



CITY OF CAPITOLA, CA

ADA SELF-EVALUATION AND TRANSITION PLAN

January 6, 2025

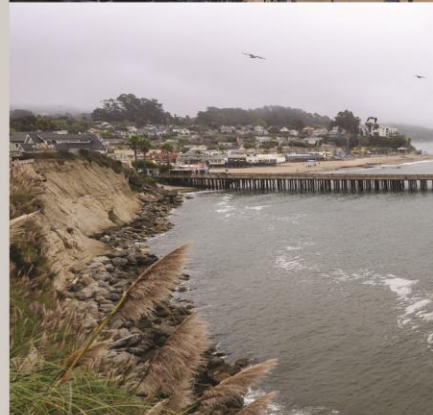




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City of Capitola ADA Self-evaluation and Transition Plan

1) Executive Summary

A. Background

The City of Capitola is a small seaside town located on the northern shores of Monterey Bay in the county of Santa Cruz, California. The original settlement now known as the City of Capitola grew out of what was previously referred to as Soquel Landing, which was named after the wharf located at the mouth of Soquel Creek. This wharf, which dates to the 1850s, served as an outlet for the produce and lumber grown in the interior. In 1869, Frederick A. Hihn, who owned the property in the vicinity of the wharf, decided to develop it as a seaside resort. Capitola is known as the oldest beach resort on the West Coast.¹

Steep cliffs mark access to several popular beaches, including New Brighton Beach, or drop directly to the rocky shoreline of the bay. Capitola Village is located in a depression among the cliffs where popular tourist and shopping areas lead directly to Capitola Beach. Colorful houses and hotels line the slopes of the town leading back up to the clifftops.

The City had a population of 9,938 at the 2020 census. The PSAs provided by the City take place within facilities leased and owned, including buildings, parking lots, parks, trails, shared use paths, a shuttle service and pedestrian network within the public right-of-way (PROW) shared by vehicles, cyclists, and pedestrians traveling by foot or other means.

The City is committed to providing an inclusive and vibrant community for all residents, including individuals with disabilities. As a result, the City has undertaken the process to develop a Self-evaluation and Transition Plan pursuant to the Americans with Disabilities Act (Plan), which reviews the policies and practices governing PSAs while correlating information collected to identify physical barriers to access for a comprehensive approach in determining their impact on residents accessing these public services provided.

B. Overview

This report describes the Plan required under the Americans with Disabilities Act (ADA). The intent is to ensure that when each City program, service or activity

¹ Clark, Donald Thomas. Santa Cruz County Place Names: A Geographical Dictionary. [Santa Cruz, CA: Santa Cruz Historical Society, 1986]. See pages 61–62.



(PSA) is viewed in its entirety², it is accessible to and usable by people with disabilities.

Under the 1990 ADA legislation, every state and local government was required to either demonstrate that their facilities providing space for PSAs were fully compliant to existing federal and state access requirements, or to develop a Plan to document the existing barriers, establish methods of remediation for each barrier, and create a schedule to remediate documented within the Plan.

This report is intended to ensure that the City of Capitola remains in compliance with the ADA by remediating barriers to access over time, until a point at which all barriers to access have been removed.

The City worked in partnership with an ADA Access Compliance consultant (SZS) who provided the breadth of knowledge and expertise necessary to successfully navigate the multitude of state and federal requirements, statutes and pertinent case law that govern ADA Access Compliance.

This partnership allowed SZS to perform field assessments correlating the physical barriers to access identified within physical locations of each PSA. At the same time, the City focused on the review of recommendations for policy and practice development, as well as the prioritization of barriers for remediation to determine the schedule of the Plan. This City was identified with the following City-owned locations, which have been assessed for program access as part of this process.

Table 1: City Owned Facilities

FACILITY	ADDRESS
Capitola Wharf	1400 Wharf Rd
City Hall Complex	420 Capitola Ave
City of Capitola Museum	410 Capitola Ave
City Sidewalks within the Public Rights-of-Way	Citywide
Community Center at Jade St. Park	4400 Jade St
Corporation Yard	430 Kennedy Dr
Cortez Park	Cortez Street
Esplanade Park, Restrooms and Beachfront	110 Monterey Ave
Hihn Park	Cliff Ave
Jade Street Park	4400 Jade St
Library and Tot Lot	2005 Wharf Rd
Lower Beach/Village Parking Lot 2	426 Capitola Ave, Capitola
Monterey Park	700 Monterey Ave
Noble Gulch Park	409-411 Monterey Ave

² <https://www.ada.gov/comprob.htm>



Park at Rispin Mansion	2000 Wharf Road
Peery Park & Restrooms	815 Bay Ave
Prospect Ave Park	1300 Prospect Ave
Soquel Creek Park	Soquel Creek Park
Vista Parking Lots on Cliff Dr.	4939 - 4973 Cliff Dr.
Upper Beach/Village Parking Lot 1	426 Capitola Ave, Capitola

The City website also plays an important part in providing PSAs to the public by providing many types and forms of communication and information such as broadcasting city council meetings, providing public service announcements and providing an access point for many PSAs.

Standards applied to these facilities include the 2010 ADA standards, the California Access Compliance Standards contained in the California Building Code, the California Manual on Traffic Control Devices (CA MUTCD), the Public Rights-of-Way Accessibility Guidelines (PROWAG), pertinent case law and additional applicable standards. Manual measurements and digital documentation were taken within exterior paths of travel and interior spaces. Sidewalks, walkways shared use paths, and trails were also assessed and inventoried for inclusion in the Plan.

An important part of the process involved applying a proprietary barrier severity rating and ranking system to systematically to facilitate the process to prioritize barrier remediation projects over the years during which the Plan will be implemented.

Methods used to remediate physical barriers include in-house improvements and maintenance, physical alterations including rehabilitation, renovation and future programming in the City's Capital Improvement Projects (CIP). Other planned obsolescence and the replacement of facilities over time has also been considered. Some barrier removal will be performed as exclusively part of the Plan, but much of the work included in the schedule is likely to be carried out as part of other planned alterations. Coordination between the information on barrier data contained in this Plan and future alterations is essential to make the most cost-effective improvements possible.

Please see Section 4: ADA Transition Plan for details on the present version of the Plan to improve accessibility. The Plan is not set in stone; it is a living document that is expected to evolve over time, due to the changing nature of ADA Access Compliance requirements. These changes may necessitate revisions to the Plan or schedule.

The City reserves the right to modify barrier removal priorities to allow for flexibility in accommodating community requests, requests for accommodations from



people with disabilities, changes in program locations, on-going evaluations, updates as additional facilities are acquired (leased or owned), and for future funding constraints and opportunities. Future remediation phases may be shortened or lengthened, as needed.

The City website will be used to make the public aware of alterations and new construction projects that include accessibility improvements. The Plan will be updated by City Staff over time to reflect the completion of remedial actions based on the Plan's recommendations.

2) Introduction

The Center for Disease Control and Prevention estimates that 1 in 4 Americans have a disability³, which means that 61 million people live with a disability in our country. State and federal laws have been in place for decades that prohibit discrimination. For over 50 years, the US DOJ Civil Rights Division has worked to provide state and local governments, and the public, with guidance and requirements intended to help public entities improve access for people with disabilities by implementing civil rights protections.

The Federal Access Board was established by Section 502 of the Rehabilitation Act of 1973 (Rehab Act)⁴ to develop requirements intended to ensure that people with disabilities are integrated into everyday life.

The Board consists of 25 total members, 13 of which are appointed by the US President from among the general public of which the majority of those members must be individuals with disabilities. The remaining 12 members are the heads of 12 Federal departments and agencies specified by statute, including the heads of the Department of Justice and the Department of Transportation (DOT). Originally, the Access Board (Board) was established to develop and maintain accessibility guidelines for facilities designed, constructed, altered, or leased using Federal funds under the Architectural Barriers Act of 1968 (ABA)⁵. Other laws have been passed to extend that coverage to all facilities used by the public, regardless of the funding source.

The Americans with Disabilities Act (ADA) is known as the integration mandate. The passage of the ADA in 1990 expanded the Board's responsibilities to *"issue minimum guidelines...to ensure that buildings, facilities, rail passenger cars, and vehicles are accessible, in terms of architecture and design, transportation, and communication, to individuals with disabilities"*.⁶

The ADA requires the US DOJ to issue enforceable accessibility standards applicable

³ <https://www.cdc.gov/ncbddd/disabilityandhealth/infographic-disability-impacts-all.html>

⁴ 29 U.S.C. 792

⁵ 42 U.S.C. 4151 *et seq*

⁶ 42 U.S.C. 12204



to facilities subject to ADA title II that are consistent with the '*minimum guidelines*' issued by the Board⁷. Translated into common language, this clause means that the US DOJ is required to enforce the standards that the Board adopts, although no timeframe for enforcement is mandated. It also means that the Standards set are considered minimum guidelines, which may not ensure access for all people with disabilities.

The ADA became effective on July 26, 1990 and extended legislation intended to eliminate discrimination against individuals with disabilities in federally funded facilities under the Rehab Act to all activities of State and local government, regardless of the funding source. It prohibits the denial of equal access and equal opportunities to individuals with disabilities who participate in programs, services, and activities provided by public entities.

The ADA is divided into five sections, which are referred to as titles. Title I establishes civil rights in employment for individuals with disabilities. Title II prohibits discrimination in the provision of programs and services of state and local governments, such as the City. Title III prohibits discrimination in public accommodations and commercial facilities, including virtually all nonresidential, privately owned and operated buildings used by the public, such as restaurants, retail establishments, hotels, etc. Title IV prohibits discrimination in the provision of telecommunications and Title V contains miscellaneous provisions related to enforcement of the law.

In 1994, the Board began updating their 1990 standards to provide clarification of questions and concerns raised by entities attempting to comply with the order. An advisory committee composed of members of the design and construction industry, the building code community, and State and local government entities, as well as individuals with disabilities was established. In 1998, the Board added specific guidelines on State and local government facilities⁸ and building elements designed for use by children. Other updates to the 1990 ADA Standards have been made with the final version being compiled in the 1994 ADA/ABA Guidelines.

The 1994 ADA/ABA Guidelines were the culmination of a long-term effort to facilitate ADA compliance by eliminating inconsistencies among Federal accessibility requirements (ADA & ABA Standards) and between Federal accessibility requirements and State and local building codes. In support of this effort, the US DOJ amended its regulation implementing Title II and adopted standards consistent with 1994 ADA/ABA Guidelines, renaming them the 2010 ADA Standards for Accessible Design.

On March 15, 2011, the final rule on the 2010 ADA Standards for Accessible Design became effective, revising the 1990 regulations. The final rule was issued to adopt enforceable accessibility standards under the ADA that were more consistent with the

⁷ 42 U.S.C. 12134(c); 42 U.S.C. 12186(c)

⁸ 63 FR 2000 (Jan. 13, 1998)



minimum guidelines and requirements issued by the Board, and to update or amend provisions of the Title II regulation so that they better reflected the practical experience the US DOJ had gained enforcing the ADA since 1991.

New laws take time to play out in practical application, with interpretations and an evolutionary process that can either strengthen the law or identify necessary changes. The 2010 ADA Standards provide a higher degree of clarity for state and local agencies to facilitate their efforts to comply with the spirit and intent of the ADA.

The requirements that determine the contents of this report are contained in the Americans with Disabilities Act US DOJ Technical Assistance Manual, sections II-8.1000 and II-8.2000⁹. Even though this Plan is mandated by federal regulations, the City is also subject to the state mandated statutes and regulations. California statutes and regulations have adopted the ADA and include the requirement (and benefit) of developing an ADA Self-evaluation and Transition Plan.

These two parts of the process are complimentary; the Self-evaluation process is intended to analyze all PSAs provided by the entity to determine whether policy or practices that govern them may create conditions that could discriminate. The Transition Plan is intended to identify physical barriers to access that require some form of remediation to ensure that programs, services, and activities are accessible. Together, they facilitate improvements in accessibility within a comprehensive effort.

A. California Statutes and Regulations

Civil rights statutes and regulations are provided in numerous sections of California government code, civil code, health and safety code, vehicle code and building code. For instance, Government Code (GC) 4451-4460 requires facilities to be usable by and accessible to people with disabilities¹⁰, which is a far higher standard than the minimum requirements contained in building code or the 2010 ADA Standards. In addition, California state accessibility requirements contained in building code have been in place since 1981, predating the ADA. The Unruh Act codified in civil code 51 and 52, have prohibited discrimination in California since 1959.

Since 1968, GC 4450 has required the Division of State Architect (DSA) to ensure that California building code requirements were at least as stringent as federal accessibility requirements, which at that time included the ABA and Rehab Act. Since 1981, California has also enforced accessibility requirements for the built environment through the building code although state and federal requirements have differed in many ways,

⁹ <https://www.ada.gov/taman2.html>

¹⁰ California Government Code 4450b. <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=04001-05000&file=4450-4461>



To establish boundaries for jurisdictions and better define their responsibilities under the ADA, the State Attorney General issued a ruling in 2002 that instructed cities and counties, under GC 4450, only to enforce the California Code of Regulations/Title 2 (CBC). This ruling assumed that since GC 4450 required state accessibility regulations to be at least as stringent as the federal standards, DSA would have complied with that mandate.

The Attorney General could not have anticipated then that DSA would not complete the certification process and submit the CBC to the US DOJ until 2013 to ensure that the CBC was at least as stringent as the ADA Standards. The certification process was nearing completion with the enforcement of the 2013 California Code of Regulations/Title 2 (CBC) Section 11A and 11B but still has not been completed. To be clear, the CBC has still not been certified by the US DOJ as equally as stringent as the 2010 ADA Standards.

California GC Section 11135 also requires entities using state funds to provide facilities that are accessible to people with disabilities by incorporating the ADA into California law and Section 12926 broadens the definition of disability under the ADA or the ADA Amendments Act of 2008 to cover a larger population.

The definition of a facility under regulations from the US DOJ, Federal Highway Administration (FHWA), the US Department of Transportation (DOT/Caltrans) and under case law (Barden) includes a broad array of physical locations where PSAs are provided. Examples of a facility include a sidewalk, a parking lot, a park, recreation area or open space such as hiking trails, amusement rides, a beach or camping site, and many other types of physical structures.

One common misperception is the notion that the grandfathering of built elements that complied with prior code requirements is allowed even for facilities with physical elements that constitute civil rights violations. Building code and civil rights laws are quite different in their intent and application.

Under state and federal civil rights laws, discrimination exists when a facility is not accessible to or usable by a person with a disability. This scenario is defined by the courts as a violation of the civil rights of a person with a disability. Civil rights violations are vastly different from building code violations, in that:

1. No statute of limitation exists for physical elements that cause discrimination
2. The age of a building has no bearing on the violation
3. Alterations to the facility, or a lack of alterations, does not affect liability
4. No local ordinance can supersede state or federal civil rights law

Another important civil rights law under GC 12900-12996 is defined as the California Fair Employment and Housing Act (FEHA) and provides additional



definitions and requirements that affect people with disabilities. This law is one of the most significant state requirements, as it fundamentally changes the qualifying definition of disability under FEHA.

The ADA defines a disability as a physical or mental impairment that **substantially** limits one or more major life activities (such as walking, hearing, seeing, caring for oneself, speaking, breathing, learning, and working).

Under the FEHA, a disability is defined as a physical or mental impairment that only *limits* (**not substantially limits**) one or more major life activity, which is a far broader definition. Disabilities that limit a major life activity are identified on an individual basis and are based not on the *existence* of a disability, but rather the *impact* that the disability has on an individual.

Impairment is defined as when the conditions, manner, or duration under which a major life activity can be performed by an individual are limited when compared to most people. Some general types of disabilities or impairments are visual, hearing, mobility, cognitive, psychiatric, speech, learning-based, in addition to numerous non-visible impairments. GC Section 11135 and 12926 reinforce these more stringent state requirements.

B. Access Terminology

The use of the term *disability* instead of *handicap* or the phrase *individual with a disability* instead of "handicapped individual" represents an effort by the US Congress and others to make use of up-to-date, currently accepted terminology that does not define people by their disabilities.

As with racial and ethnic epithets, the choice of terms to apply to a person with a disability is overlaid with stereotypes, patronizing attitudes, and other emotional connotations. For example, since 1990 when the ADA became law, California vehicle code 22511.9 has prohibited use of parking signage that contains the term *handicapped*.

Many individuals with disabilities, and organizations representing such individuals, object to the use of terms such as *handicapped* or *the handicapped*. In other recent legislation, Congress also recognized this shift in terminology and a recognition of meaning, e.g., by changing the name of the National Council on the Handicapped to the National Council on Disability (Pub. L. 100- 630). Other comparative illustrations include use of the antiquated term "crippled" rather than *disabled* or "mentally retarded", rather than *learning impaired*.

Descriptions are provided below of a person who has an impairment, in comparison to a person with conditions that do not limit one or more major life activities:



Seasonal hay fever:

- A general nuisance for the sufferer
- Treated with over-the-counter medication
- Duration of condition is limited (seasonal)
- Does not significantly curtail activities

Multiple Chemical Sensitivities

- Severe, debilitating symptoms
- Individual unable to be in public places with new paint or carpeting, etc. or be around people wearing perfumes
- Activities significantly curtailed

This person has a disability.

A sprained leg with a sling or cast

- Duration of injury limited
- Activities only moderately curtailed
- Normal activities can be performed with certain simple modifications

A severe leg fracture

- Individual unable to care for themselves
- Requires surgery and extensive physical therapy
- Lengthy duration of treatment
- Activities significantly curtailed

This person has a disability.

