

## Robyn Tice

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**From:** Don Kraher  
**Sent:** Friday, January 18, 2019 10:37 AM  
**To:** Robyn Tice  
**Subject:** FW: Proposed Amendment to LDC Chapter 12-12-4 Vacation of Streets, Alleys  
**Attachments:** Pensacola Planning Board and City Council letter from CILDRC --10-22-18.doc; Joint Technical Assistance Supp Q and A (12.1.15).docx

**Don Kraher**  
**Council Executive**  
Office of the City Council  
222 W. Main Street  
Pensacola, FL 32502  
(850) 435-1686 – Office  
(850) 384-6363 – Cell

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**From:** Carolyn Grawi [mailto:carolyn@cil-drc.org]  
**Sent:** Thursday, January 17, 2019 10:27 AM  
**To:** Jewel Cannada-Wynn <jcannada-wynn@cityofpensacola.com>; Sherri Myers <smyers@cityofpensacola.com>; Ann Hill <AHill@cityofpensacola.com>; Gerald Wingate <gwingate@cityofpensacola.com>; P.C. Wu <pcwu@cityofpensacola.com>; Andy Terhaar <aterhaar@cityofpensacola.com>; Jared Moore <JMoore@cityofpensacola.com>; Grover C. Robinson, IV <GRobinson@cityofpensacola.com>  
**Cc:** Brandi Deese <bdeese@cityofpensacola.com>; Keith Wilkins <KWilkins@cityofpensacola.com>; Sherry Morris <SMorris@cityofpensacola.com>; Legal <Legal@cityofpensacola.com>; Derrik Owens <DOwens@cityofpensacola.com>; Don Kraher <DKraher@cityofpensacola.com>  
**Subject:** FW: Proposed Amendment to LDC Chapter 12-12-4 Vacation of Streets, Alleys

Hello City Council Members, Mayor Robinson, and staff,

Thank you for your attention to the community needs and ordinances that will permit safety and accessibility.

The [Center for Independent Living Disability Resource Center](#) and I are writing to ask you to support Item 9 on this evening's Council agenda. This will set minimum standards for right-of-way vacations, including the allocation of space and replacement of existing sidewalk facilities. This proposed amendment will ensure that adequate space is left for sidewalks and street trees in keeping with national standards for accessibility and safety. This will also support and follow what is the existing policy for City of Pensacola staff.

This standard will allow for a minimum of 10' right of way: a 5' wide planting strip for trees and landscaping and then a 5' sidewalk adjacent to the landscape. This will bring the City of Pensacola in alignment with multiple national design standards and best practices:

Attached for your reminders are the [Center for Independent Living Disability Resource Center](#) comments regarding [Proposed Amendment to LDC Chapter 12-12-4 Vacation of Streets, Alleys](#) and [The Department of Justice \(DOJ\)/Department of Transportation \(DOT\) Joint Technical Assistance of the Title II of the Americans with Disabilities Act \(ADA\) requirements](#).

We continue to endorse this amendment. It was also unanimously endorsed by the City of Pensacola Planning Board at their October 23, 2018 meeting as reflected on page 5 and 6 of their minutes at the city's link:

[https://www.cityofpensacola.com/AgendaCenter/ViewFile/Agenda/\\_11132018-1701](https://www.cityofpensacola.com/AgendaCenter/ViewFile/Agenda/_11132018-1701)

We look forward to the City of Pensacola making our community fully accessible, inclusive, and safe for all of us!

