

Americans with Disabilities Act (ADA) Transition Plan

Marmet, WV

1 October 2020



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Introduction

Transition Plan Need and Purpose

The Americans with Disabilities Act (ADA) is a civil rights law prohibiting discrimination against individuals on the basis of disability. It was enacted on July 26, 1990, and was amended in 2008 with the ADA Amendments Act. The ADA consists of five titles outlining protections in the following areas:

- I. Employment
- II. State and local government services
- III. Public accommodations
- IV. Telecommunications
- V. Miscellaneous Provisions

Title II of ADA pertains to the programs, activities and services provided by public entities. The Town of Marmet must comply with this section of the Act, as it specifically applies to public service agencies. Title II of ADA states 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), Marmet has conducted a self-evaluation of its services, programs, activities, and facilities on public property and within public rights-of-way; and has developed this Transition Plan detailing the methods to be used to ensure compliance with ADA accessibility requirements.

ADA and its Relationship to Other Laws

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

The Architectural Barriers Act of 1968 is a Federal law that requires facilities designed, built, altered, or leased with Federal funds to be accessible.

Section 504 of the Rehabilitation Act of 1973 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.

Agency Requirements

Under Title II, the Town of Marmet 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 CFR 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 CFR 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 CFR 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 CFR 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 CFR Sec. 35.160(a)].
- Must designate at least one responsible employee to coordinate ADA compliance [28 CFR Sec. 35.107(a)]. This person is typically 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.

Designation of Responsibility

In accordance with 28 CFR 35.107(a), the Town has designated the following person to serve as ADA Coordinator, to oversee the town's policies, procedures, and to monitor the town's progress and manage review and updates of this document:

Robert Thompson

Town Councilman

On contingency that aforementioned individual is unable to perform these duties, the Town Council of Marmet shall select a new ADA Coordinator and the Town Clerk shall serve as the interim ADA Coordinator.

Ruth Meadows

Town Clerk

Contact information is provided in Appendix E.

Self-Evaluation

Overview

Under Title II of the ADA (28 CFR Sec. 35.105), public entities are required to perform a self-evaluation of their current services, policies, and practices with regard to accessibility. The goal of the self-evaluation is to verify that, in managing its programs and facilities, the agency is providing accessibility and not adversely affecting the full participation of individuals with disabilities.

The intent of the ADA self-evaluation is to review the agency's entire public program, including all facilities on public property and within public rights-of-way, in order to identify any obstacles or barriers to accessibility that need to be addressed. The general categories of items to be evaluated include:

- Communications, Information & Facility Signage.
- Building Facilities – these include offices, garages and other types of buildings.
- Pedestrian Facilities (Pedestrian Circulation Routes / Pedestrian Access Routes) – these include sidewalks, curb ramps, bicycle/pedestrian trails, traffic control signals and bus stops (and/or other transit facilities) that are located within the town's rights-of-way.

Public entities are required to provide an opportunity for interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the self-evaluation process by submitting comments [28 CFR Sec. 35.105(b)].

Process & Findings

In Fall of 2019, the Town of Marmet completed a self-evaluation of its services, programs, activities, and facilities on public property and within public rights-of-way with regard to accessibility. Marmet is continuing to evaluate, inventory, and improve upon the accessibility of its buildings and communications.

Communications, Information & Facility Signage

Title II of ADA includes the following requirements regarding Communications.

General (28 CFR Sec. 35.160)

- A public entity shall take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others.
- A public entity shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by a public entity.
- In determining what type of auxiliary aid and service is necessary, a public entity shall give primary consideration to the requests of the individual with disabilities.

Information and Signage (28 CFR Sec. 35.163)

- A public entity shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.
- A public entity shall provide signage at all inaccessible entrances to each of its facilities, directing users to an accessible entrance or to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each accessible entrance of a facility.

