Americans with Disabilities Act Compliance Report

Town Of Merrillville

This report contains documentation that addresses Implementation of street Improvements to meet the current ADA compliance standards

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SECTION ONE

CHAPTER ONE: SUMMARY OF REQUIREMENTS AND PROCEDURES UNDER THE AMERICANS WITH DISABILITIES ACT

1.1 OVERVIEW OF THE ADA

Section Summary
The Americans with Disabilities Act (ADA) was enacted on *July 26, 1990. The ADA extended civil rights legislation to people with disabilities, and* is *companion to the Civil Rights Act of 1964* and *Section 504 of the Rehabilitation Act of 1973. 11te ADA has broad application to public agencies and private businesses in its protections against discrimination for people with disabilities.*

The Americans with Disabilities Act (ADA), enacted on July 26, 1990, provides comprehensive civil rights protections to persons with disabilities in the areas of employment, state and local government services, access to public accommodations, transportation, and telecommunications. The ADA is companion civil rights legislation with the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973. This legislation mandates that qualified disabled individuals shall not be excluded from participation in, denied the benefit of, or be subjected to discrimination under any program or activity. The Act also provides disabled employees with certain protections and requires employers to make reasonable accommodation for disabled applicants and employees.

The ADA is divided into five parts, covering the following areas:

Title 1: EMPLOYMENT
Under this title, The Town of Merrillville (town) must ensure that the hiring practices, policies and procedures do not discriminate against persons with disabilities in the application, hiring, advancement, training, compensation, or discharge of an employee, or in other terms, conditions, and rights of employment.

Title II: PUBLIC SERVICES
This title prohibits state and local governments from discriminating against persons, with disabilities or from excluding participation in or denying benefits of programs, services, or activities to persons with disabilities. It is under this Title that this self-evaluation is prepared. The self-evaluation is intended to outline programs and services of the town and to evaluate what policies and procedures must be changed or implemented to effect the non-discrimination policies described in Title II.

Title II of the ADA applies to State and local governments, including towns and townships, school districts, water districts, special purpose districts, and other small local governments and instrumentalities. It prohibits discrimination on the basis of disability in all services, programs, and activities provided by towns. Thus, people with disabilities must have an equal opportunity to participate in and benefit from a town's services, programs, and activities. To accomplish this, the ADA sets requirements for town facilities, new construction and alterations, communications with the public, and policies and procedures governing town programs, services, and activities.

Title II dictates that a public entity must evaluate its services, programs, policies, and practices to determine whether they are in compliance with the nondiscrimination regulations of the ADA. The regulations detailing compliance requirements were issued

in July, 1991. These regulations mandate that each public entity is required to examine activities and services, identify problems or physical barriers that may limit accessibility by the disabled, and describe potential compliance solutions. The entity must then proceed to make the necessary changes resulting from the self-evaluation. The ADA further requires that a transition plan be prepared to describe any structural or physical changes required to make programs accessible. The Town of Merrillville's ADA Transition Plan is a companion to the self-evaluation, and is included in the Merrillville ADA Compliance Plan.

Title III: PUBLIC ACCOMMODATIONS
Title III requires places of public accommodation to be accessible to and usable by persons with disabilities. The term "public accommodation" as used in the definition is often misinterpreted as applying to public agencies, but the intent of the term is to refer to any privately funded and operated facility serving the public.

Title IV: TELECOMMUNICATIONS
This title covers regulations regarding private telephone companies and 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.

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

In the ADA, the term "disability" means, with respect to an individual:

1) A physical or mental impairment that substantially limits one or more of the major life activities of such individual;

2) A record of such an impairment; or

3) Being regarded as having such impairment.

If an individual meets any one of these three tests, he or she is considered to be an individual with a disability for purposes of coverage under the Americans with Disabilities Act. The Final Rules of the ADA describe in greater detail the conditions included and excluded as disabilities under the ADA, and these rules should be referred to if more detailed descriptions of covered disabilities is desired.

1.2 Requirements of Municipalities under the ADA

Title II of the ADA applies to State and local governments, including towns and townships, school districts, water districts, special purpose districts, and other small local governments and instrumentalities. It prohibits discrimination on the basis of disability in all services, programs, and activities provided by the town. Thus, people with disabilities must have an equal opportunity to participate in and benefit from a town's services, programs, and activities. To accomplish this, the ADA sets requirements for town facilities, new construction and alterations, communications with the public, and policies and procedures governing town programs, services, and activities.

1.3 EXISTING FACILITIES: PROGRAM ACCESSIBILITY

When programs, services, or activities are located in facilities that existed prior to January 26, 1992, the effective date of Title II of the ADA, the town must ensure that they are also available to persons with disabilities, unless to do so would fundamentally alter a program, service, or activity or result in undue financial or administrative burdens. This requirement is called program accessibility. When a service, program, or activity is located in a building that is not accessible, the town can achieve program accessibility in several ways.