The ADA, FEHA and GC 12926 define three general categories of disabilities which can be applied to an employee or to the general public who access PSAs:

- 1) Individuals with commonly regarded disabilities such as mobility impairments, blindness, low vision, hearing impairments, chronic medical illnesses, heart disease, cancer, cerebral palsy, multiple sclerosis, HIV/AIDS, arthritis, and a mental, psychological disorder or condition that requires special education or related services or alcoholism (non-active),
- 2) Individuals with a history or record of having such an impairment including cancer survivors, etc. or individuals with a history of treatment for mental illness, or such a condition which is known to the employer or other entity covered by these regulations. Drug addiction is considered a disability, but to be protected by the ADA, the individual must be either successfully rehabilitated or currently participating in a treatment program. People who use methadone as a part of a treatment program are protected, as well as individuals who use controlled substances under the care of a licensed physician.

Persons who currently engage in the use of illegal drugs can be denied access to



programs, services, or activities,

- 3) Individuals perceived or regarded as having a disability. These individuals generally have no disability but are discriminated against due to fear, myth or stereotyping. An example of this type of disability is an individual who has severe facial scars as a result of burns, who repeatedly experiences rejection when applying for employment due to their physical appearance. This person experiences discrimination and is protected by the ADA.

Typical physical characteristics, such as eye color or skin color are not considered to be physical or mental impairments, but physical disfigurement that may result in discrimination is covered. Disadvantages of an environmental, cultural, or economic nature are also not considered to be physical or cognitive impairments. Age, in and of itself, is not impairment although the elderly comprises the largest percentage of persons with disabilities in the US. The ADA also extends its protection to people who do not have disabilities themselves but are discriminated against on the basis of their association with a person with a disability.

The above-mentioned information is not intended to be an all-inclusive list of disabilities that are covered under the ADA or state laws and statutes. It is recognized that other conditions may be identified that would fall under these definitions.

C. Qualified Individuals and Eligibility

The presence of a disability is not, in and of itself, an automatic qualification for use of or admittance to any or all programs, services or activities offered by the City. People with disabilities must also possess the qualifications required for participation by other individuals in each specific program, service or activity where they exist.

A *qualified individual* with a disability is defined as an individual who meets the **essential eligibility requirements** that the entity has set forth as required to receive benefits and services or participate in its programs or activities.

The individual should also be eligible to receive the same benefits and services or participate in those same programs or activities with or without reasonable modifications made to policies, practices, or procedures by the entity.

Reasonable modifications that will enable an individual with a disability to participate in a program, service or activity that the entity provides may include the removal of structural, architectural, communication, or transportation barriers, or the provision of auxiliary aids and assistive devices. But before modifications are considered, a person must first qualify for the basic requirements for participation in the program, service or activity provided.



An example of a typical scenario in which this definition of a *qualified individual* applies is as follows:

A program is provided for single parents who are looking for a job and are having difficulty juggling their parental responsibilities and their job search. The program is highly successful, and many people apply to use the program. One person interested in joining the program is a person with a hearing impairment. This person applies to use the job placement program created for use by single parents. While this person with a hearing impairment has a verified disability, but is not a single parent, they are not a *qualified individual* with the right to participate in this program protected by the ADA. The person must possess the qualification of being a single parent to make use of a program created for single parents.

3) Self-Evaluation

A. Regulations

Original regulations contained in Section 35.105 of the ADA require Title II entities to ensure that existing policies and practices do not constitute discrimination through the performance of a Self-Evaluation.

The regulations governing this Self-Evaluation are based on those originally found in Section 504 of the Rehabilitation Act of 1973 and the 1991 ADA Standards. According to the US DOJ ADA Title II Regulations published on September 15, 2010, a Self-Evaluation must provide the following basic requirements:

- A public entity shall evaluate its current services, policies, and practices, and the effects thereof and to the extent that modification of any such services, policies, and practices is required, the public entity shall proceed to make the necessary modifications.
- A public entity shall provide an opportunity to interested individuals, including individuals with disabilities and organizations representing individuals with disabilities, to participate in the Self-Evaluation process by submitting comments.
- A public entity, which employs 50 or more individuals, shall, for at least three years following completion of the Self-Evaluation, maintain on file and make available for public inspection:
 - 1) A list of the interested individuals consulted,
 - 2) A description of areas examined and any problems identified,
 - 3) A description of any modifications made.
- If a public entity has already complied with the Self-Evaluation requirement mandated when implementing Section 504 of the Rehab Act, then the



requirements of this section shall apply only to those policies and practices that were not included in the previous Self-Evaluation.

The development of an ADA Transition Plan and Self-Evaluation as both a legal requirement, and a good faith effort to comply with ADA Title II requirements, can serve as a useful tool as a legal defense.

The information compiled in the updated ADA Transition Plan is essential to the development of an ADA Self-Evaluation. Physical barrier data has been correlated with the PSAs provided in those same physical locations to create a comprehensive review of how they function in these facilities to systematically determine where physical alterations must take place, where changes to policies and procedures could be useful, or where program access can be applied to provide people with disabilities an improvement in access to PSAs. The intent of the ADA was to ensure that public entities combine an evaluation of their physical environment with an evaluation of the associated policies and procedures that govern the use of those spaces, so that a public entity could be seen as a functioning whole.

Policies and procedures that govern PSAs may not be discriminatory, but when the facilities in which the PSAs are located are not accessible, people with disabilities may be excluded from participation. That concept is also true in the reverse; if facilities are physically free of barriers, there still may be discriminatory policies or practices in place that prevent people with disabilities from making use of facilities that are otherwise accessible.

This Self-Evaluation contains a list of PSAs, along with the policies and practices that allow the application of programmatic accessibility where physical barrier removal may not be the best solution to improve access. Barriers to access identified within the updated ADA Transition Plan are prioritized and organized into mitigation phases within a paper document in binder format for use as a public document, as requested, and within the SZS ADA Transition Plan Database (TPD) or other facilities management software to correlate physical barrier removal over a period of annual phases that correspond to existing and anticipated budgetary constraints.

Once the development process is complete and the ADA Self-Evaluation and Transition Plan are in place, implementation of the plan and documentation of progress in implementation is essential to maintain safe harbor under state and federal access requirements.

Compliance is not a static condition; PSAs change or grow, and facilities are altered, leased, or sold over time. Change is expected and it requires on-going monitoring and review to ensure continued compliance with new PSAs or existing physical facilities added over time.



(i) Programmatic Accessibility

The cost of improving access for public entities has always been a concern for the US Congress and the US DOJ. Any new legislation that requires improvements to physical access must be accompanied by real-time estimates of the cost that public entities will incur in compliance efforts.

The focus on improving access for people with disabilities within an ADA Transition Plan has always been on what happens in facilities within PSAs overall, rather than on buildings or facilities. When each program, service or activity is examined, looking at each physical location where it is provided, it becomes possible to plan for physical barrier removal to make at least one location accessible without going through the effort and cost of making all locations physically accessible.

This practice is known as programmatic accessibility, or more commonly known as *program access*. The civil rights law requires public entities to operate each program, activity, or service in such a manner that, when viewed in its entirety, it is readily accessible to and usable by individuals with disabilities, unless achieving accessibility would cause a fundamental alteration in the nature of the program, service, or activity.

In the process of providing access, the ADA does not require public entities to provide access to programs, services, or activities where the mitigation of barriers would result in an undue financial or administrative burden, or either threaten or destroy the historic significance of a historic facility. The practice of applying program access presents an important opportunity for an ADA Title II public entity because the cost of removing every physical barrier in every facility is unsustainable for any existing entity. With this understanding, the importance of identifying each physical location where a PSA takes place early in the ADA Transition Plan process is clear; the result can mean a reduction in barrier remediation obligations.

Where more than one location exists for each PSA, the group of locations can be examined to determine which location(s) can be most cost-effectively altered to comply. Those locations will then satisfy the requirement to provide program access and can be the basis for the barrier remediation schedule.

In practical terms, this practice means that pursuing physical barrier removal to improve accessibility without performing a Self-evaluation will likely result in barrier removal efforts that are not legally required.

Additional methods used to achieve program accessibility include but are not limited to relocating services to accessible locations, providing new equipment, redesigning existing equipment, assigning aides to individuals with disabilities,



providing home visits, making alternative formats available, delivering services at alternate accessible sites, altering existing facilities, pursuing physical barrier removal and/or constructing new facilities.

When the time comes to renew a lease at an existing non-compliant facility where PSAs take place, the move could be seen as an opportunity to find a facility that provides access to people with disabilities, or one which would be less costly to mitigate. It is important to note that some alternatives, like home visits, may present an administrative burden over time that should be taken into consideration when establishing these practices implementing program access. Such practices may only be of temporary benefit to an entity.

An example of how program accessibility can be provided is as follows:

A Health and Human Services Department (HHS) provides services for Women/Infant/Children (WIC) at five different physical locations. This WIC program is sponsored and funded by the state and federal government, and two of the physical buildings where the WIC program is offered are in parts of the geographical region where no public transportation exists. Applying program access, the entity is not required to make each of the five facilities physically accessible, but instead, is required to make sure that the WIC program, when seen in its entirety, is accessible. This means that the entity must ensure that at least one, but not necessarily all the locations where the program is offered, are physically accessible to everyone, including people with disabilities. Prioritizing locations served by public transportation is strongly recommended, where public transportation is available and the accessible route to each building entrance.

The goal of the ADA is to achieve the full integration of individuals with disabilities into the fabric of society. The ADA does not intend to establish preferences for people with disabilities, as can be perceived by the public at large. Public entities are obligated to provide the most integrated setting possible, but people with disabilities cannot be restricted from participating in general activities, even where separate programs, services, or activities are provided expressly for them. People with disabilities should be allowed to participate in programs, services, and activities with able-bodied people; the expectation is that individuals with disabilities will be given a choice as to which program, service, or activity they want to participate in.

When choosing a method (or methods) to provide program access, a public entity must give priority to the method or methods that result in the most integrated setting appropriate to encourage interaction among all users, including individuals with disabilities.



(ii) Discrimination in Policies and Practices

Discrimination is prohibited by the ADA and numerous California state statutes and regulations. Discriminatory policies and practices may manifest within written or unwritten policies, as well as actual practices. Using US DOJ guidance, discrimination must be considered in the form of direct action, actions taken on behalf of the entity under a contractual relationship by a contractor or others, or by actions taken by another Title II entity, such as a local or regional transit authority that operates PSAs or enforces their ordinances within the facilities owned or leased by the City.

Discriminatory practices or policies can be explicitly exclusionary, although policies that may appear to be neutral can also discriminate. For example: Many people with vision impairments cannot obtain a driver's license. Since a driver's license has become the most common form of personal identification, this poses a problem for anyone who cannot obtain a license. Therefore, if a policy is instituted that requires a driver's license as the only form of identification that people can use to be allowed to participate in any PSA, the policy will exclude people who, due to their disability, are unable to obtain such a license. Other forms of ID must be allowed for use in such situations.

When a public entity engages in licensing or certification, an individual cannot be denied licensure or certification if the person can meet the eligibility criteria. Also, public entities cannot establish criteria for licensing or certification, which have the effect of limiting participation.

If examinations are administered for the certification licensing process, they must take place in a location that is physically accessible to persons with disabilities and in a manner to ensure that persons with vision, hearing or other impairments are provided opportunity to take the examination as other non-disabled persons are provided.

Eligibility criteria, which screen out or tend to screen out people with disabilities, are prohibited unless such eligibility criteria are vital to providing the PSA. As an example, a program may be discriminatory that requires people with disabilities to be accompanied by an attendant to participate.

Neutral rules such as safety requirements are generally allowed even if they screen out individuals with disabilities. As an example, a minimum level of vision is acceptable as a prerequisite for participation in an archery class or other activities where safety constraints exist, and vision is required.

Surcharges to offset the costs of providing accessibility are prohibited when a public entity provides PSAs for people with disabilities.



Access to Information and Communications Technology (ICT) must also be provided for persons with disabilities, including website accessibility. Digital access means that people can access PSAs at any time, which makes the provision of an accessible website and accessible formats of digital documentation posted on the website essential for people with disabilities. When necessary, individual accommodations must be made to offer PSAs that satisfy this requirement. Accessible PSAs must be provided include, but are not limited to excursions, seminars, or courses necessary to complete instruction. New technologies that facilitate electronic accessibility are to be evaluated on a regular basis, as they become available on the market for implementation.

(iii) Effective Communication and Alternate Formats

The requirement to provide equally effective communication is often one of the greatest challenges that state and local agencies face in the ADA Self-evaluation process. Section 35.106 of the ADA requires all public entities take steps that may be necessary to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communication with others. Appropriate auxiliary aids and services must be provided, when necessary, to afford people with disabilities an equal opportunity to participate in and enjoy the benefits of the programs, services, or activities offered. A basic tenant of accessible information is this:

When information provided is visual, it also must be audible.

When audible information is provided, it must also be provided in a visual format.

Software can assist people who are blind or visually impaired to access information only when that information is in a proper format. Public entities also must allow people with disabilities to request an auxiliary aid or service of their choice and the express choice must be given primary consideration¹¹. Furthermore, the entity must honor the requesters first choice of an alternate format, unless it can demonstrate that another effective means of communication exists, or that use of the means chosen by the person is not required under the ADA. A good way to determine what the needs of local constituents are, in terms of alternate formats, is to start posting a notice on each advertisement that is made public for PSAs that asks people to request accommodations under the ADA. This notice is a requirement under the ADA intended to reduce or prevent discrimination, but it will also help to anticipate the needs of the community through the experience of fulfilling these requests.

¹¹ 35.160(b)(2)



Honoring the first request of the person with disabilities is important because of the range of types of disabilities, the variety of auxiliary aids and services available and different circumstances that require effective communication. For example, many courtrooms are now equipped with computer-assisted transcription (closed captioning) which can be a particularly useful auxiliary aid for people that are deaf or hard of hearing but can use speech to communicate. However, it may not be useful for those who communicate only by using American Sign Language (ASL) or reading Braille.

There are two major categories of programs, services, and activities covered by the ADA:

- 1) Programs, services, and activities involving general public contact, as part of ongoing operations of the entity, and
- 2) Programs, services, and activities directly administered by the entity for program beneficiaries and participants.

Activities in both categories involve direct communication with the public during public use of facilities. These activities can include telephone contacts, office walk-ins, interviews, or web-based interfaces such as online submissions, etc. This requirement facilitates the goal of inclusion for people with disabilities, but it can be complex. In practical terms, public entities are required to make and provide all the documents that it provides to the public in formats that are accessible to people with disabilities to ensure equally effective communication for all groups. Common types of alternative formats provided by public entities include large print format with min. 18 point in a simple font, audio format (WP3 files), Braille, electronic text documents that are in HTML (hypertext markup language) format¹² online, as an audible digital file, CD or other form of portable digital device for those without internet access.

PDF (portable document format) is in broad use as a type of document posted to websites or sent as an email attachment, but the format is not always accessible to people who are blind or who have low vision. A PDF appears as a flat, blank page to screen reader software or similar devices. Major modifications are required to each PDF document to provide alt tags, etc. described in the ADA/CBC Tool Kit Chapter 5 Guidance. Access to the alt tagged information is also dependent on software, hardware, or assistive devices to access information. PDF documents can also be accompanied by a document containing the same information in an accessible format. This list of possible alternate formats is not all-inclusive and almost constant technological developments will mean that new options become available on a regular basis.

¹² Documents that are intended to be read by the visually impaired using software require alt tags that the software can read and audibly communicate to the user. These tags cannot currently be added to documents saved in PDF but can be usable when posted in HTML.



At times, providing people who serve as readers or note-takers at public meetings and videotaping with real-time captioning may also be an accessible option, when interaction such as providing public comment is not an option at the meetings. Where public meetings allow public comments, people with disabilities must be given the opportunity to submit comments, but this type of communication can happen only when they are first given access to the information being presented or discussed in an accessible format.

The use of oral and manual interpreters is also an integral part of producing an accessible environment. Qualified interpreters must be used and must be able to interpret effectively, accurately and impartially. Interpreters should be able to receptively and expressively interpret as well as possess expertise in any necessary specialized vocabulary.

An interpreter is necessary when the information imparted is complex or lengthy in nature. Factors to take into consideration when deciding whether to provide an interpreter are the context of the event, the number of people involved, and the importance of the information involved. An example of when an interpreter is necessary is where a patient with a disability in a health clinic has a serious medical condition that must be discussed. Other situations may not require an interpreter, such as that of a visitor with a hearing impairment who purchases food at a cafeteria or persons who must pay a parking ticket who can be adequately served using paper and pencil, even when the particular person normally uses sign language to converse.

(iv) Public Outreach

The US DOJ requires public entities to obtain input from interested persons within the development process of the Plan. Multiple options are available, but public meetings are one of the most common ways to gain public input, when circumstances permit. Advertising the public outreach process can involve publishing ads for the meetings as radio announcements on local stations, in local newspapers, posters or flyers posted in conspicuous locations at social gathering areas such as community centers, recreation facilities, local senior centers and at other local agencies that serve people with disabilities including Independent Living Centers (ILC).

The Coronavirus pandemic has instituted changes in the public outreach process and future public health emergencies may continue to force changes to the way the public can safely meet in groups. Even so, the City understands the value of public input and has sought to include people with disabilities in this process.

The City carried out an initial public outreach process early in the data collection time period to serve as a feasibility report on providing pedestrian access for



people with disabilities within the existing system of city roadways (sidewalks). SZS facilitated this process by developing questionnaires and compiling documentation for a public presentation used during the public outreach process. This outreach process was intended to be the first of two public outreach efforts. The first public outreach meeting was held on April 5th, 2017. Questionnaires developed for the outreach process focused on the following:

- How programs, services, and activities provided by the City are used.
- Known problem areas and concerns to the local Community.
- Ways for the City to improve access and address the community's needs.

The questionnaire developed for this first outreach process is provided in the Appendix.

The second public outreach meeting was held to present the final Plan to the public for input. SZS presented the Plan during the meetings and designated City staff were present to answer questions and provide input on the Plan.

