

# Americans with Disabilities Act Title II Compliance Guide

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# INTRODUCTION

Title II of the Americans with Disabilities Act (ADA) requires cities to provide access to all services, programs, and activities that they offer to people with disabilities. Cities are required to make reasonable modifications in their policies, practices, and procedures to accommodate individuals pursuant to Title II and avoid discrimination. However, cities are not required to make modifications that would result in a fundamental alteration to a program, service, or activity or that would result in a direct threat to the health or safety of others.

This compliance overview should serve as a model for your city to use to comply with the accessibility requirements of the ADA. In addition to your city performing a self-evaluation and transition plan, your city should also commit the financial resources to bring itself into compliance with the ADA and train its employees to be aware of accessibility issues.

Please note that under Title II, cities that employ 50 or more persons were to have developed a transition plan, discussed herein, by July 26, 1992. In addition, all cities were to have completed a self-evaluation, discussed herein, by Jan. 26, 1993. Structural changes needed for program accessibility, also discussed herein, were to have been made no later than Jan. 26, 1995.

If your city has not already complied with these requirements, it should do so immediately. Cities that have already completed a self-evaluation are not required to do another one, although periodic review is a best practice to maintain compliance with the ADA.

This booklet contains samples and forms in the Appendix that will assist in bringing your city into compliance with the accessibility requirements of the ADA. However, these forms are not intended to be a substitute for legal advice. Furthermore, this booklet does not address all matters covered by the ADA. As with all legal matters, municipal officials facing complicated legal issues should consult their city attorneys.

Neither these forms, nor any other single packet of forms, can simplify the legal intricacies of the ADA. A review of the ADA and the federal regulations governing the Act, along with timely and consistent legal advice from your city attorney, will provide the best opportunity to comply with the Act.

# ADA COMPLIANCE

## ADA compliance begins with the following steps:<sup>1</sup>

1. If your city has 50 or more employees, it **must** designate an employee as the city's ADA Coordinator. This person or persons will serve as a contact person for the public and will coordinate all ADA responsibilities within the city. The ADA Coordinator should oversee the city's compliance with ADA regulations and investigate complaints or grievances from the public. 28 CFR § 35.107(B).

**Appendix A** of this booklet is a sample form that may be used to document and publicize the designation of your city's ADA Coordinator.

2. Establish a grievance procedure, such as the sample found in **Appendix B**, for resolving complaints of ADA violations. A grievance procedure must provide for the prompt, equitable resolution of complaints filed by people with disabilities or by someone on the behalf of someone with a disability. 28 CFR § 35.107(B).
3. The grievance procedure should include a complaint form, such as the sample found in **Appendix C**, which can be completed and submitted to the city's designated ADA Coordinator. 28 CFR § 35.160(b)(2).
4. Publish the required public notice, and do so in alternate formats (e.g. large print, braille, or audio format) and make it accessible electronically (e.g. via email or in HTML format on your city's website). The notice should identify your city's ADA Coordinator and methods to contact them. The notice should also state that your city has a policy of not discriminating against individuals with disabilities and that it has adopted a grievance procedure that can be initiated by contacting the ADA Coordinator. 28 CFR § 35.106. A sample Public Notice may be found at **Appendix D** to this booklet.
5. Give notice to your community that the city intends to conduct a self-evaluation of its policies, procedures, and services. The notice may be placed in the local newspaper or, if no newspaper is available, on local bulletin boards at city hall, the post office, etc.

Your city is required to accept comments from the public on its self-evaluation and is strongly encouraged to consult with individuals with disabilities and organizations that represent them to assist in the self-evaluation process. 28 CFR § 35.105.

6. Conduct a **self-evaluation** of the city's policies, procedures, and facilities.

A self-evaluation is a procedure in which the city evaluates its buildings, services, policies, and practices and tries to make sure that they are reasonably accessible to all individuals, in compliance with the requirements of the ADA. Results of the self-evaluation should be retained for three (3) years. 28 CFR § 35.105.

During the self-evaluation, your city should identify all of its programs, activities, and services, and review all the policies and practices that apply to the administration of the city's programs, activities, and services.

Your city is not required to hold a public hearing concerning the self-evaluation, but it is required to accept comments from the public on the self-evaluation. In addition, you are strongly encouraged to consult with individuals with disabilities and organizations that represent them to assist in the self-evaluation process.

During the self-evaluation, your city should determine whether any of its policies and practices affect the full participation of individuals with disabilities in city programs, activities, and services.

Some issues to consider include:

- a. Whether any physical barriers to access exist. If structural changes are necessary, include them in the transition plan. 28 CFR §35.150(d)(3)(i).

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<sup>1</sup> While this booklet addresses ADA requirements for municipalities in terms of a mayor-council form of government, the procedures and examples set forth within this booklet may be easily modified for a municipality that is a city manager-board of directors form of government.

