

**CITY OF MORGANTOWN, WEST VIRGINIA**

**ADA COMPLIANCE MANUAL  
TITLE II SELF-EVALUATION/TRANSITION PLAN  
OF COMPLIANCE WITH THE REQUIREMENTS OF  
THE AMERICANS WITH DISABILITIES ACT**

**1994**

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**The City of Morgantown, West Virginia is committed to complying with the requirements of the Americans with Disabilities Act (ADA). As required by law, the City of Morgantown has completed a self-evaluation/transition plan. This document follows, in large part, the ADA compliance planning process outline provided by *The Title II Action Guide for State and Local Governments* that was written and produced by Adaptive Environments Center, Inc. under contract to Barrier Free Environments, Inc., through National Institute on Disability and Rehabilitation Research grant (# H133D10122).**

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## **Introduction**

### **About the Title II Self-Evaluation/Transition Plan**

This document is a general description of the City of Morgantown's past, present, and future ADA compliance process for meeting the Department of Justice requirements for state and local government entities. It features a comprehensive planning and implementation process that will help ensure that the City of Morgantown will provide equal opportunity to people with disabilities to participate in programs, services, and activities. This Self-Evaluation and Transition Plan was developed in close cooperation with City of Morgantown officials, various community organizations that serve people with disabilities, citizens with disabilities, and other federal, state, and local government entities. It was decided early in the ADA compliance process by City administration that this document and planning process would not only meet ADA Title II regulations, but would lead to a community-wide approach that would encourage commitment to the broader intent of the ADA legislation.

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

The Americans with Disabilities Act (ADA), signed into law by President Bush on July 26, 1990, is undeniably the most comprehensive formulation of the rights of people with disabilities in the history of the United States.

There are numerous citizens of Morgantown and the surrounding Monongalia County that have some kind of physical, sensory, cognitive, or mental disability. A precise figure is hard to find, however, regardless of the figure, the importance of the ADA is not hard to express. The ADA's far-reaching provisions for employment, state and local government, transportation, public accommodations, and telecommunications, therefore, have the potential to benefit almost everyone.

### **Title II of the ADA**

The Title II regulations prohibit the City of Morgantown from discriminating against or excluding people from programs, services, or activities on the basis of disability. The City of Morgantown is classified as a public entity receiving federal funds, therefore, is very familiar with similar requirements of Section 504 of the Rehabilitation Act of 1973. Title II extends the requirements of Section 504 to all public entities – whether or not they receive federal funds. Public entities covered by Title II include state and local governments, including all departments, agencies, special purpose districts, or other instrumentalities.

The provisions of title II fall into four broad areas: (1) general nondiscrimination, (2) equally effective communications, (3) program accessibility, and (4) employment. Equal opportunity will be provided by the City of Morgantown through reasonable modifications to policies, practices, or procedures; effective communication will be ensured through the provisions of auxiliary aids and services; programs will be made accessible through nonstructural (programmatic) or architectural modifications; and nondiscriminatory employment practices.

Like Section 504, Title II requires public entities to conduct a self-evaluation of policies and practices. However, because the City of Morgantown conducted Section 504 self-evaluations in the past and programs tend to change, the U.S. Department of Justice regulations encourage public entities like the City of Morgantown to conduct a comprehensive review of all current programs.

### **The 5-4-3 Approach to Implementation**

This Self-Evaluation and Transition Plan presents a practical and manageable approach to compliance that the City of Morgantown can use to meet their administrative requirements as well as their ongoing goal of making all programs available to people with disabilities. This “5-4-3 approach” is an effective strategy that can be easily communicated and coordinated.

### **Five Action Steps**

1. Designate a responsible employee
2. Provide a notice of ADA requirements
3. Establish a grievance procedure
4. Conduct the self-evaluation
5. Develop a transition plan

### **Four Principles**

1. Commitment from City leaders
2. Coordination of the compliance activities
3. Involvement of people with disabilities
4. Institutionalization of compliance procedures

### **Three Phases**

1. Planning for compliance
2. Conducting the self-evaluation
3. Implementing modifications

## **Organization of the Title II Self-Evaluation/Transition Plan**

### **Section 1: Overview of Title II**

Section 1 discusses the legal requirements of Title II regulations, including the requirements concerning general nondiscrimination, program accessibility, effective communication, and employment.

### **Section 2: Action Steps**

Section 2 summarizes the five administrative requirements the City of Morgantown has addressed in order to bring themselves into compliance with the regulations. It includes a public notice and grievance procedure.

### **Section 3: Implementation**

Section 3 discusses the four principles of effective compliance and how they will be applied to the everyday workings of city government. It will illustrate the three-phase approach to compliance that has guided the City of Morgantown from the planning through conducting a self-evaluation and carrying out structural and nonstructural modifications.

### **Section 4: Self-Evaluation**

Section 4 will discuss the City of Morgantown's comprehensive review of the policies and practices of all programs, activities, and services operated by the City of Morgantown to ensure that they are in compliance with ADA requirements. The Self-Evaluation has covered four major areas: general nondiscrimination provisions, communications, program and facility accessibility, and employment.

### **Section 5: Transition Plan**

Section 5 will discuss the City of Morgantown's Transition Plan for each facility, listing all barriers to be removed, descriptions of modifications, cost estimates, and anticipated completion dates.

## **Section 1: Overview of Title II**

A thorough understanding of the requirements of Title II of the ADA, which applies to all activities and services of state and local government, is essential for public sector entities. This section will provide a road map to the contents of the law and the provisions of the regulations. Since this is a summary of the law and the regulations, readers should refer to the complete text of the regulations before undertaking specific compliance activities.

### **Basic Building Blocks of Title II**

This section will define the basic terms and concepts of Title II, such as the definitions of *public entity*, *disability* and *qualified individual with a disability*. Effective dates, enforcement, and defenses will also be discussed.

### **Who must comply with Title II?<sup>1</sup>**

A public entity covered by this section of the ADA is defined as:

- 1) Any state or local government
- 2) Any department, agency, special purpose district, or other instrumentality of a state or local government
- 3) Certain commuter authorities and AMTRAK

### **What Activities Are Covered?**

Title II of the ADA prohibits discrimination against qualified individuals with disabilities by public entities. Activities covered include:

- The operation of all services and programs offered by the entity
- All aspects of the employment relationship
- Government services carried out by contactors
- Activities of state and local legislative and judicial branches
- Public transportation

With the passage of the ADA, people with disabilities are for the first time assured of access to all publicly funded programs, services, and agencies. Title II applies regardless of the size of the public entity. In addition, the requirements apply regardless of the entity's source of funding whether federal, state, or local<sup>2</sup>.

Public entities that receive federal funds will be subject to the requirements of both the ADA and Section 504 of the Rehabilitation Act of 1973. State or local nondiscrimination laws may also regulate the activities of public entities. The ADA does not preempt those laws that offer protections that are the same or stricter.

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<sup>1</sup> 28 C.F.R. §35.104

<sup>2</sup> **The Rehabilitation Act of 1973**, 29 U.S.C. Sec. 791 et seq. is a federal law that prohibits discrimination on the basis of disability. Section 501 of the Rehabilitation Act prohibits discrimination on the basis of disability in employment by federal agencies. Section 503 regulates employment practices of certain federal contractors. Section 504 applies to all programs receiving federal financial assistance and all operations of federal executive agencies.

Many units of state and local government are recipients of federal financial assistance and are therefore covered by Section 504.

### **How is Disability Defined?**

The ADA utilizes a three-pronged definition of disability. For the purposes of coverage under the ADA, a person with a disability is defined as an individual who<sup>3</sup>:

- 1) Has a physical or mental impairment that substantially limits one or more major life activities<sup>4</sup>; or
- 2) Has a record or history of such an impairment; or
- 3) Is perceived or regarded as having such an impairment.

The phrase *major life activities* functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

The determination of whether or not an impairment substantially limits a major life activity is made on an individual basis, and is not based on the *existence* of a condition or impairment, but rather by its *impact* on the individual. A substantial impairment will be found when the conditions, manner, or duration under which the individual can perform a major life activity are limited when compared to most people.

Whether conditions of a limited duration are defined as disabilities will be determined on a case-by-case basis depending upon the extent to which the condition actually limits a major life activity and the expected duration of the impairment. Generally, an injury such as a broken leg will not be considered a disability. However, a serious leg break, where numerous surgeries and extensive rehabilitation will be necessary to regain normal function, substantially limits such major life activities as walking and caring for oneself, and, therefore, will be considered a disability under Title II.

- 1) **The first prong of the definition of disability under the ADA** includes conditions commonly regarded as disabilities because they are physical or mental impairments<sup>5</sup> that substantially limit one or more major life activities.

Other examples of individuals that fall within the first prong of the definition may include people who have arthritis, heart disease, cerebral palsy, multiple sclerosis, HIV (symptomatic or asymptomatic) alcoholism, or mental illness, when the condition substantially limits one or more major life activities. Physical characteristics, such as eye color, or environmental, cultural, or economic disadvantages are not considered to be physical or mental impairments. Age, in and of itself, is not an impairment.

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<sup>3</sup> 28 C.F.R. §35.104

<sup>4</sup> 28 C.F.R. §35.104

<sup>5</sup> **Definition of Physical or Mental Impairment:** The regulations for Title II define the phrase *physical or mental impairment* to mean: (A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organ, respiratory (including speech and organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; or (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, specific learning disabilities. (28 C.F.R. §35.104)

- 2) **The second prong of the definition of disability under the ADA** protects people who have a history or record of an impairment that substantially limits a major life activity. The second prong of the definition also includes individuals who are misclassified as having a disability.
- 3) **The third prong of the definition of disability under the ADA** includes people who are not, in fact, limited in any major life activity but are perceived or regarded as having a disability, sometimes because of myth, fear, or stereotype.

The regulations do not attempt to provide an all-inclusive list of disabilities that are covered under the ADA. In part, this is a recognition of the fact that new conditions may be identified that would fall within the definition (consider AIDS, which was unheard of just a few years ago). Such determinations must generally be made on a case-by-case basis.

### **Exclusions from the Definition of Disability<sup>6</sup>**

The term disability excludes the following conditions: transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, other sexual behavior disorders, compulsive gambling, kleptomania, pyromania, and psychoactive substance use disorders resulting from the current illegal use of drugs. Moreover, the phrase *physical or mental impairment* does not include homosexuality or bisexuality; those orientations are not considered disabilities under the ADA.

### **Illegal Use of Drugs<sup>7</sup>**

Although drug addiction falls within the definition of disability in the ADA, a public entity may withhold services or benefits from a person who is *currently* engaging in the illegal use of drugs. By contrast, a person with a history of drug use who has been successfully rehabilitated or someone who is participating in a drug rehabilitation program and not engaging in the illegal use of drugs. Illegal use also does not include individuals who are taking controlled substances under a prescription.

Alcohol is not a controlled substance; alcoholism is recognized as a disability under the ADA.

### **Associational Discrimination<sup>8</sup>**

The ADA extends its protections to people who do not have disabilities themselves but are discriminated against on the basis of their association with a person who has a disability. The association can be with family members, friends, or any other person.

A person who experiences associational discrimination has the right to relief under the ADA, but is not entitled to request reasonable accommodation in employment, as people who have disabilities themselves are entitled to do.

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<sup>6</sup> 28 C.F.R. §35.104

<sup>7</sup> 28 C.F.R. §35.104, 28 C.F.R. §35.131

<sup>8</sup> 28 C.F.R. §35.130(g)

## **Who is a Qualified Individual with a Disability?<sup>9</sup>**

Protections under Title II of the ADA are specifically afforded to qualified individuals with disabilities. Not every person with a disability (someone who falls within the three-part definition<sup>10</sup>) is a *qualified* individual with a disability. The definition of *qualified individual with a disability* takes two forms, depending on the type of Title II activity involved. For purposes of determining participation in the services and programs offered by a public entity, a person is considered to be qualified if the individual meets the essential eligibility requirements for the receipt of services or participation in programs. For purposes of employment, an individual is considered to be qualified if the person is able to perform the essential functions of the job with or without reasonable accommodation.

## **Direct Threat to Health and Safety<sup>11</sup>**

If an individual poses a direct threat to the health and safety of others, he or she is not considered a qualified individual with a disability. Based on reliable information, this individual may be excluded from a public entity's program or service. A direct threat must be a significant risk to the health and safety of others that cannot be eliminated or reduced to safe levels through the provision of auxiliary aids and services or the reasonable modification of policies or practices. The determination of the existence of a direct threat must be based on objective factual evidence and not stereotypes or misconceptions about a person's disability.

Factors to be considered in determining whether an individual poses a direct threat include: (1) the duration, nature, and severity of the potential harm; (2) the likelihood the potential injury will occur; and (3) whether reasonable modification in policies, practices, or procedures will mitigate or eliminate risk.

## **What are the Effective Dates of Title II?**

Title II became effective on January 26, 1992. Therefore, the requirements concerning the operation of programs and services and nondiscrimination in employment, discussed below, are already in effect. Specific dates for compliance with particular requirements of Title II are discussed in Section 2.

## **How is Title II Enforced?<sup>12</sup>**

Title II provides three methods of enforcement:

- 1) Individuals may **complain under the entity's grievance procedure**. (In order to encourage public entities to resolve disputes internally, the ADA requires that public entities with 50 or more employees establish an internal grievance procedure for the resolution of complaints).<sup>13</sup>
- 2) Individuals may **file administrative complaints with a designated federal agency or with the U.S. Department of Justice**. Administrative complaints must be filed within 180

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<sup>9</sup> 28 C.F.R. §35.104

<sup>10</sup> 29 C.F.R. §1630.2(m)

<sup>11</sup> 28 C.F.R. §35.104, 29 C.F.R. §36.20

<sup>12</sup> 28 C.F.R. §35.107(b)

<sup>13</sup> 28 C.F.R. §§35.170-35.174, 28 C.F.R. §35.190

days of the date the alleged discrimination occurred. (An extension may be allowed for good cause.) The reviewing agency will investigate the charge and, if it finds a violation, will seek to obtain a voluntary compliance agreement with the entity. If voluntary compliance is not achieved, the charge will be referred to the Department of Justice for enforcement.

- 3) Individuals have the right to file a lawsuit for injunctive relief and damages. The prevailing party in an administrative or court action may recover reasonable attorney fees and related costs.<sup>14</sup>

An individual may choose to pursue any or all of these methods. It is not necessary to exhaust internal or administrative remedies before filing a court action. Individuals are protected from any retaliation or coercion when pursuing their rights or responsibilities under the ADA.

### **Relationship Between the ADA and State and Local Laws<sup>15</sup>**

The ADA does not supersede or preempt state or local laws that offer equivalent or greater protections. Public entities must evaluate the Title II requirements in light of state and local laws to ensure that the entity is in compliance with the stricter standard<sup>16</sup>.

## **OVERVIEW OF REQUIREMENTS FOR PUBLIC ENTITIES**

The requirements of Title II fall into four broad areas:

- 1) General nondiscrimination requirement
- 2) Equally effective communication
- 3) Program accessibility
- 4) Employment

Each of these key areas of the law is discussed below.

Title II also identifies steps that must be undertaken by public entities to comply with the ADA. These include designation of an employee to be responsible for ADA compliance, provision of notice to the public about the terms of the ADA, establishment of an internal grievance procedure, and completion of a self-evaluation and transition plan.

### **1) General Nondiscrimination Requirements<sup>17</sup>**

The basic mandate of Title II is that no qualified individual with a disability shall be excluded from participation, denied benefits, services, or access to programs or activities, or be subjected to discrimination by any public entity. While this mandate is very broad, the following eight areas are specifically identified in the regulation.

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<sup>14</sup> 42 U.S.C. §12133, 28 C.F.R. §35.175

<sup>15</sup> 28 C.F.R. §35.134

<sup>16</sup> 28 C.F.R. §35.103

<sup>17</sup> 28 C.F.R. §130(a)]

## **Equal Opportunity**<sup>18</sup>

The ADA requires that people with disabilities are assured an equal opportunity to participate in the programs and activities offered by state and local governmental units. This right includes not only the opportunity to participate, but also an opportunity that is equally effective. Although an entity can provide separate benefits or services, it should do so only where necessary to provide an equal opportunity. Separate benefits or services should be delivered in the most integrated setting appropriate.

Equal opportunity<sup>19</sup> can be best assured by including people with disabilities in planning and decision-making. People with disabilities should be encouraged to participate as members of government planning and advisory boards.