Respectfully submitted,

Carolyn

Carolyn L. Grawi, MSW, LMSW, ACSW, ADAC  
Executive Director  
[Center for Independent Living Disability Resource Center](#)  
3600 North Pace Blvd.  
Pensacola, FL. 32505  
Phone 850-595-5566 Ext 16  
Fax 850-595-5560  
Sorenson VRS: 850-208-3106  
Relay 711  
Email [carolyn@cil-drc.org](mailto:carolyn@cil-drc.org)  
Website [www.cil-drc.org](http://www.cil-drc.org)

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**From:** Carolyn Grawi

**Sent:** Monday, October 22, 2018 10:41 AM

**To:** [jared@jandmvalve.com](mailto:jared@jandmvalve.com); [pritz@bullocktice.com](mailto:pritz@bullocktice.com); [hesscampbell@aol.com](mailto:hesscampbell@aol.com); [kurt@fire-help.org](mailto:kurt@fire-help.org); [fathernathan@gmail.com](mailto:fathernathan@gmail.com); [dgrundhoefer@ggarchitects.com](mailto:dgrundhoefer@ggarchitects.com); [aterhaar@cityofpensacola.com](mailto:aterhaar@cityofpensacola.com); [bspencer@cityofpensacola.com](mailto:bspencer@cityofpensacola.com); [gwingate@cityofpensacola.com](mailto:gwingate@cityofpensacola.com); [jcannada-wynn@cityofpensacola.com](mailto:jcannada-wynn@cityofpensacola.com); [ljohnson@cityofpensacola.com](mailto:ljohnson@cityofpensacola.com); [pcwu@cityofpensacola.com](mailto:pcwu@cityofpensacola.com); [smyers@cityofpensacola.com](mailto:smyers@cityofpensacola.com)

**Cc:** [bdeese@cityofpensacola.com](mailto:bdeese@cityofpensacola.com); [KWilkins@cityofpensacola.com](mailto:KWilkins@cityofpensacola.com); [SMorris@ci.pensacola.fl.us](mailto:SMorris@ci.pensacola.fl.us); [legal@cityofpensacola.com](mailto:legal@cityofpensacola.com); [DOwens@cityofpensacola.com](mailto:DOwens@cityofpensacola.com); [DKraher@cityofpensacola.com](mailto:DKraher@cityofpensacola.com)

**Subject:** Proposed Amendment to LDC Chapter 12-12-4 Vacation of Streets, Alleys

Hello Planning Board, City Council, Mayor Hayward and staff,

Attached please find documents for the discussion and recommendations regarding proposed amendment to LDC Chapter 12-12-4 Vacation of Streets, Alleys.

Respectfully submitted,

Carolyn

Carolyn L. Grawi, MSW, LMSW, ACSW, ADAC  
Executive Director  
Center for Independent Living Disability Resource Center  
3600 North Pace Boulevard  
Pensacola, Florida 32505  
V/TTY 850-595-5566 ext 16

Fax 850-595-5560

Website [www.cil-drc.org](http://www.cil-drc.org)

Email: [carolyn@cil-drc.org](mailto:carolyn@cil-drc.org)



**U.S. Department of Justice**  
Civil Rights Division  
*Disability Rights Section*



U.S. Department of  
Transportation  
**Federal Highway  
Administration**

## QUESTIONS & ANSWERS

**Supplement to the 2013 DOJ/DOT Joint Technical Assistance on the Title II of the Americans with Disabilities Act Requirements To Provide Curb Ramps when Streets, Roads, or Highways are Altered through Resurfacing**

The *Department of Justice (DOJ)/Department of Transportation (DOT) [Joint Technical Assistance on the Title II of the Americans with Disabilities Act \[ADA\] Requirements to Provide Curb Ramps when Streets, Roads, or Highways are Altered through Resurfacing](#)* (Joint Technical Assistance) was published on July 8, 2013. This document responds to frequently asked questions that the Federal Highway Administration (FHWA) has received since the technical assistance document was published. In order to fully address some questions, the applicable requirements of Section 504 of the Rehabilitation Act of 1973 that apply to public entities receiving Federal funding from DOT, either directly or indirectly, are also discussed. This document is not a standalone document and should be read in conjunction with the [2013 Joint Technical Assistance](#).

