

**CITY OF CLOVIS, CA  
AMERICANS WITH DISABILITIES ACT (ADA)  
TRANSITION PLAN UPDATE  
MAY 2012**

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## **A. INTRODUCTION: DEVELOPMENT OF ADA TRANSITION PLAN UPDATE**

The Americans with Disabilities Act (ADA) of 1990 provides comprehensive civil rights protections to qualified individuals with disabilities in the areas of employment, public accommodations, State and local government services, and telecommunications. A primary goal of the ADA is to ensure equal participation in public life for all Americans with disabilities. Title II of the Act covers programs, services and activities of public entities, such as the City of Clovis.

Under Title II, a public entity may not deny the benefits of its programs, services, and/or activities to individuals with disabilities by maintaining inaccessible facilities, which house these programs, services and activities. The City's programs, services, and activities, when viewed in their entirety, must be made accessible to, and usable by, individuals with disabilities, except where to do so would result in a fundamental alteration in the nature of the program; result in undue financial and administrative burdens or threaten or destroy the historic significance of a historic property.

Section §35.150 requires that each program, service or activity conducted by a City, when viewed in its entirety, be readily accessible to, and usable by, individuals with disabilities. The regulation makes clear, however, that a City is not required to make each of its existing facilities accessible (§35.150(a)(1)). Unlike Title III of the ADA, which requires public accommodations to remove architectural barriers where such removal is "readily achievable," or to provide goods and services through alternative methods, where those methods are "readily achievable," Title II requires a City to make its programs accessible in all cases, except where to do so would result in a fundamental alteration in the nature of the program or in undue financial and administrative burdens. The US Congress intended the "undue burden" standard in Title II to be significantly higher than the "readily achievable" standard in Title III. Thus, although Title II may not require removal of barriers in some cases where removal would be required under Title III, the program access requirement of Title II should enable individuals with disabilities to participate in, and benefit from, the programs, services or activities provided by the city in all but the most unusual cases.

To comply with the Title II requirements for accessibility to City *programs, services and activities*, this Transition Plan:

- Identifies physical obstacles in the public entity's facilities that limit the accessibility of its programs or activities to individuals with disabilities;
- Assesses the extent of architectural barriers to program accessibility in the public rights-of-way and within the buildings, parks and other facilities operated by the City;
- Describes in detail the proposed methods that will be used to make the facilities accessible;
- Estimates costs based on identified barriers for mitigation solutions;
- Specifies the steps necessary to achieve compliance;
- Provides a provisional schedule for barrier removal/mitigation;

- Establishes priorities for barrier elimination; and
- Indicates the official responsible for implementation of the plan.

The City may achieve program accessibility by a number of methods, both structural and non-structural:

- Structural methods include altering an existing facility;
- Acquisition of or redesign of equipment
- Assignment of aides; and/or
- 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. The process of making City facilities and programs accessible to all individuals will be an on-going one, and the City will continue to review accessibility issues such as resolution of complaints and reasonable modifications to programs.

Per 28 Code of Federal Regulations, Part 35; Subpart D – Program Accessibility; §35.150 – Existing Facilities; (d) Transition Plan (1): The City shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the development of the transition plan by submitting comments. As such the City should invite the public to participate in the development of the Self-Evaluation and Transition Plan and to submit comments, questions, and recommendations.

## **B. SELF-EVALUATION OF POLICIES, PROCEDURES AND PRACTICES**

In addition to identifying and modifying physical barriers, Title 28 CFR Part 35, *Non Discrimination on the Basis of Disability in State and Local Government Services*, requires that a public entity evaluate its policies, procedures and practices. The following outlines the City's self-evaluation:

- Evaluate City policies, procedures, and practices as they pertain to its programs, services and activities; and make the necessary modifications to those policies and practices that do not meet the programmatic requirements of Title II of the ADA
- Provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the self-evaluation process by submitting comments
- Maintain, file and make available for public inspection a list of interested persons consulted, a description of areas examined and any problems identified, and a description of any modifications made

It is recommended that the City periodically evaluate such policies, procedures and practices pertaining to communication, auxiliary aides and services, emergency response, publications, determination for undue burden, public activities, employment, and new construction of facilities, in addition to physical accessibility of existing City facilities.

It is also recommended that for program barrier mitigation, a detailed outline of administrative requirements and detailed requirements of needed policies be included. The policy outline would serve as a guideline upon which the City's future policies may be built.

**C. OVERVIEW - ACCESS COMPLIANCE ASSESSMENTS OF PEDESTRIAN FACILITIES WITHIN THE PUBLIC RIGHTS-OF-WAY**

An ADA transition plan is used to document the access barriers to City's programs, services and activities. As part of this project, the City completed a city-wide evaluation of pedestrian facilities within the public rights-of-way in 2011/12 and an evaluation of facilities in 2007, and documented the existing physical barriers and conditions not compliant with ADA.

The City has either sole or shared responsibility/authority over streets, roads and walkways in the public rights-of-way and City facilities. The ADA Transition Plan references the Planning and Development Services Department's schedule for providing curb ramps or mitigating barriers in pedestrian sidewalks, giving priority to pedestrian routes serving public entities, including State and local government offices and facilities, transportation, places of public accommodation, and employers, followed by walkways serving other areas and government facilities.

The survey of pedestrian facilities, as it pertains to the public rights-of-way, fulfills the first requirement for the Transition Plan by identifying physical obstacles limiting the accessibility of City programs, services and activities to individuals with disabilities. Field assessments of City Street intersections and mid-blocks were conducted in accordance with current accessibility regulations per Title II of the ADA and Title 24 of the California Code of Regulations; the report also includes recommendations based on the US Access Board's revised draft guidelines for Accessible Public Rights-of-Way.

