



A. INTRODUCTION

Like other towns, cities, and counties, the City of Santa Barbara is required to comply with the Federal and State accessibility laws and regulations including Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA) and its implementing regulations, and the State accessibility standards of the California Code of Regulations Title 24, Parts II, III, and V.

The ADA is a comprehensive civil rights law which prohibits discrimination against persons with disabilities in both employment and the provision of goods and services. The intent of the ADA is to assure equality of opportunity, full participation, independent living and economic self-sufficiency for people with disabilities.

In 1992 the City of Santa Barbara, pursuant to the requirements of the Americans with Disabilities Act, updated and expanded its Self-evaluation to assure access for all residents and visitors. Then in 2006, the City of Santa Barbara contracted an independent accessibility consultant Gilda Puente-Peters, Architects (GPPA) to assist the City in the preparation of this voluntary Self-evaluation update to ensure continued compliance with the ADA. This Transition Plan and Self-evaluation updates were needed to reflect the changes in programs services and activities, City facilities and codes and regulations. This process included an update of the specific policies, practices and procedures included in this report.

This is an introduction to the third element of the scope of work of this ADA Transition Plan Update, the Self-evaluation. This is a key part of the Transition Plan update. For details of the full scope of work of the ADA Transition Plan Update refer to Chapter 1, Executive Summary of the ADA Transition Plan Update. The scope of work of this **Self-evaluation update** consists of evaluating several policies, practices and procedures and providing recommendations to improve current policies, practices and procedures to insure non-discriminatory practices throughout the City.



This Self-evaluation update is the result of a highly interactive process between the consultants, City staff and the general public. This process started in November 2006.

The ADA regulations require that all public entities comply with several elements. The City of Santa Barbara, as part of its 1992 Self-evaluation, and as part of this Self-evaluation update process, has met the requirements of the Americans with Disabilities Act regulations, 28 CFR PART 35, Subpart A §35.107, 35.106, 35.107 and Subpart D §35.150 by:

1. Designating an ADA Coordinator (Subpart A §35.107);
2. Updating its Public Notice about ADA requirements and posting it on the City's website (Subpart A §35.106);
3. Updating its ADA Transition Plan (Subpart D § 35.150) and Self-evaluation (Subpart A §35.105) reports, and making them available for public review for at least 3 years; and
4. Updating its ADA Grievance Procedure and grievance form and posting it on the City's website (Subpart A §35.107).

B. THE ADA TITLE II SELF-EVALUATION REQUIREMENTS

AMERICANS WITH DISABILITIES ACT ACCESSIBILITY REQUIREMENTS

The landmark Americans with Disabilities Act (ADA), enacted on July 26, 1990 prohibits discrimination on the basis of disability and provides comprehensive civil rights protections to persons with disabilities with regards of the following five parts:

- Title I - Employment
- Title II - State and local government services and transportation
- Title III - Public accommodations
- Title IV - Telecommunications
- Title V - Miscellaneous

The ADA is a civil rights legislation similar to the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973. Like



Section 504, this legislation mandates that qualified disabled individuals shall not be excluded from participation in, denied the benefit of, or subjected to discrimination under any service, program, or activity. Like Section 504, and similar to the Civil Rights Act of 1964, the ADA also provides employees with certain protections and requires employers to make reasonable accommodation for disabled applicants and employees. Section 504 applies to public entities that receive Federal grants or financial assistance. The City of Santa Barbara does receive Federal grants, therefore is subject to Section 504. Most buildings constructed or altered with Federal funds are also required to comply with the Architectural Barriers Act of 1968. The ADA regulation incorporate and expands upon most of the requirements of Section 504 and the Architectural Barriers Act, therefore this document refers primarily to the ADA. As specifically stated in the ADA, the intent is not to apply lesser standards than required under other federal, state or local laws (42 U.S.C. § 12201(b), 28 CFR § 35.103). Title 24 of the California Code of Regulations in some instances exceeds the ADA requirements in regards to structural and physical standards. In cases of a conflict, the most stringent regulations or standards apply.

Below we summarize the major accessibility requirements for each title of the ADA and include references to the applicable regulations. The City of Santa Barbara as a public entity is required to comply with Titles I and II.

