

2017

Section VIII
ADA Transition Plan
Appendix A

City of Helena



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APPENDIX A

DESCRIPTIONS OF TITLES I – V OF THE ADA & PROPOSED 2011 PROWAG

- **Title I:** Requires employers with 15 or more employees to provide qualified individuals with disabilities an equal opportunity to benefit from the full range of employment-related opportunities available to others. For example, it prohibits discrimination in recruitment, hiring, promotions, training, pay, social activities, and other privileges of employment. It restricts questions that can be asked about an applicant's disability before a job offer is made, and it requires that employers make reasonable accommodation to the known physical or mental limitations of otherwise qualified individuals with disabilities, unless it results in undue hardship. Religious entities with 15 or more employees are covered under title I.
- **Title II:** Covers all activities of State and local governments regardless of the government entity's size or receipt of Federal funding. Title II requires that State and local governments give people with disabilities an equal opportunity to benefit from all of their programs, services, and activities (e.g. public education, employment, transportation, recreation, health care, social services, courts, voting, and City meetings).

State and local governments are required to follow specific architectural standards in the new construction and alteration of their buildings. They also must relocate programs or otherwise provide access in inaccessible older buildings, and communicate effectively with people who have hearing, vision, or speech disabilities. Public entities are not required to take actions that would result in undue financial and administrative burdens. They are required to make reasonable modifications to policies, practices, and procedures where necessary to avoid discrimination, unless they can demonstrate that doing so would fundamentally alter the nature of the service, program, or activity being provided.

The provisions of title II also cover public transportation services, such as city buses and public rail transit (e.g. subways, commuter rails, Amtrak). Public transportation authorities may not discriminate against people with disabilities in the provision of their services. They must comply with requirements for accessibility in newly purchased vehicles, make good faith efforts to purchase or lease accessible used buses, remanufacture buses in an accessible manner, and, unless it would result in an undue burden, provide paratransit where they operate fixed-route bus or rail systems. Paratransit is a service where individuals who are unable to use the regular transit system independently (because of a physical or mental impairment) are picked up and dropped off at their destinations.

- **Title IV:** Addresses telephone and television access for people with hearing and speech disabilities. It requires common carriers (telephone companies) to establish interstate and intrastate telecommunications relay services (TRS) 24 hours a day, 7 days a week. TRS enables callers with hearing and speech disabilities who use TTYs (also known as TDDs), and callers who use voice telephones to communicate with each other through a third party communications assistant. The Federal Communications Commission (FCC) has set minimum standards for TRS services. Title IV also requires closed captioning of federally funded public service announcements.

- **Title V:** Includes miscellaneous provisions that are intended to apply broadly across all the other titles. Many of these provisions, some of which are found nowhere else in the law itself, were subsequently included and interpreted by the various federal agencies that issued regulations to implement the other titles of the ADA. Some of the significant provisions of Title V include:
 - ❖ The ADA does not invalidate or override any other laws (federal, state, or local) that provide equal or greater protections or remedies for people with disabilities.
 - ❖ Requires the U.S. Access Board to issue accessibility standards.
 - ❖ Allows for attorney's fees to be awarded to prevailing parties in suits filed under the ADA
 - ❖ Requires federal agencies to provide technical assistance.
 - ❖ State specifically that illegal use of drugs is not a covered disability.
 - ❖ Provides that state and local laws that mandate equal or greater protection to individuals with disabilities are not superseded or limited by the ADA.
 - ❖ An individual cannot make a claim of "reverse discrimination" under the ADA; in other words, an individual cannot seek remedies if they feel they were discriminated against because they do *not* have a disability.
 - ❖ A clause of "severability" states that if any part of the law is found by a court to be unconstitutional, that part is cut from the whole without affecting the remaining parts.
 - ❖ Extension of coverage to the U.S. Congress, making it the only branch of the federal government covered by the ADA.

Proposed 2011 Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way (PROWAG):

The United States Access Board has proposed accessibility guidelines for the design, construction, and alteration of pedestrian facilities in the public right-of-way. The guidelines will ensure that sidewalks, pedestrian street crossings, pedestrian signals, and other facilities for pedestrian circulation and use constructed or altered in the public right-of-way by state and local governments are readily accessible to and usable by pedestrians with disabilities. Currently it is a recommendation by the USDOJ to use the proposed 2011 PROWAG as best practices for new construction or alterations made in a public right-of-way.