



## ADA COMPLIANCE DIVISION

Metropolitan Government of Nashville & Davidson County

### 20% RULE FOR WORK COMPLETED IN THE PUBLIC RIGHT-OF-WAY

To insure that activities such as construction, maintenance, and repair within the Right-Of-Way of any street, alley, or highway, are performed in compliance with the Public Works construction requirements and standard drawings, the Americans with Disabilities Act (ADA) and the Justice Department's Standard for Accessible Design (JDSAD) initially set forth in 28C.F.R. Part 36, Appendix A.

Any activities occurring within the Rights-of-Ways of any street, highway or alley in Metro Nashville, Davidson County (excluding the satellite cities) requiring a permit per Metro Code Chapter 13.20 must obtain the permit from the Department of Public Works Engineering Division.

Right-of-Way activities are categorized into three (3) levels of projects requiring varying degrees of compliance.

Level 1 Projects: These projects include maintenance and repair work that generally does not disturb existing elements. As maintenance projects they do not trigger addition path of travel work, rather they would be considered "repair in kind/in place". Examples are pothole patching, street signal bulb replacement and other minor maintenance within the roadway.

Level 2 Projects: Projects that might be functionally described as "replace in-kind but with accessible features" including projects where the element affects pedestrian usability but is not an alteration to a primary function area. When the elements are fixed or repaired, they must be made accessible, meeting new construction guidelines to the maximum extent feasible for those items that are located within the limits and/or scope of the project. This work does not trigger any additional work in the surrounding vicinity, simply "if you touch it, you fix it." For example, if street signage were changed, it would need to comply with the ADA requirements for changing but not necessarily trigger a requirement to build a new sidewalk where the signage is posted.

Level 3 Projects: Projects that affect the "primary function area" in the public right-of-way in addition to impacting pedestrian usability. The "primary function area" within the right-of-way is defined to be the pedestrian access route, which includes the sidewalks, curb ramps and cross walks. These alterations trigger more to be done beyond the initial scope of work of the project. Examples that trigger addition modifications include: paving of at least one travel lane for at least one block (for the

purpose of this policy a block is considered to be 300 feet); installing a utility main or lateral; horizontal drilling; utility main relining; or similar activity that impacts the pedestrian access route beyond what is considered maintenance activities. Modifications must be made accessible meeting new construction guidelines to the maximum extent feasible. Compliance with this policy is required to the extent it is not “disproportionate” to the cost of alterations to the primary function area. Disproportionality is defined as costing more than 20% of the cost of the alteration to the primary function area. For all level 3 projects, modifications beyond the initial scope of work of the project requires installing curb ramps to sidewalks at intersections where ramps do not exist or upgrading the existing ramps, then applying 20% of the milling, paving and/or restoration cost of the primary function area to bring the pedestrian access route into compliance.

If there are questions as to what is or is not required for compliance of this policy, the Metro Public Works ADA Coordinator will evaluate and make the final determination.

The priority for utilization of the 20% funds is:

1. Crosswalks
2. Sidewalk Obstructions
3. Sidewalks

The value of the construction items for delivering the 20% fund value shall be comparable in price to unit items bid for Public Works improvements. Unbalanced pricing for improvements in the pedestrian access route will not be accepted.

The obligation to provide an accessible path of travel as required by the Level 3 projects may not be evaded by performing a series of small projects or other similar means. The Metro Public Works ADA Coordinator will evaluate these cases and make the final decision.

During any activities within the rights-of-ways that blocks a pedestrian access route, an alternative compliant path is to be provided in the interim.