The Town is continuing to conduct a detailed evaluation of its communications, information, and facility signage regarding the ADA Title II requirements and is committed to making improvements based on these findings.

Building Facilities and Related Parking Lots/Facilities

The Town of Marmet is responsible for the following buildings, facilities, and associated lots:

- Marmet Town Hall
- Bill Wells Community Park
- Jerry Lee McGhee II Memorial Park
- George Buckley Recreation Center

The Marmet is continuing to conduct a detailed accessibility evaluation of each of its building facilities, and related parking lots/areas, based on the [ADA Checklist for Existing Facilities](#) publication. The Town will continue to make improvements based on these findings as funding becomes available.

Pedestrian Facilities / Public Rights-of-Way

As part of the self-evaluation process, Town of Marmet has conducted an inventory and evaluation of pedestrian facilities within its public rights-of-way, which consist of the following:

- 2 miles of sidewalks
- 1 crosswalk
- 2 bus stops (and/or other transit facilities)

A detailed evaluation of these facilities regarding accessibility compliance is provided in Appendix A. The Town seeks to secure financial resources through state and federal highways grant programs with the assistance of the Regional Intergovernmental Council in order to modernize these public rights-of-way.

Previous Practices

Since the adoption of the ADA, Marmet has striven to provide accessible pedestrian features as part of its capital improvement projects.

In recent years, the Town of Marmet has implemented the following accessibility improvements to its pedestrian facilities:

- *Installation of detectable warning pads at intersections.*

Methodology

The Town of Marmet will utilize two methods for upgrading pedestrian facilities to current ADA standards. The first and most comprehensive method is through 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 through specific sidewalk and ADA accessibility improvement projects that are identified individually. These projects will be incorporated into the Capital Improvement Program (CIP) on a case-by-case basis as determined by the Town's staff. The Town's CIP, which includes a detailed schedule and budget for specific improvements, is included in Appendix B.

Policy

The Town's goal is to continue to provide accessible pedestrian design features as part of its capital improvement projects. These standards and procedures will be kept up-to-date with nationwide and local best management practices.

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

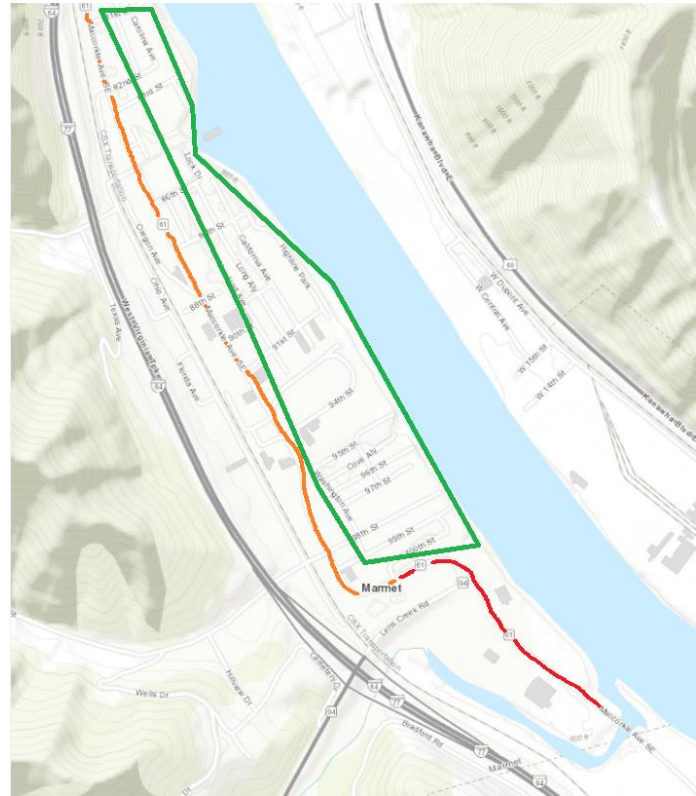
Maintenance of pedestrian facilities within the public rights-of-way will continue to follow the policies set forth by the Town.