The questionnaire developed to gather public input was provided in a web-based format with alternate formats provided, including large print paper format and MS Word files available on flash drives for those who requested the materials to be mailed. Braille format questionnaires were also made available, upon request.

The first and second public outreach processes and questionnaires were also advertised on the City website and made available to the public by use of flyers provided in conspicuous locations within buildings, including alternate formats.

The questionnaire was made available through a 45-day comment period from June-July 2017, and Jan-Feb 2025. The public outreach meetings were advertised with local citizens and organizations that serve the needs of people with disabilities.

The following list provides information on the local groups and interested individuals that are recommended for inclusion in this public outreach process. Invitations to join the online public outreach meetings were extended to these groups:

Table 2: Community Based Disability Access Groups

ORGANIZATION	WEBSITE	ADDRESS	PHONE
California Civil Rights Department (CRD)	https://calcivilrights.ca.gov/	651 Bannon Street, Suite 200 Sacramento, CA 95811	(800) 884-1684



California Department of Rehabilitation (DOR)	https://www.dor.ca.gov/	1350 41st Avenue, Ste. 101 Capitola, CA 95010	(831) 465-7100
E&D TAC (Elderly & Disabled Transportation Advisory Committee)	Santa Cruz County Regional Transportation Commission	1101 Pacific Ave. Suite 250 Santa Cruz, CA 95060	(831) 460-3200
Santa Cruz County Commission on Disabilities	Santa Cruz County Commission on Disabilities	701 Ocean Street, Room 510 Santa Cruz, California 95060	(831) 454-2772
Access Santa Cruz County	Access Santa Cruz County		
County Park Friends	County Park Friends		
Vista Center for the Blind and Visually Impaired	Vista Center	3315B Mission Dr, Santa Cruz, CA 95065	(831) 458-9766
Central Coast Center for Independent Living (CCCIL) – Capitola/Santa Cruz Office	http://www.cccil.org	1350 41st. Ave Suite 101 Capitola, CA 95010	(831) 462-8720
Regional Centers – Department of Developmental Services (San Andreas Center)	https://www.dds.ca.gov/rc/	6203 San Ignacio Avenue, Suite #200, San Jose, CA 95119	844-700-9889

(v) ADA/CBC Tool Kit

After the passage of the 1990 ADA Standards, the US DOJ Civil Rights Division began working with communities across the United States to increase knowledge about and application of these new regulations and thereby, improve access to PSAs provided by state and local governments for people with disabilities.

The Division found that, despite good intentions, many communities lacked the knowledge or skills needed to identify barriers to access in their programs, services, and activities. Public entities did not know how to survey buildings to identify physical barriers or found it difficult to review policies and practices for compliance with the ADA or state statutes and regulations. Communities nationwide turned into the US DOJ to help fill this knowledge gap.

Give a person a fish, and you provide food for a day. Teach a person to fish, and you provide food for a lifetime.



-- Asian Proverb

The US DOJ Civil Rights Division assembled the ADA Tool Kit to give entities the necessary background on the regulations and convey the importance of evaluating their policies and practices in place to help ensure equal access for people with disabilities. The intent was to educate state and local government officials the following:

- How facilities can be investigated to identify common architectural barriers for people with disabilities.
- How to identify red flags indicating that their programs, services, activities, and facilities may have common ADA Access Compliance problems; and
- How to remove the barriers and fix common problems

California is on the cutting edge of technology and innovation, and the field of ADA Access Compliance is part of that culture. SZS has updated the ADA Tool Kit by broadening the scope to include California requirements to ensure that the public entities we work with are aware of the most stringent requirements from both state and federal statutes and case law when evaluating programs, services, and activities, along with the policies and practices that facilitate public use. Significant differences exist between state law and federal law.

The original US DOJ version of the toolkit can be found at <https://www.ada.gov/pcatoolkit/toolkitmain.htm>. The updated ADA/CBC version was provided to the City online, and offered in alternate formats, in 2022.

SZS completed updates to chapters 1, 5 & 6 of the original Tool Kit. Chapter 1 now includes California statutes and regulations that are both very different and more stringent than federal standards. In this information age, with almost constant innovation in information and communication technology, SZS teamed with industry experts on web accessibility to modify Chapter 5 to reflect the most current US, worldwide web consortium and accessible technology standards. The focus in accessible information and communication technology is now on providing access within functional performance criteria, rather than setting standards based on specific devices that could become obsolete in the near future, such as TTY. Tool Kit Chapter 6 covers curb ramps, for which California requirements and the PROWAG are far more stringent than the federal standards in place in 2006 when the original Tool Kit was developed.

Each ADA/CBC Tool Kit chapter is organized into two components: 1) an educational component and 2) a quiz to test the knowledge gained and provide information necessary to review policies and practices. The following sections are included:



1. **ADA Basics – Statute and Regulations:** This updated section is purely instructional and provides the knowledge base for all following checklists. This information can be useful for all staff who have public interaction, as well as for those who administer or manage those positions.
2. **ADA Coordinator and General Grievance Procedure Checklist:** This checklist teaches about the basic state and federal requirements and helps public entities to determine whether they are acting in compliance with basic ADA administrative requirements. It also includes a sample “ADA Notice” that agencies can adapt for their use as a public Statement of Commitment in complying with basic ADA administrative requirements for Transition Plans.
3. **General Effective Communication Requirements under Title II of the ADA:** This checklist explains what it means for communication to be “effective” for people with disabilities, what type of auxiliary aids and services can potentially provide effective communication, and when those auxiliary aids and services are required.
4. **9-1-1 and Emergency Communications Services:** This checklist explains how the ADA’s effective communication requirements apply to 9-1-1 and emergency communications services. It also helps to identify common accessibility problems with 9-1-1 and emergency communications services.
5. **Website Accessibility:** This updated checklist explains how web access under Title II of the ADA applies to state and local government websites, describes functional performance criteria within various groups of people with disabilities and what must be considered when providing information online. Website design practices are described that pose barriers to people with disabilities, and action items are identified that can help to eliminate these online barriers.
6. **Curb Ramps:** This updated checklist provides information on the most stringent requirements for curb ramp design and inspection from the ADA Standards, California Building Code and Public Rights-of-Way Accessibility Guidelines (PROWAG).
7. **Emergency Management:** This checklist explains requirements on providing emergency policies and procedures for ADA Title II entities. The Checklist can also be used to review existing policies and services for evacuation, training of first responders and emergency shelter management.



B. Self-Evaluation: Summary of Findings

The Self-evaluation creates the foundation of the Transition Plan by reviewing existing policies and practices, completing and providing input from the ADA/CBC - Best Practices Tool Kit for State and Local Governments (Tool Kit), interviews with key staff, a public outreach process, and prioritization of facilities for remediation by identifying and correlating locations for PSAs after applying programmatic accessibility.

(i) ADA Public Notice of Compliance

The first step in this process required by the US DOJ, Civil Rights Division that enforces the ADA¹³, is a public statement that an entity is starting the process to improve access. When this ADA Transition Plan process begins, a public entity is required to make their intent to comply with the ADA known through publishing a public notice as a Statement of Commitment on the City website or in another form. Considering the fact that the ADA is enforced through litigation, the act of making this effort highly visible notice is a prudent step in reducing risk while complying with the federal regulations. The publication of this Statement also serves as the start of a period of safe harbor for the ADA Title II entity during which the Plan is implemented.

The following ADA Notice is posted online on the City's website. It can be found here <https://www.cityofcapitola.org/publicworks/page/americans-disabilities-act>. The language contained in the document is as follows:

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT

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

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

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

Modifications to Policies and Procedures: The City of Capitola will make all

¹³ THE AMERICANS WITH DISABILITIES ACT TITLE II TECHNICAL ASSISTANCE MANUAL COVERING STATE AND LOCAL GOVERNMENT PROGRAMS AND SERVICES: SECTION II-8.4000 NOTICE TO THE PUBLIC. SEE: <http://www.usdoj.gov/crt/ada/taman2.html#II-8.2000>



reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. For example, individuals with service animals are welcomed in Capitola offices, even where pets are generally prohibited.

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of the City of Capitola, should contact the office of the City Manager at 831-475-7300 as soon as possible but no later than 48 hours before the scheduled event. The ADA does not require the City of Capitola to take any action that would fundamentally alter the nature of its programs or services or impose an undue financial or administrative burden.

Complaints that a program, service, or activity of the City of Capitola is not accessible to people with disabilities should be directed to the ADA Coordinator. The City of Capitola will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy.

ADA Coordinator
City Manager's Office
Capitola City Hall
420 Capitola Road
Capitola, CA 95010
(831) 475-7300

(ii) Programs, Services and Activities

The City collaborated with SZS to produce this ADA Self-Evaluation as an update to the existing documentation in compliance with both the ADA and the California statutes and regulations. Official programs, services, and activities provided were detailed by the organization and researched by SZS. An inventory of the PSAs provided is presented below.

The following list is intended to be complete, but as additional facilities may have been added, or existing facilities may have been closed since the completion of this evaluation, it is considered a snapshot in time. The following list contains facilities included in the ADA Transition Plan and Self-evaluation process.

Table 3: List of Program, Services, and Activities

FACILITY TYPE	NAME	PROGRAMS, SERVICES & ACTIVITIES
Parks	Rispin Park	Site of historic Rispin Mansion with a fountain, stairway and pathways through mature trees and riparian habitat.



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	Prospect Park (property partially owned by and fully within SCCRTC right of way)	Benches, Walking Path, Stairways
	McGregor Park	Skate Park, Pump Track, Dog Park, Portable Restroom
	Cortez Park	Playground Equipment, Lawn Area and Benches. The park is not visible from the street.
	Esplanade Park	Benches, Restroom, Drinking Fountains, Walking Paths, Outdoor Showers, Bike Racks, Seating and Walking Paths along Beachfront with Beach Access.
	Noble Gulch Park	Picnic Tables, Lawn Areas and Benches
	Soquel Creek Park	Benches, Bird Watching and Walking Paths
	Jade Street Park (property owned by the school district)	Classes, Recreation leagues, Youth Sports and Recreation Camps, Play Areas, Softball, Soccer, Picnic Areas, Tennis, Basketball, Benches, Restroom, Drinking Fountains, Walking Paths
	Peery Park	Bike/Pedestrian Paths, Picnic Tables, Bike/Pedestrian Bridge
	Monterey Park	Softball Field, Walking Path, Lawn Area, Benches, Drinking Fountain, Special Events
	Library Tot Lot	Toddler Play Areas
	Hihn Park	Walking Paths
	Capitola Beach	Volleyball, Picnic Areas
	Dog On-leash Parks	Park at Rispin Mansion, Mc Gregor Park, Monterey Avenue Park, Noble Gulch Park, Perry Park, Soquel Creek Park, Jade Street Park (except for lawn and tennis court areas), and Esplanade Park.
	Capitola Wharf Parks	Benches, Picnic Tables, Drinking Fountain, Whale and Dolphin Watching, Boat and Kayak Rental, Restrooms, Special Events
Buildings	Corporation Yard	Vehicle Maintenance and Repair, Equipment and Supply Storage, Public Works Offices Support
	City of Capitola Museum	Extensive collections of photographs and artifacts. Museum grounds include a reconstructed 20th century cottage and a wash house
	City Hall Complex, including Police Station and Post Office	City Council Meetings, Workshops, City Commission and Committees, Finance Department, Community Development, Public Works, City Administration, Rental of space for public use
	Library	Book loans, Reading Areas, Meetings, Instruction
	Community Center at Jade St. Park	Recreation classes. Rental of space for public use (recreational gatherings, meetings, and events)
Parking	Lower Beach/Village Parking Lot	Parking for Beach and Village Areas. Beach shuttle service stop.
	Vista Parking Lots on Cliff Dr.	Parking for Beach and Village Areas
	Beach Shuttle Service	Free summer shuttle which runs from the Beach and Village Parking Lot 2 Saturdays, Sundays and holidays from 10 a.m. to 8 p.m. from Memorial Day weekend through mid-September.



	Upper Beach/Village Parking Lot	Parking for Beach and Village Areas. Beach shuttle service stop.
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Some of the programs, services, and activities provided in owned or leased facilities are not sponsored by the City. Under the ADA, those programs must take place in a facility that is physically accessible, no different than typical sponsored programs.

The identification of both the function and location of each PSA, and the groups of people served by each PSA, is essential to fully develop a useful Self-Evaluation report. Based on this information, the analysis of the policies and practices that govern the administration of these PSAs was performed and recommendations for improvements, if needed, are provided on the following pages.

(iii) **Grievance Procedure**

Local governments with 50 or more employees are required to adopt and publish procedures for resolving grievances arising under Title II of the ADA¹⁴. Grievance procedures set out a system for resolving complaints of disability discrimination in a prompt and fair manner. Although the City has fewer than 50 employees, an ADA grievance procedure is provided on the City website and at https://www.cityofcapitola.org/sites/default/files/fileattachments/public_works/page/22708/i-1_americans_with_disabilities_act_grievance.docx.pdf.

(iv) **Policies and Practices**

The primary task of an ADA Self-Evaluation is to review and evaluate existing policies and procedures to identify policies and procedures that may unintentionally discriminate and to identify areas in which policies and procedures can be improved or, in some cases, be developed for the first time. The information compiled has been correlated with the physical barrier data to determine where policies and practices are applied.

During the field investigations, observations were made in several facilities that led SZS to develop recommendations for policies and practices intended to improve access to facilities for people with disabilities.

(v) **Recommendations for Improvement - Policies and Practices**

Under the ADA, all public PSAs must be accessible to people with disabilities. Making PSAs accessible involves many types of efforts, including physical barrier removal, but extending to efforts that ensure that people with vision,

¹⁴ 28 C.F.R. § 35.107(b)



cognitive or hearing impairments can take part in PSAs. Information and Communication technology will be necessary to ensure that some groups of people with disabilities are provided access to public programs that the City offers.

If a meeting is taking place in a few minutes, it is probably too late to try to find an American Sign Language interpreter for a person at the meeting. The fact that this kind of request has not been made in the past does not mean that it will not or cannot happen in the future.

Policies and practices need to be in place, and ready to implement when a person with a disability requests an ADA accommodation. Otherwise, people with disabilities could have grounds to complain or act to protect their civil rights through litigation. Preparation is the key to avoiding situations where constituents could experience discrimination, and the City could be put at risk.

Now is the time to act. Developing policies and practices, while training staff on the reasons for these developments and how to implement them, are essential to an organization that seeks to serve its community equally.

Staff training is a vital step in this process. It is often the case that the ADA/CBC Tool Kit Chapters are completed by multiple departments which each have a different set of responses to the same questions. This process provides an opportunity to establish citywide policies and practices through training.

After new policies and practices are developed, it is equally essential to provide training to staff to ensure that the efforts to put the policies and practices into place are implemented in a consistent manner from department to department. For instance, each department may post information to your organization's website and each of these departments must receive training on how to produce alternate formats of these documents before posting them on the website.

This draft report allows review by designated City staff of the compiled lists of programs, services, and activities that take place in facilities, as well as the policies and practices that facilitate the function of the PSAs provided. Input from these stakeholders may result in revisions to ensure that this information is used to improve access to PSAs for people with disabilities. A Public Outreach process will also allow for inclusion of public input into the final report. The Plan will take time to implement and determining where current needs are now will make the implementation process run more smoothly and help to alleviate potential complaints. Public outreach is the process to enable this conversation with people who make use of City programs, services, and activities.



Recommendations for improvements to policies and practices, or development of new policies include the following:

1. Public Meeting Notices: The City provides the following notice on public meeting agendas describing how to request ADA accommodations:

Americans with Disabilities Act: Disability-related aids or services are available to enable persons with a disability to participate in this meeting consistent with the Federal Americans with Disabilities Act of 1990. Assisted listening devices are available for individuals with hearing impairments at the meeting room in the City Council Chambers. Should you require special accommodations to participate in the meeting due to a disability, please contact the City Clerk's office at least 24-hours in advance of the meeting at (831)475-7300. In an effort to accommodate individuals with environmental sensitivities, attendees are requested to refrain from wearing perfumes and other scented products.

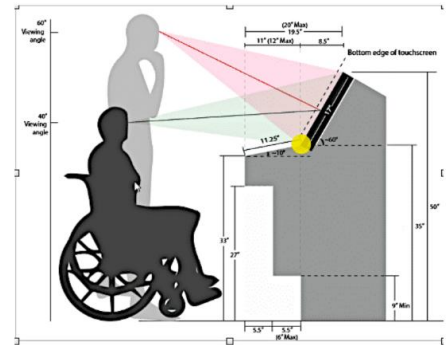
The agendas also must be in an accessible format for this information to be useful to people with disabilities.

2. American Sign Language (ASL) Interpreters: Develop policy and practice to locate an interpreter service and establish a relationship with associated service providers to enable the provision of ASL interpreters, note takers and other assistance, as requested under the ADA for people with speech or hearing impairments who wish to participate in public meetings. Where a practice does not yet exist; establish a policy and develop the practice to provide closed captioning of city council meetings and other televised public meetings.
3. Alternate Formats: Develop a policy to establish which types of alternate formats will be provided by the City for all documents made public. See the ADA/CBC Tool Kit Chapter 5 for options. Develop practices to provide alternate formats and train staff on a regular basis (due to possible attrition, reassignment, etc.) to produce and provide accessible documents for City programs, services and activities. Traditional types of alternate formats include large print format (min. 18 pt. San serif font), audio files converted from printed documentation onto flash drives, Braille, digital information in HTML, online documents in Word®, etc. Many other options exist in using current technology.
4. Procurement: Establish practice to ensure that when staff consider the purchase of furniture and fixtures (dispensers, tables, counters, workstations, drinking fountains, fare vending machines, etc.), each of the elements considered for purchase are reviewed for compliance with state and federal accessibility requirements for protruding objects, toe/knee



clearance and working surface height, bubbler height at drinking fountains in conjunction with knee and toe clearance, etc.

