

CITY OF NEWPORT



1.1 Legislative Mandate

The Americans with Disabilities Act (ADA) is a civil rights law that mandates equal opportunity for individuals with disabilities. The ADA prohibits discrimination in access to jobs, government services, public transportation, public accommodations, and telecommunications. There are five titles of the ADA including:

- Title I: Employment
- Title II: State and Local Government
- Title III: Public Accommodations and Commercial Facilities
- Title IV: Telecommunications Relay Services
- Title V: Miscellaneous Provisions

The City of Newport is obligated to observe all requirements of Title I in its employment practices; Title II in its policies practices, services, programs, and activities; and any parts of Titles IV and V that may apply to the City of Newport.

Title V is a miscellaneous section. It includes provisions that do not allow the ADA to invalidate or override other laws (federal, state, and local) to provide equal or greater protections or remedies for people with disabilities. It includes exclusions of conditions from the definition of accessibility. Title V also includes protection of individuals from retaliation, intimidation, coercion, threats, or interference with people who seek to exercise their rights, or who encourage or aid others to do so, is prohibited.

1.2 Purpose of a Transition Plan

According to the Department of Justice, more than 58 million Americans (about 19% of our population) have disabilities and they, like all Americans, participate in a variety of programs, services, and activities provided by their State and local governments. By the year 2030, approximately 71.5 million baby boomers will be over age 65 and will need services and surroundings that meet their age-related physical needs.

An ADA Transition Plan identifies barriers to access in programs and activities. The goal is for the City of Newport to provide equivalent access at a reasonable level.

1.3 ADA Self-Evaluation and Transition Plan Development Requirements and Process

Title II requires the operation of each service, program or activity so that, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. It is firmly stated that no qualified individual with a disability may be excluded from participating in, or denied the benefits of, the services, programs, or activities provided by a public entity because of a disability.

Included in Title II are administrative requirements for all government entities employing more than 50 people. These administrative requirements are:

1. To notify applicants, participants, beneficiaries, and other interested people of their rights and the public entity's obligations under Title II
2. To designate a responsible employee (ADA Coordinator) to coordinate its efforts to comply with and carry out the public entity's ADA responsibilities;
3. To establish a grievance procedure for resolving complaints related to Title II;
4. To conduct a self-evaluation; A self-evaluation is an assessment of the public entity's services, programs, and activities and the policies and practices that govern the administration of them. This can include laws, ordinances, regulations, and manuals. The goal is to determine if the policies and practices adversely affect full participation of individuals with disabilities.
5. To develop a transition plan; In the event that structural changes to facilities will be undertaken to achieve program accessibility, a Transition Plan setting forth the steps necessary to complete such changes must be developed.

The plan will, at a minimum --

- Identify physical obstacles in the public entity's facilities that limit the accessibility of its programs or activities to individuals with disabilities;
- Describe in detail the methods that will be used to make the facilities accessible; and
- Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period.

1.4 Elements of a Transition Plan

Responsible Official

Per 28 CFR 35.150(d)(3)(iv), the City of Newport will identify an official responsible for implementation of the ADA Transition Plan.

Inventory of Barriers

Per CFR 35.150(d)(3)(i) and 28 CFR 35.105(a), the City of Newport will demonstrate good faith by identifying intersection information, including curb ramps and other associated accessibility elements, as a starting point and showing movement and commitment toward developing a full inventory.

The City of Newport will create an Action Plan to develop an inventory of sidewalks (slopes, obstructions, protruding objects, changes in level, etc.), signals (including accessible pedestrian signals), bus stops (bus pads), buildings, parking, rest areas (tourist areas, picnic areas, visitor centers, etc.), mixed use trails (greenways), and linkages to transit.

Schedule

Per 28 CFR 35.105(d)(2), the City of Newport will show a strong commitment toward upgrading ADA elements identified in the inventory of barriers in the short-term (planned capital improvement projects) and show a strong commitment over time toward prioritizing curb ramps at walkways serving entities covered by the ADA.

Per 28 CFR 35.105(d)(3), the schedule will include prioritization information, planning, and investments directed at eliminating other identified barriers over time.

As a best practice, the City of Newport will dedicate resources to eliminate identified ADA deficiencies.

