



Town of Ashland, Massachusetts

PART C – Self-Evaluation Summary

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Introduction

This ADA Self-Evaluation report includes a summary of the Town’s policies obtained by an on-line ADA questionnaire developed by the Institute for Human Centered Design (IHCD). There was a good response to the survey by department heads. This Self-Evaluation report also includes a summary of architectural barriers identified during accessibility surveys performed by IHCD teams between March and September 2020.

Together these findings are designed to help move the Town towards full compliance with its obligations under the Title II of the Americans with Disabilities Act (ADA) and/or the 521 CMR Massachusetts Architectural Access Board regulations.

For clarity, this ADA Self-Evaluation report is organized as follows:

- Legal Overview;
- Summary of the Evaluation of Policies in Programs, Services, and Activities;
- Summary of the Evaluation of Facilities.

1. Legal Overview

The Town of Ashland is obligated by both Federal laws and State codes concerning the rights of people with disabilities in the daily provision of programs, services, and activities. At the end of this report, there is a comprehensive list of relevant laws.

Federal Obligation: American with Disabilities Act (ADA)

Based on the 1964 Civil Rights Act and expanding upon the obligations of the 1973 Rehabilitation Act, the 1990 ADA prohibits discrimination against people with disabilities. The ADA provides civil rights protections to individuals with disabilities similar to those afforded to individuals on the basis of race, color, sex, national origin, age, and religion. The cornerstone of Title II of the ADA, which applies to state and local governments, is clear: no qualified person with a disability may be excluded from participating in, or denied the benefits of, the programs, services, and activities provided by state and local governments because of a disability.

The 2008 Amendments to the ADA (ADAAA), signed into law on September 25, 2008, describes in more detail the range of conditions covered by the civil rights protections of the ADA. The amendments expand the definition of “disability” to include impairments that substantially limit a major life activity and states that when determining whether someone qualifies as having a disability, one cannot take into account assistive devices, auxiliary aids, accommodations, medical therapies and supplies. The amendments also address episodic disabilities that may go into remission but still can significantly limit a major life activity when active, such as epilepsy and post-traumatic stress disorder. The ADA defines a disability as¹:

- A physical or mental impairment that substantially limits one or more major life activities (i.e. working, talking, hearing, seeing, caring for one's self);
- Having a record of a physical or mental impairment that substantially limits one or more major life activities;
- Being regarded by others as having an impairment such as individuals with severe facial scarring.

¹ To learn more about qualified individuals with disabilities or to read the full text of the ADA, please visit <http://www.ada.gov>

It is important to stress that the primary obligation to public entities such as the Town of Ashland, under Title II of the Americans with Disabilities Act, is to ensure that, when *viewed in their entirety*, the programs, services, and activities offered are equally available to people with disabilities. The Town is required to follow the 2010 ADA Standards for Accessible Design in new construction and alterations. The 2010 ADA Standards must also be used for corrective actions if existing conditions don't comply with the original ADA Accessibility Guidelines. Municipalities also must relocate programs or otherwise provide access to programs located in inaccessible older facilities (e.g. facilities built before the ADA went into effect January 26, 1992). Ensuring program access may require capital investment when there is no alternative solution and should be a priority for corrective action.

Note that the websites of Title II entities are also considered "*programs*" and should be accessible to the standards of the Web Content Accessibility Guidelines 2.0 AA. A review of the Town of Ashland's website will be provided as part of the scope of work of this contract.

The Town must **communicate effectively** with people who have hearing, vision, or speech disabilities. Ashland is also required to make reasonable modifications to policies, practices, and procedures where necessary to ensure the equal participation of people with disabilities. Whatever is written or spoken must be as clear and understandable to people with hearing, vision, or speech disabilities as it is for people who do not have disabilities. In addition, the ADA requires the provision of "auxiliary aid and service" to meet their responsibility for effective communication. Auxiliary aid and service refer to readers, notetakers, sign language interpreters, assistive listening systems, open and closed captioning, text telephones (TTYs), videophones, information provided in large print, braille, audible, or electronic formats, and other tools for people who have communication disabilities.

Following the passage of the ADA, the Department of Justice issued the 1991 ADA Standards for Accessible Design to address physical access to facilities and transportation. In 2010 did the Department of Justice issue a revised and updated ADA Standard called the 2010 ADA Standards for Accessible Design (2010 ADA Standards) that would apply to all Title II and Title III entities. These standards revised requirements for policies such as ticketing and service animals, and for physical elements such as assembly seating, established construction tolerances for certain elements and formalized long-standing guidelines for play areas, golf courses, recreational boating facilities, swimming pools, and other recreational facilities.

