

2017

Section II

ADA Transition Plan

INTRODUCTION

City of Helena



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Introduction

Overview

The Americans with Disabilities Act of 1990 (ADA) has been hailed as one of the most significant civil rights laws since the Civil Rights Act of 1964. It's intent is to ensure that people with disabilities are able to participate in and enjoy the benefits of the services and activities of state and local governments, as well as most private entities, without experiencing discrimination. It also requires newly designed and constructed or altered local government facilities are readily accessible to and usable by people with disabilities.

In 2010, the U.S. Census Bureau announced that approximately one in five adults living in the United States – over 56 million people – have one or more disabilities, including those affecting sight, hearing, and mobility, as well as mental disabilities and learning disabilities, many of which are not readily visible.

The impact of the ADA has an even broader application than the statistics provided by the census data. The ADA's comprehensive civil rights protections extend to people who have disabilities, or *are regarded* as having a physical or mental impairment that substantially limits a major life activity. The ADA Amendments Act of 2008 (ADAAA) clarified that the definition of "disability" is intended to be broadly inclusive.

The key principles of Title II of the ADA promise full access to state and local government services and activities. It consists of four principles:

1. Policy and Operations

Make reasonable modifications and accommodations to policies and practices.

2. Communication

Ensure effective communication with people with disabilities affecting hearing, vision, or speech through the provision of auxiliary aids and services.

3. Integration

Offer services in the most integrated setting appropriate to the needs of individuals with disabilities.

4. Physical Access

Meet accessibility standards for new and altered buildings and ensure that programs are accessible as a whole.

Equal Opportunity underlies all the principles and requirements of the ADA. The law does not require equal treatment, but does require modifying policies or the way they are implemented, providing auxiliary aids, and ensuring programmatic accessibility in order to ensure that people with disabilities are offered the same opportunity as others to benefit from the city's services.

The elected and appointed officials and staff for the City of Helena believe accommodating disabled persons is essential to good customer service and the quality of life City of Helena residents seek to enjoy.

The new Self-Evaluation and Transition Plan establishes the City of Helena's ongoing commitment to providing equal access to all its public facilities, programs, services and activities for citizens with disabilities. To develop this plan, the City of Helena has undertaken a comprehensive evaluation of its facilities and programs to determine what type of access barriers exist for individuals with disabilities.

The new City of Helena Self-Evaluation and Transition Plan pertains only to city-owned or administered facilities, programs, services, and activities. Lewis and Clark county and other cities and towns located within the county are responsible for developing and implementing their own Self-Evaluation and Transition Plans.

The new Transition Plan will replace the current Transition Plan adopted in 1993, and will be used to help guide future planning and implementation of necessary accessibility improvements. The 1993 Transition Plan and the 2017 Transition Plan can be found online at:

<http://www.helenamt.gov/cd/planning/americans-with-disabilities-act-ada.html>

The 2017 Transition Plan provides the framework for achieving equal access to the City of Helena's programs, services and activities within a reasonable timeframe and includes the individual transition plan modules with recommended modifications to improve accessibility for City owned facilities, Parks and Public Transportation (Helena Area Transit Service – HATS).

In order for the City to assure accessibility is being achieved the Transition Plan may be modified from time-to-time in accordance with the recommendations of the disabled community, input from the ADA Compliance Committee and balanced with the needs of the City and budgetary constraints of the City of Helena. Finally the Transition Plan and supporting elements will aid in the planning and implementation of necessary program and facility modifications over the next several years.

Current ADA Self-Evaluation and Transition Plan

The City of Helena's first self-evaluation and Transition Plan was completed in 1993. As part of the compliance effort, the existing barrier assessment was completed, a grievance procedure was implemented, an ADA Coordinator was designated, and elements of the plan were put in place. However, since the adoption of the 1993 Transition Plan many changes to city facilities, parks and rights-of-way have occurred.

Legislative Mandate

This report describes the process of the self-evaluation and the requirements for developing the Transition Plan by which policies, programs, and facilities were evaluated for compliance with the ADA; presents the findings of that evaluation; and provides recommendations for ensuring accessibility.

The development of a transition plan is a requirement of the federal regulations outlined in Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990.

- Section 504 of the Rehabilitation Act of 1973 requires that all organizations receiving federal funds make their programs available without discrimination toward people with disabilities.

- The Americans with Disability Act (ADA) of 1990 and as amended in 2010 is a civil rights law that prohibits the discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public. The purpose of the law is to make sure that people with disabilities have the same rights and opportunities as everyone else. The ADA is divided into five titles that relate to different areas of public life: Title I - Employment, Title II - State and Local Governments, Title III – Public Accommodations, Title IV - Telecommunications, and Title V – Miscellaneous Provisions. Descriptions of Titles I – V & Proposed 2011 PROWAG are included in **Appendix A**.