- Relocate the program or activity to an accessible facility
- Provide the activity, service, or benefit in another manner that meets ADA requirements, or
- Make modifications to the building or facility itself to provide accessibility.

Thus, to achieve program accessibility, Merrillville need not make every existing facility accessible. It can relocate some programs to accessible facilities and modify other facilities, avoiding expensive physical modifications of all town facilities.

1.4 NEW CONSTRUCTION AND ALTERATIONS

NEW CONSTRUCTION

ADA requirements for new construction have been in effect since January 1992. New buildings and facilities must comply with the new construction provisions of the ADA Standards for Accessible Design 2010 (ADAAG) as well as the Public Rights of Way Accessibility Guidelines (PROWAG) for public improvements within public rights of way including sidewalks and crossings. These requirements include facilities that are available for public use and those that are for use by employees.

The ADA Standards for Accessible Design (ADAAG) was revised in 2010 and have been selected as the ADA design standard by the town. Because ADAAG and PROWAG requirements for new construction and alterations do change from time to time, Merrillville must continue to be familiar with any new design and construction requirements before a project starts.

ADDITIONS AND ALTERATIONS

When a building or facility is renovated, altered, or added to for any purpose, the alterations or additions must comply with the ADA Standards. In general, the alteration provisions are the same as the new construction requirements except that deviations are permitted when it is not technically feasible to comply. Additions are considered an alteration but the addition must follow the new construction requirements. When existing structural and other conditions make it impossible to meet all the alteration requirements of the ADA Standards, then they should be followed to the greatest extent possible.

Basic Requirements for Alterations:

- Any alteration that affects the usability of a building or facility must comply with the requirements of the ADA Standards unless technically infeasible to do so. Alterations can be as limited as the replacement of a fixture or element, such as a lavatory, toilet, or piece of door hardware.

- When an element is replaced, the new element must comply with the ADA Standards if the minimum requirements for accessibility under the ADA have not already been met.

- When an alteration to an area of a facility that contains a primaly function area, the town has an additional obligation. The town is also responsible for making the path of travel to the altered area (room or wing), as well as the toilet rooms, drinking fountains, and public telephones serving the altered area accessible. Primary function areas are those areas of a building that include the primary spaces for which the building was constructed (for example offices or meeting areas in a town hall, locker rooms in an athletic facility, or classrooms in a school or training center). The amount of money the town must spend to provide an accessible path of travel is limited to 20% of the overall cost of the alterations. If the path of travel alterations can be done for less than the 20% limit, then only that expenditure is required. If all the required accessible features are already provided then no additional expenditure is needed.

- When a qualified historic facility is altered, an exception to the alteration requirements of the ADA Standards may be used if the alteration threatens to destroy the historic significance of the building or facility. In these situations, special provisions in the Standards may be used for the element or space that would be threatened. In almost all situations, accessible design can be used without significantly impairing the historic features of the facility.

- The ADA Standards have specific requirements for additions. Additions, which include an expansion, extension or increase of the gross floor area of a building or facility, are considered an alteration to a facility but the area that is added must comply with the new construction requirements. Each addition that affects or could affect the usability of an area containing a primary function area must meet the path of travel requirements (see above).

MAINTENANCE OF ACCESSIBLE FEATURES

Towns must maintain in operable working condition those features that are necessaly to provide access to services, programs, and activities-- including elevators and lifts, curb ramps at intersections, accessible parking spaces, ramps to building or facility entrances, door hardware, and accessible toilet facilities. Isolated or temporary interruptions in service or access are permitted for maintenance or repairs.

EFFECTIVE COMMUNICATION

The Town must take appropriate steps to ensure that communications with members of the public, job applicants, and participants with disabilities are as effective as communications with others unless it is an undue financial or administrative burden to do so or it would result in a fundamental alteration in the nature of the program or activity.

Achieving effective communication often requires towns to provide auxiliary aids and services. Examples of auxiliary aids and services include qualified sign language interpreters, assistive listening devices, open and closed captioning, note-takers, written materials, telephone handset devices, qualified readers, taped texts, audio recordings, Braille materials, materials on computer disk, and large print materials.

Towns must provide appropriate auxiliary aids and services where they are necessary to achieve an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by or for the town. The town must give primary consideration to the type of auxiliary aid requested by a person with a disability. However, the town may provide a different type of aid if it can show that it is an effective means of communication. The town must be provided adequate notice that auxiliary aids have been requested prior to the anticipated use of said aids.