**Q1: *When a pavement treatment is considered an alteration under the ADA and there is a curb ramp at the juncture of the altered road and an existing sidewalk (or other prepared surface for pedestrian use), but the curb ramp does not meet the current ADA Standards, does the curb ramp have to be updated to meet the current ADA Standards at the time of the pavement treatment?***

A1: It depends on whether the existing curb ramp meets the appropriate accessibility standard that was in place at the time it was newly constructed or last altered.

When the Department of Justice adopted its revised title II ADA Regulations including the updated ADA Standards for Accessible Design (2010 Standards,<sup>1</sup> as defined in 28 CFR 35.151), it specified that “(e)lements that

have not been altered in existing facilities on or after March 15, 2012, and that comply with the corresponding technical and scoping specifications for those elements in either the 1991 Standards or in the Uniform Federal Accessibility Standards (UFAS) ... are not required to be modified in order to comply with the requirements set forth in the 2010 Standards.” 28 C.F.R.

35.150(b)(2)(i). As a result of this “safe harbor” provision, if a curb ramp was built or altered prior to March 15, 2012, and complies with the requirements for curb ramps in either the 1991 ADA Standards for Accessible Design (1991 Standards, known prior to 2010 as the 1991 ADA Accessibility Guidelines, or the 1991 ADAAG) or UFAS, it does **not** have to be modified to comply with the requirements in the 2010 Standards. However, if that existing curb ramp did not comply with either the 1991 Standards or UFAS as of March 15, 2012, then the safe harbor does not apply and the curb ramp must be brought into compliance with the requirements of the 2010 Standards concurrent with the road alteration. See 28 CFR 35.151(c) and (i).

Note that the requirement in the 1991 Standards to include detectable warnings on curb ramps was suspended for a period between May 12, 1994, and July 26, 1998, and again between December 23, 1998, and July 26, 2001. If a curb ramp was newly constructed or was last altered when the detectable warnings requirement was suspended, and it otherwise meets the 1991 Standards, Title II of the ADA does not require that the curb ramp be modified to add detectable warnings in conjunction with a road resurfacing alteration project. See Question #14 however, for a discussion of the DOT Section 504 requirements, including detectable warnings.

**Q2: *The Joint Technical Assistance states that “[r]esurfacing is an alteration that triggers the requirement to add curb ramps if it involves work on a street or roadway spanning from one intersection to another, and includes overlays of additional material to the road surface, with or without milling.” What constitutes “overlays of additional material to the road surface” with respect to milling, specifically, when a roadway surface is milled and then overlaid at the same height (i.e., no material is added that exceeds the height of what was present before the milling)?***

A2: A project that involves milling an existing road, and then overlaying the road with material, regardless of whether it exceeds the height of the road before milling, falls within the definition of “alteration” because it is a change to the road surface that affects or could affect the usability of the pedestrian route (crosswalk). See *Kinney v. Yerusalim*, 9 F.3d 1067 (3rd Cir. 1993). Alterations require the installation of curb ramps if none previously existed, or upgrading of non-compliant curb ramps to meet the applicable standards, where there is an existing pedestrian walkway. See also Question 8.

**Q3: *If a roadway resurfacing alteration project does not span the full width of the road, do I have to put in curb ramps?***

A3: It depends on whether the resurfacing work affects a pedestrian crosswalk. If the resurfacing affects the crosswalk, even if it is not the full roadway width, then curb ramps must be provided at both ends of the crosswalk. See 28 CFR 35.151(i).

Public entities should not structure the scope of work to avoid ADA obligations to provide curb ramps when resurfacing a roadway. For example, resurfacing only between crosswalks may be regarded as an attempt to circumvent a public entity’s obligation under the ADA, and potentially could result in legal challenges.

If curb ramp improvements are needed in the vicinity of an alteration project, it is often cost effective to address such needs as part of the alteration project, thereby advancing the public entity’s progress in meeting its obligation to provide program access to its facilities. See Question 16 for further discussion.

