

## **ADA Title II: State & Local Government**

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### ***What is the ADA?***

The Americans with Disabilities Act of 1990 (ADA) is a federal law that provides civil rights protections to individuals with disabilities similar to those provided to individuals on a basis of race, color, sex, national origin, age and religion. The ADA guarantees equal opportunity for individuals with disabilities in public accommodations (such as stores, restaurants and hotels), employment, state and local government services and transportation.

### ***What is Title II?***

The ADA has five sections or “titles” which each address different areas of the law. Title II of the ADA addresses state and local governments, such as the City of Inver Grove Heights. Title II protects qualified individuals with disabilities from discrimination on the basis of disability in accessing services, programs or activities.

### ***Who are Individuals with Disabilities?***

The ADA protects three categories of individuals from discrimination based on their disability:

- Individuals who have a physical or mental impairment that substantially limits one or more major life activities – including such conditions as blindness, deafness, cerebral palsy, cancer, heart disease, mental retardation, brain injury, emotional or mental illness, and specific learning disabilities.
- Individuals who have a record of a physical or mental impairment that substantially limited one or more of the individual’s major life activities, including people who have recovered from mental or emotional illness, drug addiction, heart disease, or cancer.
- Individuals who are regarded as having such a disability, regardless of whether they have the disability. Common examples are someone who is obese or someone who is scarred due to injury, where there is no functional impairment, but people may regard the person as having a disability.
- The ADA also protects people from discrimination based on their association with someone with a disability.

## Who are “Qualified” Individuals with Disabilities?

To be qualified, the individual must meet the essential eligibility requirement for receipt of services or participation in City programs, activities, or services with or without:

- Reasonable modifications to a public entity’s rules, policies, or practices;
- Removal of architectural, communication, or transportation barriers; or
- Provision of auxiliary aids and services.

Health and safety factors can be taken into account in determining who is qualified. An Individual who poses a “direct threat” to the health or safety of others is not qualified. A direct threat is a significant risk of substantial harm to the health or safety of others that cannot be eliminated or reduced to an acceptable level by accommodations or modifications to the program. This threat must be real and may not be based on generalizations or stereotypes about the effects of a particular disability.

## What are the Requirements of Title II?

**(1) Equality in participation and benefits:** Persons with disabilities must have an equally effective opportunity to participate in or benefit from City programs, services, and activities. (See the “Equally Effective Communication” section below.)

Examples:

- A deaf or hearing impaired individual does not experience equal opportunity to benefit from attending a public meeting unless s/he has access to what is said through an interpreter or by being provided with an assistive listening device or real-time captioning.
- A wheelchair user will not have an equal opportunity to participate in a program if applications must be filed on the second floor office of a building without an elevator.
- Use of printed information alone is not equally effective for those with low vision who cannot read regular written material.

**(2) Equally effective communications:** The City must ensure that its communications with people with disabilities are as effective as its communications with others. The City is required to provide appropriate auxiliary aids and services where necessary to ensure effective communication. Primary consideration must be given to the choice of auxiliary aid requested by the disabled person. Whatever accommodation is requested, the City must seek to provide it unless it is determined it has been proven to result in either a fundamental alteration in the program, or result in an undue financial or administrative burden.

Examples:

- Deaf or hearing impaired: qualified interpreters, note takers, real-time captioning, written materials, assistive listening systems, open or closed captioning, TTYs, and exchange of written notes (if the communication is not complex);
- Blind or low vision: qualified readers; audiotape, Braille, or large print materials, audio-descriptions of PowerPoint or video presentations; and assistance in locating items;
- Speech disability: TTYs computer terminals (take turns typing back and forth (if the communication is not complex)).

**(3) Reasonable accommodation when requested:** The City must reasonably modify its policies, practices, or procedures to ensure access and equal opportunity to individuals with disabilities.