## **Integrated Programs**<sup>20</sup>

Services and programs must be delivered in the most integrated setting appropriate to the person's level of need even if separate programs exist. Included under this requirement is the principle that the integration of people with disabilities is the goal of the law. An entity cannot require that an individual participate in the separate program; a person with a disability cannot be restricted from participating in general activities and must be given the choice of which public activities to participate in.

## **Methods of Administration**<sup>21</sup>

A public entity may not use official written policies that are discriminatory or engage in actual practices that are discriminatory. The prohibition includes direct actions by the entity, actions undertaken on behalf of the entity under a contractual relationship, and actions by another Title II entity.

Discriminatory policies and practices include those that are explicitly exclusionary, such as a policy or practice of a state mental health agency that no community-based mental health services will be provided to people who are deaf or hearing impaired. Also included are policies that appear neutral but have a discriminatory effect. For example, a policy requiring a driver's license as proof of age for participation in a community college adult education program has the effect of discriminating against people who are unable to obtain a driver's license because of their disability.

## **Choice of Contractors**<sup>22</sup>

Public entities cannot use criteria that discriminate against qualified individuals with disabilities in the selection of procurement contractors.

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<sup>18</sup> 28 C.F.R. §35.130(b)(1)(i)-(iv), (vii)]

<sup>19</sup> 28 C.F.R. §35.130(b)(1)(vi)

<sup>20</sup> 28 C.F.R. §35.130(b)(2); (d)]

<sup>21</sup> 28 C.F.R. §35.130(b)(3)

<sup>22</sup> 28 C.F.R. §35.130(b)(5)

### **Licensing and Certification**<sup>23</sup>

Many government entities have a responsibility for licensing or certification of individuals such as nurses, doctors, social workers, architects, beauticians, realtors, and day care providers. A qualified individual with a disability cannot be denied licensure or certification if the person meets the essential eligibility requirements for the task involved. Whether or not particular requirements are essential must be determined on a case-by-case basis. This requirement also applies when a public entity contracts with a private entity to handle licensing and certification responsibilities.

Where public entities administer licensing examinations, the examinations must be offered in an accessible place and manner, including the provision of auxiliary aids.

In addition, public entities may not establish requirements for programs that are certified or licensed, such as a day care facility or community-based mental health clinic, that have the effect of limiting opportunities for participation or employment of people with disabilities.

**However**, this requirement does not impose on the public entity the responsibility to regulate the activities of privately-run programs that are merely licensed by the government. Such activities are regulated under Title III of the ADA.

### **Reasonable Modification of Policies, Practices, and Procedures**<sup>24</sup>

Policies, practices, and procedures of a public entity must be modified when necessary to avoid discrimination against people with disabilities, unless to do so would fundamentally alter the nature of the service, program, or activity.

### **Eligibility Criteria**<sup>25</sup>

Public entities cannot use eligibility criteria that screen out or tend to screen out people with disabilities unless such eligibility criteria are necessary for the provision of the service, program, or activity.

Neutral rules such as legitimate safety qualifications are permitted even when the effect is to screen out people with disabilities.

### **Surcharges**<sup>26</sup>

It is not permissible for a public entity to assess a surcharge on people with disabilities to offset the costs associated with providing access.

**However**, in some instances, where providing auxiliary aids would impose undue financial and administrative burdens in light of all available resources, it may be permissible for the public entity to pay only part of the cost of the auxiliary aids.

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<sup>23</sup> 28 C.F.R. §35.130(b)(6)

<sup>24</sup> 28 C.F.R. §35.130(b)(7)

<sup>25</sup> 28 C.F.R. §35.130(b)(8)

<sup>26</sup> 28 C.F.R. §35.130(f)

## 2) Equally Effective Communication<sup>27</sup>

Public entities are required to ensure that applicants, participants, and members of the general public with disabilities have communication access that is as equally effective as that provided people without disabilities. One purpose of this requirement is to ensure access to general information.

In order to be in compliance, entities are also required to provide specific communication access in the form of auxiliary aids<sup>28</sup> and services upon the request of a qualified person with a disability. Auxiliary aids include service, equipment, or devices that provide effective communication access to people with disabilities. A qualified sign language interpreter for an individual who is deaf is one example of an auxiliary service. For people who have visual disabilities, materials in accessible formats such as large print, audiocassette, or Braille, and the provision of print scanners or readers are all examples of auxiliary aids. Other technologies may emerge in the future that will be considered acceptable methods of compliance as long as the standard of effective communication is met.

In choosing an auxiliary aid or service<sup>29</sup>, primary consideration shall be given to the aid or service requested by the individual, unless the public entity can show that another equally effective means of providing access is available or that the request would result in a fundamental alteration of the service, program, or activity or create undue administrative or financial burdens.

### Interpreter Services<sup>30</sup>

The term *qualified interpreter* is defined as an individual who is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. In most situations, it is not appropriate to use a family member or companion as an interpreter. The person with the disability has the right to request an impartial interpreter. Public entities are responsible for providing interpreter services upon request unless doing so would cause a fundamental alteration or undue burden. Other auxiliary aids for people who have hearing impairments include real-time captioning and open and closed captioning. Consideration must be given to the circumstances and the technologies available to determine what constitutes effective communication.

One commonly asked question is when an interpreter is required. Although a notepad and pen for written communication may be sufficient for simple conversations, an interpreter may be necessary where the information is complex or the exchange is lengthy. Factors to consider include: (1) the context of the event; (2) the number of people involved; and (3) the importance of the material being communicated.

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<sup>27</sup> 28 C.F.R. §35.160(a)

<sup>28</sup> 28 C.F.R. §35.160(b)(1)

<sup>29</sup> 28 C.F.R. §35.160(b)(2)

<sup>30</sup> 28 C.F.R. §35.104

### **Public Television**<sup>31</sup>

A public entity producing television programs or videotapes is required to ensure communication access. One means of doing so is through closed captioning.

### **Telephone Communications**<sup>32</sup>

Where public entities engage in telephone communications with the public, equally effective communication with people with disabilities, including hearing and speech disabilities, must be provided. Use of a TDD/TTY or the relay service is an appropriate means of ensuring access for people who have speech or hearing disabilities. (Some states already have telecommunication relay services that enabled voice telephone users and TDD/TTY telephone users to communicate through a third party operator. Title IV of the ADA requires that such services be available nationwide no later than July 26, 1993.) If a TDD/TTY is installed, be sure that all employees who handle incoming calls are trained in its proper use.

### **Emergency Telephone Services**<sup>33</sup>

Governmental units that provide direct telephone access to emergency services, such as police and fire departments, must have a TDD. For emergency services, reliance on the relay service is not considered to be an acceptable alternative. Emergency services providers are also encouraged, but not required, to provide their 911 operators with a voice amplification device in the telephone handset so that efforts of a hard of hearing person to communicate on the telephone can be assisted if necessary.

### **General Information**<sup>34</sup>

General information, such as the availability and location of accessible services, activities, and facilities, must be provided by all public entities. This requirement specifically includes directional signage at inaccessible entrances indicating where an accessible entrance is located and signage indicating where portable TDD/TTY's or TDD/TTY pay phones are located.

### **3) Program Accessibility**

The standard against which programs will be measured for the purposes of ADA compliance is one of overall program accessibility: Is the program, service, or activity, when viewed in its entirety, readily accessible to and usable by individuals with disabilities?

### **Access to Existing Facilities**<sup>35</sup>

The ADA states that people with disabilities cannot be excluded from the program, activities, or services offered by a public entity because of inaccessible facilities. Although this is a rigorous requirement, the law permits a public entity some flexibility in how the standard can

<sup>31</sup> 28 C.F.R. §35.160 (preamble)

<sup>32</sup> 28 C.F.R. §35.161

<sup>33</sup> 28 C.F.R. §35.162

<sup>34</sup> 28 C.F.R. §35.163

<sup>35</sup> 28 C.F.R. §35.150(a)(1);(b)(1)

be met, by allowing both structural and nonstructural methods of achieving program accessibility, such as:

- 1) **Reassignment of services to an accessible location if the facility is not accessible.** For example, a legislator may have her local district office on the second floor of a three-story walkup building. A person who uses a wheelchair would be unable to visit the senator at her office to lobby her on a particular issue. The legislator could arrange to meet the individual at another, accessible location.
- 2) **Home visits.** A person with a disability may be unable to enter his local city collector's office in order to obtain a neighborhood resident parking sticker because it has a flight of steps at the main entrance. A city worker could meet the individual at his home to process the necessary application forms and obtain other required information, or application by mail could be permitted.
- 3) **Purchase or redesign of equipment.**
- 4) **Assignment of aides to beneficiaries.**
- 5) **Structural changes to eliminate barriers.** Making structural accessibility improvements to an existing facility is one means of achieving program accessibility. However, it is not required if there are alternative means of achieving program accessibility, such as those described above.

**However**, if there is not alternative means to achieve program accessibility, structural changes will be necessary, unless to do so would impose undue burdens on the entity. Any needed structural changes must be made as soon as possible, but no later than January 26, 1995<sup>36</sup>.

A program will be viewed in its entirety for purposes of determining compliance with the program accessibility standard. A public entity is not necessarily required to make each of its existing facilities accessible if alternative, accessible locations are available<sup>37</sup>.

**However**, in a large city where long distances between facilities create barriers to program accessibility, structural changes may be necessary at additional sites in order to achieve program accessibility.

Structural changes may range from the installation of grab bars in an accessible bathroom stall or installation of a ramp over two steps at the building entrance to more extensive alterations. Note that it is *not* acceptable to carry an individual in a wheelchair into a facility as a means of achieving program access; nor is carry a permissible alternative to installation of a ramp or lift. There may on rare occasion be manifestly exceptional circumstances where carrying is permitted, but this is limited to situations where structural modification is prohibitively expensive or impossible, such as on some oceanographic vessels.

#### Fundamental Alteration and Undue Burdens<sup>38</sup>

A public entity is not required to take any action that will result in a fundamental alteration to the program, service, or activity or create undue administrative or financial burdens. If achievement of overall program accessibility causes undue financial or administrative burdens on the entity or fundamentally alters the program or service, alternative means of achieving

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<sup>36</sup> 28 C.F.R. §35.150(c)

<sup>37</sup> 28 C.F.R. §35.150(b)(1)

<sup>38</sup> 28 C.F.R. §35.150(a)(3)

compliance must be sought to ensure that people with disabilities can participate in or receive the benefits of the program or activity.

Providing program accessibility is not expected to result in undue burdens for most public entities. All resources of the public entity available for use in funding and operation of the program must be considered. Any decision that achieving program accessibility would result in a fundamental alteration or create undue burdens must be made by the head of the entity or another senior official who has budgetary and spending authority or a staff person designated by that official. The reasons for such a decision must be presented in writing.

### Historic Preservation Programs<sup>39</sup>

Buildings that are eligible for listing in the National Register of Historic Places or designated as historic under state or local law are treated as a special case under the ADA. These programs are not required to take any action that would threaten or destroy the historic significance of the property<sup>40</sup>.

It is important that historic preservation programs whose primary purpose is for visitors to experience the historic site itself (as opposed to other types of programs that happen to be housed in historic buildings) make every effort to make the facility physically accessible. Where it is not feasible to provide physical access without threatening or destroying the historic significance of the property, alternative methods of achieving program access must be employed<sup>41</sup>. Note that when alterations *are*<sup>42</sup> planned in historic buildings, they should refer to the specific access requirements and procedures for historic buildings provided by the applicable design standards for Title II.

### New Construction and Alterations to Existing Facilities<sup>43</sup>

All new construction and alterations to existing facilities must be readily accessible to and usable by people with disabilities. Specific accessibility standards for public entities will be issued in the future. Until those regulations are promulgated, construction and alteration of public facilities must be built in accordance with one of two existing accessibility standards: the ADA Accessibility Guidelines (ADAAG) or the Uniform Federal Accessibility Standards (UFAS). The ADA Accessibility Guidelines are the technical design standards issued under Title III of the ADA for new construction and alterations of privately owned places of public accommodation and commercial facilities.

Entities covered by Title II can elect to follow ADAAG with one significant exception: the treatment of elevators. In the private sector, facilities of less than three stories or less than 3000 square feet per floor are not required to provide an elevator unless the facility is a medical office or shopping mall, or falls into a category of facilities that may be identified by the U.S. Attorney General (currently certain transportation facilities). Under Title II, however, public sector entities cannot use the elevator exemption under any circumstances<sup>44</sup>.

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<sup>39</sup> 28 C.F.R. §35.104

<sup>40</sup> 28 C.F.R. §35.150(a)(2), 28 C.F.R. §35.150(b)(2)

<sup>41</sup> 28 C.F.R. §36.304

<sup>42</sup> 28 C.F.R. §35.150(b)(1)

<sup>43</sup> 28 C.F.R. §35.151(a)-(c)

<sup>44</sup> 28 C.F.R. §35.151(c)

Alternatively, Title II entities may elect to follow UFAS. These access standards were adopted by various federal agencies to implement the Architectural Barriers Act of 1968<sup>45</sup>. They also have been adopted by most federal agencies as the standards for Section 504 of the Rehabilitation Act of 1973. Both UFAS and ADAAG are based on model design standards generated by the American National Standards Institute and, as a result, are quite similar.

Facilities under design as of January 26, 1992 are covered by this requirement if bids are solicited after the effective date. Departures from the ADAAG or UFAS requirements are permitted if equivalent access is achieved.

### **Leases**<sup>46</sup>

The Title II regulations recommend but do not require that public entities try to lease accessible space. Facilities that are leased by a public entity are subject to the overall program access standard. If a public entity leases inaccessible space, the entity is still responsible for ensuring that the programs and services it offers are accessible<sup>47</sup>.

### **Maintenance of Accessible Features**

Maintenance of accessible features is specifically required as a means of ensuring that ongoing access is provided. For example, accessible doors (e.g., leaf doors adjacent to a revolving door) cannot be locked or blocked. When temporary breakdowns of equipment such as elevators occur, repairs must be made promptly. Where improper or inadequate maintenance causes repeated or persistent failures of mechanical features, this requirement is violated.

## **4) Employment**<sup>48</sup>

This section provides an overview of the requirements contained in title I of the ADA covering private sector employment. These requirements apply to certain Title II entities.

### **Who is Covered?**

Effective January 26, 1992, Title II prohibits all public entities, regardless of the number of employees, from discriminating against qualified individuals with disabilities in employment<sup>49</sup>. The term *employees*<sup>50</sup> includes part-time employees if such workers are employed for twenty or more calendar weeks in the current or preceding calendar year.

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<sup>45</sup> 28 C.F.R. §35.151(a)-(c)

<sup>46</sup> 28 C.F.R. §35.151 (preamble)

<sup>47</sup> **Commentary to the regulations suggests** that public entities attempt to locate space that complies at a minimum with the federal requirements for leased buildings under the Architectural Barriers Act. The three elements of that standard are: (1) an accessible route from the entrance to the principal activity area; (2) accessible bathrooms; and (3) designated parking for individuals with disabilities if parking is provided. 36 C.F.R. §1190.34

<sup>48</sup> 28 C.F.R. §35.133

<sup>49</sup> 28 C.F.R. §35.140(a)

<sup>50</sup> 29 C.F.R. §1630.0(e)(1)

### **Effective Dates for Public Employers<sup>51</sup>**

Title I of the ADA applies to all private or public employers who have fifteen or more employees, including part-time employees, full-time employees, employment agencies, labor unions, and joint labor-management committees<sup>52</sup>. For employers with twenty-five or more employees, coverage began July 26, 1992. For employers with fifteen or more employees, coverage begins July 26, 1994. Title II of the ADA applies the Title I regulations to most public entities, effective January 26, 1992.

For purposes of employment, the definition of disability also includes a substantial impairment in the major life activity of working. The phrase *substantially limited in working* is defined as “significantly restricted in the ability to perform either a class of jobs or a broad range of jobs in various classes compared to the average person with similar training, skills, and abilities.” It is not applicable to the inability to perform a particular job or a very specialized job. Individuals who are totally unable to work are not included. Factors to be considered in determining whether a person with a disability is substantially impaired in the major life activity of working include:

- 1) The type of job from which the individual has been disqualified because of the impairment
- 2) The geographical area in which the person may be reasonably expected to find a job
- 3) The number and types of jobs using similar training, knowledge, skill, or abilities from which the individual is disqualified within the geographical area
- 4) The number and types of jobs in the area that do not involve similar training, knowledge, skills, or abilities from which the individual also is disqualified because of the impairment

If an individual is substantially limited in any other major life activity (e.g. walking or seeing) it is not necessary to determine whether the person is limited in the major life activity of working.

