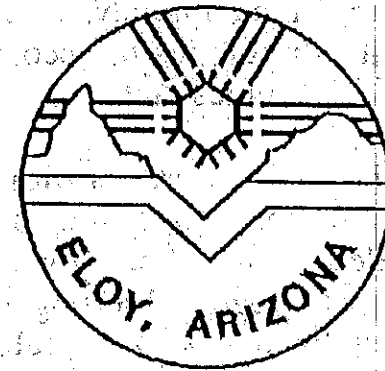


The City of Eloy presents this  
Americans with Disabilities Handbook as a service.  
This ADA Handbook is not intended to serve as an  
interpretation of law or regulations,  
but rather to serve as  
an informational guide to  
elected officials, city staff  
and residents of the  
City of Eloy.



Prepared for  
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The City of Eloy  
ADA Handbook

**THE CITY OF ELOY**  
**AMERICAN WITH DISABILITIES ACT**  
**PUBLIC ACCOMMODATIONS POLICY**

It is the policy of the City of Eloy to ensure that all of our services, facilities, privileges, advantages, and accommodations are meaningfully accessible to qualified persons with disabilities in accordance with the Americans with Disabilities Act.

The City of Eloy will provide persons with disabilities an equal opportunity to participate in or benefit from all services as afforded to all other individuals. This will be done in the most integrated setting appropriate to the needs of the individual with a disability. Only where it is absolutely necessary will the City of Eloy provide benefits, services, etc., separately to persons with disabilities. The City of Eloy will not use standards, criteria or methods of administration or operations that screen out, exclude or discriminate based on disability.

The City of Eloy is committed to making reasonable modifications in its policies, practices and procedures to afford equal opportunity to the facilities and services offered. Where it is readily achievable, architectural and communication barriers will be removed. New structures and alterations will comply fully with all accessibility requirements. Auxiliary aids

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and services, as appropriate to the individual and required by the Americans with Disabilities Act, will be provided at no cost by the City of Eloy.

The City of Eloy is also committed to not discriminating against any person who is related to or associated with a person with a disability. The City of Eloy will follow any state or local law that provides individuals with disabilities greater protection than the Americans with Disabilities Act.

This policy applies to all services, privileges, advantages or accommodations offered by the City of Eloy either directly or through contractual, licensing or other arrangements.

This policy is neither exhaustive nor exclusive. The City of Eloy will take all other actions necessary to ensure equal opportunity for persons with disabilities in accordance with the Americans with Disabilities Act and all other applicable federal, state and local laws.

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The City of Eloy as a "public entity" and recipient of federal grant monies is covered by both Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act. The ADA also imposes broad requirements on the private sector. This handbook is designed to provide information only on those portions of the act affecting the City of Eloy.

### Glossary of Terms

Accessible - anything that is approachable, functional and can be used by people with disabilities, independently, safely and with dignity.

Accessible Route - continuous unobstructed path connecting all accessible elements and spaces of a building or facility.

Auxiliary Aids - devices or services that compensate for a disabling condition. Examples include telecommunication devices for the deaf (TDDs), qualified readers, taped texts, adaptive equipment, etc.

Barrier-Free Environment - facilities which contain no obstacles to accessibility and usability by disabled people.

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Equal Opportunity - elimination of unfair and unnecessary discrimination.

Facility - all or any portion of buildings, structures, site improvements, complexes, equipment, roads, walks, passageways, parking lots, or other real or personal property located on a site.

Individual with a Disability - any person who: (1) has a physical or mental impairment that substantially limits one or more major life activities; (2) has a record of such impairment; (3) is regarded as having such an impairment.

Most Integrated Setting Appropriate - providing for people with disabilities to interact with non-disabled people to the maximum extent feasible.

Non-Discrimination - mandate providing that no otherwise qualified individual can, solely by reason of his or her disability, be subject to discrimination by requiring accessibility, equal opportunity and full participation in employment, public facilities and services.