Example - Fare Vending Machines: The CBC contains requirements for accessible fare vending machines. The controls and location of the display in reference to the viewer is regulated (see figure at right). These requirements apply to equipment such as fare vending machines and kiosks that serve parking facilities. At the existing parking facilities, the monitors were identified outside of viewing range for people who are of short stature or for those who use wheelchairs. This example highlights the need for establishing a practice that ensures items procured by the City meet existing accessible standards.



5. Accessible Route Maintenance: Develop policy and practice involving property owners in the process of ensuring that foliage, trash receptacles, rental bicycles, scooters, or similar vehicles etc. parked in or near the sidewalk do not encroach into the required pedestrian access route. Notify residential or commercial property owners of their responsibility to maintain the required path of travel through the sidewalk.
 - a. Consider performing foliage trimming using City staff or contractors or allowing property owners a reasonable amount of time to perform the work to maintain access to the sidewalk before instituting a fine/penalty or performing the work for them to reduce risk to the City.
 - b. Consider establishing policy or practice to discourage or prohibit parking of vehicles, bicycles, scooters or similar on sidewalks to maintain the use of the pedestrian access route, where provided. Where such parking is allowed, designate areas where parking does not encroach into the required pedestrian access route.
6. Accessible Entrance Maintenance: Develop a policy to implement and conduct regular adjustments to door closers in facilities where programs, services and activities take place.
 - a. Consider installing automatic door opening devices at main entrances to reduce maintenance requirements long-term and improve access.
 - b. Consider removing door closers where they are installed, but not required by building code or other regulations (HSC, etc.) to reduce maintenance requirements long-term and improve access.



7. Sidewalk Maintenance: Develop policy and practice to notify residential or commercial property owners of their responsibility to maintain accessible sidewalks or alter existing sidewalks to comply. Special focus should be placed on abrupt changes in level, holes or surface damage that can cause trip hazards, and protruding objects (signs, branches, etc.) that can cause injury. Annual notices may serve as a proactive reminder of the legal obligation.
8. Maintenance of Accessible Features: Consider establishing a policy to prohibit vehicles from parking on the sidewalk and obstructing travel for people with disabilities where a pedestrian facility is provided.

These recommendations will be most effectively implemented through staff training and education for members of the public (property owners, inhabitants, and visitors, etc.). This information may apply to more than one facility where similar activities take place, and in some cases, will apply to physical elements or services citywide.

(vi) Recommendations for Improvement - ADA/CBC Tool Kit

The following Tool Kit sections were provided to City staff who participated in this process, including input derived from the stakeholders, and from responses online and/or in paper format were reviewed and compiled. Where recommendations for revisions or additional policies or practices were identified, details are listed below.

Chapter 1 – ADA Best Practices Tool Kit for State and Local Governments

No recommendations on policy or practice development

Chapter 2 – ADA Coordinator

1. Grievance Procedure:

The City has a procedure in place which is provided on the City website. The form is provided in the Appendix. The procedure is posted on the website in a PDF document, which may not be readable by screen reader software commonly used by the blind and visually impaired.

This procedure also appears to be directly related to Human Resources, not easily located on the website and may only apply to employees of the City.

An accessible version of the grievance procedure should be provided in HTML, Microsoft Word® or another accessible format, as PDF documents are not readable by software used by the blind and visually



impaired.

Recommendation: Develop and adopt a public ADA grievance procedure that is provided on the Disabled Access page on the City's website for public use.

Chapter 3 – Effective Communication

1. Effective Communication and Interpreters:

Develop policies and practices to ensure that people with hearing and cognitive impairments can take part in programs, services, and activities.

Recommendations: Research options in the area to obtain services that provide sign language, oral and cued speech interpreters and put policy in place to enable the provision of these services to qualified people with disabilities who request them.

- a. Where necessary, establish the necessary business arrangements with vendors to ensure that a request for accommodation can be met in a timely manner.
- b. Develop a practice to enable the provision of these services, if requested for public meetings and similar.
- c. Train staff in the implementation of this policy.
- d. Develop language included in notices for public meetings to specify that sign language, oral, and cued speech interpreters can be obtained within a short period of time, when necessary.
- e. Ensure the policy makes clear the following requirements:
 - i. It is generally inappropriate to request family members and companions of deaf people to serve as sign language interpreters.
 - ii. People with disabilities requesting interpreters should not be charged for the cost of the interpreter.
 - iii. Where the City decides to deny an interpreter based on undue financial and administrative burden, the decision must be made after considering all resources available for use in funding the operation of the program and must be accompanied by a written statement of the reasons for reaching the conclusion.
 - 1) In any instance where the provision of an interpreter would result in an undue financial and administrative burden, the City will take any other action that would not result in an undue financial and administrative burden but would nevertheless ensure that the



individual with a disability receives the benefits or services provided.

- f. Develop policies and procedures to respond to requests from the general public for documents in Braille, large print in paper format, audio recording, and accessible electronic format (email, compact disc containing the document in plain text, word processing format, HTML or some other format that can be accessed with screen reader software)
 - i. Determine the needs for types of alternate formats in the community
 - ii. Develop templates and streamlined processes to produce alternate formats for all public documents
 - iii. Establish relationships with vendors that supply these materials when staff cannot.
- g. Develop policy to give primary consideration to the requests of the person with a disability when determining what type of auxiliary aid or service to provide.
- h. Develop policies and procedures to deal with requests from the general public for notetakers, computer-assisted real-time transcription services, and other auxiliary aids and services for providing effective communication.
- i. Develop policies and procedures to ensure that videos and television programs and all videos made available to the public on their internet website are available with captioning and audio description.
- j. Develop policies and practices to ensure that telephones are available to the public for making outgoing calls, and TTYs are available for people with hearing and speech disabilities.
- k. Develop policies and practices to handle calls placed using a Telecommunications Relay Service or a Video Relay Service (VRS) in the same way as other telephone calls.
- l. Develop policies and procedures to communicate with people who request alternate formats when requested to do so.

Chapter 4 – 911 and Emergency Communication

No recommendations on policy or practice development

Chapter 5 – Web Accessibility

- 1. Accessibility as a Key Requirement:



The City has partnered with a website provider that was selected, in part, because of their commitment to accessibility. Every page of the website has an accessibility module which allows for various adjustments to accommodate a variety of different accessibility changes.

- a. Consider making a decision to target compliance with version 2.1 (or later) of the Web Content Accessibility Guidelines (WCAG) at levels A and AA, as a minimum.
- b. Perform an assessment to determine whether a new website design project should comply with the Authoring Tool Accessibility Guidelines (ATAG).

2. Style Guide:

The City is in the process of developing a style guide that provides for all text and icons to be readable and legible for everybody, which means having an appropriate separation (or contrast) between adjacent colors and backgrounds, choosing accessible font faces and styles, allowing text size and spacing to be altered to meet a user's needs, and not relying on text embedded within graphics.

Recommendation: Adopt a consistent style guide that takes accessibility into account.

3. Webpage Language:

The City is in the process of developing capabilities for screen reader users that allow them to rely on the page title text to inform them of their new or current context. This process will allow users to distinguish one page from another, for example when multiple tabs from the same website are open in a user's browser and ensure that all pages have unique and descriptive titles which identify the user's current context. A pattern should be followed which places significant information upfront, with the remaining title parts positioned in decreasing significance order with the website name last of all.

For example, a rule could be "<page name> | <section name> - <website>". A speech synthesis engine of a screen reader will determine the appropriate pronunciation rules to use, based on the following information:

- a. The programmatically specified language of the overall page (if present).
- b. The programmatically specified language of a single element or container on a page (if present); or
- c. The default language is set by the user within their screen reader preferences.



Recommendation: Adopt practices to ensure that web pages programmatically specify their overall language. Further, ensure that language is programmatically specified for all constituent passages or phrases of content where their language differs from that of the overall page.

4. Decorative Images (icons):

Ensure that icons or similar are hidden from screen reader users when the web page already contains the equivalent information in a textual form.

5. Hyperlinks:

A practice is in place to develop hyperlinks in the middle of passages of text that accurately describe where the links go, while avoiding vague text such as “click here”, “read more” and similar.

- a. This is done, where possible.

6. Audio and Video:

Closed captioning is provided on videos so that all users can gain the same level of understanding and enjoyment from all multimedia content, regardless of their disabled status or presence of any other difficulties. This may also include:

- a. Audio Description (AD): an additional audio track which conveys, via speech, any visual information which otherwise is not obvious from the other sound or dialog on the video. This is particularly important for videos with no dialog whatsoever, such as those which only use background music or are completely silent (see the Netflix settlement¹⁵).
- b. Sign Language: displayed on-screen for those who are hard of hearing or whose preferred language is American Sign Language (ASL), to convey spoken dialog and other elements of the audio track.
- c. Textual Transcript: all spoken dialog, an indication of who is speaking, and a description of any sound effects which are important to understanding the video or audio content, in an accessible form on the web page.

Recommendation: Increase accessibility of audio and video for diverse audiences via the provision of access services (audio description, captions, transcripts and sign language).

Recommendation: Communicate information by using color and also via a non-color-based alternative (such as text).

¹⁵ <https://adp.acb.org/netflix.html>



Chapter 6 – Curb Ramps and Pedestrian Crossings under Title II of the ADA, California Building Code (CBC) and the Public Rights-of-Way Guidelines (PROWAG)

1. New Curb Cuts:

Curbs where sidewalks and walkways intersect with roads, streets, or highways must have curb ramps that allow people with disabilities to go from the sidewalk on one side of the vehicular way across any traffic islands with curbs to the sidewalk on the opposite side.

Recommendation: Set curb ramp construction as a high priority at curbs where no curb cut exists in the ADA Transition Plan remediation schedule.

2. Curb Ramp Requests:

Requests to provide curb ramps should be integrated into other projects to ensure that the work is performed with other types of alteration of streets, roads, highways, sidewalks, and pedestrian crossings.

Recommendation: Develop procedures to ensure that such requests are given priority when the City plans and implements the construction and alteration of streets, roads, highways, sidewalks, and pedestrian crossings.

Chapter 7 – Emergency Management

1. Written Procedures:

Written procedures help to ensure that the City regularly seeks and uses input from persons with a variety of disabilities and organizations with expertise in disability issues in all phases of emergency planning, such as those addressing preparation, notification, evacuation, transportation, sheltering, medical and social services, temporary lodging and/or housing, clean-up, and remediation.

Recommendation: Develop written procedures to facilitate regular input from people with a variety of disabilities and organizations with expertise in disability issues for all phases of emergency planning and training with simulations.

2. Transportation:

For planning purposes, determining the extent to which, in an emergency or disaster, people with disabilities who reside or visit your community are likely to need individualized notification, evacuation assistance, and/or transportation, including accessible transportation is an essential for planning.

Recommendation: Work with local groups that assist people with disabilities, and locals or visitors with disabilities to determine where assistance in an emergency must be planned for.



3. Resources for Transportation:

Emergency planning should identify the resources the City needs to meet the needs of individuals with disabilities who require individualized notification, evacuation assistance, and/or transportation, including accessible transportation. The emergency evacuation plan should address the needs of people with disabilities who will require assistance leaving their homes.

Recommendation: Identify resources needed to provide transportation for people with disabilities as part of the emergency planning process. This may include collaborating with nearby transit agencies and similar organizations. Plan for assisting people who use wheelchairs or scooters, people who use medical equipment, such as oxygen tanks, and people who use service animals (accessible transportation consists of wheelchair lift-equipped vehicles.) Ensure that the Plan addresses home evacuations.

4. Written Evacuation Plans:

Written plans should address the evacuation needs of all people with disabilities, including those who have mobility disabilities, people who are blind or have low vision, people who are deaf or hard of hearing, people with cognitive and psychiatric disabilities, people with disabilities who use service animals, and other people with disabilities who reside or visit your community who may need evacuation assistance.

Recommendation: Develop written plans to address evacuation needs that can be used by staff to provide stable and consistent services in the time of an emergency.

5. Evacuations with Family and Pets

Emergency plans, policies, and procedures should be provided for people with disabilities to be evacuated and transported to shelters together with their families and pets. Planning for pet evacuation should be part of the planning effort.

Recommendation: Develop evacuation plans that allow for families of people with disabilities to remain sheltered together, including pets where possible.

6. Confidential Registry:

The Capitola Police Department has a form that the public can use to register, voluntarily, their confidential information as a registry of persons with disabilities. The form can be found https://www.cityofcapitola.org/sites/default/files/fileattachments/police/page/2461/special_needs_evacuation_info.pdf

Recommendation: Establish a voluntary, confidential registry for people with disabilities to request individualized notification, evacuation assistance, and transportation. Determine if the County has established such a list and develop a collaborative approach to use of the list to benefit the members of the Capitola community. Perform outreach to



people with disabilities and organizations with expertise on disability issues to update regularly.

Note: such lists are a concern in the disability community due to the history of exploitative use of such information and harm that can come to the disabled. Establish appropriate confidentiality controls when using the information to ensure it remains in use only for the intended purpose.

7. Service Animals:

Emergency management plans, policies, and procedures should ensure that people with disabilities are not separated from their service animals during evacuation and transportation.

Recommendation: Develop written procedures to ensure that people with disabilities who use service animals are not separated from their service animals when transported to emergency shelters and are given full access to shelter programs, services, and activities, even if pets are normally prohibited in shelters or in certain areas of shelter. Include the following written procedures and training, where necessary:

- Procurement of necessary materials and staff training to ensure that pet food, water, and a receptacle and plastic bags for the disposal of service animal waste are available at emergency shelters.
- Establish security procedures at shelters that allow people with service animals to take their animals outside for relief without unnecessary delays for security screening upon re-entry

8. Training Responders:

Emergency response teams, including planners, first responders, shelter staff, and volunteers, need comprehensive training to handle various tasks effectively during a crisis. This includes planning logistics, managing evacuations, operating shelters and temporary housing, providing medical and social services, and overseeing recovery efforts. Recommendation: Develop written policies and procedures for training to ensure tasks are carried out over time consistently considering inevitable changes in the City or volunteer staffing.

9. Physical Assessment of Shelter Facilities

The City has two designated shelter facilities: one at the Community Center (a City facility) and another at Branciforte Middle School (part of the Soquel Union School District). The City is actively working to remove barriers at the Community Center site; however, it does not have authority over school district facilities, which are subject to the Division of the State Architect (DSA) regulations.

Recommendation: Work with the school district to complete assessments of the middle school location to determine needs and options for improvements so that people with disabilities can be sheltered properly. Ensure the provision of accessible parking, exterior route from the parking to the entrance, entrance, sleeping area, dining



area, toilet facilities, bathing facilities, recreational areas, emergency exit, and interior routes to all of these areas.

Note: Until all emergency shelters have the required accessible features referenced above, the most accessible shelters should be identified and widely publicized to the public and to people with disabilities and disability organizations and a list of the accessible features provided in each should be publicized.

In these shelters, policies and procedures should be adopted to ensure that shelter staff and volunteers do the following:

- Maintain accessible routes for individuals who use wheelchairs and other mobility aids. This often means rearranging furniture and stored items.
- Minimize protruding objects and overhead objects in shelters so that someone who is blind or has low vision can walk safely throughout the shelter.
- Offer way-finding assistance to people who are blind and those with low vision who may need assistance in understanding and navigating the shelter layout and locating shelter facilities (e.g., finding the route to the toilet room when furniture layouts change).

10. New Shelters:

The City should establish policies and procedures to ensure that, in the future, facilities are surveyed for accessibility and barriers to access are removed before a facility is designated as a shelter.

11. Stress-Relief Zones in Shelters:

Shelters should have low-stimulation “stress-relief zones,” such as an empty classroom in a school building used as an emergency shelter.

Recommendation: Make the identification of stress-relief zones part of the assessment survey process for existing and new shelter facilities.

12. Mass Care Shelters:

The County of Santa Cruz Human Service Department (HSD) in coordination with the Office of Emergency Services (OES) takes the lead for Mass Care and Sheltering on behalf of the City. The City provides the facility (Community Center), but the operation of the facility is under the County.

The City should adopt emergency shelter eligibility policies and procedures to ensure that people with disabilities are housed at “mass care” shelters unless they are medically fragile to reduce the segregation of people with disabilities.

Mass care shelter procedures should ensure that shelter staff and volunteers do not turn away people with disabilities who may need assistance with activities of daily living even though their personal care aides may not be with them.

Recommendation: Develop written policies and training in decision making on eligibility procedures for shelter housing.



13. Mass Care, Special Needs and Medical Shelters - Staff Training:

The City should adopt policies and procedures to ensure that “mass care,” “special needs,” and “medical” shelter staff and volunteers are trained and monitored so they provide safe, appropriate assistance with activities of daily living (e.g., eating, dressing, personal hygiene, transferring to and from wheelchairs) that some people with disabilities may require.

Written procedures and equipment are necessary to ensure that emergency shelters have back-up generators and a way to keep medications refrigerated (such as a refrigerator or a cooler with ice).

Recommendation: Develop written policies and training shelter staff and volunteers on safe, appropriate assistance with activities for daily living for people with disabilities. Ensure the following:

- Shelter staff and volunteers receive training with site specific instructions for providing people with disabilities access to all services, activities, and programs at “mass care,” “medical,” and “special needs” shelters.
- Planning should include the provision of back-up generators and refrigeration for medications.
 - Written procedures on back-up generators include a plan for routinely notifying the public and disability groups of the location of shelters providing electricity and refrigeration.