**Q4: *When a road alteration project triggers the requirement to install curb ramps, what steps should public (State or local) entities take if they do not own the sidewalk right-of-way needed to install the required curb ramps?***

A4: The public entity performing the alteration is ultimately responsible for following and implementing the ADA requirements specified in the regulations

implementing title II. At the time an alteration project is scoped, the public entity should identify what ADA requirements apply and whether the public entity owns sufficient right-of-way to make the necessary ADA modifications. If the public entity does not control sufficient right-of-way, it should seek to acquire the necessary right-of-way. If a complaint is filed, the public entity will likely need to show that it made reasonable efforts to obtain access to the necessary right-of-way.

**Q5: *The Joint Technical Assistance is silent on when it becomes effective. Is there an effective date for when States and local public entities must comply with the requirements discussed in the technical assistance?***

A5: The Joint Technical Assistance, as well as this Supplement to it, does not create any new obligations. The obligation to provide curb ramps when roads are altered has been an ongoing obligation under the regulations implementing title II of the ADA (28 CFR 35.151) since the regulation was initially adopted in 1991. This technical assistance was provided to respond to questions that arose largely due to the development of a variety of road surface treatments, other than traditional road resurfacing, which generally involved the addition of a new layer of asphalt. Although the Joint Technical Assistance was issued on July 8, 2013, public entities have had an ongoing obligation to comply with the alterations requirements of title II and should plan to bring curb ramps that are or were part of an alteration into compliance as soon as possible.

**Q6: *Is the curb ramp installation work required to be a part of the Plans, Specifications and Estimate package for an alteration project or can the curb ramp work be accomplished under a separate contract?***

A6: The curb ramp installation work can be contracted separately, but the work must be coordinated such that the curb ramp work is completed prior to, or at the same time as, the completion of the rest of the alteration work. See 28 CFR 35.151(i).

**Q7: *Is a curb ramp required for a sidewalk that is not made of concrete or asphalt?***

A7: The Joint Technical Assistance states that “the ADA does not require installation of ramps or curb ramps in the absence of a pedestrian walkway with a prepared surface for pedestrian use.” A “prepared surface for pedestrian use” can be constructed out of numerous materials, including concrete, asphalt, compacted soil, decomposed granite, and other materials. Regardless of the materials used to construct the pedestrian walkway, if the intent of the design was to provide access to pedestrians, then curb ramps must be incorporated where an altered roadway intersects the pedestrian walkway. See 28 CFR 35.151(i).

**Q8: *If an existing curb ramp is replaced as part of a resurfacing alteration, is there an obligation to address existing obstacles on the adjacent sidewalk at the same time?***

A8: No. The Joint Technical Assistance addresses those requirements that are triggered when a public entity alters a roadway where the roadway intersects a street level pedestrian walkway (28 CFR 35.151(i)). Public entities are required to address other barriers on existing sidewalks, such as steep cross slopes or obstructions, as part of their on-going program access and transition plan obligations under title II of the ADA and Section 504 and in response to requests for reasonable modifications under the ADA or reasonable accommodations under Section 504. See 28 CFR 35.105, 35.130(b)(7), and 35.150(d); see also 49 CFR 27.7(e), 27.11(c)(2).

**Q9: *Several pavement preservation treatment types are not listed in the technical assistance. If the treatment type is not specifically on the list of maintenance treatments, is it an alteration?***

A9: New treatments are always being developed and the best practice is for the City or other local public entity conducting the work, the State transportation agency, and FHWA to work together to come to an agreement on a reasonable determination of whether the unlisted treatment type is an alteration or maintenance and document their decisions. If the new treatment can be deemed to be the equivalent of any of the items listed as alterations, it is a reasonable interpretation that they are in fact alterations and should be treated as such.