Physical or Mental Impairment - (1) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological {brain/nerve},

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musculoskeletal {muscles/bones}, special sense organs, respiration {breathing}, speech organs, cardiovascular {heart}, reproductive, digestive, genitourinary {genital/urinary organs}, hemic {blood} and lymphatic {lymph}, skin and endocrine {gland or organ producing secretions} ; or (2) any mental or physical disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Public Accommodations - Privately or publicly owned places which are open to the public that are mandated to be accessible to people with disabilities.

Public Use - interior or exterior rooms or spaces that are made available to the general public. Public use may be provided at a building or facility that is privately or publicly owned.

Qualified Individual with a Disability - in employment, a disabled person, who, with or without reasonable accommodations, can perform the essential function of the job in question. In public services, an individual who, with or without reasonable modifications to rules, policies or practices, the removal or architectural, communication or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or participation in the program or activity.

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Readily Achievable - easily accomplishable and able to be carried out without much difficulty or expense.

Reasonable Accommodation - the principle by which employment and public accommodations are made accessible to qualified disabled people, unless it can be demonstrated that a particular adjustment or alteration would be unreasonable or impose an undue hardship. A reasonable accommodation must be an effective accommodation. It must provide an opportunity for a person with a disability to achieve the same level of performance or to enjoy benefits or privileges equal to those of an average similarly-situated, non-disabled person. The accommodation does not have to ensue equal results or provide exactly the same benefits or privileges.

Substance Abuse - includes alcoholism and illegal drug abuse.

TDD {Telecommunication Device for the Deaf}- a machine which uses interactive graphic {typed} communications in the transmission of coded signals across the standard telephone network. Sometimes this machine is also referred to as a TTY {teletypewriter} or text telephone.

Telecommunications Relay System - telephone transmission service that enables an individual with a

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hearing or speech impairment to communicate by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of someone who does not have a hearing or speech impairment.

Undue Hardship - the point at which an entity is no longer required to make accommodation since the action involved would require significant difficulty or expense. The factors to be considered include, but are not limited to, the nature and cost involved in the accommodation, overall financial resources of the entity or facilities involved, number of people utilizing the facility, the type of operations/functions of the facility.

Uniform Federal Accessibility Standards (UFAS) - the standards the federal government uses to meet accessibility requirements for the design, construction and alteration of buildings.



## Overview of the ADA

The Americans with Disabilities Act (ADA), the first comprehensive federal civil rights protection for people with disabilities, was signed into law on July 26, 1990. The ADA is based on existing federal statutes but does not supersede these or the state laws. The ADA is not an affirmative action statute, rather it seeks to dispel stereotypes and assumptions about disabilities and to assure equality of opportunity, full participation, independent living and economic self-sufficiency for disabled people.

The Rehabilitation Act of 1973, as amended, required federal agencies and their grantees to implement affirmative action programs for the hiring, placement and advancement of disabled federal employees. The act established minimum guidelines and requirements for accessible design, and required federal contractors that receive awards of more than \$2,500 to implement an affirmative action plan for the hiring and advancement of disabled workers. In addition, Section 504 of the Rehabilitation Act requires federal grantees to make their programs and activities accessible to people with disabilities.

### Introduction

The ADA has five titles covering employment, public services and transportation, public accommodations, telecommunications, and miscellaneous provisions.

## Title I - Employment

The ADA prohibits employers with 15 or more employees from discriminating against qualified job applicants and workers who are or become disabled. The law covers all aspects of employment, including the application process and hiring, on-the-job training, advancement and wages, benefits, and employer-sponsored social activities. Public entities are required not to discriminate no matter the number of employees.

## Title II - Public Services and Transportation

State and local governments are prohibited from discriminating against disabled people in their programs and activities. The law requires bus and rail transportation to be accessible to disabled passengers. Air transportation is not covered by the ADA.