Facilities that meet or exceed the 1991 ADA Standards are not required to make changes to the new 2010 Standards except in the case of renovation. For elements that are non-compliant, the

corrective measures must align with the 2010 ADA Standards. It is not expected that the buildings will meet or be brought up to all of the 2010 ADA Standards absent significant or total renovation. State and local governments must ensure that individuals with disabilities are not excluded from services, programs, and activities because buildings are inaccessible. This means Title II entities do not need to remove physical barriers, such as stairs, in all existing buildings, as long as they make their programs accessible to individuals who are unable to use an inaccessible existing facility.

Alterations to historic properties under the ADA

Alterations to historic properties must comply with the specific provisions governing historic properties in the 2010 ADA Standards, to the maximum extent feasible. Under those provisions, alterations should be done in full compliance with the alterations standards for other types of buildings. However, if following the usual standards would threaten or destroy the historic significance of a feature of the building, alternative solutions may be used. The decision to use alternative solutions for that feature must be made in consultation with the appropriate historic advisory board as designated in the 2010 ADA Standards (for Massachusetts, the Massachusetts Historical Commission), and interested persons should be invited to participate in the decision-making process.

Note that any corrective actions needed to ensure program accessibility would also have to comply with the requirements of the 2010 ADA Standards for historic facilities.

State Obligation:

Massachusetts Constitutional Amendment – Article 114

The Massachusetts Constitution states:

“No otherwise qualified handicapped individual shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity within the Commonwealth.”

Article 114 is written broadly. It prohibits discrimination based on disability on any level within the state, not just for recipients of state or federal funds. For example, Town meetings must be held in an accessible location with sign language interpreters provided if needed, and the Town cannot refuse to do business with an individual based on the person’s disability.

Massachusetts Architectural Access Board

The Architectural Access Board (AAB) is a regulatory agency whose mandate is to develop and enforce regulations designed to make public buildings accessible to, functional for and safe for use by persons with disabilities. See the Rules and Regulations of the Architectural Access Board 521 CMR. In addition to writing regulations, the Board decides on variance requests, provides training on its regulations, issues advisory opinions and makes decisions on complaints. Local building inspectors are responsible for enforcing the regulations which are a specialized section of the Massachusetts Building Code. See 780 CMR.

The construction, reconstruction, remodeling, alteration, or change of use of a building or facility that is open to the public triggers the authority of the Architectural Access Board. New construction must fully comply.

Enforcement: Anyone can file a complaint with the Architectural Access Board. The Board has the authority to issue variances and/or impose fines of up to \$1000 per violation per day of noncompliance with its order.

2. Summary of the Evaluation of Policies in Programs, Services and Activities

Title II of the Americans with Disabilities Act (ADA) prohibits discrimination against qualified individuals with disabilities by public entities. Activities covered include all services, programs and activities offered by the public entity, all aspects of employment, services carried out by contractors, all activities of the local legislative and judicial branches and public transportation. A thorough understanding of the requirements of Title II of the ADA is an essential responsibility of public entities.

Please note that a complete summary of the Town's policies, practices and procedures is included in Part B – Evaluation of Non – Discriminatory Policies and Practices in Programs, Services and Activities.

The ADA administrative requirements help to ensure that the needs of people with disabilities are addressed in all services, programs and activities that the Town operates. A Title II entity is required to:

1. Designate a Responsible Employee (ADA Title II - 28 CFR Part 35.107 (a)) to coordinate compliance with the ADA.

The Town of Ashland had met its obligation to designate a responsible employee by appointing Mike Crisafulli, the Town Building Commissioner, as the Town's ADA Coordinator. Mr. Crisafulli no longer works for the Town. Ashland will appoint a new ADA Coordinator as soon as possible, and will announce the appointment once it is complete.

2. Adopt and distribute a public Notice (ADA Title II - 28 CFR Part 35.106) of the provisions of the ADA to members of the public who may participate in the Town's programs, services and activities.

The Town of Ashland has a written Notice, but not all departments are aware of it. The Town should distribute the notice to all departments, publish the ADA Notice in all the materials distributed by the Town, post the ADA Notice on the Town's website home page and post copies of the Notice in public locations in the Town's buildings at locations where the notice has yet to be posted.

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3. Develop and distribute Grievance Procedures (ADA Title II - 28 CFR Part 35.107 (b)) for prompt resolution of any complaint regarding disability discrimination.

