

RESOLUTION NO. 2011-175

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
ADOPTING THE AMERICANS WITH DISABILITIES ACT
APPLICATION AND APPEALS PROCESS**

WHEREAS, on July 8, 2010 the Elk Grove City Council approved having City staff perform Americans with Disabilities Act (ADA) Certification Services for eligible riders; and

WHEREAS, the ADA and Federal Transit Administration (FTA) have detailed requirements for the screening of applications, including legally required timelines for application processing, notification and appeals; and

WHEREAS, the attached ADA Application and Appeals Process is modeled after the processes used by Sacramento Regional Transit prior to the transition so that passengers using the process will find continuity and familiarity.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Elk Grove does hereby adopt the Americans with Disabilities Act (ADA) Application and Appeals Process, attached to this resolution as Exhibits A and B respectively.

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 14th day of September 2011.



STEVEN M. DETRICK, MAYOR of the
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:


JASON LINDGREN, CITY CLERK
JONATHAN HOBBS,
INTERIM CITY ATTORNEY

EXHIBIT A



**e-van Eligibility Certification is conducted at:
City of Elk Grove, Transit Services
8401 Laguna Palms Way
Elk Grove, CA 95758
PHONE: 916-627-3555, FAX: 916-691-3173**

Thank you for inquiring about eligibility for ADA Paratransit Service. The City of Elk Grove and **e-van's** ADA Paratransit service is a "Safety Net" for people with physical, cognitive or visual disabilities that are functionally unable to independently use the fixed-route service either all of the time, temporarily or only under certain circumstances. Enclosed are the ADA Paratransit Application and Eligibility Brochure that explains ADA Paratransit Service. Please read the Eligibility Brochure carefully before completing your application.

The Steps in the Eligibility Process

1. Request the application packet and read the Eligibility Brochure that is enclosed.
2. Complete the Paratransit Application that follows this page.
3. Mail your signed and completed application and statement from your healthcare provider to: **City of Elk Grove Transit Services, Attn: ADA Certification, 8401 Laguna Palms Way, Elk Grove, CA 95758. An incomplete application will be returned and will delay processing.**
4. You may be asked to attend an in-person interview. Your eligibility will be determined within 21 days from the date you complete your telephone and/or in-person interview and functional assessment. You will be notified by letter as to your eligibility status.
5. If you do not receive written notice of the City of Elk Grove's decision within 21 days, you may request paratransit services until a decision has been made by calling (916) 683-8726.

Application for ADA Paratransit Eligibility

Please complete all sections of this form. The information you provide will help determine what type of transportation service is the right service for you. **All information will remain confidential.**

APPLICANT INFORMATION (PLEASE PRINT)

First Name _____ Middle Initial _____

Last Name _____

Street Address _____ Apt# _____

Apt. Complex/Care Facility _____
(if applicable)

Mailing Address _____
(if different from street address)

City _____ State _____ Zip _____ County _____

Phone (daytime) _____ (evening) _____

Cellular # _____ TTY for hearing impaired _____
(if applicable)

Date of Birth ____/____/____ SSN _____ Sex: Male Female
Month Day Year Last 4 Digits (only)

New Application or **Recertification**

Please send me written information in an alternate format.

Large Print Audio Tape Braille CD Other: _____

Please provide the name of a LOCAL relative/friend in case of an emergency:

Name _____ Relationship _____

Phone (daytime) _____ (evening) _____

How do you travel now? Please check all that apply to you.

- walk drive a car ride in someone's car taxi bicycle
 e-tran e-van RT bus/light rail train Other: _____

List your common trips and the places you most often travel to in the spaces indicated below. Please refer to the following as an example:

Trip destination:

Building Location / Name Mercy Medical Group – Dr. Smith

29876 Big Horn Blvd, Suite 300

Elk Grove

95758

Number and Street

City

ZIP Code

A. Trip destination:

Building Location / Name _____

Number and Street

City

ZIP Code

B. Trip destination:

Building Location / Name _____

Number and Street

City

ZIP Code

C. Trip destination:

Building Location / Name _____

Number and Street

City

ZIP Code

D. Trip destination:

Building Location / Name _____

Number and Street

City

ZIP Code

Do you have a cognitive or physical disability that, some or all of the time, causes you to be unable to get on, ride or get off the accessible fixed-route buses and light rail trains by yourself, without the help of another person? Yes No
(If yes, please explain):

What types of disabilities cause you to be unable to use the accessible fixed-route buses and light rail trains?