## Report Production

The following information contains the minimum data included in the Transition Plan-Assessment Reports:

- Street numbers and/or names with geographical orientation information for each barrier
- Area/location of the barrier; for example distance from street corner
- Description of the barrier (as-built situation)
- As-is measurement/dimension
- Proposed conceptual solution or method of barrier-mitigation
- Code citations specifying the applicable sections in the State accessibility regulations and federal standards
- Prioritization criteria and ranking of barrier-removal
- Unit and estimated unit price
- Photographic and/or video documentation
- Special site conditions (if applicable)

## **D. PRIORITIZATION CRITERION FOR BARRIER MITIGATION**

The relative significance of each barrier, according to its impact upon the disabled population was taken into account when developing the prioritization criteria for barrier mitigation. A prioritization criterion was developed as a result of two distinct type of analysis – barrier impedance and usage (referred to as activity analysis). Both types of analyses produce a score for each feature, and the final barrier ranking prioritization rationale is based on the function of these combined scores.

### **Activity Analysis**

Activity analysis determines how much use a given pedestrian feature (surveyed pedestrian facility or infrastructure – section of sidewalk, bus stop, curb ramp at corner, pedestrian median within an intersection, etc.) can expect to receive to determine priority. This is done using a GIS-based spatial analysis tool, which evaluates the characteristics of the area surrounding each feature to estimate how much activity would be likely. Layers in the spatial analysis tool include information pertaining to the following:

- Collectors & Arterial streets
- Bus Stops
- City Parks
- Schools
- Population Density
- Location of Large Employers – Still working on this layer
- Location of Senior Housing
- Location of Retail Businesses – Still working on this layer
- Other demographic information pertaining to age, vehicle ownership, etc.

### **Barrier Impedance Analysis**

The barrier impedance analysis involves assigning relative weightage to the different deficiency-categories and calculating the barrier impedance score based on their respective field measurements. This GIS-based tool allows the City to assign relative weightage to displacements in sidewalks, cross slopes at driveways, obstructions in width of pedestrian access routes, etc.

### **Transition Planning Tools**

Using GIS-based tools with simple user interfaces, City staff is able to analyze different weightage scenarios, while running multiple analyses to determine the most efficient use public funds and to mitigate the highest priority barriers. This iterative process allows the City to compare the model results with real world knowledge and understanding of the City, and adjust the results so that they are validated satisfactorily.

In the public rights-of-way, where the City has sole responsibility/authority over streets, roads and walkways, the ADA Transition Plan references the City's Pavement Management Plan and Street Resurfacing Program schedule for providing curb ramps or mitigating barriers in pedestrian sidewalks. In addition, the Transition Plan schedule

prioritizes barrier-mitigation within pedestrian routes that serve public entities, including State and local government offices and facilities, transportation, places of public accommodation, and employers, followed by walkways serving other areas.

The identified barriers are prioritized and sorted for inclusion into annual barrier-removal projects developed by departmental staff that manage various City programs and are based on the City's available funding, The Divisions and their corresponding departments are as follows:

- Engineering Division (Planning and Development Services Department)
- Streets Maintenance Division (Public Utilities Department)
- Facilities Maintenance Division (General Services Department)

It is the goal of the City to continue its efforts to improve pedestrian accessibility. To achieve its goal the City plans to utilize the following criterion to guide its sidewalk and curb ramp program.

Prioritization Criteria for pedestrian rights-of-way according to barrier location:

- Priority 1. Pedestrian routes wherein requests for barrier removal by any person with mobility and/or vision disabilities seeking full and equal access
- Priority 2. Pedestrian routes serving City, State and local government offices and facilities
- Priority 3. Pedestrian routes serving important transportation corridors, public transit, including pathways leadings to schools.
- Priority 4. Pedestrian routes serving commercial/business zones and other Title III entities
- Priority 5. Enhance safety at pedestrian crossings
- Priority 6. Pedestrian routes serving residential neighborhoods and undeveloped regions.
- Priority 7. Create connected systems of accessible pathways.

For barriers within the public rights-of-way, a 3-pronged approach to implementation is recommended:

1. Engineering Division staff is to prepare a mitigation schedule for pedestrian access routes from the nearest fixed route (Stageline Transit Line) bus stop(s) serving City offices/facilities to the site-entrance points of those facilities. If a technical infeasibility is determined, Engineering staff is to coordinate with the Transit Division on relocating bus stops along accessible routes serving said City offices/facilities.

2. The Engineering Division, which manages the Capital Improvement Program (CIP), will coordinate information from the City's Pavement Management Plan identifying street sections being resurfaced under this program and identify non-compliant curb ramps triggered by these projects. Non-compliant curb ramps are to be scheduled for upgrade to applicable standards in tandem with the corresponding Capital Improvement Project.
3. The City Manager's Office is to adopt a formal procedure/policy of reviewing citizen-requests for barrier-removal within pedestrian access routes and providing the necessary services determined through the review in coordination with the City's ADA Coordinator.

## **E. IMPLEMENTATION OF TRANSITION PLAN**

### **Official Responsible**

The ADA requires that an official be identified as responsible for the implementation of the city's plan.

It is the US DOJ's view that compliance with 28 CFR 35.150(a), like compliance with the corresponding provisions of the section 504 regulations for public programs, would in most cases not result in undue financial and administrative burdens on a typical City. In determining undue financial and administrative burdens, all City resources available for use in the funding and operation of City services, programs and activities would need to be considered.

The burden of proving that compliance with paragraph (a) of 28 CFR 35.150 would either fundamentally alter the nature of a service, program, or activity OR would result in undue financial and administrative burdens rests with the City. The decision that compliance would result in such alteration and/or burden must be made by the head of the public entity or his or her designee and must be accompanied by a written statement of the reasons for reaching that conclusion.

While the US DOJ has acknowledged the difficulty/complexity of not only making such a determination, but also identifying the official responsible to make this decision/determination, the department's intention is clear in that the determination must be made by a high level official, no lower than a Department head, having budgetary authority and responsibility for making spending decisions.

