CURB RAMPS REQUIRED IN RESURFACING PLANS

POLICY:

It is the policy of the Ohio Department of Transportation (ODOT) to comply with various civil rights laws and regulations, including Title II of the Americans with Disabilities Act (ADA). Title II of the ADA applies to all programs, services, and activities provided or made available by a public entity (e.g., state and local governments) or any of its instrumentalities or agencies. ODOT recognizes that pedestrian facilities (e.g., sidewalks) qualify as a program under the ADA.

PURPOSE OF THE POLICY:

The purpose of this policy is to establish the requirement of compliant curb ramps or curb cuts as part of ODOT-Let or Local-Let resurfacing projects. That is, this policy is one component of ODOT’s commitment to ensure its programs, services, and activities are provided in a nondiscriminatory manner.

AUTHORITY:

*Americans with Disabilities Act (ADA) (1990)*
*Civil Rights Restoration Act (1987)*
*Ohio Attorney General Opinion (1995)*
*Rehabilitation Act (1973) – Section 504*

REFERENCES:

*ADA Accessibility Guidelines (ADAAG)*
*FHWA “Designing Sidewalks and Trails for Access” (November 2001)*
*ODOT Location and Design Manual, Volume 1*
*ODOT Standard Construction Drawings or alternatives approved by the Standards Engineer*
*Public Right-of-Way Accessibility Guidelines (PROWAG)*
*42 USC Chapter 126, Subchapter II, Part A*
*28 CFR Part 36*
SCOPE:

This policy is to be used by District Deputy Directors, Highway Management Administrators, Planning and Engineering Administrators, and other ODOT personnel responsible for implementing pavement resurfacing plans.

FISCAL IMPACT:

The costs associated with compliance or noncompliance with this policy would be dependent upon programmed resurfacing projects.

BACKGROUND:

The ADA requires public entities, when constructing or altering streets, roads, and highways, provide compliant curb ramps at intersections where curbs or other barriers exist between the street level and the pedestrian walkways.

The Federal Highway Administration (FHWA) encourages public agencies to use the standards set forth in the ADA Accessibility Guidelines (ADAAG) but notes that ADAAG standards were developed primarily for building and on-site facilities. Under ADAAG standards, an accessible design to a highway, street, or walkway includes accessible sidewalks and curb ramps with detectable warnings. 28 CFR § 35.151(c) and (e) (curb ramps); ADAAG 4.3-4.5 (accessible routes), 4.7 (curb ramps with detectable warnings), 4.29 (detectable warnings). Because ADAAG does not address the unique challenges to accessibility presented when dealing with sidewalks, street crossings, and other elements of the public rights-of-way, both FHWA and the Department of Justice, the entity responsible for enforcing ADA requirements, recommend using the Public Right-of-Way Accessibility Guidelines (PROWAG). Although PROWAG has not yet been formally adopted by USDOT and USDOJ, it is considered the best guidance available related to ADA requirements for public rights-of-way and should be used for sidewalks and street crossings as outlined in FHWA’s 2006 guidance related to the topic.

Based on precedent-setting court cases and FHWA guidance, it is ODOT’s policy that compliant curb ramps or curb cuts must be provided before the sale of or concurrently with the construction of any ODOT-Let or Local-Let resurfacing projects.

DEFINITIONS:

Americans with Disabilities Act (ADA): Title II of the ADA is the federal civil rights law that prohibits discrimination by a state or local government against individuals with disabilities.

PROCEDURE:

I. Compliant curb ramps shall be constructed at intersections located within the resurfacing limits of all resurfacing projects (regardless of urban or rural location) whenever curbs and sidewalks are present or where existing curb ramps are not compliant with current standards.
a. Curb ramps should be constructed such that all quadrants of the intersection are accessible.

b. Compliant curb ramps should be constructed on a side street, even if no resurfacing work is being performed.

II. A break in the curb shall be constructed to provide access for individuals with disabilities at all intersection radiiuses located within the resurfacing limits of all resurfacing projects (regardless of urban or rural location) whenever curbs are present and no sidewalk exists.

a. Existing curbs shall be cut flush with the pavement for a width of five feet with tapered sides at a rate of 3 to 1 or flatter.

b. New curbs shall be constructed flush with the pavement for a width of five feet with tapered sides at a rate of 3 to 1 or flatter.

c. This policy includes dropping the curb or cutting the curb on the side street, even if no resurfacing work is being performed.

III. Compliant curb ramps shall be constructed according to ODOT's Location and Design Manual and ODOT’s Standard Construction Drawings or alternatives approved by the Standards Engineer.

IV. The cost of curb ramps outside of municipal corporations shall be funded as part of the project. The cost of curb ramps inside municipal corporations within the limits of resurfacing projects should be funded by the local agency.

V. After installation, ODOT shall inspect the curb ramps constructed under an ODOT-let contract for compliance and local authorities shall be responsible for the inspection of curb ramps under local-let project for compliance. If the curb ramp is not compliant with the current standards, the ramp must be brought into compliance before the project is completed or finalized by either ODOT or the local authority.

VI. After installation, the curb ramps shall be maintained by the agency (i.e., city, village, county, township, or ODOT) that has jurisdictional ownership of the main traveled way unless there is a maintenance agreement in place that specifically requires another agency to maintain the ramps. When obtaining consent legislation for the resurfacing project, the issue of maintenance of curb ramps shall be addressed in the legislation.
TRAINING:

The Office of Roadway Engineering will provide annual training as necessary to the District ADA Coordinators and/or District personnel responsible for reviewing and producing plans that contain right-of-way features.

ENFORCEMENT:

Each District Deputy Director, Highway Management Administrator, Transportation Planning Program Administrator, Production Administrator, and ODOT personnel responsible for implementing pavement resurfacing plans is responsible for ensuring that this policy is carried out in his or her respective program area.

The following procedure will be implemented on the effective date of this policy:

1. All tracings for resurfacing projects filed in Central Office on or after the effective date of this policy shall include provisions for curb ramps in accordance with this policy.

2. Compliant curb ramp details are shown on ODOT’s Standard Construction Drawings.

3. Resurfacing projects not in conformance with this policy will be rejected.

Reviews to ensure compliance will be conducted in accordance with ODOT Policy 220-001(P), Quality Assurance Review Policy.