



Pennington County Highway Department ADA Transition Plan

December 14, 2021

ADA Transition Plan Revision Log

Date		
Month/day/year	Section Revised	Summary of Revisions
12/14/2021		Creation of Policy

Pennington County Highway Department

ADA Transition Plan

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, Pennington County Highway Department 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. Pennington County Highway Department 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.

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 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 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, Pennington County Highway Department 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 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.

This document has been created to specifically cover accessibility within the public rights of way and does not include information on County programs, practices, or building facilities not related to public rights of way.

Self-Evaluation

Overview

The Pennington County Highway Department is required, under Title II of the Americans with Disabilities Act (ADA) and 28CFR35.105, to perform a self-evaluation of its current transportation infrastructure policies, practices, and programs. This self-evaluation will identify what policies and practices impact accessibility and examine how the County implements these policies. The goal of the self-evaluation is to verify that, in implementing the County's policies and practices, the department is providing accessibility and not adversely affecting the full participation of individuals with disabilities.

The self-evaluation also examines the condition of the County'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 County rights of way. 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 November 2021 Pennington County Highway Department conducted an inventory of pedestrian facilities within its public right of way consisting of the evaluation of the following facilities:

- 0.40 miles of sidewalks
- 40 curb ramps
- 0.84 miles of trails

A detailed evaluation on how these facilities relate to ADA standards is found in Appendix A and will be updated periodically.

Policies and Practices

Previous Practices

Since the adoption of the ADA, Pennington County Highway Department has striven to provide accessible pedestrian features as part of the County's capital improvement projects. As additional information was made available as to the methods of providing accessible pedestrian features, the County updated their procedures to accommodate these methods.

Policy

Pennington County Highway Department's goal is to continue to provide accessible pedestrian design features as part of the County capital improvement projects. The County has established ADA design standards and procedures as listed in Appendix F. These standards and procedures will be kept up to date with nationwide and local best management practices.

The County 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 County will coordinate with external agencies to ensure that all new or altered pedestrian facilities within the County 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 Pennington County Highway Department. Maintenance projects are prioritized based on benefit, cost and budget available.

Requests for accessibility improvements can be submitted to the County Engineer. Contact information for County Engineer is located in Appendix E.

Improvement Schedule

Priority Areas

Pennington County Highway Department 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 as identified in the 2015 self-evaluation are as follows:

- Within the City of Goodridge
- CSAH 8 from TH #32 to TH #59

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.

External Agency Coordination

Many other agencies are responsible for pedestrian facilities within the jurisdiction of Pennington County. The County will coordinate with those agencies to track and assist in the facilitation of the elimination of accessibility barriers along their routes.

Schedule

Pennington County Highway Department currently meets ADA requirements. All future projects will implement ADA requirements for improving the accessibility of its pedestrian facilities within the County jurisdiction.

ADA Coordinator

In accordance with 28 CFR 35.107(a), the Pennington County Highway Department has identified an ADA Title II Coordinator to oversee the County policies and procedures. Contact information for this individual is located in Appendix E.

Implementation Schedule

Methodology

Pennington County Highway Department 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. All future projects will implement ADA requirements within the plans. Contact the Pennington County Highway Department for more information regarding a specific project.

Public Outreach

Pennington County Highway Department recognizes that public participation is an important component in the development of this document. The County will consider and respond to all accessibility improvement requests. All accessibility improvements that have been deemed reasonable will be scheduled consistent with transportation priorities. Requests for accessibility improvements can be submitted to the County Engineer.

Grievance Procedure

If users of Pennington County Highway Department facilities and services believe the County has not provided reasonable accommodation, they have the right to file a grievance.

In accordance with 28 CFR 35.107(b), the County 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 County evolve.

The appendices in this document will be updated periodically, while the main body of the document will be updated when major revisions are required. With each main body update, a public comment period will be established to continue the public outreach.