The Town of Ashland has a Grievance Procedure for employees in an Employee Handbook. However, the Employee Handbook does not appear to be available on the Town’s website. A Grievance Procedure that may be used by members of the public is available online, however, it is not the most up-to-date version of that Grievance Procedure. The Grievance Procedure for employees should be posted online. Also, the most recent version of the Town’s Grievance Procedure for members of the public should be posted online, and a link to it on the Town’s website homepage or some other clear and easy-to-locate method should be provided.

4. Modify its Policies, Practices and Procedures (ADA Title II – 28 CFR Part 35.130(b)(7)) when necessary to avoid discrimination.

The Town should develop written policies and procedures to ensure compliance with the ADA. The Town should provide a form for requesting reasonable modifications of policies on the Town’s website, and state the commitment to provide copies in accessible formats upon request.

5. Provide Reasonable Accommodation (ADA Title II – 28 CFR Part 35.140(a)) to qualified employees with disabilities.

From the responses received from the ADA questionnaire, there is no evidence that the Town has failed to provide reasonable accommodations to its employees.

6. Provide Auxiliary aids and services (ADA Title II – 28 CFR Part 35.160) to ensure effective communication with people with disabilities.

From the questionnaire responses, it appears that the Town does not have a policy regarding Effective Communication.

The Town should consider developing and publicizing clear processes for members of the public and employees to request auxiliary aids and services. Ensure that the Town’s website and other web-based services are accessible to people with disabilities. It is the Department of Justice’s position that when services are provided on a website, those services too must be made accessible. The website should be considered a “program” of the Town and made accessible for all users. (See web accessibility report).

3. Summary of the Evaluation of Facilities

The analysis of existing conditions that encompasses the body of this evaluation is based on observations and documentation completed by IHCD team during site visits. This accessibility survey included the following facilities:

Municipal Buildings

Town Hall
Police Substation
Cedar Street Fire Station
Library
Community Center
Public Works
High School
Middle School
Pittaway Elementary School
Warren Elementary School

Outdoor Areas

Outdoors at the Community Center
Stone Park

Street Areas

The assessment included streets, sidewalks and walkways at four major circulation routes including Main Street, Homer Avenue, Summer Street and Pleasant Street.

Building Facilities Overview

Under Title II of the ADA, the Town of Ashland must make sure that “No qualified individual with a disability shall, because a public entity's facilities are inaccessible to or unusable by individuals with disabilities, 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 public entity” [28 CFR Part 35.149].

A public entity may not deny the benefits of its programs, services and activities to individuals with disabilities because its facilities are inaccessible. This means that each program, service and

activity of the Town, when viewed in its entirety, must be readily accessible to and usable by individuals with disabilities.” This requirement is known as Program Accessibility [28 CFR Part 35.150].

The program accessibility requirement does not necessarily require the Town to make each existing facility accessible or to take any action that would threaten or destroy the historic significance of a historic property. Or require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of the program or in an undue financial and administrative burden.

The Town may comply with the requirements through such means as redesign or acquisition of equipment, reassignment of services to accessible buildings, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, or any other methods that result in making the Town’s services, programs or activities readily accessible to and usable by individuals with disabilities. A public entity is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section.

In choosing among available methods for meeting the requirements of this section, a public entity shall give priority to those methods that offer services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate.

IHCD recommends the following improvements at the Town Municipal Buildings:

Town Hall

- Provide an assistive listening system (Meeting Room).
- Provide compliant signage (directional, designation and egress signs).
- Provide drinking fountains for standing users (1st and 2nd floors).

Police Substation

- Renovate toilet room.

Cedar Street Fire Station

- Renovate toilet room.

Library

- Provide compliant designation, directional and egress signage.
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- Provide an accessible (picnic table).
- Provide two (2) cane-detectable barrier skirts at standing height drinking fountains.
- Provide an assistive listening system (meeting room).

Community Center

- Renovation to parking lot.
- Provide one drinking fountain for standing users.
- Provide compliant signage.

High School

- Provide an accessible route that connects all areas of sport activity (softball field, team seating areas, batting cages and bleachers).
- Provide compliant accessible parking spaces.
- Provide compliant work surfaces (in classrooms per subject per grade and at the library).
- Provide compliant signs (designation, egress and directional).
- Renovate toilet rooms and locker rooms.
- Alter and provide compliant drinking fountains.

Middle School

- Provide and renovate exterior routes connecting sports fields and related amenities
- Renovate exterior ramp at Door #13.
- Provide three (3) automatic door openers.
- Provide seven (7) drinking fountains for standing users and a standing fountain skirt.
- Provide an accessible route to the stage in the auditorium (interior lift).
- Renovate science lab classrooms including sinks and emergency showers.
- Provide compliant egress and designation signage.
- Renovate toilet rooms.
- Renovate locker rooms (provide accessible showers and changing rooms, etc.).