### **What is Covered?<sup>53</sup>**

The basic mandate of the employment regulations is that an employer cannot discriminate against an employee on the basis of disability in any aspect of the employment relationship. The activities covered include the application process, testing, interviewing, hiring, assignments, evaluation, discipline, medical examinations, compensation, promotion, on-the-job training, layoff/recall, termination, leave, and benefits such as health insurance.

### **Qualified Individual with a Disability<sup>54</sup>**

*A qualified individual with a disability* in employment is a person who has the skill, experience, and education for the job and can perform the essential functions of the job with or without reasonable accommodation. (The definition and scope of reasonable accommodation are discussed “Reasonable Accommodation: The Employer’s Responsibility,” page 18).

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<sup>51</sup> 28 C.F.R. §35.140(b)(1), (2)

<sup>52</sup> 29 C.F.R. §1630.2(j)(3)(i), (ii)

<sup>53</sup> 29 C.F.R. §1630.4

<sup>54</sup> 29 C.F.R. §1630.2(m)

### **Essential Functions of the Job**<sup>55</sup>

The term *essential functions* refers to the fundamental elements of a job. The term does not include the marginal functions of the position. Factors to be considered in determining whether a job function is essential include: (1) whether the reason the position exists is to perform the function; (2) whether a limited number of employees are available among whom performance of the job function can be distributed; and (3) the degree of specialization required to perform the task. An individual with a disability is considered qualified for the position if he or she can perform the essential functions of the job with or without reasonable accommodation.

Evidence that may be considered in determining whether a particular job function is essential<sup>56</sup>:

- Written job description prepared before advertising or interviewing applicants
- Terms of a collective bargaining agreement
- Percentage of time spent performing the function
- Work experience of past employees in the job
- Work experience of current employees in the same or similar jobs
- Consequences of not requiring that the function not be performed
- Employer's judgment

### **REASONABLE ACCOMMODATION: THE EMPLOYER'S RESPONSIBILITY**<sup>57</sup>

Employers are required to make reasonable accommodations for applicants and employees with disabilities upon their request. Although the term *reasonable accommodation* is derived from the regulations for the Rehabilitation Act of 1973, it was never formally defined; instead, the meaning of the term was developed through case law and administrative findings. Based on these interpretations, the ADA regulations define the term as modifications or adjustments to a job applications process, work environment, or the way in which a job is customarily performed or benefits provided that enable a qualified individual with a disability to be considered for the position, perform the essential functions of the job or enjoy the benefits of employment in the same manner as other employees<sup>58</sup>.

Types of reasonable accommodations include:

- 1) Part-time or modified work schedules
- 2) Job restructuring<sup>59</sup>
- 3) Job reassignment
- 4) Provision of auxiliary aids and services
- 5) Modification to a job site or work site

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<sup>55</sup> 29 C.F.R. §1630.2(n)(1)

<sup>56</sup> 29 C.F.R. §1630.2(n)(2)]

<sup>57</sup> 29 C.F.R. §1630.9(a), (b)

<sup>58</sup> 29 C.F.R. §1630.2(o)(1)

<sup>59</sup> 29 C.F.R. §1630.2(o)(2)(i), (ii)

The requirements to provide reasonable accommodations does not include providing personal aids or services to assist an individual in daily activities on or off the job, such as wheelchairs, glasses, prostheses, or assistance in toileting or feeding.

### **Choosing the Accommodation<sup>60</sup>**

The employer's responsibility for providing an accommodation is triggered only when an individual with a disability makes such a request. Many employees with disabilities do not need accommodations. For others, the need for accommodation may be obvious. If an employee with a known disability is having difficulty performing the job without an accommodation, the employer may ask the employee whether he or she is in need of an accommodation. A qualified individual with a disability is not required to accept an accommodation. However, if such a person rejects a reasonable accommodation and cannot then perform the essential functions of the job, the person may not longer be considered qualified for the position.

Once the applicant or employee has requested an accommodation, sufficient information from the applicant or employee must be gathered to determine the type of accommodation necessary to enable the individual to perform the job. In most instances, the person with a disability is in the best position to identify what is needed. Additional information from qualified experts may be gathered, if necessary. The vast majority of accommodations are not costly. An employer need not provide the requested accommodation if an alternative, less costly, but equally effective means of accommodation is available. The employer is required, however, to provide an accommodation that permits a qualified individual with a disability to attain the same level of job performance as co-workers with similar skills and abilities.

### **The Counterbalance: Undue Hardship<sup>61</sup>**

At what point does a requested accommodation become unreasonable? If a requested accommodation imposes an undue hardship on the employer, it need not be provided<sup>62</sup>. However, consideration must be given to whether another accommodation exists that would not result in an undue hardship for the entity. Undue hardship is defined as an action requiring significant difficulty or expense. Factors that should be considered in determining whether a requested accommodation poses an undue hardship include:

- The nature and cost of the accommodation
- The overall financial resources of the facility, number of employees at such facility, and the effect on expenses and resources
- The overall financial resources and size of the employer including the number of employees and the number, type, and location of its facilities
- The type of operation including composition, structure, and functions of the work force, geographic separateness, and administrative or fiscal interrelationship
- The impact of the accommodation on business operations

If employees are governed by a collective bargaining agreement, the terms of that agreement may have an impact on whether or not a requested accommodation creates an undue hardship. For example, if a person becomes severely disabled after a car accident and can no longer

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<sup>60</sup> 29 C.F.R. §1630.9(d)

<sup>61</sup> 29 C.F.R. §1630.2(p)(1)

<sup>62</sup> 29 C.F.R. §1630.2(p)(2)

perform the essential functions of the job with reasonable accommodation, job reassignment may be a possibility. However, if the collective bargaining agreement reserves certain jobs for employees with a given amount of seniority, and if the individual does not have seniority, this may be a factor in determining whether it would be an undue hardship to reassign him or her to a vacant job. The interrelationship between the terms of a collective bargaining agreement and the responsibility of employers to provide reasonable accommodation is a complex issue where litigation is likely to occur. Specific situations will be resolved on a case-by-case basis.

## SPECIFIC ISSUES IN EMPLOYMENT

### Qualification Standards in Selection Criteria<sup>63</sup>

The use of qualification standards<sup>64</sup>, job tests, or selection criteria that screen out, tend to screen out, or otherwise deny a job or benefit to an individual with are permissible only where such standards, tests, or criteria are job-related. *Job-related* means related to the actual performance of the essential functions of the job and consistent with business necessity where such performance cannot be accomplished by reasonable accommodation.

**However**, even where the qualification standard is job-related and consistent with business necessity, employers must consider whether there are reasonable accommodations that would enable an individual to perform at the expected level, such as a magnification screen overlay on a computer screen as an assistive device for someone who is visually impaired.

### Pre-Employment and Medical Inquiries

The ADA prohibits pre-offer inquiries regarding the existence of an applicant's disability or the nature and severity of the disability and prohibits pre-offer employment physicals. This requirement is an attempt to address the historic rejection of people with disabilities before consideration of the individual's merits, based on myth or misconception about their disability<sup>65</sup>.

Pre-employment inquiries must be limited to questions concerning the ability of the applicant to perform the functions of the job<sup>66</sup>. Blanket questions such as "Do you have a disability?" or "How many times have you been hospitalized in the last five years and for what?" are not permissible. Questions concerning an applicant's workers' compensation claims history is also prohibited at the pre-offer stage. Employers may ask all applicants whether they can perform the functions of the job with or without reasonable accommodation. Employers may also ask an individual with a known disability to describe or demonstrate how functions of the job will be performed. (Reasonable accommodation must be provided for the demonstration

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<sup>63</sup> 29 C.F.R. §1630.10, §1630.11

<sup>64</sup> **Qualification standards** means "the personal and professional attributes including the skill, experience, education, physical, medical, safety and other requirements established by a covered entity as requirements which an individual must meet in order to be eligible for the position held or desired."

29 C.F.R. §1630.2(q)

<sup>65</sup> 29 C.F.R. §1650.13

<sup>66</sup> 29 C.F.R. §1630.14(a)

if needed.) Agility tests are not considered medical inquiries and are permissible at the pre-offer stage.

### **Post-Offer Inquiries and Confidentiality<sup>67</sup>**

After an offer of employment has been extended, it may be conditioned on the results of a medical examination if all individuals in the same job category are examined and if the information obtained is kept confidential. Medical inquiries at this stage of the employment process are unrestricted. However, there are limitations on how medical information gathered at this stage may be used. If the results of the medical examination are used to screen out applicants with disabilities, such criteria must be job-related and consistent with business necessity.

Employers must also consider whether there are reasonable accommodations that would enable the individual to perform the essential functions of the job<sup>68</sup>.

Employers are required to maintain a medical file separate from an employee's personnel file to ensure against unwarranted disclosure of the person's disability. Although confidentiality is to be maintained, an employer may inform supervisory personnel about an individual's medical restrictions or necessary accommodations, and first aid or safety personnel may be informed if special treatment or evacuation assistance may be necessary. Disclosure is also permitted to: (1) governmental officials investigating compliance with the ADA or other relevant laws; (2) state worker's compensation or second injury fund offices; and (3) employer's health or life insurance companies.

### **Drug Testing**

The ADA does not require or prohibit testing employees for illegal use of drugs. Any information obtained from such tests that indicates a condition other than whether the individual is currently engaging in the illegal use of drugs, such as the presence of a prescription medication to control a particular disability, must be treated as confidential medical information<sup>69</sup>. The employer can test at any stage of the employment process<sup>70</sup>.

### **Direct Threat to Health and Safety**

An employer is not required to hire or continue to employ an individual who poses a *direct threat*<sup>71</sup> to the health and safety of the individual and others. The direct threat standard is a strict one; the term is defined as a significant risk of substantial harm to the health and safety of the individual or others that cannot be eliminated or reduced through reasonable accommodation<sup>72</sup>. Speculative or remote risks are not sufficient to constitute a significant risk under this provision. Moreover, the determination of whether an individual poses a direct threat must be based on the most current medical knowledge and/or objective, factual evidence concerning the individual, and not on generalizations or stereotypes. The

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<sup>67</sup> 29 C.F.R. §1630.14(b)

<sup>68</sup> 29 C.F.R. §1630.14(d)(1)

<sup>69</sup> 29 C.F.R. §1630.16(c)(1)

<sup>70</sup> 29 C.F.R. §1630.16(c)(3)

<sup>71</sup> 29 C.F.R. §1630.2(r)

<sup>72</sup> 29 C.F.R. §1630.16(e)

assessment must consider the ability of the individual to perform safely the essential functions of the job.

### **Discriminatory Contracts<sup>73</sup>**

Employers cannot utilize contracts that have the effect of discriminating against applicants or employees. Examples of entities with which one might contract include employment referral services, training programs, labor unions, and organizations providing fringe benefits to employees.

### **Enforcement and Remedies<sup>74</sup>**

Both administrative and judicial enforcement and remedies are available for complaints of employment discrimination<sup>75</sup> (See "How is Title II Enforced?" page 8). Administrative enforcement is the responsibility of the U.S. Equal Employment Opportunity Commission (EEOC). As with other administrative complaints filed under Title II, complaints of discrimination must be filed within 180 days of the alleged discriminatory act. The EEOC is responsible for reviewing complaints, determining whether the facts support a finding of discrimination, and determining the appropriate remedy. Remedies may include back pay, front pay, job reinstatement, hiring, and restoration of benefits<sup>76</sup>.

Remedies may include injunctive relief and compensatory and punitive damages. Punitive damages are available against private employers under Title I for instance of intentional discrimination<sup>77</sup>. However, such damages are not available against public entities.

Judicial enforcement can occur as an outgrowth of the administrative process or pursuant to an individual's right to file a private lawsuit under Title II.

Although the ADA provides a number of formal mechanisms for filing and resolving complaints, the ADA strongly encourages the use of alternative means of dispute resolution, including facilitation, mediation, fact-finding, minitrials, arbitration, and others.

### **Defenses<sup>78</sup>**

The regulations identify five defenses to a charge of employment discrimination on the basis of disability. The list is not intended to be exhaustive.

- 1) **Disparate treatment.** Disparate treatment means treating an individual differently on the basis of disability. A defense to such a charge is that the alleged actions were based on legitimate, nondiscriminatory reasons that are not pretextual, such as unsatisfactory job performance.
- 2) **Disparate impact: Selection.** In this context, disparate impact means that selection criteria, although uniformly applied, have an adverse impact on people with disabilities. Such criteria are permissible only when job-related and consistent with business necessity

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<sup>73</sup> 29 C.F.R. §1630.6

<sup>74</sup> 42 U.S.C. §12117, 12133

<sup>75</sup> 28 C.F.R. §35.170

<sup>76</sup> Civil Rights Act of 1991, 42 U.S.C. §1981(a)

<sup>77</sup> 42 U.S.C. §1981(b)(1)

<sup>78</sup> 29 C.F.R. §1630.15

and where no reasonable accommodation is available. Where selection criteria include a safety requirement that an individual not pose a direct threat, an employer must demonstrate that the factors discussed in “Direct Threat to Health and Safety” (page 22) are met in order to assert that the safety criterion is job-related and consistent with business necessity.

- 3) **Disparate impact: Non-selection.** Here, disparate impact means that non-selection criteria such as employer policies, although uniformly applied, have an adverse impact on people with disabilities. As above, such criteria are permissible only when job-related and consistent with business necessity and where no reasonable accommodation is available.
- 4) **Undue hardship.** Undue hardship may be raised as a defense to a charge that an employer failed to provide a reasonable accommodation.
- 5) **Conflict with other federal laws.** Where other federal laws may require or prohibit an action in conflict with the ADA requirements, the employer’s obligation to comply with the conflicting standard is a defense. For example, the ADA regulations specifically note the Department of Transportation regulations regarding drug and alcohol testing to ensure safety for particular transportation job categories, which may conflict with the ADA requirements with respect to those disabilities.

#### **Relationship to Section 504**

For many public entities, the requirements of the ADA employment provisions will not be new. Entities that are recipients of federal financial assistance have been and will continue to be subject to the requirements of the Rehabilitation Act of 1973. The Rehabilitation Act has some provisions, such as reporting requirements, which are different than the ADA; these requirements still need to be followed.

#### **Effective Dates for Public Employment Provisions<sup>79</sup>**

Title II became effective for all public entities on January 26, 1992, including the requirements concerning nondiscrimination in employment. The Title II regulations apply the requirements of Title I (Employment) to all public entities that are covered by Title I. The requirements for Title II are effective for employers with twenty-five or more employees on July 26, 1992.

Now that you are familiar with what the law requires, there are some specific steps that you must take immediately in order to comply. These steps are detailed in the sections that follow.

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<sup>79</sup> 28 C.F.R. §35.140

## Section 2: Action Steps

Title II of the Americans with Disabilities Act requires that state and local government entities do not discriminate against people with disabilities in their programs, services, and activities. State and local governments must take steps to examine their programs and establish a plan for compliance with the law. Section 1 discusses the legal requirements and regulations for Title II. This section discusses the five action steps required to bring the City of Morgantown into compliance with these regulations.

### SUMMARY: Title II Requirements and Effective Dates

REQUIREMENTS: ACTION STEPS	Effective Date	Completion Date
1. Designate a responsible employee	January 26, 1992	January 1, 1993
2. Provide notice	January 26, 1992	September 15, 1993
3. Establish grievance procedure	January 26, 1992	November 30, 1993
4. Conduct self-evaluation	January 26, 1993	August 30, 1994
5. Develop transition plan	July 26, 1992	August 30, 1994

**Note:** The City of Morgantown has not met the effective dates for the above stated requirements, however, many public entities are struggling to simultaneously master the information and skills needed to complete the action steps and meet the deadlines.

### STEP ONE: Designate a Responsible Employee<sup>80</sup>

The City of Morgantown, which has more than fifty employees, must designate at least one employee to coordinate ADA compliance. The regulation refers to this person as the responsible employee; however, because most entities call this person the ADA coordinator, we will use this title throughout this document.