The Official Responsible for the implementation should be able to seek/acquire funding for ADA barrier removal work over the City's Transition Planning period. The City of Clovis has designated the Assistant City Manager as the Official Responsible for the implementation of its ADA Transition Plan. In the City of Clovis, the barriers identified in the Rights-of-Way will all fall in the purview of the Assistant City Manager and/or his respective designees – Department Directors, City Engineer, etc.

Typically, the responsibility of making any particular City program, service or activity accessible to all persons, regardless of ability, rests with the official who controls the operating funds for that particular program, service or activity. To this end, the task of seeking/getting approval for funds from the governing body to make the said program accessible lies with the official responsible for the program. Indication of the official responsible for implementation of the plan fulfills the final requirement of a Transition Plan.

It is the responsibility of the ADA Coordinator (assigned to City Clerk) to develop, monitor, and implement the Transition Plan. The final product is a working document to be modified as barriers are removed or alterations are made. The City's final document

will be retained for record keeping purposes following completion, and be maintained on file and made available for public inspection.

Implementation of the Transition Plan will be managed by the ADA Coordinator in conjunction with the City's Facilities Maintenance Division, the City's Community Investment Program and other staff as appropriate. On an annual basis the transition plan will be updated and annual work plans will be presented to City Council for review and approval identifying the work to be accomplished each year.

CFR Section 35.150, Existing Facilities, subsection (a) states that the City shall operate each service, program, or activity so, when viewed in its entirety, it is readily accessible to and usable by individuals with disabilities. This Section does not require the City to take any action that would threaten or destroy the historic significance of a historic property; does not require the City to take any action that it can demonstrate would result in a fundamental alteration in the nature of the service, program, or activity or in undue financial and administrative burdens; or does not require the City to make each of its existing facilities accessible to and usable by individuals with disabilities.

As noted above, the City does not have to take any action that it can demonstrate would result in a fundamental alteration in the nature of the program or activity, would create a hazardous condition for other people, or would represent an undue financial and administrative burden. This determination can only be made by the City Manager, ADA Coordinator or a Department Head and must be accompanied by a statement citing the reasons for reaching that conclusion. The determination that an undue financial burden would result must be based on an evaluation of all resources available for use in a program and the City must consider other options for providing access that would ensure that individuals with disabilities receive the benefits and services of the program or activity.

The City maintains streets, many of which contain curbs, gutters, and sidewalks. In accordance with the Streets and Highways Improvement Act of 1911, property owners are responsible for the maintenance of curbs, gutters and sidewalks adjacent to their property.

The City also makes sidewalks more accessible through new development, street capital improvement projects and other similar work. To promote efficiency and accessibility, the City may choose to construct curb ramps at every point where a sidewalk intersect a curb; however, the City is not necessarily required to do so. Alternative routes to buildings that make use of existing curb cuts may be acceptable under the concept of program accessibility in the limited circumstances where individuals with disabilities need only travel a marginally longer route. In addition, the fundamental alteration and undue burden limitations may limit the number of curb ramps that the City may be required to provide.

As part of the ongoing self-evaluation process and transition plan updates the following criteria have been developed for prioritizing new curb ramp construction and alterations.

- Repair of hazardous conditions
- Installation of new curb ramps to connect existing sidewalks, and
- Repair of existing curb ramps that do not comply with ADAAG technical requirements and State of California standards.

In addition, to achieve or maintain program accessibility, it may be appropriate for the City to establish an ongoing procedure for installing curb ramps upon request in areas frequented by individuals with disabilities.

However, when streets are newly built or altered, the City must provide 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 altered, they must contain curb ramps or sloped areas wherever they intersect with streets, roads, or highways.

### **Program Accessibility Resources**

In order to facilitate access to City programs by all citizens, the ADA Coordinator will maintain a list of resources, information and technological devices that will help staff members communicate with individuals with a variety of disabilities.

**Alternative Format Communications:** Resources to produce standardized publications such as applications and registration forms in Braille, audiotape, large print text and accessible electronic media will be assembled.

**American Sign Language Interpreters:** A pool of on-call American Sign Language interpreters will be developed. This list will be routinely updated to ensure the availability of interpreters.

**Assistive Listening Systems and Devices:** Systems and devices to amplify sound for persons with hearing disabilities will be available for public meetings and conferences.

**Text Telephone (TTY):** City Departments will have access to a telephone transfer service as offered by public telephone companies.

**Transportation:** The City will provide accessible transportation as needed/requested by program participants.

**Enlarging Printed Materials:** A copy machine capable of enlarging printed materials will be available for each site where programs or transaction counter services are provided to the public.

## **Public Input**

On April 19, 2012, at 2:00 p.m., the City of Clovis ADA Public Advisory Committee met to discuss the draft ADA Transition Plan. The meeting took place at the Public Safety Community Room, 1233 Fifth Street, Clovis, CA 93612. The meeting lasted approximately two hours. Copies of the draft plan were distributed. Copies were also provided all Committee members in hard copy and by electronic mail. Input and comment were received from Committee Members.

On May 23, 2012, at 4:00 p.m., a public hearing was held on the Transition Plan in the Council Chambers at 12033 Fifth Street. Notice of the public hearing was placed in the Fresno Bee on Thursday, May 17, 2012.

## **Transition Plan Implementation**

The document should be maintained and updated for the duration of the Transition Planning period and a copy of the transition plan shall be made available for public inspection.

The final product is a working document to be updated as barriers are removed or alterations are made. The Official responsible and project managers overseeing the barrier-removal projects will document all such ADA improvements/upgrades. Also as part of this process, technical infeasibility, if any, to meet necessary accessibility compliance will be documented and filed for the City's records by the Engineer-of-Record on the said project. It is also recommended to provide accessibility site audits (inspections) of on-going projects as part of the project close-out/certification. This documentation and verification of barrier-mitigation will be integrated into the City's ADA Transition Plan on a regular basis to ensure that barriers are "checked-off" and the Plan is current with a record of barrier-mitigation work. Annual reports of barrier-mitigation work may also be provided to City Council.