## Title III - Public Accommodations

Privately operated public accommodations are prohibited from denying goods, programs and services to people based on their disabilities. New and renovated commercial buildings must be accessible. Existing public accommodations must remove architectural and communications barriers where removal is "readily achievable." Private transportation services are required to make their vehicles and facilities accessible.

## Title IV - Telecommunications

Telephone companies are required to provide continuous voice transmission relay services which allow the hearing and speech-impaired to communicate over the phone through telecommunications devices for the deaf (TDDs).

## Title V - Miscellaneous Provisions

The ADA provides for issuance of accessibility standards by the Architectural and Transportation Barriers Compliance Board and requires federal agencies to provide technical assistance concerning the act. Title V addresses many issues including that other federal, state and local laws providing equal or greater protection to individuals with disabilities which are not superseded or limited by the ADA and allows for award of attorney's fees to prevailing parties in suits filed under the ADA.

## Training and Enforcement

Various departments of the federal government have published regulations concerning implementation of the ADA and provide training guides to help covered entities understand their responsibilities under the ADA. Five federal agencies have enforcement and regulator responsibilities under the ADA including the Department of Justice, Department of Transportation, Equal Employment Opportunity Commission, Architectural and Transportation Barriers Compliance

Board and the Federal Communications Commission.

### Effective Dates

Some aspects of the ADA became effective as early as August of 1990 while other provisions do not become effective until July 1994. The effective dates for compliance of the Titles affecting the City of Eloy were on or before January 1992. Although, ideally, all covered entities should be compliant, the far reaching scope of the legislation and the potential impact of providing full accessibility immediately could prove to be an "undue hardship".

The act and the federal regulations provide for gradual implementation requiring that covered entities determine the steps necessary to comply by preparing a self-assessment, and identify a timeframe for such compliance by preparing a transition plan.

The ADA required that all city programs be accessible beginning January 26, 1992. Structural changes in buildings, curb cuts, accessible paths, etc., which are identified in the transition plan, are to be made by January 26, 1995, providing that such changes do not cause undue hardship. Thus far, the regulatory agencies have not required full compliance, rather demonstration of efforts to comply.

The requirements of the ADA are not static. On a regular basis, new regulations and court rulings are expanding and providing new interpretations of the

law. Compliance will be an ongoing process requiring diligence by the city to remain informed on changes and additional regulations as it strives for compliance with the ADA.

**Who is Protected by the ADA?**

By definition, the ADA identifies a disabled individual as a person who has a physical or mental impairment that substantially limits one or more major life activities; who has a record of such an impairment; or, who may be regarded as having such an impairment.

Following are some examples of the key phrases in the definition:

Physical Impairment	Mental Impairment
Physiological disorder, contagious disease, cosmetic disfigurement or anatomical loss in one or more systems.	Mental or psychological disorder including but not limited to:
Neurological, Musculoskeletal, Respiration, Cardiovascular, Reproductive, Digestive, Genito-urinary, Hemic, Lymphatic, Skin, Endocrine.	Mental retardation, Organic brain syndrome, Emotional or mental illness, Specific learning disabilities.

### Major Life Activities include:

Self-care, Manual tasks, Walking, Seeing, Hearing, Speaking, Breathing, Learning and Working. Trivial or minor impairments that do not affect major life activities do not qualify an individual as disabled.

### Record of Impairment Includes

A history of impairment or a record of having been misclassified as having an impairment.

### Regarded as Impaired Includes

An impairment not limiting a major life activity, but treated as disabled or having no impairment but treated as disabled

### Conditions Specifically Excluded from the Definition of Disability

Homosexuality, bisexuality, transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorder not resulting from physical impairments, or other sexual behavior disorders.

Compulsive gambling, kleptomania or pyromania;

Psychoactive substance use disorders, resulting from current illegal use of drugs.

## Employment

Titles I and II of the ADA subjects state and local governmental entities to equal employment opportunity mandates, regardless of size or the number of employees. The law extends to the full range of employment activities, including job application and recruiting procedures; hiring and discharge; employee compensation and fringe benefits; job assignment; advancement; annual and sick leave as well as other types of leave; job training; social and recreational activities; and other terms, conditions and privileges of employment.