Appendices

- A. Self-Evaluation Results
- B. Schedule / Budget Information
- C. Public Outreach
- D. Grievance Procedure
- E. Contact Information
- F. Agency ADA Design Standards and Procedures
- G. Glossary of Terms

Appendix A - Self-Evaluation Results

This initial self-evaluation of pedestrian facilities in 2015 yielded the following results:

- 100% of sidewalks met accessibility criteria
- 100% of curb ramps met accessibility criteria
- 100% of intersections with sidewalks has curb ramps
- 100% of trails meet accessibility criteria
- 0 traffic control signals
- 0 bus stops

Pennington County currently meets ADA requirements.

There are no designated bus stops along County roads.

There are no traffic control signals.

Appendix B - Schedule / Budget Information

Cost Information

Unit Prices

Construction costs for upgrading facilities can vary depending on each individual improvement and conditions of each site. Costs can also vary on the type and size of project the improvements are associated with. Listed below are representative 2011 costs for some typical accessibility improvements based on if the improvements are included as part of a retrofit type project, or as part of a larger comprehensive capital improvement project.

Intersection corner ADA improvement retrofit: +/- \$5,000 per corner

Intersection corner ADA improvement as part of adjacent capital project: +/- \$2,500 per corner

Traffic control signal APS upgrade retrofit: +/- \$17,000

Traffic control signal APS upgrade as part of full traffic control signal installation: +/- \$12,000

Sidewalk/ Trail ADA improvement retrofit: +/- \$7.00 per SF

Sidewalk/ Trail ADA improvement as part of adjacent capital project: +/- \$5.50 per SF

Bus Stop ADA improvement retrofit: +/- \$600 per stop

Bus Stop ADA improvement as part of adjacent capital project: +/- \$450 per stop

Priority Areas

Based on the results of the self-evaluation, Pennington County meets ADA requirements.

Entire Jurisdiction

Based on the results of the self-evaluation, the estimate costs associated with providing ADA accessibility within the entire jurisdiction will be calculated into future projects.

Appendix C - Public Outreach

Requests for accessibility improvements can be submitted to the ADA Coordinator or the County Engineer. Contact information can be found in Appendix E.

Appendix D - Grievance Procedure

As part of the ADA requirements the Pennington County Highway Department has posted the following notice outlining its ADA requirements:

Public Notice

In accordance with the requirements of title II of the Americans with Disabilities Act of 1990, the Pennington County Highway Department will not discriminate against qualified individuals with disabilities on the basis of disability in Pennington County services, programs, or activities.

Employment: Pennington County 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: Pennington County will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in Pennington County 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: Pennington County will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all Pennington County programs, services, and activities. For example, individuals with service animals are welcomed in Pennington County 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 Pennington County program, service, or activity, should contact the Pennington County Highway Department as soon as possible but no later than 48 hours before the scheduled event.

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

Pennington County 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.

Pennington County
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 Pennington County Highway Department. The County'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 their designee as soon as possible but no later than 60 calendar days after the alleged violation to the ADA Coordinator. Contact information can be found in Appendix E of this document.

Within 15 calendar days after receipt of the complaint, *the ADA Coordinator or their* designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, *the ADA Coordinator or their* designee 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 County and offer options for substantive resolution of the complaint.

If the response by *the ADA Coordinator or their* designee does not satisfactorily resolve the issue, the complainant and/or their designee may appeal the decision within 30 calendar days after receipt of the response to the County Administrator or designee.

Within 30 calendar days after receipt of the appeal, the County Administrator or *their* designee will meet with the complainant to discuss the complaint and possible resolutions. Within 30 calendar days after the meeting, the County Administrator or their designee 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 *the ADA Coordinator or their* designee, appeals to the County Administrator or their designee, and responses from these two offices will be retained by the County in accordance with state and federal law.