**Q10: *When does a combination of two or more ‘maintenance’ treatments rise to the level of being an alteration?***

A10: The list of the pavement types that are considered maintenance, as stated in the 2013 Joint Technical Assistance document, are Chip Seals, Crack Filling and Sealing, Diamond Grinding, Dowel Bar Retrofit, Fog Seals, Joint Crack Seals, Joint Repairs, Pavement Patching, Scrub Sealing, Slurry Seals, Spot High-Friction Treatments, and Surface Sealing. The combination of two or more maintenance treatments may rise to the level of being an alteration.

The best practice is for the City or other local public entity conducting the work, the State transportation agency, and FHWA to work together to come to an agreement on a reasonable determination, document their policies, and apply that determination consistently in their locality.

**Q11: *When will utility trench work require compliance with ADA curb ramp requirements?***

A11: The answer to this question depends on the scope and location of the utility trench work being done. If the utility trench work is limited to a portion of the pavement, even including a portion of the crosswalk, repaving necessary to cover the trench would typically be considered maintenance and would not require simultaneous installation or upgrading of curb ramps. Public entities should note that the ADA requires maintenance of accessible features, and as such, they must ensure that when the trench is repaved or other road maintenance is performed, the work does not result in a lesser level of accessibility. See 28 CFR 35.133(a). If the utility work impacts the curb at a pedestrian street crossing where no curb ramp exists, the work affecting the curb falls within the definition of “alteration,” and a curb ramp must be constructed rather than simply replacing the curb. See 28 CFR 35.151(b) and 35.151(i).

If a public entity is unsure whether the scope of specific trench work and repair/repaving constitutes an alteration, the best practice is for the public entity to work together with the State transportation agency and the FHWA

Division to come to an agreement on how to consistently handle these situations and document their decisions.

**Q12: *Is full-depth pavement patching considered maintenance?***

A12: The answer to this question depends on the scope and location of the pavement patch. If the pavement patch work is limited to a portion of the pavement, even including a portion of the crosswalk, patching the pavement would typically be considered maintenance and would not require simultaneous installation or upgrading of curb ramps. Public entities should note that the ADA requires maintenance of accessible features, and as such, they should ensure that when the pavement is patched or other road maintenance is performed, the work does not result in a lesser level of accessibility. See 28 CFR 35.133(a). If the pavement patching impacts the curb at a pedestrian street crossing where no curb ramp exists, the work affecting the curb falls within the definition of “alteration,” and a curb ramp must be constructed rather than simply replacing the curb. See 28 CFR 35.151(b) and 35.151(i).

If a public entity is unsure whether the scope of specific full-depth pavement patching constitutes an alteration, the best practice is for the public entity to work together with the State transportation agency and the FHWA Division to come to an agreement on how to consistently handle these situations and document their decisions.

**Q13: *Do any other requirements apply to road alteration projects undertaken by public entities that receive Federal financial assistance from DOT either directly or indirectly, even if such financial assistance is not used for the specific road alteration project at issue?***

A13: Yes, if a public entity receives any Federal financial assistance from DOT whether directly or through another DOT recipient, then the entity must also apply DOT’s Section 504 requirements even if the road alteration project at issue does not use Federal funds. See 49 CFR 27.3 (applicability of DOT’s Section 504 requirements) and 27.5 (definition of “program or activity”).

DOT's Section 504 disability nondiscrimination regulations are found at 49 CFR Part 27. These regulations implement Section 504 of the Rehabilitation Act of 1973 (Section 504). In 2006, DOT updated its accessibility standards by adopting the 2004 Americans with Disabilities Act Accessibility Guidelines (2004 ADAAG<sup>2</sup>) into its Section 504 regulations at 49 CFR 27.3 (referencing 49 CFR Part 37, Appendix A). These requirements replaced the previously applicable ADA Standards for Accessible Design (1991) (formerly known as 1991 ADAAG). At that time, DOT's regulation adopted a modification to Section 406 of the 2004 ADAAG which required the placement of detectable warnings on curb ramps.

