

City of Brainerd ADA Transition Plan

June 2017



Adopted by City Council 06/19/2017

Mayor

A handwritten signature in blue ink, appearing to be "Ed Mark", is written over a horizontal line.

City Administrator

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The City of Brainerd complies with all applicable provisions of the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, and does not discriminate on the basis of disability in the admission or access to, or treatment or employment in, its services, programs, or activities. Upon request, accommodation will be provided to allow individuals with disabilities to participate in all City of Brainerd services, programs, and activities. The City has designated coordinators to facilitate compliance with the Americans with Disabilities Act of 1990 (ADA), and to coordinate compliance with Section 504 of the Rehabilitation Act of 1973 as mandated by the U.S. Department of Housing and Urban Development regulations. For information, contact the Human Resources or the City Administrator, 501 Laurel Street, Brainerd, MN 56401; (218) 828-2307. Upon request, this information can be available in Braille, large print, audio tape and/or electronic format, or TTY.

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Introduction

Transition Plan Need and Purpose

The Americans with Disabilities Act (ADA), enacted on July 26, 1990, is a civil rights law prohibiting discrimination against individuals on the basis of disability. ADA consists of five titles outlining protections in the following areas:

1. Employment
2. State and local government services
3. Public accommodations
4. Telecommunications
5. Miscellaneous Provisions

Title II of ADA pertains to the programs, activities and services public entities provide. As a provider of public transportation services and programs, the City of Brainerd must comply with this section of the Act as it specifically applies to public service agencies. Title II of ADA provides that, "...no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." ([42 USC. Sec. 12132](#); [28 CFR. Sec. 35.130](#))

As required by Title II of [ADA, 28 CFR. Part 35 Sec. 35.105 and Sec. 35.150](#), the City of Brainerd has conducted a self-evaluation of its facilities within public rights of way and has developed this Transition Plan detailing how the organization will ensure that all of those facilities are accessible to all individuals. This document serves as a supplement to City's existing Transition Plan covering buildings, services, programs and activities.

The Transition Plan reviews and develops the City of Brainerd's policies, practices, and programs involving public rights-of-way and assists City of Brainerd staff in understanding its obligations under the various state and federal guidelines to provide accessibility for individuals with disabilities to City programs, services, and activities. The plan also catalogs and identifies barriers to accessibility within the City's public rights-of-way as well as gives a general outline or timeframe for removal of the barrier.

ADA and its Relationship to Other Laws

Title II of ADA is companion legislation to two previous federal statutes and regulations: the [Architectural Barriers Acts of 1968](#) and [Section 504 of the Rehabilitation Act](#) of 1973.

The Architectural Barriers Act of 1968

The Architectural Barriers Act of 1968 (ABA) is a Federal law that requires facilities designed, built, altered or leased with Federal funds to be accessible. The Architectural Barriers Act marks one of the first efforts to ensure access to the built environment.

Section 504 of the Rehabilitation Act of 1973

Section 504 of the Rehabilitation Act of 1973 (ABA) is a Federal law that protects qualified individuals from discrimination based on their disability. The nondiscrimination requirements of the law apply to employers and organizations that receive financial assistance from any Federal department or agency. Title II of ADA extended this coverage to all state and local government entities, regardless of whether they receive federal funding or not.

The American with Disabilities Act

The American with Disabilities Act of 1990 (ADA) is a federal law that prohibits discrimination on the bases of disability in employment, state and local government, public accommodations, commercial facilities, transportation, and telecommunications. The ADA works in unison with the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973. The ADA has five titles that are as follows:

- Title I: Employment
- Title II: Public Services and Public Transportation
- Title III: Public Accommodations
- Title IV: Telecommunications
- Title V: Miscellaneous Provisions

Architectural and Transportation Barriers Compliance Board

The Access Board, also known as the Architectural and Transportation Barriers Compliance Board, is an independent federal agency devoted to accessibility for people with disabilities. The Board was created in 1972 to ensure access to federally funded facilities and is now the leader in sources for information on accessible designs.

Public Rights of Way Accessibility Guidelines

Public Rights of Way Accessibility Guidelines (PROWAG) is developed by the Access Board and are guidelines that address accessibility in the public right-of-way. Sidewalks, street crossings, and other elements of public rights-of-way are all covered in the PROWAG Guidelines. The City of Brainerd's Transition Plan primarily adheres to PROWAG.

MnDOT Technical Memorandum 15-02-TR-01

MnDOT Technical Memorandum 15-02-TR-01 was issued by MnDOT in 2015 and extends the expiration of Technical Memorandum 10-02-TR-01 Adoption of Public Rights of Way Accessibility Guidance to MnDOT staff, cities, and counties. This memorandum makes PROWAG the primary guidance for accessible facility design for all MnDOT projects. MnDOT is beginning to integrate PROWAG into the Road Design Manual and other technical guidance.