Title I - Employment:

Employment evaluation is not included in the scope of work of this study, but the City of Santa Barbara needs to comply with these ADA requirements.

Title II - Public Services

Title II requires that a public entity evaluate its services, programs, policies, and practices to determine whether they are in compliance with the nondiscrimination requirements of the ADA.

A Self-evaluation is required and intended to evaluate programs, activities, and services, identify problems or physical barriers that may limit accessibility by people with disabilities, and describe potential methods for compliance. The public entity must then

proceed to make the necessary changes resulting from the Self-evaluation.

The ADA also requires that a Transition Plan be prepared to describe any structural or physical changes required to make programs accessible, provide a schedule for implementation, and designate a responsible individual within the public entity.

A. State and Local Government Services:

Accessibility Requirements, General: No qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to discrimination by any such entity. (42 U.S.C. §12132, 28 CFR 35.130)

Effective Dates: January 26, 1992 - unless otherwise noted below.

Accessibility Requirements, Program Accessibility:

Each service, program, or activity must be operated so that, when viewed in its entirety, it is readily accessible to and usable by individuals with disabilities. A public entity:

- May not refuse to allow a person with a disability to participate in a service, program, or activity simply because the person has a disability;*
- Must eliminate unnecessary eligibility standards or rules that deny individuals with disabilities an equal opportunity to enjoy their services, programs or activities unless "necessary" for the provisions of the service, program or activity;*
- Must provide programs and services in an integrated setting, unless separate or different measures are necessary to ensure equal opportunity;*
- Must make reasonable modifications in policies, practices, and procedures that deny equal access to individuals with disabilities; and*
- May not place special charges on individuals with disabilities to cover the costs of measures necessary to ensure nondiscriminatory treatment.*

A public entity is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. Structural changes to existing buildings may be

required where other methods of achieving compliance are not effective. (28 CFR 35.150)

Effective Dates: Structural changes to existing buildings to meet "program accessibility" requirement must be made by January 26, 1995. Public entities with 50 or more employees must develop a "transition plan" for such changes by July 26, 1992. The disability community must be involved in developing the plan.

Accessibility Requirements, New Facilities:

Newly constructed state and local government buildings must be accessible. (28 CFR 35.151(a))

Effective Dates: Facilities must comply if bids invited after January 26, 1992. (56 FR 35710 (July 26, 1991))

Accessibility Requirements, Alterations to Facilities:

Alterations to existing state and local government buildings must be done in an accessible manner. (28 CFR 35.151(b))

DOJ final rules permit state and local governments to use ADAAG or UFAS as accessibility standard for new construction and alterations of buildings. (28 CFR 35.151(c))

Effective Dates: Alterations commenced after January 26, 1992.

Accessibility Requirements, Public Rights of Way:

Newly constructed and altered streets and pedestrian walkways must contain curb cuts (ramps) at intersections. (28 CFR 35.151(d))

Accessibility Requirements, Communication:

A public entity shall take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others. (28 CFR 35.160)

Accessibility Requirements, Exceptions:

Limited exceptions apply under Title II where specific findings are made that making modifications would result in a fundamental alteration in the nature of a service, program, or activity, would result in undue financial and administrative burdens, or would

destroy the historic significance of an historic property. (28 CFR 35.150, 28 CFR 35.164)

Regulations and Enforcement: DOJ final rules on state and local government services are in 28 CFR Part 35 (56 FR 35694, July 26, 1991).

Individuals may file complaints with Federal agencies designated in 28 CFR 35.190. Individuals may also file a private lawsuit. Remedies are the same as available under Section 505 of the Rehabilitation Act of 1973. Court may order public entity to make facilities accessible, provide auxiliary aids or services, modify policies, and pay attorneys' fees.

B. Transportation:

This section is not included under the scope of work of this study.

Title III - Public Accommodations:

Title III requires places of public accommodation to be accessible to and usable by persons with disabilities. This means that any privately funded and operated facility serving the public needs to provide access for disabled individuals to their goods and services. The City of Santa Barbara's building department reviews and approves plans including accessibility plan review for privately owned Title III facilities. This section is not included under the scope of work of this study.

Title IV - Telecommunications

This title requires common carriers offering telephone services to the public to increase the availability of interstate and intrastate telecommunications relay services to individuals with hearing and speech impairments. This section is not included under the scope of work of this study.