Pennington County Grievance Procedure

Those wishing to file a formal written grievance with Pennington County may do so by one of the following methods:

Internet

Visit the Pennington County website <http://co.pennington.mn.us/> and click the "ADA" link to the ADA Grievance Form. A copy of The ADA Grievance Form is included in this Appendix.

Telephone

Contact the pertinent County staff person listed in the **Contact Information** section of Appendix E to submit an oral grievance. The staff person will prepare and submit the grievance form on behalf of the person filing the grievance.

Paper Submittal

Contact the pertinent County staff person listed in the **Contact Information** section of Appendix E to request a paper copy of the County's grievance form, complete the form, and submit it to the Responsible Party. A staff person will submit the grievance on behalf of the person filing the grievance.

The ADA Grievance Form will ask for the following information:

The **name, address, telephone number, and email address** for the person filing the grievance

The **name, address, telephone number, and email address** for the person alleging an ADA violation (if different than the person filing the grievance)

A **description and location of the alleged violation and the nature of a remedy sought**, if known by the complainant.

If the complainant has filed the same complaint or grievance with the United States Department of Justice (DOJ), another federal or state civil rights agency, a court, or others, the **name of the agency or court where the complainant filed it and the filing date**.

If the grievance filed does not concern a Pennington County facility, the County will work with the complainant to contact the agency that has jurisdiction.

Within 60 calendar days of receipt, a Pennington County staff person will conduct an investigation necessary to determine the validity of the alleged violation. As a part of the investigation, the staff person would conduct an engineering study to help determine the County's response. The staff person will take advantage of department resources and use

engineering judgment, data collected, and any information submitted by the resident to develop a conclusion. A staff person will be available to meet with the complainant to discuss the matter as a part of the investigation and resolution of the matter. The County will document each resolution of a filed grievance and retain such documentation in the department's ADA Grievance File in accordance with state and federal law.

The County will consider all specific grievances within its particular context or setting. Furthermore, the County will consider many varying circumstances including: 1) the nature of the access to services, programs, or facilities at issue; 2) the specific nature of the disability; 3) the essential eligibility requirements for participation; 4) the health and safety of others; and 5) the degree to which an accommodation would constitute a fundamental alteration to the program, service, or facility, or cause an undue hardship to Pennington County.

Accordingly, the resolution by Pennington County of any one grievance does not constitute a precedent upon which the County is bound or upon which other complaining parties may rely.

File Maintenance

The County shall maintain ADA grievance files in accordance with state and federal law.

Complaints of Title II violations may also be filed with the DOJ within 180 days of the date of discrimination. In certain situations, cases may be referred to a mediation program sponsored by the Department of Justice (DOJ). The DOJ may bring a lawsuit where it has investigated a matter and has been unable to resolve violations.

For more information, contact:

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Disability Rights Section - NYAV
Washington, D.C. 20530
www.ada.gov
(800) 514-0301 (voice - toll free)
(800) 514-0383 (TTY)

Title II may also be enforced through private lawsuits in Federal court. It is not necessary to file a complaint with the DOJ or any other Federal agency, or to receive a "right-to-sue" letter, before going to court.



Pennington County Grievance Form

Complainant Name:

Address:

City, State, Zip:

Telephone:

Email:

Person discriminated against (if other than complainant):

Address:

City, State, Zip:

Telephone:

Email:

Government, or organization, or institution which you believe has discriminated:

Name:

Address:

City, State, Zip:

Telephone:

Date issue was discovered/when did the problem occur?

Describe the issue in detail and location (add additional pages if necessary):

Have prior efforts been made to resolve this complaint through the Pennington County grievance procedure?

Yes___ No___

If yes, what is the status of the grievance?

Has the complaint been filed with another bureau of the Department of Justice or any other Federal, State, or local civil rights agency or court?