The purpose of this requirement is to ensure that when the public deals with the City of Morgantown, they are easily able to identify a person who is familiar with the requirements of the ADA and who can communicate these requirements to other individuals within the City who may be unaware of their responsibilities. In order to ensure that individuals are easily able to identify the ADA Coordinator, The City of Morgantown must provide the ADA Coordinator's name, office address, and telephone number to the general public.

The City of Morgantown's ADA Coordinator is the key player in ensuring ADA compliance. The Coordinator's role includes:

- Planning and coordinating overall compliance efforts
- Ensuring that the five action steps are achieved

<sup>80</sup> §35.107(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.

**Public Entity:** The definition of a public entity includes any nonfederal unit of governments such as states, cities, towns, counties, parishes, authorities, boroughs, commissions, and others.

- Receiving and investigating grievances on programs, services, practices, and employment

The City of Morgantown's City Manager on January 1, 1993 appointed an ADA Coordinator: Mr. Kramer Turner. Mr. Turner was chosen for this position because of his disability experience in that he has a disability himself and has extensive knowledge of discrimination and access issues. Mr. Turner has a long history of advocacy for people with disabilities and has worked with the City of Morgantown in the past through several different capacities. He was the Chairperson of an Ad-hoc committee, which did a preliminary study and made recommendations to the City concerning ADA compliance.

**\*Documentation: (see Appendix A)**

- 1) *Contract between the City of Morgantown and the Department of Public Administration at West Virginia University (2 years)*
- 2) *City of Morgantown ADA Coordinator job description*
- 3) *ADA Coordinator's resume*

**STEP TWO: Provide Notice of ADA Requirements<sup>81</sup>**

The City of Morgantown must provide information to applicants, participants, beneficiaries, employees, and other interested parties regarding the rights and protections afforded by Title II, including information about how the Title II requirements apply to its particular programs, services, and activities.

It is the responsibility of the head of the government entity to determine the most effective methods for making individuals within the community aware of their rights and protections.

The City of Morgantown must provide this information not just once, but on an ongoing basis. Below are some of the ways in which this information will be provided on a regular basis to applicants, participants, and the general public.

<b>In order to reach:</b>	<b>Provided the information through:</b>
Applicants or potential applicants	<ul style="list-style-type: none"> <li>- Newspaper advertisements</li> <li>- Posting notices at employee sites</li> <li>- Radio public service announcements</li> </ul>
Participants	<ul style="list-style-type: none"> <li>- Postings at all program sites</li> <li>- City program pamphlet</li> <li>- Announcements at program, service, activity meetings</li> </ul>
Public at large	<ul style="list-style-type: none"> <li>- Newspaper legal notices</li> <li>- Postings at all facilities</li> <li>- Radio public service announcements</li> </ul>

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<sup>81</sup> **§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 then by the Act and this part.

- Radio/television/newspaper reports

The City of Morgantown has, in the past, and in the future, will provide Title II information in alternative formats to ensure that information is accessible to people with disabilities. Examples of alternative formats include:

- Reading service
- Provide a large print notice on bulletin boards
- Radio public service announcements
- Audio tape
- ASCII computer diskette
- Braille

**\*Documentation: (see Appendix A)**

- 1) *Newspaper legal notice*
- 2) *Radio public service announcements*
- 3) *Posting for all facilities*
- 4) *Newspaper reports*
- 5) *Grievance procedure*

*Note: A new ADA Coordinator will be appointed as of January 1, 1995, and at that time notice to the public will be provided.*

**STEP THREE: Establish a Grievance Procedure<sup>82</sup>**

The City of Morgantown has adopted and published grievance procedures providing for prompt and equitable resolutions of grievances arising under Title II. The City of Morgantown has found it beneficial to use a grievance procedure because as a public entity, we are subject to complaints that might best be resolved internally. One of the responsibilities of the ADA Coordinator is to receive and investigate complaints.

The purpose of the grievance procedure is to provide a mechanism for the resolution of discrimination issues at the local level, rather than require the complainant to resort to the federal complaint process.

The Title II regulations do not stipulate procedures for the grievance procedure. The City of Morgantown has developed its grievance procedure from a sample included in the *ADA Title II Action Guide for State and Local Governments*.

The City of Morgantown's grievance procedure includes the following components:

- A detailed description of the procedures for submitting a grievance
- A two-step review process that allows for appeal
- Reasonable time frames for review and resolution of the grievance
- Good record-keeping for all complaints submitted and documentation of steps taken toward the solution

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<sup>82</sup> §35.107(b) Complaint procedure. A public entity that employs 50 or more persons shall adopt and publish a grievance procedure providing for a prompt and equitable resolution of complaints alleging any action that would be prohibited by this part.

On November 30, 1993, the City of Morgantown's administration approved ADA grievance procedures for the City. The City publicized these procedures in the form of public notices.

**\*Documentation: (see Appendix A)**

1) *City of Morgantown ADA Grievance Procedures*

**Grievance Procedure for the City of Morgantown**

*Definition: A grievance is simply a complaint or a basis for a complaint*

*I. All disabled persons have the right to file a grievance for discrimination.*

*II. Grievances do not have to be written. A disabled individual may file a grievance by:*

*A. Spoken Word;*

*B. Written Word; or,*

*1) Through a third person or agent.*

*III. All complaints alleging discrimination based on disability shall be filed within ninety (90) days of the date of the alleged occurrence of discrimination, or within ninety days of the date the aggrieved party became aware of the discriminatory act.*

*All complaints should be addressed to:*

*Jeff Mikorski, Assistant City Manager*

*389 Spruce Street*

*Morgantown, WV 26505*

*(304) 284-7404*

*All complaints and grievances will be processed in the following manner:*

*Step 1. The aggrieved party shall attempt to resolve the complaint with the ADA Coordinator (Mr. Mikorski). If not resolved within five (5) working days from the date the coordinator first became aware of or should have become aware of such discriminatory act resulting in grievance, the matter shall proceed to;*

*Step 2. The grievance shall be reduced to writing (not necessarily by the aggrieved party) and referred to the Local Entity board. Within one (1) week, the complaint will be investigated by that board (Council or Commissioners). Then the grievant (aggrieved party) will meet with the board, along with the alleged party. After hearing both sides, the board will make a decision and their decision and recommendations will be communicated to both parties in writing within one (1) week of the hearing date.*

*Step 3. If both parties do not agree with the decision or recommendations, they may appeal or write to:*

***West Virginia Human Rights Commission***

***215 Professional Building***

***1038 Quarrier Street***

***Charleston, WV 25301***

***(304)***

348-2616

## **STEP FOUR: Conduct a Self-Evaluation**<sup>83</sup>

The City of Morgantown has conducted a self-evaluation as required. The self-evaluation is a comprehensive review of the City's current policies and practices, including communications and employment. Through the self-evaluation, the City of Morgantown has:

- 1) Identified any policy or practice that does not comply with Title II requirements
- 2) Modified policies and practices to bring them into compliance

The self-evaluation must be completed by January 26, 1993. However, the City of Morgantown began its ADA compliance process on January 1, 1993 and had it completed by August 30, 1994.

The regulations require that the City of Morgantown provide an opportunity for people with disabilities and other interested individuals or organizations to review and comment on the self-evaluation. The Department of Justice strongly encourages government entities to involve people with disabilities actively in the planning process. The City of Morgantown has embraced this approach and a more detailed description of this process is included in Section 3.

The City of Morgantown must keep the following self-evaluation information on file and available to the public for at least three years:

- A list of interested persons consulted about the self-evaluation
- A description of the areas examined and any problems identified
- A description of any modifications made

The City of Morgantown has conducted and completed its ADA Self-Evaluation as of August 30, 1994. After public review and comment on this document, it was approved by the City Council and implementation began

### ***\* Documentation (see Section 4)***

- 1) City of Morgantown Self-Evaluation

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<sup>83</sup> **§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 interested persons consulted; (2) A description of the 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.

## STEP FIVE: Develop a Transition Plan<sup>84</sup>

The City of Morgantown has developed a transition plan because structural changes to existing facilities are necessary to make programs, services, and activities accessible to people with disabilities.

The regulations require that, at a minimum, the transition plan:

- Identify physical obstacles that limit the accessibility of the City's programs, services, or activities to people with disabilities.
- Describe the methods to be used to make the facilities accessible.
- Provide a schedule for making the access modifications; provide a yearly schedule for making the modifications if the transition plan is more than one year long.
- Indicate the public official responsible for implementation of the transition plan.

The City of Morgantown has the responsibility for or authority over streets, roads, or walkways, must include in the transition plan and schedule for providing curb ramps or other sloped areas where pedestrian walks cross curbs. Priority must be given to those walkways serving entities covered by the ADA, such as state and local government offices and facilities, transportation, places of public accommodation, and employers.

The regulations require that the City of Morgantown provide an opportunity for people with disabilities and other interested individuals or organizations to review and comment on the transition plan as well as the self-evaluation. As discussed previously, and in further detail in Section 3, the City has found it extremely useful to involve people with disabilities and/or disability expertise early in the planning process. When the transition plan is completed, it must be made available for public inspection.

The City of Morgantown has conducted and completed its ADA Transition Plan as of August 30, 1994. After public review and comment on this document, it was approved by the City Council and implementation began.

*\*Documentation: (see Appendix A)*

- 1) *City of Morgantown ADA Transition Plan*
- 2) *Public Review and Comment*
- 3) *City Council Approval (Adoption)*

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<sup>84</sup> **§35.150(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 accommodations, and employers, followed by walkways serving other areas. (3) The plan, 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 and 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 is longer than one year, identify steps that will be taking 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 requirements 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 that were not included in the previous transition plan.

## **Section 3: Implementation**

This section presents a description of the City of Morgantown's methods for effectively meeting the five general requirements of the Title II regulations. The approach described here also reflects a community-wide effort to bring not only the City of Morgantown's programs, services, and activities into compliance with the ADA, but an approach that encourages other entities with similar responsibilities to voluntarily comply with the ADA mandates.

### **Four Principles for Effective Compliance**

The City of Morgantown's public officials have recognized their ADA responsibilities and committed to the four general principles that have proven to be effective during the compliance process:

- 1) Commitment from entity leaders
- 2) Coordination of compliance activities
- 3) Involvement of people with disabilities
- 4) Institutionalization of compliance procedures

#### **1) Commitment from Entity Leaders**

The explicit commitment demonstrated by the City of Morgantown's senior political and executive leadership to the purpose and values of the ADA has proven to be an extremely valuable in establishing a solid foundation for the compliance effort.

With their leadership positions and commitment, they have provided more incentives for department heads/program managers and staff to address nondiscrimination. Senior leadership should remain involved throughout the compliance process, reviewing progress and participating in decision-making at critical points such as approval of budgets for barrier removal.

#### **2) Coordination of Compliance Activities**

ADA compliance is a complex process that affects the City of Morgantown at many levels. Experience indicates that compliance activities are best approached as a coordinated whole.

The coordination outlined later in this section has facilitated the sharing of information and resources and strengthened accountability. The designation of the ADA coordinator by the City Manager was a critical first step in promoting coordination.

In addition, the formation of the ADA Compliance Team to work with the coordinator has been and will continue to be important in an organization of this size. The team reflects the major divisions and functions of City Government and includes personnel who have the skills and experience to carry out the planning and implementation tasks.

#### **3) Involvement of People with Disabilities**

Title II regulations require that the City of Morgantown involve people with disabilities and other interested people in the self-evaluation process and in the development of the transition

plan. The experience of the City of Morgantown described later in this section confirms that the cooperation between the disabled community and the City has led to creative problem solving, improved communications, and mutual understanding. The City of Morgantown has incorporated three very important mechanisms to enhance the involvement of people with disabilities and the community into the ADA process. First of all, in the summer of 1991, the City of Morgantown created a preliminary planning group called the Morgantown Access Committee. This Committee made many recommendations before it dispersed concerning accessibility for people with disabilities, some of which were the creation of the next two groups. Secondly, the City of Morgantown sponsors and continues to support a community group called the Morgantown Area Community Partnership Program created in November of 1992. The group's major objective is to promote voluntary ADA compliance within city government and throughout the Morgantown area. Thirdly, the City of Morgantown created the ADA Self-Evaluation/Transition Plan Committee, which is made up of disabled individuals and/or advocates for people with disabilities. This group has provided oversight and guidance to the ADA coordinator throughout the ADA compliance process.

#### **4) Institutionalization of Compliance Procedures**

The City of Morgantown's self-evaluation and the transition plan target needed modifications in employment practices, operating procedures, communications, and the design and maintenance of facilities. Ensuring that these modifications are made and that access is institutionalized is a difficult task. One of the lessons learned from the Section 504 experience is that past city administrations have failed to follow through on their planning. Success in implementing permanent changes depends on this planning process and on the degree to which this process becomes integrated into ongoing operations.

##### **Three-Phase Process**

The City of Morgantown's approach organizes the compliance process into three main phases that incorporate the four principles while meeting the five requirements outlined in Section II.

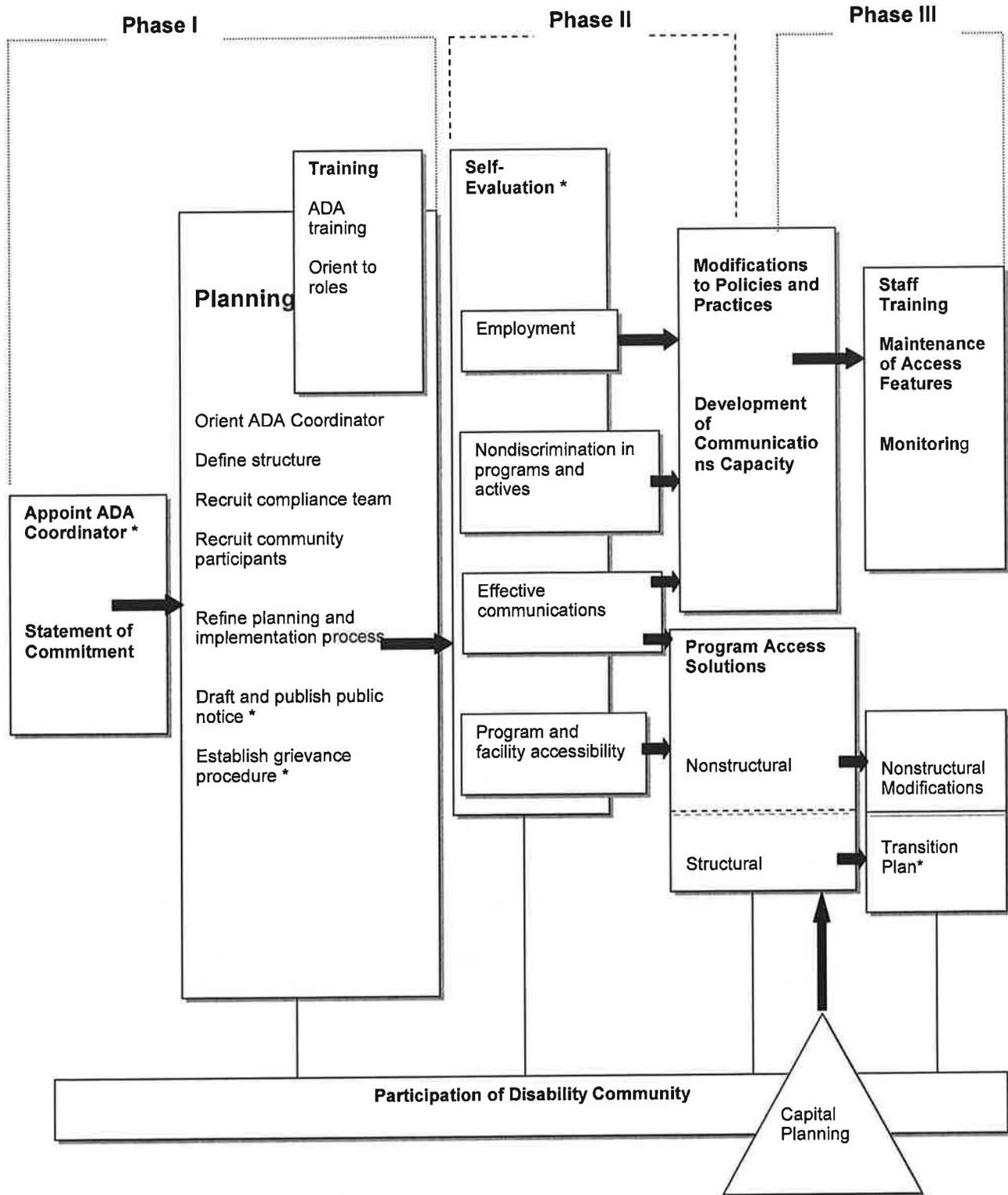
**Phase I:** Planning for compliance

**Phase II:** Conducting the self-evaluation

**Phase III:** Implementing modifications

The three phases are not chronologically distinct. Phases I and II, in particular, overlap extensively. Discriminatory policies, practices, and procedures identified in the self-evaluations have been modified as soon as possible, even before the self-evaluation was completed. When barriers to programs and facilities were identified, nonstructural changes to ensure program accessibility were made and plans were initiated for barrier removal.