Determination of an undue financial burden or a fundamental alteration can only be made by the compliance coordinator, defined below, or his or her designee and must be accompanied by a written statement of the reasons for reaching that conclusion. The determination of an undue burden must be based on all resources available for use in the program, service, or activity. In other words, the evaluation of an undue financial burden must consider all municipal financial resources, in addition to the particular department or division's budget. When it is not possible to provide a particular type of auxiliary aid to achieve effective communication due to an undue burden or fundamental alteration, the town must take any other action that would not result in such burdens or fundamental alteration, but would nevertheless ensure that individuals with disabilities receive the benefits and services of the program or activity.

Since the town communicates with applicants and beneficiaries by telephone, it must ensure that an effective telecommunication system such as communication which relies on use of the relay system or a TTY (or TDD) be used to communicate with individuals who are deaf, hard-of-hearing or who have speech disabilities. A TTY has a keyboard and visual display for non-verbal communication with another TTY user or a relay system operator. The relay system is provided in each State and permits telephone communication between voice handsets and individuals using a TTY.

The town can choose to provide a TTY without significant expense. Some towns have decided to install a portable TTY next to a public pay telephone and to anchor the portable unit to a shelf. Electrical connections are enclosed to protect against accidental disconnection of power.

Requirements for effective communications also apply to "telephone emergency services" that provide a basic emergency service, such as police, fire, and ambulance, that are provided by public safety agencies, including 9-1-1 (or, in some cases, seven-digit) systems. Direct, equal access must be provided to all services included in the system, including services such as emergency poison control information. Where direct access is provided to callers, direct access by TTY users means the telephone emergency service cannot use a relay system or transfer all TTY calls to one operator while other callers have access to all available operators (for more information, see the Department's publication, Access for 9-1-1 and Telephone Emergency Services Under the Americans with Disabilities Act).

POLICIES, PRACTICES AND PROCEDURES
The Town must make reasonable modifications to policies, practices, and procedures to avoid discrimination against individuals with disabilities. While this requirement applies to all policies, practices, and procedures of the town, the town does not have to make modifications that would result in a fundamental alteration in the program, service, or activity or result in a direct threat to the health or safety of others. A direct threat is a significant risk that cannot be eliminated or reduced to an acceptable level by the town's modification of its policies, practices, or procedures, or by the provision of auxiliary aids or services. The public entity's determination that a person poses a direct threat to the health or safety of others may not be based on generalizations or stereotypes about the effects of a particular disability (see The ADA Title II Technical Assistance Manual).

The self-evaluation typically includes a review of polices, practices, and procedures. Periodic review after the self-evaluation may be done to maintain compliance with the ADA. The town can choose how it wants to conduct a review of policies and practices that govern the administration of the town's programs, activities, and services. Towns that have already done a self-evaluation do not have to do another one.

Review of policies, practices, and procedures also applies to telephone emergency services, such as 9-1-1, where policies must ensure direct access to individuals who use TTY's and computer modems.

ADA PROCESS FOR COMPLYING WITH THE ADA
The town is required to conduct a self-evaluation of municipal facilities under Section 504 of the Rehabilitation Act must do so. The self-evaluation is a review of all town services, programs, and activities to identify any physical barriers or policies, practices, or procedures that may limit or exclude participation by people with disabilities. The self-evaluation includes permanent, temporary, and periodic services, programs, and activities. Specific areas of self - evaluation must include services, programs, or activities are offered and in what location.

Any policies, practices, or procedures that may limit or exclude individuals with disabilities must be reasonably modified, unless doing so would result in a fundamental alteration in the nature of the service, program, or activity. The self-evaluation should identify changes to policies to be implemented. It should also identify any discriminatory policies, practices, and procedures that cannot be reasonably changed without resulting in a fundamental alteration.

The self-evaluation also identifies problems with the accessibility of facilities and establishes recommendations for providing program accessibility (which may include relocation to an accessible facility). It may also suggest short-term and long-term strategies to provide access to people with disabilities.

Towns that completed a self-evaluation to comply with section 504 of the Rehabilitation Act only have to bring the 504 self-evaluation up to date with ADA requirements by evaluating the services, programs, and activities that have changed.

CHAPTER 'IWO: PUBLIC NOTICE

2.1 NOTICE REQUIREMENT
Merrillville must provide notice to the public about its ADA obligations and about

accessible facilities and services in the town. The notice must inform the public about the ADA's nondiscrimination requirements. It may also describe how the public or employees may contact specific town officials about problems with accessibility and the need for effective communication. The information must be accessible to the public, including people who have disabilities that affect communication, 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 town's website, print, radio, or television.

2.2 PUBLIC NOTICE DOCUMENT

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

Employment: Town of Merrillville 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 Town of Merrillville 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 Town of Merrillville 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 Town of Merrillville will make all 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 Town of Merrillville 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 Town of Merrillville, should contact the office of the Town Manager at 219-769-5711 as soon as possible but no later than forty- eight (48) hours before the scheduled event.