Examples:

- A county general relief program provides emergency food, shelter, and cash grants to individuals who can demonstrate their eligibility. The application process, however, is extremely lengthy and complex. When many individuals with mental disabilities apply for benefits, they are unable to complete the application process successfully. As a result, they are effectively denied benefits to which they are otherwise entitled. In this case, the county has an obligation to make reasonable modifications to its application process to ensure that otherwise eligible individuals are not denied needed benefits. Modifications to the relief program might include simplifying the application process or providing applicants who have mental disabilities with individualized assistance to complete the process.
- A person is required to appear in traffic court for a morning appointment. However, because of the person's disability, or the medication that she is on to manage her disability, she is unable to make a morning appointment. The court would have an obligation to provide her with a court appointment that she would be able to attend.
- Other examples include allowing a person with a mobility impairment to sit down while "waiting in line," or simply being more patient with a person who takes longer to express himself or be understood, because of a disability.

**(4) Integrated setting ("mainstreaming"):** Individuals with disabilities cannot be excluded from regular programs or required to accept accommodations. However, the City may offer separate or special programs when necessary to provide people with disabilities an equal opportunity to benefit from the programs.

Examples:

- A recreation department sponsors a separate basketball team for wheelchair users.
- A museum offers a tour for blind people which permits them to touch and handle specific objects on a limited basis (but cannot exclude a blind person from the standard tour).

- (5) **Eligibility criteria and medical inquiries:** The City's eligibility criteria for participation in its programs, services, or activities must not screen out or tend to screen out people with disabilities, except in rare instances when such requirements are necessary. A program cannot request medical information unless it can demonstrate that each piece of information requested is needed to ensure safe participation on the program.
- (6) **Safety:** The City may impose legitimate safety requirements necessary for the safe operations of its services, programs, and activities. Safety requirements must be based on real risks, not on speculations, stereotypes, or generalizations about people with disabilities.
- (7) **No Surcharges:** Although providing accommodations may result in some additional cost, the City may not place a surcharge only on particular individuals with disabilities to cover expenses. For example there can be no extra program charge to a deaf person for interpreter services, or to groups of people with disabilities, but fees may be increased for all participants to cover the cost of those accommodations.
- (8) **Maintenance of accessible features:** The City must ensure that equipment and accessibility features of facilities are in good working order and accessible to individuals with disabilities. Isolated or temporary interruptions in access due to maintenance and repair of accessible features are acceptable.

### **What are the Limitations**

Among other limiting concepts contained in the ADA and its implementing regulations, the ADA places limitations on the City's duty to act in the manner set forth below.

- (1) **No fundamental alterations/undue financial and administrative burdens:** The City is not required to make a modification that would fundamentally alter the nature of its service, program or activity or result in undue financial or administrative burdens.
- (2) **No personal services and devices:** The City is not required to provide people with disabilities with personal or individually prescribed devices (wheelchairs, hearing aids or communication devices) or to provide services of personal nature (such as assistant in eating, toileting or dressing) unless providing such services are part of the services offered by the program.
- (3) **Barrier removal requirements for existing facilities:** Barrier removal need be accomplished only when it is "readily achievable" to do so.

### **What are the requirements for facility access?**

The City of Inver Grove Heights must ensure that all of its programs, activities, and services are accessible to individual with disabilities. One key aspect of that is access to City facilities.

- (1) **New Construction:** Any facility or part of a facility that is constructed by a state or local government entity after January 26, 1992, must be constructed in strict compliance with applicable federal and state building accessibility codes and regulations, so that it is readily accessible to and usable by people with disabilities.

**(2) Alteration and Renovation of Existing Construction:** In accordance with all applicable accessibility codes, when alterations to facilities made after January 26, 1992, affect the usability of a facility, the altered portion, as well as the path of travel between the altered portion and the accessible entrance (e.g., hallways, bathrooms, drinking fountains, and public phones), must be made accessible to people with disabilities.

**(3) Overall Program Access:** The City is not necessarily required to make every City facility constructed before January 26, 1992 fully compliant with current accessibility codes. However, all City services, programs, or activities must be accessible to and usable by people with disabilities when viewed in their entirety. This is called “overall program access.” Overall program access can be achieved a number of ways. Structural options include altering existing facilities or constructing new ones.

Nonstructural options include:

- Acquisition or redesign of equipment;
- Assignment of aides to assist individuals with disabilities; or
- Provision of services at alternate accessible sites.

The city must give priority to the option that results in the most integrated setting appropriate to encourage interaction among all users, including those with disabilities.

#### **What are the administrative requirements?**

(1) **Self-Evaluation:** The ADA requires the City to evaluate its services, policies and practices to determine barriers to accessibility and proceed to make necessary corrections to remove those barriers. The self-evaluation must be publicly available for three years following its completion.

