



## **Staff Report**

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### **AMERICANS WITH DISABILITIES ACT ACCESS UPDATE, REPORT ON RECENT ACTIVITIES WITH THE CENTER FOR THE INDEPENDENCE OF THE DISABLED**

Honorable Mayor and Council Members:

#### **Summary**

This report provides a summary update about the Americans with Disabilities Act (ADA) Title II requirements for local government and the City's ADA transition program. It also describes staff's efforts to partner with the Center for the Independence of the Disabled to develop a priority list of needed sidewalk modifications including curb ramp installations and removal of other obstructions. Staff is seeking Council's direction to proceed in this partnering effort to update the City's curb ramp transition program.

#### **Background**

On July 26, 1990, Congress enacted Title II of the Americans with Disabilities Act (ADA). This federal law requires the City to provide disabled persons access to its services, programs, and activities. Regulations implementing the law set forth standards for what constitutes discrimination on the basis of mental or physical disability, provide a definition of disability and qualified individual with a disability, and establish a complaint mechanism for resolving allegations of discrimination (28 CFR 35). Specific requirements assigned to local governments include the following:

1. Self Evaluation of ADA Title II compliance status. Cities are required to review all services, programs, and activities to identify any physical barriers, policies, or practices that may limit or exclude participation by people with disabilities. The cities then need to develop a transition plan to eliminate such barriers, policies, and practices.
2. Transition Plan. The transition plan identifies modifications the City will make to provide access to the disabled. The plan requires timelines for completing these modifications and needs to allow for comment and participation by interested parties, including people with disabilities and organizations representing people with disabilities. The City is required to have a copy of the plan and a copy of the self-

evaluation available for public inspection for at least three years after completion of the documents.

3. Public Notice about ADA Requirements. Cities must provide public notice about the ADA obligations and about accessible facilities and services in the town. The information must be accessible to the public, including people who have communication disabilities such as blindness, low vision, deafness, and hearing loss. Although no specific method is required to reach the public, notice can be provided in more than one format and by using more than one type of media, such as the city's website, print, radio, or television.
4. Designated ADA Compliance Coordinator. Cities are required to designate an ADA coordinator who is responsible for developing and implementing the transition plan, handling requests for auxiliary aids and services, providing information about accessible programs and services, and serving as a resource to the city. The ADA coordinator works with the mayor and council to ensure that new facilities or alterations to existing facilities will meet ADA requirements.
5. Grievance Procedure. Cities are required to have a grievance procedure to give people a formal process to make complaints to the city. The federal regulations included this requirement to encourage prompt and equitable resolution at the local level so that individuals would not be forced to file a Federal complaint or lawsuit.

At the time it issued its regulations, the Department of Justice recognized the burden that compliance places on cities and so provided general guidance for prioritizing conversion. Cities are required to install curb ramps when they build or rebuild streets and roads wherever there are curbs or other barriers to entry from a pedestrian walkway. Resurfacing a street or sidewalk is considered an alteration, while simple maintenance such as filling potholes is not. Cities must include curb ramps wherever they intersect with streets or roads when cities build or rebuild sidewalks. At existing roads and sidewalks that have not been altered, cities may choose to construct curb ramps at every point where a pedestrian walkway intersects a curb, but they are not necessarily required to do so. Alternative routes to buildings making use of existing curb ramps may be acceptable where people with disabilities need travel only a marginally longer route.

On April 14, 1995, the City completed and submitted its transition plan and grievance procedure to the State of California Department of Transportation as required (summary plan and grievance procedure attached). This plan describes modifications to be made to the City's civic facilities; the downtown transportation corridor; and streets, roads, walkways, and curbs. It designates the City Manager to be the ADA Compliance Coordinator. The City's grievance procedure includes the City's policy statement, definitions, process for filing a complaint, and the City's process for responding. Staff recently updated this information and placed it on the City's web page.

On July 27, 1995, the Public Works Department prepared a supplemental schedule for the sidewalk curb ramp component of the transition plan. This plan evaluated the feasibility of incorporating curb ramps into the City's sidewalks, giving the Redevelopment District first priority, followed by Ralston between El Camino Real and Alameda de las Pulgas, and then various residential and school communities throughout the City. The plan generally excluded sidewalks curb ramps at intersections exceeding 8.3% slope because these were thought to be too steep for safe use of wheel chairs. Copies of this plan are available for review at the Department of Public Works.

