

# Americans with Disabilities Act (ADA)

## Transition Plan



# Clackamas County Oregon

As of 2017

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## Introduction

To prohibit discrimination on the basis of disability, the Federal government enacted the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 (ADA). Title II of the ADA pertains to state and local governments and requires that persons with disabilities be provided with an equal opportunity to benefit from government programs, services and activities.

Title II of the ADA further identifies specific steps that state and local governments must follow to comply with the ADA. These include:

- 1) Prepare a **Self-Evaluation** of programs, services and activities that may not be accessible to persons with disabilities;
- 2) Develop a **Transition Plan** to provide for the elimination of barriers for disabled persons to access these programs, services and activities;
- 3) Designate at least one employee as the **ADA Coordinator** to be responsible for the ADA compliance program;
- 4) Establish a **Grievance Procedure** to respond to complaints regarding accessibility;
- 5) Provide **Notice** to the public of the County's obligations under Title II to prohibit discrimination on the basis of disability; and
- 6) Provide an **Opportunity** for interested persons, including individuals with disabilities, or organizations representing individuals with disabilities, to participate in the development of the Transition Plan by submitting comments and making specific recommendations.

It is the goal of Clackamas County to provide safe and usable pedestrian facilities for all pedestrians and to assure compliance with all federal, state and local regulations and standards.

In accordance with the above ADA Title II requirements, County Administration, a department of Clackamas County, has prepared an ADA self-evaluation, a grievance procedure, and a notice of non-discrimination to address access to county-wide employment, programs, and services.

Clackamas County's Facilities Department has prepared a transition plan to specifically address accessibility to County buildings, including administrative centers, courts, jails, and other County facilities.

The ADA Coordinator (County Title II Compliance Officer) provides oversight and coordination of ADA compliance efforts with County departments.

## **Statement of Intent**

### **Mission Statement**

To provide accessible services in a professional and effective manner for all citizens.

### **Transition Plan Goals**

- Safety – To provide a safe environment for all individuals that are visiting our facilities, receiving a service or participating in any program or activity
- Accessibility – To accommodate in a reasonable manner all individuals regardless of disability
- Functionality – To insure that the accommodations provided meet the requirements of code and meets the needs of the public
- Efficiency – To provide the most beneficial services at a reasonable cost without compromising functionality or safety

### **Purpose**

The purpose of this plan is to ensure that all individuals are provided reasonable access to all Clackamas County facilities, programs, services and activities, and to identify and create a plan to mitigate deficiencies with facilities, programs, services and activities that may pose an obstacle to those individuals that have a disability.

### **Focus**

The Clackamas County Board of Commissioners and staff believe the ability to accommodate all individuals regardless of disability is essential. Therefore, Clackamas County will make reasonable modifications as funds become available to facilities, programs, services and activities that would not fundamentally alter the nature of the service, program or activity. Priorities will be given to the following:

- Government offices
- Government Facilities
- Transportation
- Employees
- Places of Public Accommodation

## **Background**

### **Disability Access Laws**

Title VI of the landmark Civil Rights Act of 1964 prohibits government agencies from discriminating on the grounds of race, color or national origin. The rights of persons with disabilities are protected under Section 504 of the Rehabilitation Act of 1973, and even further under the Americans with Disabilities Act of 1990 (ADA).

Title II of the ADA requires state and local governments to provide persons with disabilities an equal opportunity to benefit from government programs, services and activities.

Title II dictates that state and local governments with 50 or more employees must develop self-evaluation and transition plans to make their pedestrian facilities accessible.

### **Regulatory Agencies and Resources**

The United States Congress has given the United States Department of Justice the authority to enforce Title II of the ADA and for coordinating other federal agencies' enforcement activities under Title II. In 1973, the United States Congress established the United States Architectural and Transportation Barriers Compliance Board as an independent federal agency tasked with preparing guidelines to standardize physical accessibility requirements. The United States Architectural and Transportation Barriers Compliance Board prepared the 1984 Uniform Federal Accessibility Standards and the 2004 Americans with Disabilities Act Accessibility Guidelines.

In 2010, the United States Department of Justice published a revision of accessibility requirements incorporating updates of Titles II and III of the ADA, and the 2004 update of the Americans with Disabilities Act Accessibility Guidelines. Together, the updated ADA and 2004 Americans with Disabilities Act Accessibility Guidelines comprise the United States Department of Justice's "2010 ADA Standards for Accessible Design."

The United States Department of Transportation is the agency responsible for overseeing state and local governments' compliance with Title II of the ADA regarding transportation systems including highway, railroad, transit, maritime and aviation. The Federal Highway Administration, a division of the United States Department of Transportation, is responsible for implementation of pedestrian access requirements in the public road right-of-way.

### **Disability Defined**

Under the ADA, a qualified individual with a disability is defined as a person who has a physical or mental impairment that substantially limits one or more major life activities. The two primary areas of disabilities that are typically accommodated in pedestrian facility design are mobility and visual impairments, but hearing and mental impairments can also be accommodated.

### **Technical Requirements**

Minimum design criteria for accessible pedestrian facilities has been established and published by federal and state regulatory agencies. It should be noted that the ADA has no effect on any state or local regulations that provide protection for individuals with disabilities at a level greater than that provided by the ADA.

## **Required Improvements and Exceptions**

The United States Department of Justice has made a distinction between the accessibility requirements that apply to new construction, altered construction, and maintenance activities. The United States Department of Justice has also recognized that exceptions to the design standards are allowed when applying the standards may be technically infeasible, structurally impracticable, or threatens historically significant features of a qualified historic facility.

## **ADA Compliance Program**

In compliance with the ADA, Clackamas County offers opportunities for interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the development of the plan by submitting comments and making specific recommendations.

### **Policy**

It is the policy of Clackamas County for its staff, contractors, and subcontractors to implement all federal and state requirements for accessibility into the County's new and altered capital improvements, and into all private projects providing improvements within the County's public road rights-of-way.

### **Design Exceptions**

Where it is technically infeasible or structurally impracticable to fully comply with federal or state minimum standards, Clackamas County will make every effort to provide reasonable modifications that would improve the existing conditions to facilitate access to the maximum extent feasible.

### **Maintenance of Pedestrian Facilities**

In addition to new construction and alteration projects, Clackamas County maintains its existing pedestrian facilities on an on-going basis through various its Facilities Department. Areas of need are identified by County employees and by requests from the public.

## **Reasonable Modification Policy**

### **Non-Discrimination**

No person shall, on the grounds of race color, or national origin, be excluded from participation, be denied the benefits of, or be subjected to discrimination under any County program, service or activity.

### **Individuals with Disabilities**

No qualified individual with a disability shall, by reason of such a disability, be excluded from participation, be denied the benefits of, or be subjected to discrimination under any County program, service or activity. The County shall not exclude or deny equal programs, services or activities to an individual because of the known disability.

### **Qualified Individual with a Disability**

A qualified individual with a disability is an individual with a disability who, with or without reasonable modifications 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 County.

### **Reasonable Modification**

The County shall make reasonable modification in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the County can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

### **Communications**

The County shall take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others. To this end, the County shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by the County. In determining what type of auxiliary aid or service is necessary, the County shall give primary consideration to the requests of the individual with disabilities.