The revised DOT Section 504 regulation also provided a "safe harbor" provision (similar to the ADA provision discussed in Question 1) that applies to curb ramps that were newly constructed or altered by entities receiving Federal financial assistance from DOT and that were in compliance with the 1991 ADAAG requirements prior to November 29, 2006. If the "safe harbor" applies, these curb ramps are still considered compliant and do not have to be modified to add detectable warnings unless they are altered after November 29, 2006. The DOT "safe harbor" provision is found at 49 CFR 37.9(c). DOT's Section 504 regulations (49 CFR 27.19(a)) require compliance with 49 CFR Part 37.

The Section 504 safe harbor does not apply, however, if, at the time of the road alteration project, the existing curb ramp does not comply with the 1991 ADAAG and at that time it must be brought into compliance with the current DOT Section 504 requirements (2004 ADAAG) including detectable warnings.

**Q14: Does the Section 504 safe harbor apply to curb ramps built in compliance with 1991 ADAAG during the time period when the requirement for detectable warnings was suspended and the roadway is now being resurfaced where it intersects the pedestrian walkway?**

A14: If the curb ramps that were built or altered prior to November 29, 2006 were fully compliant with 1991 ADAAG at the time that the detectable warnings requirements were suspended, then the DOT Section 504 safe

harbor applies to them and the recipient does not have to add detectable warnings as a result of a resurfacing project.

**Q15: *In addition to the obligations triggered by road resurfacing alterations, are there other title II or Section 504 requirements that trigger the obligation to provide curb ramps?***

A15: In addition to the obligation to provide curb ramps when roads are resurfaced, both DOJ's title II ADA regulation and DOT's Section 504 regulation (applicable to recipients of DOT Federal financial assistance), require the provision of curb ramps if the sidewalk is installed or altered at the intersection, during new construction, as a means of providing program accessibility, and as a reasonable modification under title II or a reasonable accommodation under Section 504.

### **New Construction and Alterations**

DOJ's title II ADA regulation provides that newly constructed or altered streets, roads, and highways must contain curb ramps or other sloped areas at any intersection having curbs or other barriers to entry from a street level pedestrian walkway. In addition, the regulation provides that newly constructed or altered street level pedestrian walkways must contain curb ramps or other sloped areas at intersections to streets, roads, or highways. See 28 CFR 35.151(i). These curb ramps must comply with the 2010 Standards.<sup>3</sup>

DOT's Section 504 Federally assisted regulation also requires the provision of curb ramps in new construction and alterations. See 49 CFR 27.19(a) (requiring recipients of DOT financial assistance to comply with DOJ's ADA regulation at 28 CFR Part 35, including the curb ramp requirements at 28 CFR 35.151(i)); 49 CFR 27.75 (a)(2) (requiring all pedestrian crosswalks constructed with Federal financial assistance to have curb cuts or ramps).

### **Program Accessibility**

Both DOJ's title II ADA regulation and DOT's Section 504 regulation require that public entities/recipients operate each service, program, or activity so that

the service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. This obligation, which is known as providing “program accessibility,” includes a requirement to evaluate existing facilities in the public right-of-way for barriers to accessibility, including identifying non-existent or non-compliant curb ramps where roads intersect pedestrian access routes (sidewalks or other pedestrian walkways). After completing this self-evaluation, a public entity/recipient must set forth a plan for eliminating such barriers so as to provide overall access for persons with disabilities. See 28 CFR 35.150, and 49 CFR 27.11(c).

Since March 15, 2012, the DOJ title II regulation requires the use of the 2010 Standards for structural changes needed to provide program access. However, in accordance with the ADA safe harbor discussed in Question 1, if curb ramps constructed prior to March 15, 2012 already comply with the curb ramp requirements in the 1991 Standards, they need not be modified in accordance with the 2010 Standards in order to provide program access, unless they are altered after March 15, 2012.