This is a living document and is open to modification throughout the transition period. Identified in the appendix of the Transition Plan, is a current inventory of barriers identified as a snap-shot in time.

The City will continue to plan for an annual "ADA Transition Planning budget". This budget will be used to plan mitigation of those barriers identified in the Plan that are not part of any CIP project or Bond program. This budget will be in addition to and separate from funds required for any ADA improvements and upgrades triggered by CIP projects and Bond Programs. The scope of work and budget for all such CIP and bond projects must incorporate the improvements triggered by applicable Federal, State and local accessibility regulations and codes.

## **Maintenance of Accessible Features**

Finally, the maintenance of accessible features is mandated by State and Federal Regulations and is an integral part of the City's plan to transition into a more accessible destination. Both, Chapter 28 Code of Federal Regulation, Part 35, Section 35.133 as well as the California Building Code section 1101B.3 – maintenance of accessible features, state:

1. A public accommodation shall maintain in operable working condition those features of facilities and equipment that are required to be accessible to and usable by persons with disabilities.
2. This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

Both these sections provide that a public entity shall maintain in operable working condition those features of facilities and equipment that are required to be accessible to and usable by persons with disabilities. They require that, to the maximum extent feasible, facilities must be accessible to, and usable by, individuals with disabilities. These sections recognize that it is not sufficient to provide features such as accessible routes, ramps, or elevators, if those features are not maintained in a manner that enables individuals with disabilities to use them. Inoperable elevators and sidewalks in a state of disrepair, are neither "accessible to" nor "usable by" individuals with disabilities.

It is, of course, impossible to guarantee that mechanical devices will never fail to operate or that sidewalks will never be obstructed by an improperly parked vehicle. As such, the 2nd paragraph provides that this section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs. This paragraph is intended to clarify that temporary obstructions or isolated instances of mechanical failure would not be considered violations of the ADA or this part. However, allowing obstructions or "out of service" equipment to persist beyond a reasonable period of time would violate this part, as would repeated mechanical failures due to improper or inadequate maintenance. Failure of the public entity to arrange prompt repair of inoperable elevators, sidewalks in disrepair or other features intended to provide access would also violate this part.

A City-wide formal policy specifically addressing the legal requirements (28CFR Part 35.133 & CBC1101B.3) of maintaining accessible features would be of long-term benefit to the City. When, over time, an accessible feature fails, institutionalizing organizational commitments towards protocols and maintenance ensures an appropriate action is taken.

## **F. SCHEDULE OF PROJECTS**

### **Transition Plan Work Program for FY 2012-2013 (Jul 1 – Jun 30)**

- a. Community Development Block Grant (CDBG) \$250,000 per year for highest priority improvements (i.e. access, curb ramps, barrier removal);
- b. Community Development Block Grant (CDBG) \$75,000 per year for Public Facilities (Civic Center, Parks, Parking Lots);
- c. Measure C “Pass-through” \$25,000 per year for Public Rights-of-ways (curb ramps, barrier removal);
- d. Additionally, between \$500,000 - \$1,000,000 is spent on ADA items related to Capital Projects per year with Federal, State and discretionary funds;

### **Specific Projects for ADA are:**

1. Civic Center ADA Improvements: \$65,000 per year for the next 5 years;
2. ADA Master Planned Access Improvements for Public Facilities: \$50,000 per year indefinitely;
3. Recreation Center ADA Improvements: \$95,000
4. Bicentennial Park Improvements: \$80,000
5. ADA Survey: \$500,000 (Sally Swanson)
6. ADA Survey Update – City Staffing: \$50,000 (annually)
7. Phase 4 ADA Ramp and Access Project – Various Locations: \$225,000 (current)
8. Phase 5 ADA Ramp and Access Project – Various Locations: \$250,000 (next)
9. ADA Transit – Various Locations: \$100,000 (every other year)
10. Miscellaneous Concrete Improvements: \$100,000 (budgeted every year for the public right-of-way)

### **Street Projects addressing ADA are:**

1. Alluvial – Clovis to Sunnyside (Curb Returns)
2. Clovis – Herndon to Alluvial (Curb Returns)
3. Peach/Gettysburg Traffic Signal (Curb Returns)
4. Fifth/Sunnyside Traffic Signal (Curb Returns)
5. Clovis – Tenth to Fifth (Sidewalk and Curb Returns)
6. Sierra – Fowler to Temperance (Sidewalk and Curb Returns)
7. Alluvial – Sunnyside to Fordham (Curb Returns)
8. Ashlan – Willow to Peach (Curb Returns)
9. Nees – Willow to Peach (Curb Returns)
10. Sunnyside – Herndon to Fwy 168 (Curb Returns)

See attached schedule of Year 2012-13 Projects

See attached proposed five-year list of projects through 2018

## **Appendix II – Schedule of Year 2012-13 Projects**

### **Year 2012-13 Projects:**

1. Council Chamber ADA restroom facilities remodel;
2. Civic Center Campus ADA design and improvements
3. ADA rehabilitation for existing City facilities;
4. ADA master planning;
5. Survey and improvements of City-owned public rights-of-way for ADA compliance;
6. Installation of pedestrian ADA improvements.

## **Appendix III – Proposed five-year list of projects through 2018**

1. Design and phase redevelopment of the Civic Center Campus;
2. ADA improvements phased;
3. ADA master planning;
4. Council Chamber ADA improvements;
5. Sierra Bicentennial Park accessibility improvements;
6. Clovis Old Town Trail ADA unisex restroom construction;
7. Pedestrian Facilities;
8. Miscellaneous Concrete improvements;
9. Sidewalk improvement – Shaw Avenue;
10. ADA survey;
11. Miscellaneous Wheelchair Ramps;
12. ADA Transit improvements – bus stops.