The City of Helena is obligated to observe all requirements of Title I in its employment practices; Title II in its policies, programs, and services; any parts of Titles IV and V that apply to the City and its programs, services, or facilities; and all requirements specified in the 2010 ADA Standards and use the 2011 Proposed Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way (PROWAG) as best practices in the absence of an applicable standard in the R-O-W.

Title II of the ADA has the broadest impact on the City. This ADA Self-Evaluation and Transition Plan are being prepared to fulfill the requirements set forth in Title II of the Americans with Disability Act. This plan replaces 1993 self-evaluation and transition plan developed by the City of Helena and will be used to help guide the City in future planning and implementation of necessary accessibility improvements.

Under Title II, the ADA requires all state, county and local governments to:

- Designate a responsible employee to coordinate ADA compliance
- Provide notice of ADA requirements (see **Appendix B**).
- Establish an ADA grievance procedure
- Conduct a self-evaluation review of facilities, programs and services
- Develop a transition plan when accessibility deficiencies are identified in the self-evaluation

This ADA Self Evaluation and Transition Plan has been prepared as partial fulfillment of the requirements set forth in Title II of the Americans With Disabilities Act (ADA). This report will assist the City of Helena, its City Commission, department heads, program directors, and employees in identifying policy, program, and physical barriers to accessibility and in developing barrier removal solutions that will facilitate the opportunity of access to all individuals.

This report and certain documents incorporated by reference establish the ADA Self- Evaluation and Transition Plan for the City of Helena.

Discrimination and Accessibility

There are two kinds of accessibility: program accessibility and physical accessibility. Absence of discrimination requires that both types of accessibility be provided.

Programmatic accessibility includes physical accessibility, but also entails all of the policies, practices, and procedures that permit people with disabilities to participate in programs and to access important information. Program accessibility requires that individuals with disabilities be provided an equally effective opportunity to participate in or benefit from a public entity's programs and services. Program accessibility may be achieved by either structural or non-structural methods. Non-structural methods

include acquisition or redesign of equipment, assignment of aides to beneficiaries, and provision of services at alternate sites.

Physical accessibility requires that a facility be barrier-free. Barriers include any obstacles that prevent or restrict the entrance to or use of a facility. The ADA establishes requirements to ensure that buildings and facilities are accessible to and usable by people with disabilities. Design guidelines to achieve accessibility have been developed and are maintained by the U.S. Access Board under the jurisdiction of the ADA. The adopted design guidelines establish minimum accessibility requirements for new construction and alterations to these facilities.

Programs offered by the City to the public must be accessible. Accessibility includes advertisement, orientation, eligibility, participation, testing or evaluation, physical access, provision of auxiliary aids, transportation, policies, communication and access to information. Program accessibility requires that individuals with disabilities be provided an equally effective opportunity to participate in or benefit from a public entity's programs and services.

The City may achieve program accessibility by a number of methods:

- Structural methods such as altering an existing facility;
- Acquisition or redesign of equipment;
- Assignment of aides; and
- Providing services at alternate accessible sites.

When choosing a method of providing program access, the City will give priority to the one that results in the most integrated setting appropriate to encourage interaction among all users, including individuals with disabilities. In compliance with the requirements of the ADA, the City provides equality of opportunity, but does not guarantee equality of results.

Request for Accommodation

The City must provide information to applicants, participants, employees and other interested parties regarding the rights and protections afforded by Title II.

Instructions about how to request accommodations (e.g. translator, barrier removal, etc.), or documents/materials in alternate formats may be included in a letter, email, newsletter or website used to announce, invite or promote the City program, service or activity. If this information is not provided, please contact the City's ADA Coordinator to make your request (see contact information above). Please make requests for accommodation at meetings or events at least one week in advance.

Requests for accommodation at a City meeting or event should include:

- The requestor's name, address, email and telephone number (if any)
- A description of the program, service or activity where the accommodation is required
- The location of the program, service or activity
- A brief description of why the accommodation is needed
- Requests for materials in alternate formats should include:

- The requestor's name, address, email and telephone number (if any)
- The name or description of the City document or materials to be reformatted
- What type of format is desired (e.g. Braille, audio recording, computer disk, etc.)
- A brief description of why the alternate format is needed

In those situations where a policy, program, or procedure creates a barrier to accessibility that is unique to a department or a certain program, the ADA Coordinator, or designee, will coordinate with the department to address the removal of the barrier in the most reasonable and accommodating manner in accordance with applicable law.

The city may achieve program accessibility by a number of methods such as:

- Structural methods such as altering an existing facility
- Acquisition or redesign of equipment
- Assignment of aides or devices
- Providing services at alternate accessible sites.

