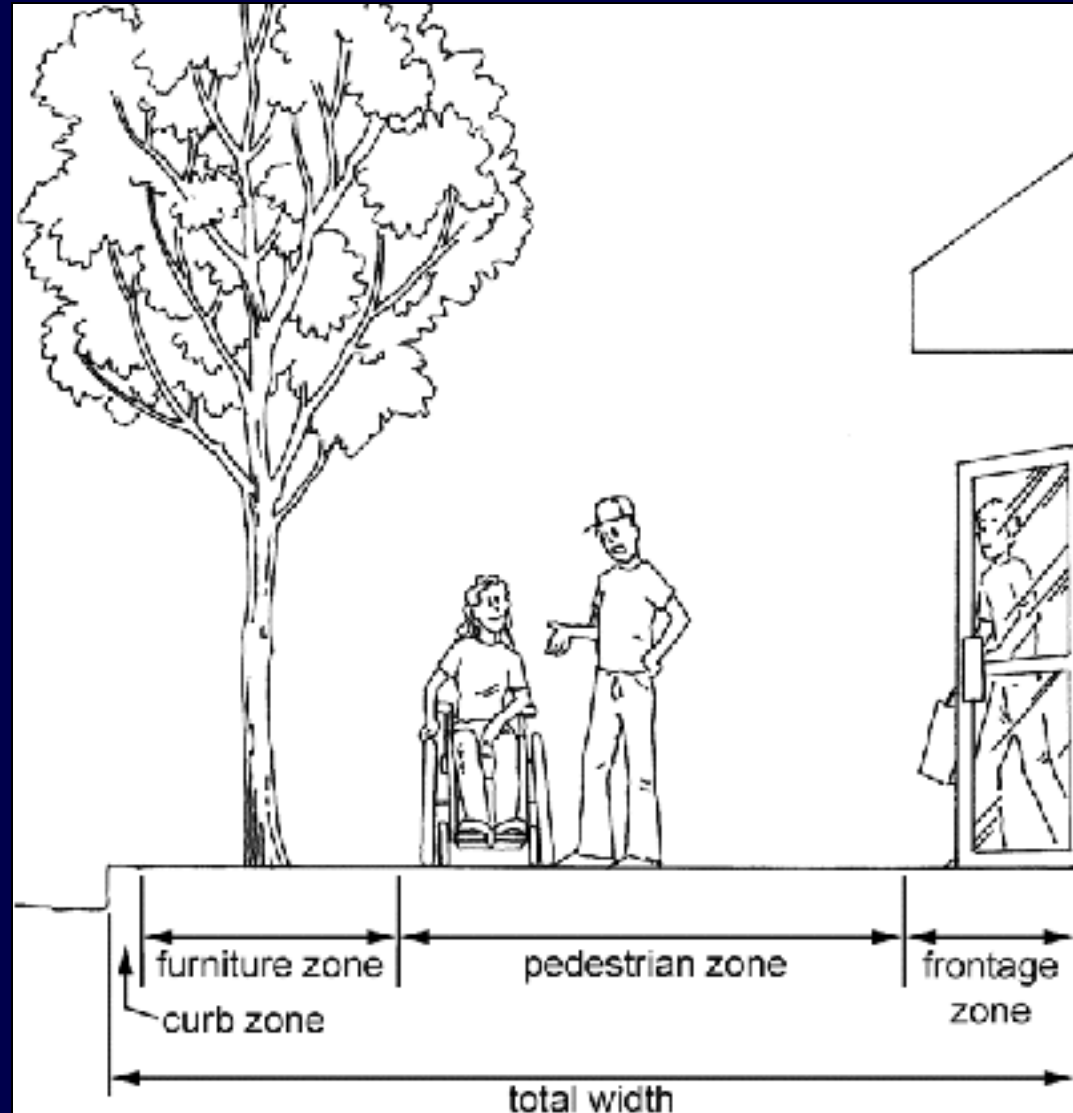
What are the characteristics of good sidewalk design?