Technical Memorandum 10-SA-01

Technical Memorandum 10-SA-01 is to clarify ADA requirements as they apply to local Federal-aid projects and State-aid projects. The memorandum states that Local Federal-aid projects must provide pedestrian curb ramps and detectable warning systems on all new and existing curb ramps within the project limits even if the proposed work can be done without disturbing the existing sidewalks or pedestrian ramps. Project plans that do not adhere to these requirements will not be approved by MnDOT. MnDOT, however, will not review State-aid project plans for accessibility requirements because the responsibility to provide accessible facilities per guidance falls on the local agency.

Technical Memorandum 15-01-T-01

Technical Memorandum 15-01-T-01 is to provide guidance as it relates to pedestrian crossing facilitation. The memorandum includes sections on curb ramp installation and provides guidance for various crosswalk configurations including those where sidewalks may only be on one side of the road or at crossings where there is no sidewalk.

Agency Requirements

In the Americans with Disabilities Act (ADA), the term disability is defined, with respect to an individual, as:

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

When addressing accessibility needs and impairments, it is important to note that ADA does not supersede or take precedence over state or local law, such as the Minnesota Human Rights Act, that may offer greater or equivalent protections.

Under Title II, the City of Brainerd must meet these general requirements:

- Must operate their programs so that, when viewed in their entirety, the programs are accessible to and useable by individuals with disabilities ([28 C.F.R. Sec. 35.150](#)).

- 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 ([28 C.F.R. Sec. 35.130 \(a\)](#)).
- Must make reasonable modifications in policies, practices and procedures that deny equal access to individuals with disabilities unless a fundamental alteration in the program would result ([28 C.F.R. Sec. 35.130\(b\) \(7\)](#)).
- May not provide services or benefits to individuals with disabilities through programs that are separate or different unless the separate or different measures are necessary to ensure that benefits and services are equally effective ([28 C.F.R. Sec. 35.130\(b\)\(iv\) & \(d\)](#)).
- Must take appropriate steps to ensure that communications with applicants, participants and members of the public with disabilities are as effective as communications with others ([29 C.F.R. Sec. 35.160\(a\)](#)).
- Must designate at least one responsible employee to coordinate ADA compliance [[28 CFR Sec. 35.107\(a\)](#)]. This person is often referred to as the "ADA Coordinator." The public entity must provide the ADA coordinator's name, office address, and telephone number to all interested individuals [[28 CFR Sec. 35.107\(a\)](#)].
- Must provide notice of ADA requirements. All public entities, regardless of size, must provide information about the rights and protections of Title II to applicants, participants, beneficiaries, employees, and other interested persons [[28 CFR Sec. 35.106](#)]. The notice must include the identification of the employee serving as the ADA coordinator and must provide this information on an ongoing basis [[28 CFR Sec. 104.8\(a\)](#)].
- Must establish a grievance procedure. Public entities must adopt and publish grievance procedures providing for prompt and equitable resolution of complaints [[28 CFR Sec. 35.107\(b\)](#)]. This requirement provides for a timely resolution of all problems or conflicts related to ADA compliance before they escalate to litigation and/or the federal complaint process.

Self-Evaluation

Overview

The City of Brainerd is required, under Title II of the Americans with Disabilities Act (ADA) and 28CFR35.105, to perform a self-evaluation of all its policies, practices and programs, and current facilities, including buildings and infrastructure in public right of way. This self-evaluation will identify what policies and practices impact accessibility and examine how the City implements these policies. The goal of the self-evaluation is to verify that, in implementing the City's policies and practices, the departments are providing accessibility and not adversely affecting the full participation of individuals with disabilities.

The self-evaluation will look at City policies related to holding meetings, communications, hiring practices, etc..

The self-evaluation also examines the condition of the City's Pedestrian Circulation Route/Pedestrian Access Route) (PCR/PAR) and identifies potential need for PCR/PAR infrastructure improvements. This will include the sidewalks, curb ramps, bicycle/pedestrian trails, traffic control signals and transit facilities that are located within the City's rights of way.

Self-Evaluations for all of the above criteria are found in the appendices at the end of this report.

Any barriers to accessibility identified in the self-evaluation and the remedy to the identified barrier are set out in this transition plan.