# ADA Title II Compliance Flowchart



## **Phase I: PLANNING FOR COMPLIANCE**

The City of Morgantown's ADA compliance effort utilizes careful planning, preparation, and training, and includes the participation of staff members from key departments, including departmental directors, program managers, and human resource staff. Phase I describes the four steps that the City of Morgantown used for the ADA compliance process.

### **Statement of Commitment**

Commitment by the City of Morgantown's senior political and executive leadership has been essential to the process and has been expressed in a variety of ways. The well-publicized hiring of an ADA coordinator has been one way that sets a positive tone that facilitates staff work and promotes support and cooperation.

**Example:** The City Manager introduced the subject of ADA during the manager's report of the City Council of the City's obligations under the ADA and discussed the need to hire an ADA coordinator. After agreement with City Council, the City manager appointed an ADA coordinator, which set ground rules to ensure that the coordinator has access both to the City's leadership and to all components of City government and provides for a review of progress by the City Manager and Council.

### **Appointment of ADA Coordinator**

The ADA coordinator has been a central figure to ensure ADA compliance within the City of Morgantown. A role of the ADA coordinator includes:

- Coordinating overall ADA compliance
- Involving people with disabilities and interested parties in the compliance process
- Conducting the self-evaluation
- Preparing of the transition plan
- Investigating grievances

When choosing the City of Morgantown's ADA coordinator, it was recognized by the City's administration that he/she must possess the authority, knowledge, and motivation needed to bring the City into compliance. The City appointed an individual by the name of Mr. Kramer Turner who has demonstrated years of disability experience. Not only is he a person with a disability, but has years of experience and knowledge of discrimination and access issues.

The ADA Coordinator has proven to be well organized and skilled in collecting and analyzing information. The City of Morgantown is using a team approach. The ADA coordinator has exhibited the leadership qualities necessary to manage, coordinate, train, and motivate the team.

### **Preliminary Planning**

The ADA Coordinator's first task in the development of the compliance process was preliminary planning of the compliance activities. As part of this process, the Coordinator has:

- Reviews the ADA statutes and regulations
- Attended various ADA training programs
- Reviewed the City of Morgantown Section 504 documents and plans

- Discussed compliance with key City staff and with community leaders
- Drafted a compliance process work plan
- Evaluated personnel and resources needed for the compliance process
- Recruit, orient, and train the ADA Compliance Team
- Recruit, orient, and train the City of Morgantown Self-Evaluation/Transition Plan Committee
- Draft a notice and grievance procedure

### **Drafting the Compliance Process**

In the summer of 1993, the ADA Coordinator submitted a status report on ADA compliance to City administration. On September 28, 1993, the ADA Coordinator presented to City Council an ADA update and plan proposal on how the City would proceed with the self-evaluation/transition plan proposal.

### **Recruitment, Orientation and Training of the ADA Compliance Team**

The City of Morgantown has adopted a team approach, which has lead to achieving a successful compliance process. The ADA Coordinator has identified the various departmental leaders needed for this team effort, oriented them to the ADA process and provided ADA training. On May 25 and 27 of 1993, orientation and training were provided by the ADA Coordinator with the assistance of local organizations (see attached training agenda?). At that time, the ADA Compliance Team was informed of how they would participate in the self-evaluation and comprehensive planning process by completing general policies and practices review worksheet questionnaires. Utilizing the team approach, below is a listing of City personnel who have been assigned to the ADA Compliance Team and have various types of ADA oversight and responsibilities.

#### **ADA Compliance Team**

Mr. Dan Boroff, City Manager for the City of Morgantown has the overall responsibility for the overseeing ADA compliance at the City of Morgantown.

Mr. David Bruffy, (Effective 1/1/95) ADA Coordinator/Administrative Assistant for the City of Morgantown has the overall responsibility for carrying out ADA compliance improvements outlines in this self-evaluation and attached transition plan. He will also investigate any grievance from citizens concerning programs, services and activities, and serve as contact person for all staff in regards to unresolved ADA compliance issues.

#### **Employment**

All administrators, managers, and directors have responsibilities for coordinating compliance efforts in the employment of City personnel, classified staff, and unclassified staff.

#### **Access**

Mr. Marwan A. Rayan, Director/City Engineer for the Department of Public Works, has responsibility for coordinating facilities compliance for the City of Morgantown. He also has

ADA compliance oversight responsibilities for City projects and private construction projects that have to deal with public access.

Mr. William Bechtel, Director for the Planning and Community Development Office, has responsibility for coordinating ADA compliance in regards to facilities, communication, and employment access. He also has responsibilities for informing future private developers about public access issues and ADA Compliance.

Mr. Jack Averill, Chief of Building Inspections, has responsibility for coordinating ADA compliance in regards to facilities, communication and employment access. He also has responsibility for informing building permit applicants in regards to ADA compliance and obtain a written verification acknowledging that they understand their responsibilities.

The following personnel have been assigned responsibilities for coordinating ADA compliance concerning facilities, communication, and employment access within their departments:

- Mr. Bill Plutt, Director Morgantown Municipal Airport
- Mr. Jeff Berryman, Director Board of Parks and Recreation Commission
- Ms. Sharon Turner, Director Morgantown Public Library
- Ms. Dorothy White, Director Morgantown Parking Authority
- Mr. Larry E. Rose, Fire Chief Morgantown Fire Department
- Mr. James McCabe, Police Chief Morgantown Police Department
- Mr. David Bruffy, Transit Director Morgantown Municipal Transit System
- Ms. Donna Frum, Director Finance Department
- Ms. Linda Little, City Clerk City Clerk Office

### **Involvement of People with Disabilities**

The City of Morgantown has chosen the path of involving people with disabilities that should serve as a model for other communities. As mentioned previously, the City of Morgantown has helped create three local groups to assist in the ADA compliance process. The City of Morgantown's experience with individuals with disabilities has proven to be a key to ADA compliance for several reasons. First, the regulations require for the City to provide an opportunity for people with disabilities and other interested individuals or organizations to review and comment on the self-evaluation and transition plan. Second, involving the end-user in the process has generated solutions that are creative and effective. Third, involving people with disabilities in the decision making has strengthened the City of Morgantown's accountability of the process and ensured wise use of limited public resources.

### **Creation of the former Morgantown Access Committee**

The Morgantown City Council on August 6, 1991, established by Resolution on Ad Hoc Committee to study all facets of the City of Morgantown as it relates to accessibility for people with disabilities. The Committee studied the needs for a positive approach for improving the quality of life for all of our citizens through the implementation of the ADA. This Committee's report suggested ways to empower the citizens of Morgantown to make the recommended changes quickly and which would show a good faith effort in meeting the intent of the ADA, as well as following the letter of the law.

*\* Documentation (see Appendix B):*

- 1) *Resolution establishing Ad Hoc Committee*
- 2) *Newspaper reports concerning Ad Hoc Committee*
- 3) *Morgantown Access Committee Report to City Council*

### **Creation of the City of Morgantown Self-Evaluation/Transition Plan Committee**

The City of Morgantown Self-Evaluation/Transition Plan Committee was created in June of 1993 to assist the City of Morgantown in evaluating all of its programs, services, and activities. Their primary responsibility was to ensure that the City of Morgantown's programs services and activities were accessible to people with disabilities. The members were selected from those who attended a public hearing that was publicized through public notices and/or through recruitment efforts of the ADA Coordinator. This nine-member committee is made up of individuals with various types of disabilities and/or advocates from various organizations that serve people with disabilities.

The City has utilized the committee membership's abilities and knowledge to creatively problem solve ADA related issues at regular meetings. The City expresses its sincerest gratitude these individuals and agencies for this important endeavor. The Committee has spent numerous hours evaluating; streets, sidewalks, parking lots, buildings and facilities, parks, etc. They have helped provide the City with a plan that when carried out will bring it's programs, services, and activities into compliance with the ADA legislation.

*\* Documentation (see Appendix B):*

- 1) *Public Notice announcing creation of Committee*
- 2) *Meeting agendas for Committee*
- 3) *Newspaper articles concerning Committee*

### **Creation of the Morgantown Area Community Partnership Program**

The Morgantown Area Community Partnership Program, created in November of 1992, is actively working to address several issues and problems facing area residents with disabilities. The City of Morgantown is sponsoring the Partnership Program, and the Morgantown Program is affiliated with the National Organization on Disabilities. The Morgantown Program is just one of more than 3,000 cities, communities, and military installations participating in the nation-wide Community Partnership Program. The national objectives are similar to that of the local level in that they are working to develop a community oriented approach to ensuring voluntary compliance with the Americans with Disabilities Act. Other objectives include the development of local community attitudes designed to enhance the ability of persons with disabilities to fully participate in all aspects of community life.

The Morgantown Partnership Program is currently comprised of more than 35 active volunteers, disabled and able bodies alike. The membership list includes volunteers from various local agencies serving people with disabilities, various local agencies and institutions, and individuals interested in helping in this worthwhile effort.

The Morgantown Partnership Program has been working closely with the City of Morgantown in its efforts to comply with the ADA legislation. The City ADA Coordinator attends monthly meetings of the Partnership Program, provides updates on the progress of the self-

evaluation/transition plan and provides updates on various ADA projects. Several members of the Partnership Program serve on the City of Morgantown ADA Self-Evaluation/Transition Plan Committee.

The Morgantown Partnership Program also produces and distributes with City cooperation periodic program updates that are distributed to approximately 150 organizations and individuals within community. These Partnership Program updates include information about various City of Morgantown ADA projects and accomplishments.

The City has also supported various Partnership Program projects that enhance ADA compliance throughout the community, some of which include:

- Community Partnership Program Kickoff Ceremony
- Distributing ADA literature to downtown businesses
- Conference for local businesses about ADA compliance
- Local businesses accessibility survey project
- Disability Awareness Week (October 1994)

\* *Documentation (see Appendix B):*

1. *Meeting agendas*
2. *Program Updates and mailing list*
3. *Newspaper articles relating to activities*

## **Phase II: CONDUCTING THE SELF-EVALUATION**

The City of Morgantown's ADA Compliance Team and Self-Evaluation/Transition Plan Committee during this phase were oriented and trained about Title II of the ADA and assisted with refining the compliance process that has been completed. This process took several months to complete and consisted of a comprehensive review of policies and practices for all City programs, services, and activities to ensure compliance with Title II requirements.

The City of Morgantown's self-evaluation covered four major areas:

- General nondiscrimination provisions
- Communications
- Program and facility accessibility
- Employment

The following pages review the City of Morgantown's responsibilities in each of these areas and describe the methods used during the self-evaluation.

### **General Nondiscrimination Provisions and Communications**

The City's self-evaluation includes a formal review of both the formal written policies and the actual operating practices of each program, service, or activity in relation to the general prohibitions against discrimination and communications contained in Title II. Each member of the ADA Compliance Team completed a questionnaire survey that related to their particular department (see sample survey ???). Completed surveys are on file and available upon request at the ADA Coordinator's office.

The departmental surveys solicited responses from ADA Compliance Team members in regards to listing all facilities and other locations where programs operate on a regular or incidental basis. They were also asked to describe the nature of the department, its programs and components, including its purpose, scope, general activities, and participants. The remaining portions of the survey dealt almost exclusively with general prohibitions, which are discussed more fully in Section 1, covered a wide range of issues including:

- Equal opportunity to participate and benefit
- Eligibility criteria
- Methods of administration
- Integrative programs
- Separate programs
- Reasonable modifications of policies, practices and procedures
- Surcharges
- Planning and advisory boards
- Facility locations
- Licensing and certification
- Procurement contracts
- Association

Problems and solutions to the wide range of issues that were evaluated are presented in Section 4 with the City of Morgantown's Self-Evaluation,

## Communications

The City of Morgantown must provide effective means of communications to people with visual, hearing, speech and cognitive disabilities. The communications review and Self-Evaluation consisted of gathering information from several different sources such as city staff, ADA Compliance Team Members, The Self-Evaluation/Transition Plan Committee, and various local agencies in the community. The city staff members of the ADA Compliance provided survey information about their departmental program's communications with the general public. Team members provided information about the need for various types of aids and services along with valuable information about the types of communications with the general public.

The Self-Evaluation/Transition Plan Committee reviewed the departmental surveys in an effort to creatively problem solve several very complex issues and alternatives to meeting ADA regulations. The solutions to the City of Morgantown's needs to provide communications are what led to what should be considered a model plan for providing different types of assistant technologies and aids to increase communication capabilities of people with disabilities within city government, the local community and this region of Northern West Virginia. With the help of city staff, team and committee members, and one local community organization that serves people with disabilities, called Stepping Stones (formally Easter Seals), the City was able to develop a cost effective and efficient solution to the City's needs for providing these types of communications.

The City's analysis of alternative ways of providing different types of general communications targeted three resource development strategies:

- 1) **Local.** Establish procedures for optimum sharing of existing or new communications resources at the program of department level, such as copying machines that can enlarge documents to produce large print of personal computers that can generate diskettes in ASCII format.
- 2) **Central.** Distribute centrally located resources throughout city government. For example, having the Morgantown Public Library provide access to a computerized Braille, a real-time transcription service, and an audiocassette production service for all departments and programs.
- 3) **External.** Establish standards and procedures for contracting for communications services from sources outside the entity within the local community.

Upon recommendations from the Self-Evaluation/Transition Plan Committee and after negotiations between the City and local organization, an agreement to obtain services external to City services was reached. The City of Morgantown and Stepping-Stones (formally Easter Seals) will sign an agreement allowing the City to obtain auxiliary aids and services needed by citizens with disabilities. The City and Stepping Stones are mutually excited about this agreement in that it provides the services needed by citizens upon request for the City of Morgantown's programs, services, and activities. Further details on this agreement are provided in Section 4 - The Self-Evaluation.

*Note: The portions of the communications review and Self-Evaluation dealing with structural communications will be addressed in the following paragraphs dealing with Program and Facility Accessibility (Also see Self-Evaluation).*

## **Programming and Facility Accessibility**

The ADA prohibits the City of Morgantown from denying people with disabilities equal opportunity to participate in programs and activities because facilities are inaccessible. This does not mean, however, that all buildings must be made fully architecturally accessible. The City of Morgantown's Programming and Facilities Accessibility Review and subsequent Transition Plan successfully meet and or exceed ADA requirement responsibilities. Throughout the reviewing stages of the self-evaluation that follow:

- (a) Planning
- (b) Initial evaluation
- (c) Recommendation review
- (d) Final approval of architectural modifications

### ***(a) Planning***

Throughout the above stages all interested parties considered each city's program operations, when viewed in its entirety, the program was readily accessible to and usable by people with disabilities. It should be noted that in instances where program accessibility may be compromised, the City of Morgantown would take all steps to make effective reasonable accommodations. In particular, future instances when a person with a disability has been hired or when an existing employee obtains a disability the city may have to consider the need to make further reasonable accommodations.

### ***(b) Initial Evaluation***

The City of Morgantown's initial ADA evaluations and review of program and facilities accessibility studies were conducted by West Virginia University Masters or Rehabilitations Counseling Students. The professor of a research class, Dr. Katherine Griever, in cooperation with the city's administration carried initial evaluations of buildings, facilities, and communications for ADA compliance.

The class was trained on ADA accessibility requirements and was provided with surveys by the City's ADA Coordinator. The class was then divided into groups of several students that were assigned the task of assessing designated public use buildings and facilities for needed structural and non-structural modifications. Students were provided tours by the city staff and the staff answered questions regarding the public's use of various city programs, services and activities. The WVU students' final reports produced recommendations that provided a solid foundation for ADA compliance with this section of the Self-Evaluation/Transition Plan requirements. The Rehabilitation Counseling Program at West Virginia University should be commended along with its students for reducing barriers for people with disabilities to city of Morgantown programs, services and activities.