Over the intervening ten years, the City has continued the curb ramps transition as a component of public and private sidewalk and street construction. Notable projects increasing access for the disabled include the grade separations at Ralston and Harbor, the new train station, the Belmont Village Center and Emmet Safeway reconstruction, purchase and remodel of the City Hall building and grounds, reconstruction of SCFA Station No. 14, the Island Park developments, repaving of Alameda de las Pulgas near Carlmont High School and Ralston above Alameda de las Pulgas, installation of in-pavement lighted crosswalks on Ralston, Alameda de las Pulgas, Middle Road, and various paver sidewalk installations along El Camino Real. Upcoming projects with curb ramp installation include construction of new paver sidewalks along Ralston between El Camino Real and Sixth, and portions of O'Neill Avenue, Fifth Street and Sixth Street and repaving of Old County Road south of Ralston.

The need for cities to continue transitioning to ADA Title II compliance was affirmed by the recent City of Sacramento v. Barden case. In June 2004, the Supreme Court declined to review the decision of the U.S. Court of Appeals for the Ninth Circuit, which held that Sacramento's sidewalks are covered under Title II of the ADA. The plaintiff's suit alleged that Sacramento had violated the ADA by failing to install curb ramps at intersections on newly constructed or altered streets and by failing to remove other obstructions such as benches, sign posts, and guy wires on existing sidewalks. The City of Sacramento had argued that this would impose an undue financial and administrative burden and so was not enforceable. The settlement provides that the City of Sacramento will allocate 20% of its annual Transportation Fund for up to 30 years to make the City's pedestrian rights of way accessible to individuals with vision and/or mobility disabilities. This will include installation of compliant curb ramps at intersections; removal of barriers that obstruct the sidewalk including narrow pathways, abrupt changes in level, excessive cross slopes, and overhanging obstructions; and improvements in crosswalk access.

### **Discussion**

The City's 1995 transition plan supplemental curb ramp schedule needs to be reviewed and updated. Staff has begun reviewing the City's ADA current compliance status and working on process to prioritize future conversion work. A couple of years ago, a student intern surveyed sidewalks within a half mile radius of the train station and prepared a map showing locations of curb ramps. Staff intends to continue working on this mapped inventory by expanding its range

and also by the evaluating the condition of the existing ramps. Not all of the City's ramps would meet current ADA standards and some are so steep and/or narrow that they should be prioritized for replacement. Examples of ramps meeting current standards are those installed with the in-pavement lighted crosswalk project on Ralston at Elmer, Maywood, and Villa, Alameda de las Pulgas at the Carlmont Shopping Center, and on Middle Road at Central School. These ramps have minimal lip at the gutter, sufficient flat landing at the back to allow turning, and a bright yellow tactile pad for vision impaired persons.

The Interim City Manager, Police Chief, and City Engineer recently met to consider various requests for sidewalk conversion to improve access. These staff concluded that they need an objective method to prioritize requests because the number of requests exceeds available funding. Staff also believed that it was important to find out which conversions would provide the greatest benefit to the disabled community. The Police Chief discussed this question with the Executive Director of the Center for the Independence of the Disabled (CID) located at 875 O'Neill Avenue in Belmont and then arranged for staff to meet with a CID peer support group. From this meeting, staff learned that this community places the highest value on curb ramps that provide uninterrupted linkage to public transit such as SamTrans buses and the train station. Specific intersections identified as problems included those on O'Neill immediately around the CID building out to El Camino Real. Other problems identified by the peer group included high lip at gutter resulting from poor pavement overlay, other obstructions including utility poles and signs centered in the sidewalk, and insufficient pedestrian signal time at Ralston and El Camino. Based on these comments, Public Work maintenance will install two new curb ramps adjacent to the CID building this fall. Additional ramps along O'Neill will be installed with the RDA paver sidewalk contracts next summer. Staff also asked CalTrans to evaluate the traffic signal timing at the El Camino Real and Ralston Avenue intersection.