- physical disability visual impairment/blindness developmental disability
 mental illness recent surgery other _____

Diagnosed when: _____ Stable or Progressive: _____

Is your disability temporary?

- Yes, I expect it to last _____ months.
 No, it is permanent.
 I don't know.

Do you need someone to travel with you when you travel in the community or when you use the accessible fixed-route buses or light rail trains?

- Yes; sometimes Yes; always No

Have you ever had training on how to travel around the community or how to use the accessible fixed-route buses or light rail trains?

- Yes No Never ridden bus/light rail

Can you wait for a fixed-route bus or light rail train?

- Yes
 No
 Only if there is a bench or shelter
 No more than 15 minutes

Can you maintain balance while seated on a moving vehicle?

- Yes No

How far can you go on level ground (with your mobility aid, if you use any)?

- Up to 1 block 2 blocks 3 blocks 4 or more blocks

MOBILITY AID AND/OR EQUIPMENT INFORMATION

Which of these mobility aids do you use? Please check all that apply to you.

- | | | |
|---|--|---|
| <input type="checkbox"/> white cane | <input type="checkbox"/> powered wheelchair | <input type="checkbox"/> walker |
| <input type="checkbox"/> support cane | <input type="checkbox"/> 3-wheel scooter/cart | <input type="checkbox"/> walker with seat |
| <input type="checkbox"/> crutches | <input type="checkbox"/> manual wheelchair | <input type="checkbox"/> portable oxygen |
| <input type="checkbox"/> leg brace | <input type="checkbox"/> power assist wheelchair | <input type="checkbox"/> prosthesis |
| <input type="checkbox"/> service animal | <input type="checkbox"/> communication board | <input type="checkbox"/> no mobility aid |
| <input type="checkbox"/> other (please specify) _____ | | |

If you checked manual wheelchair, power wheelchair, or powered scooter/cart, please provide the following information:

The ADA requires *e-tran* to transport mobility aids defined as common wheelchairs. A "common wheelchair" is:

- 30 inches or less at the widest
- 48 inches or less at the longest
- 600 pounds or less with you sitting in it

Does your mobility aid fall within this definition?

- Yes I'm not sure
- No, it does not (please explain): _____

CURRENT USE OF ACCESSIBLE FIXED-ROUTE BUSES AND LIGHT RAIL TRAINS

Do you use any fixed-route buses and/or light rail trains by yourself? (Examples: *e-tran* or Sacramento Regional Transit).

- Yes No

If yes, how often? _____ Which routes do you use? _____

When was the last time you used an accessible fixed-route system by yourself?

FUNCTIONAL ABILITIES: USING ACCESSIBLE FIXED-ROUTE BUSES AND LIGHT RAIL TRAINS

What best describes your functional ability to use accessible fixed-route buses and light rail trains? (CHECK ALL THAT APPLY)

- I can get to and from bus stops/stations if the distance is not too far.
- The severity of my disability or health condition can change from day to day. I can ride the fixed-route buses and light rail trains when I am feeling well, but not at other times.
- I have a disability or health condition which causes me to be unable to ride the fixed-route buses and light rail trains if the weather is extremely hot.
- I have a disability or health condition which causes me to be unable to ride the fixed-route buses and light rail trains if the weather is extremely cold.
- I am unable to travel on the fixed-route buses and light rail trains when there is rain and wind due to my disability or health condition.
- I cannot climb stairs to get on and off the fixed-route buses and light rail trains, and need the lift/ramp lowered.
- I can get to and from bus stops only if there are curb-cuts and level sidewalks.
- I have difficulty understanding or remembering all the things I would have to do to use the fixed-route buses and light rail trains.
- I can use the fixed-route buses and light rail trains if it is someplace I go all the time.
- I am unable to travel on the fixed-route buses and light rail trains during periods of darkness due to my disability or health condition.
- I use the fixed-route for some trips, but sometimes I am unable to use the bus or light rail trains due to high air pollution (smog).
- I can never use the fixed-route buses and light rail trains by myself.
- I am not really sure if I can use the fixed-route buses and light rail trains by myself.

I am not able to use the fixed-route buses and light rail trains by myself for other reasons. Please explain:

CERTIFICATION OF APPLICANT

I understand the information I provided on this application is true and correct to the best of my knowledge. The purpose of this application is to determine if I am eligible to use **e-van** Paratransit services, or if at times I can ride the fixed-route buses and light rail trains. I understand that falsification of information could result in a loss of **e-van** Paratransit services as well as a penalty under the law.

