The “Pedestrian and Bicycle Bill” (ORS 366.514) was enacted in 1971 to ensure Oregon roadways provide facilities that allow for safe travel by people walking and biking. The law establishes when pedestrian and bicycle facilities must be provided as part of transportation projects. The law applies to all transportation projects in the state, regardless of who owns the facility, project funding source, or amount. The flow chart below is intended to help determine if a project triggers ORS 366.514 requirements and if any exemptions apply. Exemptions must be well documented. More information about ORS 366.514 is available at: www.oregonwalkbike.org in the “Oregon Laws & Regulations” section.

1. Is the project being funded by a public agency (ODOT, a city, or county)?
   ORS 366.514 applies to all agencies with jurisdiction over the public right-of-way. While the law refers only to the State Highway Fund, the drafters indicated that the intent was not to limit this requirement to the Highway Fund.
   No
   Yes

2. Is the project located on a public road?
   ORS 366.514 applies to all “highways”, which are defined broadly in Oregon Statute (801.305) as “every public way, road, street, thoroughfare and place, including bridges, viaducts and other structures within the boundaries of this state, open, used or intended for use of the general public for vehicles and vehicular traffic.”
   No
   Yes

3. Does the project include “construction, reconstruction, or relocation” activities?
   Includes new roadway construction, roadway widening, realignment, and full-depth pavement work. Routine maintenance projects that do not include additional work are exempt.
   No
   Yes

4. Do the highway segments impacted by the project currently have complete, context appropriate, pedestrian and bicycle facilities and curb ramps?
   See the Oregon Bicycle & Pedestrian Design Guide for guidance on context appropriate walkways & bikeways.
   Appropriate facilities are generally considered to be sidewalk and bike lanes in urban areas, shoulders in rural areas, paths or local streets parallel to freeways/expressways. See ODOT’s Engineering for Accessibility webpage for guidance on curb ramps. * See Oregon’s Transportation Planning Rules for info on plan/project development consistency (OAR 660-012-0050).
   No
   Yes

5. Does the project scope include providing complete, context appropriate walkways, bikeways, and curb ramps?
   No
   Yes

6. Do any of the exemptions below apply?
   For exemptions (b) and (c), “need” is legislatively presumed, but can be rebutted. Burden is on the governing jurisdiction to show the lack of need.
   No exemptions apply.
   Rescope. Pedestrian and bicycle facilities, including curb ramps, are a required part of the project.
   No
   Yes

   a. Establishing a pedestrian or bicycle facility would be contrary to public safety.
      In most instances, the addition of context appropriate walkways and bikeways improves safety, both for motorists and non-motorists.
   b. Cost of establishing a pedestrian or bicycle facility is excessively disproportionate to the need or probable use.
      Applies if it can be shown that there is insufficient need or probable use to justify the cost. Probable use must cover the anticipated life of project (20-50 years) if context appropriate walkways and bikeways were built, not just current usage. Low usage is often due to lack of appropriate facilities.
   c. Sparsity of population, other available ways or other factors indicate an absence of any need for pedestrian and bicycle facilities.
      “Sparsity of population” most commonly applies to rural roads where walkways and bikeways would receive very little use. Shoulders are generally considered to be adequate walking/biking facilities in rural areas.
      “Other available ways” must be shown to serve people walking/biking as well as or better than would a facility provided on the highway in question and provide equal or greater access and mobility for people walking/biking.
      - Sufficient example exemption: Providing sidewalks and bike lanes on a parallel street rather than along a freeway.
      - Insufficient example exemption: Not providing bike lanes and sidewalks on an arterial street and encouraging use of local streets that do not include pedestrian and bicycle facilities or offer an equivalent direct route and access to destinations as the arterial street.
      “Other factors” allows consideration of other factors that are particular to a project. A common example is the acceptability of cyclists and autos sharing a lane on low speed (<25 mph), low volume streets.

*Note: Federal requirements for when Americans with Disabilities Act (ADA) improvements must be provided as part of highway projects are separate from the ORS 366.514 requirement to provide pedestrian and bicycle facilities. See ODOT’s Engineering for Accessibility webpage for guidance on ADA improvements.

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