The City can obtain funding for curb ramp conversions from various sources. Federal and state transportation grants will pay for curb ramp installations when they are part of a street pavement reconstruction projects or safety projects such as the Safe Routes to Schools in-pavement lighted crosswalks. Grant funding specifically for curb ramp installation may also be available through Transportation Development Act grants. Redevelopment Agency funds may be used for sidewalk improvements, including installation of curb ramps, throughout the RDA district. The City may also use its own street capital improvement or maintenance funds for curb ramp installation projects.

### **Fiscal Impact**

There is no fiscal impact from this report.

### **Public Contact**

City Council agenda was posted.

**Recommendation**

Staff recommends that the City continue its efforts to update its ADA Title II transition plan and continue outreach to the disabled community to develop a priority schedule for construction and conversion. This would involve staff from the City Manager's Office, Police, Public Works, and the City Attorney, as well as interested members of the community, including the staff and clients of the Center for the Independence of the Disabled.

**Alternatives**

1. Take no action
2. Provide alternate direction
3. Refer back to staff for further information

**Attachments**

- A. City of Belmont Transition Plan and Grievance Procedure

Respectfully submitted,

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City Engineer

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Raymond E. Davis III, PE, PTOE  
Director of Public Works

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Jack R. Crist  
Interim City Manager

**ADA Title II  
Transition Plan  
Schedule for Streets, Roadways and Curbs  
Designation of ADA Title II Contact**

**City of Belmont, California**

The City of Belmont, California is required by the Americans with Disabilities Act (ADA) Title II to make services available on a non discriminatory basis to all individuals with disabilities. Compliance with Title II entails the development of a transition plan for achieving that requirement. Title II requires that a transition plan identify what structural changes will be necessary for compliance with the Act.

**Transition Plan for the City of Belmont**

Title II of the Americans with Disabilities Act requires that a public entity develop a self evaluation plan. The City of Belmont has completed and on file two such efforts, one for our physical facilities and one for our Park areas: Titled "Americans with Disabilities Act Title II Evaluation Report for the City of Belmont" August 1993 and, "Accessibility and Safety Guidelines for Parks and Playgrounds" July 1994. As a result of the conclusions of the Evaluation Report, the City has been making continuous efforts to increase accessibility to our facilities to reach compliance. The most significant measures that have been taken in this area include the following:

**I. Civic Facilities**

The City is in the process of signing lease agreements to move our operations to a building that is in compliance with the provisions of the Americans with Disabilities Act. We will be constructing a new facility for our Police operations as well and as with all new projects, ADA compliance is automatically factored into the design and layout of the facility. Any structural issues remaining from the Evaluation Plan after our move to the new facility will be factored into future planning and budget documents within our existing capital improvements program.

**II. Transportation Corridor and the Downtown**

The City of Belmont is also in the middle of our largest infrastructure project in the history of the City as we construct two grade separations for rail transit through our City. All construction areas that involve streets, roads, walkways, sidewalks, etc. have been designed with ADA access in mind. We have incorporated such facilities as elevators and appropriate curb cuts into this project to address the fact that this area will involve a high level of pedestrian traffic.

### **III. Streets, Roads, Walkways and Curbs**

The City of Belmont currently makes provisions for complying with the ADA for all public streets, roads and curb cuts. The identification of curb ramps to facilitate access for persons with disabilities to public accommodations is an ongoing process. The geography of the community and the rural flavor of the residential area is such that this City does not have a network of sidewalks throughout the community. The City is characterized by many hills and canyons, though there is also a significant area of town that is on level ground where some sidewalk systems can be found. Consistent with the ADA, ramp locations serving transportation and public accommodations will have priority over ramp locations serving other purposes. In the near term, within the next 120 days, the City of Belmont will have a schedule for the plans to fill in any areas in the level areas that have public sidewalks, roads and curbs where curb cuts have not yet been completed.

### **IV. Historic Areas and New Construction:**

In addition, the City of Belmont is aware that the Department of Justice has issued two rules by which cities must comply under Title II provisions: that alterations to historic properties comply to the maximum extent feasible; and, that newly constructed or altered streets, roads and highways must contain curb cuts and ramps at intersections having curbs or other barriers. These conditions are currently being met as part of the normal business practices of the City of Belmont.