I also understand that, at no expense to me the City of Elk Grove may require that I participate in an in-person functional evaluation of my travel skills and agree to such a functional evaluation if one is necessary.

I agree to notify the City of Elk Grove if my condition changes, if my mobility device has been replaced, if I have a new mobility device, or if I no longer need to use **e-van** Paratransit service.

(Signature of Applicant or Guardian if Applicable) Date _____

Person Completing Application *If Not* the Applicant:

Printed Name _____ Relationship to Applicant _____

Signature _____ Date _____

Daytime Phone # _____ Evening Phone # _____

PROFESSIONAL VERIFICATION (REQUIRED)

To The Applicant - Please have this page completed before mailing your application to the City. Any one of the professionals listed below may sign the application. If the signature page is not signed by one of these professionals, the application will be returned to you, and completion of your ADA eligibility evaluation will be delayed.

To the Professional - Please check your professional title:

- | | | |
|--|--|--|
| <input type="checkbox"/> physician | <input type="checkbox"/> physician's assistant | <input type="checkbox"/> registered nurse/nurse practitioner |
| <input type="checkbox"/> psychiatrist | <input type="checkbox"/> psychologist | <input type="checkbox"/> case/resource manager |
| <input type="checkbox"/> chiropractor | <input type="checkbox"/> physical therapist | <input type="checkbox"/> occupational therapist |
| <input type="checkbox"/> special education teacher | | <input type="checkbox"/> certified speech therapist |
| <input type="checkbox"/> vocational rehabilitation counselor | | <input type="checkbox"/> certified orientation & mobility specialist |

The ADA regulations state that persons are eligible for **e-van** paratransit service if, because of a disability or medical condition, they are physically or cognitively unable to (not discomforted by or find difficult) independently using lift-equipped public transit service. Depending on their disability, people can be eligible sometimes, or all of the time. ADA **e-van** paratransit eligibility is not based on the person's lack of knowledge of bus service, distance from bus service, ability to drive, discomfort with riding the bus, language ability, or age. The information you provide will help determine under what circumstances this applicant's disability causes him/her to be unable to travel using lift-equipped buses or light rail trains and therefore would need to travel using a shared-ride **e-van** paratransit service.

Please describe the medical diagnosis, physical or cognitive disability which causes the applicant to be unable to independently use a lift-equipped bus or light rail train some, or all of the time:

Is this condition temporary? No Yes for: 4 mos 6 mos 9 mos 12 mos

This person is is not able to self-supervise daily activities

Last date of face-to-face contact with this applicant was ____/____/____

I certify under penalty of perjury under the laws of the State of California that the information contained in this application is true and correct.

Signature _____ Date ____/____/____

Printed Name _____ Phone _____

Clinic/Agency _____ Address _____

City _____ State _____ ZIP _____

If Applicable: Professional License/Registration/Certification# _____ State _____

EXHIBIT B

CITY OF ELK GROVE Appeal Process for ADA Paratransit Eligibility Determinations

The City of Elk Grove (City) will hear appeals from determinations of paratransit eligibility. Individuals may appeal denial of eligibility for paratransit services, eligibility category, eligibility conditions, and/or trip denials.

1. Filing an Appeal

- A. All appeals must be filed at City Clerk's office and directed to the Transit System Manager: by telephone at (916) 687-3030, or fax at (916) 691-3163; in or in person at 8401 Laguna Palms Way, Elk Grove, CA 95758. City will assist appellants in completing City's Appeal Form, as necessary.
- B. Appeals of eligibility determinations must be filed *within sixty-five (65) calendar days* after receipt of the original determination of 1) ineligibility, 2) conditional eligibility, or 3) denial of a specific trip request. If the sixty-fifth day after the original determination or trip denial is on a weekend or legal holiday, an appeal will be accepted on the next business day. On the Appeal Form, the appellant shall state the grounds for and the facts in support of the appeal. An appellant may request an appeal hearing without providing additional detail and without the submission of additional written material or information. Any written material regarding the appellant's specific functional abilities and limitations and other supporting materials, if any, must be submitted with the appeal if the appellant is unable to obtain supporting materials by the deadline to file the appeal, the appeal shall still be accepted.