14. Equally Effective Communication:

The City should have written policies and procedures to ensure that people who are deaf or hard of hearing, people with speech disabilities, and people who are blind or have low vision are provided with effective communication during their stay at a shelter. Means of effective communication include:

- A TTY (text telephone) at each emergency shelter for use by people who are deaf, are hard of hearing, or have speech disabilities.
- Printed materials as handouts in alternate formats for the visually impaired (Braille for the Blind, large print for people with low vision, etc.)
 - In a case where materials are not provided in an accessible format, shelter staff and volunteers will need to provide assistance to people who are blind or have low vision by reading and completing forms or other written materials that are not available in alternative formats.

Recommendation: Provide a TTY and produce these materials in alternate formats to have ready in the case of an evacuation.

15. Emergency Management Plan:

An emergency management plan should provide an effective way for people with disabilities to request and receive durable medical equipment, medication, access to programs, services and activities



provided by the City or other essential needs while in shelters. Communication policies and procedures should include primary consideration of the communication method preferred by an individual with a disability. Essential needs include:

- Accessible beds for people with disabilities include procedures to request and receive cots or beds, modifications to cots or beds, securing of cots or beds to allow safe transfer to a wheelchair, and placement of cots or beds in specific locations when needed.
- Kitchen access to provide immediate access to food and refrigerated medications for sheltering residents and volunteers whose disabilities may require it.
- Some kinds of foods and beverages are available in emergency shelters for people with dietary restrictions, such as people who have diabetes or severe food allergies.
- Access to medical and social services and other benefit programs are accessible to people with disabilities, including people who use wheelchairs, scooters, and other mobility aids, individuals who cannot leave shelters because of their disabilities, and people who use service animals.
 - Application processes for benefit programs designed so they do not exclude people with disabilities whose disabilities prevent them from using one application process (e.g., web-based application processes, telephone-based application processes, procedures requiring applicants to have a valid driver's license, or procedures requiring applicants to apply in person).
 - Medical, social service, and other benefit programs provide effective communication to people with disabilities, including people who are deaf or hard of hearing and people who are blind or have low vision.

Post-shelter procedures should be adopted to provide additional time, transportation, and search assistance for people with disabilities in emergency shelters to locate accessible temporary housing and support services in the community following an emergency.

Recommendation: Develop policies and practices to ensure that people with disabilities are provided with accessible programs, services and activities in a manner similar to those provided to all community members.

16. Repair and Rebuilding Government Facilities:

Establish policies and procedures to ensure that the repair and rebuilding of government facilities comply with the accessibility requirements of Title II of the ADA.

Recommendation: Adopt policies and procedures through the ADA Transition Plan remediation process to ensure that government facilities



are repaired, altered, rebuilt or constructed to comply with state and federal accessibility requirements, including the 2010 ADA Standards.

Note: These policies and practices should apply to programs relocated from a damaged facility on a temporary or permanent basis to ensure that they remain accessible to people with disabilities.

4) ADA Transition Plan

A. Regulations

Under US DOJ regulation 28 CFR 35 ADA Title II public entities are allowed to develop ADA Transition Plans to carry out barrier removal over time as the entity deems appropriate, which is of great benefit. On the other hand, the legal allowance to make use of a Plan over time is only available to public entities. This option is not allowed for privately owned and privately funded entities, referred to under the ADA federal regulation 28 CFR 36 as Title III public accommodations.

The main reasoning behind this difference is the fact that public funds are limited and the scheduling of barrier removal over time allows public entities to plan and budget for the remediation work, as well as making use of the legal option to apply programmatic accessibility (program access) to reduce remediation obligations. Public entities have existed for decades or generations, and their pre-ADA facilities often require significant and costly remediation to provide access which must be funded by the public. Opening a business or funding a privately owned development is a choice, and funds to ensure compliance must be acquired and applied prior to occupancy. The option to apply program access also does not exist under the ADA under federal regulation 28 CFR 36 as Title III public accommodations.

The federal regulations governing the Plan indicate that where structural changes to facilities were undertaken to comply with the obligations established under the ADA, such changes should have been made within three years of the effective date of the regulations, or by 1995, but in any event as expeditiously as possible¹⁶. In the case that barrier removal was not completed by that date, a common occurrence nationwide, the US DOJ regulations define the steps that must be taken, as a minimum, to establish an ADA Transition Plan:

Transition plan.

- (1) In the event that structural changes to facilities will be undertaken to achieve program accessibility [where physical barriers are identified and must be removed], a public entity that employs 50 or more persons shall develop a transition plan setting forth the steps necessary to complete such changes. A public entity shall provide an opportunity to interested people, including individuals with disabilities

¹⁶ Department of Justice, Office of the Attorney General 28 CFR PART 35 Nondiscrimination on the Basis of Disability in State and Local Government Services {35.150 Existing Facilities. See <http://www.ada.gov/reg2.html>



or organizations representing individuals with disabilities, to participate in the development of the transition plan by submitting comments. A copy of the transition plan shall be made available for public inspection.

- (2) If a public entity has responsibility or authority over streets, roads, or walkways, its transition plan shall include a schedule for providing curb ramps or other sloped areas where pedestrian walks cross curbs, giving priority to walkways serving entities covered by the Act, including State and local government offices and facilities, transportation, places of public accommodation, and employers, followed by walkways serving other areas
- (3) The plan shall, at a minimum –
 - (i) Identify physical obstacles in the public entity's facilities that limit the accessibility of its programs or activities to individuals with disabilities.
 - (ii) Describe in detail the methods that will be used to make the facilities accessible.
 - (iii) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and
 - (iv) Indicate the official responsible for implementation of the plan.
- (4) If a public entity has already complied with the transition plan requirement of a Federal agency regulation implementing Section 504 of the Rehabilitation Act of 1973, then the requirements of this paragraph shall apply only to those policies and practices that were not included in the previous transition plan.

This Plan illustrates areas of challenge, but this process is also essential in developing a strategic and comprehensive plan to improve accessibility.

All barriers are not equal and the way that they affect different groups of people with disabilities varies significantly. Consider a situation where a barrier for a single missing tactile sign is recorded in comparison to a barrier listing a lack of an accessible loading zone at a building where bus and shuttle services provide passenger loading and unloading at a building. The difference in the severity with which those barriers affect people with disabilities is significant. Also, the effect that these different barriers have in denying access to programs, services, and activities is vastly different.

B. Transition Plan: Methodology

(i) Access Compliance Assessment Reports (ACARs)

A physical assessment of each location where a PSA is provided has been



performed for the City. Images of each physical element were captured in HD digital photographs with GPS coordinates captured at each exterior location, while manual measurements were taken to establish as-built conditions and to facilitate the process of cost estimating.

Each barrier to access identified is provided with a recommended solution. This solution is meant to provide a suggested method of barrier remediation or mitigation to resolve the barrier identified. These methods may be as simple as relocating elements required to be accessible, or as complicated as a full remodel of a restroom to provide accessible maneuvering clearance and fixtures. The recommended remediation methods identified in the ACARs are not necessarily the only option to correct the barriers. The City will review all options recommended when performing the remediation of the elements based on the implementation schedule.

The purpose of these reports is to provide information in a clear and usable format for designated staff, other professionals, and laypeople alike.

Physical barriers to access were identified and documented in these two different ways to facilitate the review process:

- 1) Summary and Analysis: An analysis of the findings is provided in a narrative form, which describes particular barriers identified in the barrier records, to help ensure that the findings for atypical situations can be further explained. The intent of this information is to provide a discussion on the functionality of physical elements. Background reasoning and research behind the identification of barriers are provided where universal design principles can play a role in improvements. This analysis was accompanied by digital photographs or diagrams, where applicable. Understanding the function of the building and its usage was essential in interpreting the findings found in this report.
- 2) Barrier Data Records: Individual barriers to access identified during the field investigation have been entered into the TPD to provide technical information on each individual barrier within a barrier data record. These barrier data records include detailed information such as digital photographs of each barrier, code references that determine the barrier to access, as-built measurements, barrier severity ratings, budgetary cost estimates, recommended solutions for barrier removal and a priority for barrier removal assigned in the final report. For the sake of brevity and to consolidate the barrier data, some of the more typical barriers found in multiple locations are grouped with a description of the locations in which they are found. Cost estimates are calculated according to the groupings in these cases.



In California, accessibility requirements contained in building code (CBC) are enforceable standards governing jurisdictions, but the minimum standards contained in the CBC may not ensure that facilities are usable by and accessible to people with disabilities. Some elements required to be accessible located in the public rights-of-way (PROW), including sidewalks and accessible pedestrian signals at street crossings, etc. are not included in the CBC, whereas bus stops and other elements, such as curb ramps, are governed by the CBC. In other words, the CBC does not provide a comprehensive set of accessibility standards governing all physical elements.

Sidewalks were covered by the original 1990 ADA Standards, but the 2010 ADA update to those Standards retained accessibility standards only for the site and buildings, with the Standards governing elements in the PROW detailed in a separate document aptly entitled the Public Rights-of-Way Accessibility Guidelines (PROWAG). The final adopted version of the PROWAG was published in 2011, and while the Standard awaits enforcement by the US DOJ, it is adopted in part and enforced by Caltrans and US Ninth Circuit case law.

It is important to note that the barriers identified in these ACARs reflect the most stringent requirements from model building codes and standards, as state and federal regulations and statutes are known to contain conflicting requirements.

(ii) Standards

The federal and state regulations and statutes in effect when this project was designed and constructed were used in this analysis. In addition, the following standards have been applied with the goal of ensuring that alterations are compliant to the current standards, to the maximum extent feasible¹⁷, as allowed under the ADA:

- The Federal Highway Administration's *Manual on Uniform Traffic Control Devices* (CA-MUTCD for California's version) that governs signalization and other elements within the public rights-of-way
- The federal Access Board's Public Rights-of-Way Guidelines (PROWAG) are the gold standard for compliance in the public rights-of-way assessment and design, also enforced by Caltrans.
- The *Americans with Disabilities Act/Architectural Barriers Act* (2010 ADAS) Accessibility Guidelines which contain standards that replaced the 1992 ADAAG as of March 15, 2011
- The federal Access Board's *Recreation Area Guidelines and Outdoor*

¹⁷ https://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards_prt.pdf



Developed Area Guidelines covering recreation areas, parks and trails and other outdoor developed areas

- ADA/ABA standards for *Transportation Facilities* (transit stops, train stations, bus and shuttle stops, etc.) adopted by the US Department of Transportation
- The 7 Principles of Universal Design developed by the University of North Carolina and accepted as a good practice

Each barrier identified in these reports is designated as either required for removal or recommended for removal. State and federal model code provide the basis for most of the barrier identification, although additional barriers are not based on these regulations or statutes, but on pending regulations, case law or good practices. The *Remediation* field in reports and the TPD indicates whether the barrier designation, contained in the barrier data record, is based on enforceable regulations and statutes (indicated by Required) or a recommendation as a good practice (indicated by Recommended) to make clear when the barrier identified is classified as a code violation, or a recommended change that is not dictated by building code, federal standards or the ADA Standards (case law, pending regulations, etc.).

While these principles and standards are vital to this project, actual experience with projects demonstrates that public entities can benefit from learning and applying these concepts, principles, and standards daily.

(iii) Field Assessments

Extensive field assessments were performed at each physical location where PSAs are provided.

SZS conducted an as-built assessment of facilities, including City selected locations of the pedestrian facility, to document current conditions for compliance with applicable law, code, and best practices.

The methods used by SZS field investigators have been developed during tens of thousands of hours of field surveying. Field survey teams are comprised of two person teams. Data entry takes place in the field using the TPD, which is configured with pull-down menus and auto-prompting cues that provide efficient yet consistent data collection for SZS and later use by City staff. Digital photographs containing visual cues make each barrier clear to those who review the reports.

SZS teams worked to identify, measure, photograph, and record details on each barrier to access, including a combination of digital and written observational notes.



The findings in ACARs are stored and can be accessed in the TPD, which contains all aspects of the Transition Plan including the draft and final findings contained in the ACARs, the Transition Plan Overview, reference drawings, record documents and other pertinent documentation. The TPD also contains GPS coordinates to enable GIS mapping for all exterior elements and PROW evaluated. The fundamental purpose of the TPD is to facilitate ongoing monitoring and updating of the final Transition Plan. The TPD is platform neutral; data can be exported into most types of facilities management software to enable correlation with other projects including CIP work, maintenance, alterations to existing facilities and the design of new construction projects.

The pedestrian facility was inventoried and cataloged to provide a complete list of barriers to access. Barriers to access physically surveyed that have a high barrier severity rating commonly include changes in level, also referred to as trip hazards in plain language (or as abrupt changes in level or vertical surface discontinuities as an industry standard). Protruding objects can also present a hazard to pedestrians traveling through the network of pedestrian facilities, recreation facilities or structures. Additional barriers to access were recorded including non-compliant cross slopes, walking surface clear width, surface condition and maneuvering clearance at controls, mechanisms, or entry doors/gates, among many others.

Pedestrian elements within the PROW that were constructed prior to January 26, 1992, when the ADA enforcement began, are unlikely to comply with those ADA Standards which were not in place at the time of construction. Therefore, it can be reasonably assumed that most or all elements of the existing (pre-ADA) pedestrian facilities are non-compliant. Typical elements within the pedestrian facilities include the following:

- Sidewalks (Pedestrian Access Route or PAR)
- Transit Stops and Transit Shelters
- Pedestrian Street Crossings (Intersections, Midblock or Raised)
- Pedestrian Overpasses and Underpasses
- Curb Ramps, Blended Transitions, Medians and Pedestrian Refuge Islands
- Pedestrian At-Grade Rail Crossings
- Roundabouts containing Pedestrian Facilities
- Pedestrian Signals and Pedestrian Pushbuttons
- Rectangular Rapid Flash Beacons (RRFB), or similar Pedestrian Controls
- Pedestrian Signs that provide Directions, Warnings, or other Information within the Pedestrian Access Route
- Passenger Loading Zone
- Street Furniture, including
 - Drinking Fountains
 - Public Toilet Facilities



- Tables
- Counters
- Benches
- Fare Vending Machines and ATMs
- Kiosks
- On-Street Parking Stalls (defined as marked or metered spaces)
- Parking Meters and Parking Pay Stations
- Emergency Call Stations
- Stairways and Escalators
- Guardrails at Elevation Changes
- Doors, Doorways, and Gates

While beach access routes are not typical pedestrian elements, they are essential in providing access to the water as one type of outdoor recreation access route (ORAR). These pedestrian routes are a continuous, unobstructed path that is intended for pedestrian use and that connects accessible elements, spaces, and facilities within camping and picnic facilities and at viewing areas and trailheads only. ORARs cannot be used at other types of facilities, such as educational campuses, office parks, or theme parks¹⁸.

Capitola Beach is located adjacent to Esplanade Park and the sidewalk along Esplanade Drive. It also appears that City Maintenance staff use equipment to compact the sand surface from each of the pedestrian entrances to the beach regularly. While this practice is a practical approach to improving access, it is not enough to provide a pedestrian access route from sidewalk to the water. Several options exist to provide access to the water.

A compliant beach access route allows pedestrians to cross a sand, rock, dirt or similarly surfaced beach so that they can play, swim, or participate in other beach- or water-related activities. A beach access route is a continuous, unobstructed path that crosses the surface of the beach and provides pedestrians with access to the water. Beach access routes are not required where pedestrian access to the beach is not allowed.

Beach access routes can be permanent or removable. Removable beach access routes may be an option where restrictive permits are issued in coastal and shoreline areas, where seasonal tides or high flows may remove or damage a permanent structure, or in areas where the beach erodes or builds up quickly each season and causes a permanent beach access route to become inaccessible. Removable beach access routes can be moved to a protected storage area during storms and other periods when the routes are subject to damage or loss.

¹⁸ See the US Access Board Guide to the ABA Accessibility Standards at <https://www.access-board.gov/aba/guides/chapter-10-outdoor/#beach-access-routes>



Whenever possible, providing access to outdoor constructed features on a beach gives people with disabilities more independence and opportunities to participate in beach- or water-related activities. The City of Capitola can choose to install a temporary or permanent beach access route at a minimum of one of multiple pedestrian entrances along the sidewalk which appear to be relatively flat. Another pedestrian entrance is located on the west side of Wharf Road but this entry point presents a severely steep path that cannot be considered for use as a compliant beach access route. On-street parking is provided on Cliff Drive where a stairway is provided as beach access due to the steep grade change between the road and the beach. This stairway was assessed as part of the on-street parking and described in the barrier data records contained at the end of this report.

As the schedule within the Plan is carried out and alterations to remediate take place over time, the reconstruction (4R) rehabilitation (3R) or restoration (2R) process should be seen as opportunities to make general improvements and remediate barriers simultaneously.

The Plan details each segment of frontage included in this current plan, consisting of sidewalk, associated curb ramps, pedestrian controls at signalized intersections, transit stops, etc. to ensure that the alterations scheduled within the Plan includes all elements.

(iv) Schedule for Implementation

One of the final steps in this development process is the effort to compile a remediation schedule to ensure implementation of the Plan. The schedule for remediation is one of the four (4) minimum requirements that the US DOJ sets forth for a compliant Plan.

The schedule within the Plan is essential; without a schedule, no ADA Transition Plan can exist.

At this point in the ADA enforcement process, implementation phases can be planned into the future without a specific limitation by US DOJ, or case law precedent. The length of the schedule is determined by the amount that the public entity determines it can expend each year or phase, divided by the overall cost to remediate all barriers identified in the field survey process. The commitment by the City to spend a certain amount of funds each year is not set in stone.

Each Plan is a living document that can and will change each year as programs, services and activities change over time. The remediation cost contained in the plan will change as economic conditions change and the Plan evolves over



time. This fact does not mean that a schedule is not required. The schedule is a concrete commitment on the part of a public entity, although the flexibility afforded within implementation phases can actually facilitate the development of a schedule as a planning effort similar to many others as a sensible approach considering the constraints that each public entity faces in the form of limited funds and what may appear to be a seemingly outsized obligation to improve facilities to better serve the community.