### **Auxiliary Aids and Services**

1. Qualified interpreters, transcription services, written materials, assistive listening systems or other methods for individuals with hearing impairments;
2. Qualified readers, audio recordings, brailled materials, large print materials or other methods for individuals with visual impairments;
3. Acquisition of equipment needed to reasonably meet the needs of the community;



4. Other actions or modification needed to comply with ADA standards.

### **Limits of Required Modifications**

The County is not required to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens. Any decision that complies with its responsibility to provide effective communication for individuals with disabilities would fundamentally alter the service, program, or activity. The decision shall be accompanied by a written statement of the reasons for reaching that conclusion.

### **Notice**

The County shall make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of Title II of the Americans with Disabilities Act (ADA) and its applicability to the services, programs, or activities of the County. The information shall be made available in such manner as the ADA Coordinator finds necessary to apprise such persons of the protections against discrimination assured them by the ADA.

## **Notification and Effective Communication**

As required by Title II of the ADA, public agencies must notify applicants, participants, beneficiaries, and other interested persons of their rights and of the agency's obligations under Title II to prohibit discrimination on the basis of disability. The County has prepared the **Notice of Nondiscrimination** to address county-wide employment, programs and services. The Notice of Nondiscrimination is posted on the Clackamas County's Internet page.

## **Public Outreach**

Clackamas County has provided an opportunity for interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the development of the Transition Plan by submitting comments and making specific recommendations. A public comment period was announced via Clackamas County's Internet page.

After adoption, a copy of this plan will be available for public reference at Clackamas County's Internet page and for a period of no less than 3 years in compliance with Title II of the ADA. Clackamas County welcomes feedback from the public, including persons with disabilities, regarding the accessibility of its pedestrian facilities. The public can communicate these requests to Clackamas County by email, phone calls, and by filling out the ADA Complaint Form.

The ADA Coordinator, and/or other staff members appointed by the County Administrator will develop and oversee ongoing public outreach programs with the goal to disseminate information regarding Clackamas County's efforts to eliminate barriers and make the County's pedestrian rights-of-way accessible by persons with disabilities.

## **Effective Communication**

To ensure that communications with applicants, participants and members of the public with disabilities are as effective, Clackamas County offers auxiliary aids and services at no cost, when requested in advance, by individuals with disabilities. Written notification of the availability of auxiliary aids and services is provided on public meeting notices and at public information counters. Listed below is sample wording for a meeting notice:

***In compliance with the Americans with Disabilities Act, persons with disabilities may request reasonable accommodations (including auxiliary aids and services at no cost) to participate in the meeting by contacting \_\_\_\_\_ [name] at \_\_\_\_\_ [phone] or \_\_\_\_\_ [email] at least 5 business days before the scheduled event.***

In addition, it is the policy of Clackamas County to provide the following statement on meeting notices, agendas and public information documents that such documents will be provided to persons with disabilities in alternate formats (such as large print, audio tape, electronic format, etc.) upon request:

***To accommodate persons with disabilities, this document is available in alternate formats upon request.***

# Inventory and Self-Evaluation

## Self-Evaluation

As part of the Self-Evaluation process, the ADA Coordinator tasked the Facilities Department and Department Directors to evaluate all facilities, programs, services and activities operated or funded by Clackamas County, including sidewalks and curb ramps located within the public right-of-way, for ADA compliance. The findings of the evaluation of the sidewalks and curb ramps were recorded by means of pictures and written documentation of compliance factors. An Action Plan was subsequently completed by Clackamas County, listing specific policy or program modifications needed, and target dates by which the necessary changes would be corrected.

## Road Infrastructure

Clackamas County is an urban and rural county. The current road network maintained by the County has a limited amount of sidewalks and curbs ramps. Clackamas County has adopted regulations that all new construction of sidewalks and curb ramps must comply with all local, state and federal ADA requirements.

## Sidewalk Connectivity

The GIS mapping program provides a visual representation of the existing sidewalk system in the public road right-of-way. From this, missing segments of sidewalk can be identified and improvements to sidewalk connectivity can be planned.

## List of County Maintained Facilities.

Barton Park  
Carver Park  
Metzler Park  
Canby Ferry and Dock  
Eagle Fern Park  
Boones Ferry Marina  
Hebb Park  
Feyrer Park  
Barlow Wayside Park  
Feldheimer Park and Boat Ramp  
Ed LaTourette Memorial Park  
Stone Creek Golf Course  
Hood View Park  
Molalla River Area  
Boring Station Trailhead Park  
Oak Grove Ramp  
Wagon Wheel Park  
Wilhoit Springs Park  
Milwaukie Center  
Aquatic Park

Oak Lodge Library @ McLoughlin Business Park  
Stokes Building  
Clackamas County Community Corrections Center  
Willamette Building  
Abernethy Building ("Big Blue")  
Liberty Plaza  
Red Soils Plaza  
Memorial Grove  
Records Center  
Medical Examiner  
Ham Radio Modular  
Multnomah Lodge  
Holman Building  
Butler Building  
Barton Modular  
Bridge Maintenance  
Transportation Yard (including Truck Parking & Shed)  
Restrooms  
Traffic Maintenance Building  
Truck Shed  
Truck Wash  
Welding Shop  
Striper Bay  
McCoy Building  
Abernethy Complex  
Abernethy Creek Building  
Grady J. Waxenfelter Building  
Dog Services  
Barton Sand Shed & Weighmaster  
Brightwood Shop  
Clackamas County Event Center  
Gladstone Health and Wellness Center  
School-Based Health Center @ Sandy High School  
School-Based Health Center @ Oregon City High School  
School-Based Health Center @ Canby High School  
Wichita Center for Family & Community  
Acadia Gardens  
Ackerman Center  
John Wetten Elementary School  
Beavercreek Health & Wellness Center  
Beavercreek Health & Wellness Center Annex  
Homestead Building  
Sunnyside Health & Wellness Center  
Riverstone Clinic  
Women, Infants, and Children (WIC) Office  
Hilltop Behavioral Health Center  
Stewart Behavioral Health Center

Community Health Lot  
Housing Authority  
Vocational Shop  
Justice Court @ Clackamas Corner  
Juvenile Programs Building  
Juvenile Skills Center  
Juvenile Annex  
OSU Extension Service Annex  
OSU Extension Service  
Parrot Creek Boys Ranch - Grounds  
Parrot Creek Boys Ranch - Admin Building  
Parrot Creek Boys Ranch - School Building  
Parrot Creek Boys Ranch - Resident Care Dormitory  
Parrot Creek Boys Ranch - Farm House  
Parrot Creek Boys Ranch - Shelter Care Dormitory  
Parrot Creek Boys Ranch - Storage Building  
Public Safety Training Center  
Jail Mail Room  
Sheriff Substation  
Sheriff Substation @ CFD No. 1, Station No. 5  
Sheriff Substation  
Sheriff Substation  
Sheriff Substation @ CFD No. 1, Station No. 1  
Sheriff Substation  
Sheriff Substation @ CFD No. 1, Station No. 3  
Sheriff Substation @ Stringfield Park  
Sheriff Substation  
New Oregon City Boat House (see Old Oregon City Boat House FM-5200)  
Old Oregon City Boat House (see New Oregon City Boat House FM-0044)  
West Linn Boat House  
Clackamas County Jail  
Jail Shipping & Receiving  
Sheriff Fleet Administration & Shop  
Transition Center (formerly South Station)  
Jail Maintenance Facility  
Brooks Building  
Jail Work Crew Facility  
Bowman Training Center  
A Safe Place Family Justice Center for Clackamas County (formerly Shaver)  
Wilsonville Visitor Center  
Hoodland Senior Center  
Welches Community Center  
TS-2 Building  
TS-1 Building  
C-COM Building

