

The County of San Luis Obispo



AMERICANS WITH DISABILITIES ACT TITLE II

TRANSITION PLAN UPDATE FOR THE PUBLIC RIGHTS-OF-WAYS

October 2014

County Of San Luis Obispo
Department of Public Works
County Government Center, Room 206
San Luis Obispo, CA 93408

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I. Introduction

In 1996, the County of San Luis Obispo Department of General Services prepared a Self-Evaluation Report and Accessibility Survey (Transition Plan). This report outlined the counties objectives to remove “architectural barriers to accessibility at County facilities where programs, services, or activities are provided to the public” (The County of San Luis Obispo Self-Evaluation Report, pg. 2). However, this document did not cover Title II issues with the public right-of-ways. In 2000, the first version of this report was compiled with the intent to expand the existing Self-Evaluation and Accessibility Survey to include the public right-of-ways. This version updates the information and findings of the 2000 report, in addition to outlining future goals and how they will be achieved.

The Americans with Disabilities Act of 1990 (ADA) provides for equal access to facilities, services, and other opportunities for individuals with disabilities. The ADA was also enacted to prevent unfair discrimination. The ADA is divided into five sections:

- Title I prohibits discrimination against persons with disabilities in employment practices.
- Title II establishes guidelines and requirements for equal access to the services of public entities (such as school districts and municipalities).
- Title III sets standards for access to privately-owned public access facilities (such as restaurants or offices).
- Title IV concerns telecommunications.
- Title V contains miscellaneous provisions.

The ADA required that public entities draft a transition plan to be completed by July 26th, 1992. This plan was to identify any structural changes necessary to achieve program accessibility. Any changes, including the addition or improvement of curb ramps for existing sidewalks, were to be completed by January 26th, 1995. As these dates approached, most agencies were not in compliance and the United State Department of Justice issued Proposed Rule 28 CFR Part 35. This proposed rule extended the deadline for compliance to the Federal ADA standards to January 26th, 2000 for curb ramps serving state and local government facilities, transportation, places of public accommodation, other places of employment, and at the residencies of individuals with disabilities. The rule also extended the time period for providing curb ramps at existing pedestrian walkways in other areas until January 26th, 2005.

Title II indicated that “public entities that have responsibility or authority over streets, roads, or walkways must prepare a schedule for providing curb ramps where pedestrian walkways cross curbs” (Section II – 5.3000). The Public Works Department’s plan for ADA conformance is to:

1. Reconstruct existing non-standard curb returns and ramps to provide access to all public walkways.

2. Provide, when possible, uniformly distributed accessible parking spaces in the right-of-way throughout the central business districts.
3. Ensure all signalized intersections have the appropriate pedestrian accessibility improvement.

II. Legal Requirements

This section covers the basic legal requirements of the Americans with Disabilities Act (ADA), and how they pertain to the County maintained public right of way.

Federal

The authority that requires public agencies to ensure that public right-of-ways are accessible to all pedestrians with disabilities comes from Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 U.S.C. §794), and Title II of the ADA (42 U.S.C. §§ 12131-12164). These statutes prohibit public agencies from discriminating against disabled persons. This means that the agency must enable access for pedestrians with disabilities on any agency sidewalk or street with a pedestrian facility. The statutes regulate this requirement through standards calling for accessible features such as curb cuts, ramps, continuous sidewalks, and detectable warnings. The ADA does NOT require public agencies to provide pedestrian facilities outright, only that when they do, that the agency design it to be accessible to persons with disabilities to the extent technically feasible.

Any project for construction or alteration of a facility that provides access to pedestrians must be made accessible to persons with disabilities. 42 U.S.C. §§ 12131 - 12134; 28 CFR §§ 35.150, 35.151; **Kinney v. Yerusalim**, 9 F.3d 1067 (3d Cir. 1993), cert. denied, 511 U.S. 1033 (1994). An alteration is a change to a facility in the public right-of-way that affects or could affect access, circulation, or use. Alterations include items such as reconstruction, rehabilitation, widening, resurfacing, signal installation and upgrades, and projects of similar scale and effect. The Department of Justice (DOJ) does not consider maintenance activities, such as filling potholes, to be alterations. The DOJ does consider resurfacing beyond normal maintenance to be an alteration. DOJ's ADA Title II Technical Assistance Manual, § II-6.6000, 1993, USDOJ-FHWA Technical Assistance dated 6-28-2013.