Summary

In 2013-2016, the City of Brainerd conducted an inventory/evaluation of all City policies and facilities including pedestrian facilities within its public right of way. Facilities evaluated included the following;

- City Practices
 - Employment
 - Communications
- Pedestrian Facilities in the Right of Way
 - Sidewalks - 35.8 miles
 - Curb ramps - 836
 - Trails – 10 miles
 - Traffic Control Signals - 4
 - On Street Parking
 - Right of Way Maintenance Policies
- Transit Facilities
 - Bus Stops - 0
 - Transit Policies
- Building Facilities
 - City Hall
 - Police Department
 - Fire Department
 - NE Fire Hall
 - Park Department Office
 - Street Department Garage

- City Hall Annex
- Library
- City Owned Parking Lots
- Park Facilities in the following parks
 - Gregory Park
 - Kiwanis Park
 - Buffalo Hills Park
 - Memorial Park
 - Mill Park
 - Triangle Park
 - Bane Park
 - Obrien Park
 - Lum Park
 - Trailside Park

A detailed evaluation on how these facilities relate to ADA standards is found in the appendices under each Department and will be updated periodically as the facilities are updated or changed.

Policies and Practices

Previous Practices

Since the adoption of the ADA, the City of Brainerd has striven to provide accessible pedestrian features as part of the City's capital improvement projects. As additional information was made available as to the methods of providing accessible pedestrian features, the City has updated their procedures to accommodate these methods. For example, as pedestrian curb ramp designs have been updated and changed, the City has adapted to these new preferred designs. Further, as City owned buildings have been remodeled or built, they have been updated or built to the latest ADA design.

Policy

The City of Brainerd's goal is to continue to provide accessible pedestrian design features as part of the City's capital improvement projects. The City has established ADA design standards and procedures as listed in Appendix J. All city facilities will be updated to latest building code and ADA design when improvements are made. These standards and procedures will be kept up to date with nationwide and local best management practices.

The City will consider and respond to all accessibility improvement requests. All accessibility improvements that have been deemed reasonable will be scheduled consistent with transportation priorities. The City will coordinate with external agencies to ensure that all new or altered pedestrian facilities within the City's jurisdiction are ADA compliant to the maximum extent feasible.

Maintenance of pedestrian facilities within the public right of way will continue to follow the policies set forth by the City . (City Code Sections 800 Administration and Regulation of the Public Right of Way, City Code Section 825 Sidewalks)

Requests for accessibility improvements can be submitted to the City Administrator. Contact information for City Administrator is located in Appendix A.

Programs

Pavement Management Program

The City's pavement management program is a plan in which identifies priorities and timeframes for the maintenance and reconstruction of City streets and trails. This program offers information on pavement qualities and accessibility barriers in the City's transportation system in order to keep the City's transportation system in an acceptable and good condition. The City Engineering Department creates an annual construction schedule based upon this and budget information. This pavement management program offers an excellent opportunity for the City to evaluate its needs and upgrade City right-of-way facilities to applicable standards. The data driven nature of the pavement management program is an extremely effective method to prioritize ADA compliance.

Walkable/Bikeable City Committee

The City has implemented a Walkable/Bikeable City Committee which is a committee dedicated to the purpose of making the City more walkable/bikeable and accessible to its citizens. The Walkable/Bikeable Committee has created a plan which identifies deficiencies and gaps in the current City infrastructure and identifies locations and projects that the City could implement to make the City more walkable, bikeable, and accessible. The plan also outlines general costs for projects and priorities within the infrastructure over a 10 year implementation period.

Capital Improvement Plan

The City of Brainerd's capital improvement program works in unison with the pavement management program and identifies projects to be constructed within the next 5 years along with cost estimates for the work and budgeting information. The City uses this as a vehicle for budgeting and bonding purposes.

Safe Routes to School

The City of Brainerd has been very effective in receiving federal Safe Routes to School funds through MnDOT for qualifying projects and safety improvements around schools. The City has a Safe Routes to School plan in which identifies priority areas for ADA and accessibility improvements along with other safety improvements around schools.

ADA Coordinator

In accordance with 28 CFR 35.107(a), the City of Brainerd has identified an ADA Title II Coordinator to oversee the City policies and procedures. Contact information for this individual is located in Appendix A.

Improvement Schedule

Priority Areas

The City of Brainerd has identified specific locations as priority areas for planned accessibility improvement projects. These areas have been selected due to their proximity to specific land uses such as schools, government offices and medical facilities, as well as from the receipt of public comments. The priority areas identified in each Department's self-evaluation are as follows:

- City Practices (Administration)
 - None
- Public Right of Way (Engineering)
 - Sidewalks with no curb ramps at intersections
 - Curb ramps around schools or other public facilities that generate high volumes of pedestrian traffic
 - Non-compliant curb ramps and pedestrian access routes that are reported as concerns.
- Transit
 - None
- Building Facilities (Building Safety Department)
 - Improve Entrance to Parks Department Facility on Lum Park Road
- Park Facilities (Building Safety & Parks Department)
 - Add sidewalk to pavilion at Buffalo Hills Park

Additional priority will be given to any location where an improvement project or alteration was constructed after January 26, 1991, and accessibility features were omitted.