2. Receipt of Appeal Letter/Scheduling the Hearing

- A. After city receives the Appeal Form and supporting documents, the Transit System Manager or his/her designee will either 1) grant the appeal and appellant will be entitled to the disputed service(s), or 2) forward the request to the City Manager or their designee to schedule the matter for a hearing. Initial review of

appeal requests by the Transit System Manager or his/her designee will be completed within five (5) business days after receipt of the Appeal Form and supporting documents. City will inform the appellant of the Transit System Manager's decision within three (3) business days of the determination of the Transit System Manager. Such notification shall be provided directly to the appellant and shall include a written statement describing the decision.

- B. If an appeal is not granted by the Transit System Manager, the City will schedule an appeal hearing date and time. City will provide the appellant written notice of the date, time and place of the hearing at least fifteen (15) calendar days prior to the hearing date (in an accessible format if appropriate). The hearing shall be scheduled no more than thirty (30) days from the notification of determination by the Transit System Manager.

If the appellant needs to postpone the hearing date, they should submit a request in writing to City, except in the case where an appellant is prohibited from doing so due to a disability. If the appellant is unable to submit a request in writing due to a disability, he or she may submit the request via telephone to City at (916) 687-3030. The request should state the specific reasons that support the postponement and indicate that a copy of the request has been sent to the other party.

The City Manager or their designee will rule upon postponement requests. Each appellant may request one (1) postponement. Postponement may be granted in cases of death or serious illness. If the hearing officer finds good cause and grants a postponement, City will notify the appellant. The hearing will be rescheduled for no later than 15 days from the determination of the postponement and a new notice issued. If the postponement request is denied, the hearing will proceed as scheduled. The appellant and his/her representative or advocate are not required to be present at the hearing. However, the appellant must inform the Transit System Manager if he/she will not be present at the hearing, either by marking the appropriate box on the Appeal Form or by

telephone, at least twenty-four (24) hours prior to the hearing, at (916) 687-3030.

City will arrange transportation, for the appellant only (in accordance with the ADA appellant's transportation shall also be made available to a personal care attendant and companion boarding at the same time and location as the appellant), to and from the hearing, if necessary. Transportation will be provided at no cost from any location within the current *e-van* service area. The appellant may bring a representative or advocate to the hearing; however, City will not provide free transportation for the representative or advocate.

- C. Appeals will be heard and decided by an Appeal Panel. The Appeal Panel consists of four (4) individuals with interest and experience in disability matters and shall consist of a combination of in-house transit personnel, outside transit agency personnel and members of the City's Disability Advisory Committee. City's Transit System Manager shall maintain a list of current Appeal Board members.

Prior to scheduling a hearing date and time, City Manager or his/her designee will select four (4) members of City's Appeal Board to serve on the Appeal Panel. City shall notify the appellant, in writing, of the names of the four (4) selected Appeal Panel members and shall include a biographical statement for each of the four (4) selected members. If after review of the biographical statements, the appellant feels that any of the selected Appeal Panel members may have a conflict of interest in his or her case, the appellant may notify City that he or she wishes the Appeal Panel member(s) removed from his or her case. The appellant need not share with City the reasons he or she would like any potential Appeal Panel members removed from the case. The appellant shall notify City within five (5) calendar days from the date of City's written notice. The appellant may notify City by telephone at (916) 687-3030, fax at (916) 691-3163; in writing or in person at 8401 Laguna Palms Way, Elk Grove, CA 95758. Upon notification, City will remove the requested Appeal Panel member(s) from the appellant's case and randomly select a replacement Appeal Panel member(s). The appellant will be notified in writing of the replacement Appeal Panel members(s) and shall be provided with a biographical statement for the replacement member(s). The appellant will be given an opportunity to notify City, if the appellant feels any of the replacement

Appeal members may have a conflict of interest. The appellant must notify City within five (5) calendar days from the date of City's written notice. If City must remove the replacement Appeal Panel member(s) from the case, City shall proceed with the remaining members, so long as at least two (2) of the assigned members remain. If more than two (2) of the volunteer Appeal Board members assigned to the Appeal Panel are not present at the time and place set for the hearing, the hearing shall be rescheduled.

