

# CITY OF PORTALES, NEW MEXICO

## Americans with Disabilities Act

### Transition Plan



# **City of Portales**

**Roosevelt County, New Mexico**

**100 W. First Street**

**Portales, New Mexico 88130**

**Mayor:**

**Ronald L. Jackson**

**City Manager:**

**Sammy Standefer**

**City Councilors:**

**Chadrick H. Heflin**

**Dianne Y. Parker**

**Jake J. Lopez**

**Jessica J. Smith**

**Jim Lucero**

**Michael G. Miller**

**Oscar H. Robinson**

**Veronica A. Cordova**

**ADA Coordinator:**

**Donna Rutherford**

**City Planner**

**200 E 7<sup>th</sup> St**

**Portales, NM 88130**

**575-356-8449**

**ADA Transition Plan Adopted: January 2019**

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## **AMERICANS WITH DISABILITIES ACT TRANSITION PLAN**

### **I. BACKGROUND**

The American with Disabilities Act (ADA) of 1990 is a Federal Civil Rights Legislation which mandates non-discrimination to persons with disabilities. The ADA, Title II prohibits discrimination by public entities on the basis of disability. Therefore, it is important that the City of Portales (City) complies with all applicable laws and regulations, including those protecting persons with disabilities.

In order to accomplish this, the City developed a Transition Plan by conducting a self-evaluation of the accessibility of public Rights-of-Way by persons with disabilities. This Plan identifies issues of accessibility that need to be addressed; and develops a program for improving accessibility in order to comply with ADA mandated standards. The City of Portales will progressively remove physical barriers to accessibility when facilities within the public Rights-of-Way cannot ensure access to persons with disabilities.

Realizing that geometric, infrastructure and structural changes will take time and money to upgrade the existing facilities, the City of Portales' Transition Plan outlines provisions to include specifications on all upcoming design projects to comply with ADA requirements.

The ADA regulations further require the Transition Plan to contain the following elements:

- A list of physical barriers to facilities within the public Rights-of-Way that limit accessibility of its programs, services, or activities to individuals with disabilities;
- A detailed description of the methods to be utilized to remove these barriers and make the facilities accessible;
- The schedule for taking the necessary steps to achieve compliance with Title II;
- The name of the official responsible for the plan's implementation;
- A schedule for providing ADA compliant pedestrian facilities where pedestrian walkways cross streets, i.e. access ramps at intersection corners.

The City of Portales currently utilizes NMDOT standards that conform to ADA laws. These standards are published under the NMDOT Standard Drawings for Pedestrian Access Details for Curb Ramps, Types A through D; Median Curb Details, Pedestrian Islands, Driveways and Driveway Aprons, Stairway and Handrail requirements, Accessible Parking, Passenger loading bus stop and ramp requirements; all aided by a Detectable Warning Surface where applicable.

The City of Portales ensures that these standards are incorporated into the design of any new construction within public Rights-of-Way. It also encourages the development and construction projects to comply with all applicable laws and regulations, including those protecting persons with disabilities.

## **II. ADA Program**

### **A. Responsible Official**

A Disability Program (ADA) Coordinator has been designated by the City of Portales as the person responsible for the development and implementation of the City of Portales ADA Transition Plan. That person is Donna Rutherford.

### **B. Internal Review**

The City's commitment to upgrade and implement ADA regulations is what makes the program work. Starting in January, 2011, the City of Portales conducted an inventory of the City's public facilities. The City of Portales biannually reviews the City's fiscal allocation for ADA improvements. Based upon this allocation, the City strives to improve facilities where physical barriers exist and are not in compliance with current ADA regulations.

### **C. Self-Evaluation**

In January, 2011, as required by ADA legislation, the City of Portales conducted a self-evaluation survey of its facilities within public Rights-of-Way to ensure their accessibility to persons with disabilities and to identify any physical barriers.

An Action Plan was subsequently completed by the City listing specific modifications needed. The target dates by which the City will make the necessary changes will be based on a priority ranking of "High", "Medium" and "Low" and funding available for modifications. The ranking criteria are explained in the next section.

### **D. Public Input**

The City of Portales placed copies of the Draft Transition Plan at City Hall, 100 W 1<sup>st</sup> St, Portales, NM 88130, at the Public Library 218 S Ave B, Portales, NM 88130 and on the City website at [www.portalesnm.gov](http://www.portalesnm.gov) to be reviewed and receive comments from the public. The City conducted a public hearing on January 07, 2019 at the Council Chambers at the Memorial Building, 200 E 7<sup>th</sup> St., Portales, NM 88130 to solicit public input. A notice of the Transition Plan being available for review and comments was posted in the Portales News Tribune on December 23, 2018 and January 06, 2019.

