

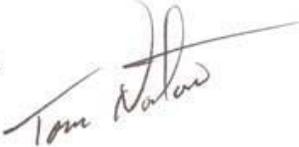
# STATE OF COLORADO

## DEPARTMENT OF TRANSPORTATION

Executive Director  
4201 East Arkansas Avenue  
Denver, CO 80222  
303-757-9201



TO: CDOT Regional Transportation Directors

FR: Tom Norton, Executive Director, CDOT 

RE: Americans With Disabilities Act (ADA) Access Guidelines and Local Agency Compliance

DATE: October 17, 2003

CDOT is committed to providing access to its services and products to all customers, some of whom may be disabled. To do this the Americans with Disabilities Act (ADA) through the ADA Access Guidelines (ADAAG) provides parameters we must adhere to. In addition to using these guidelines, CDOT staff have worked with FHWA, our Attorney General's office and federal access experts to develop internal CDOT guidelines and methodologies to use. The result of this effort is attached in the document titled, "ADA Accessibility Requirements in CDOT Transportation Projects".

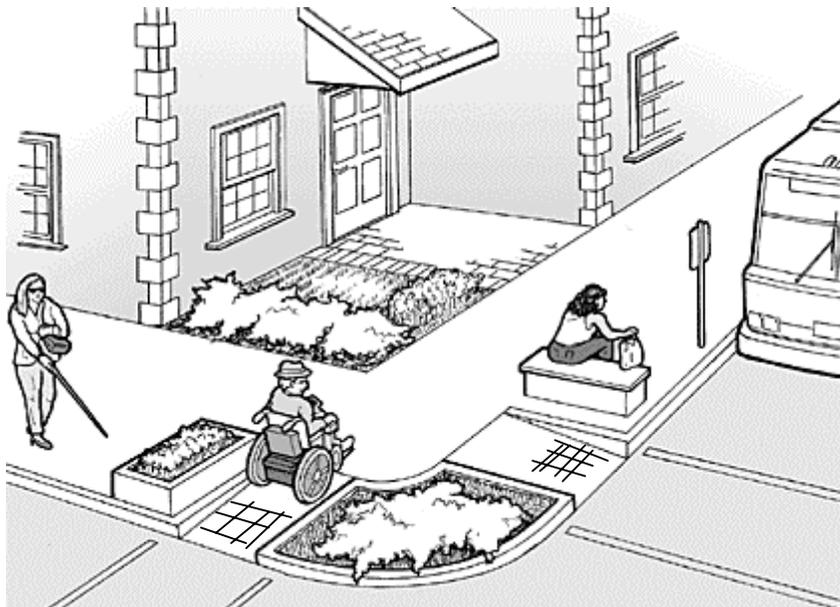
Many of our projects are within the boundaries of cities and other municipalities. As a means to work with local entities in our mutual effort to comply with the ADA's ADAAG, I am asking each of you to use the attached methodologies.

I expect that you will work with your staffs to ensure that we meet our obligations under the ADA. I also expect you to work with the local entities to ensure local compliance through mutual cooperation and support.

CC. Chief Engineer, CDOT  
Division Director, DOHRA



# COLORADO DEPARTMENT OF TRANSPORTATION



## ADA ACCESSIBILITY REQUIREMENTS IN CDOT TRANSPORTATION PROJECTS

## **ADA ACCESSIBILITY REQUIREMENTS IN CDOT TRANSPORTATION PROJECTS <sup>1</sup>**

**GENERAL COMMITMENT:** The Colorado Department of Transportation (CDOT) will include accessibility features for persons with disabilities in the design of each transportation project as required by the Rehabilitation Act of 1973 and the Americans With Disabilities Act of 1990 (ADA). This will be done whether CDOT completes the project, or a local entity (city, town or county) completes the project as part of a Local Agency Agreement with CDOT. This will occur when resurfacings are 1.5 inches or greater in depth and when there are more extensive projects, and for any other projects when ADA requirements apply (e.g. enhancement projects).

### **PROJECTS NOT COVERED BY THIS DOCUMENT:**

The requirements of this document shall not apply to the following:

- Machine Patching
- Chip or Sand Seals
- Pothole Patching
- Crack filling
- Fog seals and chip seals
- Re-striping
- Upgrade of roadside safety equipment
- Repair and replacement of permanent traffic control fixtures and traffic signals that do **not** require curb and gutter and sidewalk alternations.