The City of Eloy is required to make employment decisions based on the facts applicable to individual applicants or employees, and not on the basis of presumptions as to what a class of individual with disabilities can or cannot do. The ADA was designed to assure that persons with disabilities are not excluded from job opportunities unless they are actually unable to do the job; however, even if a person is qualified to perform a job, the city may deny employment if such employment of a disabled person would pose a direct threat to the health or safety of the individual or others based on a case-by-case review demonstrating that the circumstances pose a significant risk.

The city must ensure that all processes involved in employment provide equal opportunities to qualified handicapped individuals including, but not limited to, reasonable accommodations to, recruiting, application,

interview, testing, promotion, training, insurance and benefits, modifications to work environments and schedules, and social or recreational activities which are offered to all employees.

Notices concerning employee rights in the ADA are to be posted in accessible formats in locations that are accessible to applicants and employees.

Program Accessibility

Section 504 of the Rehabilitation Act required that all services, programs and activities must be accessible to qualified individuals with a disability if provided by a public entity receiving federal funds. The Title II of the ADA mandates accessibility to all jurisdictions, regardless of whether they receive federal funds. The city, as a public entity, must ensure that discrimination on the basis of disability does not exist in any programs, activities or services provided or made available, even if the activities are carried out by a contractor.

Non-discrimination under the ADA means not merely equal treatment but rather equal opportunity. Aids, services or benefits provided to disabled people must be equally effective in achieving the intended results of the program or activity. Different or separate treatment is permitted only where it is necessary to ensure equal opportunity and truly effective benefits and services. All services, programs and activities must be provided in the most integrated setting appropriate



to the needs of disabled individuals.

Public entities are prohibited from using criteria or methods of administration that have the effect of discriminating on the basis of disability or that perpetuate such discriminatory action. The city, likewise, may not impose or apply eligibility criteria that screen out or tends to screen out an individual with a disability.

The city may not aid or perpetuate disability discrimination by funding, contracting with, or providing other assistance to organizations that discriminate on the basis of disability. Additionally, the city is prohibited from awarding procurement contracts based on criteria that subject disabled individuals to discrimination.

### Notices

Public entities are required by the ADA to notify applicants, participants, beneficiaries and other interested parties of their rights and protections afforded by the ADA. This handbook is one of the methods which the City of Eloy utilizes to ensure that individuals with disabilities are well informed of their rights.

### ADA Coordinator

The City of Eloy, as required by Section 504 and the ADA, has designated an employee to serve as ADA

Coordinator to assist the city in its efforts to comply with the law, receive requests for accommodation and investigate any complaints of ADA-related discrimination. The coordinator will serve as the contact point for employees and residents to provide information and training concerning city responsibilities under the acts.

### **Grievance Procedures**

The City of Eloy has adopted an internal grievance procedure to guide staff in attempts to investigate and resolve any complaints concerning possible Section 504 or ADA violations. The city is committed to prompt and equitable resolution of complaints, however, a complainant may pursue other remedies as allowed by the acts at any time as use of the grievance procedure is not a prerequisite of other such remedies.

### **Communications**

The city has an obligation to ensure accessible communications with disabled individuals so long as such accessibility does not fundamentally alter programs and services or create undue financial and administrative burdens. Examples of accessibility aids to communications include, but are not limited to, assistive listening devices, large print materials, interpreters for the disabled, readers, and signage.

## Requests for Accommodation

Qualified disabled persons may request appropriate auxiliary aids and services as needed to remove communication and architectural barriers in order to make city programs and services more accessible by contacting the ADA coordinator. If possible, such requests should be made 72 hours in advance. Where practical, the city will honor such requests provided the desired aid would not be an undue burden.