## **III. TRANSITION PLAN**

### **A. Prioritization**

The City of Portales has the responsibility of identifying barriers and implementing a corrective program. The City's current inventory shows approximately 1,836 intersection corners that either do not have access ramps or are in need of repair to meet current compliance regulations.

The City has experienced limited funding and opted to prioritize upgrading of those existing ramps according to estimated concentration of pedestrian use of public

facilities. This Criteria is as follows,

1. The “Main” area of the City and the area in and around the five (5) school campuses and the ENMU campus were considered first priority. These areas have the largest pedestrian concentrations. Therefore, any modifications would have the highest impact and are ranked as “**High**” priority. The estimated timeframe for improvements to those intersections ranked as “High” priority is 5 to 10 yrs.
2. The “Arterial” areas of the City were considered second priority. These areas are considered to have mid-level pedestrian concentrations and are ranked as “**Medium**” priority. The estimated timeframe for improvements to those intersections ranked as “Medium” priority is 10 to 20 yrs.
3. The remaining areas of the City, mostly residential in nature, are considered to have the lowest pedestrian concentration and are ranked as “**Low**” priority. The estimated timeframe for improvements to those intersections ranked as “Low” priority is 20 to 25 yrs.

Additional criteria were utilized to identify the intersections and areas requiring improvement as specified in Appendix B - Project Tables. Projects were first classified as current principal arterial, minor arterial and collectors, as well as any additional future classifications. Projects were then given a high priority based on their access to public facilities. Medium designations were assigned to other collector roads and low designations were given to roadways that had no existing curb and gutter.

## **B. Facility Classification**

Access to and utilization of the City’s facilities by individuals with disabilities is frequently compromised by barriers described below. Barrier descriptions are not necessarily complete, but they represent the type of barriers identified by the City during our site survey. In general, the public travels through rights-of-way in the City to public and private buildings, business and other services. Sidewalks are the pedestrian travel way, and are frequently obstructed by protruding barriers. Therefore, pedestrian travel is interrupted, and sometimes it is not accessible. Accessible ramps are absent or do not meet the current requirements. The following were noted during the City’s field survey,

1. Intersections throughout the City were identified and noted as to whether or not there were curb cuts and/or ramps present, the condition of those ramps, and what needed to be done to comply with ADA regulations.
2. Stairs and Handrails were noted whether or not they meet the shape and height requirements.
3. Other barriers such as fire hydrants, trees, utility poles/pedestals, etc... were identified and suggestions as to removal or relocation were noted.

### **C. Inventory**

The City compiled the data taken during inventory in a spreadsheet format. The routes were identified by street names and intersections with cross-streets. Each corner of an intersection was inventoried and if any access barriers existed at those corners, the barriers were identified by type, suggested modification, cost for modification, and order of priority. Inventory data is presented in Appendix B.

### **D. Targeted Barrier Removal Projects**

Upon funding availability, the City will use this document as a basis for implementation of a barrier removal program starting with those intersections ranked "High Priority". The program will be based on the self-inventory conducted by the City and it constitutes the Transition Plan of accessibility and upgrades with the estimated timeframe for improvements being the same as shown in Section III.

The top priority of City's Transition Plan is to make the City's existing facilities within public Rights-of-Way accessible to all members of the public. The city wide facilities are those which serve pedestrians within the City Limits. When upgrading existing facilities, the City will comply with all applicable laws and regulations, including those protecting persons with disabilities.

When appropriate, the City will replace existing facilities by reconstructing new ones, bringing them into compliance. Any new construction projects within the City will meet the City's ADA requirements.

The City of Portales is responsible for the City's Transition Plan. Most of the problems within the City Limits concern physical barriers that cannot be addressed through other options such as Policy Changes or alternative methods. Therefore, the required improvements can only be made via a realistic and fundable strategy for curb and gutter modifications, accessible ramp construction and some sidewalk modifications.

## **IV. STRATEGY**

The following strategy is recommended to assist the City in meeting ADA requirements,

### **A. Accessible Ramps**

The City may implement the development of a maintenance contract for the construction of new ramps and upgrade of non-compliant existing ramps on an annual basis. The contract will be based on a unit-price agreement for work that will include the necessary work items required for suggested improvements presented in this Transition Plan.

### **B. Utilities**

Whenever a utility relocation, construction or alteration occurs within the City Limits, the City will ensure that ADA requirements are implemented in the construction.