Similarly, DOT’s Section 504 “safe harbor” allows curb ramps that were newly constructed or altered prior to November 29, 2006, and that meet the 1991 ADAAG to be considered compliant.<sup>4</sup> Elements not covered under the safe harbor provisions may need to be modified to provide program access and should be incorporated into a program access plan for making such modifications. 49 CFR 27.11(c)(2).

Under Section 504, self-evaluations and transition plans should have been completed by December 29, 1979. Under the ADA, transition plans should have been completed by July 26, 1992, and corrective measures should have been completed by January 26, 1995. While these deadlines have long since passed, entities that did not develop a transition plan prior to those dates should begin immediately to complete their self-evaluation and develop a comprehensive transition plan.

### **Reasonable Modification /Accommodation**

In addition to alteration and program accessibility obligations, public entities may have an obligation under title II and Section 504 to undertake curb ramp

construction or alteration as a “reasonable modification/accommodation” in response to a request by, or on behalf of, someone with a disability. Such a request may be made to address a non-compliant curb ramp outside of the schedule provided in the public entity’s transition plan. A public entity must appropriately consider such requests as they are made. 28 CFR 35.130(b)(7); 49 CFR 27.7(e).

1 The 2010 Standards can be found on DOJ’s website at [http://www.ada.gov/2010ADAstandards\\_index.htm](http://www.ada.gov/2010ADAstandards_index.htm).

2 In 2004, the United States Architectural and Transportation Barriers Board (U.S. Access Board) published the Americans with Disabilities Act Accessibility Guidelines (2004 ADAAG), which serve as the basis of the current enforceable ADA standards adopted by both DOT and DOJ.

3 The 2010 Standards include a provision on equivalent facilitation that allows covered entities to use other designs for curb ramps if such designs provide equal or greater access. *See* section 103 of the [2010 Standards](#).

4 The DOT “safe harbor” provision is found at 49 CFR 37.9(c). DOT’s Section 504 regulations (49 CFR 27.19(a)) require compliance with 49 CFR Part 37.



# CIL Disability Resource Center

Center for Independent Living of Northwest Florida, Inc.

October 22, 2018

Dear Pensacola City Planning Board, Council Members, and Mayor Hayward,

This letter is regarding a Planning Board agenda item on Land Development Code Section 12-12-4, Vacation of Streets, and Alleys. We strongly support and request the planning commission and when this comes up in a future city council meeting that the City of Pensacola follow National and State of Florida best practice standards and laws.

Title II of the Americans with Disabilities Act (ADA) of 1990 requires public entities--including local governments -- to not discriminate on the basis of disability in the entities' services, programs, or activities, including access to the public right-of-way. The Act requires local governments to maintain and enhance public facilities (including the public right-of-way and sidewalks) so that the existing level of service is maintained and improved.

Alterations to public facilities are specifically outlined in Title 28 › Chapter I › Part 35 › Subpart D › Section 35.151 of the Code of Federal Regulations:

*(b) Alterations.*

*(1) Each facility or part of a facility altered by, on behalf of, or for the use of a public entity in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by individuals with disabilities, if the alteration was commenced after January 26, 1992.*

Alterations are defined in the standards as “a change in a building or facility that affects or could affect the usability of a building or facility or portion thereof.”

Under the ADA, an alteration to a sidewalk creates an additional obligation to include curb ramps in the scope of the project. From the Title II regulation:

*35.151(e)(2) Curb Ramps. (1) Newly constructed or altered streets, roads, and highways must contain curb ramps or other sloped areas at any intersection having curbs or other barriers to entry from a street level pedestrian walkway. Newly constructed or altered street level pedestrian walkways must contain curb ramps or other sloped areas at intersections to streets, roads, or highways.*

**3600 North Pace Boulevard, Pensacola, FL 32505**  
**850-595-5566 Voice/TTY ~ 850-595-5560 Fax ~ 1-877-245-2457 Toll Free**  
**[www.cil-drc.org](http://www.cil-drc.org)**

If the planning board and the city council chooses to alter the right-of-way through a right-of-way vacation, in order to comply with the ADA you must ensure that the existing sidewalk is replaced and curb ramps are added as part of the right-of-way vacation. This has been the same recommendation

made by the city's planning board at its meeting on June 12, 2018 and was also previously presented to the council. The city's public works director also recommended in his previous written comments that at least 10' of right-of-way be maintained and that a 4' grass strip is maintained between the sidewalk and curb.