In most instances, the decision-makers that put the schedule in place will not see the entire plan through to completion, due to retirement, a reordering of responsibilities at the City, etc., making the opportunity to make modifications to the Plan in the future even more important.

After the Plan is finalized, it is recommended to keep the public informed of progress under the Plan, and to be transparent about changes to the Plan. Publishing an annual report on remediation accomplished gives the City the chance to demonstrate to the public that tax dollars are being used for projects that benefit everyone. Improving access is generally a smaller part of each project carried out by the public works, planning and development departments.

(v) Report Format – Definitions

SZS CONSULTING City of Capitola - City Hall

1 Field Date: 2/6/2017 2 Report Date: 2/7/2017 3 Barrier #: 1 4

5 Facility: City Hall

6 Location: Parking Lot

7 Official Responsible: Brian Van Son, ADA Coordinator

8 Facility Function: Public Dwg: 1 of 3 9

10 Barrier Area: Parking Remediation: Required 11

12 Barrier Type: Van Accessible Stall

13 Barrier Description: No van accessible stall provided in parking lot 18

14 Code References: CBC 11B.208.2.4 19

15 As Built Description: Where 8 stalls are identified as accessible, no van accessible stall is provided 20

16 Proposed Solution: Provide min. one van accessible stall per every six accessible stalls (1:6 ratio) for a total of 2 van accessible stalls 22

17 As-Built Meas: 2 Quantity: EACH Cost Estimate: \$1,026.00 BSR: 1 Necessary 23

21 X Coordinate: -121.953464699909 Y Coordinate: 36.9743577204644 Z Coordinate: 6.85498046875 25

24 Implementation: Priority 1 Phase Date Status Open 26

28 Notes: 27

This is the Graphic User Interface (GUI) for the TPD entry form. The name of each facility is located at the top of the form and the reports produced by the TPD have a similar format with identical fields although they are, in some



instances, slightly different in size. A description for the data contained within each field is provided below:

- 1) **Field Date:** The date of the facility inspection.
- 2) **Report Date:** The date the report was compiled, revised or completed.
- 3) **Barrier #:** Individual number assigned to each barrier identified. The alphanumeric character assigned correlates with a room or space identified on the reference drawings provided with each report. This number allows the barrier to be pinpointed to a location within the facility.
- 4) **Image:** Digital photograph provided for each barrier as a visual representation of the issue and context.
- 5) **Facility:** Name of building, park or parking lot where the inspection was performed
- 6) **Location:** Area or space within the facility where a barrier is identified
- 7) **Official Responsible:** Public or private entity responsible for the facility and the remediation of the barriers
- 8) **Facility Function (Public/Staff):** Designates barriers as located in either staff or public areas. Most barriers identified are designated for public use. Different requirements exist for public, and staff use areas.
- 9) **Reference Drawing (Dwg):** Floor, site plans or aerial maps of the designated facility where the assessment was performed. Each reference drawing provides correlation between the barrier number listed in the report (see item 3 above) and the actual physical location where the barrier was identified.
- 10) **Barrier Area:** Provides a grouping of similar barriers identified in specific spaces (E.G.: Restrooms, Doors and Gates, Stairs, Ramps, Sidewalk, Walkways)
- 11) **Remediation:** Indicates whether a barrier is in direct violation of the federal and state codes and statutes and must be remediated or whether the remediation is recommended as a best practice. One of two options exist: (Required) or (Recommended).
- 12) **Barrier Type:** Identifies the type of physical element or area defined by California Building Code and the ADA Standards used to identify non-compliance.
- 13) **Requirement (Barrier Description):** Code language or performance standard that describes barrier identified.
- 14) **Code References:** Applicable state and federal codes regulating the entities compliance. Each code reference is specific to each barrier and identifies the section of code which regulates compliance to that specific element (doors, parking stalls, sidewalks, etc.). Where a best practice is recommended, the term *Performance Standard* identifies the barrier to access documented in the barrier data record.
- 15) **As Built Description (Desc):** Also known as the *findings*, information describes the barrier.
- 16) **Proposed Solution:** Provides one suggested solution for the remediation of the barrier identified. Please note that other options may exist to bring items into



compliance. Other solutions may exist, and all solutions cannot be accounted for in this report. The suggested solution is generally the most common way of remediating this particular barrier.

- 17) As Built Measure:** Actual field measurement number for square footage (SF), linear footage (LF), or a single value (EACH or JOB) used to indicate physical dimension of barrier and calculate cost estimate.
- 18) Quantity:** Unit of measure for the remediation of each barrier (SF, LF, EACH or JOB).
- 19) Cost Estimate:** Budgetary Cost Estimate to remove the barrier described.
- 20) Barrier Severity Rating (BSR):** A systematic, research-based rating that describes how severely each barrier affects usability for the particular element.
- 21) X Coordinate:** Geographic coordinate that provides the longitude (north-south) value
- 22) Y Coordinate:** Geographic coordinate that provides the latitude (east-west) value
- 23) Z Coordinate:** Geographic coordinate that provides the elevation value
- 24) Implementation Priority:** Scheduling of barrier removal based on many factors including the US DOJ requirements for providing access to ADA Title II facilities.
- 25) Implementation Phase:** Designated annual phase of the transition plan when remediation of the barrier is scheduled. Phases are generally annual but can be longer, if needed.
- 26) Implementation Date:** Scheduled year or date as to when the remediation of the barrier will take place. This field can be scheduled during phasing and changed to a specific date after the barrier is remediated and the record is closed.
- 27) Status (Open or Closed):** An implementation management tool that can flag barriers to indicate that they have been remediated or are remaining in the implementation phasing plan. Barrier data records have a "Closed" status when completed or have an "Open" status when they remain scheduled for remediation.
- 28) Notes:** Open field where additional explanation of the findings can be noted when encountering unusual situations in the field, or to note programmatic access solutions. The notes field can contain the image file name shown in the barrier data record, or additional information as needed such as an explanation of findings, or information on associated barriers in the same or similar locations.

(vi) Cost Estimating

ACARs contain budgetary cost estimates provided to facilitate the development of a schedule for the remediation of barriers, although they should not be construed as construction cost estimates. These budgetary cost estimates are provided for physical elements only while the cost of implementing a new policy or practice cannot be accurately assessed at this point in the process. Industry standard RS Means construction cost estimating data was used to calculate the budgetary cost estimates contained in the report. Construction cost estimates increase each year across the US, with steep increases since the



COVID pandemic, which began in 2021¹⁹. The cost increases between 2016 and 2024 are as follows:

YEAR	ANNUAL ESCALATION
2016	4.4%
2017	3.5%
2018	1.3%
2019	3.6%
2020	2.8%
2021	13.4%
2022	9.3%
2023	9.4%

In some instances, a barrier location can be identified with multiple barriers to access and the reporting will often show one or more of the barriers with a cost estimate of \$0 dollars. This is an intentional accounting revision intended to indicate that the cost to remove the group of barriers identified as part of that particular element is included in the cost for one recommendation to remediate all associated barriers at that same location.

For instance, where a door equipped with a door closer is identified with a non-compliant opening force, sweep period and a lack of required maneuvering clearance on one or both sides of the door, the recommended barrier removal solution is often to install an automatic door opening device (ADOD), which at the time of this assessment is estimated to cost approx. \$5,000. If each of the four barriers to access had been reported with a separate cost estimate, the estimate could amount to three times that much, or \$15,000 without the accounting revision. The end result is intended to produce a budgetary cost estimate that excludes amounts that could exponentially and incorrectly increase the overall cost of barrier removal implementation plans.

While the US DOJ does not require cost estimates as one of the minimum requirements for ADA Transition Plans, they serve a useful purpose. Without cost estimates, a schedule based on annual financial expenditures would be a matter of guesswork. Every organization needs to know how to plan financially for each phase of remediation, in order to commit to a schedule and establish a compliant Plan. Budgetary cost estimates are intended to allow that planning to move forward, but they do not replace the need for construction cost estimates at the time of remediation.

¹⁹ See California Division of General Services (DGS), Real Estate Division, DGS Construction Cost Index CCCI at <https://www.dgs.ca.gov/RES/Division/Real-Estate-Services-Division-Resources-List-Folder/DGS-California-Construction-Cost-Index-CCCI>



(vii) Barrier Severity Ratings (BSR) and Remediation

A barrier identification system was implemented to standardize the reporting process and ensure consistency while collecting data, creating reports and scheduling remediation over time. Each barrier was assigned a rating that indicates how severely the barrier affects the ability of a person with a disability to use the element. There are five barrier severity ratings assigned:

- 1 - High Severity*
- 2 - Moderate Severity*
- 3 - Low Severity*
- 4 - Very Low Severity*
- 5 - Technically Infeasible*

While the effect that the barrier has on a person using the element is the primary determining factor, the date of construction also plays a role in assigning these ratings. Facilities that are defined under the ADA as new construction (constructed after the ADA enforcement began in 1992) are required to be fully compliant to new construction standards. If barriers exist in physical elements constructed since 1992, the barrier severity rating assigned is *1 – High Severity*. That determination is a legal requirement irrespective of the effect the barrier may have on the user.

When barriers are rated as a *5 – Technically Infeasible*, the alterations necessary cannot be performed due to structural impracticability (structural conditions that are technically infeasible to alter). Increasing the clear width of an interior stairway in an existing building or reducing the roadway slope where it corresponds with steep terrain, are examples of barriers that are technically infeasible to remediate. Under US DOJ requirements, cost cannot be used as a determining factor for determining technical infeasibility or structural impracticability.

Sidewalks constructed prior to the ADA enforcement were often constructed intentionally with a significant cross slope under the premise that proper drainage must be ensured. In such cases, that cross slope is now legally defined as a code violation. The idea of grandfathering under prior building code is what many people will think of at this point, but that concept does not apply to civil rights violations. While the ADA Standards are written for new construction, where a facility is not accessible to and usable by a person with a disability, the civil rights violation that exists requires remediation and the legal requirement is to base the alteration on new construction standards to the maximum extent feasible to meet those standards.

This is often a point of confusion; if a physical element has not been altered



since it was constructed at some point prior to 1992, but presents a barrier to access causing discrimination, it is required under civil rights law (ADA, Unruh Act, Disabled Person Act, Civil Code, GC, Vehicle Code, etc.) to be altered to provide access and end the discriminatory conditions present. This is the fundamental reason that an ADA Transition Plan is required. Most of the environment people experience daily is defined as an existing facility; refusing to alter it to provide access would render PSAs non-accessible for an indefinite period of time. It would mean an unending denial of access.

Research shows that the effect that the cross slope of a walking surface of between 2.1% and 2.9% has is minor (very low severity) and can be navigated by a person using a mobility assist device with some extra effort to continue moving forward in a straight path, whereas a cross slope of 5.0% or more is known to cause a wheelchair to overturn, which may result in injury or worse. The higher the cross slope, the more difficult it becomes for the person in the wheelchair to remain on a path moving forward. This can be especially concerning on a sidewalk with a vertical curb where the cross slope draws the wheelchair user toward the curb and, potentially, over the curb and into the roadway and oncoming traffic.

(viii) Safe Harbor Provisions

One of the goals of this project is to ensure that the City can make use of the safe harbor provision contained in the 2010 ADA Standards. This federal rule applies only to provisions in the ADA Standards and applies on an element-by-element basis for those elements that complied with the original 1991 ADA Standards. It is important to note that safe harbor is not a provision contained within building code (CBC).

The rule includes a general "safe harbor" under which physical elements in facilities that were built or altered in compliance with the 1991 Standards, are not required to be brought into compliance with the 2010 Standards until the elements become part of alterations, which trigger the requirement to bring the elements into compliance with existing standards at the time of alteration. A similar safe harbor applies to elements associated with the path of travel to an altered area for ADA requirements.

(ix) Barrier Removal Priorities

Pedestrian Facility

Many physical elements must function together as a part of the comprehensive whole to create a usable facility. No physical element exists in a vacuum. Connections to and association with other accessible elements are essential.



Each visitor arrives at a *point of arrival* and sets out to reach a program, service, or activity, whether that be the sidewalk in front of their home, the sidewalk at a bus stop when they exit a bus or shuttle, or when they drive to a parking lot or on-street parking stall and park intending to exit their vehicle. Each of these points of arrival must be accessible to pedestrians who travel from those points of arrival to a destination.

It is essential to ensure that people with disabilities can reach their destination by using the pedestrian facility. Pedestrian travel is a fundamental need for each person who functions in society as a parent, volunteer or who is gainfully employed receiving compensation (funds or academic credit, etc.). Barrier remediation within these elements is identified as the highest priority within the PROW report. If pedestrians cannot reach a destination, accessible elements within the site at that destination cannot be of use.

Barriers identified in the pedestrian facility have been prioritized according to the following criteria for barrier removal. Each priority indicates an area which will be altered to comply with the schedule provided in Section 4.E:

- Priority 1:** Transportation Methods (Bus Stops, etc.)
- Priority 2:** Pedestrian Routes to Title II Facilities (State, Federal, Local, etc.)
- Priority 3:** Pedestrian Routes to Public Accommodations (Health Care facilities, Schools, Libraries, Community Centers, etc.)
- Priority 4:** Pedestrian Routes serving areas of Employment
- Priority 5:** Pedestrian Routes within Residential Areas

Parking

Accessible parking spaces must connect directly to the public way (sidewalk, curb ramps and street crossings, etc.) to allow pedestrians to reach public building entrances when accessible parking serves its intended use. This is true for all users, but especially for people with disabilities.

On-street parking is commonly provided in residential and business districts as a source of additional accessible parking for public use. By definition, on-street parking exists where the parking is designated by markings or metering, not as locations where vehicles happen to park. This is a legal definition contained in the PROWAG.

Under the PROWAG and case law (Lomita), on-street parking will be altered to



comply as sidewalks are altered as part of the ADA Transition Plan for the Public Rights-of-Way (PROW). The fundamental elements evaluated in public parking facilities include:

- Accessible Route from Parking to the Public Way
- Parking Stalls
- Ramps, Blended Transitions or Walkways connecting Parking Stalls to the Public Way
- Signs or Markings (required pavement markings, post/wall mounted and tow-away signs)
- Sanitary facilities or Drinking Fountains, where provided

Barriers to access identified in parking lots and structures have been prioritized for remediation according to the following criteria for barrier removal. Each priority indicates an area which will be altered to comply with the schedule provided in Section 4.E:

Priority 1: Accessible parking

Priority 2: Pedestrian route including access from points of arrival (parking stalls) to the public right-of-way

Priority 3: Signs and markings

General Use Facilities, Parks and Recreation Facilities

General Use Facilities, Parks and recreation facilities were also assigned a barrier removal priority to facilitate scheduling barrier remediation within the ADA Transition Plan schedule. Accessible routes and walking surfaces are an integral part of the activities that take place with these facilities. Some of the fundamental elements evaluated in these facilities include:

- On-site Parking Lots
- Walkways
- Ramps
- Elevators or Lifts
- Stairways (95% of people with disabilities are **not** mobility-impaired)
- Benches or Other Seating Elements
- Tables, Counters or Desks
- Access to Monuments or Displayed Information
- Signage (required pavement markings, post/wall mounted and tow-away signs)



- Sanitary facilities and Drinking Fountains, where provided

Barriers to access identified in general use facilities, including community centers, libraries, and parks or recreation facilities have been prioritized according to the following criteria for barrier removal. Each priority indicates an area which will be altered to comply with the schedule provided in Section 4.E:

- Priority 1:** Pedestrian route including access to the facility from points of arrival and from the facility site, including walkways and breezeways and potential hazards (see stairways below). Where applicable, building entrances and lobby spaces
- Priority 2:** Primary facility functions (classrooms, meeting rooms, auditoriums, corridors, play areas, etc.)
- Priority 3:** Restrooms, dressing rooms, drinking fountains and benches or tables in public places
- Priority 4:** Interior and exterior stairways, signage and remaining barriers that affect people with disabilities as a low severity barrier

Finalized barrier priorities, and the implementation schedule, can be influenced by other factors including:

- Number and type of PSAs that take place in a facility
- Frequency of use by the general public
- Type of Use (public/staff/mixed use or community center v. corporation yard)
- Age of Facility (pre-1992 existing or new construction post-1992)
- Long-term Facility Planning Goals
 - Infrastructure improvement projects
 - Facility replacement as part of future Capital Improvement Plans
- History of complaints or issues at the location or PSA

C. Transition Plan: Official Responsible

As part of an ADA Transition Plan, the City must name an official responsible for the barrier removal process. Generally, the designated ADA Coordinator (ADA CO) is in charge of the barrier remediation plan. The ADA CO and/or representative is located in the City Manager's Office and can be reached at capitolaDPW@ci.capitola.ca.us.



D. Transition Plan: Summary of Findings

The following fundamental definitions could play a role in efforts to improve physical access. Many various interpretations exist for legal determinations that influence the process of remediation under the ADA and other civil rights laws, and the role that access requirements under California Building Code play in this process. It is essential to understand the actual legal definitions codified by the US DOJ and federal Access Board for commonly applied determinations while pursuing remediation within the ADA Transition Plan implementation process.

1. Technical Infeasibility: This term applies to existing (pre-ADA) facilities and associated alterations projects. It has been misinterpreted or misunderstood since federal regulations first put it into the public domain. According to the US DOJ and the federal Access Board, the term means, with respect to an alteration of a building or a facility, that it has little likelihood of being accomplished due to **existing structural conditions**²⁰ would require removing or altering a loadbearing member which is an essential part of the structural frame; or because other existing physical or site constraints prohibit modification or addition of elements, spaces, or features which are in full and strict compliance with the minimum requirements for new construction. Note: cost is not a trigger of infeasibility in alterations.
2. Structural Impracticability: This term applies to new construction. Full compliance is not required where an entity can demonstrate that it is structurally impracticable to meet the requirements. Full compliance will be considered structurally impracticable only in those rare circumstances when the **unique characteristics of terrain**²¹ prevent the incorporation of accessibility features.