Requests for accessibility improvements can be submitted to the ADA Title II Coordinator or Transition Plan Implementation Coordinator. Contact information is provided in Appendix E.

Priority Areas

The Town of Marmet 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 that have been identified in the self-evaluation are color coded as follows:

- **Priority Area #1:** Lens Creek Road, due to its ability to connect pedestrians to pharmaceutical and grocery services provided by Kroger. **
- **Priority Area #2:** WV – 61, MacCorkle Avenue, due to its connection with government services and recreational facilities.
- **Priority Area #3:** Residential neighborhoods, due to their ability to connect residents with main streets.



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. ** This area is outside of Marmet’s Town Limits but serves residents most immediate needs.

Public Outreach

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

Public outreach for preparation of this document has consisted of the following activities:

Public solicitation of comments and notice of public meetings via local newspapers.

Distribution of notice of public meetings via flyers.

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Distribution in intermittent mailboxes in Marmet.

1st presentation of draft plan at Town Hall.

Solicitation of comments via public meeting.

2nd presentation of draft plan at Town Hall.

Second solicitation of comments via public meeting.

Final approval at Town Hall.

Appendix C provides a summary of comments received and detailed information regarding the public outreach activities.

Public Notice of ADA Requirements and Grievance Procedure

Under the Americans with Disabilities Act, each agency is required to publish its responsibilities with regard to ADA compliance. A draft of this public notice is provided in Appendix D.

If users of the Town's facilities and services believe Marmet has not provided a reasonable accommodation, they have the right to file a grievance. In accordance with 28 CFR Sec. 35.107(b), the Town of Marmet has developed a grievance procedure for the purpose of the prompt and equitable resolution of citizens' complaints or concerns. This grievance procedure is outlined in Appendix D.

Progress Monitoring and Transition Plan Management

This Transition Plan is considered to be a living document that will continue to be updated as conditions within the Town evolve. The initial schedule is to formally review the complete document (main body and appendices) at least once per year, to identify any need for updates. Updates to the appendices or attachments may be made more frequently as needed. Any substantive updates to the main body of this document will include a public comment period to continue the Town's public outreach efforts.

The Town of Marmet recognizes that ADA compliance is an ongoing responsibility which will require monitoring to identify future accessibility issues that may be encountered. For example, facilities that currently meet ADA requirements could fall out of compliance in the future due to factors such as damage, disrepair, or changes within public rights-of-way that could create new accessibility obstacles. Therefore, the ADA Coordinator will establish an on-going monitoring/inspection program to ensure that facilities continue to comply with ADA

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requirements. Agency employees will also be encouraged to report any accessibility concerns or deficiencies that are identified.

Formal Adoption of ADA Transition Plan

This ADA Transition Plan is hereby adopted by the Town of Marmet effective 19 Oct. 2020.

Signed:

ADA Coordinator

Date

Mayor of Marmet

Date

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Appendix A – Self-Evaluation of the Pedestrian Facilities / Public Right-of-Way

The Town of Marmet has conducted a detailed accessibility evaluation of pedestrian facilities within the agency's public rights-of-way. The results are listed as follows.

Inventory & Findings

For the purpose of providing detailed, clear, and accurate information regarding the inventory and self-evaluation of pedestrian facilities in the public right of way, a Google Drive web folder/link was created that includes an excel document with GPS coordinates of each deficiency and associated Photo IDs. Furthermore, a photo inventory with each deficiency is in the folder. The folder can be accessed by the public by entering this URL into the browser: <https://drive.google.com/drive/folders/1FX02oBXbUTGRI3owloa0w9xagTEmlqE6?usp=sharing>

Finally, a map of all the deficiencies along WV-61 was published and can be accessed by entering the following URL into the browser: <https://arcg.is/1iLGaS>

Appendix B – Schedule and Sources of Funding

Overview

Based on the accessibility obstacles/issues identified through the self-evaluation process, and the need to implement improvements in order to comply with ADA accessibility standards, Marmet has prepared the following schedule. Sources of funding include the West Virginia Division of Highways Transportation Alternatives annual grant. Projects are funded on an 80/20 split fund. The Town will be responsible for the 20 percent match, for which additional funding will be sought.