1. Proper width
2. Clear of obstacles
3. Smooth surfaces
4. Separation from traffic
5. They lead you to the right place

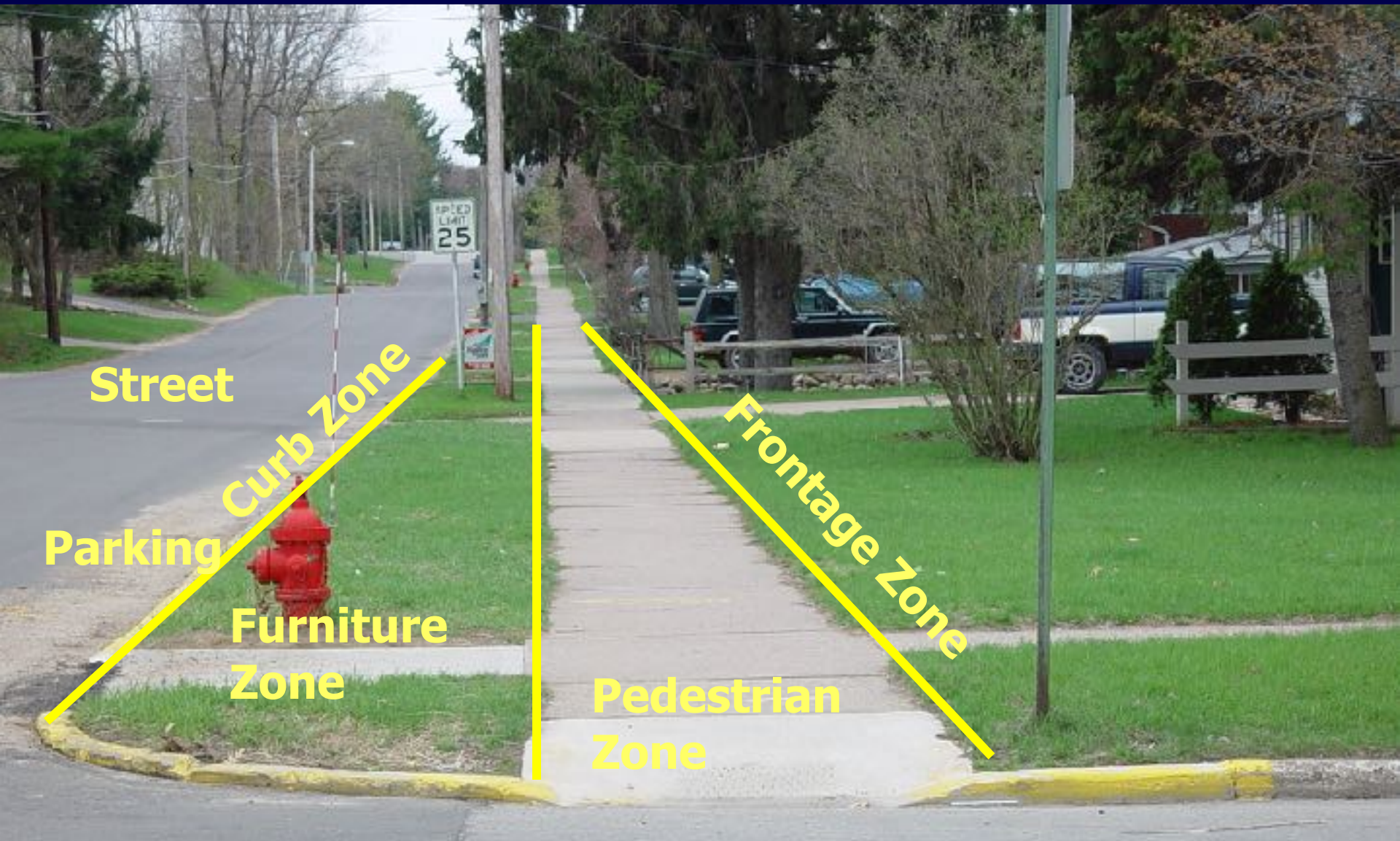
Sidewalk Corridor - The Zone System

Sidewalk corridor extends from the edge of roadway to the edge of right-of-way:

- Curb zone
- Furniture zone
- Pedestrian zone
- Frontage zone



The Zone System - Summary



The Zone System - Summary



Street

Parking

Curb Zone

Furniture
Zone

Pedestrian
Zone

Frontage Zone

Pedestrian Access Route

- 4' x 4' x 7' clear passage
- Running Slope: same as roadway
OR Max 5% if not within a street
- Cross Slope: 2% Max
- Provide Passing Spaces every 200'
if PAR is below 5'

Pedestrian Access Route

- Surface: Firm, Stable, Slip Resistant
- Vertical: 0.5" Max, beveled if between 0.25" – 0.5"
- Horizontal Openings
 - Round: Max 0.5"
 - Elongated: Width = Max 0.5" and oriented perpendicular to the path of travel

Pedestrian Access Route

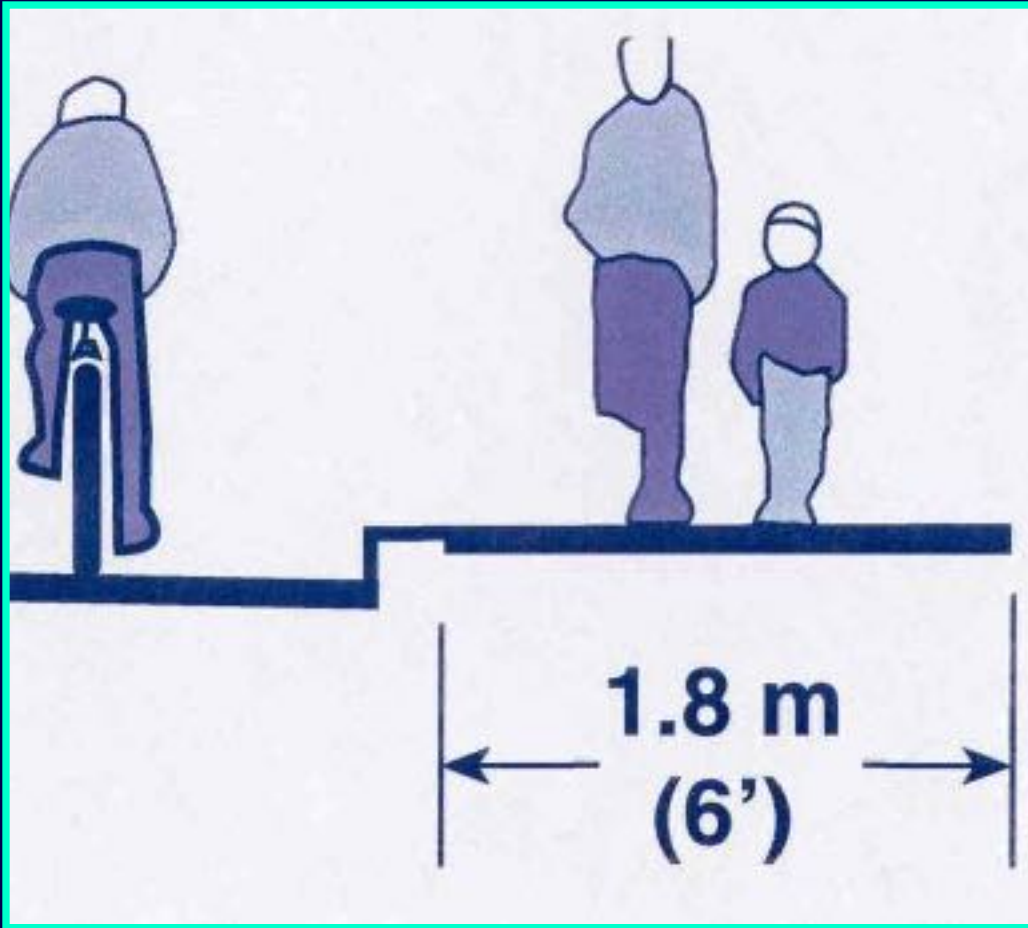
- Protruding Objects
 - No more than 4"
 - Between 2.25' and 6.7' above the sidewalk grade
 - May not reduce the PAR below 4'

Design, build & maintain good sidewalks & you've fulfilled most ADA requirements...