## Appendix IV – Staff Toolkit



### **Guide for City Employees to Title II of the Americans with Disabilities Act (ADA) *Serving Our Customers with Disabilities***

#### **The Americans with Disabilities Act**

On July 26, 1990, the Americans with Disabilities Act (“ADA”) was signed into law under the principal that this legislation would “let the shameful wall of exclusion finally come tumbling down.” ADA is one of the most important civil rights laws enacted since the Civil Rights Act of 1964, prohibiting discrimination against persons with disabilities. Under the ADA City facilities, programs, services and activities must be accessible to persons with disabilities.

The City of Clovis is dedicated to ensure that no qualified person with a disability be excluded from participating in, or denied the benefits of, the programs, services and activities provided by the City based on a disability. There are more than 50 million Americans with disabilities – nearly 18% of our population estimates suggest. City employees are expected to be aware of and respectful of the various types of disabilities individuals may have. Disabilities may include the following: mobility, blindness and vision, deafness and hearing, speech and language and mental and learning disabilities. Some disabling conditions are not readily apparent and some are invisible.

#### **Accommodations for Individuals with Disabilities**

The City is fully committed to providing access for individuals with disabilities and improvements to access have been and continue to be made. While it is not required that every area of every City facility be accessible, it is required that City programs and services be accessible. Periodically, department staff may receive requests for accommodations to allow individuals to participate in and benefit from City services. Staff should reference the City’s ADA website for available resources or contact the ADA Coordinator. When responding to a request for accommodation, City personnel are expected to respond graciously to requests and to make a good faith effort to meet the need, in a timely manner. This should include exploration of various alternatives, which may include:

- Relocation of a program or activity
- Provision of services at alternative accessible sites
- Delivery of services
- Provision of auxiliary aides (e.g. readers, interpreters, mobility assistants, hearing devices)
- Provision of information in an alternative format (e.g. audio tape, large print, Braille conversion)
- Structural alterations

Alternatives that integrate a participant with disabilities with other program participants are preferred. Although some additional costs may be incurred in accommodating the individual, these costs may not be passed on to the individual in the form of surcharges. Ideally, the chosen accommodation is acceptable to the individual and feasible for the City. However, in some cases it may not be possible to reasonably accommodate the individual. The City's obligation under Title II of the ADA must not cause undue financial and administrative burdens to the City or fundamental alterations in the nature of the program, service, or activity. These determinations are best made based on the judgment and knowledge of the department staff and the City ADA Title II Coordinator.

Any request and the departmental response should be documented using the Request for Accommodation form. Inabilities to provide an accommodation due to a determination of fundamental alteration or undue burden should be made in consultation with the City's ADA Coordinator and include a written statement of the reasons for reaching that conclusion.

### **Disability Etiquette**

To ensure full participation by all community members it is imperative that individuals with disabilities feel welcomed and respected. One way to make people with disabilities feel welcomed is by practicing disability etiquette.

- Introduce yourself. Shake hands or touch the person on the arm or shoulder to welcome and acknowledge their presence. Treat people as you would like to be treated!
- Be yourself – everyone will feel more comfortable if you relax. Speak directly to that person - face to face. If the person is in a wheelchair, use a chair, in order to communicate at the person's eye level.
- Be courteous, but not condescending. Offer assistance in a dignified manner with sensitivity and respect and realize that asking first is better than assuming help is needed.
- Words Set the Tone – So use Words with Dignity. Place the individual first – “a person with a disability.” Avoid words such as, “handicapped” or “cripple” which are not only inappropriate and outdated but, demeaning.

- The word “handicapped” allegedly originates from the “cap in hand/hand in cap” legislation of King Henry VII after a brutal war had left his country with a great number of disabled veterans. Henry could not envision disabled persons being financially self-sufficient hence, he proclaimed that begging in the streets be legal for persons with disabilities. When we describe people by “labels” we devalue and disrespect them as individuals.
- Allow a person with visual impairments to take your shoulder or arm at or about the elbow. This will enable you to guide rather than lead the person.
- Service animals assist persons with various disabilities some of which are apparent and invisible. Never touch a service animal or the person it assists without permission. Service animals are working hence; do not distract them as loss of their concentration could put their owners in danger. A service animal is not required to have any special certification.
- Remember that not all disabilities are apparent. Respect an individual’s needs and requests whenever possible.

### **It’s About Customer Service**

Providing access to City programs and services to individuals with disabilities is not just about complying with the law. It is about providing good customer service and being responsive. It is realizing that a disability does not define the individual, but that each person is unique and deserves respect and consideration, regardless of whether or not that person has a disability.

If you have questions or need information about available resources, contact the City ADA Coordinator:

John Holt, ADA Coordinator  
City of Clovis 1033 Fifth Street, Clovis, CA 93612  
Direct Line: 559-324-2060, Facsimile: 559-324-2840, [johnh@cityofclovis.com](mailto:johnh@cityofclovis.com)

# Appendix V – Grievance: Complaint Form

## City of Clovis

Title II of the American with Disabilities Act  
Section 504 of the Rehabilitation Act of 1973



### FORMAL WRITTEN COMPLAINT

*Please type or print legibly.*

Reporting Individual:

Date of request:

Address:

City, State and Zip:

Telephone Number:

Business Phone:

Other Contact Information:

If person needing accommodation is not the individual completing this form, please enter:

Name:

Telephone Number:

Other Contact Information:

Program/Facility Alleged to be Inaccessible:

When did the situation occur (date)?

Describe the situation or way in which the program is not accessible, providing the name(s) where possible of the individuals who were involved in the situation, and any documentation or photographs supporting the incident:

Have efforts been made to resolve this complaint through the Request for Accommodation with the ADA Coordinator?  Yes  No

If yes, what were the results?

How do you suggest this issue be remedied?