### **V. Designation of Individual to oversee Title II Compliance**

The City Manager for the City of Belmont is the official Title II compliance contact for purposes of the ADA.

### **VI. Grievance Procedure**

The City of Belmont has instituted the attached Grievance and complaint procedure for purposes of compliance with the Americans with Disabilities Act.

## **City of Belmont ADA Complaint Procedure**

### **Policy Statement**

Any individual who believes that he/she (individually or on behalf of a specific class of individuals) has been subjected to unlawful discrimination in any City of Belmont program, practice, activity or service on the basis of a disability may file a complaint by himself, herself or an authorized representative.

### **Definition of Complaint**

A complaint is an expression of dissatisfaction with an employee, policy, practice, service, program or facility provided by the City of Belmont as a result of limited access or unlawful discrimination on the basis of disability as defined in the Americans with Disabilities Act.

### **Complaint Procedure Objectives**

The objectives of this complaint procedure are to:

- \* assure that complaints are promptly acknowledged and resolved;
- \* establish uniform standards and procedures for handling complaints throughout the entire City organization;
- \* provide citizens with an accessible system for bringing complaints to the City's attention;
- \* demonstrate the City is responsive to the concerns of its citizens; and
- \* reduce or prevent the occurrence of circumstances that lead to justifiable citizen complaints.

### **Complaint Procedure**

If you believe you have been subjected to such unlawful discrimination, you are encouraged to follow the complaint procedure outlined below. However, use of this procedure is not a prerequisite to the pursuit of other remedies:

1. All complaints regarding access problems or alleged discrimination must be submitted in writing to the City's ADA Coordinator (see name and address below) not later than ten working days from the time you became aware or should have been aware of the occurrence of the alleged discrimination. A

written statement should include your name and address and describe the discriminatory action in sufficient detail to inform the City of the nature, date, location of the violation and the name or position of any City employee involved. A record of all City actions taken on your complaint will be maintained by the ADA Coordinator.

2. Your complaint will be forwarded to the Assistant City Manager for review. The Assistant City Manager will contact the Department Head responsible for the program or service in which the discrimination allegedly occurred to provide the Department Head with an opportunity to investigate and respond to your complaint. The Department Head must respond to the Assistant City Manager within fifteen working days after such contact. The Department Head's response must include a preliminary determination of whether discrimination occurred and, if so, what remedies the Department recommends to resolve your complaint.
3. Upon receipt of a response from the Department Head, the Assistant City Manager shall review your complaint along with the Department Head's response. Upon completion of this review, the Assistant City Manager will determine whether discrimination has occurred. If the Assistant City Manager determines that discrimination has occurred, he or she will resolve the problem by reasonable accommodation if he or she can do so with the scope of his or her authority. You and the Department Head will be notified in writing of the decision of the Assistant City Manager within twenty-five days of receipt of your complaint. If you are unable to read, the Assistant City Manager will make every reasonable effort to communicate the decision in an alternative method which you can understand.
4. If the complaint cannot be resolved to your satisfaction by the Assistant City Manager, you or your authorized representative may request the ADA Coordinator to arrange a hearing before the City Manager. You must make any such request within ten working days after receiving the response of the Assistant City Manager. Your request must at least state why you are appealing the Assistant City Manager's determination and any proposed remedies as well as what remedy you are seeking. A taped record of the hearing will be maintained and, if necessary, transcribed. Within fifteen working days of the hearing, the City Manager will inform you of the resolution in writing, or, if you are unable to read, in an alternative method of communication which you can understand. The decision of the City Manager will be the City's final decision on your complaint.
5. Your right to prompt and equitable resolution of your complaint must not be

impaired by your pursuit of other remedies, such as the filing of a complaint with the Department of Justice or the Equal Employment Opportunity Commission (EEOC). Furthermore, this procedure does not preclude, nor must it precede, the filing of your complaint with the appropriate federal agency. Complaints filed with federal agencies must be filed in accord with their timeliness and procedures.

**ADA Coordinator:**

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