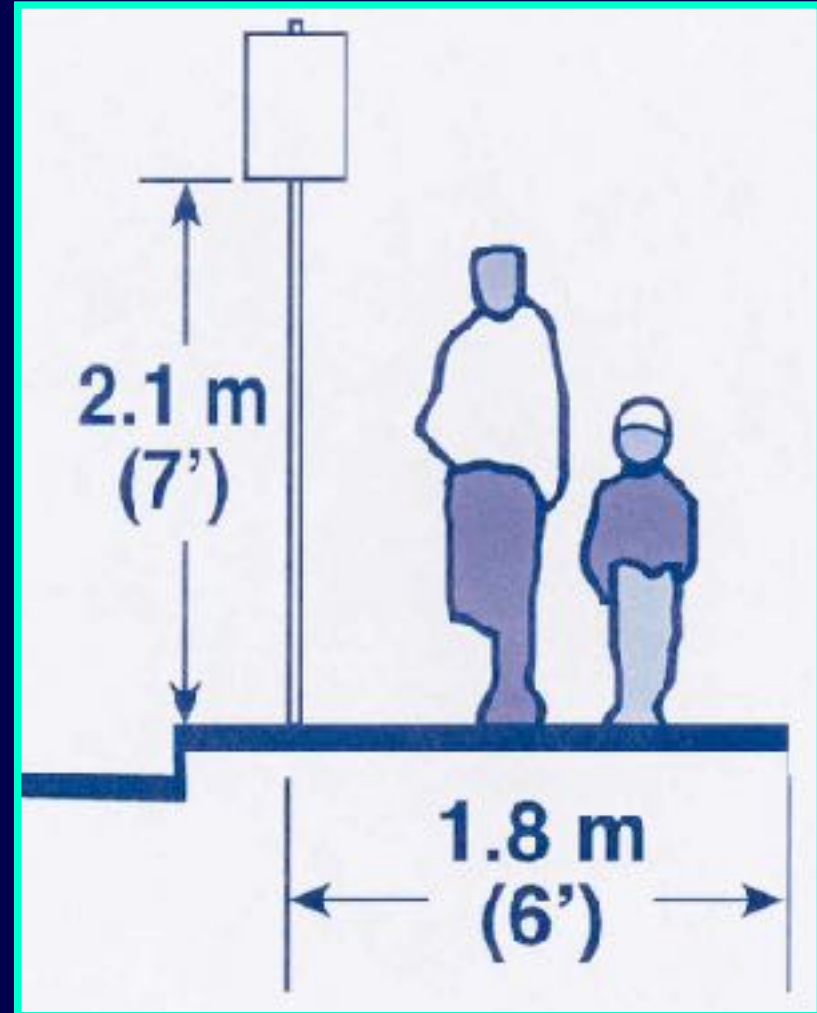


Preferred type: separated with buffer (planter) strip

Design, build & maintain good sidewalks & you've fulfilled most ADA



Wide enough...



... & clear of obstructions



ADA is NOT an acceptable S/W width!

Does this sidewalk have all the zones?



The Furniture Zone is ESSENTIAL





If you were blind could you navigate this sidewalk?



Or this one?

What about rural roads?