### **C. Transit**

Transit stops will be located by the City to ensure that the public stops are accessible.

### **V. FUNDING**

Upon the development of an annual maintenance program, the City will strategically commit, upon fund availability, funding for City maintenance projects, including ADA compliance projects. In addition, fees will be assessed to developers who impact City facilities to further enhance pedestrian facilities. To date, it is unknown the amount of money that the City has invested in ADA compliance.

# APPENDIX A

## ADA Grievance Procedure

## **ADA Grievance Procedures**

### **Introduction**

The ADA states that a public entity is required to apprise the public of the protections against discrimination afforded to them by Title II of the ADA, including information about how Title II requirements apply to its particular programs, services and activities [28 C.F.R. § 35.106]. A public entity also is required to provide an opportunity for interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the development of policies and procedures that affect the implementation of an ADA transition plan by submitting comments and making specific recommendations.

A public entity that employs fifty (50) or more persons is required by the ADA to adopt and publish grievance procedures providing for prompt and equitable resolution of complaints or grievances alleging any action that would be prohibited by Title II of the ADA. The City's grievance procedure is described below. Any person with a disability or any parent or guardian who represents a minor person with a disability, who believes that they have been the subject of disability-related discrimination on the basis of the denial of access to facilities, programs or services, may file a grievance or complaint.

### **Grievance Procedures and Instructions**

#### ***Step 1: File a Grievance Form***

The complainant should fill out the ADA Complaint/Grievance Form shown below, giving all the information requested. The ADA Complaint/Grievance Form should be filed in writing with the ADA Program Access Coordinator with sixty (60) days of the alleged disability-related discrimination. Upon request, reasonable accommodations will be provided in completing the form, or alternative formats of the form will be provided. The ADA Complaint/Grievance Procedure and Form may be obtained from and sent to the City of Portales, ADA Coordinator, 200 E 7<sup>th</sup> St., Portales, NM 88130, Telephone: 575-356-8449, Fax: 575-226-0204, E-mail: [drutherford@portalesnm.gov](mailto:drutherford@portalesnm.gov)

#### ***Step 2: An Investigation is Conducted***

A notice of receipt shall be mailed to the complainant by registered mail within five (5) days of the receipt of the complaint or grievance, and the ADA Coordinator or another authorized representative shall begin an investigation into the merits of the complaint within sixty (60) days. If necessary, the ADA Program or another authorized representative may contact the complainant directly to obtain additional facts or documentation relevant to the grievance. If the complainant alleges misconduct on the part of the ADA Coordinator, another authorized representative may be appointed by the City Manager to undertake the investigation if the allegations can be substantiated. If the complainant does not wish to be contacted personally, he/she should indicate it on the ADA Complaint/Grievance Form.

After the grievance is received, the complaint shall be brought before the ADA Oversight Committee, chaired by the ADA Coordinator.

#### ***Step 3: A Written Decision Prepared and Forwarded to the Complainant***

The ADA Program Access Coordinator shall prepare a written decision, after full consideration of the grievance merits, no later than seventy-five (75) days following the

receipt of the grievance. If the complaint alleges misconduct on the part of the ADA Program Access Coordinator, another authorized representative may be appointed by the City Engineer to prepare the written decision if the allegation can be substantiated. A copy of the written decision shall be mailed to the complainant by registered mail no later than five (5) days after preparation of the written decision.

***Step 4: A Complainant May Appeal the Decision***

If the complainant is dissatisfied with the written decision, the complainant may file a written appeal with the City Engineer no later than thirty (30) days from the date that the decision was mailed. The appeal must contain a statement of the reasons why the complainant is dissatisfied with the written decision, and must be signed by the complainant, or by someone authorized to sign on the complainant's behalf. A notice of receipt shall be mailed to the complainant by registered mail within five (5) days of the receipt of the appeal. The appeal reviewers, consisting of the ADA Coordinator the Public Works Director and other members of the ADA Oversight Committee, shall act upon the appeal no later than sixty (60) days after receipt, and a copy of the appeal reviewers' written decision shall be mailed to the complainant by registered mail no later than five (5) days after preparation of the decision. The decision of the appeal reviewer shall be final.

The ADA Coordinator, the Public Works Director and other members of the ADA Oversight Committee shall maintain the confidentiality of all files and records relating to grievances filed, unless disclosure is authorized or required by law. Any retaliation, coercion, intimidation, threat, interference or harassment for the filing of a grievance, or used to retrain a complainant for filing, is prohibited and should be reported immediately to the ADA Coordinator or other members of the Oversight Committee depending on the case.