### **METHOD OF IMPLEMENTATION:**

1. **TRAINING**-The CDOT Center for Equal Opportunity and the Project Development Branch will provide training for Resident Engineers, Project Managers and others as needed. Printed materials shall provide ADA compliant specifications and guidance to assist Project Managers and/or Design Engineers in the design phase of projects.

2. **ACCESSIBILITY STANDARDS**-In accordance with FHWA guidance<sup>2</sup>, the Project Manager will evaluate each project through the project scoping and project development processes to determine which accessibility features are required. They shall refer to CDOT plan details or contact the CDOT ADA Coordinator for guidance.

A. Any entity that receives federal funds for a project must include all accessibility features required by the Americans With Disabilities Act Accessibility Guidelines (ADAAG),<sup>3</sup> as described in sections 4 and 5 of this document. They must include these features on the roadway, sidewalks, and the curbs within the scope of the project when:

(1) The entity completes a resurfacing project of 1.5 inches or greater in depth and/or completes a more extensive project; or

(2) The project alters curbs and/or pedestrian pathways.

B. Requirements of the ADAAG shall apply uniformly to all projects, whether carried out by CDOT or by a local entity through a Local Agency Agreement.

C. The Project Manager will provide documentation to the project file that Title II ADA Accessibility Requirements have been addressed.

D. 28 CFR § 35.130(b)(1)(v) prohibits the provision of “significant assistance” by CDOT to any agency, organization or person that discriminates on the basis of disability. CDOT receives federal funds subject to a condition that CDOT will ensure that local entities receiving funds from CDOT will comply with the ADA.

E. If the Project Manager is uncertain about whether, and/or to what extent, a particular accessibility feature is required, he/she shall consult with the CDOT ADA Coordinator for a decision regarding compliance.

**3. CDOT PROJECTS MORE EXTENSIVE THAN OVERLAYS-**For any federal or state-funded project that is more extensive than a resurfacing—i.e., major widening, minor widening, etc, (excluding projects completed through Local Agency Agreements), CDOT will fund and complete all accessibility features required by the ADAAG (including curb ramps and detectible warnings (truncated domes)) as part of the current project and with funds allotted to the project.

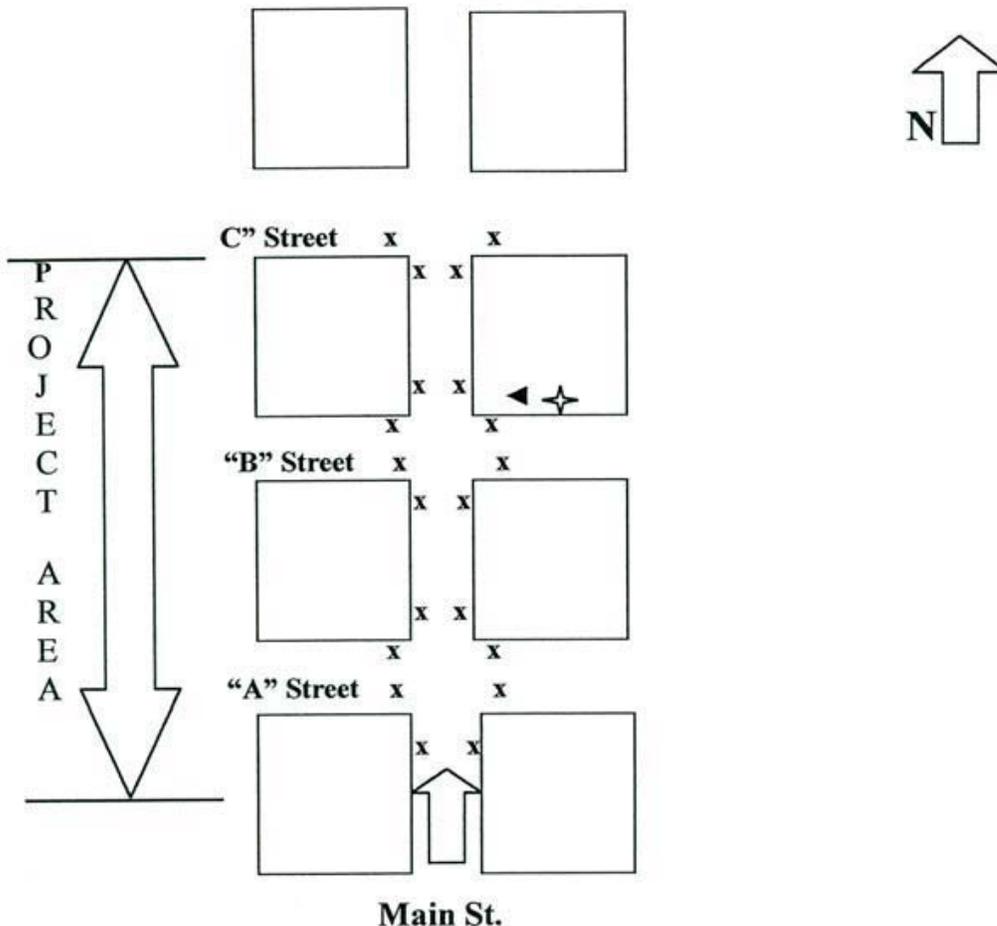
**4. CDOT RESURFACING PROJECTS-**For any federal or state-funded resurfacing project that is 1.5 inches or greater in depth (excluding projects completed through Local Agency Agreements), the following shall apply:

A. CDOT will fund and complete all curb ramps and detectible warnings (truncated domes) required by the current ADAAG within the scope of the project in question and within the parameters of the existing right-of-way, as described in the CDOT plans. CDOT will not purchase new right-of-way. For guidance about where curb ramps and detectible warnings (truncated domes) are required, refer to diagram entitled “Diagram of Requirements for Resurfacing Projects” shown on page 3.

B. CDOT will evaluate the sidewalk in the immediate vicinity to identify other opportunities to improve accessibility and will take reasonable steps to improve accessibility. For example, CDOT will take reasonable steps to relocate signs and other obstacles when it is within CDOT’s authority to do so, or will encourage the controlling local entity to do so.

C. CDOT will not install new sidewalk or replace existing sidewalk, unless a particular small portion of the sidewalk that is adjacent to the non-compliant curb ramp will pose a barrier for persons with disabilities. In such a case, CDOT will correct the concrete barrier to make that portion of the pathway comply with the ADAAG. For clarification, refer to “Diagram of Requirements for Resurfacing Projects” shown on page 3.

**DIAGRAM OF REQUIREMENTS FOR RESURFACING PROJECTS**



The resurfacing project is only on Main Street, in the area shown by the large arrow at the left of the page.

Curb ramps are required at those points depicted by "x", including where indicated on the cross streets "A", "B" and "C", since the resurfacing triggers the ADAAG requirement to provide for accessibility to persons with disabilities within the overall parameters of the resurfacing project. Providing curb ramps **only on Main Street** would restrict wheelchair accessibility to only separated segments of the project area.

On the northeast corner of Main and "B" Streets, symbol ◀ depicts a concrete block that is adjacent to the curb ramp at "x". Since this block of concrete has shifted upward and creates an obstacle to wheelchairs, it must be replaced. Farther to the east of the curb ramp on "B" Street, at the point marked by the star symbol ✦, a second concrete block has shifted upward. Because this second concrete block is not adjacent to the curb ramp, no requirement exists to replace this portion of the sidewalk. (Refer to Item 4, C of the implementing document). These statements apply to projects completed by either CDOT or projects completed through Local Agency Agreements.

D. CDOT will not replace driveways.

E. For any CDOT resurfacing projects where construction has begun prior to the date that this document is adopted, the Regional Transportation Director shall determine on a case-by-case basis whether the provisions of this document shall apply, and to what extent they shall apply, based on the following parameters:

(1) For any project that is in the early phase of construction, a change order shall be issued to construct the required curb ramps, including detectible warnings.

(2) For any project that has been substantially completed, and curb ramps and/or detectible warnings are not in the contract, no change order shall be required.

**5. LOCAL AGENCY AGREEMENT PROJECTS-**When a local entity (city, town or county) accepts funds from CDOT for any transportation project involving resurfacing of 1.5 inches or greater in depth; or if alteration of curbs or curb ramps, sidewalks, or other transportation facilities occurs, it must address all accessibility features as described in sections 3 and 4 above.

