

RESOLUTION NO. 2013-35

Whereas: Certain transportation facilities (roads, streets, trails, and others) in the City of Lexington have been designated as being eligible for federal funds by the Federal Highway Administration in compliance with federal laws pertaining thereto; and

Whereas: The City of Lexington desires to continue to participate in Federal-Aid transportation construction programs; and

Whereas: The Nebraska Department of Roads as a recipient of said Federal funds is charged with oversight of the expenditures of said funds; and

Whereas: The City of Lexington, as a sub-recipient of said Federal-Aid funding is charged with the responsibility of expending said funds in accordance with Federal and State law, the rules and regulations of the Federal Highway Administration, the requirements of the Local Public Agency (LPA) Guidelines Manual of the Nebraska Department of Roads and the Americans with Disabilities/Section 504 – Civil Rights Policy of the City of Lexington; and

Whereas: The City of Lexington understands that the failure to meet all requirements for federal funding could lead to a project(s) being declared ineligible for federal funds, which could result in the City of Lexington being required to repay some or all of the federal funds expended for a project(s).

Therefore, Be It Resolved: The City of Lexington City Council does hereby adopt and bind itself to comply with all applicable federal law, including the rules and regulations of the Federal Highway Administration, all applicable state law and rules and regulations (Nebraska Administrative Code) and the requirements of the LPA Guidelines Manual of the Nebraska Department of Roads and the Americans with Disabilities/Section 504 – Civil Rights Policy of the City of Lexington.

Be It Further Resolved: The City of Lexington City Council does hereby designate Dennis Burnside as responsible for the management of the Americans with Disabilities/Section 504 – Civil Rights process.

Adopted this 10th day of December 2013.

Board/Council Member _____
Moved the adoption of said resolution
Member _____ Seconded the motion
Roll Call: ___Yes ___No ___Abstained ___Absent
Resolution adopted, signed and billed as adopted

CITY OF LEXINGTON, NEBRASKA

Mayor

Attest:

City Clerk

City of Lexington

Section 504 – Rehabilitation Act of 1973

Americans with Disabilities Act of 1990

ADA POLICY

POLICY STATEMENT

The City of Lexington will ensure that no qualified disabled individual shall, solely on the basis of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any of its programs, services, or activities as provided by Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 (ADA). The City of Lexington further ensures that every effort will be made to provide nondiscrimination in all of its programs or activities regardless of the funding source.

For our purposes, a disabled person is defined as any person who

- Has a physical or mental impairment that substantially limits one or more major life activities,
- Has a record of such an impairment, or
- Is regarded as having such an impairment

AUTHORITIES

Section 504 of the Rehabilitation Act of 1973, as amended, provides that “No otherwise qualified disabled individual in the United States, as defined in section 7(6), shall, solely by reason of his disability, be excluded for the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

29 USC 794 (October 29, 1992 to the Rehabilitation Act of 1973) substitutes “a disability” for “handicaps” and “disability” for “handicap.”

49 CFR Part 27.13 (Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance) states, “This part applies to each recipient of Federal financial assistance from the Department of Transportation and to each program or activity that receives or benefits from such assistance”.

49 CFR Part 28.102 (Enforcement of Nondiscrimination on the Basis of Disability in Programs or Activities Conducted by the Department of Transportation) states, “This part applies to all programs or activities conducted by the Department of Transportation except for programs and activities conducted outside the United States that do not involve individuals with disabilities in the United States.”

28 CFR Part 35 (Judicial Administration) states that: “The purpose of this part is to effectuate Subtitle A of Title II of the ADA which prohibits discrimination on the basis of disabilities by public entities.

49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance) states, “The purpose of this part is to carry out the intent of Section 504 of the Rehabilitation Act of 1973 (29 USC 794) as amended, to the end that no otherwise qualified disabled individual in the United States shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

49 CFR Part 28-140 (Employment) states that, “(a) No qualified individual with disabilities shall, on the basis of disability, be subjected to discrimination in employment under any program or activity conducted by the Department,” and “(b) The definitions, requirements, and procedures of Section 504 of the Rehabilitation Act of 1973 (29 USC 791), as established by the Equal Employment Opportunity Commission in 29 CFR part 1613, shall apply to employment in federally conducted programs or activities.

29 CFR Part 1614.101 (Equal Employment Opportunity in the Federal Government) states that: “It is the policy of the Government of the United States . . . to provide equal opportunity in employment for all persons, to prohibit discrimination in employment because of race, color, religion, sex, or national origin and to promote the full realization of equal employment opportunity through a continuing affirmative program in each agency.”