Title V - Miscellaneous Provisions

This title contains several miscellaneous regulations, including construction standards and practices, provisions for attorney's fees, and technical assistance provisions.



The ADA and Title 24 are also enforced differently; the ADA can be enforced through citizen's complaints and only in a court of law when no other resolution is possible. State and local building departments, who review proposed design plans and issue building permits, enforce Title 24. Even if a building permit is obtained, a citizen can file a complaint in regard to an existing facility.

California has been for several years in the process to obtain from the U.S. Department of Justice a certification of Title 24 part 2 for consistency with the ADA; the time frame for completion of this process has not been determined.

The City of Santa Barbara's ADA Transition Plan update is contained under a separate cover.

C. WHO IS PROTECTED UNDER TITLE II OF THE ADA

Title II of the ADA prohibits discrimination against any "qualified individual with a disability". In order to determine if an individual is protected by Title II, one must first understand what is considered a disability under Title II.

For the purposes of coverage under the ADA, a person with disability is any individual who meets any of the three conditions outlined in the statute as indicated below:

- (A) A physical or mental impairment that substantially limits one or more of the major life activities of such individual;*
- (B) A record of such an impairment; or*
- (C) Being regarded as having such an impairment.*

The Final Rules of the ADA describe in greater detail the conditions included and excluded as disabilities under the ADA. The ADA's definition of a person with disability is essentially the same as defined in Section 504.

Persons with physical or mental impairments

The focus of this part is on the individual, to determine if he or she has a substantially limiting impairment.



The phrase physical or mental impairment means:

- a) *Any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin and endocrine;*
- b) *Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.*

The examples and information below is not intended to be an all-inclusive list of disabilities that are covered under the ADA.

1) The phrase physical or mental impairment include physiological conditions that affect body systems as well as mental or psychological disorders. Some examples of impairments include but are not limited to visual, hearing, mobility, cognitive, psychiatric, speech, learning disabilities, and non-visible impairments. Some examples of conditions that constitute a physical or mental impairment are: chronic medical illnesses, heart disease, tuberculosis, cerebral palsy, multiple sclerosis, HIV disease, arthritis or alcoholism.

Substantial impairment is considered when major life activities performed by an individual are limited when compared to most people in terms of:

- *The conditions under which the activity is performed;*
- *The manner in which the activity is performed; or*
- *The duration of performance possible for the individual.*

Examples of these types of disabilities or impairment are: multiple chemical sensitivities to the environment, when these conditions significantly curtail the individual's activities, having severe and debilitating symptoms, but not just a seasonal hay fever or other allergies that are a nuisance but can be treated with over the counter medication. Simple physical characteristics such as left-handedness, skin color, age, uncomplicated pregnancy, a person with a temporary cast (as opposed to someone who has had multiple surgeries with lengthy treatments and unable to care for themselves) are not considered impairment.

The factors that are considered in determining whether a person's impairment substantially limits a major life activity are:

- *Its nature and severity;*
- *How long it will last or is expected to last; or*
- *Its permanent or long-term impact or expected impact.*

2) *Persons with a history or record of having a physical or mental impairment that substantially limit a major life activity. It also includes persons who have been misclassified as having impairment.*

Some examples are: individuals with a history of treatment for mental or emotional illness, cancer survivors, drug addiction, alcoholism, heart disease, etc. 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. The ADA protects individuals that do not have a disability but nevertheless are discriminated against due to fear, myth or stereotype. Examples of these types of disabilities are: an individual who has severe facial scars or a person with a history of heart disease.

Disadvantages of a cultural, or economic nature, or of age are not considered to be physical or mental impairments.

The ADA also protects people who do not have disabilities themselves but are discriminated against on the basis of their association with a person with a disability, but this person is not entitled to request reasonable accommodation in employment. An example of this type of discrimination would be the case of a person who is refused admittance to a public swimming pool or is segregated at work because the person's roommate recently died of AIDS.

The City of Santa Barbara has been implementing over the years policies to insure accommodations are provided to individuals with disabilities.

For the purposes of employment, a "qualified individual" with a disability is an individual who can perform the essential functions of the job, with or without reasonable accommodation. The City of Santa Barbara has developed its own policies regarding employment and they are not part of this study.