When choosing a method of providing program access, the city will endeavor to give priority to the one which results in the most integrated setting appropriate to encourage interaction among all users, including people with disabilities. In compliance with the requirements of the ADA, the city will strive to provide equality of opportunity but does not guarantee equality of results.

The City ADA Coordinator or the responsible City department will respond to the request within 2 business days or in advance of a scheduled meeting or event. If the response does not satisfactorily resolve the issue, the requestor may file a formal grievance with the City. All requests for accommodations and alternate formats will be kept on file for at least three years.

Funding Sources

The city is limited to the funding already available for capital improvement projects. The sources of funding for accessibility related improvements on City owned property will be through diverse City funds, managed each year through the budgeting process. The appropriate funds will be requested and will be expended as approved by the Helena City Commission for ADA improvements.

It must be noted that City staff continually works on accessibility improvements that can be made through general maintenance of City facilities (e.g. signage, clear pathways, relocation of restroom fixtures, etc.), or as part of the regular administrative duties of department staff (e.g. providing documents in alternate formats, training, website improvements, etc.).

Undue Burden

The City does not have to take any action that the City can demonstrate would result in a fundamental alteration in the nature of its program or activity, would create a hazardous condition, or would represent an undue financial and administrative burden. This determination can only be made by the

ADA Coordinator and must be accompanied by a statement citing the reasons for reaching that conclusion.

The determination that undue burdens would result must be based on an evaluation of all resources available for use in the program. For example, if a barrier removal action is judged unduly burdensome, the City must consider other options for providing access to the benefits and services of the program or activity by individuals with disabilities.

Federal, State & Local Requirements

There are Federal, State and Local requirements for accessible facilities and programs and services. The U.S. Department of Justice (USDOJ) provides the ADA Regulations for Title II. The U.S. Access Board is a federal agency that promotes equality for people with disabilities through leadership in accessible design and the development of accessibility guidelines and standards for the built environment, transportation, communication, medical diagnostic equipment, and information technology.

Federal Requirements:

The 2010 ADA Standards for Accessible Design contains scoping and technical requirements for accessibility to buildings and facilities. The U.S. Access Board is developing new guidelines that will cover access to public rights-of-way, including sidewalk, intersections, street crossing, and on-street parking.

State of Montana Requirements for Governmental Services:

Section 49-3-205 of the Montana Code Annotated states the following:

All services of every state or local governmental agency must be performed without discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin.

A state or local facility may not be used in the furtherance of any discriminatory practice, nor may a state or local governmental agency become a party to an agreement, arrangement, or plan that has the effect of sanctioning discriminatory practices.

Each state or local governmental agency shall analyze all of its operations to ascertain possible instances of noncompliance with the policy of this chapter and shall initiate comprehensive programs to remedy any defect found to exist.

This section does not prevent the non-arbitrary consideration in adoption proceedings of relevant information concerning the factors listed in this section.

City of Helena Adopted Building Code:

The state of Montana officially adopted the 2012 Edition of the International Building Code (IBC) as its building code (State of Montana, ARM 24.301). The IBC includes provisions ensuring that public facilities are accessible to and usable by persons with disabilities. Pursuant to requirements of Title 3, Chapter 2 of City Code, the city of Helena also adopted the IBC as its building code in April 2015.

ADA Self Evaluation & Transition Plan Development Requirements

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

Identify all of the City's programs, activities, and services; and Review all of the policies, practices, and procedures that govern the administration of the City's programs, activities, and services.

The ADA sets forth specific requirements for preparation of an acceptable Transition Plan. At a minimum, the elements of the plan should include:

- A list of the physical barriers in the City's facilities that limit the accessibility of its programs, activities, or services to individuals with disabilities;
- A detailed outline of the methods to be used to remove these barriers and make the facilities accessible;
- A schedule for taking the steps necessary to achieve compliance with the ADA, Title II; and
- The name of the individual responsible for the plan's implementation.

ADA Self Evaluation and Transition Plan Development Process

The process developed and implemented to complete the City of Helena's ADA Self-Evaluation and Transition Plan included meetings with the ADA Compliance Committee, department heads, staff and stakeholder groups; distribution of program accessibility questionnaires to all city departments to obtain information on programs, services and activities provided; site audits of City owned facilities and parks were conducted to identify physical access barriers; and a public involvement process including meetings, advertisements and website information were used to obtain input from the public and to review the Transition Plan recommendations.

Self -Evaluation by Departments:

In the fall of 2017 program accessibility questionnaires were completed by all city departments to obtain information on programs, services and activities provided. The survey responses for each department can be found in **Appendix E**.