As part of maintenance operations, public agencies' standards and practices must ensure that the day-to-day operations keep the path of travel on pedestrian facilities open and usable for persons with disabilities, throughout the year. This includes snow removal, debris removal, maintenance of accessible pedestrian walkways in work zones, and correction of other disruptions. ADAAG 4.1.1(4).

State

The State of California has its own requirements for accessibility for persons with disabilities through Title 24 of the California State Standards. Currently, compliance with Title 24 regulations does not provide the level of compliance required under the ADA. However, “neither the state nor local building agencies are legally allowed to enforce any ADA provisions that they know are more stringent than California’s standards [Title 24], because these same agencies are only enabled to enforce the statutory provisions of California.” (California Disabled Accessibility Guidebook 1998, pg. v) For this reason, where Title 24 is less stringent than the ADA Accessibility Guidelines (ADAAG), ADAAG is strongly recommended, but not required.

County

On September 28th, 1999, the Board of Supervisors adopted new Curb Ramp and Driveway Design Standards. This action was taken to prevent any further construction of ramps that do not comply with the ADA.

On August 22, 2006 the Board adopted a resolution that all new, retrofit and replacement curb ramps be constructed in accordance with the latest State Department of Transportation standard plans adopted by Public Works.

Facilities that are not able to comply with these standards can apply for an exception through a written request addressed to the Public Works Department ADA Coordinator. The ADA Coordinator will provide a recommendation concerning the exception to the County Engineer.

The California and Federal Governments guidelines are established and revised, the County Standards will be revised to reflect the changes.

III. Standards for Compliance

With the development of the County’s April 2000 Accessibility Report, standards for curb ramp compliance to the ADA were put in place. This section details those standards.

Adoption of Curb Ramp Standards

The County has adopted the Caltrans ramp design standards to construct or reconstruct curb ramps. The most current standard is available from the Department of Public Works.

The County Curb Ramp and Driveway Design Standards are compliant with the California State Standards, Title 24. Currently, compliance with Title 24 regulations does not provide the level of compliance required under the ADA. However, “neither the state nor local building agencies are legally allowed to enforce any ADA provisions that they

know are more stringent than California's standards [Title 24], because these same agencies are only enabled to enforce the statutory provisions of California." (California Disabled Accessibility Guidebook 1998, pg. v) For this reason, where Title 24 is less stringent than the ADA Accessibility Guidelines (ADAAG), ADAAG is strongly recommended but not required.

Facilities that are not able to comply with these standards can apply for an exception through a written request addressed to the Public Works ADA Coordinator. The ADA Coordinator will provide a recommendation concerning the exception to the Director of Public Works.

Evaluation of Curb Ramp Factors

In order to gain a comprehensive picture of the condition, number, and location of the existing curb ramps, a curb ramp inventory and self-evaluation of the entire County was performed for the 2000 Transition Plan. The curb ramp data was analyzed and divided into the following categories (in order of priority, from highest to lowest):

1. Public Areas without Ramps
2. Public Areas with Non-Standard Ramps
3. Residential Areas without Ramps
4. Existing Ramps Requiring the Addition of Grooves and Lip Removal Only
5. Existing Ramps Requiring the Addition of Grooves Only
6. Existing Ramps Requiring Lip Removal Only
7. Residential Areas with Non-Standard Ramps

Public Areas are defined for this report as walkways serving state and local government offices and facilities, transportation, places of public accommodation, and downtown areas. Residential Areas are defined for this report as all walkways not included under Public Areas.

Since 2000 there have been over 100 sites that have been upgraded throughout the County.

IV. Identified Obstacles to the Public Right of Way

Obstacles to the public right of way include non-ADA compliant sidewalks, curb ramps and handicap parking.

Update of GIS Inventory List

The County's GIS inventory contains an inventory of County maintained infrastructure including roads, bridges, traffic signals, traffic beacons and street lights. County maintained sidewalks are in the process of being added to the inventory and will provide

location and type of sidewalk. Also access to the curb ramp inventory can be made through the existing Public Works GIS program.

Update of Parking Plan

The County's parking plan identifies handicap parking stalls for parking lots and on-street parking in the business districts where there are stripes that delineate parking spaces throughout the County. The plan evaluates the need and location of handicap parking based on criteria in the California Disabled Accessibility Guide Book and the Manual of Uniform Traffic Control Devices and is currently in the process of being updated. The County only stripes parking lots and business districts.

Traffic Signal Inventory

Traffic signal inventory includes information about the pedestrian controls at each signal location. It identifies if there are pedestrian push buttons and pedestrian signal heads. This information is accessed through the Public Works GIS program. The program has the ability to access record construction drawings that will show pedestrian equipment that was installed when the signal was constructed.