- b. Whether any practices or policies exclude or limit the participation of individuals with disabilities in municipal programs, activities, or services. If so, such policies or practices must be modified, unless they are necessary for the operation or provision of the program, service, or activity. Identify policy modifications to be implemented and state the justifications for any exclusionary or limiting policies or practices that will not be modified. 28 CFR §35.130(b)(7)(i).
- c. Whether the city communicates with applicants, participants, and members of the public with disabilities in a manner that is as effective as its communications with others, making available appropriate auxiliary aids and services where necessary to ensure effective communication. 28 CFR §35.106.
- d. Whether procedures have been established to evacuate individuals with disabilities during an emergency.
- e. Whether municipally operated historic preservation programs give priority to methods that provide physical access to individuals with disabilities. 28 CFR §35.150(B)(3).
- f. Whether decisions concerning a fundamental alteration of a program, activity, or service, or a decision that an undue financial and administrative burden will be imposed by Title II, are made properly and expeditiously. While a city does not have to take any action that would result in a fundamental alteration in the nature of its program or activity or an undue financial or administrative burden, such a determination can only be made by the head of the city or their designee and must be accompanied by a written statement of the reasons for reaching that conclusion. This determination must be based on all resources available for use in the program in question. Even if such a determination is made, the city must take any other action that would not result in such alterations or burdens but would nevertheless ensure that individuals with disabilities receive the benefits and services of the program or service. 28 CFR §35.150(a)(3).
- g. Whether individuals with mobility impairments are provided access to public meetings. 28 CFR §35.150(a)(1).
- h. Whether construction of each new municipal facility or part of a facility, or the alteration of existing facilities after Jan. 26, 1992, conforms to the standards designated under the Title II regulation. 28 CFR §35.151.
- i. Whether measures have been taken to ensure that city employees are familiar with the policies and practices for the full participation of individuals with disabilities. 28 CFR §35.106.

If your city has identified policies and practices that deny or limit the participation of individuals with disabilities in its programs, activities, and services, it must take immediate action to eliminate the impediments to full and equivalent participation.

Guidelines that may be used for purposes of performing a self-evaluation are found in Appendix E of this booklet.

- 7. Develop and adopt a transition plan if changes are needed to achieve accessibility. Appropriate money to put the plan into effect and complete the tasks outlined in the plan. A transition plan should be utilized to resolve any issues identified in the self-evaluation.

At a minimum, your city's transition plan should contain:

- a. A list of the physical barriers in a public entity's facilities that limit the accessibility of its programs, activities, or services to individuals with disabilities;

- b. A detailed outline of the methods to be utilized to remove these barriers and make the facilities accessible;
- c. The schedule for taking the necessary steps to achieve compliance with Title II (if the time period for achieving compliance is longer than one year, the plan should identify the interim steps that will be taken during each year of the transition period); and
- d. The name of the official responsible for the plan's implementation.

A copy of your city's transition plan should be made available for public inspection.

A sample self-evaluation and transition plan is found at **Appendix F** of this booklet.

- 8. Your city must provide the public with information that explains Title II's applicability to its services, programs, or activities and apprises individuals of Title II's prohibitions against discrimination.  
This information can be provided in several ways: handbooks, manuals, and pamphlets that are distributed or made available to the public; the display of informative posters in public places; or by television or radio broadcast. In providing this information, your city must comply with the Title II requirements for effective communication, including alternate formats, if appropriate.
- 9. A public entity has the burden of proving that compliance with program accessibility would result in a fundamental alteration in the nature of the program or in an undue financial and administrative burden.
  - The decision that compliance would result in such alteration or burdens must be made by the head of a public entity or their designee after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion.
  - If compliance with program accessibility would result in a fundamental alteration in the nature of the program or in an undue financial and administrative burden, a public entity shall take any other action that would not result in such an alteration or such a burden but would nevertheless ensure that individuals with disabilities receive the benefits or services provided by the public entity.



## **ADDITIONAL RESOURCES**

The ADA Information Line is a service provided by the Department of Justice. This toll-free phone number provides access to ADA specialists during business hours and access to on-demand assistance materials 24 hours a day. Department of Justice publications can also be ordered through the Line 24 hours a day through the Information's Line's voicemail system.

### **ADA Information Lines: Voice: 800-514-0301; TTY: 800-514-0383**

Another valuable resource is the Department of Justice's ADA Home Page on the Internet. This web site provides access to ADA regulations and assistance materials, including newly released assistance material. You can also find links to other federal agencies with ADA responsibilities.