<i>Scheduled Street and Utility Improvement Projects*</i> Last Updated: October 2020		
Project / Location	Estimated Budget	Schedule
Lens Creek Rd Pedestrian Safety Walkway Design**	50,000	2020 Grant Cycle (Eligible, applied)
WV – 61 ADA Compliance/Safety Improvements Design	50,000	2020 Grant Cycle (Eligible, applied)
Lens Creek Rd Pedestrian Safety Walkway **	500,000	2021 Grant Cycle
WV – 61 ADA Compliance/Safety Improvements	250,000	2021 Grant Cycle
Residential Streets ADA Compliance/Safety Improvements	200,000	2022 Grant Cycle
Parks and Recreation Smooth Surface Improvements	100,000	2022 Grant Cycle
Lens Creek Rd to Marmet Nursing Home Sidewalk Installation Design	50,000	2023 Grant Cycle
Lens Creek Rd to Marmet Nursing Home Sidewalk Installation	500,000	2024 Grant Cycle

*All pedestrian facilities impacted by these projects will be upgraded to current ADA accessibility standards.

** This area is outside of Marmet’s Town Limits but serves residents most immediate needs.

Appendix C – Public Outreach

Legal Advertisement published in Charleston Newspapers on September 15th, 2020.

Flyers posted near pedestrian access areas in Town of Marmet.

Flyers & copies of plan placed in intermittent mailboxes.

Meeting to be held with open comment period on September 21st, 2020

Meeting to be held with open comment period on October 19th, 2020.

Final adoption to occur on October 19th, 2020.

Appendix D – Public Notice of ADA Requirements and Grievance Procedure

As required by the Americans with Disabilities Act, the Town has posted the following notice outlining its responsibilities with regard to ADA compliance.

Public Notice

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990, Town of Marmet will not discriminate against qualified individuals on the basis of disability in Town's services, programs, or activities.

Employment: The Town of Marmet 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 Americans with Disabilities Act (ADA).

Effective Communication: The Town of Marmet 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's 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 Marmet will make all reasonable modifications to policies and procedures to ensure that people with disabilities have an equal opportunity to enjoy all Town's programs, services, and activities. For example, individuals with service animals are welcomed in Town 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 Town program, service or activity, should contact the office of the ADA Coordinator as soon as possible but no later than 48 hours before the scheduled event: See Appendix E.

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The ADA does not require the Marmet to take any action that would fundamentally alter the nature of its programs or services or impose an undue financial or administrative burden.

Marmet 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 retrieving items from locations that are open to the public but are not accessible to persons who use wheelchairs.

Sample Grievance Procedure (Source: www.ada.gov)

Town of Marmet Grievance Procedure under the Americans with Disabilities Act

This Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 ("ADA"). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the **Town of Marmet**. The Town's Personnel Policy governs employment-related complaints of disability discrimination.

The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities upon request.

The complaint should be submitted by the grievant and/or his/her designee as soon as possible but no later than 60 calendar days after the alleged violation to:

Robert Thompson
(See Appendix E for contact information)

Within 15 calendar days after receipt of the complaint, the ADA Coordinator will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, the ADA Coordinator's will respond in writing, and where appropriate, in a format accessible to the complainant, such as large print, Braille, or audio tape. The response will explain the position of the Town of Marmet and offer options for substantive resolution of the complaint.

If the response by the ADA Coordinator's does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision within 15 calendar days after receipt of the response to the Mayor of Marmet.