V. Methods to Remove Obstacles – Procedures and Permits

Methods to remove obstacles are regulated by the procedures and permits outlined in this section.

Encroachment Permit Requirements

An encroachment permit is written permission to work or otherwise encroach within San Luis Obispo County's public road right-of-way. A permit may be granted to the public utility, contractor, organization or an individual. In addition to excavations, permits must be obtained for landscape planting and removal, driveway installations, placement of any structures, construction of street improvements and drainage facilities, utility work, traffic control, special events or generally for any type of work conducted within the road right-of-way.

Encroachment permits provide necessary regulation of the encroachment process so as to safeguard the public interest in the roadway facility and to ensure continuing safety and convenience for the public.

The encroachment permit application can be found at: <http://www.slocounty.ca.gov/Assets/PW/DevServ/general/EP+Application+and+Provisions.pdf>. Applications can also be picked up at:

Public Works Reception, 976 Osos Street Room 206
San Luis Obispo, CA 93408

Completed application forms can be submitted to pwd@co.slo.ca.us, faxed to (805) 781-1229, or mailed to the address above.

New Construction

All new road improvements must be constructed in accordance with current ADA compliant County standards.

Replacement of Existing Facilities

All existing road improvements must be brought up to ADA standards if they are within or adjacent to the proposed limits of work.

Public Complaint Process

A complaint regarding curb ramps, accessible parking in the public right-of-way, traffic signals, and transit stops can be filed with the Director of Public Works/ADA Coordinator, or their designee. Section IX contains the ADA Grievance procedure.

ADA Transition Plan Priorities

The top priority for the County's transition is to be fully ADA compliant. Public areas without ramps will be targeted first, continuing on through to residential areas with non-standard ramps last. Facilities adjacent to or at bus stops will be coordinated with the San Luis Regional Transit Authority through the San Luis Obispo Council of Governments.

Future facility upgrades will be in coordination with road projects that have been identified in the Pavement Management Plan list of asphalt overlay projects. These projects will evaluate ADA compliance and include construction of or replacement of facilities as part of the project. Requests for specific commercial or residential areas will also be considered if determine reasonable and viable.

Traffic signals are and continue to be the lowest priority due to limited funding sources, only being brought up to compliance in concurrence with major maintenance.

VI. Construction and Replacement

The ADA ramp construction and replacement program is reviewed each year to improve the non-ADA compliant curb ramps in the County and addresses the following categories:

1. Adding curb ramps and crosswalks
2. Elimination sidewalk obstruction

3. Installing truncated domes

The focus has been on upgrading curb ramps in central business districts and public facilities. Much effort has gone toward this end; only the central business districts of Oceano and Los Osos were with noncompliant curb ramps.

Parking Compliance

The Transportation Division addresses downtown/business district parking in all unincorporated communities where the spaces are delineated by striping. As downtown areas continue to develop, this issue is evaluated to maintain suitable ADA access only if the County marks the parking stalls.

Traffic Signals

As neither the ADA nor California Title 24 have clearly defined guidelines for traffic signals, no special action was/will be taken by the County. However, in conjunction with the regularly scheduled preventative maintenance performed on all county traffic signals, the following items were/will be installed:

- Textured tape per California Title 24 1117B.5.10
- ADA pedestrian push buttons as called out in the July 1999 State of California Standard Plans ES-5C

Bus Stop Amenities

Bus stop amenities are provided in the right of way by the Regional Transit Authority (RTA) and work is performed under an encroachment permit issued by the County. The County subjects the RTA to install current ADA bus stops under the permit and has allowed existing bus stops to remain contingent on RTA providing a plan for long term stop upgrades.

VII. Funding

This section outlines how the County's path to ADA compliance was and will continue to be funded.

Road Fund / TDA

The County road system operates on a budget of approximately \$27 million annually with \$15 million programmed for maintenance. Funding for ADA projects from maintenance would be diverted from the Pavement Management Plan causing a significant reduction in the pavement condition rating.

Funding from the Transportation Development Act (TDA) provides resources for the development of transit projects. However, not all TDA funds are allocated to transit projects. Jurisdictions may fund road projects, bikeways, and transit if unmet transit needs do not exist as determined annually by the San Luis Obispo Council of Governments (SLOCOG). The transit percentage of TDA funds is variable, depending on established unmet needs. The County has set aside a minimum of \$60,000 annually for sidewalk and curb ramp upgrades. Request for ADA facilitating should use the grievance form.

VIII. Public Input

Public input is available through the following two channels:

Access for All

Access for All, (AFA) is a coalition composed of committed individuals and organizational representatives who promote accessibility within the community through advocacy, community education, and outreach. Access for All is an all-volunteer group and participate as individuals representing various community perspectives and interests. The mission of “Access for All” is to assist in creating an accessible community where people with disabilities have an equal opportunity to fully participate in all aspects of SLO County life. Visit www.sloaccessforall.org for more information.

Advisory Councils

Community Advisory Councils are made up of residents from the area covered by the advisory group. They volunteer their time to represent community interests within the county processes. The staff refers projects that require use permits and subdivision requests to the councils for comments concerning community fit. Applicants can approach the councils with their project proposals prior to applying with the county for early input and recommendations. For information on the Advisory Councils for each area within the County and their meeting times and locations, visit: <http://www.slocounty.ca.gov/planning/meetings/CAC.htm>.

IX. Grievance Procedure

The County has adopted an internal grievance procedure providing for a prompt and equitable resolution of complaints alleging any facility in the public right way or action that is prohibited by the Americans with Disabilities Act (ADA) and by federal regulations implementing Section 504 of the Rehabilitation Act of 1973.

Procedure

1. A complaint should be filed in writing on the attached form or verbally with the Director of Public Works/ADA Coordinator, or their designee, and contain the name, address and telephone number of the person filing the complaint and a brief description of the alleged violation. Verbal complaints can be made in-person at the Public Works office, 976 Osos Street, San Luis Obispo or by phone at (805) 781-5252. Written complaints should be submitted to:

County of San Luis Obispo
Director of Public Works/ADA Coordinator
County Government Center, Room 206
San Luis Obispo, CA 93408

2. A complaint should be filed within 30 days after the complainant becomes aware of the alleged violation.
3. An investigation, as may be appropriate, will follow a filing of the complaint. The investigation will be conducted by the Director of Public Works/ADA Coordinator, or their designee. This policy is intended to provide an informal but thorough investigation, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint.
4. A written determination as to the validity of the complaint and a description of the resolution, if any, will be issued by the Director of Public Works/ADA Coordinator, or their designee, and a copy forwarded to the complainant no later than 60 days after filing.
5. The Director of Public Works/ADA Coordinator, or their designee, will maintain the files and records of the County Public Works Department relating to the complaints received.
6. The complainant can request a reconsideration of the case in instances where he or she is dissatisfied with the resolution. The request for reconsideration should be made within 30 days to the County Administrator or their designee at:

County of San Luis Obispo
County Government Center, Room 206
San Luis Obispo, CA 93408

7. The right of a person to a prompt and equitable resolution of the complaint filed hereunder will not be impaired by the person's pursuit of other remedies such as the filing of a Section 504 or ADA complaint with the responsible federal

- department or agency. Using this grievance procedure is not a prerequisite to the pursuit of other remedies.
8. These rules will be construed to protect the substantive rights of interested persons, meet appropriate due process standards, and assure that San Luis Obispo County complies with the ADA, Section 504, and their implementing regulations.

X. Responsible Individual

The Public Works Department is responsible for removing the barriers within the public right of way. The Director of Public Works/ADA Coordinator is designated to develop and implement the Transition Plan in the public right of way. The Director of Public Works/ADA Coordinator, or their designee, can be contacted by calling (805) 781-5252 or www.slocounty.ca.gov/pw.

Department Structure

Generally, requests come from citizens with disabilities who wish to get to medical facilities, bus stops, transportation, and other facilities to accommodate their activities of daily living. Since the 2000 Transition Plan, the County has developed and implemented a repair/complaint procedure that formalizes the current process. When requests come into the Department of Public Works they are addressed by the Director of Public Works/ADA Coordinator, or their designee.

**Department of Public Works, Transportation Division
Grievance Form**

Instructions: Please fill out this form completely, using black ink or typing. Sign and send it to the address at the bottom of the page. This form is available in alternate formats by request.

Reporting Individual:

Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone Number: _____ Date: _____

Service, Program, or Facility Alleged to Be Non-Compliant:

Name of Service,
Program, or Facility: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Describe the way in which the service, program, or facility is not compliant (please use other attachments as necessary):

Action Taken (for Office Use):

Please mail completed form to:

County of San Luis Obispo
Transportation Programs Manager /
ADA Coordinator
County Government Center, RM 206
San Luis Obispo, CA 93408

**Signature of Reporting
Individual:**

For Office Use:

File No.: _____ Date Received: _____ Received by: _____