Yes___ No___

If yes, please provide agency/court, contact person name, address, city, state, zip, telephone and date filed:

Do you intend to file with another agency or court?
Yes____ No____

If yes, please provide agency/court, address, city, state, zip, and telephone

Additional comments:

Signature: _____

Date:

Appendix E - Contact Information

ADA Title II Coordinator

Name: Kevin Erickson, County Coordinator
Address: Pennington County Courthouse
101 North Main
PO Box 616
Thief River Falls, MN 56701
Phone: (218) 683-7000
Fax: (218) 683-7026
E-mail: kwerickson@co.pennington.mn.us

Pennington County Engineer

Name: Michael Flaagan, Pennington County Engineer
Address: 250 125th Ave NE
Thief River Falls, MN 56701
Phone: (218) 683-7017
Fax: (218) 683-7016
E-mail: mlflaagan@co.pennington.mn.us

Appendix F - Agency ADA Design Standards and Procedures

Design Procedures

Intersection Corners

Curb ramps or blended transitions will attempt to be constructed or upgraded to achieve compliance within all capital improvement projects. There may be limitations which make it technically infeasible for an intersection corner to achieve full accessibility within the scope of any project. Those limitations will be noted and those intersection corners will remain on the transition plan. As future projects or opportunities arise, those intersection corners shall continue to be incorporated into future work. Regardless on if full compliance can be achieved or not, each intersection corner shall be made as compliant as possible in accordance with the judgment of Pennington County staff.

Sidewalks / Trails

Sidewalks and trails will attempt to be constructed or upgraded to achieve compliance within all capital improvement projects. There may be limitations which make it technically infeasible for segments of sidewalks or trails to achieve full accessibility within the scope of any project. Those limitations will be noted and those segments will remain on the transition plan. As future projects or opportunities arise, those segments shall continue to be incorporated into future work. Regardless on if full compliance can be achieved or not, every sidewalk or trail shall be made as compliant as possible in accordance with the judgment of Pennington County staff.

Traffic Control Signals

Traffic control signals will attempt to be constructed or upgraded to achieve compliance within all capital improvement projects. There may be limitations which make it technically infeasible for individual traffic control signal locations to achieve full accessibility within the scope of any project. Those limitations will be noted and those locations will remain on the transition plan. As future projects or opportunities arise, those locations shall continue to be incorporated into future work. Regardless on if full compliance can be achieved or not, each traffic signal control location shall be made as compliant as possible in accordance with the judgment of Pennington County staff.

Bus Stops

Bus stops will attempt to be constructed or upgraded to achieve compliance within all capital improvement projects. There may be limitations which make it technically infeasible for individual bus stop locations to achieve full accessibility within the scope of any project. Those limitations will be noted and those locations will remain on the transition plan. As future projects or opportunities arise, those locations shall continue to be incorporated into future

work. Regardless on if full compliance can be achieved or not, each bus stop location shall be made as compliant as possible in accordance with the judgment of Pennington County staff.

Other Transit Facilities

The Pennington County Highway Department will work with transit providers to ensure that those facilities meet all appropriate accessibility standards.

Other policies, practices and program

Policies, practices and programs not identified in this document will follow the applicable ADA standards.

Design Standards

The Pennington County Highway Department has PROWAG, as adopted by the Minnesota Department of Transportation (MnDOT), as its design standard. A copy of this document is included in the following pages of this appendix.

Appendix G - Glossary of Terms

ABA: See Architectural Barriers Act.

ADA: See Americans with Disabilities Act.

ADA Transition Plan: Mn/DOT's transportation system plan that identifies accessibility needs, the process to fully integrate accessibility improvements into the Statewide Transportation Improvement Program (STIP), and ensures 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): The Americans with Disabilities Act; 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 the Transportation Department includes an annual capital budget and a five-year plan for funding the new construction and reconstruction projects on the county'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 US 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 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 (DOJ): The United States Department of Justice (often referred to as the Justice Department or DOJ), is the United States federal executive department responsible for the enforcement of the law and administration of justice.