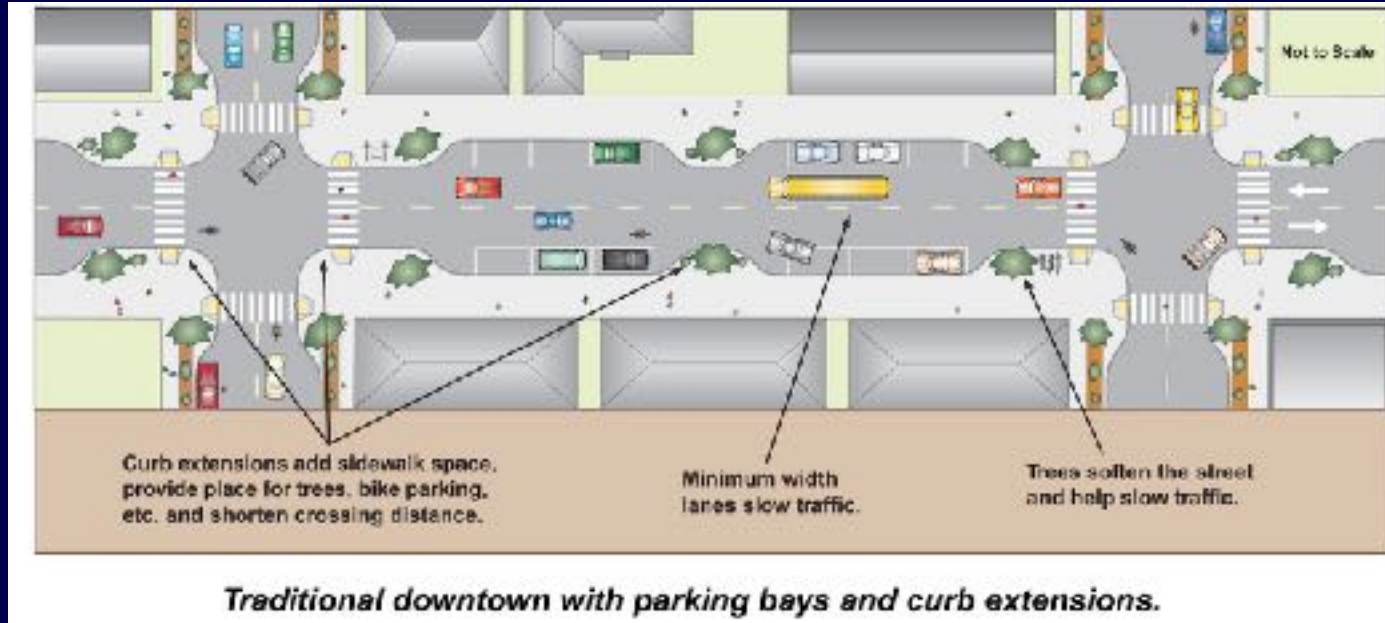


Transit Stops



- Ped Access Route to the stop
- Boarding Area = 8' x 5'
- Shelter must have space for a wheelchair

On-Street Parking