City Owned Facilities and Parks Site Audits:

In the spring and summer of 2015 staff from the City of Helena and Recreation Accessibility Consultants conducted a physical audit of all City owned facilities and parks to determine what recommendations and alterations might be necessary in order to meet ADA Accessibility Guidelines.

Upon completion of the site audits the information was used by RAC staff for preparation of the City of Helena Facilities & Parks 2017 ADA Transition Plan. This Transition Plan includes a list of physical barriers, recommendations for barrier removal including cost estimate, a recommended priority schedule for barrier removal and name of individual responsible for the plan's implementation.

In addition RAC was hired to evaluate existing City transit stops and new fixed route system. RAC then provided a summary of identified accessible barriers and recommendations to address accessibility for the City's transit routes.

The City of Helena Facilities and Parks 2017 ADA Transition Plan can be found in **Appendix F** and the City of Helena Area Transit Service Bus Stop ADA Transition Plan can be found in **Appendix G**.

Sidewalks and Curb Ramps:

In 2011, the city of Helena completed a street intersection curb ramp inventory for all streets in the city. The curb ramp inventory indicates there are over 4,015 potential curb ramp locations within the city limits. Data for the Curb Ramp Inventory was collected at each intersection to indicate whether or not there were any existing curb ramps, and whether or not existing curb ramps met the ADA design

standards including slope, lip, ramp width, and landing area. This data allowed the city to create a list of missing curb ramps and a list identifying what elements of existing curb ramps were out of compliance. Additional information on Sidewalks is located in **Section IV** of this report.

Public Outreach:

The City of Helena provided and will continue to provide opportunities to receive input from the public concerning this Transition Plan. The following segment details these opportunities.

Meetings:

The City of Helena ADA Compliance Committee and staff from RAC conducted a public outreach meeting on February 17, 2016 to provide a summary of the City owned facilities and parks Transition Plan and receive feedback on the Transition Plan priorities and any other concerns related to accessibility.

Media Releases:

A media release was distributed to the local television and radio broadcast stations. In addition, a press release and block ad were published prior to the February 17, 2016 for the City owned facilities and parks portion of this Transition Plan.

City Website:

Currently the 1993 Transition Plan has been available on the City website since 2008. The draft update for Parks and City owned facilities was placed on the City website in January 2016 and is available for public input and comment. **ADA Web page:** <http://www.helenamt.gov/cd/planning/ada.html>

Stakeholder Participation:

The following list of Stakeholder Groups was invited to provide input and attend the February 17, 2016 public outreach meeting. The same group of stakeholders will be invited to attend any public outreach meeting for the adoption of this Transition Plan prior to City Commission adoption. The following is a list of stakeholder participants:

- | | |
|---------------------------------------|--------------------------------------|
| General public | Montana Council on Developmental |
| City of Helena ADA Advisory Committee | Disabilities |
| City County Parks Board | Rocky Mountain Development Council |
| Prickly Pear Land Trust | (RMDC) |
| Helena Open Lands Management Advisory | Helena Housing Authority |
| Committee (HOLMAC) | Helena Food Share |
| Montana Independent Living Program | United Way of Lewis and Clark County |
| Center for Mental Health | St. Peter’s Hospital |
| A.W.A.R.E. Inc. | Helena School District |
| Helena Industries | Helena College University of Montana |
| Disability Rights Montana | US Federal Highway Administration |
| | Montana Department of Transportation |
| | (MDOT) |

Relationship to Other Plans

The new City of Helena Self-Evaluation and Transition Plan pertains only to city-owned or administered facilities, parks, programs, services, and activities. Lewis and Clark County and other cities and towns located within the county are responsible for developing and implementing their own Self-Evaluation and Transition Plans.

The new Transition Plan and supporting documents for City owned facilities, parks and public transportation (Helena Area Transit Service – HATS) will replace the current Transition Plan adopted in 1993, and will be used to help guide future planning and implementation of necessary accessibility improvements. The full Transition Plan can be found online at:

<http://www.helenamt.gov/cd/planning/americans-with-disabilities-act-ada.html>

Ongoing Accessibility Improvements

Because the City of Helena has a large number of facilities and parks, it is impossible to immediately renovate all facilities that have barriers to program access. In order for the City to assure accessibility is being achieved the Transition Plan may be modified from time-to-time in accordance with the recommendations of the disabled community, input from the ADA Compliance Committee and balanced with the needs of the City and budgetary constraints of the City of Helena. Finally the Transition Plan and supporting elements will aid in the planning and implementation of necessary program and facility modifications over the next 11 years.

In addition, staff is committed to keeping the identified needs list updated and will implement a process to better track corrective action taken and update the outstanding priority list of needed improvements or corrections. At a minimum a progress report with updated information will be made available on an annual basis.