## City of Portales – ADA Complaint/Grievance Form

Complainant: \_\_\_\_\_

Person Preparing Complaint (if different from Complainant): \_\_\_\_\_

Relationship to Complainant (if different from Complainant): \_\_\_\_\_

Street Address & Apt. No.: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_ E-mail: \_\_\_\_\_

Please provide a complete description of the specific complaint or grievance:

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Please specify any location(s) related to the complaint or grievance (if applicable):

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Please state what you think should be done to resolve the complaint or grievance:

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Please attach additional pages as needed.

Please do not contact me personally

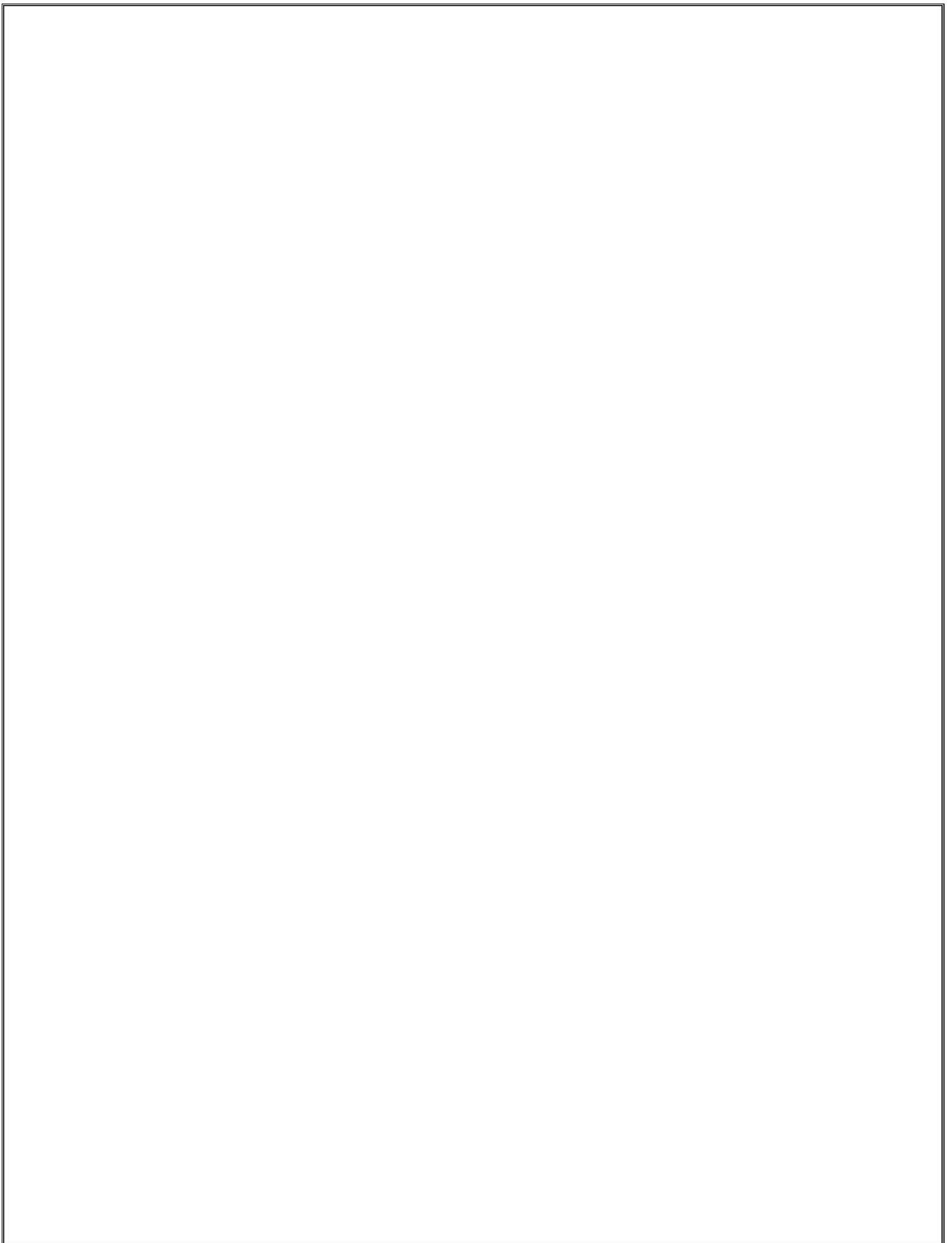