**"28 CFR 36 § 35.133 Maintenance of accessible features**

(a) A public entity shall maintain in operable working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities by the Act or this part."

Q 11: *When will Utility trench work require compliance with ADA curb ramp requirements? ;*

A 11: The answer to this question depends on the scope and location of the utility trench work being done. If the utility trench work is limited to a portion of the pavement, even including a portion of the crosswalk, repaving necessary to cover the trench would typically be considered maintenance and would not require simultaneous installation or upgrading of curb ramps. Public entities should note that the ADA requires maintenance of accessible features, and as such, they must ensure that when the trench is repaved or other road maintenance is performed, **the work does not result in a lesser level of accessibility. See 28 CFR 35.133(a).** If the utility work impacts the curb at a pedestrian street crossing where no curb ramp exists, the work affecting the curb falls within the definition of "alteration," and a curb ramp must be constructed rather than simply replacing the curb. See 28 CFR 35.151(b) and 35.151(i).

If a public entity is unsure whether the scope of specific trench work and repair/repaving constitutes an alteration, the best practice is for the public entity to work together with the State transportation agency and the FHWA Division to come to an agreement on how to consistently handle these situations and document their decisions,

Q 12: *Is full depth pavement patching considered maintenance?*

A 12: The answer to this question depends on the scope and location of the pavement patch. If the pavement patch work is limited to a portion of the pavement, even including a portion of the crosswalk. Patching the pavement would typically be considered maintenance and would not require simultaneous installation or upgrading of curb ramps. Public entities should note that the ADA requires maintenance of accessible features. And as such, **they should ensure that when the pavement is patched or other road maintenance is performed, the work does not result in a lesser level of accessibility. See 28 CFR 35.133(a).** If the pavement patch impacts the curb at a pedestrian street crossing where no curb ramp exists, the work affecting the curb falls within the definition of alteration, and a curb ramp must be constructed rather than simply replacing the curb. See 28 CFR 35.151(b) and 35.151(i).

<http://www.ada.gov-fhwa-ta-supplement-2015.htm>

Furthermore, in order to ensure that sidewalks are constructed in a manner that protects public safety, state and national standards for sidewalk design should be followed. Chapter 8 of the Florida Department of Transportation's *Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways* (commonly referred to as the "Florida Greenbook") is one such source.

The Greenbook recommends sidewalk widths of 5' and a planting strip (landscaped area between sidewalk and curb) of at least 6' to "improve public safety." This recommendation closely corresponds with comments presented at the July 19 meeting from the city public works director and city



administrator, both of whom have stated that the city's standard is to maintain at least 10' of roadside right-of-way to allow for proper placement of a sidewalk.

I have provided you with a Joint Technical Assistance Supp Q and A (12.1.15) from The Department of Justice (DOJ)/Department of Transportation (DOT) for your reference in this matter. Please adhere to both the law and best practices to ensure our community's accessibility and inclusion are at minimum sustained and maintained. Please set precedent for following the law and strive for a community with universal access and universal design to be the way things are done in the City of Pensacola.

For further discussion or assistance, I can be reached by email at [carolyn@cil-drc.org](mailto:carolyn@cil-drc.org) or by phone at 850-595-5566 ext 16.

Respectfully Submitted,

Carolyn L. Grawi, MSW, LMSW, ACSW, ADAC  
Executive Director