The ADA does not require the Town of Merrillville 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 Town of Merrillville is not accessible to persons with disabilities should be directed to:

Town Manager
7820 Broadway
Merrillville, IN 46410
219-769-5711 (office)
219-756-6170 (fax)

The Town of Merrillville 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, such as relocating items from locations that are open to the public but are not accessible to persons who use wheelchairs.

CHAPTER THREE: ADA COMPLIANCE COORDINATOR

3.1 DUTIES AND RESPONSIBILITIES

Responsibilities for the ADA compliance coordinator include conducting the self - evaluation and development of the transition plan, handling requests for auxiliary aids and services, providing information about accessible programs and services, and serving as a local resource to the town. The ADA coordinator also has the responsibility to work with the town council to ensure that new facilities or alterations to town facilities meet ADA requirements. The ADA coordinator is also responsible for receiving complaints from the public and working to resolve them.

3.2 APPOINTMENT OF ADA COMPLIANCE COORDINATOR

Merrillville utilizes professional local government management. The Town Manager is the liaison to the public for the Town Council and responsible for those day-to-day activities of the town. As such, the Town Manager shall serve as compliance coordinator.

CHAPTER FOUR: ADA GRIEVANCE PROCEDURE

4.1 GRIEVANCE PROCEDURES OVERVIEW AND INTENT

Towns with fifty (50) or more employees must have an ADA grievance procedure. A grievance procedure provides people who feel they have been discriminated against because of their disability, or others who feel they have been discriminated against because they have a friend or family member with a disability, with a formal process to make their complaint known to the town. This procedure encourages prompt and equitable resolution of the problem at the local level without having to force individuals to file a Federal complaint or a lawsuit.

4.2 MERRILLVILLE ADA GREIVANCE PROCEDURE

1. The complainant and/or his/her designee should submit the grievance as soon as possible, but no later than sixty (6o) calendar days after the alleged occurrence. Submit grievance to the Merrillville ADA Compliance Coordinator:

Town Manager
7820 Broadway
Email: bspires@merrillville.in.gov
Phone: (219)769-5711
Facsimile: (219)756-6170

2. The complaint should be presented to the Town Manager either in writing, in person, or in any other format for the town Manager to be able to document the incident(s) of alleged discrimination. The complaint should contain the following information about the alleged discrimination: full name, address, phone number of the complainant; location of the occurrence, date, and description of the alleged discrimination. The complaint will specify the Department involved and any employee and/or witness involved in the occurrence. Upon request, alternative means of filing complaints, such as personal interviews or a tape recording of the complaint, will be made for person with disabilities.

3. Within fifteen (15) calendar days after receipt of the complaint, the ADA compliance coordinator, or designee, will meet with the complainant to discuss the complaint and possible resolutions.

4. Within fifteen (15) calendar days after the meeting, the ADA compliance coordinator will respond in writing or in another form acceptable to the complainant. The response provides a final resolution of the complaint.

5. If the individual who has filed a grievance continues to have concerns after this process concludes, he or she is welcome to bring any unresolved concerns to the Town Council President of the Town of Merrillville.

6. All appeals received and responses given by the ADA compliance coordinator will be kept by the Town of Merrillville for at least five (5) years, as required by the Americans with Disabilities Act.

SECTION TWO

ADA Facilities Study

The goal of the Americans with Disabilities Act (ADA) is to afford every individual the opportunity to benefit from our country's businesses and services. The regulations require that architectural and communication barriers that are structural must be removed in public areas of existing facilities when their removal is readily achievable. In other words, easily accomplished and able to be carried out without much difficulty or expense. However; the regulations do not define exactly how much effort and expense are required for a facility to meet its obligation. This judgment must be made on a case-by-case basis, taking into consideration such factors as the size, type, and overall financial resources of the facility, and the nature and cost of the access improvements needed.

The Department of Justice (DOJ) recommends the development of an Implementation .Plan, specifying what improvements will be made to remove barriers and when each solution will be carried out: "...Such a plan... can serve as evidence of a good faith effort to comply. Full compliance with ADA Standards is required only for new construction and alterations. ADA Standards should be followed for all barrier removal unless doing so is not readily achievable. If complying with the ADA Standards is not readily achievable, modifications may be undertaken that do not fully comply, as long as they poses no health or safety risk.

The Town employed a private architect, Gerometta and Kinel Architects, Inc. to survey the existing condition of the Merrillville Town Hall, the Public Works Offices, and the Pruzin Center from the perspective of citizens with physical, visual, and cognitive disabilities. Areas with barriers were found and suggestions for their removal were presented. These deficiencies have all been corrected or alleviated.

The Parks Department has conducted a survey of its facilities with the following results: