DISABILITY AND COMMUNICATION ACCESS BOARD

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INTERPRETIVE OPINION

Pursuant to §103-50, Hawaii Revised Statutes (HRS), all public buildings, facilities and sites constructed by, or on behalf of the State or any county, shall conform to the 2004 Americans with Disabilities Act Accessibility Guidelines (2004 ADAAG) and amendments. In accordance to HRS §103-50 and Chapter 11-216, Hawaii Administrative Rules, the Disability and Communication Access Board has authority to issue interpretive opinions to HRS §103-50 design standards.

Docket: **DCAB 2011-01 (Amending): Does ADAAG Section 208 Parking, apply to all open street parking within the public right-of-way, as the public right-of-way is covered under Title II of the ADA?**

Summary: Interpretive Opinion 2011-01 originally stated, "In new construction, where marked or metered on-street parallel parking is provided, accessible parking complying with ADAAG Section 208 shall be provided." The question arose as to whether altered parking located within the public right-of-way (PROW) should be required to comply with section 208 since the public right-of-way is covered by Title II of the ADA. Both the U.S. Access Board and the Department of Justice (DOJ) have stated that providing public parking can be viewed as a "program or service" by the Title II entity, similar to curb ramps and sidewalks.

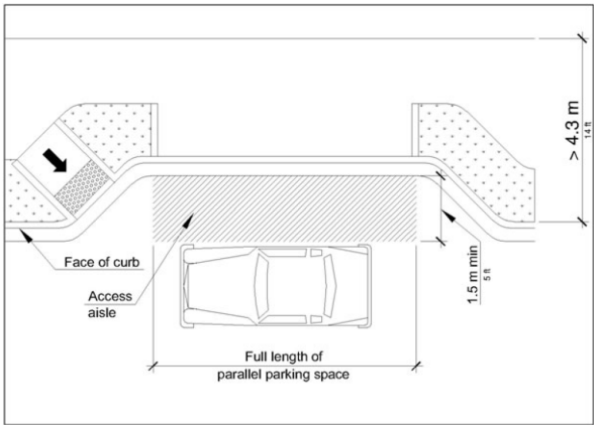
While there is clearly an obligation to provide accessible parking where open street parking is provided in the PROW, determining the scoping for the parking is difficult. If the parking space is not marked or metered, it can be argued that the area is not intended to be used as parking, such as along a main thoroughfare or highway. Also, if parking stalls are not marked, it may be difficult to determine how many parking spaces are provided. Scoping for new parking in the PROW shall comply with ADAAG 208. Within the PROW the term "parking facility" can be defined as a block perimeter as allowed in the proposed PROWAG. Perpendicular and angled stalls shall meet the scoping and technical provisions of the ADAAG, sections 208 and 502.

Ruling: For buildings or facilities subject to HRS §103-50,

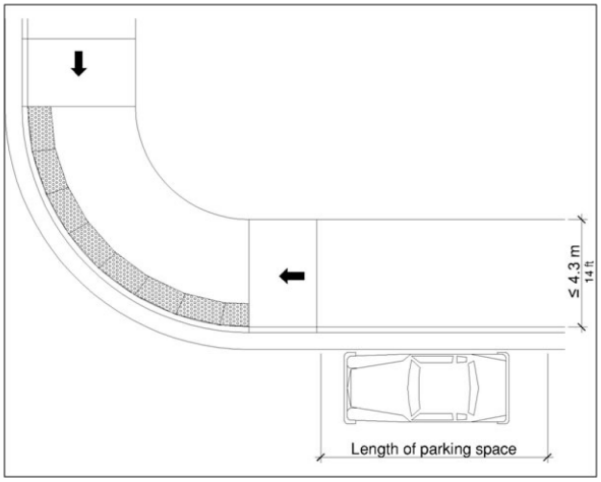
ADAAG Section 208 and 502 Parking Spaces

Where new or altered marked or metered on-street parallel parking is provided, accessible parking complying with ADAAG Section 208 shall be provided. Within the public right-of-way, a block perimeter shall be considered a 'parking facility'. The number of parking spaces required to be accessible shall be calculated separately for each parking facility. Accessible parallel parking shall comply with the following provisions:

1) **Wide Sidewalks.** Where the width of the adjacent sidewalk or available right-of-way exceeds 14.0 ft (4.3 m), an access aisle 5.0 ft (1.5 m) wide minimum shall be provided at street level the full length of the parking space and shall connect to a pedestrian access route. The access aisle shall comply with ADAAG 302, 303 and 502.4 and shall not encroach on the vehicular travel lane.



2) **Narrow Sidewalks.** An access aisle is not required where the width of the adjacent sidewalk or the available right-of-way is less than or equal to 14.0 ft (4.3 m). When an access aisle is not provided, the parking spaces shall be located at the end of the block face.



3) **Alterations.** In alterations where the street or sidewalk adjacent to the parking spaces is not altered, an access aisle shall not be required provided the parking spaces are located at the end of the block face.

Advisory:

New Construction: New parking stalls provided in a new Public Right-of-Way that was not previously developed is considered new construction.

Alteration:
1) New parking stalls that are added to existing Public Rights-of-Way are considered alterations.
2) Existing parking stalls within existing Public Rights-of-Way which are modified are considered alterations.

[Rul: 01/21/2016] (Auth and Imp: HRS §103-50)

If you have any questions or comments regarding this ruling, please call us at 586-8121.
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