Within 15 calendar days after receipt of the appeal, the Mayor of Marmet will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the Mayor of Marmet will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

All written complaints received by ADA Coordinator or appeals to the Mayor of Marmet, and responses from these two offices will be retained by the Town for at least three years.

Appendix E – Contact Information

ADA Coordinator

Name: Robert Thompson

Job Title: Town Councilmen

Office Address: 9403 McCorkle Ave, Marmet, WV 25315

Phone: (304) 541-1294

E-mail: rdtinc@mail.com

Interim ADA Coordinator in Contingency

Name: Ruth Meadows

Job Title: Town Clerk

Office Address: 9403 McCorkle Ave, Marmet, WV 25315

Phone: 304-949-2241

Appendix G – Glossary of Terms

ABA: See Architectural Barriers Act.

ADA: See Americans with Disabilities Act.

ADA Transition Plan: Transportation system plan that identifies accessibility needs, the process to fully integrate accessibility improvements, and aims to ensure that all transportation facilities, services, programs, and activities are accessible to all individuals.

ADAAG: See Americans with Disabilities Act Accessibility Guidelines.

Accessible: A facility that provides access to people with disabilities using the design requirements of the ADA.

Accessible Pedestrian Signal (APS): A device that communicates information about the WALK phase in audible and vibrotactile formats.

Alteration: A change to a facility in the public right-of-way that affects or could affect access, circulation, or use. An alteration must not decrease or have the effect of decreasing the accessibility of a facility or an accessible connection to an adjacent building or site.

Americans with Disabilities Act (ADA): Civil rights legislation passed in 1990 and effective July 1992. The ADA sets design guidelines for accessibility to public facilities, including sidewalks and trails, by individuals with disabilities.

Americans with Disabilities Act Accessibility Guidelines (ADAAG): Contains scoping and technical requirements for accessibility to buildings and public facilities by individuals with disabilities under the Americans with Disabilities Act (ADA) of 1990.

APS: See Accessible Pedestrian Signal.

Architectural Barriers Act (ABA): 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.

Capital Improvement Program (CIP): The CIP for a public agency typically includes an annual capital budget and a five-year plan for funding the new construction and reconstruction projects on the agency's transportation system.

Detectable Warning: A surface feature of truncated domes, built in or applied to the walking surface to indicate an upcoming change from pedestrian to vehicular way.

DOJ: See United States Department of Justice.

Federal Highway Administration (FHWA): A branch of the U.S. Department of Transportation that administers the federal-aid Highway Program, providing financial assistance to states to construct and improve highways, urban and rural roads, and bridges.

FHWA: See Federal Highway Administration.

Pedestrian Access Route (PAR): A continuous and unobstructed walkway within a pedestrian circulation path that provides accessibility.

Pedestrian Circulation Route (PCR): A prepared exterior or interior way of passage provided for pedestrian travel.

PROWAG: An acronym for the *Guidelines for Accessible Public Rights-of-Way* issued in 2005 by the U.S. Access Board. This guidance addresses roadway design practices, slope and terrain related to pedestrian access to walkways and streets, including crosswalks, curb ramps, street furnishings, pedestrian signals, parking and other components of public rights-of-way.

Right-of-Way: A general term denoting land, property, or interest therein, usually in a strip, acquired for the network of streets, sidewalks and trails creating public pedestrian access within a public entity's jurisdictional limits.

Section 504: The section of the Rehabilitation Act that prohibits discrimination by any program or activity conducted by the federal government.

Uniform Federal Accessibility Standards (UFAS): Accessibility standards that all federal agencies are required to meet; includes scoping and technical specifications.

United States Access Board: An independent federal agency that develops and maintains design criteria for buildings and other improvements, transit vehicles, telecommunications equipment, and electronic and information technology. It also enforces accessibility standards that cover federally-funded facilities.

United States Department of Justice: Federal executive department responsible for enforcement of the law and administration of justice (also referred to as the Justice Department or DOJ).