Schedule

The City of Brainerd has set scheduled goals for improving accessibility in each Departments Self Evaluation Plan attached in the Appendices.

The schedules will be prioritized and are based on needs, public input, funds available, and timelines to implement ADA improvement projects

Implementation Methodology

City Practices

With the completion of the Transition Plan, the City of Brainerd's practices and policies are currently up to date as related to ADA policies. If areas are identified in the future as being non-compliant, a schedule will be implemented to correct the issues.

Right of Way

The City of Brainerd will utilize two methods for upgrading pedestrian facilities to the current ADA standards. The first and most comprehensive of the two methods are the scheduled street and utility improvement projects. All pedestrian facilities impacted by these projects will be upgraded to current ADA accessibility standards. The second method is the stand alone sidewalk and ADA accessibility improvement project. These projects will be incorporated into the Capital Improvement Program (CIP) on a case by case basis as recommended by the City of Brainerd staff and approved by the City Council. The City's CIP, which includes a detailed schedule and budget for specific improvements, is included in Appendix I.

Transit

The City of Brainerd's transit systems did not have any areas on non-compliance identified in its system. If areas are identified in the future as being non-compliant, a schedule will be implemented to correct the issues.

Building Facilities

The City of Brainerd will utilize two methods for upgrading buildings to meet current ADA standards. The first and most comprehensive of the two methods are the scheduled building improvements plan as part of the Capital Improvement Plan. All ADA related facilities impacted by these projects will be upgraded to current ADA accessibility standards. For example, all new and remodeled buildings will be built or upgraded to meet the latest ADA standards. The second method is the stand alone ADA accessibility improvement project. These projects will be incorporated into the Capital Improvement Program (CIP) on a case by case basis as recommended by the City of Brainerd staff and approved by City Council. These projects will

projects will most likely arise from a need to upgrade a specific facility based on input from the public. Currently, the City is in the process of performing comprehensive facilities study which will be included in the appendices of this report when the study is completed.

Park Facilities

The City of Brainerd will utilize two methods for upgrading park facilities to meet current ADA standards. The first and most comprehensive of the two methods are the scheduled park improvements as shown part of the Capital Improvement Plan. All ADA related facilities impacted by these projects will be upgraded to current ADA accessibility standards. For example, if a tennis court or a restroom was scheduled to be upgraded or remodeled, it will be built or upgraded to meet the latest ADA standards. The second method is the stand alone ADA accessibility improvement project. These projects will be incorporated into the Capital Improvement Program (CIP) on a case by case basis as determined by the Park Board. These projects will most likely arise from a need to upgrade a specific facility based on input from the public. Currently, the City is in the process of performing comprehensive facility studies which will be included in the appendices of this report when the study is completed.

Public Outreach

The City of Brainerd recognizes that public participation is an important component in the development of this document. Input from the community has been gathered and used to help define priority areas for improvements within the jurisdiction of the City of Brainerd.

Public outreach for the creation of this document consisted of the following activities:

- Public Hearing – A Public Hearing on the ADA Transition Plan was held at 7:30 P.M. on June 5, 2017 at the regularly scheduled City Council meeting. There were no members of the public that spoke at the public hearing. However, a letter was received by a constituent regarding ADA matters and can be seen in Appendix C.
- Notice in City Newsletter – A notice was published in the City’s April, May, and June City Newsletter giving the time and the date of the public hearing on the plan. It also provided the City website information to access the electronic version of the plan for review.
- The plan was posted on the City website from April 21st, 2017 to June 4th, 2017. City staff did not receive any feedback besides what was presented in letter form to the council during the public hearing. The final plan will be posted to the City website when the City Council adopts the plan.

A summary of comments received and detailed information regarding the public outreach activities are located in Appendix C.

Grievance Procedure

Under the Americans with Disabilities Act, each agency is required to publish its responsibilities in regards to the ADA. A draft of this public notice is provided in Appendix D. If users of the City of Brainerd's facilities and services believe the City has not provided reasonable accommodation, they have the right to file a grievance.

In accordance with 28 CFR 35.107(b), the City has developed a grievance procedure for the purpose of the prompt and equitable resolution of citizens' complaints, concerns, comments, and other grievances. This grievance procedure is outlined in Appendix D.

Monitor the Progress

This document will continue to be updated as conditions within the City evolve.

The appendices in this document will be updated periodically, while the main body of the document will be updated periodically to reflect changes with a future update schedule to be developed at that time. With each main body update, a public comment period will be established to continue the public outreach.