### ***(c) Recommendation review***

The City completed the initial evaluation and the students' reports were distributed to the City of Morgantown's Self-Evaluation/Transition Plan Committee for additional evaluations. The Committee made key decisions, including how to acquire program access alternatives, and how to prioritize the implementation of solutions needed to be made by this committee. The participation process of this committee, with its members made of people with disabilities, provided valuable insight into identifying key issues that may not have been readily apparent to staff members of the city.

The City's ADA Coordinator at this stage of the planning process began meeting with key members of the City ADA Compliance Team in efforts to formulate methods of implementation for suggested recommendations. Subsequent issues surrounding recommendations were agreed upon between the City staff and the ADA Self-Evaluation/Transition Plan Committee.

*(d) Final approval of architectural modifications*

The City at this stage approved and finalized a recommendation list of architectural modifications for City of Morgantown public service designated buildings and facilities where citizens conduct business on a constant basis with departments/programs.

This list of recommended architectural modifications is presented as the City of Morgantown's Transition Plan as required by the Department of Justice (See Section 5: Transition Plan). The City of Morgantown's efforts to meet ADA Title II Requirements has led to a plan that exceeds requirements in several instances. This City facilities and program staff and with members of the disabled community.

**Employment**

The specific employment regulations covering the City of Morgantown are contained in Title I and are referenced in Title II regulations, and are discussed in detail in Section 1. During the employment review the city covered activities including the application process, testing, interviewing, hiring, assignments, promotion, on-the-job training, layoffs/recall, termination, leave and benefits.

## PHASE III: IMPLEMENTING MODIFICATIONS

The City's ADA Coordinator, ADA Compliance Team, and ADA Self-Evaluation/Transition Plan Committee have completed the self-evaluation review and identified areas in which the City is not in compliance. Modifications to policies, practices, procedures, and facilities either have been done or will be implemented with this plan. Outlined on the following pages are procedures for making modifications and maintaining ongoing compliance.

### **Modifying Policies and Practices**

The Self-Evaluation required review of both written policies and the actual operating practices used in programs and activities to ensure that people with disabilities are not discriminated against.

The ADA Coordinator facilitated the gathering of information from several different sources; codes and ordinances, handbooks, worksheet questionnaires, etc. The Self-Evaluation/Transition Plan Committee reviewed survey answers and other materials about departmental programs, incorporated ideas and concerns of people with disabilities, and created successful, problematic and structural access solutions. The topics that were covered are:

#### **(a) Internal Program Operations**

- Equal opportunity to benefit
- Reasonable Program modifications
- Surcharges and additional requirements
- Integrated settings and separate programs

#### **(b) External Relationship**

- Contracting with external organizations
- Licensing and certification

The city found that there was not a need to modify large amounts of existing program policies and practices. The City's ADA Coordinator and Self-Evaluation/Transition Plan Committee have made several recommendations, which affect the current operating procedures that should serve as reminders to staff of ongoing requirements. Some of these recommendations are being done by the City and/or will be continued to be done in the future. They include:

- Nondiscrimination requirements in contracts
- Nondiscrimination requirements in the by-laws and charges to commissions, committees and authorities
- Nondiscrimination requirements in requests for proposals ensuring the participation of the ADA Coordinator in the development and siting of new programs, services and activities
- Information to new employees during orientation

*\*Documentation (see section 4)*

- 1) City of Morgantown Self-Evaluation*
- 2) Departmental sample worksheet questionnaires*

## **Developing Communications Capacity**

During Phase III, the City of Morgantown has developed the capacity to provide effective communication to people with disabilities through the provisions of auxiliary aids and services. The City has analyzed the information gathered in an attempt to determine the amount and types of auxiliary aids needed by the City as well as the most cost-effective way of meeting those needs. The City has determined that the best way of developing its communications capabilities is through the purchase of services by means of a contract with an outside local agency called Stepping-Stones (formerly Easter Seals). All City departments and staff will be provided with comprehensive ADA training which will include policies and procedures for obtaining services from Stepping Stones (see future training??).

*\*Documentation (see section 4)*

- 1) *City of Morgantown ADA Self-Evaluation*
- 2) *Contract for auxiliary aids and services*

## **Creating Program and Facility Access**

The City of Morgantown has removed barriers to program access in a variety of ways, some of which involve structural changes and some of which do not. The City's planning process has encouraged innovation and creativity in eliminating barriers as lions as the means used provide people with disabilities equal opportunity to participate in and benefit from City of Morgantown programs.

Plans for structural changes have been incorporated into the City's Transition Plan. The City's Transition Plan includes the following required components, which are:

- A list of physical barriers in a City of Morgantown facility that limit the accessibility of programs, activities, or services to individuals with disabilities
- A detailed outline of methods to be utilized to remove these barreiers and make the facility accessible
- The schedule for taking the necessary steps to achieving compliance with Title II
- The schedule for providing curb cuts
- The name of the official responsible for the plan's implementation

*\*Documentation (see section 4)*

- 1) *City of Morgantown ADA Transition Plan*
- 2) *ADA Facilities Checklist*

## Section 4: City of Morgantown ADA Self-Evaluation

### Persons participating in Self-Evaluation

Listed are individuals who participated in Self-Evaluation.

#### ADA COMPLIANCE TEAM

<u>Name</u>	<u>Affiliation</u>
Jack Averill	Building Inspections
William Bechtel	Planning and Community Development
Jeff Berryman	Parks and Recreation
David Bruffy	ADA Coordinator (effective 1/1/95)
Steve Fanok	City Attorney Office
Donna Frum	Finance Department
Janie Ives	City Manager Office
Linda Little	City Clerk Office
James McCabe	Morgantown Police Department
Joseph Perfetti	Street Department
Bill Plutt	Morgantown Municipal Airport
Sharon Polentes	Morgantown Municipal Court
Marwan Rayan	Department of Public Works
Larry Rose	Morgantown Fire Department
Deb Smyth	Human Resources
Kramer Turner	ADA Coordinator (interim)
Sharon Turner	Morgantown Public Library
Dorothy White	Morgantown Parking Authority
Jim Winaught	Maintenance and Signs/Signals

### Involvement of People with Disabilities

Participation of people with disabilities in the Self-Evaluation was allowed primarily through the City's ADA Self-Evaluation/Transition Plan Committee. These individuals participated in all components of the Self-Evaluation (i.e. employment, general prohibitions against discrimination, communications, and facilities). Provided is a list of those individuals and the organizations with which they were affiliated.

#### ADA SELF-EVALUATION/TRANSITION PLAN COMMITTEE

<u>Name</u>	<u>Affiliation</u>
Kenneth Ervin	University Affiliated Center for Developmental Disabilities
Betty Harmon	West Virginia Department of Health and Human Services
Shawn Hatcher	Valley Community Mental Health
Gregory Hooton	Job Accommodations Network
Tony Miralles	Northern West Virginia Center for Independent Living
Gerald Musick	Citizen of Morgantown
Maurice Peret	National Federation of the Blind
Jenny Shaffer	Northern West Virginia Center for Independent Living
Kramer Turner	City of Morgantown

## General Policies and Practice Review

Description of the City of Morgantown's programs, services, and activities.

### INTERNAL PROGRAM/DEPARTMENTAL OPERATIONS

#### *Equal Opportunity to Participate and Benefit*

- 1) The City of Morgantown does not deny a qualified individual with a disability the opportunity to participate and benefit from any of its programs, services, or activities.
- 2) The City does not afford an opportunity that is not equal to or as effective as that provided for others.
- 3) The City does not impose eligibility criteria for participation in programs that screen out people with disabilities, either directly or indirectly, unless such criteria are necessary for the provisions of the program's activities.

*Are there any circumstances in which the participation of a person with a disability in the programs, services, and activities would be restricted or excluded?*

Yes       No

*If so, please describe.*

*There are no circumstances that would limit the participation of persons with disabilities in all other programs, services, or activities that the City of Morgantown provides.*

*Are any of these exclusions or restrictions necessary to the operation of the program, service, or activity to the safety of the participants who do not have disabilities?*

Yes       No

#### *Reasonable Program Modifications*

The City of Morgantown will make reasonable modifications to policies or practices in order to avoid discrimination toward people with disabilities.

*Are staff aware that it may be necessary to modify program policies or practices to enable people with disabilities to participate in and benefit from the program?*

Yes       No

*Is the public informed that the program is prepared to make reasonable modifications?*

Yes       No

*If yes, please describe.* The public is informed that the City is prepared to make reasonable modifications to programs, services, and activities in several ways that are:

#### **Present methods:**

- 1) Newspaper legal notice
- 2) Posting notice at all program sites
- 3) Radio public service announcements

**Future methods:**

1. Announcements of program, service, and activity meetings
2. City program pamphlet
3. Radio/television/newspaper reports

*Does the program have a formal or informal process for responding to requests for modifications?*

Yes       No

*If yes, please describe.* The City of Morgantown has a formal and informal process for responding to requests for modifications in any of its programs, services, or activities. The City has provided one phone number, (Voice/TDD/TTY) (304) 284-4ADA (4232) to provide citizens with disabilities the opportunity to request: reasonable accommodations or modifications, auxiliary aids and/or services, information from the ADA Coordinator such as technical information regarding ADA, how to file a grievance or complaint, or information on how the ADA applies to city programs, services, or activities.

*Does the program have a process for determining whether a policy or practice modification would fundamentally alter the nature of the program?*

Yes       No

*If so, please describe.*

***Surcharges and Additional Requirements***

The City of Morgantown does not impose extra charges upon people with disabilities to cover the costs of effective communication, program modifications, or access features, and does not impose any additional requirements or burdens on people with disabilities that they do not require of all other participants in the program.

*Are there any circumstances in which a person with a disability would be asked to pay a fee or meet any other requirements not imposed on other program participants?*

Yes       No

*If so, please describe.*

***Integrated Settings and Separate Programs***

Promoting integration is a fundamental principle of ADA and the City of Morgantown will provide programs and activities in the most integrated settings appropriate to the needs of people with disabilities.

- 4) Separate programs or activities are permitted only when necessary to ensure equal opportunity.
- 5) When separate programs are provided, qualified people with disabilities still cannot be excluded from participating in regular programs if they choose to do so.

*Does the program provide any separate activities for people with disabilities?*

Yes       No

*If yes, please describe how the separate activity contributes to affording people with disabilities an equal opportunity to benefit.*

*Are there any circumstances in which a person with a disability would be prohibited from participating in regular (non-separate) activities because of the provision of separate activities?*

Yes       No

*If yes, please describe.*

## **EXTERNAL RELATIONSHIPS**

### ***Contracting with External Organizations***

When the City of Morgantown contracts with another organization to provide programs and services to the City's constituents, the City retains the responsibility for ensuring that the contractor provides the services and activities in a nondiscriminatory manner consistent with the requirements of Title II.

*List any contractors who provide services, benefits, or activities on behalf of the program (or attach the separate sheet if necessary).*

*Has the program notified each contractor of its responsibilities for providing contracted services in a nondiscriminatory manner and has the program required assurances from contractors of their fulfillment of Title II nondiscrimination and access requirements?*

Yes       No

*If so, please describe both the notification process and the process by which the City will ensure compliance.*

### ***Procurement Contracts***

In selecting procurement contractors, the City of Morgantown will not discriminate on the basis of disability.

*Are there any circumstances in which a consideration related to disability would influence the choice of a procurement contractor?*

Yes       No

### ***Licensing and Certification***

The City of Morgantown will not deny a license or certification to any person with a disability who meets the essential eligibility requirements for that license or certification.

Eligibility requirements cannot include criteria that directly or indirectly screen out people with disabilities unless the criteria are necessary to the performance of the activity that is the object of the license or certificate.

*List any licenses or certifications that the program issues.*

*List any eligibility criteria that may tend to screen out people with disabilities; for example, criteria related to physical or mental fitness or performance, safety standards, insurability requirements.*

*For each potentially exclusionary criterion, identify how the criterion is necessary to the performance of the activity which the license or certificate applies.*

## **Communication Access Assessment**

### **COMMUNICATION ACCESS**

#### ***Visual Communication***

Information that is communicated visually, such as through printed materials or visual displays, will be made accessible to people with visual and cognitive disabilities through auxiliary aids and services.

*Does the program involve information that is communicated visually?*

Yes       No

#### ***Aural/Oral Communication***

Aural refers to information that is heard; oral refers to spoken information.

Programs that communicate information aurally to applicants or participants or that require an applicant or participant to use oral communication, the City will make that information accessible to people who have hearing or speech disabilities by providing auxiliary aids and services.

*Does the program involve information that is communicated verbally?*

Yes       No

***Primary Consideration***

The City of Morgantown, in cooperation with Title II regulations, will provide people with disabilities an opportunity to request the type of communications technology and assistance they prefer to use.

The City considers communications technology and Assistance interchangeable with auxiliary aids and services.

The City will give primary consideration to an individual's preference for auxiliary aid or service and will honor it unless the City can provide another effective means of communication.

The City is not required to provide an auxiliary aid or service if it would result in a fundamental alteration to the program or in undue financial or administrative burdens.

*Does the program inform people with disabilities that communication aids or services are provided upon request?*

Yes       No

*If yes, please explain.*

*Does the program have a procedure for deciding which auxiliary aid or service to provide?*

Yes       No

*Does the procedure provide for consideration of an individual's preferred aid or service?*

Yes       No

*Does the procedure include a mechanism for determining that an aid or service provided other than the requested aid or service is an effective means of communication?*

Yes       No

*If the answer to any of these three questions is yes, please describe.*

**TELECOMMUNICATIONS**

***Telephone Communication***

When the City communicates with the public by telephone, TDD/TTY's or equally effective means shall be used to communicate with people who have hearing or speech disabilities.

The City will use TDD/TTY's wherever telephone communication is a substantial part of the program's operation.

*Does the program communicate with the public over the telephone?*

Yes       No

*Are telephone communications ever lengthy, complex, or technical?*

Yes       No

*Does the program have a TDD/TTY?*

Yes       No

*If so, has the staff been trained in the use of the TDD/TTY?*

Yes       No

*Please describe.*

### ***Telephone Emergency Services***

If the program provides telephone access to emergency services, the City will provide direct access to the same number(s) for individuals who use TDD/TTY's; relying on a relay service is not acceptable.

*Does the program provide telephone access to emergency services?*

Yes       No

*If so, does the program provide direct TDD/TTY access to the emergency telephone number(s)?*

Yes       No

### **OTHER COMMUNICATION**

#### ***Emergency Warning and Evacuation***

Emergency evacuation procedures for the program, service, or activity will ensure that people with disabilities are made aware of emergencies and are aware of exit procedures.

*Is there a means of assuring that people who are hard of hearing or deaf are made aware of an activated alarm?*

Yes       No

*Is there an established emergency evacuation procedure that addresses the needs of individuals with disabilities?*

Yes       No

*If not, please describe the procedures the program will use in facilities where means of egress are not accessible to provide safety and evacuation for people who cannot use stairs.*

*Do staff members receive training in emergency evacuation procedures?*

Yes       No

*Please describe.*

***Access Information***

The City, in cooperation with Title II regulations, will ensure that people with disabilities can obtain information about the availability and location of accessible programs, services, activities, and facilities.

Information regarding the locations of accessible entrances, program sites, TDD/TTY's, and other access features can be provided in number of ways, such as handbooks and listings.

**STEPS IN THE EMPLOYMENT PROCESS**

***Step 1: Advertising***

*Identify all ways in which job vacancies are advertised.*

Internal posting/notice	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Newspaper	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Outside recruiters or employment agencies	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Other: Describe _____		
_____		
_____		

*Has content been reviewed to ensure it is non-discriminatory?*

Yes       No

*Identify staff person(s) responsible for drafting content of solicitations.*

Name and Department \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*Review all job advertising. Delete all inappropriate language. Establish guidelines and procedures for content review for all future advertising.*

*Have locations been reviewed for accessibility (e.g. recruiter's offices, bulletin boards)? Complete a facility checklist.*

Facility checklist completed?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Barriers identified?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Plan to remove barriers developed?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

*Identify alternate accessible site for permanent use of pending barrier removal, if necessary.*

**Step 2: Application Form**

Identify all materials given to job applicants at the initial interview ("application packet") stage. Forms must not contain questions that identify disabilities.

Application  Yes  No  
Release Forms  Yes  No  
Other: Describe. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Review application packet. Delete all inappropriate language or forms

Is a protocol in place for handling reasonable accommodation requests relating to the application form?