Courthouse  
County Surplus Storage & FIDO  
Development Services Building (DSB)  
Juvenile Building  
Juvenile Modular  
Main Street Parking Lot  
Public Services Building (PSB)  
Silver Oak Building  
Central Utility Plant (CUP)  
Vector Control  
Tri-City Treatment Plant  
Kellogg Creek Water Resource Recovery Facility  
Hoodland Water Pollution Control Plant  
Boring Water Pollution Control Plant  
Fischer's Forest Park Water Pollution Control Facility  
Park Place Bridge

### **Accessible Routes**

As part of the self-evaluation, accessible routes were evaluated for compliance for all maintained structures, including roads. Accessible Routes consist of one or more of the following components:

- Walking Surfaces
- Slopes
- Curb Ramps
- Sidewalks
- Ramps
- Doors
- Thresholds
- Clearances
- Elevators

### **Funding**

Possible funding sources that the County has available for accessibility improvements include: General Fund and Community Development Block Grant (CDBG).

The availability of these funding sources is unknown at this time. In times of limited government funding, balancing available resources with needed programs will be a challenge for the County.

## **Priority**

The first step in programming accessibility construction projects is developing a priority system. Title II of the ADA gives priority to accessible pedestrian routes adjacent to or in the vicinity of state and local government offices and facilities, transportation services, places of public accommodation, facilities containing employees, and other areas such as residential neighborhoods.

For the purposes of this plan, the highest priority accessibility construction projects are those requested by qualified persons with disabilities.

The second priority projects are those that may involve a path of travel or condition of use that needs safety improvements, such as missing curb ramps or sidewalk repair, government facilities, and other public facilities.

The third priority projects are those that are of non-compliance: government facilities, and other public facilities.

The fourth priority projects are those that require infill or new construction to provide connectivity to existing pedestrian routes.

The final priority is to implement a program to continue to monitor the necessity of needed repairs or improvements to the accessible pedestrian routes maintained by Clackamas County. This program will be evaluated on an as needed basis.

Findings of self-evaluation and project priority may be found in the Action Plan found in “Appendix K – County Maintained Roads” and “Appendix L – County Facilities”

## **Service Requests and Grievance Procedure**

Title II of the ADA requires local governments with 50 or more employees to adopt and publish procedures for resolving grievances. The goal of the grievance procedure is to set out a system for resolving complaints of disability discrimination in a prompt and fair manner.

County Administration, a department of the Clackamas County has prepared the ADA Grievance Procedure, to address accessibility of pedestrian facilities, county-wide employment, programs and services. This grievance procedure and its corresponding ADA Complaint Form, as shown in Appendix “I”, are available to the public and to employees through the County’s Title II Internet pageInternet page.

### **ADA Grievance Procedure**

This Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 (ADA). The Grievance Procedure can be found in “Appendix H” of this document. It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits provided by Clackamas County for access to pedestrian facilities by persons with disabilities.

The complaint should be in writing and contain the following information regarding the alleged discrimination:

- Complainant name
- Address of complainant
- Phone number of complainant
- Location of complaint
- Date of alleged violation identified
- Description of the alleged violation

Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint will be made available for persons with disabilities upon request.

The complaint should be submitted by the complainant and/or his/her designee as soon as possible but no later than 60 calendar days after the alleged violation to the ADA Coordinator:

Emmett Wheatfall, ADA Coordinator  
County Administration  
2051 Kaen Road. PSB Suite 450  
Oregon City, Oregon 97045  
(503) 655-8291 Office  
TTY/TDD (503) 655-8757  
[civilrights@clackamas.us](mailto:civilrights@clackamas.us)

Within 30 calendar days after receipt of the complaint, the ADA Coordinator or his/her designee will contact the complainant to discuss the complaint and possible resolutions. Within 30 calendar days of contacting the complainant, the ADA Coordinator or his/her designee will respond in writing, and where appropriate, in a format accessible to the complainant such as large print, audio tape or electronic file.



The response will explain the position of Clackamas County and offer options for resolution of the complaint.

If the response by the ADA Coordinator does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision within 30 calendar days after receipt of the response to the Clackamas County Board of Commissioners.

Within 30 calendar days after receipt of the appeal, the ADA Coordinator will contact the complainant to schedule a hearing before the Clackamas County Board of Commissioners to discuss the complaint and possible resolutions. Within 30 calendar days after the appeal hearing, the ADA Coordinator will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

All written complaints received by the ADA Coordinator, appeals to the Clackamas County Board of Commissioners, and responses from these two offices will be retained by the ADA Coordinator for at least three years.

To accommodate persons with disabilities, this notice is available in alternate formats upon request.

### **Service Requests**

Clackamas County accepts requests from the public for services and maintenance, such as roadway signs, drainage, road repairs and access issues. These requests come into the County through several methods. Individuals either contact the Board of Commissioners, County Administrator, Planning and Development, ADA Coordinator by phone, email, mail or in person. Individuals may download a general complaint form or they can download and fill out an online ADA Complaint form from the ADA Coordinator at the County's Title II Internet page. Forms should be mailed or hand delivered to:

Emmett Wheatfall, ADA Coordinator  
County Administration  
2051 Kaen Road. PSB Suite 450  
Oregon City, Oregon 97045  
(503) 655-8291 Office  
TTY/TDD (503) 655-8757  
[civilrights@clackamas.us](mailto:civilrights@clackamas.us)

When accessibility requests are made, the ADA Coordinator logs the requests into a database maintained by the ADA Coordinator. The ADA coordinator reviews the request, investigates the request, and gives a recommendation for resolution to the Board of Commissioners for the approval of allocating funds, if needed, to mitigate the request. If funds are allocated, then the request and recommendation are sent to the appropriate department to make the necessary corrections. Each request is monitored from the date of receiving the request until final resolution. The ADA Coordinator summarizes the complaints and their resolution in an annual report to the Clackamas County Board of Commissioners.

Persons with disabilities are also able to file formal ADA grievances through the United States Department of Justice, United States Department of Transportation or Equal Employment Opportunity Commission.

## **Monitoring and Reporting**

Clackamas County's inventory, self-evaluation and transition plan are viewed as fluid documents and is continually updated as new accessible improvements are constructed. The modification of existing non-compliant structures and the construction of new curb structures are reported to the ADA Coordinator. The structures are inspected by the County's Facilities Department for compliance with the ADA code.

The progress of the ADA compliance program is documented in an annual report prepared by the ADA Coordinator for review by the Clackamas County Board of Commissioners.