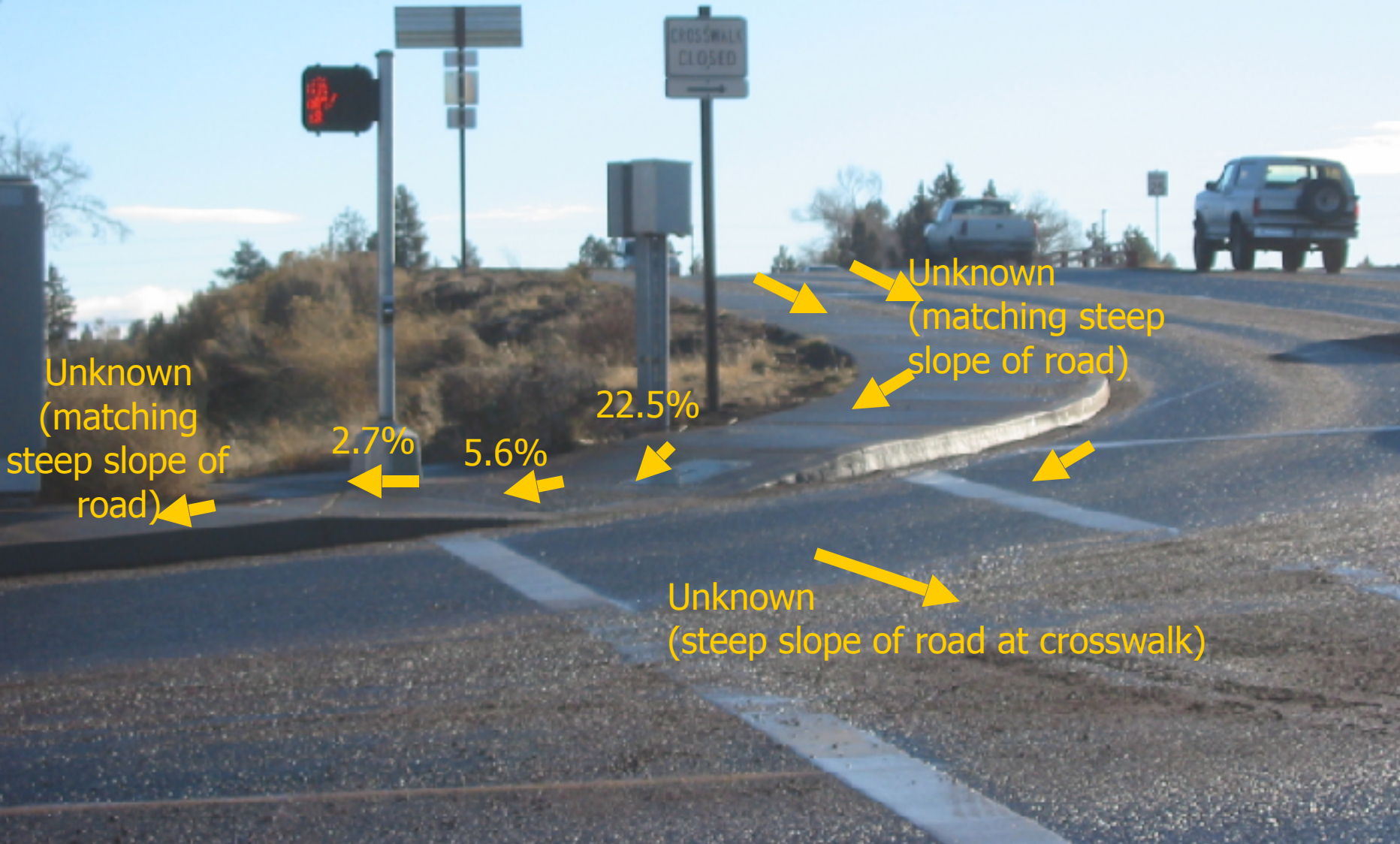
- See Section R214 for number of spaces required
- Corner ramps serves corner parking spaces
- Mid-block spaces require access alley and curb ramp **WITHOUT** domes