## Self-Evaluation

The city must conduct a self-evaluations of all programs and practices in order to identify and correct or modify any which are not compliant with Section 504 and the ADA. This self-evaluation is to serve as a tool to ensure that none of the city programs and activities tend to discriminate against disabled individuals.

An integral step in the self-evaluation is to involve disabled people and disability organizations, providing them the opportunity to comment and to be actively involved in the review process.

The focus of the self-evaluation is to make programs and services, not buildings, accessible. If it is possible to ensure accessibility through alternative means, such as providing auxiliary aids, relocating programs or making home visits, structural changes are not

required. Only when it is absolutely necessary to achieve program accessibility are public entities required to retrofit existing facilities, particularly since the cost of doing so can be prohibitive. The city is not required to take steps that would fundamentally alter the nature of its program or service, or that would impose undue financial administrative burdens.

Accessibility to historic properties, those listed or eligible to be listed on the National Register of Historic Places or designated historic by state law, is not required by the ADA if doing so would threaten or destroy the historic significance of the structure or facility.

### Transition Plan

If a public entity cannot achieve program accessibility through non-structural methods, it must prepare a transition plan detailing the structural changes necessary to achieve program accessibility. The transition plan should include identification of physical barriers that hinder a disabled person's ability to participate in the program or service; describe ways to make the facility accessible; set up a schedule for removing barriers; and designate a person to be responsible for overseeing the process. One of the key elements in the city transition plan will be the costs estimates for removing architectural barriers, and identification of possible funding sources.

The transition plan must also contain provisions for installation of curb ramps at existing sidewalks.

Prior to approval or revision of the transition plan, public comment is encouraged. The transition plan is available from the ADA coordinator for review.

### New Construction

All newly constructed facilities must have a high degree of accessibility, meaning that disabled individuals must be able to approach, enter and use the facility easily and conveniently. Access must be provided to primary entrances, parking areas, routes to and from the building, bathrooms and water fountains, and other goods, services and programs of the facility, including employee workstations.

Public entities that design, construct or alter facilities must conform with either the Uniform Federal Accessibility Standards (UFAS), the ADA Accessibility Guidelines (ADAAG), or the most current accessibility guidelines identified by the Department of Justice. Additionally, state and local governments have a role in the enforcement of Title III which requires all non-residential construction that will be used by the public to be accessible to the handicapped by ensuring that state and local building codes meet the accessibility requirements of the act.

## Transportation

The ADA prohibits public and private entities from discriminating against qualified individuals with disabilities in transportation services offered to the general public. Should the city, at some point in the future, offer a system for transporting individuals, it will be necessary to ensure that the transportation provides reasonable accommodations for the handicapped.

### Sources for Additional Information

If you would like additional information concerning Section 504 or the Americans with Disabilities Act, please feel free to contact one of the following:

ADA/Section 504 Coordinator

City of Eloy

628 Main

Eloy, AZ 85231

(602)466-7352 or 1(800)367-8939 (TDD Relay)

U. S. Equal Employment Opportunity Commission

ADA Legal Services

1891 L St., N. W.

Washington, D. C. 20507

1-800-669-EEOC or 1(800)800-3302 (TDD)

U. S. Department of Transportation  
Office of Assistant General Counsel for Regulation  
and Enforcement  
400 Seventh St., S. W  
Washington, D.C. 20590  
(202)366-4723 or (202)755-7687 (TDD)

U. S. Department of Justice  
Office of Americans with Disabilities Act  
P. O. Box 66118  
Washington, D. C. 20035-6118  
(202)514-0301 or (202)514-0381 (TDD)

Federal Communications Commission  
Consumer Assistance  
1919 M St., N. W.  
Washington, D. C 20554  
(202)632-7000 or (202)632-6999 (TDD)

Architectural and Transportation Barriers Compliance  
Board  
1111 18th St., N. W., Suite 501  
Washington, D. C. 20036  
(202)653-7834 (voice or TDD) or 1(800-USA-ABLE)