The annual report is intended to identify the following information:

- The number of newly constructed curb ramps
- The number of modified curb ramps
- The number of barrier removals and upgrades to accessibility
- The number of design exceptions filed that identify technical infeasibility
- The total funds spent for the accessibility program
- Updates on funding availability and the efforts taken to secure extra funding
- Community outreach projects
- Summary of requests/complaints received and how requests/complaints were resolved
- Evaluation of the targeted goals of the previous year
- Establishment of targets for the upcoming year
- Information as to the long term progress of the ADA program.

The annual report is retained by the ADA Coordinator for at least three years and is made available to the public in alternate formats upon request.

The Transition Plan, as approved by the Clackamas County Board of Commissioners, provides the ADA Coordinator the authority to update this plan from time to time. The most current version of this plan as adopted by Clackamas County can be obtained by contacting the ADA Coordinator.

## Appendix A - Disability Access Laws and Regulations

Title VI of the Civil Rights Act of 1964 prohibited government agencies from discriminating on the grounds of race, color or national origin. The rights of persons with disabilities were protected under Section 504 of the Rehabilitation Act of 1973, and even further under the Americans with Disabilities Act of 1990 (ADA). Listed below is a summary of federal legislation, state legislation and case law that protect the rights of disabled persons and dictate the development of this Plan.

**Section 504 of the Rehabilitation Act of 1973.** Section 504 is widely recognized as the first civil-rights statute for persons with disabilities, requiring state and local governments that receive federal financial assistance to provide persons with disabilities equal access to government programs, services and activities.

**Americans with Disabilities Act of 1990 (ADA).** The ADA is built upon the foundation laid by Section 504 of the Rehabilitation Act. While Section 504 applies only to entities receiving federal financial assistance, the ADA covers all state and local governments, including those that receive no federal financial assistance. The ADA also applies to private businesses that meet the ADA's definition of "public accommodation" (such as restaurants, hotels, movie theaters and doctor offices), commercial facilities (such as office buildings, factories and warehouses) and many private employers. The ADA is divided into five parts, covering the following areas:

**Title I: Employment.** Under this title, employers, including governmental agencies, must ensure that their practices do not discriminate against persons with disabilities in the application, hiring, advancement, training, compensation, or discharge of an employee.

**Title II: State and Local Government Activities.** This title prohibits state and local governments from discriminating against persons with disabilities or from excluding participation in programs, services or activities to persons with disabilities. A transition plan is intended to outline the methods by which physical changes will be made to address the non-discrimination policies described in Title II. In the event that a public entity has responsibility over streets, roads or walkways, the transition plan is to include a schedule for providing accessible curb ramps or other sloped areas where pedestrians walk across streets.

**Title III: Public Accommodations.** Title III requires places of public accommodation to be accessible to and usable by persons with disabilities. The term "public accommodation" as used in the definition is often misinterpreted as applying to public agencies, but the intent of the term is to refer to any privately funded and operated facility serving the public.

**Title IV: Telecommunications.** This Title covers regulations regarding private telephone companies and requires common carriers offering telephone services to the public to increase the availability of interstate and intrastate telecommunications relay services to individuals with hearing and speech impairments.

**Title V: Miscellaneous Provisions.** This title contains several miscellaneous regulations, including construction standards and practices, provisions for attorney's fees, and technical assistance provisions.

## Appendix B - Regulatory Agencies and Resources

**U.S. Department of Justice.** The U.S. Congress has given the U.S. Department of Justice, through its Civil Rights Division, the authority for enforcing Title II of the ADA and for coordinating other federal agencies' enforcement activities under Title II. The U.S. Department of Justice published updated Title II and Title III regulations on September 15, 2010. The U.S. Department of Justice maintains an informational Internet page on ADA regulations, guidelines and updates at: [www.ada.gov](http://www.ada.gov)

### **United States Architectural and Transportation Barriers Compliance Board**

**(U.S. Access Board).** Congress established the U.S. Access Board, an independent federal agency, through Section 502 of the Rehabilitation Act of 1973. The U.S. Access Board was tasked with preparing guidelines to standardize physical accessibility requirements for buildings in order to minimize the differences between the standards previously used by four federal agencies (the General Services Administration, the Department of Housing and Urban Development, the Department of Defense and the United States Postal Service). U.S. Access Board guidelines are not enforceable as regulations until adopted, with or without modifications, by the U.S. Department of Justice and the U.S. Department of Transportation. The U.S. Access Board maintains a Internet page at: [www.access-board.gov](http://www.access-board.gov)

The U.S. Access Board published its first design guidelines, the Uniform Federal Accessibility Standards, in 1984.

In 1991, the U.S. Access Board prepared, and the U.S. Department of Justice adopted, the Americans with Disabilities Act Accessibility Guidelines for the design, construction, and alteration of buildings and facilities covered by Titles II and III of the ADA.

Facilities built before January 26, 1992, the effective date of for compliance with ADA accessibility requirements, are referred to as pre-ADA facilities. A barrier to accessibility in a pre-ADA facility could be removed using either the Americans with Disabilities Act Accessibility Guidelines or Uniform Federal Accessibility Standards, the program, service or activity could be made accessible by providing program access. Access allows the program, service or activity to be moved to an accessible location, or used some way other than making all architectural changes to make the program, service, or activity readily accessible and usable by individuals with disabilities.

Facilities built or altered after January 26, 1992 are considered post-ADA facilities and must have been built in strict compliance with either the Americans with Disabilities Act Accessibility Guidelines or Uniform Federal Accessibility Standards and made readily accessible and usable by individuals with disabilities without the option for program access.

On September 15, 2010, the U.S. Department of Justice published revised accessibility requirements incorporating updates of Titles II and III of the ADA and the U.S. Access Board's 2004 update of the Americans with Disabilities Act Accessibility Guidelines. Together, the updated ADA and 2004 Americans with Disabilities Act Accessibility Guidelines comprise the "**2010 ADA Standards for Accessible Design.**" Facilities built or altered after March 15, 2012, must use the 2010 Standards. For facilities constructed during the transition period between September 15, 2010 and March 15, 2012, public agencies could use Uniform Federal Accessibility Standards, the 1991 Standards, or the 2010 Standards. The 2010 Standards are available through the U.S. Department of Justice Internet page at: [http://www.ada.gov/2010ADASTandards\\_index.htm](http://www.ada.gov/2010ADASTandards_index.htm)

Public agencies that have brought required elements of path of travel into compliance with the 1991 Standards are not required to retrofit those elements in order to reflect incremental changes in the 2010

Standards. In these circumstances, the public entity is entitled to a safe harbor and is only required to modify elements to comply with the 2010 Standards if the public entity is planning an alteration to the element.