Curb Ramps in Steep Terrain

“Extent Practicable”



EXISTING CONDITIONS



Unknown
(matching
steep slope of
road)

2.7%

5.6%

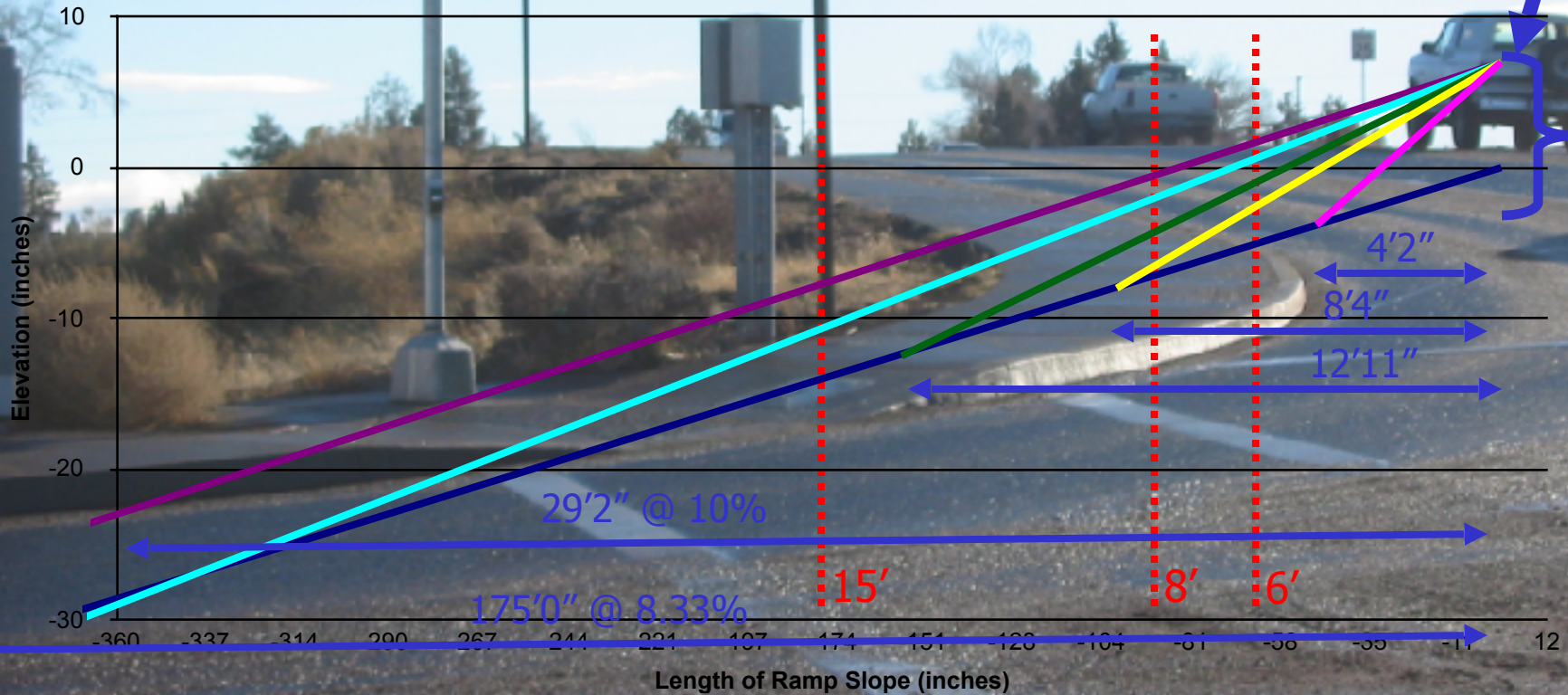
22.5%

Unknown
(matching steep
slope of road)

Unknown
(steep slope of road at crosswalk)

The Impossible Task

Ramp Lengths @ Various Slopes for 8% street slope, 7" curb



Top of curb

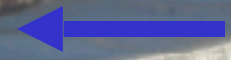
- - - 22.50%
 - - - 15%
 - - - 12.50%
 - - - 10%
 - - - 8.33%
 - - - slope of street

The Impossible Task

Make existing
slope of road
<5%



Transition back
to level sidewalk



Ramp length
< 8 feet



2% slope
no greater than 2% in any direction



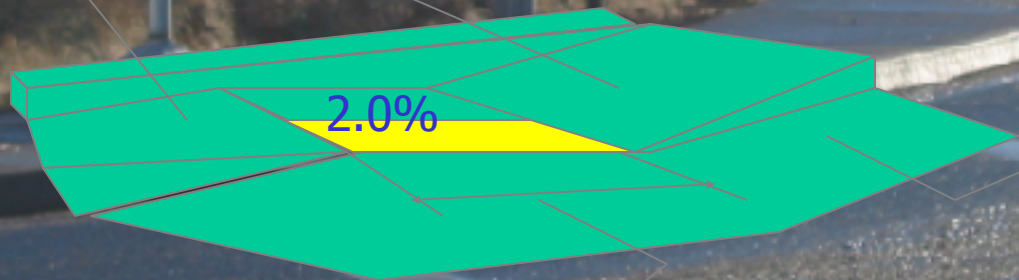
The Maximum Extent Feasible (1)

Create ramps that comply with standards (8.33%), with curb behind ramp

Unknown (matching steep slope of road)

Raise and blend roadway surface in order to provide a transition from the crosswalk to the level landing

Unknown (matching steep slope of road)



Create a level landing

Unknown (steep slope of road at crosswalk)

The Maximum Extent Feasible (2)

(if it is not feasible to table part of the roadway)

Create a 4' x 4' level landing somewhere after ascending/ descending the steep grade. This can be at the top of the ramp or further up the street (<30' from the ramp throat)

Unknown (matching steep slope of road)

Create a ramp that is 12.5% and < 15' long. It won't serve and powered wheelchairs, but it may serve other wheeled sidewalk users better than before, as this is the maximum accessibility feasible. If not possible, go for < 4.5% and < 15' long.

Unknown (matching steep slope of road)

Conveniently, this transition back to sidewalk slope can be done at 2%, it can be a level landing.

Create a surface that is as close to level as possible with a smooth transition to the crosswalk.

Unknown (steep slope of road at crosswalk)





Blankenship Rd and 13th Street,
West Linn, OR