Signature: \_\_\_\_\_ Date: \_\_\_\_\_

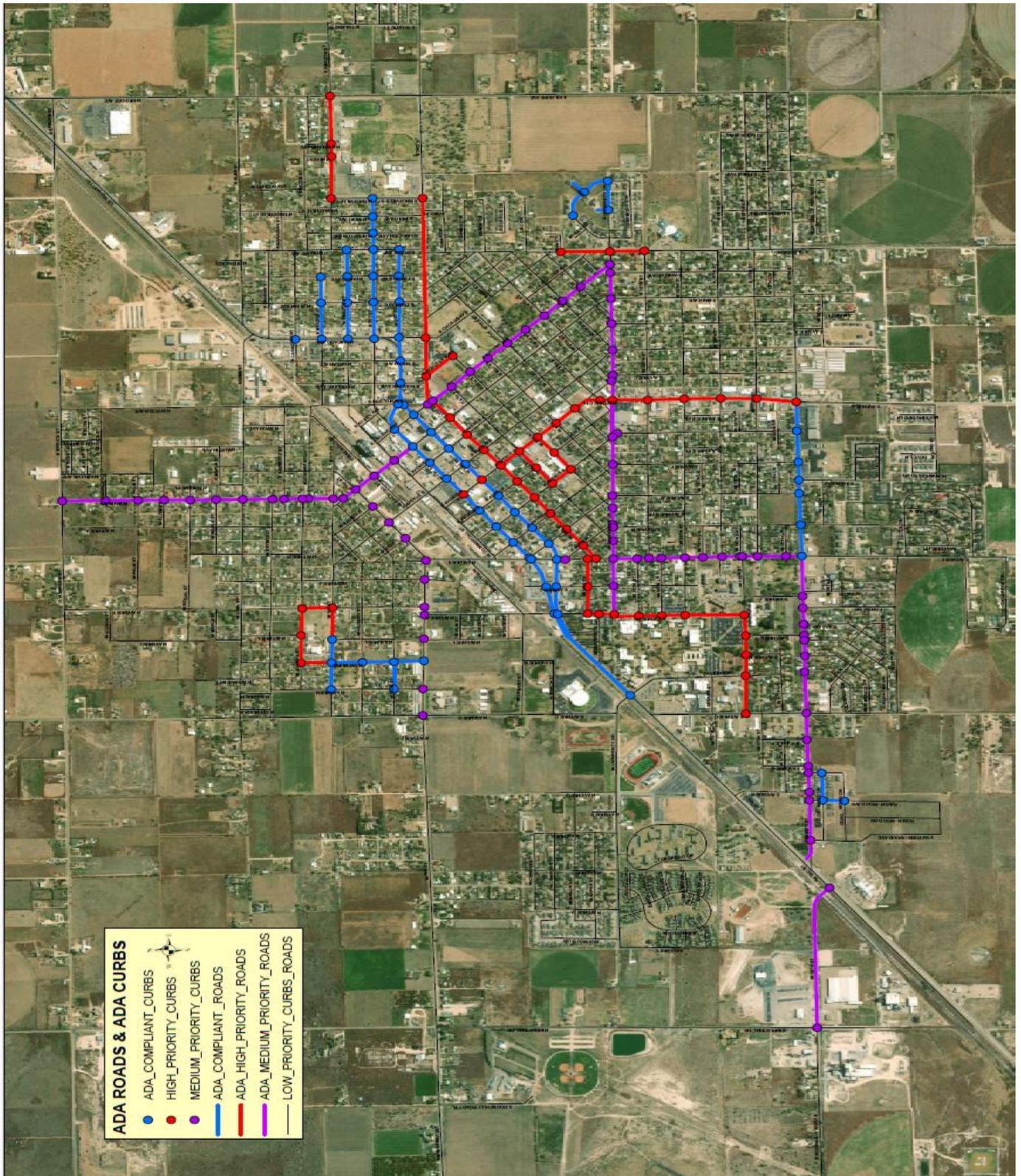
Return to: City of Portales, ADA Coordinator, 200 E 7<sup>th</sup> St., Portales, NM 88130

Upon request, reasonable accommodations will be provided in completing this form, or copies of the form will be provided in alternative formats. Contact the ADA Coordinator at the address listed above, via telephone: 575-356-8449, Fax: 575-226-0204, E-mail: [drutherford@portalesnm.gov](mailto:drutherford@portalesnm.gov)

# APPENDIX B

## ADA Roads & ADA Curb Map with Priority





# APPENDIX C

## ADA Spreadsheet

The following spreadsheet contains the City's self-inventory data. The data identifies intersections by street name. Each intersection is broken down to individual intersection corners for the purpose of identifying existing barriers and modifications necessary to comply with ADA regulations.