Since accessibility standards had primarily been developed for buildings, it has presented a challenge for state and local governments to apply building standards to public sidewalk and street systems, which have various constraints posed by space limitations, roadway design practices, slope and terrain. To address this need, the U.S. Access Board is in the process of developing new **Public Right-of-Way Accessibility Guidelines** for pedestrian access to sidewalks and streets, including crosswalks, curb ramps, street furnishings, pedestrian signals, parking and other components of public rights-of-way. The U.S. Access Board released a draft of the "Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way" on July 26, 2011 for public comment. When completed by the U.S. Access Board and adopted by the U.S. Department of Transportation and U.S. Department of Justice as standards under the ADA and Section 504, they will supersede the currently used standards and criteria. The draft **Public Right-of-Way Accessibility Guidelines** is available online at:

<http://www.access-board.gov/prowac/>

The U.S. Access Board has also developed proposed accessibility requirements for Outdoor Developed Areas, such as trails and vista points, which are intended to be added to the Americans with Disabilities Act Accessibility Guidelines as Section 16. The proposed guidelines are available online at:

<http://www.access-board.gov/outdoor/outdoor-rec-rpt.htm>

**U.S. Department of Transportation.** The U.S. Department of Justice regulations designate the U.S. Department of Transportation as the agency responsible for overseeing state and local governments' compliance with Title II of the ADA. The U.S. Department of Transportation has adopted its 2006 ADA standards, which utilize the U.S. Access Board's 2004 Americans with Disabilities Act Accessibility Guidelines, plus reinstate a requirement for detectable warnings on curb ramps. The 2006 standards also revised three other provisions concerning the location of accessible routes, bus boarding areas, and rail station platforms, which replace those in the U.S. Access Board's 2004 guidelines. The U.S. Department of Transportation regulates transportation systems including highway, railroad, transit, maritime and aviation.

**Federal Highway Administration.** The Federal Highway Administration, a division of the U.S. Department of Transportation, is responsible for implementation of pedestrian access requirements in the public right-of-way in accordance with the ADA and Section 504. The Federal Highway Administration accomplishes this through stewardship and oversight over all federal, state and local governmental agencies (public agencies) that build and maintain highways and roadways, whether or not they use federal funds on a particular project. The Federal Highway Administration has published the federal Manual on Uniform Traffic Control Devices Manual on Uniform Traffic Control Devices since 1971. The Manual on Uniform Traffic Control Devices defines the standards used by road managers nationwide to install and maintain traffic control devices on all public streets, highways, bikeways, and private roads open to public traffic. These traffic control devices include road markings, highway signs and traffic signals. The 2009 Edition of the Manual on Uniform Traffic Control Devices has an effective date of January 15, 2010. States are required to adopt the 2009 Manual on Uniform Traffic Control Devices as their legal State standard for traffic control devices. States may make modifications to the Manual on Uniform Traffic Control Devices.

## Appendix C - Disabilities and Accommodating Accessibility

**Accommodating Accessibility.** Clackamas County will make every feasible effort, upon request, to provide the various types of accommodations to persons with disabilities with regard to effective communication, and the different types of auxiliary aids and services that may be available for different types of disabilities.

**Defining Disabilities.** Under the ADA, a qualified individual with a disability is defined as:

- A person who has a physical or mental impairment that substantially limits one or more major life activities.
- A person who has a history or record of such impairment.
- A person who is perceived by others as having such impairment.

**Hearing.** A hearing impairment can include full or partial loss of hearing. Public agencies can facilitate the use of pedestrian facilities by persons with hearing disabilities by implementing some of the following design features:

- Providing clear sightlines
- Providing clear visual information
- Providing clear and simple signage utilizing symbols and pictograms
- Providing audible information louder than the ambient noise.

**Mental.** A mental impairment is a mental or psychological disorder. Public agencies can facilitate the use of pedestrian facilities by persons with mental disabilities by implementing some of the following design features:

- Providing clear and simple signage utilizing symbols and pictograms
- Providing clear audible and visual signals
- Providing a clear path of travel.

**Mobility.** Mobility impairment is a condition that substantially limits an individual's ability to move his or her body. An individual with a mobility disability may use a wheelchair or motorized scooter, or may be semi-ambulatory and use a walker. Public agencies can facilitate the use of pedestrian facilities by persons with mobility disabilities by implementing some of the following design features:

- Installing curb ramps where sidewalks intersect streets
- Minimizing longitudinal slopes in ramps
- Providing flat landings at the tops of ramps for wheelchairs to turn around
- Minimizing cross slopes of the pedestrian way
- Establishing minimum clear widths of pedestrian paths
- Maintaining pedestrian paths substantially clear of furniture, signs, poles and fire hydrants;
- Eliminating abrupt level changes within the pedestrian path of travel
- Providing firm, stable and slip-resistant surfaces along the pedestrian path of travel
- Placing pedestrian signal push buttons at accessible locations.
- Installing automatic openers on entry doors

**Visual.** A visual impairment can include full or partial loss of sight. Public agencies can facilitate the use of pedestrian facilities by persons with visual disabilities by implementing some of the following design features:

- Installing detectable warning surfaces of contrasting color signaling where a pedestrian path enters the vehicular roadway

- Installing grooves in the sidewalk to signal the beginning of a curb ramp
- Maintaining a pedestrian path substantially clear of furniture, signs, poles and fire hydrants
- Eliminating abrupt level changes within the pedestrian path
- Providing firm, stable and slip-resistant surfaces along the pedestrian path of travel
- Providing clear and simple signage utilizing symbols and pictograms
- Providing audible pedestrian signals
- Placing pedestrian signal push buttons at accessible locations.

## Appendix D - Accessibility Devices and General Requirements

Shown below is a listing of devices used to assist persons with disabilities access facilities within the public right of way in Clackamas County. Specific design requirements can be found in the *2010 ADA Standards for Accessible Design*.

**Curb Ramps.** The term “curb ramp” is often used interchangeably with “access ramp,” “ADA ramp” or “curb cut.” The most common types of curb ramps are:

- The diagonal corner curb ramp at street intersection corners
- The parallel curb ramp that runs parallel to the curb either at a curb return or a straight stretch of sidewalk and usually takes up the whole width of the sidewalk
- The built-up ramp where the ramp is elevated within the street
- The blended curb where the top of curb and street surface are at the same grade
- The dual curb ramps at street intersection corners.

**Detectable Warning Devices.** A detectable warning device alerts pedestrians with visual impairments that they need to stop and determine the nature of the hazard. The warning devices are intended to be integrated into the walking surface to be felt with pedestrians’ feet and function much like stop signs. A detectable warning device typically consists of a series of small bumps (or truncated domes) that contrast in color with the surrounding sidewalk.

**Detectable Warning Curbs.** Detectable warning curbs are used to warn persons with visual impairments using a cane of potential hazards. Detectable warning curbs generally are placed at the edge of a sidewalk with a significant drop off of four (4) inches or more or at locations of overhanging obstacles with less than an 80 inches clear height or objects protruding more than 4 inches.

**Width of Pedestrian Path of Travel.** The width of the pedestrian path of travel is 48 inches minimum, but 60 inches is preferred. The top of curb width cannot be included in the measurement of the minimum width. If the pedestrian path is 48 inches, a 60 inch by 60 inch clear space should be provided for every 200 lineal of pathway in order for wheelchairs to pass or turn around.

**Minimum Width around Obstacles.** Objects, such as street lights, utility poles, utility cabinets, fire hydrants, sign posts, signs, trash receptacles, mailboxes, newspaper stands, benches, bicycle racks, planters, trees, and opening doors, should be avoided in the pedestrian path of travel. Where obstacles exist, they must not reduce the minimum width of the pedestrian path of travel as determined by state and federal standards. The current federal minimum width around obstacles is 32 inches for short distances of 24 inches or less in the direction of travel.