42 USC Part 12101-12213 (The Americans with Disabilities Act of 1990) states that: “No covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.”

ORGANIZATION

Dennis Burnside, Civil Rights Coordinator, reports to City Manager, who reports to the City Council.

SECTION 504/ADA COORDINATOR RESPONSIBILITIES

Lexington’s Civil Rights Coordinator responsibilities include the ADA/504 components:

- Ensuring agency compliance with ADA/504
- Monitoring the City’s current policies and practices for implementing ADA/504
- Identifying shortcomings in compliance and developing remedies
- Identifying and investigating ADA/504 discrimination and taking steps to remedy when found.
- Processing and monitoring the disposition of complaints filed under ADA/504
- Monitoring the agency’s ADA/504 Transition Plan to ensure that all department facilities remain in compliance with applicable accessibility standards.
- Conducting or arranging ADA/504 training programs for managers and employees
- Preparing a report of ADA/504 accomplishments and problem areas for the NDOR Annual Report to FHWA
- Monitoring the preparation of ADA/504 information for dissemination to the general public, including the “Notice to the Public” offer to provide reasonable accommodation, upon request.

SECTION 504/ADA NOTICE TO PUBLIC

The City of Lexington does not discriminate on the basis of disability in admission of its programs, services, or activities, in access to them, in treatment of individuals with disabilities, or in any aspect of their operations. The City of Lexington also does not discriminate on the basis of disability in its hiring or employment practices.

This notice is provided as required by Title II of the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973. Questions, complaints, or requests for additional information or accommodation regarding the ADA and Section 504 may be forwarded to the designated Civil Rights Coordinator:

Name and Title: Dennis Burnside, Assistant City Manager
Phone Number (Voice/TDD): 308-324-2341
Office Address: 406 East 7th Street, Lexington, NE 68850
Days/Hours Available: Monday-Friday, 9:00 a.m. - 5:00 p.m.

SECTION 504/ADA SELF-EVALUATION

The City of Lexington has completed a Section 504/ADA self-evaluation. Using a checklist, the Civil Rights Coordinator inspected all City buildings to determine that facilities meet ADA standards for accessibility. Any deficiencies were corrected. The Civil Rights Coordinator will conduct re-evaluations from time to time to ensure accessibility is maintained.

SECTION 504/ADA TRANSITION PLAN

The City of Lexington approved a Transition Plan in 2009, which outlines the goals and implementation of improving accessibility for citizens. The Plan shall be reviewed and updated from time to time as progress is made.

COMPLAINT PROCEDURES

Any citizen with a grievance may submit in writing or verbally with the City's Civil Rights Coordinator. The Coordinator will conduct an investigation within 10 days, and prepare a written determination within 30 days. There are provisions to request a redetermination through the City Manager and City Council.

REASONABLE ACCOMMODATION PROCEDURES

Requests shall be submitted to the City's Civil Rights Coordinator. The Civil Rights Coordinator may request medical documentation only when the individual's need for accommodation is not apparent. The Civil Rights Coordinator may take measures to implement the accommodation or, if questions remain, take the request to the City Manager. Once it has been determined the request is for a reasonable accommodation, the City shall respond as quickly as feasibly possible. If a request for reasonable accommodation is denied, the denial must be in writing, using DOJ form 100C. The official denying the request also must inform the individual of the right to any available dispute resolution avenues. Files shall be kept with appropriate confidentiality.

ASSURANCES

Pursuant to the requirements of Section 504 of the Rehabilitation Act of 1973 (29 USC 794), the City of Lexington, desiring to avail itself of federal financial assistance from the US Department of Transportation, hereby gives assurance that no qualified disabled person shall, solely by reason of his disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination, including discrimination in employment, under any program or activity that receives or benefits from this federal financial assistance.

The City of Lexington further assures that its programs will be conducted, and its facilities operated, in compliance with all requirements imposed by or pursuant to 49 CFR Part 27, 28 CFR Part 35 and 42 USC 12101-12213.

Adopted this 10th day of December, 2013.

CITY OF LEXINGTON, NEBRASKA

Mayor

Attest:

City Clerk

Prepared by: Dennis Burnside

Title: Assistant City Manager, Civil Rights Coordinator

NDOR USE ONLY

Date Received: _____

Questionnaire Review:

NDOR Employee: _____

Title: _____

Date: _____

Next Step:

Letter of compliance: _____

Further review required: _____