Yes  No

Identify location(s) where applicants complete application forms: \_\_\_\_\_  
\_\_\_\_\_

Consider whether the site is accessible, including the path of travel to the site from public transportation, parking, entrances, etc. Complete a facility checklist on this site.

Facility checklist completed  Yes  No  
Barriers identified  Yes  No  
Plans to remove barriers developed  Yes  No

Identify alternate accessible site for permanent use or pending barrier removal, if necessary:

\_\_\_\_\_  
\_\_\_\_\_

**Step 3: Interview**

Identify location(s) where interviews are conducted:

Consider whether this site is accessible, including the path of travel to the site from public transportation, parking, entrance, etc. Complete a facility checklist on this site.

Facility checklist completed  Yes  No  
Barriers identified  Yes  No  
Plan to remove barriers developed  Yes  No

Identify alternate accessible site for permanent use or pending barrier removal, if necessary:

\_\_\_\_\_  
\_\_\_\_\_

Are interview questions standardized to ensure against inappropriate/illegal questions?

Yes  No

Develop standardized interview questions. Distribute them to appropriate staff.

*Do interview questions track job functions?*

Yes       No

*Modify questions as appropriate.*

*Have staff who conduct interviews received ADA training?*

Yes       No

*Identify training programs for such staff and schedule.*

*Is a protocol in place for handling reasonable accommodation requests for the job interview?*

Yes       No

#### **Step 4: Medical Examination**

*Identify positions that require a physical examination:*

*Are examinations required of all entering workers in the same job category? Medical testing must occur at the post-offer stage.*

Yes       No

*Review medical examination requirement. Modify as necessary.*

*Identify the timing of any medical testing (excluding drug testing) in the employment process:*

*Develop timing protocol to ensure medical testing occurs at a uniform, post-offer stage. Distribute to appropriate staff.*

#### **Step 5: Health Insurance & Other Benefits**

*Forms that disclose disability related information should be completed at the post-offer stage.*

*Identify step during employment process when new hires are asked to complete health, life, and/or disability insurance forms:*

*Include timing for distribution of benefits forms in timing protocol developed in Step 4: Medical Examination.*

#### **Step 6: Personnel Policies Manual**

*Does the entity have a written personnel policies manual?*

Yes       No

*If so, utilize the following checklist for content review:*

- Statement of Non-Discrimination or Equal Opportunity
- Benefits
- Rules of Conduct/Discipline
- Attendance/Sick Leave
- Medical Exam Requirements (Return to Work)
- Dress Code
- Confidentiality
- Termination
- Use of Drugs/Alcohol

*Comment on work to be done or change necessary:*

*Make changes. Distribute to staff.*

*Is personnel policy manual available in alternate formats?*

Yes       No

- |                    |                              |                             |
|--------------------|------------------------------|-----------------------------|
| Audiocassette?     | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Braille?           | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Large print?       | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Computer diskette? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

*Develop alternate formats.*

**Step 7: Job Tests**

*Identify job tests or skill tests administered to applicants (e.g. typing tests, spelling tests):*

_____	_____
_____	_____
_____	_____

*Do job tests relate to actual essential job functions performed?*

Yes       No

Job category:

Job category:

Job category:

*Correlate job tests with job functions.*

*Is a protocol in place for handling job tests with job functions? Modify as appropriate.*

Yes       No

*Amend all documentation relating to action steps in the employment process.*

## TRANSITION PLAN

### Summary of Architectural Modifications

Transition Plan completed by Kramer Turner, ADA Coordinator  
 Telephone: 304 292 20 48

#### City Hall

Description of Structural Changes	ADAAG Regulations	Cost Estimate (\$)	1994	1995	1996-2005
1. Curb cuts at Fayette and Spruce Streets	4.7				X
2. Curb cuts at Spruce and Wall Street	4.7				X
3. Ramp at main entrance	4.8				X
4. New elevator meeting ADA requirements	4.10	121,000			X
5. New entrance door Building Inspections	4.13				X
6. Gate at main lobby steps					X
7. Unisex restroom	4.16 - 4.19	3,000			X
8. Electrical door operating device at main entrance	4.13	1,600			X
9. Accessible door handles/knobs	4.13.9	175			X
10. Portable TDD	4.31.9	175			X
11. Evac + Chair		975			X
12. Emergency alarm systems	4.28				X
13. Develop emergency evacuation procedures					X
14. Exterior and interior signage	4.30	800			X

**Morgantown Municipal Airport**

Description of Structural Changes	ADAAG Regulations	Cost Estimate (\$)	Year					
			1994	1995	1996	1997	1998-2005	
1. Disabled parking spaces	4.1.2	\$ 200	X					
2. Ramp at main entrance	4.8	2,000	X					
3. Portable TDD	4.31.9	200	X					
4. Braille at existing elevator	4.10.12	50	X					
5. Automatic door openers at main entrance	4.13	3,100	X					
6. Accessible door handles/knobs	4.13.9	30	X					
7. Public male and female accessible restrooms	4.16 - 4.19	100,000		X				X
8. Interior and exterior signage	4.30	300		X				
9. Evaluate emergency alarm system	4.28	0		X				
10. Develop evacuation procedure		0		X				
11. New elevator meeting ADA requirements	4.10	106,000					X	

**Morgantown Public Library**

Description of Structural Changes	ADAAG Regulations	Cost Estimate (\$)	1994	1995	1997-2005
1. Two electrical door operating devices at main entrance	4.13	\$ 3,200			X
Install electrical plugs	4.31.9	100			X
2. Portable TDD		150			X
Shipping and handling		10			X
3. All interior doors evaluated and adjusted	4.13.11				X
4. Accessible tables first and second floors	4.32	879			X
5. Evac + Chair		42			X
Cover		25			X
Training tape		20			X
Shipping and handling		0			X
6. Evaluate emergency alarm systems	4.28	0			X
7. Develop emergency evacuation procedures		0			X
8. Elevator					X
Audible signal adjusted					X
Intercom/phone system	4.10.14	50			X
9. Insulate sinks on the basement floor	4.19.4	750			X
10. Interior and exterior signage	4.30	150			X
Building assessment					X

**Morgantown Public Safety Building**

Description of Structural Changes	ADAAG Regulations	Cost Estimate (\$)	1994	1995	1996-2005
1. Electric door operating device at the Municipal Court entrance	4.13	\$ 1,600			X
2. Relocate public pay phone	4.31.3				X
3. TDD service pay phone	4.31.9	1,000			X
4. Portable TDD	4.31.9	175			X
5. Accessible restrooms	4.18.3				X
Remove partition, reinstall existing handrail	4.19.2				X
Lower sink counter	4.19.2				X
Remove counter facing	4.19.4				X
Insulate pipes	4.19.5				X
Lever operated faucets	4.19.6				X
Lower mirrors	4.13.11				X
Adjust restroom doors	4.28				X
6. Evaluate emergency alarm systems					X
7. Develop emergency evacuation procedure					X
8. Interior and exterior signage	4.30	800			X

**Marilla Park Field Areas**

Description of Structural Changes	ADAAG Regulations	Cost Estimate (\$)	1994	1995	1996	1997	1997-2005
1. Create disabled parking	4.1.2	\$					X
a. Tennis and basketball courts		100					X
b. Picnic areas		500					X
c. New play area		5,000					X
2. Improve pathways	4.3	1,700					X
a. Basketball court gate entrance ramp							X
b. Picnic areas		500					X
c. New play area		1,500					X
d. Restroom by courts		2,500					X
3. Accessible play equipment	4.3	30,000					X
4. Remove hump at tennis entrance	4.16 - 4.19	200					X
5. Purchase accessible restroom by courts	4.32	1,000					X
6. Accessible picnic tables	4.16 - 4.19	15,000					X
7. Build accessible restrooms	4.30			X			X
8. Signage							

**Marilla Park Activities Building**

Description of Structural Changes	ADAAG Regulations	Cost Estimate (\$)	1994	1995	1996-2005
1. Create disabled parking at main office	4.1.2	\$ 1,000			X
2. Reconstruct ramp to main office	4.8	2,500			X
3. Widen doorway to activities area	4.13.11	500			X
4. Install lever door handles	4.13.9	50			X
5. Activities Building restrooms	4.13.9	10			X
Slide latch lock on women's door	4.16.2	0			X
Rearrange furniture	4.13.11	0			X
Remove doorway (male)	4.16 - 4.17	4,000			X
Widen stalls	4.16.3				X
Raise commodes	4.17.6				X
New commode grab bars	4.19	200			X
Reposition sink	4.19.5				X
Lever operated faucets	4.19.4				X
Insulate pipes on sink	4.19.6	0			X
Reposition mirrors	4.19.6	0			X
Reposition dispensers	4.32	20			X
6. Install cup dispenser at drinking fountain					X
7. Provide accessible tables					X

**Marilla Pool**

Description of Structural Changes	ADAAG Regulations	Cost Estimate (\$)	1994	1995	1996	1997	1998-2005
1. Eliminate threshold at Bath House	4.13.8	\$ 100	X				X
2. Install bench and grab bars in showers	4.21.3		X				X
3. Place grates over shower drains	4.5.4						
4. Sinks in dressing areas	4.19	500	X				
Reposition sink (male)	4.19.5	100	X				
Lever operated handles	4.19.6	0	X				
Lower mirrors	4.16.6	0	X				
Lower soap and towel dispensers							X
5. Restrooms							
Install outswinging door (female)	4.16.2	0	X				
Install grab bars	4.16.4	100	X				
Reposition toilet paper dispensers	4.16.6	0	X			X	
6. Swimming pool							
Install lift		3,000				X	
Install ramp to the wading pool	4.8						
Improve ramp to concession area	4.8	3,000	X	X			
7. Relocate and lower phone	4.31						

**White Park**

Description of Structural Changes	ADAAG Regulations	Cost Estimate (\$)	1994	1995	1996-2005
1. Expand disabled parking with access aisles	4.1.2		X		X
a. rink lot		50	X		
b. ballfield		100	X		
c. pavillion		100	X		
2. Pavillion Pathway	4.3	3,000		X	
3. Lower field pathway	4.3	1,500		X	
4. Install volume control on telephones	4.31		X		
5. Ice rink restrooms	4.16 - 4.19	4,000	X		
Remove partitions	4.18.3	1,000	X		
Lower mirrors	4.19.6	50	X		
Lever operated faucets	4.19.5	200	X		
6. Ballfield building restrooms	4.16 - 4.19	27,000	X		
Level blacktop at entrance	4.8	500	X		
Install grab bars and reposition	4.17.6	200	X		
Lower towel dispenser	4.2.6	0	X		
7. Picnic areas					
Accessible picnic tables	4.32	1,250		X	
Accessible restrooms	4.16 - 4.19	15,000	X		
8. Signage	4.30	1,000		X	

**Krepps Park**

Description of Structural Changes	ADAAG Regulations	Cost Estimate (\$)	1994	1995	1996	1997	1998-2005
1. Create three disabled parking spaces – Bath House	4.1.2	\$ 200	X				
2. Raise entrance path at bridge	4.8			X		X	
3. Public restrooms	4.16 - 4.19			X			
Lever door handles	4.13.9	50		X			
Remove partition in men's room	4.18.3	0		X			
Install grab bars	4.16.4	50		X			
Relocate towel dispenser	4.16.6	0		X			
Relocate soap dispenser	4.19.6	0		X			
Reposition mirror	4.19	0		X			
Install locks	4.13.9	50		X			
4. Provide cup dispensers at water fountains			X				
5. Install lift at Krepps pool		3,000	X				X
6. Kid's aquatic/interactive play area		225,000	X				X
7. Level threshold at Bath House doorway	4.13.8	50	X				
8. Pool restrooms	4.16 - 4.19						
Remove partition in restroom stalls	4.18.3	2,400	X				
Install lever operated faucets	4.19.5	200	X				
Lower towel dispensers	4.2.6	0	X				
Insulate pipes	4.19.4	0	X				
Lower mirror	4.19.6	0	X				
9. Showers		1,000 (?)					X
Remove water containment barriers	4.13.8	25	X				X
Install shower benches	4.21.3	?					
Install grab bars	4.21.4	50	X				X
Install hand held shower heads	4.21.6	?					
10. Install lever operated door handles	4.13.9			X			X
11. Create van accessible parking by ballfield	4.1.2	1,000				X	
12. Improve pathways	4.3					X	
13. Improve trails	4.3					X	
14. Redesign tennis and basketball courts					X		
15. Accessible picnic tables	4.32	750	X				
16. Remove chain behind diamond B and install blockage polls	4.3	100	X				
17. Signage	4.30	1,000		X			X

**South Side Fire Station**

Description of Structural Changes	ADAAG Regulations	Cost Estimate (\$)	1994	1995	1996-2005
1. Cup dispenser at water fountain	4.13.9	\$ 5	X		
2. Accessible door handles/knobs at front and garage entrances	4.13.11	30	X		X
3. All doors evaluated and adjusted	4.16 - 4.19	45	X		
4. Accessible restroom	4.13.5	1,000	X		
Widen door clearance		810	X		
Relocate sink		1,210	X		
Relocate toilet		1,560	X		
Relocate shower		25	X		
Relocate mirror		75	X		
Lever operated faucets	4.19.5	50	X		
Insulate pipes	4.19.4	300	X		
Install grab rails	4.17.6	45	X		
Install lock	4.13.9		X	X	
5. Expand parking lot	4.1.2			X	
6. Permanent disabled parking space	4.8		X	X	
7. Install ramp to main entrance	4.8		X		
8. Purchase handrail for ramp	4.30	100		X	
9. Signage	4.30	75	X		
10. Temporary parking sign	4.30		X		

**Curb Cuts and Curb Ramps**

Location of Curb Cuts and Curb Ramps (or Map Code Number)	Cost Estimate (\$)	1993	1994	1995	1996	1997-2005
Chesnut Street #25 +						X +
Chesnut Street #26						
Chesnut Street #27						
Chesnut Street #28						
Chesnut Street #29						
Chesnut Street #30 +	5,272	X +				
Chesnut Street #31						
Chesnut Street #32						
Chesnut Street #33 ^						X ^
Chesnut Street #34 ^						X ^
Chesnut Street #35						
Chesnut Street #36 ^						X ^
Chesnut Street #37						
Chesnut Street #38						
Chesnut Street #39 +						
Chesnut Street #40 +	2,636	X +				X +
Chesnut Street #41 ^	5,272	X ^				
Chesnut Street #42						
Chesnut Street #43						
Chesnut Street #44						
Chesnut Street #45						
Chesnut Street #46 +						
Chesnut Street #47						
Chesnut Street #48						
Chesnut Street #49						
Chesnut Street #50 ^	2,636	X ^				
Chesnut Street #51 ^	5,272	X ^				
Chesnut Street #52 <sup>7</sup>						
Chesnut Street #53						
Chesnut Street #54						
Chesnut Street #55 +						
Chesnut Street #56						
Chesnut Street #57						
Chesnut Street #58						
Chesnut Street #59						