**Protruding Objects.** Objects with leading edges between 27 inches and 80 inches above the finish surface shall protrude no more than 4 inches horizontally into pedestrian walkways. Post-mounted objects with a bottom edge between 27 inches and 80 inches above the finish surface may overhang no more than 12 inches. Objects, including their overhang, must not reduce the required minimum width of the pedestrian path of travel. Vertical clearance shall be 80 inches high minimum.

**Cross Slope of the Pedestrian Path of Travel.** The cross slope of the pedestrian path of travel may not exceed 2%.



**Longitudinal Slope of the Pedestrian Path of Travel.** The longitudinal slope of the pedestrian route of travel may follow the grade of the adjacent street. Where the pedestrian access route is not contained within the road right-of-way, the grade of the pedestrian access route is limited to 5% maximum.

**Surfaces.** The surface material of pedestrian access routes shall be firm, stable, and slip-resistant. Decorative surfaces utilizing bricks, concrete pavers, cobble stones or stamped concrete shall have a maximum of ¼ inch change in elevation every 30 inches and shall be designed to avoid excessive vibration or mobility difficulties for persons in wheelchairs. Where there is a change of surface material along the pedestrian path of travel, consideration should be given so that there are no abrupt changes in level.

**Changes in Level.** Abrupt changes in level create potential tripping hazards and obstacles for persons with mobility disabilities. Abrupt level changes in the pedestrian route of travel shall be no more than 0.25 inch. Abrupt changes in level more than 0.25 inch but less than 0.50 inch may be repaired with a 2:1 bevel. No abrupt level changes of more than 0.50 inch (with the bevel) are allowed along the path of travel. If the adjoining ground at the back of walk is below the sidewalk finished surface, then there must be a 2 foot level area with not more than a 4 inch drop. If the ground drops more than 4 inches in 2 feet, then a 6 inch high detectable warning curb shall be installed at the back of curb. If the level change between the pedestrian path of travel and the adjacent surface exceeds 30 inches, then a hand rail or guard must be installed.

**Hand Rails.** The top of the gripping surface of a handrail shall be 34 inches minimum and 38 inches maximum vertically above the walking surface. The handrail gripping surface shall have an outside diameter of 1.25 inches minimum and 2 inches maximum.

**Grates.** Grates, such as those for drainage or tree wells, shall be avoided in the pedestrian path of travel. Drainage grates shall especially be avoided within the limits of marked crosswalks. Where located in the pedestrian path of travel, horizontal openings shall be no more than ½ inch in the direction of travel.

**On-Street Parking Spaces.** Where on-street parking is marked, a number of accessible parking spaces shall be provided in accordance with the table provided in the Clackamas County Zoning Ordinance.

**Trails.** Accessibility requirements for trails are based on the function of the trail. Shared use paths and pedestrian trails that function as sidewalks shall meet the same requirements as sidewalks, including detectable warnings at street crossings. Shared use paths and pedestrian trails that function as trails should meet the accessibility guidelines as currently proposed by the U.S. Access Board for Outdoor Developed Areas. Recreational trails primarily for equestrians, mountain bicyclists, snowmobile users, or off-highway vehicle users, are exempt from accessibility requirements even though they have occasional pedestrian use. Most trailside structural facilities, such as parking areas, restrooms and pavilions must meet accessibility requirements.

## Appendix E - Required Improvements and Exceptions

**Elimination of Barriers.** When curb returns are located at street intersection corners, the curb presents a barrier for persons with mobility impairments to cross the street. The ADA specifies that when roads or sidewalks are *newly built* or *altered*, curb ramps must be installed concurrently to eliminate these barriers.

To address existing curb barriers at locations where no new construction or alterations are immediately proposed, the ADA requires a public agency to prepare a Transition Plan to schedule the elimination of all existing curb barriers at intersections where there are no curb ramps or where existing curb ramps do not meet current accessibility standards.

**Alterations and Maintenance.** Since public agencies are required to remedy access barriers concurrently with *new* or *altered* improvements, but not with routine maintenance activities, there has been a need to clarify the distinction between alterations and maintenance.

Alteration projects include reconstruction, major rehabilitation, structural resurfacing of 0.125 feet or greater depth, widening, traffic signal installation, pedestrian signal installation and projects of similar scale and effect. Alteration projects must incorporate accessible pedestrian improvements at the same time as the alterations to the roadway.

Maintenance activities are not considered alterations and do not require simultaneous improvements for pedestrian accessibility under the ADA. Examples of maintenance activities include joint repair, pavement patching, shoulder repair, signing, striping, minor signal upgrades and repairs to drainage facilities.

**Design Standards and Exceptions.** Minimum design criteria for accessible pedestrian facilities have been established and published by several regulatory agencies as described in Appendix B. A summary of the technical standards as they apply to pedestrian facilities in the County's public road right-of-way is discussed in Appendix D.

Under Title II, public agencies are not required to construct stand-alone accessibility improvements identified in an agency's Transition Plan 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, or if the modification of a barrier to accessibility would threaten or destroy the historic significance of a qualified historic building or facility, or would be technically infeasible or structurally impracticable.

**Cost as a Factor.** The applicability of the undue burden defense is limited to existing facilities, and not to new or altered improvements.

Cost may be a factor in determining whether to undertake a stand-alone accessibility improvement identified in a Transition Plan. For example, if an existing highway, not scheduled for an alteration, is listed in the public agency's Transition Plan as needing curb ramps, the public agency may consider costs that are unduly burdensome.

The test for being unduly burdensome is the proportion of the cost for accessibility improvements compared to the agency's overall budget, not simply the project cost.

The regulations concerning new construction and alterations are substantially more stringent. With respect to any element of new or altered improvements that is within the scope of a project and is not technically infeasible, the U.S. Department of Justice's written guidance provides that cost is not a factor. When a public entity independently decides to alter a facility, it shall, to the maximum extent feasible, be altered in such a manner that the altered portion of the facility is readily accessible to and usable by individuals with disabilities.

**Qualified Historic Facilities.** A qualified historic facility is one that is listed in the National Register of Historic Places or designated as historic under an appropriate state or local law. Where the authorized Historic Preservation Officer determines that compliance with an accessibility requirement would threaten or destroy historically significant features of a qualified historic facility, compliance is still required to the extent that it does not threaten or destroy historically significant features of the facility.

**Technical Infeasibility/Structural Impracticability.** According to Title II, compliance is considered technically infeasible in those rare circumstances when the unique characteristics of terrain prevent the incorporation of accessibility features. In that case, any portion of the facility that can be made accessible will need to be made accessible to the extent that it is not technically infeasible or structurally impracticable. Furthermore, if accommodating access for individuals with certain disabilities (e.g., those who use wheelchairs) would be technically infeasible, accessibility shall nonetheless be ensured to persons with other types of disabilities (e.g., those who have sight, hearing or mental impairments).

For example, if a curb ramp is required along a street with curb-adjacent sidewalk where the street grade is approximately 8%, then installing an 8.33% curb ramp would be impractical. In such a case, the public agency would still install a curb ramp, albeit steeper, because a steeper ramp would be preferred over no ramp at all.