If full compliance is structurally impracticable, compliance is required to the extent that it is not structurally impracticable. In that case, any portion of the facility that can be made accessible shall be made accessible to the extent that it is not structurally impracticable. This definition is not a blanket exception for requirements to provide facilities accessible by and usable to people with disabilities.

3. Maximum Extent Feasible for Alterations in Existing Facilities: Facilities designed or constructed prior to the enforcement of the ADA in 1992 may involve elements that cannot be brought up to new construction standards in the present time. While that may be true, these elements or facilities must be altered as best as possible, meaning that any alteration is first required

²⁰ ADA 2010 Standards, Section 202 Existing Buildings and Facilities

²¹ CFR 36.401 New construction. (C)(1-3)



to comply with new construction standards and where that cannot be accomplished entirely, the alterations must comply to new construction standards to the greatest extent possible.

If providing accessibility to individuals with one kind of disability (e.g., mobility impairments for those who use wheelchairs) would be technical infeasible in existing facilities or structurally impracticable in new construction, accessibility shall nonetheless be ensured to persons with other types of disabilities (e.g., those who use crutches or who have vision, hearing, speech, or cognitive impairments).

4. ADA Transition Plan Barrier Removal not a Trigger for Other Improvements (CBC): Provisions contained in 11B-202.4, Exception 4 Path of travel requirements in alterations, additions and structural repairs state exceptions for barrier remediation through an ADA Transition Plan that are markedly different from other alterations projects, as follows:

Alterations solely for the purpose of barrier removal undertaken pursuant to the requirements of the Americans with Disabilities Act (Public Law 101- 336, 28 C.F.R., Section 36.304) or the accessibility requirements of this code as those requirements or regulations now exist or are hereafter amended including, but not limited to, one or more of the following items shall be limited to the actual scope of work of the project and shall not be required to comply with Section 11B-202.4:

1. *Installing ramps.*
2. *Making curb cuts in sidewalks and entrance.*
3. *Repositioning shelves.*
4. *Rearranging tables, chairs, vending machines, display racks, and other furniture.*
5. *Repositioning telephones.*
6. *Adding raised markings on elevator control buttons.*
7. *Installing flashing alarm lights.*
8. *Widening doors.*
9. *Installing offset hinges to widen doorways.*
10. *Eliminating a turnstile or providing an alternative accessible route.*
11. *Installing accessible door hardware.*
12. *Installing grab bars in toilet stalls.*
13. *Rearranging toilet partitions to increase maneuvering space.*



14. *Insulating lavatory pipes under sinks to prevent burns.*
15. *Installing a raised toilet seat.*
16. *Installing a full-length bathroom mirror.*
17. *Repositioning the paper towel dispenser in a bathroom.*
18. *Creating designated accessible parking spaces.*
19. *Removing high-pile, low-density carpeting.*

These exceptions are intended to encourage barrier removal by allowing the alterations under the Plan to be carried out expeditiously and without added expense.

(i) **Public Right-of-Way**

Pedestrian facilities included in this report for the frontage in the PROW include developed sidewalk and associated elements. Areas where no sidewalk exists and the roadway shoulder is not marked for pedestrian use, are not considered pedestrian facilities under state and federal regulations. These same accessibility regulations do not require a public entity to obtain additional right-of-way or to narrow existing roadways to construct sidewalks as a pedestrian access route. However, if a public entity plans to narrow a roadway for traffic-calming purposes or acquire additional right-of-way as part of a downtown improvement project, the entity should plan the project in such a way as to accommodate new construction standards for sidewalk width²².

Per the Federal Highway Administration (FHWA) and case law²³, resurfacing is considered an alteration and accessible features such as curb ramps, street crossings and pedestrian controls where signalization is provided, must be provided as part of the resurfacing project, to the extent that it is feasible to do so. These provisions for accessible features are required by the ADA Title II 35.151(e) regulation, rather than under the 2010 ADA standards for construction, or California Building Code. This requirement mirrors the path-of-travel requirement for buildings and facilities under which additional work is required as part of a planned alteration. These overlay projects are an opportunity to remediate barriers to access within what are considered maintenance or rehabilitation projects to realize a combined benefit.

Under definitions from the FHWA, a walkway is any type of defined space or pathway for use by a person traveling on foot or using a wheelchair. These may be pedestrian walkways, shared-use paths, sidewalks, or roadway shoulders. FHWA defines a pedestrian walkway as a continuous way

²² Federal Access Board, Public Rights-of-Way Access Advisory Committee, *Special Report: Accessible Public Rights-of-Way* planning and designing for alterations, p. 16-18.

²³ See *Fortyune v. Lomita*, No. 12-56280; D.C. No. 2:11-cv-06644-DDP-JCG, filed September 5, 2014.



designated for pedestrians and separated from motor vehicle traffic by a space or barrier. By contrast, sidewalks are walkways that are paved and separated from the street, generally by a curb and/or gutter.

The City provides developed sidewalks in some areas, and where provided, it was found to be in generally good condition. Marked shoulders and bike lanes were also identified within the City PROW. Some of these facilities that are used by pedestrians, bicyclists, etc., are considered shared use paths and are required to comply as a pedestrian access route (PAR).

Common errors and omissions constitute the largest number of barriers contained in an ADA Transition Plan. The following elements were commonly encountered during the field investigation in the PROW and the following guidance provided is intended to streamline the process of improving access.

1. Sidewalks and Pedestrian Access Routes within Shoulders: City roadway segments were used as the foundation of the process to identify the pedestrian access route as existing or new construction. Existing segments of sidewalk (pre-ADA) within the PROW are detailed in the ADA Transition Plan report as being non-compliant, due to the construction date of the facility having predated the enforcement of the ADA. Existing sidewalks were often found to have been designed and constructed with cross slopes exceeding the maximum allowable slope of 2.0%. Required clear width at locations where the placement of utility poles or other elements narrowed the sidewalk, potentially hindering or preventing wheelchair access were often constructed prior to the enforcement of the ADA. In general, municipalities own the sidewalks within their boundaries, including sidewalks adjacent to private property, although state law requires landowners to be responsible for maintaining the sidewalk fronting their property in a safe and usable manner. According to Streets and Highways Code 5610:

“The owners of lots or portions of lots fronting on any portion of a public street or place when that street or place is improved or if and when the area between the property line of the adjacent property and the street line is maintained as a parking or a parking strip, shall maintain any sidewalk in such condition that the sidewalk will not endanger persons or property and maintain it in a condition which will not interfere with the public convenience...”

Where this code is adopted, municipalities may assess landowners for the cost incurred to maintain sidewalks if the landowner fails to perform their duty under the law. Tree growth, irrigation and other factors that property owners' control can play a significant role in the life cycle of a sidewalk



surface. Although state law provides that abutting landowners are responsible for sidewalk maintenance and may be assessed the cost of repairs, they may not be liable for injuries or damages to third persons who use the sidewalk, unless the municipality enacts an ordinance that addresses liability²⁴. In addition, under the Barden case²⁵, which constitutes case law in California and subsequent FHWA regulations, sidewalks are defined as a program provided by a municipality.

Recommended: Where sidewalk is provided, the City should consider adopting state law 5601 and establish an ordinance to convey the cost of repair and/or legal liability for sidewalk condition and upkeep on property owners. Additional state laws and case law place the responsibility of maintaining and providing accessible pedestrian access routes abutting their respective property lines on the residents and property owners. Clear lines of responsibility could be useful to both parties.

2. Asphalt Strip in Roadway Shoulder: These elements were identified in many areas. In some instances, curb ramps had been constructed indicating that these strips are sidewalk, whereas in other areas, the asphalt strip was 8-10 feet wide and was used for parking only. Many of these strips were identified with a non-compliant sloped area acting as a curb ramp at corners indicating to pedestrians that these areas are a pedestrian access route.

Recommended: A consistent policy and practice should be developed to designate these surfaces either for pedestrians or parking, as they cannot simultaneously serve both purposes, for safety reasons. Where curb ramps are provided at intersections, these strips should be altered over time to provide an accessible pedestrian access route.

3. On-Street Parking: Marked on-street parking was identified along some roadways in the City. Where on-street parking is marked or metered, a ratio of the parking stalls must be altered to provide access to people with disabilities under the Lomita ruling, and the PROWAG (through adoption by Caltrans) of the PROWAG guidelines. These locations were included in the ADA Transition Plan where no compliant on-street accessible parking was provided.

Under existing PROWAG technical requirements, the provision of accessible on-street parking involves providing ISA identification signs for parking (post/wall mounted reflectorized ISA sign, surface ISA markings per CBC 11B-502.6.4.1, markings indicating stall dimensions, and the

²⁴ See *Williams v. Foster* (1989).

²⁵ UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, *Barden v. City of Sacramento*; No. 01-15744 D.C. No. CV 99-0497 MLS OPINION



painting of the adjacent curb blue (per CA Vehicle Code requirements). To ensure usability, these stalls must be constructed at a corner with an existing curb ramp to allow pedestrians to exit their vehicle and travel to the sidewalk. Otherwise, midblock parking locations will necessitate the construction of midblock curb ramps.

Recommended: On-street accessible parking may be the only form of accessible parking for City facilities or local businesses that lack off-street parking facilities. Stall surface slope requirements do not apply to on-street accessible parking, making these elements a reasonable way to add to the existing parking supply for use by people with disabilities. Additional accessible parking may also increase the frequency of use for City programs, services and activities by people with disabilities.

4. Changes in Level/Vertical Surface Discontinuities: As is the case throughout all jurisdictions within the United States, changes in level within the pedestrian facility were commonly identified barriers that act as anything from a trip hazard for the average person to an end point for travel for some people who use mobility assist devices. Where trees cause vaulting in concrete sidewalk slabs, it is likely that grinding will not be a viable long-term solution. These occurrences may require tree root surgery or other methods of remediation. Segments of paving may need to be replaced.
5. Curb Ramp Compliance: Site constraints determine the type of curb ramp design that can be constructed to comply. Until 2013, California Building Code provided requirements for only one common type of curb ramp (perpendicular), when the other types (parallel or blended transitions) were often the only type that could be constructed to comply in typical sidewalks with a standard 48" clear width and 6" high vertical curb. The construction of a compliant perpendicular curb ramp requires between 10'-12' sidewalk depth to accommodate the length of a max. 1:12 ramp run and a compliant top landing, depending on the existing vertical curb height and whether turning space is constrained at the back of the sidewalk. Sidewalks wider than 48" are not common in urban settings.

Conversely, parallel curb ramps require a minimum of 4' of sidewalk width to construct, with an additional 6" needed when a retainer curb is required. Combination curb ramps with aspects from each type can require even more space to construct to comply. Yet, perpendicular curb ramp details remain the most commonly depicted curb ramps in construction documents, leaving contractors with exceedingly difficult decisions to make. Careful scrutiny of development plans, construction documents and standard construction details is essential to ensure that the right curb ramp design is used to fit the existing site constraints. New curb ramps



are required to be fully compliant with new construction standards unless technical infeasibility exists. In new construction projects, each curb ramp must be fully compliant with building code requirements in force at the time of construction.

6. Curb Ramp Counterslope: Alterations to an existing curb ramp require demolition of the existing corner and a segment of asphalt into the roadway. Where the amount of asphalt demolished is insufficient, the transition slope between the new pan landing at a parallel ramp can be severe due to the new grade change caused when the end of a new ramp is several inches below the original grade creating a significant counterslope at the transition into the roadway. The gutter slope in the replaced concrete and asphalt into the roadway surface is often very steep (non-compliant) as a result. This severe counterslope can create a trapping condition for wheelchair casters preventing forward travel for the chair, while the wheelchair user continues through momentum to travel forward, potentially resulting in injury.
7. Street Crossings and Signalized Intersections: Where pedestrian street crossings are provided at signalized intersections, the pedestrian controls for the signals were not always located on an accessible route. If individuals with disabilities cannot reach controls required to actuate the crossing signals, usability and safety become an issue. In some instances, a stub pole could be installed in a location on an accessible route to provide a pedestrian control that pedestrians can safely reach with the provision of a level landing and wheelchair clear space at the pole to allow the user to stop in place and actuate the pedestrian control device to enable a safe crossing.

Roadway slopes within street crossings caused by crowning resulting from decades of overlay projects, or a lack of proper grading can present a significant barrier to access for pedestrians with disabilities. Asphalt deterioration (alligating of walking surfaces) coupled with crowning can drastically affect the usability of a street crossing. While the City may perform overlay projects to seal and repair deterioration, correcting the crown of the roadway should be considered to prepare the street surface to provide a pedestrian access route as part of an overlay project. In other instances, roadway resurfacing projects are completed when a City performs significant upgrades to underground utilities that will require excavation of the roadway surfaces.

Crowning can also affect curb ramp compliance. Where significant slopes exist within a street crossing, additional asphalt must be removed in order to transition the pedestrian access route from the new curb ramp into the street crossing to avoid abrupt changes in level or slopes exceeding 5.0%



within at least 2 feet of the curb ramp. Under CBC 11B-406.5.8, the adjacent surfaces at transitions at curb ramps to walks, gutters, and streets shall be at the same level. Subsequently, smooth transitioning into the existing roadway must be considered as a design constraint within the project, and budget to ensure that the scope of work results in full compliance.

8. Protruding Objects and Detectable Warnings: People who are blind or who have low vision (B/VI) undertake significant risk when traveling, whether on the sidewalk, on the site of a facility or within a building. Protruding objects are a potential hazard within any circulation route to the visually impaired. The primary source of injury to the visually impaired by protruding objects are due to objects that protrude into the path of travel or areas where the circulation path adjoins a drive lane or similar.

- a. Protruding Objects: Hazards exist when objects protrude more than 4" into the path of travel in the space between 27" and 80" high. Objects below 27" can be identified by a navigating cane and avoided. Objects within the "danger range" between 27" and 80" high that protrude more than 4" will make body contact before a person with a vision impairment can detect them with a cane or see them with limited vision. Objects that commonly cause injury include tree limbs, signs, low overhanging roof surfaces, shade structures, counters, wall-mounted cabinets, wall-mounted video monitors, and post-mounted signs or drinking fountains that are not contained in alcoves or wing walls, among others. The CBC and ADA Standards require protection for pedestrians as a warning that can be detected by a person before making body contact.
- b. Circulation paths that adjoin a drive lane present a particular hazard for the blind/visually impaired (B/VI) community. Outdated requirements contained in CBC used the term *hazardous vehicular area* and were often misinterpreted resulting in a proliferation of truncated domes in areas where they did not benefit people with disabilities.

In 2020, the CBC was updated through section 11B-250 to require the construction of a physical element such as a vertical curb as a detectable surface to separate a circulation route from a drive lane, parking stall or similar. The installation of truncated domes (TD) in these areas as a detectable warning in the past served no positive purpose for either the B/VI community, others with disabilities and at presented a significant expense to private and public property owners to install the materials. As of 2020, in the intervening code cycle for the 2019 CBC, the term *hazardous vehicular area* was replaced with *circulation path* to define these areas more



accurately as blended transitions.

In parking facilities, under CBC 11B-250.1, the accessible route is considered a circulation path required to be physically separated from vehicular traffic, including travel through parking facilities, into and out of parking spaces, into and out of electric vehicle charging spaces, and along roadways, driveways, and drive aisles. The physical separation required is a min. 4" above the area where vehicular traffic occurs. Exception 5 indicates that in alterations to existing parking facilities, the physical separation may be provided with detectable warnings complying with Sections 11B-247 and 11B-705.1 in lieu of raised circulation paths.

(ii) Physical Locations of PSAs, Parks, and Parking Lots

A total of nineteen facilities have been included in this Plan. When performing assessments of such varied facilities, general recommendations can be developed that are intended to apply to the entire organization and streamline the process of implementation. Findings have been summarized in this section to facilitate the process of developing policies and practices that will make the Plan more effective over time in improving access for people with disabilities.

Program access is always an important option to focus on during this process, as it can enable the City to make changes, such as relocation or providing a program, service or activity in an alternate manner, to reduce physical barrier removal. Each facility can be examined for opportunities to apply this option. The final version of this report will contain recommendations for the application of program access.

1. Lobby Identification Signs for Accessible Features: The entry lobby in each facility is a location where visitors should be able to quickly learn where accessible elements and spaces are provided in each building guiding them to PSAs, they intend to take part in, or to simply make it easy to find the sanitary facilities. The California Building Code (see Sections 11B-216.8 and 11B-703.5) contains a requirement to provide lobby informational signs that provide information on the location of accessible features (elevators, toilet rooms, drinking fountains, etc.). Building directories are separate from this requirement in providing information on the location of PSAs, and accessible features are not generally indicated in directories. Informational signs are not tactile signs, but the text should be at least 5/8" high.

Recommended: A floor plan similar to a fire evacuation plan can be used to develop this type of sign. Each building can be made more accessible with the simple addition of this information required by the CBC.



2. Wayfinding Signage: Where multiple routes exist within a site, a sign containing the International Symbol of Accessibility (ISA) is required to identify the location of the accessible route to a building or facility entrance and at junctions where pathways diverge from the general circulation path. ISA signage is meant for use by all visitors as these signs identify the direct connection to entrances where all entrances are not accessible. In facilities where all entrances are not accessible, ISA directional signs are required on all exterior doorways to identify the location of and route to the accessible entrance. An arrow can designate the direction to the location.
3. Signs at Permanent Rooms/Spaces: Individuals who are blind or those with limited vision rely on signage to navigate facilities. Often, rooms and spaces lacked the required tactile identification sign needed to guide an individual to their destination. While signs are provided to identify some locations, every permanent room or space within the circulation route is required to be identified by a tactile sign that can be read by touch.
4. Meeting Rooms: The City provides PSAs in meeting rooms (assembly areas) located in many facilities. Each meeting room that can accommodate 10 or more people for public meetings is required under the CBC to be equipped with a shared assistive listening system for people with hearing impairments (see CBC 11B-219.2). Assembly areas that can accommodate 50 or more people are required to have permanent assistive listening systems. It is important to note that shared systems used in smaller meeting rooms can be shared for use in any City facility. Signs indicating that the systems are available must be posted in a conspicuous location within each meeting room (see image at right). Permanent systems have receivers that users wear, which must be maintained with batteries for use at any time. Shared systems may operate on either battery power or electricity.