For other projects that impact pedestrian facilities, the local entity must address all accessibility features required by the ADAAG.

Under the provision of 28 CFR §35.130(b)(1)(v), CDOT is prohibited from providing significant assistance to any entity that does not fulfill the requirements of Title II of the ADA. In addition, 28 CFR requires CDOT to obtain and enforce an assurance that the local entity will meet the ADA requirements. Therefore, CDOT will enforce the ADA requirements in the following manner:

A. Each contract between CDOT and any local governmental entity shall contain the following language:

“The local agency shall comply with the requirements of the Americans With Disabilities Act (ADA), and applicable federal regulations and standards as contained in the document “ADA Accessibility Requirements in CDOT Transportation Projects.”

B. Appropriate CDOT staff on each project will ensure that the local agency designs the project(s) specified in the contract according to FHWA and CDOT requirements and that the local agency plan or plans comply with the requirements of the ADA, applicable federal regulations, and standards specified in the ADAAG. These standards will be present in the CDOT standard plans related to ADAAG compliance and will be provided to CDOT project design and management personnel.

Under extenuating circumstances, it may not be possible for the local agency to comply exactly with a particular ADAAG standard. In such cases, the local agency may submit to the CDOT ADA Coordinator an alternative design to show how the local agency will comply with the ADAAG to the maximum extent feasible. Along with the alternative design, the local agency shall submit documentation that shows why it cannot exactly meet the ADAAG standard.

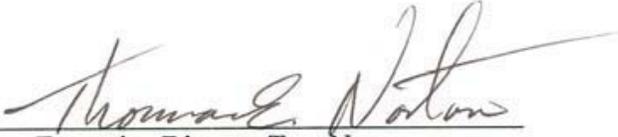
The ADA Coordinator and the CDOT staff assigned to review the local agency's project design shall jointly accept or deny the alternative design, or may provide alternative options to meet the requirements of the ADAAG to the maximum extent possible.

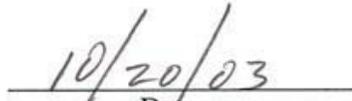
C. CDOT staff assigned to ensure that the local agency completes the specified project(s) in accordance with FHWA and CDOT requirements shall not accept the project at final project inspection until all requirements of Title II of the ADA, applicable federal regulations, and the ADAAG have been met.

D. CDOT shall not disburse final payment to the local agency until the local entity has complied with the requirements of Title II of the ADA, applicable federal regulations, and the ADAAG, or has completed construction based on an alternative design as approved in item (5 B), above.

6. **RIGHT-OF-WAY PERMITS**-All right-of-way permits shall be issued by CDOT on the condition that the permittee will comply with the requirements of Title II of the ADA, applicable federal regulations, and the ADAAG.

7. **REPORTING**-The CDOT Center for Equal Opportunity will provide an annual report to FHWA, summarizing the actions and results that were taken to meet the requirements of the ADA.

  
\_\_\_\_\_  
Executive Director Tom Norton

  
\_\_\_\_\_  
Date

## FOOTNOTES

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<sup>1</sup> This document was prepared by the CDOT ADA Coordinator, Ben Cordova, to implement the requirements of:

1. 28 CFR Part 35 and 49 CFR, Part 27, which was issued on October 1, 2001 by the U.S. DOT to implement the requirements of Section 504, Rehabilitation Act of 1973, and
2. Title II of the Americans With Disabilities Act.

The content of this document includes input from FHWA officials, the CDOT Chief Engineer, the Colorado Attorney General's Office, CDOT Project Development Branch staff, the Division Director of DOHRA, Regional Transportation Directors and the Administrator for Internal EO.

<sup>2</sup> FHWA officials based their guidance on their interpretation of the appellate court case of **Kinney v. Yerusalim** 9 F 3<sup>rd</sup> 1067 (3<sup>rd</sup> Circuit 1993), and 28 CFR § 35.130(b)(1)(v).

<sup>3</sup> The American With Disabilities Act Accessibility Guidelines (ADAAG) are the current standards that are used by the courts to interpret compliance with the accessibility requirements of the Rehabilitation Act of 1973 and Title II of the ADA.