(2) **ADA Transition Plan:** The City’s ADA Transition Plan identifies structural modifications to facilities that are necessary to achieve program accessibility. The transition plan contains the information set forth below. Public entities having responsibility over streets, roads or walkways must include a curb ramp installation schedule in their transition plan. The City’s plan includes the schedule.

- A list of physical barriers that limit access to services, programs and activities;
- A detailed outline of the methods to be utilized to remove these barriers and make facilities accessible and a schedule for doing so; and
- The name of the official responsible for the plan’s implementation.

(3) **Grievance Procedure:** The ADA requires the City to adopt a grievance procedure through which any person can file a complaint of disability discrimination with the City. The grievance procedure includes the following information:

- A description of how and where a complaint under Title II may be filed with the government entity;
- If a written complaint is required, a statement notifying potential complainants that alternative means of filing will be available to people with disabilities who require such an alternative;

- A description of the time frames and processes to be followed by the complainant and the government entity;
- Information on how to appeal an adverse decision; and
- A statement of how long complaint files will be retained.

(4) **Designation of City of Inver Grove Heights ADA Coordinator:** Under Title II of the ADA, all public entities must designate a person or persons who job it are to mediate complaints and to ensure compliance with the ADA and other disability right laws. The City of Inver Grove Heights has designated Eric Carlson, whose contact information is set forth below as the ADA Coordinator. The ADA Coordinator works to ensure all City Departments comply with the Cities ADA policies by: providing technical assistance to support departmental compliance with federal, state and local disability access laws; assisting departments in evaluating their facilities, programs, services, and activities to ensure provision of reasonable accommodations to people with disabilities; conducting training from City of Inver Grove Heights employees in disability awareness, disability etiquette, disability access laws, and reasonable accommodations; assisting members of the public gain access to City programs, services, activities and programs where requested and necessary; and facilitating the resolution of grievances filed against the City of Inver Grove Heights that allege noncompliance with disability access laws. The Human Resource Manager is responsible for overseeing compliance with ADA Compliance in all City employment practices.

**For additional information, please contact:**

Eric Carlson, ADA Coordinator  
Director of Parks and Recreation  
8055 Barbara Avenue  
IGH, MN 55077  
651-450-2587  
651-450-2490 (Fax)  
[ecarlson@invergroveheights.org](mailto:ecarlson@invergroveheights.org)

**City of Inver Grove Heights  
AMERICANS WITH DISABILITIES ACT GRIEVANCE FORM**

NAME: \_\_\_\_\_ TODAY'S DATE: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_ E-MAIL: \_\_\_\_\_  
PHONE NUMBER: \_\_\_\_\_ CELL PHONE: \_\_\_\_\_

Name, Address, and Telephone Number of Alternate Contact Person:  
\_\_\_\_\_  
\_\_\_\_\_

Department alleged to have denied access:  
\_\_\_\_\_  
\_\_\_\_\_

Location: \_\_\_\_\_

I was denied access on: \_\_\_\_\_ (date)

Disability Statement:  
My disability is:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This problem is : \_\_\_\_\_ ( temporary) \_\_\_\_\_ (permanent)

I am seeking access to the following City of Inver Grove Heights program or activity in which I haven't  
Been able to participate because I need an accommodation: \_\_\_\_\_

Proposed Access or Accommodation: \_\_\_\_\_  
\_\_\_\_\_

Incident or Barrier:  
Please describe the particular way in which you believe you have been denied the benefits of any  
services, program or activity or have otherwise been subjected to discrimination. Please specify dates,  
times and places of incidents and names and/or positions of agency employees involved; if any, as well  
as names, addresses and telephone numbers of any eye witnesses to any such incident. Attach  
additional pages if necessary. Include a description of the way in which you feel access may be  
facilitated to the benefits described above or the way in which accommodations could be provided to  
allow access.

Return this form to:

Eric Carlson, ADA Coordinator  
Director of Parks and Recreation  
8055 Barbara Avenue  
IGH, MN 55077  
651-450-2587  
651-450-2490 (Fax)  
[ecarlson@invergroveheights.org](mailto:ecarlson@invergroveheights.org)