### **ADA Home Page - [www.ada.gov](http://www.ada.gov)**

#### ***The ADA and City Governments: Common Problems***

A publication that compiles common problems with Title II compliance. [www.ada.gov/comprob](http://www.ada.gov/comprob)

#### ***ADA Guide for Small Towns***

A guide for small local governments, including cities, towns, townships, and rural counties. The publication addresses special concerns of the ADA's requirements for local governments and gives practical examples. [www.ada.gov/smtown](http://www.ada.gov/smtown)

#### ***Title II Technical Assistance Manual (1993) and Supplements***

A manual explaining what state and local governments must do to ensure that their services, programs, and activities are provided to the public in a non-discriminatory manner. [www.ada.gov/taman2](http://www.ada.gov/taman2)

#### ***Department of Justice ADA Mediation Program***

A publication describing the Department's ADA mediation program, including locations of ADA mediators and examples of successful mediation efforts. [www.ada.gov/mediation\\_docs/mediation-program](http://www.ada.gov/mediation_docs/mediation-program)

#### ***ADA Information Services***

A list with the telephone number and Internet address of federal agencies and other organizations that provide information and technical assistance to the public about the ADA. [www.ada.gov/agency](http://www.ada.gov/agency)

#### ***Commonly Asked Question About the ADA and Law Enforcement***

A publication explaining ADA requirements for ensuring that people with disabilities receive the same law enforcement services and protections.

[www.ada.gov/q&a\\_law](http://www.ada.gov/q&a_law)

#### ***Access for 9-1-1 and Telephone Emergency Services***

A publication explaining the requirements for direct, equal access to 9-1-1 for persons who use teletypewriters (TTY).

[www.fcc.gov/general/access-9-1-1-and-telephone-emergency-services](http://www.fcc.gov/general/access-9-1-1-and-telephone-emergency-services)

#### ***ADA Best Practices Tool Kit for State and Local Governments***

A publication designed to teach state and local government officials how to identify and remove barriers that prevent people with disabilities from gaining equal access to state and local government programs, services, and activities. [www.ada.gov/pcatoolkit/toolkitmain](http://www.ada.gov/pcatoolkit/toolkitmain)

### **Other Helpful Web Resources:**

[www.adata.org](http://www.adata.org)

[www.askjan.org](http://www.askjan.org)

**APPENDIX A**  
**ADA COORDINATOR**

I, \_\_\_\_\_, Mayor of the City of \_\_\_\_\_, Arkansas, hereby appoints \_\_\_\_\_, as ADA coordinator for the city. \_\_\_\_\_ recognizes that as the ADA coordinator, he/she will serve as liaison between the city and the public and is responsible for posting notices and grievance procedures and initiating transition plans and self-evaluations for the city's property and services.

\_\_\_\_\_ also recognizes his/her duty to receive complaints from the public and oversee their investigation.

\_\_\_\_\_  
Signature of Appointee

\_\_\_\_\_  
Signature of Mayor

\_\_\_\_\_  
Date

The city should place the name, address, and telephone number of the ADA coordinator on the public notice, an example of which is found at Appendix D, and place it on the city's bulletin board or in a conspicuous place for public viewing.

# APPENDIX B

## SAMPLE GRIEVANCE PROCEDURE

- A. Persons shall be allowed to submit complaints regarding access or other alleged discrimination in writing by completing the ADA Complaint Form, which will be provided to you or to someone on your behalf by request. If the individual submitting the complaint is unable to do so in writing, the complaint may be submitted verbally to the ADA coordinator.
- B. Once completed, the ADA Complaint Form should be given to the ADA coordinator for resolution.

The ADA coordinator for the City of \_\_\_\_\_ is:

(NAME OF ADA COORDINATOR)

(STREET ADDRESS)

(CITY-STATE-ZIP CODE)

(VOICE TELEPHONE)

(TTY NUMBER)

(EMAIL ADDRESS)

- C. The ADA coordinator should meet with the complainant and try to provide a decision within fifteen (15) working days of the complaint being filed, not counting the date of the filing itself.
- D. If the complaint cannot be resolved to the satisfaction of the complainant by the ADA coordinator, it will be forwarded to the mayor. The mayor will review the complaint, meet with the complainant and try to provide a decision within fifteen (15) working days of the date of the ADA coordinator's decision, not counting the date of the decision. If the mayor is the ADA coordinator, then the complaint should be forwarded directly to the city council.
- E. If the complaint cannot be resolved to the satisfaction of the complainant by the mayor, it will be forwarded to the city council. The city council's decision is the final decision of the city and it should be made within thirty (30) days of the mayor's decision, not counting the day of the decision.
- F. A record of the action taken on each request or complaint will be maintained as part of the records or minutes at each level of the grievance process.

# APPENDIX C

## CITY OF \_\_\_\_\_, ARKANSAS AMERICANS WITH DISABILITIES COMPLAINT FORM

Please describe in writing (or verbally to the ADA coordinator, if unable to communicate in writing) your concern or complaint and identify the approximate time, date, and place of occurrence, as well any city employees you believe to have been involved.

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What do you think would resolve the problem or complaint?

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Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Date: \_\_\_\_\_  
Representative Name: \_\_\_\_\_  
Representative Signature: \_\_\_\_\_

## APPENDIX D

### NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990, the City of \_\_\_\_\_ will not discriminate against qualified individuals with disabilities on the basis of disability in the provision of the city's services, programs, or activities.

**Employment:** The City of \_\_\_\_\_ is an equal opportunity employer and does not discriminate on the basis of disability in its hiring or employment practices. The City of \_\_\_\_\_ complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under Title I of the Americans with Disabilities Act (ADA) and the Americans with Disabilities Amendments Act (ADAAA).

**Effective Communication:** The City of \_\_\_\_\_ will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in the city's programs, services, and activities, including qualified sign language interpreters, documents in braille, and other ways of making information and communications accessible to people who have speech, hearing, or vision impairments.

**Modifications to Policies and Procedures:** The city will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all city programs, services, and activities. For example, individuals with service animals are welcomed in city offices, even where pets are generally prohibited, as long as the animal does not create a legitimate safety risk or fundamentally alter the nature of the city's services.

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a city program, service, or activity, should contact the office of the ADA coordinator, \_\_\_\_\_(name), as soon as possible but no later than 48 hours before the scheduled event.

The ADA does not require the city to take any action that would fundamentally alter the nature of its programs or services or impose an undue financial or administrative burden.

**Complaint/Grievance Procedure:** Complaints that a city program, service, or activity is not accessible to persons with disabilities should be directed to \_\_\_\_\_ (name), ADA coordinator, at \_\_\_\_\_ (voice telephone number) or \_\_\_\_\_ (TTY telephone number).

Forms on which to file your complaint will be provided or, if necessary, your complaint will be heard verbally. A record of your complaint and the action taken will be maintained in a special complaint file in the ADA coordinator's office. A decision concerning any ADA grievance will be considered by the designated ADA coordinator within \_\_\_ days of being filed.

The city will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy, such as retrieving items from locations that are open to the public but are not accessible to persons who use wheelchairs.

## APPENDIX E

### Self-Evaluation Guidelines:

#### PARKING

Each parking lot provided for employees or visitors of a city is required to have a minimum number of accessible parking spaces, based on total number of spaces in a given parking lot, as indicated in the chart below:

Column A	Column B	Column C
Total Parking Spaces in Lot	Required Minimum Number of Accessible Spaces	Minimum Number of Van-Accessible Parking Spaces (1 of 6 Accessible Spaces)
1 to 25	1	1
26 to 50	2	1
51 to 75	3	1
76 to 100	4	1
101 to 150	5	1
151 to 200	6	1
201 to 300	7	2
301 to 400	8	2
401 to 500	9	2
501 to 1000	2 percent of total	1/6 of Column B
1001 and over	20 plus one for each 100 over 1,000	1/6 of Column B

- Accessible parking spaces must be the closest spaces to the building's accessible entrance.
- Accessible parking spaces must be at least 96 inches wide with a clearly marked adjacent access aisle of 60 inches. (If possible, make the parking space van accessible, as one out of every six accessible parking spaces must be space van accessible. This requires a parking space at least 96 inches wide with an adjacent access aisle of 96 inches and 98 inches vertical clearance.)
- The access aisle must connect directly to the accessible route to the buildings.
- If the accessible route is in front of the parking space, install wheel stops to keep vehicles from reducing the width of the accessible route below 36 inches.
- Spaces and aisles must be level with no slope greater than 1:48.
- All accessible parking spaces must have an unobscured vertical sign that shows the universal symbol of accessibility.

#### BUILDINGS

Most Arkansas cities have at least one municipal building open to the public, such as city hall. However, your city may have more than one municipal building open to the public—police station, fire station, water works, transportation, waste water, cemetery, city park (with restrooms or concessions), municipal auditorium, or convention center. If your city has more than one public building, then you must fill out a checklist, such as the one presented on the following pages of this booklet, for each one.

## APPENDIX E

BUILDING ACCESS	YES	NO	IF MODIFICATIONS ARE REQUIRED, STATE THE MODIFICATION AND ESTIMATED DATE OF COMPLETION
Are there any curbs or stairs between the accessible parking space and the building allowing wheelchair access?	YES	NO	If not, the City will remedy this by _____ _____
Is the accessible route at least three feet wide with a slip-resistant surface?	YES	NO	If not, the City will remedy this by _____ _____
Is there a ramp into the building with a vertical slope and rise?	YES	NO	If not, the City will remedy this by _____ _____
Is there a "drop off" zone at the building entrance for disabled persons?	YES	NO	If not, the City will remedy this by _____ _____
Is the gradient from parking to building entrance 1:12 or less?	YES	NO	If not, the City will remedy this by _____ _____
Is the entrance doorway at least 36 inches wide?	YES	NO	If not, the City will remedy this by _____ _____
If no, is there another entrance with a doorway this wide?	YES	NO	
If there are several entrances and only one is accessible, is a sign posted at the inaccessible entrances directing individuals to the accessible entrance?	YES	NO	If not, the City will remedy this by _____ _____
Is the door handle easy to grasp?	YES	NO	If not, the City will remedy this by _____ _____
Is the door easy to open (less than 8 lbs. pressure)?	YES	NO	If not, the City will remedy this by _____ _____
Are other than revolving doors available?	YES	NO	If not, the City will remedy this by _____ _____

## APPENDIX E

BUILDING CORRIDORS	YES	NO	IF MODIFICATIONS ARE REQUIRED, STATE THE MODIFICATION AND ESTIMATED DATE OF COMPLETION
Is path of travel free of obstruction and wide enough for a wheelchair?	YES	NO	If not, the City will remedy this by _____ _____ _____
Is floor surface hard and not slippery?	YES	NO	If not, the City will remedy this by _____ _____ _____
Do obstacles (phones, fountains) protrude more than 4 inches from the wall?	YES	NO	If not, the City will remedy this by _____ _____ _____
Are elevator buttons, light switches, thermostats, and other controls low enough (48 inches) to be reached from a wheelchair?	YES	NO	If not, the City will remedy this by _____ _____ _____
Are elevator markings in braille for the blind?	YES	NO	If not, the City will remedy this by _____ _____ _____
Does elevator provide audible signals for the blind?	YES	NO	If not, the City will remedy this by _____ _____ _____
Does elevator interior provide a turning area of 51 inches for wheelchair?	YES	NO	If not, the City will remedy this by _____ _____ _____



## APPENDIX E

RESTROOMS	YES	NO	IF MODIFICATIONS ARE REQUIRED, STATE THE MODIFICATION AND ESTIMATED DATE OF COMPLETION
Are restrooms near building entrance and/or personnel office?	<b>YES</b>	<b>NO</b>	If not, the City will remedy this by _____ _____ _____ (placing signs to guide persons to restrooms)
Do doors have lever handles?	<b>YES</b>	<b>NO</b>	If not, the City will remedy this by _____ _____ _____
Are doors at least 32 inches wide?	<b>YES</b>	<b>NO</b>	If not, the City will remedy this by _____ _____ _____
Is restroom large enough for wheelchair turnaround (51 inches minimum)?  If there are stalls, one stall should be 5-by-5 feet clear of door swing, and arranged so that a wheelchair can back in and position itself directly beside the toilet to allow side transfer.	<b>YES</b>	<b>NO</b>	If not, the City will remedy this by _____ _____ _____ _____ _____ _____ _____ _____ _____ _____
Are stall doors at least 32 inches wide?	<b>YES</b>	<b>NO</b>	If not, the City will remedy this by _____ _____ _____
Are the toilet seats between 17 and 19 inches high, and are grab bars provided in toilet stalls?	<b>YES</b>	<b>NO</b>	If not, the City will remedy this by _____ _____ *Note: add-on seats to increase the height are available.
Are sinks at least 30 inches high with room for a wheelchair to roll under?	<b>YES</b>	<b>NO</b>	If not, the City will remedy this by _____ _____ _____
Are sink handles easily reached and used?	<b>YES</b>	<b>NO</b>	If not, the City will remedy this by _____ _____ _____ *Note: use lever hardware.

## APPENDIX E

RESTROOMS	YES	NO	IF MODIFICATIONS ARE REQUIRED, STATE THE MODIFICATION AND ESTIMATED DATE OF COMPLETION
Are soap dispensers, towels, etc. no more than 48 inches from floor?	YES	NO	If not, the City will remedy this by _____ _____ _____
Are exposed hot water pipes located under sinks wrapped in insulation to avoid injury to those individuals using a wheelchair?	YES	NO	If not, the City will remedy this by _____ _____ _____ _____

CITY DEPARTMENTS THAT SERVICE THE GENERAL PUBLIC	YES	NO	IF MODIFICATIONS ARE REQUIRED, STATE THE MODIFICATION AND ESTIMATED DATE OF COMPLETION
Are doors at least 32 inches wide?	YES	NO	If not, the City will remedy this by _____ _____ _____
Is the door easy to open?	YES	NO	If not, the City will remedy this by _____ _____ _____
Is the threshold no more than 1/2 inch high?	YES	NO	If not, the City will remedy this by _____ _____ _____
Is the path of travel between desk, tables, etc. wide enough for wheelchairs?	YES	NO	If not, the City will remedy this by _____ _____ _____
Do you have a counter that is too high to serve individuals in wheelchairs?	YES	NO	If not, the City will remedy this by _____ _____ _____ *Note: This may be remedied by training your personnel to come out and help the disabled person. Make sure that you document this in training records and have employees sign.

## **APPENDIX E**

### **ALTERATIONS TO EXISTING FACILITIES**

- When the city chooses to alter any of its facilities, the elements and spaces being altered must comply with the 2010 ADA Standards for Accessible Design (“2010 Standards”).
- An “alteration” includes remodeling, renovating, rehabilitating, reconstructing, changing or rearranging structural parts or elements, changing or rearranging plan configuration of wall and full-height or other fixed partitions, or making other changes that affect (or could affect) the usability of the facility. Normal maintenance, reroofing, painting, wallpapering, or other changes that do not affect the usability of a facility are not considered alterations. 28 CFR § 35.151; 2004 ADAAG § 106.5.
- Where strict compliance with the 2010 Standards is “technically infeasible,” the city must comply to the maximum extent feasible. “Technically infeasible” is defined as something that has little likelihood of being accomplished because existing structural conditions would require removing or altering a load-bearing member that is an essential part of the structural frame, or because other existing physical or site constraints prohibit modifications or additions that comply fully with the 2010 Standards. Certain alteration exemption exists as well, such as those that would threaten or destroy the historic significance of historic property. 28 CFR § 35.151; 2004 ADAAG § 106.5.

### **COMMUNICATING WITH PEOPLE WHO HAVE DISABILITIES**

- The city must take necessary steps to communicate effectively with people who have disabilities by using appropriate auxiliary aids and services. 28 CFR § 35.160.
- The city is required to give primary consideration to the type of auxiliary aid or service requested by the person with the disability. This choice must be honored, unless another equally effective means of communication is available, or the aid or service requested would fundamentally alter the nature of the program, service, or activity or would result in undue financial and administrative burdens. No matter what, the city must provide an aid or service that provides effective communication, if possible.
- The decision that a particular aid or service would result in an undue burden or a fundamental alteration must be made by a high-level official, accompanied by a written statement of the reasons for reaching that conclusion. 28 CFR § 35.150(a)(3).
- The telecommunications relay service (TRS), reached by calling 7-1-1, is a free nationwide network that uses communications assistants to serve as intermediaries between people who have hearing or speech disabilities who use a text telephone (TTY) or text messaging and people who use standard voice telephones.
- Video relay service (VRS) is a free, subscriber-based service for people who use sign language and have videophones, smart phones, or computers with video communication capabilities. The interpreter serves as an intermediary between the subscriber and the person who uses a voice telephone.

### **CURB RAMPS—NEW CONSTRUCTION OR ALTERATION**

- When streets, roads, or highways are newly built or altered, they must have ramps or sloped areas wherever there are curbs or other barriers to entry from a sidewalk or path. Likewise, when new sidewalks or paths are built or are altered, they must contain curb ramps or sloped areas wherever they intersect with streets, roads, or highways. 28 CFR 35.151(i).
- If curb ramps constructed prior to March 15, 2012, already comply with the curb ramp requirements of the 1991 Standards, then they do not need to be modified in accordance with the 2010 Standards, unless they are altered after March 15, 2012.

## **APPENDIX E**

### **CURB CUT PLAN**

- Identify which streets in the city have sidewalks and whether the sidewalks at the intersections of those streets have been “cut” to allow wheelchair access to cross the streets to other sidewalks or streets.
- If all curbs have not been altered to allow wheelchair access, identify how many curbs (there are four curbs per intersection) need altering within the city.
- Absent special request or circumstances, curbs in the following locations should be given priority, in the order listed below:
  - 1) Hospitals;
  - 2) Schools;
  - 3) Any other public buildings;
  - 4) Business district; and
  - 5) Neighborhoods.

### **SERVICE ANIMALS**

- A service animal is a dog that has been individually trained to do work or perform tasks for an individual with a disability. All breeds of dogs can be service animals, and documentation that the dog is a service animal is not required.
- In situations where it is not obvious that the dog is a service animal, staff may ask only two specific questions: (1) Is the dog a service animal required because of a disability, and (2) what work or task has the dog been trained to perform?  
Staff are not allowed to request any documentation for the dog, require that the dog demonstrate its task, or inquire about the nature of the person’s disability.
- Service animals must be allowed in areas of a facility where the public is allowed except where the dog’s presence would create a legitimate safety risk or where the dog’s presence would fundamentally alter the nature of a public entity’s services.
- The city may exclude service animals only if: (1) The dog is out of control and the handler cannot or does not regain control; or (2) the dog is not housebroken. If the service animal is excluded, then the individual must be allowed to enter the facility without the service animal.

### **WHEELCHAIRS AND OTHER POWER-DRIVEN MOBILITY DEVICES**

- The city must allow people with disabilities to use mobility devices in all areas where members of the public are allowed to go to accommodate them, unless the mobility device used cannot be accommodated because of legitimate safety requirements.
- The city must consider the following factors in determining whether to permit certain power-driven mobility devices on their premises:
  - 1) the type, size, weight, dimensions, and speed of the device;
  - 2) the volume of pedestrian traffic;
  - 3) the facility’s design and operation characteristics, such as its square footage, whether it is indoors or outdoors, the placement of stationary equipment, devices, or furniture, and whether it has storage space for the device if requested by the individual;
  - 4) whether legitimate safety standards can be established to permit the safe operation of the device; and
  - 5) whether the use of the device creates a substantial risk of serious harm to the environment or natural or cultural resources or poses a conflict with federal land management laws and regulations.
- The city is encouraged to develop written policies specifying which power-driven mobility devices will be permitted and where and when they can be used.

## APPENDIX E

### ACCESSIBLE SWIMMING POOLS

- All state and local government programs, services, and activities, when viewed in their entirety, must be accessible to individuals with disabilities unless doing so results in a fundamental alteration in the nature of the program or in an undue financial and administrative burden. This requirement is known as “program accessibility.”
- Program accessibility applies to all pool-related programs, services, and activities (swimming programs). Program accessibility does not typically require that every pool be made accessible. However, if a public entity has only one existing pool, it must take steps to ensure that its swimming program at that pool is accessible.
- A public entity determines which method it will use for meeting its program accessibility obligations. When structural changes are made to existing pools, including installation of a fixed pool lift, the changes must comply with the 2010 Standards.
- The 2010 Standards establish two categories of pools: large pools with more than 300 linear feet of pool wall and smaller pools with less than 300 linear feet of wall.
- Large pools must have two accessible means of entry, with at least one being a pool lift or a sloped entry.
- Smaller pools are only required to have one accessible means of entry, provided that it is either a pool lift or a sloped entry.
- There are a limited number of exceptions to the requirements. One applies to multiple spas provided in a cluster. A second applies to wave pools, lazy rivers, sand-bottom pools, and other pools that have only one point of entry.
- If a public entity chooses to acquire equipment—for example, a portable lift—to provide program accessibility, the entity should select equipment that includes features required by the 2010 Standards, including independent operation by individuals with disabilities.
- Sharing accessible equipment between pools is not permitted, unless it would result in undue burdens to provide equipment at each one.
- Accessible pool features must be available whenever the facility is open to the public.
- For more information on the specific requirements and exceptions, see sections 242 and 1009 of the 2010 Standards.

# APPENDIX F

## SAMPLE SELF-EVALUATION AND TRANSITION PLAN

A self-evaluation is a procedure where the city evaluates its buildings, services, policies, and practices, and tries to make sure it is accessible to all individuals and in compliance with the requirements of the ADA. A notice was issued to the public on \_\_\_\_\_ (Try to provide at least seven days notice) inviting all interested persons, including those with disabilities and/or groups representing them to attend this walk-through of the city.

This self-evaluation and transition plan was created on \_\_\_\_\_, as a result of an evaluation of the city's facilities by the following persons:

- 1) \_\_\_\_\_
- 2) \_\_\_\_\_
- 3) \_\_\_\_\_
- 4) \_\_\_\_\_
- 5) \_\_\_\_\_
- 6) \_\_\_\_\_

(If possible, include a disabled person from your community in the self-evaluation process.)

A self-evaluation is a city's assessment of its current policies and practices. The self-evaluation identifies and corrects those policies and practices that are inconsistent with Title II's requirements. As part of the self-evaluation, a city should:

- g. Identify all the city's programs, activities and services; and
- h. Review all the policies and practices that govern the administration of the city's programs, activities, and services. Normally, a city's policies and practices are reflected in its laws, ordinances, regulations, administrative manuals or guides, policy directives, and memoranda. Other practices, however, may not be recorded and may be based on local custom.

The city of \_\_\_\_\_ has identified its policies and practices. They are as follows:

- 1) \_\_\_\_\_
- 2) \_\_\_\_\_
- 3) \_\_\_\_\_
- 4) \_\_\_\_\_

The city will now analyze whether these policies and practices adversely affect the full participation of individuals with disabilities in its programs, activities, and services. In this regard, the city is mindful that although its policies and practices may appear harmless, they may result in denying individuals with disabilities the full participation of its programs, activities, or services. Areas that need careful examination include the following:

1. A public entity must examine each program to determine whether any physical barriers to access exist. It should identify steps that need to be taken to enable these programs to be made accessible when viewed in their entirety. If structural changes are necessary, they should be included in the transition plan.

Do any programs outlined in the previous section need to be examined here?

Yes \_\_\_\_\_

No \_\_\_\_\_

If yes, list the program and the proposed modifications with dates of completion.

- 1) \_\_\_\_\_
- 2) \_\_\_\_\_
- 3) \_\_\_\_\_
- 4) \_\_\_\_\_

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2. A public entity must review its policies and practices to determine whether any exclude or limit the participation of individuals with disabilities in its programs, activities, or services. Such policies or practices must be modified unless they are necessary for the operation or provision of the program, service, or activity. The self-evaluation should identify policy modifications to be implemented and include complete justifications for any exclusionary or limiting policies or practices that will not be modified.

Are any modifications to policies required?

Yes \_\_\_\_\_

No \_\_\_\_\_

If yes, list here.

1) \_\_\_\_\_

2) \_\_\_\_\_

3) \_\_\_\_\_

4) \_\_\_\_\_

3. A public entity should review its policies to ensure that it communicates with applicants, participants, and members of the public with disabilities in a manner that is as effective as its communications with others. If a public entity communicates with applicants and beneficiaries by telephone, it should ensure that Tele-Typewriter telephones (TTYs) or equally effective telecommunication systems are used to communicate with individuals with impaired hearing or speech. Finally, if a public entity provides telephone emergency services, it should review its policies to ensure direct access to individuals who use TTYs and computer modems.

Does your city communicate with applicants by telephone?

Yes \_\_\_\_\_

No \_\_\_\_\_

If yes, have arrangements been made to ensure that TTYs or equally effective telecommunication systems are incorporated?