Recommended Action Plan:

- a. Include a request for ADA accommodations in meeting notices to obtain advanced notice from people with hearing impairments that can make use of the system. Preparation in case participants did not receive a meeting notice is advised.
- b. Develop a schedule to track the use of the shared system to ensure that the system can be reserved for use during meetings and moved to the required location in time for use.
- c. City staff must be aware of where the receivers for the permanent



system in City Hall can be found and tested prior to any public meeting. Ample battery supplies should be made available for use at any meeting held in such spaces.

Procurement: Purchasing departments acquire accessible physical elements for PSAs as a crucial part of the process of improving access. Physical elements used in PSAs are governed by state and federal accessibility requirements whether or not they are fixed (mounted to the floor, etc.). The purchase of these elements can be part of a replacement effort, maintenance needs, furniture upgrades, or as a part of a larger alteration or new construction project. Elements purchased by the City with good intent were often identified as barriers to access in the assessment process.

Examples include tables, counters and workstations or drinking fountains required to have accessible clear floor space, knee/toe clearance and work surface height or bubbler height. Individuals tasked with procuring these elements should be trained to research and verify that elements meet accessibility requirements prior to purchase.

Note: Manufacturers of various elements such as fare vending machines, dispensers, tables and many other products often advertise their products as “ADA compliant” without providing details on product specifications (dimensioning of knee clearance, operational control force, etc.) to allow the potential purchaser to verify compliance. This information should be obtained and reviewed prior to the purchase of these elements or acceptance of the elements, when cost-free.

Recommended Action Plan:

- a. Develop practices and procedures to obtain and review manufacturer’s product cut sheets or specifications for elements being considered for purchase. Review and verify compliance prior to purchase or prior to acceptance for cost-free elements.
 - b. Where the City maintains responsibility for elements purchased or installed, train City staff to remediate barriers through relocation/reinstallation, providing detectable warnings at protruding objects, etc.
5. Supply Chain Management: Vendors or suppliers of paper products and soap, etc. often provide free dispensers with their products. These cost-free dispensers can lack accessible controls/mechanisms or create protruding objects within the circulation path that purchasing agents may not be aware of. Free dispensers can come with a heavy price in non-compliance. Improper installation can also result in non-compliant reach ranges and create protruding object barriers.



Recommended Action Plan:

- a. Train maintenance staff on requirements for installing and maintaining compliance in elements such as dispensers, faucets, coat hooks, shelves, mirrors, toilet room grab bars, etc.
- b. Where the City maintains responsibility for elements purchased or installed, train City staff to remediate barriers through relocation/reinstallation, providing detectable warnings at protruding objects, etc.

Barrier remediation of this nature can have an outsized impact on the completion of the Plan allowing the City to focus resources on design and construction projects where alterations are necessary for remediation.

6. Toilet Rooms: Space constraints were identified as a significant issue in sanitary facilities where multiple barriers to access were identified. A reduction in fixture count or alterations to move walls to increase square footage may be necessary to provide access in existing buildings.
7. Parks and Recreation Areas: Parks were identified with barriers specific to the activities that take place in those areas. Play areas providing ground level and elevated play components (multi-level play structures) were not identified with two important requirements: an accessible route to amenities such as play equipment (firm, stable and slip-resistant) and an attenuated surface within the fall zone for children to cushion their fall from the elevated components. Wood chips or sand do not provide a firm, stable and slip-resistant walking surface, although where a layer of wood chips is thick enough and remains in place, the wood chips may provide required attenuation within a fall zone.
 - a. Drinking fountains in parks and recreation areas must be located on an accessible route, with a landing underneath the fountain that is firm, stable and slip-resistant. No abrupt changes in level can be present in the path of travel to the landing or the landing itself, which is considered a clear floor space. The fountain spout must also be installed and oriented to provide water flow that a person in a wheelchair who has pulled under the fountain can reach from within a few inches from the rim of the fountain bowl. When the bubbler and angle of the flow is not correctly installed or adjusted, people can inadvertently get sprayed in the face, causing public humiliation or not be able to reach the water flow from the clear floor space provided for wheelchair use.

Drinking fountain fixtures also cannot protrude into the circulation route without pedestrian protection. Fountains are required to be located on an accessible route within an alcove (or similar) to



- provide pedestrian protection, regardless of where the fountain is installed (inside or outside).
- b. Benches provided in parks must be located on an accessible route to ensure that people can travel to the benches as pedestrians, even when they have mobility impairments. Visitors must also have a level, clear space at the side of a bench where a person using a wheelchair can rest when sitting with companions.
8. Walking Surfaces: Materials chosen for walking surfaces must provide a firm, stable and slip-resistant surface. A popular surface comprised of decomposed granite (DG) can behave like sand if no stabilizer is part of the mix during installation. Paver surfaces, while environmentally friendly, can create surface roughness and vibrations that cause pain for people with incomplete spinal cord injuries.
- a. Where walking surfaces are planned with paver surfaces, a separate firm, stable and slip-resistant accessible route should be planned without pavers to provide a barrier-free surface.
 - b. DG stabilizers can range from cement to polymers to help ensure that the walking surface is firm, stable and slip-resistant.

E. Transition Plan: Implementation Schedule

Each assessed facility is included with an estimated cost, as summarized in Table 4, to remediate physical barriers to access in the Transition Plan Schedule. Refer to the attached facility reports of the Appendix for additional information. Please note, these costs are preliminary and may not reflect actual construction costs. The actual overall cost to remediate all physical barriers to access may vary depending on when remediation is scheduled and/or sequenced; escalation of construction costs, required design, feasibility, land surveys, labor costs, etc.

Facilities have been prioritized and ranked for remediation in consideration of several factors. These priorities may change over time as work is performed or as requests from the public are received or feedback arises during implementation.

Table 4: Implementation Priority by Facility

PRIORITY	FACILITY	BUDGETARY COST
1	City Sidewalks within the Public Rights-of-Way	\$28,749,586.00
2	Upper Beach/Village Parking Lot 1	Included with City Hall
3	Lower Beach/Village Parking Lot 2	\$260,766.00
4	City Hall Complex	\$757,465.00



5	Vista Parking Lots on Cliff Dr.	\$241,279.00
6	Capitola Wharf, Restaurant & Restrooms	\$2,363,288.00
7	Esplanade Park & Restrooms	\$484,498.00
8	Library & Tot Lot	\$200,470.00
9	Community Center at Jade St. Park	\$332,619.00
10	Jade Street Park	\$1,018,067.00
11	City of Capitola Museum	\$57,097.00
12	Monterey Park	\$269,260.00
13	Cortez Park	\$118,312.00
14	Prospect Ave Park	\$416,890.00
15	Peery Park & Restrooms	\$657,419.00
16	Soquel Creek Park	\$91,955.00
17	Noble Gulch Park	\$53,460.00
18	Hihn Park	\$327,368.00
19	Corporation Yard	\$13,743.00

Table 5: Barrier Remediation Accomplished Since 2022

PRIORITY	FACILITY	NOTES
H	City Sidewalks within the Public Rights-of-Way	ROW improvement coupled with annual pavement projects. City currently has a 5-year Pavement Management Program (PMP).
?	Upper Beach/Village Parking Lot 1	City is currently completing a study for the future use of facility along with City Hall
?	Lower Beach/Village Parking Lot 2	City is currently completing a study for the future use of facility along with City Hall
H	City Hall Complex	City is currently completing a study for the future use of facility
M	Vista Parking Lots on Cliff Dr.	Currently developing a CIP in conjunction with Cliff Drive stabilization project
L	Capitola Wharf & Restrooms	The facility was reconstructed in 2024. Most of the barriers identified in 2017 have been corrected.
H	Esplanade Park & Restrooms	No current plans for this facility
L Library M-H Tot Lot	Library & Tot Lot	The library was rebuilt, and all barriers associated with that facility were resolved in 2021-2022. Additional barriers still exist within the Tot Lot and will be addressed at a later time.



H	Community Center at Jade St. Park	This facility is currently undergoing renovation to remove all barriers. Estimated completion late 2025/early 2026
H	Jade Street Park	Project currently in design to address barriers at the playground, barriers at other part of the facility may remain
M	City of Capitola Museum	The city is currently completing a study for the future use of facility along with City Hall
M-H	Monterey Park	The recent land swap with School District to allow development on adjacent site will include the removal of some barriers. 1-2 years out.
M-H	Cortez Park	No current plans for this facility
L	Prospect Ave Park	Potential to improve this facility with the Rail Trail development, construction anticipated 2026
L	Peery Park	Restroom Facility was closed permanently. Bridge is currently being evaluated for structural fitness; future improvements would include the removal of related barriers
L	Soquel Creek Park	Potential to remove barriers in the long term in conjunction with a Stockton Bridge improvement project
M	Noble Gulch Park	The current proposal to develop a dog park at this facility that would trigger removal of ADA barriers. Potential project for FY25-26
L	Hihn Park	No current plans for this facility
M	Corporation Yard	In medium term facility will require upgrade for EV infrastructure triggering removal of some barriers

The assessment process identified a preliminary cost for the remedial efforts to remove barriers to access. This kind of investment into the community will take many years to complete, and the City is moving forward with efforts to produce barrier free facilities to enhance equity and inclusion in the community.

The City can allocate funding for physical ADA barriers as part of its annual CIP budgeting process and as a part of any alterations project that is required to improve access under CBC 11B-202.4. Prioritizing ADA deficiencies for remediation under this Plan or were reported by users or staff would be weighed against factors such as severity and cost prior to inclusion in the CIP.



Furthermore, existing projects in the CIP, where overlapping known ADA deficiencies, would be assessed against this Plan's recommendations prior to finalizing construction documents and funding. Other minor repairs which do not require City Council action (such as minor concrete repairs on sidewalks or water fountain adjustments) may be addressed through informal bidding, use of existing on-call construction contracts, or by Public Works maintenance staff.

It should also be noted that while the Pedestrian Facility is listed as the highest priority for remediation, the remediation efforts to provide a barrier free environment within the sidewalks, street crossings, and other associated elements will span the entire schedule due to the nature of sidewalk and its association with each and every PSA. As noted above, the pedestrian facility has been assigned five barrier removal priorities which have been scheduled accordingly within the Plan to ensure access to PSAs and other high priority areas.

Other procedural, or non-physical recommendations per the Plan's recommendation, would be reviewed and implemented by staff under the direction of the City's ADA Coordinator. Individuals who manage PSAs may also be consulted for input as required. Staff will, furthermore, confer with the City Council as required, where additional direction is needed.

The remediation schedule is a living document. The amount of work completed each year will vary during each implementation phase depending on approval by the City council, changes in funding available and changes to PSAs over time, among other events.

Since the schedule for taking the necessary steps to achieve compliance with ADA Title II will involve a time period for achieving compliance that is longer than one-year, interim steps taken during each year of the transition period will include:

- Implement Program Access - ADA Coordinator to determine where relocation of services or other means of applying programmatic access can be applied to ensure that PSAs are accessible and public funds expended for barrier removal only when necessary.
- Annual alignment of CIP work with ADA Transition Plan remediation to ensure that the CIP funding allocation process addresses ADA deficiencies identified in the Plan as part of the overall project scopes of work, where possible. The ADA Coordinator can assist with these efforts with the help of designated staff from City departments.
- Street Maintenance and Alterations: The annual CIP alignment with the Plan will allow the City to review and survey the existing street crossings, curb ramps, and sidewalks to determine the scope of these projects. Where alterations defined by FHWA within streets and roadways occur, the City is required to provide accessible features such as curb ramps, accessible street crossings and accessible pedestrian controls where signalization is



provided. The scoping review of these projects will allow the City to utilize the necessary funds to improve access to the City's network of sidewalks.

- This requirement does not force the City to improve the network of sidewalks at the time of these alterations as remediation can be scheduled later in the Transition Plan if deemed appropriate.
- Sidewalk improvement responsibilities lies with property owners by State law (Division 7, Part 3, Chapter 22 of the Streets and Highways Code [Sections 5600 and 5610]) which requires property owners to maintain sidewalks, parking strips, curbs, retaining walls, and other such works between their property line and the street line. Property owners are required to maintain these frontage improvements such that they will not endanger people or property or interfere with the public convenience in the use of those works or areas.
- The City may elect to provide or construct new sidewalks at the request of the City Council or other agents.
- On-going correlation of maintenance efforts with barrier removal in the Plan to accomplish remediation in-house.

5) Appendix

Due to the nature and size of additional documentation collected and associated with this ADA Transition Plan and Self-evaluation, the following items are not directly provided with this document. The additional documentation noted below is available from the City upon request.

- 1) ADA/CBC Tool Kit Responses
- 2) Facility ACAR Reports
- 3) GIS Maps of Exterior Barriers to Access
- 4) Public comments and responses collected during public outreach



ADMINISTRATIVE POLICY

Number: I-1
Issued: November 28, 2001
Revised: November 8, 2024
Jurisdiction: Staff

ADA GRIEVANCE PROCEDURE

1. PURPOSE

This Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 ("ADA"). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the City of Capitola. The City's Personnel Policy governs employment-related complaints of disability discrimination; complaints of discrimination from City employees related to their employment are thus excluded from this procedure.

2. PROCEDURE

The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem. Upon request, the City shall make alternative means of filing complaints, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities.

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

**ADA Coordinator
City Manager's Office
Capitola City Hall
420 Capitola Road
Capitola, CA 95010
(831) 475-7300**

Within 30 calendar days of receiving the complaint, the City will conduct any necessary investigation and issue a written decision on the grievance, provided in a format accessible to the complainant, where appropriate. The response will explain the City's position and offer options for substantive resolution of the complaint.


All appeals shall be made in writing and delivered to the office of the City's ADA coordinator. Such appeals shall be made within ten working days from the time of the decision that is the subject of the appeal, except that when neither the complainant nor the complainant's representative has been present at the meeting in which the decision was rendered, the appeal time shall be fourteen working days from the date the staff mails to the complainant a notice of the decision. The request for appeal shall set forth the complainant's name, the phone number for the appellant, an address to which notices may be sent to the appellant and the grounds upon which the appeal is made.

Within 30 calendar days of receiving the appeal, the City will conduct any necessary review and issue a written decision on the final resolution, provided in a format accessible to the complainant, where appropriate.

All written complaints received by ADA Coordinator or their designee, appeals to the City Manager or their designee, and responses from these two offices will be retained by the City of Capitola for at least three years.

No individual who files a complaint or participates in an investigation, proceeding or hearing pursuant to these procedures shall be subject to retaliation. The City will take reasonable steps to prevent any retaliation from occurring.

This policy is approved and authorized by:

Signed by:

D05A9A7B3900483...
Jamie Goldstein, City Manager



COMMUNITY OUTREACH QUESTIONNAIRE

Please return this questionnaire by June 7, 2017

This questionnaire is also available, by request, in an alternate format.

Capitola is a very walkable/bike rideable community. We are collecting information on how people use our sidewalks and paths to travel through town. This process is part of the ADA Self-evaluation and ADA Transition Plan for City facilities in compliance with the Americans with Disabilities Act (ADA).

This questionnaire is one of many ways that the city is identifying and defining accessibility needs as part of its process to provide more accessible programs, activities and services.

We want to better understand how you use the facilities we intend to improve. We welcome comments as well as answers to the questions below. Any information provided to us will help strengthen the final recommendations for policies and procedures that will result from these efforts. Please feel free to attach additional pages, where necessary.

1. In your experience in Capitola, have you encountered physical barriers or difficulties using the sidewalks or pedestrian paths (steep paths, broken sidewalks, absence of traffic signals, trip hazards or spots where no paved path is provided)? If yes, please describe the location and situation that caused the difficulty.

2. Do you use City sidewalks or walkways to get around as a pedestrian?

☐ Yes ☐ No

3. Do you walk/travel around your neighborhood, to nearby transit stops using city sidewalks, or city buildings/parks?

☐ Neighborhood ☐ Bus Stops ☐ City facilities ☐ Local shops, restaurants, etc.

4. Which neighborhood do you live in?

5. Do you use City programs, services or activities (Twilight Concerts or movies at the beach on Esplanade Park, Opera on the Beach or Camp Capitola or classes at the Community Center)?



☐ Yes ☐ No

6. Are there City facilities that you cannot reach due to issues with the sidewalk or pathways leading to them (buildings, parks or other city facilities)?

7. Can you describe barriers or difficulties that prevent or complicate access to City programs, activities or services provided? If you have, then please describe:

8. Have you ever used the "Submit a Service Request" link on the City website to inform us about a street or sidewalk issue? If yes, was the response useful?

9. Can you suggest improvements to City facilities that would improve access?

10. Do you have other suggestions for improving mobility to or around City facilities to encourage full participation in our programs, activities or services?

Thank you for taking the time to fill out this questionnaire!

We would appreciate completion of the information below. This information is *optional*. If completed, it will provide our team the opportunity to contact you for further comment and to notify you of future disability-related events.

☐ My responses may be published

Name: _____

Address: _____

Phone Contact: _____

E-mail Address: _____

Questionnaires must be received by June 17, 2017.

Please mail or e-mail to: City of Capitola, Attn: Brian Van Son, CBO, Accessible Coordinator, 420 Capitola Ave., Capitola, Ca 95010
E-mail address: **bvanson@ci.capitola.ca.us**