Signature:

Date:

-----  
Please send the completed form to:

John Holt, ADA Coordinator  
1033 Fifth Street  
Clovis, CA 93612  
(559)324-2060  
FAX – (559)324-2840  
[johnh@cityofclovis.com](mailto:johnh@cityofclovis.com)

## **Requesting an ADA Accommodation or Barrier Removal**

Request for accommodations or barrier removals should be made to the ADA Coordinator, include the name, address and telephone number of the individual requesting the accommodation. The request should contain the location of the program, service, activity or facility where the accommodation is required and a description of why the accommodation is needed.

Within fifteen (15) calendar days of the written request, the ADA Coordinator will respond to the individual requesting the accommodation. If the response by the ADA Coordinator does not satisfactorily resolve the issue, the individual making the request may file a formal grievance. All requests for accommodations received by the ADA Coordinator will be kept by the City of Clovis for at least three (3) years.

## **Filing an ADA Grievance**

The City of Clovis has adopted a formal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by Title II of the ADA and state disability rights. This procedure is available for any individual who wishes to file a complaint alleging discrimination on the basis of the disability in the provision of services, activities, facilities and programs by the City of Clovis.

The availability and use of this grievance procedure via submission of a complaint form does not preclude filing a complaint of discrimination with any appropriate state or federal agency. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies.

## **The Written Complaint**

The complaint should contain as much information as possible about the alleged discrimination. The Complainant or his/her representative should file a complaint form with the ADA Coordinator no later than **60 days** from the date of the alleged discrimination. The complaint should be in writing however, other arrangements for submitting a request, such as personal interviews, tape recordings and assistance completing the form is available upon request.

The ADA Coordinator will notify the Complainant in writing of any additional information that is needed to complete the complaint. If the Complainant fails to complete the complaint form, the ADA Coordinator shall close the complaint without prejudice.

## **Meeting with the ADA Coordinator**

Within fifteen (15) calendar days after receipt of the written complaint, the ADA Coordinator will meet with or contact the complainant to discuss the complaint and possible resolutions. Within fifteen (15) calendar days after the meeting, the ADA Coordinator will respond in writing or in a format accessible to the complainant. The

response will explain the position of the City of Clovis and offer options for resolution of the complaint.

### **Appeal to the City Manager**

If the response by the ADA Coordinator does not satisfactorily resolve the issue, the complainant may appeal the decision, within fifteen (15) calendar days after receipt of the response, to the City Manager or an appointed representative.

Within fifteen (15) calendar days after receipt of the appeal, the City Manager, or an appointed representative, will meet with or contact the complainant to discuss the complaint and possible resolutions. Within fifteen (15) calendar days after the meeting, the City Manager, or an appointed representative, will respond in writing or in a format accessible to the complainant of final resolutions to the complaint.

All written complaints received by the ADA Coordinator, appeals to the City Manager and responses from the ADA Coordinator and the City Manager, will be kept by the City of Clovis for at least three (3) years.

### **Accommodation and Grievance Response**

In responding to request(s) for structural improvement brought through the ADA Accommodation and Grievance process, the ADA Coordinator is limited to the funds in established Community Investment Plan (CIP) and other miscellaneous funds. In the event that these allocated funds are insufficient or already spent, subsequent improvements will be prioritized and scheduled in subsequent fiscal years.

Appendix VI – Program Survey Form  
**CITY OF CLOVIS**



**Americans with Disabilities Act (ADA)  
Program & Facility Access Checklist**

The City of Clovis is in the process of updating the City's Americans with Disabilities Act (ADA) Self-Evaluation and Transition Plan. The following is a program and facility access survey, which is required for each Department. Thank you for your time and consideration in advance.

Please return this survey to:

ADA Coordinator, John Holt  
City of Clovis 1033 Fifth Street, Clovis, CA 93612 Phone: 559-324-2060 E-Mail: [johnh@cityofclovis.com](mailto:johnh@cityofclovis.com)

**This survey is available in alternative formats, on request.**

Access Element	0. Don't Know	1. No/ Disagree	2. No Opinion	3. Yes/ Agree	Suggested Improvements
<b>A. General Requirements.</b>					
1. Has the City designated an employee to coordinate efforts to comply with and carry out responsibilities under ADA?					
2. Do you know who the City's designated ADA Coordinator is?					If yes, name person:
3. Have you posted and noticed the name and address of the ADA Coordinator?					If yes, where:
4. Are you aware of the City's complaint procedures and process for requesting auxiliary aids?					
5. Has the City taken steps to ensure that all employees and consumers been instructed and notified regarding their rights under ADA?					
6. Has the City provided information to the public, in an accessible format, explaining its policy to provide accessible policies, programs, services or activities and practices?					
7. Have you ensured that written and/or audio-visual materials portray person with disabilities in an appropriate manner?					
8. Do you feel your department would benefit from training on the requirements of the ADA and/or relating to people with all types of disabilities?					

Access Element	0. Don't Know	1. No/ Disagree	2. No Opinion	3. Yes/ Agree	Suggested Improvements
<b>B. Policy Requirements.</b>					
9. Do your department's policies ensure that persons with mobility and/or sensory disabilities are provided auxiliary aids or accommodations to fully participate in programs, services and activities?					
10. Do your department's publications, service announcements and advertisements make known that they are available in alternative formats (e.g. large print, audio, Braille, captioned)?					
<b>C. Communication Requirements.</b>					
11. Has your department reviewed its policies to ensure that its communications with persons with disabilities are as effective as its communications with others?					
12. Does your department conduct business or provide services or information by telephone to the public?					
13. If YES to Question 12, is a telecommunication device for deaf (TDD) or other equally effective system available to facilitate communications with hearing and/or speech impaired persons?					
14. If NO to Question 12, list steps to ensure effective communications with deaf, hearing and/or speech impaired individuals. This can include providing a TDD or third party rely service.					
15. Does your department provide captioning of the verbal content on public television (i.e. E-TV) service announcements that it produces?					If yes, state location, number and if they are operable:
<b>For Clovis Fire &amp; Police Department</b> (Departments which provide 911 emergency services):					
16. Does your department ensure direct access to persons who use telecommunication devices for the deaf (TDDs) and computer modems?					
17. If YES to Question 15, are all 911 emergency response services equipped with a TDD or other equally effective technology to make the service accessible to persons who are deaf, hearing and/or speech impaired?					