Existing physical constraints may include underlying terrain, underground structures, adjacent developed facilities, drainage or the presence of a notable natural or historic feature.

## Appendix F - Text from ADA Title II Regulations

The ADA Title II Regulations, 28 CFR Part 35, requires public entities to evaluate their current services, policies and practices to ensure persons with disabilities are protected from discrimination on the basis of disability. Selected sections of 28 CFR Part 35 is shown below describing the requirements for non-discrimination, self-evaluation, transition plan, ADA coordinator, grievance procedure, and notice. The full text can be found at: [www.ada.gov](http://www.ada.gov)

### **ADA Title II Regulations – Nondiscrimination on the Basis of Disability in State and Local Government Services (28 CFR Part 35; amended September 15, 2010; effective March 15, 2011)**

**§ 35.101 Purpose.** The purpose of this part is to effectuate subtitle A of title II of the Americans with Disabilities Act of 1990 (42 U.S. C. 12131), which prohibits discrimination on the basis of disability by public entities.

#### **§35.105 Self-evaluation.**

(a) A public entity shall, within one year of the effective date of this part, evaluate its current services, policies, and practices, and the effects thereof, that do not or may not meet the requirements of this part and, to the extent modification of any such services, policies, and practices is required, the public entity shall proceed to make the necessary modifications.

(b) A public entity shall 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.

(c) A public entity that employs 50 or more persons shall, for at least three years following completion of the self-evaluation, maintain on file and make available for public inspection:

- (1) A list of the interested persons consulted;
- (2) A description of areas examined and any problems identified; and
- (3) A description of any modifications made.

(d) If a public entity has already complied with the self-evaluation requirement of a regulation implementing section 504 of the Rehabilitation Act of 1973, then the requirements of this section shall apply only to those policies and practices that were not included in the previous self-evaluation.

#### **§35.106 Notice.**

A public entity shall make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of this part and its applicability to the services, programs, or activities of the public entity, and make such information available to them in such manner as the head of the entity finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this part.

#### **§ 35.107 Designation of responsible employee and adoption of grievance procedures.**

(a) Designation of responsible employee. A public entity that employs 50 or more persons shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part, including any investigation of any complaint communicated to it alleging its noncompliance with this part or alleging any actions that would be prohibited by this part. The public entity shall make available to all interested individuals the name, office address, and telephone number of the employee or employees designated pursuant to this Paragraph.

(b) Complaint procedure. A public entity that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by this part.

**§ 35.130 General prohibitions against discrimination.**

(a) No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.

**§ 35.150 Existing facilities**

(a) General. A public entity shall operate each service, program, or activity so that the service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. This paragraph does not—

- (1) Necessarily require a public entity to make each of its existing facilities accessible to and usable by individuals with disabilities;
- (2) Require a public entity to take any action that would threaten or destroy the historic significance of an historic property; or
- (3) Require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. In those circumstances where personnel of the public entity believe that the proposed action would fundamentally alter the service, program, or activity or would result in undue financial and administrative burdens, a public entity has the burden of proving that compliance with §35.150(a) of this part would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the head of a public entity or his or her designee after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, a public entity shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with disabilities receive the benefits or services provided by the public entity.

(b) Methods.

- (2)(i) Safe harbor. Elements that have not been altered in existing facilities on or after March 15, 2012, and that comply with the corresponding technical and scoping specifications for those elements in either the 1991 Standards or in the Uniform Federal Accessibility Standards (UFAS), Appendix A to 41 CFR part 101– 19.6 (July 1, 2002 ed.), 49 FR 31528, app. A (Aug. 7, 1984) are not required to be modified in order to comply with the requirements set forth in the 2010 Standards.

(d) Transition plan.

- (1) In the event that structural changes to facilities will be undertaken to achieve program accessibility, a public entity that employs 50 or more persons shall develop, within six months of January 26, 1992, a transition plan setting forth the steps necessary to complete such changes. A public entity 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. A copy of the

transition plan shall be made available for public inspection.

(2) If a public entity has responsibility or authority over streets, roads, or walkways, its transition plan shall include a schedule for providing curb ramps or other sloped areas where pedestrian walks cross curbs, giving priority to walkways serving entities covered by the Act, including State and local government offices and facilities, transportation, places of public accommodation, and employers, followed by walkways serving other areas.

(3) The plan shall, at a minimum—

(i) Identify physical obstacles in the public entity's facilities that limit the accessibility of its programs or activities to individuals with disabilities;

(ii) Describe in detail the methods that will be used to make the facilities accessible;

(iii) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(iv) Indicate the official responsible for implementation of the plan.

(4) If a public entity has already complied with the transition plan requirement of a Federal agency regulation implementing section 504 of the Rehabilitation Act of 1973, then the requirements of this paragraph (d) shall apply only to those policies and practices that were not included in the previous transition plan.

### **§ 35.151 New construction and alterations**

(a) *Design and construction.*

(1) Each facility or part of a facility constructed by, on behalf of, or for the use of a public entity shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities, if the construction was commenced after January 26, 1992.

(2) *Exception for structural impracticability.*

(i) Full compliance with the requirements of this section is not required where a public entity can demonstrate that it is structurally impracticable to meet the requirements. Full compliance will be considered structurally impracticable only in those rare circumstances when the unique characteristics of terrain prevent the incorporation of accessibility features.

(ii) If full compliance with this section would be structurally impracticable, compliance with this section is required to the extent that it is not structurally impracticable. In that case, any portion of the facility that can be made accessible shall be made accessible to the extent that it is not structurally impracticable.

(iii) If providing accessibility in conformance with this section to individuals with certain disabilities (*e.g.*, those who use wheelchairs) would be structurally impracticable, accessibility shall nonetheless be ensured to persons with other types of disabilities, (*e.g.*, those who use crutches or who have sight, hearing, or mental impairments) in accordance with this section.

(b) *Alterations.*

(1) Each facility or part of a facility altered by, on behalf of, or for the use of, a public entity in a manner that affects or could affect the usability of the facility or part of the facility

shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by individuals with disabilities, if the alteration was commenced after January 26, 1992.

(2) The path of travel requirements of § 35.151(b)(4) shall apply only to alterations undertaken solely for purposes other than to meet the program accessibility requirements of § 35.150.

(3) Historic properties:

(i) Alterations to historic properties shall comply, to the maximum extent feasible, with the provisions applicable to historic properties in the design standards specified in § 35.151(c).

(ii) If it is not feasible to provide physical access to an historic property in a manner that will not threaten or destroy the historic significance of the building or facility, alternative methods of access shall be provided pursuant to the requirements of § 35.150.

(4) *Path of travel.* An alteration that affects or could affect the usability of or access to an area of a facility that contains a primary function shall be made so as to ensure that, to the maximum extent feasible, the path of travel to the altered area and the restrooms, telephones, and drinking fountains serving the altered area are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the cost and scope of such alterations is disproportionate to the cost of the overall alteration.