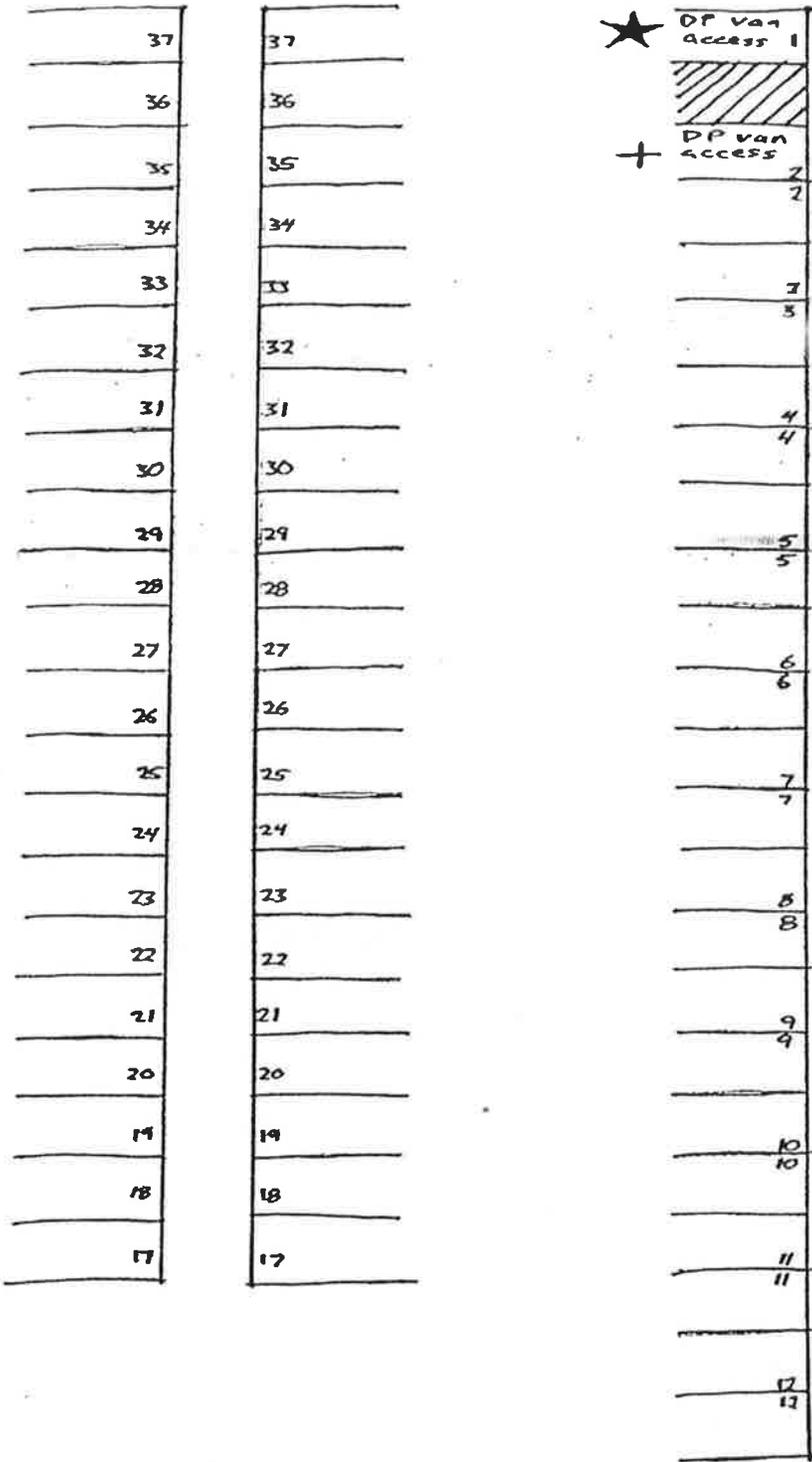
**DOWNTOWN PARKING ADA TRANSITION PLAN**

<b>LOT *</b>	<b>Existing</b>	<b>Proposed</b>	<b>Additional Space</b>	<b>Estimated Cost (\$)</b>	<b>Value of Each Space</b>	<b>**Estimated Lost Revenue From change</b>
A	1-Van 1- Access	1-Van	1	510	417/yr	375
B	4-Van 2- Access	Relocation of 2 Spaces	None	1,585	724/yr	None
C	1-Van 1- Access	1-Van 1-Disabled 1- Access	3	1,305	572/yr	1,602
D	None	3-Van 2- Access	5	1,370	442/yr	2,077
F	1-Van	3-Van 1- Access	4	1,910	401/yr	1,484
G	1- Disabled	2-Van 2- Access	3	1,090	525/yr	1,522
H	5- Disabled	1- Disabled	1	1,125	288/yr	259
J	None	2- Disabled	2	1,010	599/yr	1,078
K	5- Disabled	1-Van 3-Disabled 1- Access	5	<b>3,145</b>	<b>330/yr</b>	<b>1,518</b>
				<b>\$13,050</b>		<b>\$9,915</b>

- \* Lot A – Spruce/Fayette Street  
 Lot B – High/Chesnut/Fayette Streets  
 Lot C – Spruce/Pleasant Streets  
 Lot D – Pleasant/Chesnut Streets  
 Lot F – Spruce Street  
 Lot G – Willey/N. Spruce Street  
 Lot H – Spruce/Walnut Street Garage  
 Lot J – N. High Street  
 Lot K – University Avenue Garage  
 Estimate – 90% of Value

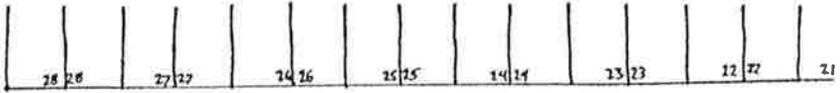
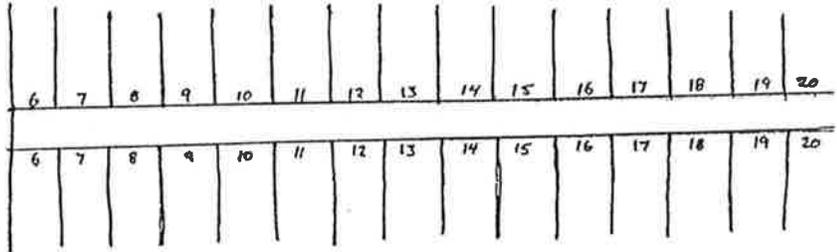
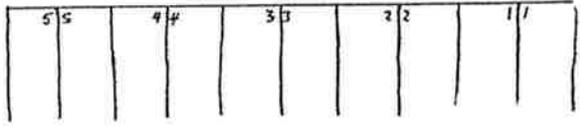
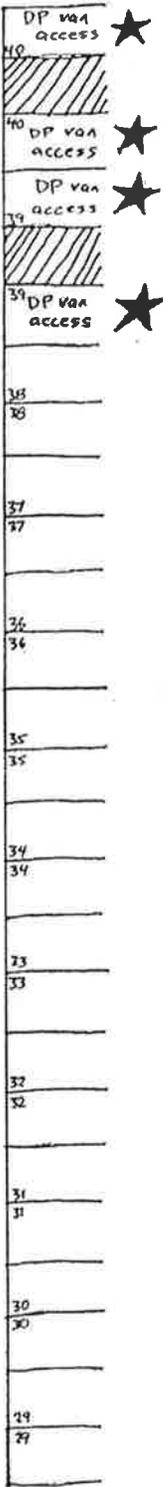
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Parking Lots:



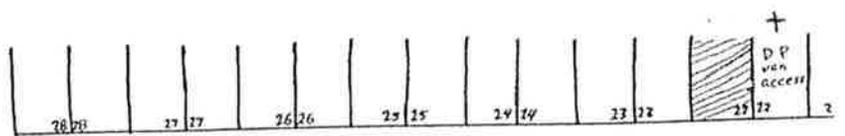
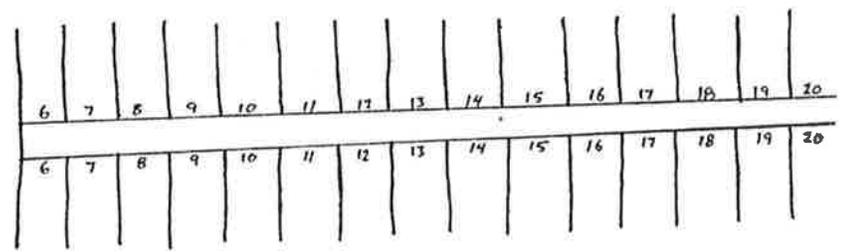
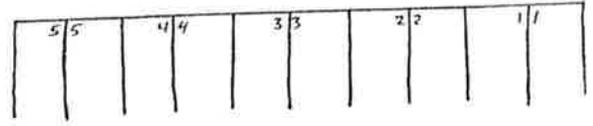
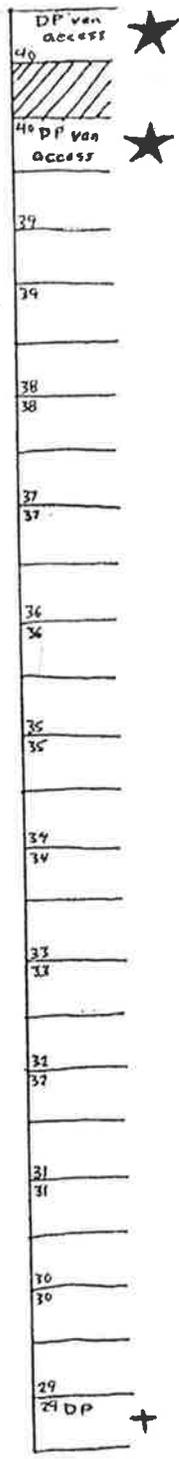
LOT A

# LOT B EXISTING



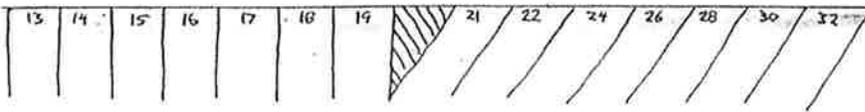
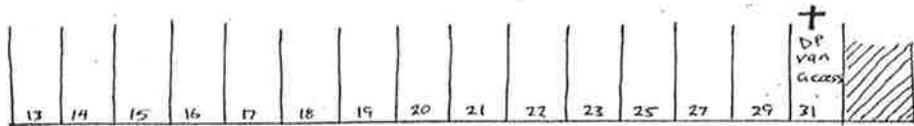
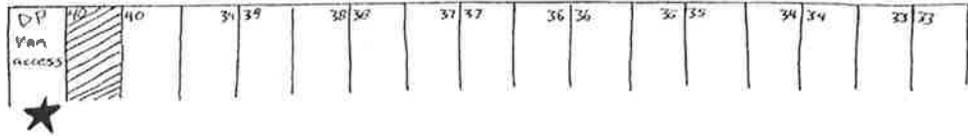
CHESTNUT ST.

# LOT B IMPROVEI

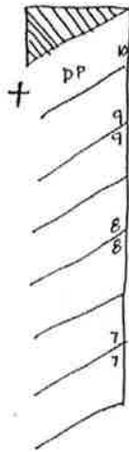
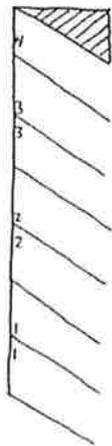
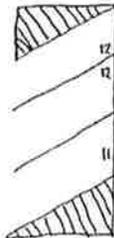
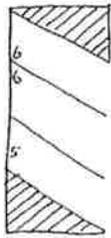


CHESTNUT ST.

# LOT C

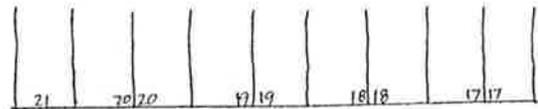
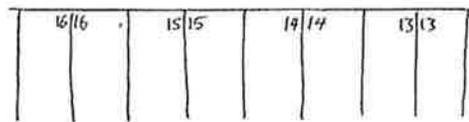
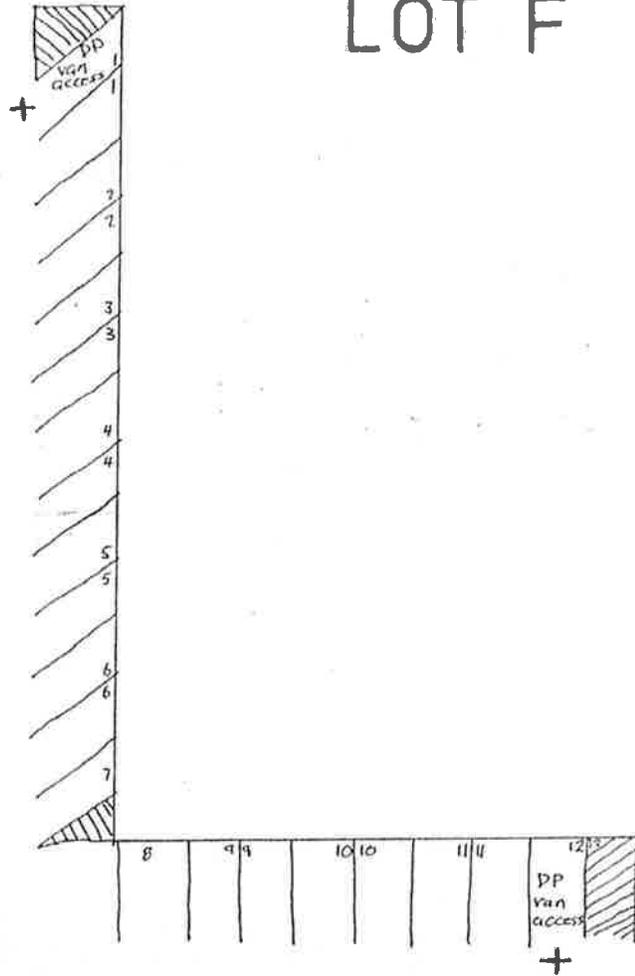
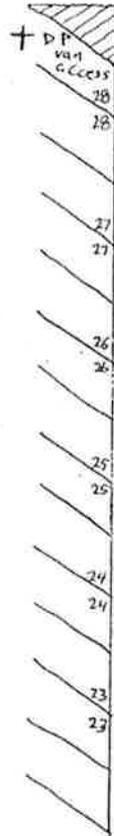
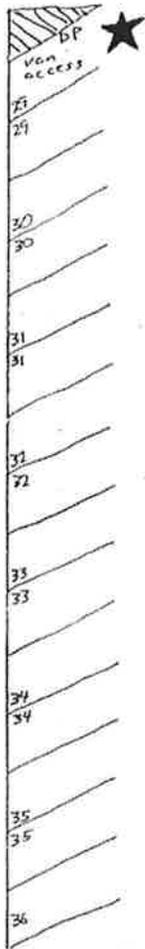


SPRYCE ST.

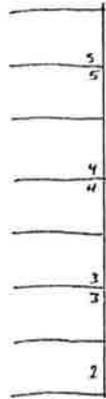
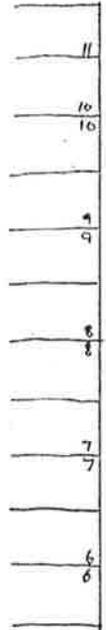


PLEASANT ST.

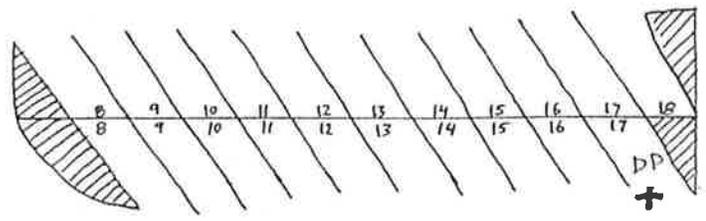
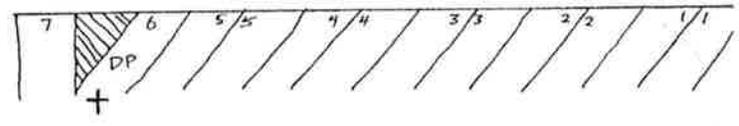
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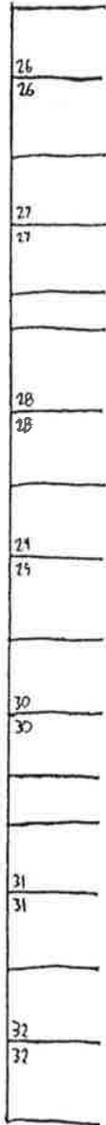
# LOT G



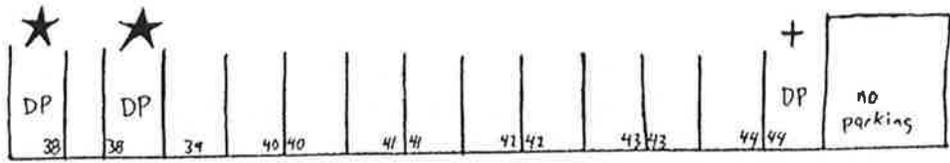
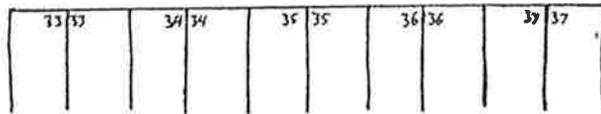
# LOT J







LOT H



LEVEL 2

# LOT H

58	57	57	56	56	55	55	54	54	53	53	52	51	51	51
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63	63	62	62	61	61	60	60	59	59
68	68	67	67	66	66	65	65	64	64

73	73	72	72	71	71	70	70	69	69
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50	50
49	49
46	46
47	47
46	46
45	45

# LEVEL 3

74
74
75
75

# LOT H

76
76
77
77
78
78

79	79	80	80	81	81	82	82	83	83
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★ DP 84	★ DP 84	85	86	86	87	87	88	88	89	89	90	90
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# LEVEL 4