<b>D. Auxiliary Aids &amp; Services.</b>					
18. Does your department provide provisions or assist the public by informing of auxiliary aids or services that are available through the ADA Coordinator (i.e. hearing devices, Braille, large print, qualified readers or interpreters and captioned video programs)?					
19. Are assistive listening devices available for individuals with hearing impairments at your site?					If yes, state location, number fixed or portable and if they are operable:
20. Have you reviewed your website for accessibility for vision-impaired persons?					If yes, when:
<b>E. Facility Checklist:</b>					
Not Required for Departments within City Hall however, feel free to share comments/suggestions.					
21. Do you already have an Accessibility Survey or report for your site?					If yes, please attach to the survey.
22. Are grievance procedures or complaint procedures noticed and posted at your site?					If yes, where:
23. Do you have emergency evacuation plans posted at your site?					If yes, where:
24. Are individuals with disabilities included in or have an opportunity to participate in all programs, activities and services provided by your site?					
25. Are individuals with disabilities served or located in segregated areas of your facility?					
26. Do you require persons with disabilities to receive or participate in services at an alternate location?					If yes, describe:
27. Do you provide transportation for your programs, services, or activities?					If yes, describe transportation and its accessibility:
28. Do you follow a specific procedure or policy for use of the facility by organizations or members of the public?					If yes, describe:
29. Do you offer programs at your site that are not offered at other sites in the City?					If yes, describe:
30. Have you made accommodations for individuals with disabilities (employees, members of the public, etc)?					If yes, describe:
31. Do you have a statement of accommodations in your literature or on public notices?					

32. Do you have any programs offered or located at a different site?					If yes, describe facilities:
33. Do you have any employees with disabilities at your site (if known):					
34. Are you aware of any community members or recipients of services with disabilities who utilize your site?					
35. Have you provided training or information to your staff regarding the requirements of the Americans with Disabilities Act?					If yes, describe:
36. Would you like additional training regarding the Americans with Disabilities Act?					If yes, describe:
37. Have you received any awards or special recognitions regarding programs or services for individuals with disabilities?					If yes, describe:
38. Do you have any construction or remodeling projects currently underway or planned within the next three years?					If yes, describe:
39. Do you have any volunteers?					
40. If you have volunteers, have they received training on providing services or activities for individuals with disabilities?					
41. Do you have access to current City policies, procedures, or practices?					
42. Are there any issues or information with regard to persons with disabilities or accessibility that would be helpful to your facility?					

Department: \_\_\_\_\_

Name, Title of Person Completing Survey:  
\_\_\_\_\_

Phone Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

## Appendix VII – Definitions

As used in this Transition Plan Update, the following terms shall have the meaning ascribed to them in this Section, which are consistent with the provisions of existing federal and state law, including the regulations promulgated there under. Except to the extent expressly stated to the contrary, any term not expressly defined in this Section or elsewhere in this Transition Plan that has an expressly defined meaning in either the ADA or the regulations promulgated there under (“Regulations”) shall have the meaning ascribed to it by the ADA or the Regulations, in that order of preference. All other terms shall be interpreted according to their plain and ordinary meaning.

**ADA:** “ADA” means and refers to the Americans with Disabilities Act as contained at 42 U.S.C. §12101 et seq.

**ADAAG:** “ADAAG” means and refers to the Americans with Disabilities Act Access Guidelines, codified at Appendix A to 28 Code of Federal Regulations part 36 and at Appendix A to 49 Code of Federal Regulations part 37. “ADAAG Standards” means and refers to physical conditions that meet the new construction and/or alterations standards set forth in the ADAAG guidelines. Note the City of Clovis subscribes to ADAAG and not the Uniform Federal Accessibility Standards (“UFAS”).

**Auxiliary Aids and Services:** The term “auxiliary aids and services” includes, qualified interpreters or other effective methods of making orally delivered materials available to individuals with hearing impairments; qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments; and acquisition or modification of equipment or devices; and other similar services and actions.

**Compliance Period:** “Compliance Period” means and refers to the period of time for which this Transition Plan will be in effect. The Transition Plan shall become effective upon Final Approval and remain in effect for up to 30 years. The City may dissolve the Transition Plan at any time upon a showing that it provides Program Access to Pedestrian Rights of Way or upon a showing that it has met or exceeded the monetary obligations specified in this Transition Plan. Alternatively, the Transition Plan will remain in effect until it dissolves automatically 30 years after Final Approval.

**Compliant Curb Ramp:** “Compliant Curb Ramp” means and refers to a curb ramp that is constructed to comply with state and/or federal law (whichever provides the higher access standard) in place at the time of construction. In the case of a location where it is Structurally Impracticable or Technically Infeasible to build a fully compliant curb ramp, or where construction of a fully compliant curb ramp would constitute a Fundamental Alteration of a service, program, or activity of the City or an Undue Burden on the City, a curb ramp that complies with access standards, or was constructed to the standards existing at the time of construction, or to the maximum extent feasible, will constitute a Compliant Curb Ramp as long as the requirements set forth in this Transition Plan for justifying the reasons for the City to avoid full compliance are met.

**Curb Ramp:** “Curb Ramp” is used interchangeably with “curb cut.”

**Detectable Warnings:** “Detectable Warnings” means and refers to truncated domes which provide a tactile surface at the transition between the curb and the street or other hazardous vehicular crossings, assisting pedestrians with Vision Disabilities in determining when they enter the street.

**Disability:** “Disability” means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such impairment; or being regarded as having such impairment.