(i) *Primary function.* A “primary function” is a major activity for which the facility is intended. Areas that contain a primary function include, but are not limited to, the dining area of a cafeteria, the meeting rooms in a conference center, as well as offices and other work areas in which the activities of the public entity using the facility are carried out.

(A) Mechanical rooms, boiler rooms, supply storage rooms, employee lounges or locker rooms, janitorial closets, entrances, and corridors are not areas containing a primary function. Restrooms are not areas containing a primary function unless the provision of restrooms is a primary purpose of the area, *e.g.*, in highway rest stops.

(B) For the purposes of this section, alterations to windows, hardware, controls, electrical outlets, and signage shall not be deemed to be alterations that affect the usability of or access to an area containing a primary function.

(ii) A “path of travel” includes a continuous, unobstructed way of pedestrian passage by means of which the altered area may be approached, entered, and exited, and which connects the altered area with an exterior approach (including sidewalks, streets, and parking areas), an entrance to the facility, and other parts of the facility.

(A) An accessible path of travel may consist of walks and sidewalks, curb ramps and other interior or exterior pedestrian ramps; clear floor paths through lobbies, corridors, rooms, and other improved areas; parking access aisles; elevators and lifts; or a combination of these elements.

(B) For the purposes of this section, the term “path of travel” also includes the restrooms, telephones, and drinking fountains serving the altered area.

(C) *Safe harbor.* If a public entity has constructed or altered required elements of a path of travel in accordance with the specifications in either the 1991 Standards or the Uniform Federal Accessibility Standards before March 15, 2012, the public entity is not required to retrofit such elements to reflect incremental changes in the 2010 Standards solely because of an alteration to a primary function area served by that path of travel.

(iii) *Disproportionality.*

(A) Alterations made to provide an accessible path of travel to the altered area will be deemed disproportionate to the overall alteration when the cost exceeds 20 % of the cost of the alteration to the primary function area.

(B) Costs that may be counted as expenditures required to provide an accessible path of travel may include:

(1) Costs associated with providing an accessible entrance and an accessible route to the altered area, for example, the cost of widening doorways or installing ramps;

(2) Costs associated with making restrooms accessible, such as installing grab bars, enlarging toilet stalls, insulating pipes, or installing accessible faucet controls;

(3) Costs associated with providing accessible telephones, such as relocating the telephone to an accessible height, installing amplification devices, or installing a text telephone (TTY); and

(4) Costs associated with relocating an inaccessible drinking fountain.

(iv) *Duty to provide accessible features in the event of disproportionality.*

(A) When the cost of alterations necessary to make the path of travel to the altered area fully accessible is disproportionate to the cost of the overall alteration, the path of travel shall be made accessible to the extent that it can be made accessible without incurring disproportionate costs.

(B) In choosing which accessible elements to provide, priority should be given to those elements that will provide the greatest access, in the following order—

(1) An accessible entrance;

(2) An accessible route to the altered area;

(3) At least one accessible restroom for each sex or a single unisex restroom;

(4) Accessible telephones;

(5) Accessible drinking fountains; and



(6) When possible, additional accessible elements such as parking, storage, and alarms.

## Appendix G – Notice of Nondiscrimination

### Notice of Nondiscrimination Under the Americans with Disabilities Act

In accordance with the requirements of title II of the Americans with Disabilities Act of 1990 (“ADA”), Clackamas County will not will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities.

*Employment:* Clackamas County does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under Title I of the ADA.

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

*Modification to Policies and Procedures:* Clackamas County will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. For example, individuals with service animals are welcomed in Clackamas County offices, even where pets are generally prohibited.

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of Clackamas County, should contact the office of the ADA Coordinator.

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

Complaints that a program, service, or activity of Clackamas County is not accessible to persons with disabilities should be directed to the ADA Coordinator, at (503) 655-8291 or TTY/TDD (503) 655-8757.

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

## Appendix H – Grievance Procedure

### Clackamas County Grievance Procedure Under the Americans with Disabilities Act

#### ADA Grievance Procedure

This Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 (ADA). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits provided by Clackamas County for access to pedestrian facilities by persons with disabilities.

The complaint should be in writing and contain the following information regarding the alleged discrimination:

- Complainant name
- Address of complainant
- Phone number of complainant
- Location of complaint
- Date of alleged violation identified
- Description of the alleged violation

Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint will be made available for persons with disabilities upon request.

The complaint should be submitted by the complainant and/or his/her designee as soon as possible but no later than 60 calendar days after the alleged violation to the ADA Coordinator:

Emmett Wheatfall, ADA Coordinator  
County Administration  
2051 Kaen Road. PSB Suite 450  
Oregon City, Oregon 97045  
(503) 655-8291 Office  
TTY/TDD (503) 655-8757  
[civilrights@clackamas.us](mailto:civilrights@clackamas.us)

Within 30 calendar days after receipt of the complaint, the ADA Coordinator or his/her designee will contact the complainant to discuss the complaint and possible resolutions. Within 30 calendar days of contacting the complainant, the ADA Coordinator or his/her designee will respond in writing, and where appropriate, in a format accessible to the complainant such as large print, audio tape or electronic file.

The response will explain the position of Clackamas County and offer options for resolution of the complaint.

If the response by the ADA Coordinator does not satisfactorily resolve the issue, the complainant

and/or his/her designee may appeal the decision within 30 calendar days after receipt of the response to the Clackamas County Board of Commissioners.

Within 30 calendar days after receipt of the appeal, the ADA Coordinator will contact the complainant to schedule a hearing before the Clackamas County Board of Commissioners to discuss the complaint and possible resolutions. Within 30 calendar days after the appeal hearing, the ADA Coordinator will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

All written complaints received by the ADA Coordinator, appeals to the Clackamas County Board of Commissioners, and responses from these two offices will be retained by the ADA Coordinator for at least three years.

To accommodate persons with disabilities, this notice is available in alternate formats upon request.

# Appendix I – Formal Written Complaint Form

**Clackamas County ADA Coordinator  
County Administration  
2051 Kaen Road PSB Suite 450  
Oregon City, Oregon 97045  
(503) 655-8291 Office (503) 655-8757  
TTY/TDD  
Email: [civilrights@clackamas.us](mailto:civilrights@clackamas.us)**

## ADA Formal Written Complaint Form

*Please 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 complete below:*

Name: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

Other Contact Information: \_\_\_\_\_

Program/Facility 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: \_\_\_\_\_

---

ADA Coordinator Representative: \_\_\_\_\_

Date: \_\_\_\_\_

## Appendix J – Request for Accommodation

Clackamas County ADA Coordinator  
County Administration  
2051 Kaen Road PSB Suite 450  
Oregon City, Oregon 97045  
(503) 655-8291 Office (503) 655-8757  
TTY/TDD  
Email: [civilrights@clackamas.us](mailto:civilrights@clackamas.us)

### ADA Request for Accommodation

*Please 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 complete below:*

Name: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

Other Contact Information: \_\_\_\_\_

Check One:                    Accommodation                    Barrier Removal

Accommodation needed or location of barrier: \_\_\_\_\_

\_\_\_\_\_

Brief statement of why the accommodation is needed or the barrier removed: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date accommodation is needed \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

ADA Coordinator Representative: \_\_\_\_\_

Date: \_\_\_\_\_