Yes \_\_\_\_\_

No \_\_\_\_\_

Not applicable

Does your city offer telephone emergency services?

Yes \_\_\_\_\_

No \_\_\_\_\_

If yes, state what policies have been put into effect to ensure access to disabled individuals.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## APPENDIX F

4. A public entity should review its policies to ensure that they include provisions for readers for individuals with visual impairments; interpreters or other alternative communication measures, as appropriate, for individuals with hearing impairments; and amanuenses for individuals with manual impairments. A method for securing these services should be developed, including guidance on when and where these services will be provided. Where equipment is used as part of a public entity's program, activity, or service, an assessment should be made to ensure that the equipment is usable by individuals with disabilities, particularly individuals with hearing, visual, and manual impairments. In addition, a public entity should have policies that ensure that its equipment is maintained and in working order.

Does your city have visually impaired persons who attend council meetings or other functions?

Yes \_\_\_\_\_

No \_\_\_\_\_

If yes, or if this occurs in the future, the city will read all handouts aloud at its meeting to ensure access.

If there are citizens who need assistance with applying for or paying for other city services, such as utilities provided by the city, the city will meet with that person and assist them by reading the applications and/or bills for service to them.

5. A review should be made of the procedures to evacuate individuals with disabilities during an emergency. This may require the installation of visual and audible warning signals and special procedures for assisting individuals with disabilities from a facility during an emergency.

The city does/does not (circle one) have visual and audible warning signals. If not, the city agrees to train one person in each of its buildings to assist individuals with disabilities from the facility during an emergency. The persons who are trained to do this for the City of \_\_\_\_\_ are as follows:

1) \_\_\_\_\_ for \_\_\_\_\_ building;

2) \_\_\_\_\_ for \_\_\_\_\_ building;

3) \_\_\_\_\_ for \_\_\_\_\_ building;

4) \_\_\_\_\_ for \_\_\_\_\_ building;

A review should be conducted of a public entity's written and audio-visual materials to ensure that individuals with disabilities are not portrayed in an offensive or demeaning manner.

Done \_\_\_\_\_

Not Done \_\_\_\_\_

\_\_\_\_\_  
Signature of person who performed the review

\_\_\_\_\_  
Date of review



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6. If a public entity operates historic preservation programs, it should review its policies to ensure that it gives priority to methods that provide physical access to individuals with disabilities.

The city does/does not (circle one) operate historic preservation programs. If yes, the ADA coordinator has addressed this matter with \_\_\_\_\_, the chairperson of the historic preservation program.

\_\_\_\_\_  
Signature of ADA coordinator

\_\_\_\_\_  
Date of meeting with historic preservation program

7. A public entity should review its policies to ensure that its decisions concerning a fundamental alteration in the nature of a program, activity, or service, or a decision that an undue financial and administrative burden will be imposed by Title II, are made properly and expeditiously.

Done \_\_\_\_\_

Not Done \_\_\_\_\_

\_\_\_\_\_  
Signature of person who performed the review

\_\_\_\_\_  
Date of review

8. A public entity should review its policies and procedures to ensure that individuals with mobility impairments are provided access to public meetings.

Done \_\_\_\_\_, see previous pages.

Not Done \_\_\_\_\_

9. A public entity should review its employment practices to ensure that they comply with other applicable nondiscrimination requirements, including section 504 of the Rehabilitation Act and the ADA regulations issued by the Equal Employment Opportunity Commission.

This was accomplished by way of an interview between \_\_\_\_\_ (city attorney or Municipal League representative) and \_\_\_\_\_ (ADA coordinator) on \_\_\_\_\_ (date).

10. A public entity should review its building and construction policies to ensure that the construction of each new facility or part of a facility, or the alteration of existing facilities after January 26, 1992, conforms to the standards designated under the Title II regulation.

Done \_\_\_\_\_

Not Done \_\_\_\_\_

\_\_\_\_\_  
Signature of person who performed the review

\_\_\_\_\_  
Date of review

## APPENDIX F

11. A review should be made to ascertain whether measures have been taken to ensure that employees of the City of \_\_\_\_\_ are familiar with the policies and practices for the full participation of individuals with disabilities. If appropriate, training should be provided to employees.

This has been done \_\_\_\_\_, see previous portions of this ADA compliance packet.

12. If a public entity limits or denies participation in its programs, activities, or services based on a drug usage, it should make sure that such policies do not discriminate against former drug users, as opposed to individuals who are currently engaged in illegal use of drugs. The City of \_\_\_\_\_ does not restrict former drug users from participating in its programs, activities, or services.

Signatures of everyone who participated:

1) \_\_\_\_\_

2) \_\_\_\_\_

3) \_\_\_\_\_

DATE: \_\_\_\_\_

City Council Adoption

This ADA Self-evaluation and Transition Plan is hereby adopted by the City Council of \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

13. See Ordinance or Resolution \_\_\_\_\_ by reference.

\_\_\_\_\_  
Chairperson

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Date





Americans with Disabilities Act Title II Compliance Guide

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