**Discrimination on the Basis of Disability:** “Discrimination on the Basis of Disability” means to, limit, segregate, or classify a citizen in a way that may adversely affect opportunities or status because of the person's disability; limit, segregate, or classify a participant in a program or activity offered to the public in

a way that may adversely affect opportunities or status because of the participant's disability; participate in a contract that could subject a qualified citizen with a disability to discrimination; use any standards, criteria, or methods of administration that have the effect of discriminating on the basis of disability; deny equal benefits because of a disability; fail to make reasonable accommodations to known physical or mental limitations of an otherwise qualified individual unless it can be shown that the accommodation would impose an undue burden on the City's operations; use selection criteria that exclude otherwise qualified people with disabilities from participating in the programs or activities offered to the public; and fail to use tests, including eligibility tests, in a manner that ensures that the test results accurately reflect the qualified applicant's skills or aptitude to participate in a program or activity.

**Fundamental Alteration:** "Fundamental Alteration" means and refers to an action that, if taken by the City, would result in a fundamental alteration in the nature of the service, program or activity of Pedestrian Rights of Way in the City. If the City claims that any action otherwise required by this Transition Plan would constitute a Fundamental Alteration, the City shall have to demonstrate that such alteration would result and the decision that an action would constitute a Fundamental Alteration must be made by the ADA Coordinator and City Engineer, or his or her designee, after considering all funds available for such work and must be accompanied by a written statement of the reasons for reaching that conclusion.

**Mobility Disability:** "Mobility Disability" means and refers, with respect to an individual, to any physical or mental impairment or condition that substantially limits an individual's ability to move his or her body or a portion of his or her body and includes, but is not limited to, orthopedic and neuromotor disabilities and any other impairment or condition that limits an individual's ability to walk, maneuver around objects, ascend or descend steps or slopes and operate controls. An individual with a Mobility Disability may use a wheelchair or motorized scooter for mobility, or may be Semi-Ambulatory.

**Pedestrian Rights-of-Way:** "Pedestrian Rights-of-way" (PROW) means and refers to all sidewalks over which the City of Clovis has responsibility or authority as well as all Curb Ramps and crosswalks serving such sidewalks and any other pathways used by pedestrians along public rights of way, including pedestrian pathways through public parking lots.

**Physical or Mental Impairments:** "Physical or mental impairments" may include, but are not limited to vision, speech, and hearing impairments; emotional disturbance and mental illness; seizure disorders; mental retardation; orthopedic and neuromotor disabilities; learning disabilities; diabetes; heart disease; nervous conditions; Cancer; Asthma; Hepatitis B; HIV infection (HIV condition); and drug addiction if the addict has successfully completed or is participating in a rehabilitation program and no longer uses illegal drugs.

The following conditions are not physical or mental impairments: transvestitism; illegal drug use; homosexuality or bisexuality; compulsive gambling; kleptomania; pyromania; pedophilia; exhibitionism; voyeurism; pregnancy; height; weight; eye color; hair color; left-handedness; poverty; lack of education; a prison record; and poor judgment or quick temper if not symptoms of a mental or physiological disorder.

**Record of Impairment:** An individual is disabled if he or she has a history of having an impairment that substantially limits the performance of a major life activity; or has been diagnosed, correctly or incorrectly, as having such impairment.

**Regarded as Having a Disability:** An individual is disabled if she or he is treated or perceived as having an impairment that substantially limits major life activities, although no such impairment exists.

**Statutory Defenses:** "Statutory Defenses" means and refers to the City's right to assert under this Transition Plan that removal of any barrier or installation of a Compliant Curb Ramp is not required because such barrier removal or curb ramp installation would be Technically Infeasible, or Structurally Impracticable, or that it would constitute an Undue Burden or Fundamental Alteration.

**Structurally Impracticable:** "Structurally Impracticable" means and refers to circumstances in which the unique characteristics of terrain prevent the incorporation of accessibility features. If it is structurally

impracticable to provide full access at any location along pedestrian rights of way, the City shall comply with access requirements to the extent that it is not structurally impracticable to do so. (See ADAAG § 4.1.1(5)(a)).

**Substantial Limitations of Major Life Activities:** An individual disabled if she or he has a physical or mental impairment that (a) renders her or him unable to perform a major life activity, or (b) substantially limits the condition, manner, or duration under which she or he can perform a particular major life activity in comparison to other people.

Major life activities are functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. In determining whether a physical or mental impairment substantially limits the condition, manner, or duration under which an individual can perform a particular major life activity in comparison to other people, the following factors shall be considered: The nature and severity of the impairment; The duration or expected duration of the impairment; and The permanent or long-term impact (or expected impact) of or resulting from the impairment.

**Technically Infeasible:** “Technically Infeasible” means, with respect to an alteration of a building, facility or Pedestrian Right of Way, that it has little likelihood of being accomplished because existing physical or site constraints or a lack of public right of way prohibit modification or addition of elements, spaces, or features which are in full and strict compliance with the minimum requirements for new construction and which are necessary to provide accessibility. (See ADAAG § 4.1.6(1)(j)).

**Third Party Entity:** “Third-Party Entity” means an entity other than the City of Clovis that controls certain barriers or elements of barriers in a Pedestrian Rights of Way. Transit agencies and local utilities are examples of Third Party Entities.

**Title 24:** “Title 24” means and refers to the regulations set forth at Title 24 of the California Code of Regulations also, known as the Building Codes.

**Undue Burden:** “Undue Burden” means and refers to an action that, if taken by the City of Clovis, would result in an undue financial and administrative burden. In order to demonstrate that removal of a barrier would constitute an Undue Burden, the decision must be made by the ADA Coordinator and City Engineer, or his or her designee, after considering all resources available from various funding available for removal of sidewalk barriers and must be accompanied by a written statement of said reasons for reaching that conclusion. In preparing such a statement, the City may consider the usability of the existing facilities.

**Qualified Individual with a Disability:** “Qualified Individual with a Disability” means an individual with a disability who, with or without reasonable modification to rules, policies, or practices; the removal of architectural, communication, or transportation barriers; or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the City.