3. Hearing Procedures

- A. Copies of the original application submitted by the appellant and any additional material submitted by the appellant in filing the appeal, will be provided to the Appeal Panel five (5) business days in advance of the hearing. Documents to be submitted as evidence at the hearing, including a list of witnesses, will be provided to each party five (5) business days in advance of the hearing.
- B. The Appeal Panel shall hear and consider evidence and witnesses presented by City and the appellant including, without limitation:
 - 1. The information provided in the original application;
 - 2. Any additional information, written or verbal, received from the appellant;
 - 3. The individual originally determining eligibility, or if unavailable, any report prepared by that person;
 - 4. The statements of the appellant, his/her advocate and any other witnesses offered by the appellant;
 - 5. Information from City staff regarding its services, the architectural or other barriers impacting access to fixed route service or other eligibility criteria; and
 - 6. Any other material that is deemed by the hearing officer to be relevant to the appellant's ability to use City's fixed route service.
- C. The parties may question and cross-examine witnesses. Parties may question all witnesses and cross-examine adverse witnesses. The Appeal Panel shall question witnesses and review documents as necessary to provide a thorough hearing.

When the questioning of witnesses is complete, panel members may question witnesses. . The Appeal Panel shall consider the relevant facts and shall weigh evidence in relation to its reliability. Only evidence presented during the hearing may be considered in the findings and decision.

- D. Immediately after the hearing, the Appeal Panel shall prepare its findings of fact based on the evidence presented. The findings shall include a determination of the appellant's functional abilities and limitations relative to City's fixed route service. The Appeal Panel shall make its recommendation by a majority vote of the panel members. The City Manager or their shall prepare a written decision upon review of the Appeal Panel's recommendation. The written decision shall include the reasons for the decision. The decision of the City Manager or their designee shall be final. The City Manager or their designee shall provide the written decision to the appellant within thirty (30) calendar days after the hearing.

An adverse final decision by the City Manager or their designee will limit the appellant's right to other recourse. Therefore, the appellant may wish to seek counsel with a disability rights advocate or attorney, or contact a private attorney before participating in the appeal process, to explore his or her options.

4. Interim Service

During the period between the receipt of an appeal of an initial determination of eligibility and the determination of the Appeal Panel, disputed ADA paratransit service will not be provided to the appellant except as provided below:

1. If an appeal is made regarding a specific trip by a certified or conditionally certified passenger, then service for the specific trip in question will be provided until an appeal hearing is concluded.

2. If the City Manager or their designee does not issue a written decision within thirty (30) calendar days, the appellant shall be presumed eligible for paratransit services unless and until a contrary decision is made.

5. Privacy of Appellants

- A. All City and Appeal Panel copies of appellant's applications and supporting materials remain the property of City and will be returned to the Transit System Manager at the conclusion of the appeal hearing.
- B. Members of the Appeal Panel are strictly prohibited from discussing the details of an appeal or revealing the name or other identifying characteristics of the appellant with any person not directly involved in the appeal. Members may discuss information of a general sort regarding a particular type of disability and its functional impact upon an individual's ability to use fixed route transit service in preparation for a hearing, but Appeal Panel members shall take care that information regarding specific appellants is not shared.
- B. Appellants may request that the hearing be conducted in closed session. At appellant's request, all parties except Appeal Panel members, necessary City staff and witnesses, the appellant and his/her advocate and witnesses shall be excluded from the hearing.
- C. When the hearing is concluded the matter will be submitted to the panel, a decision will be made and a written decision, including the reasons therefor, will be prepared and copies sent to the parties within thirty (30) calendar days after the hearing.
- D. Audiotapes will be made of all hearings. The tapes of the hearings, together with all supporting material, will remain the property of City and held securely for a minimum of five (5) years until the tapes are destroyed. Copies of these tapes and materials will be made and released to third parties through the process of legal discovery or as otherwise required by law.

Upon appellant's request, copies of the audiotaped proceedings shall be provided to the appellant at no cost.

CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2011-175

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO) ss
CITY OF ELK GROVE)

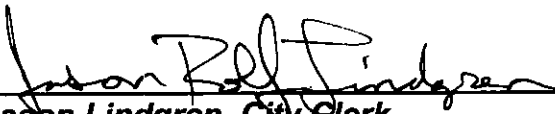
I, Jason Lindgren, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on September 14, 2011 by the following vote:

AYES : COUNCILMEMBERS: *Detrick, Cooper, Davis, Hume, Scherman*

NOES: COUNCILMEMBERS: *None*

ABSTAIN : COUNCILMEMBERS: *None*

ABSENT: COUNCILMEMBERS: *None*


Jason Lindgren, City Clerk
City of Elk Grove, California