Pittaway Elementary School

- Renovate toilet rooms.
 - Renovate sinks.
 - Provide an accessible route to and around the playground.
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- Provide a compliant impact-attenuating surface to and around the play components inside the playground (poured-in-place rubber).
- Renovate and provide drinking fountains.
- Provide compliant designation, egress and directional signage.
- Widen three (3) doors (nurse’s office, relaxation room and conference room in principal’s office) and correct one (1) door threshold.

Warren Elementary School

- Renovate accessible parking spaces.
- Provide exterior accessible routes to all areas of sport activity and amenities around the school.
- Provide an accessible route to and around each play component in the playground (poured-in-place rubber).
- Provide compliant signs (designation and egress).
- Provide an accessible route to the stage in the cafetorium (wooden ramp).
- Provide compliant sinks.
- Renovate toilet rooms.
- Provide a drinking fountain for standing users and a Hi-Lo drinking fountain.

Public Works

- Lack of an accessible route to the DPW main entrance.
- Lack of an accessible route to the second floor where the offices are located*
- Lack of an accessible service counter.
- Lack of compliant door hardware.

***Note:** DPW provides services at facility located to the right of the main entrance (near the accessible parking space) to members of the public unable to take the stairs. A doorbell informs staff of the presence of someone needing assistance.

Outdoor Facilities Overview

The program accessibility obligation does not typically require that every outdoor area be made accessible. As noted before, “when viewed in its entirety” applies to programs for which there are multiple locations for comparable programs. Usually, a public entity determines which method it will use for meeting its program accessibility obligations. When structural changes are made to

existing facilities, the changes must comply with the 2010 ADA Standards for Accessible Design. When choosing to purchase equipment or to make structural changes, the public entity should factor financial resources required to maintain program accessibility.

Over time, the Town will need to reassess its compliance with program accessibility, and it may become necessary to acquire new accessible equipment or make structural modifications.

It is important to note that those elements in existing facilities that are subject to supplemental requirements of the 2010 ADA Standards (*e.g.* elements for which there are neither technical nor scoping specifications in the 1991 Standards) such as (C) *Recreational boating facilities*; (D) *Exercise machines and equipment*; (E) *Fishing piers and platforms*; (H) *Play areas*; (J) *Swimming pools, wading pools, and spas*; and (L) *Miscellaneous - (1) Team or player seating and Accessible route in court sports facilities*, need to be brought into compliance.

IHCD recommends the following improvements at the outdoor areas:

Community Center Outdoor Areas

- Provide an accessible route to the soccer fields.
- Renovate parking space.
- Renovate and provide drinking fountains.
- Provide an impact attenuating accessible route to and around play components and to the bench in the playground (poured-in-place rubber).
- Provide an accessible route to the team seating areas and to the bleachers at the baseball field.
- Renovate toilet rooms.

Stone Park

- Provide an accessible route to each play component in the playground (poured in place rubber).
- Provide an accessible route that connects all elements in the park.
- Provide a ramp at the bandstand/gazebo.
- Provide a drinking fountain for a seated and for a standing user.

Street Areas

- Sidewalks have deteriorated surfaces and lack maintenance. As a result, many of the sidewalks do not prevent accumulation of water.
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- Many sidewalks have excessive cross slopes.
- Crosswalk markings are faded or worn away in many locations.
- Some of the curb ramps that lack a landing have excessive slopes at flares.

Reference List:

Federal Laws:

- Americans with Disabilities Act (ADA)
- 2010 ADA Standards for Accessible Design

State Law:

- 521 CMR Massachusetts Architectural Access Board – Rules and Regulations

Guidance:

- ADA Action Guide for State and Local Governments: <https://www.adaactionguide.org>
- ADA Checklist for Existing Facilities: <https://www.adachecklist.org>
- Outdoor Developed Areas: A Summary of Accessibility Standards for Federal Outdoor Developed Areas: <https://www.access-board.gov/attachments/article/1637/outdoor-guide.pdf>
- US Access Board: <https://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-ada-standards/guide-to-the-ada-standards/animations>
- ADA Checklist for Polling Places: <https://www.ada.gov/votingchecklist.htm>
- Solution for Five Common ADA Access Problems at Polling Places: https://www.ada.gov/ada_voting/voting_solutions_ta/polling_place_solutions.htm