Implementation Methods

Per 28 CFR.150(d)(3)(ii), the City of Newport will describe the methods that will be used to make the facilities accessible and, as a best practice, include the governing standard (e.g., 2010 ADAAG, 2011 PROWAG).

All new construction and alteration of local government facilities will make all reasonable efforts to comply with the 2010 ADA Standards for Accessible Design.

Public Involvement

Per 28 CFR 35.150(d)(3)(ii), CITY OF NEWPORT will describe the process used to allow the public to readily access and submit comments for both the ADA Self-Evaluation and Transition Plan.

As a best practice, the City of Newport will post a detailed list of individuals consulted in a conspicuous location on their website. Per 28 CFR 35.105(c), both electronic and hard copy notices will be available.

ADA Policy Statement

Per 28 CFR 35.106, the City of Newport will have an ADA Policy Statement easily accessible by the public. As a best practice, the ADA Policy Statement will be posted conspicuously on City of Newport's website, for internal and external use.

ADA Coordinator

Per 28 CFR 35.107(a), the City of Newport will clearly identify the ADA Coordinator (dedicated trained staff) and provide full contact information (i.e., name, office address, telephone number, and email address).

Complaint/Grievance Process

Per 28 CFR 35.107(b), the City of Newport will provide a clear procedure to receive and address complaints/grievances from the public. As a best practice, this process will be documented in the Transition Plan and be easily accessible by the public.

1.5 Definitions

The following is a summary of many definitions found in the ADA. Please refer to the Americans with Disabilities Act for the full text of definitions and explanations.

Disability

The term disability means, with respect to an individual:

- A physical or mental impairment that substantially limits one or more of the major life activities of such individual;
- A record of such impairment; or
- Being regarded as having such impairment.

Qualified Individual with a Disability

A qualified individual with a disability means an individual with a disability who, with or without reasonable modification to rules, policies, or practices; the removal of architectural, communication, or transportation barriers; or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the City of Newport.

Discrimination on the Basis of Disability

Discrimination on the basis of disability means to:

- Limit, segregate, or classify a citizen in a way that may adversely affect opportunities or status because of the person's disability;
- Limit, segregate, or classify a participant in a program or activity offered to the public in a way that may adversely affect opportunities or status because of the participant's disability;
- Participate in a contract that could subject a qualified citizen with a disability to discrimination;
- Use any standards, criteria, or methods of administration that have the effect of discriminating on the basis of disability;
- Deny equal benefits because of a disability;
- Fail to make reasonable accommodations to known physical or mental limitations of an otherwise qualified individual unless it can be shown that the accommodation would impose an undue burden on City of Newport operations;
- Use selection criteria that exclude otherwise qualified people with disabilities from participating in the programs or activities offered to the public; and

- Fail to use tests, including eligibility tests, in a manner that ensures that the test results accurately reflect the qualified applicant's skills or aptitude to participate in a program or activity.

Complaint

A complaint, also referred to as a grievance, is a claimed violation of the ADA.

Substantial Limitation of Major Life Activities

An individual is disabled if she or he has a physical or mental impairment that (a) renders her or him unable to perform a major life activity, or (b) substantially limits the condition, manner, or duration under which she or he can perform a particular major life activity in comparison to other people.

Major life activities are functions such as walking, seeing, hearing, speaking, breathing, learning, performing manual tasks, or caring for oneself.

In determining whether physical or mental impairment substantially limits the condition, manner, or duration under which an individual can perform a major life activity in comparison to other people, the following factors shall be considered:

- The nature and severity of the impairment;
- The duration or expected duration of the impairment; and
- The permanent or long-term impact (or expected impact) of or resulting from the impairment.

Having a Record of Impairment

An individual is disabled if he or she has a history of having an impairment that substantially limits the performance of a major life activity; or has been diagnosed, correctly or incorrectly, as having such impairment.

Regarded as Having a Disability

An individual is disabled if she or he is treated or perceived as having an impairment that substantially limits major life activities, although no such impairment exists.

Reasonable Program Modifications

If the individuals' disabilities prevent them from performing the essential functions of the program or activity, it is necessary to determine whether reasonable program modifications would enable these individuals to perform the essential functions of the program or activity.

Reasonable program modification is any change in program or activity or in the way things are customarily done that enables an individual with a disability to enjoy equal program opportunities. Accommodation means modifications or adjustments:

- To a registration or application process to enable an individual with a disability to be considered for the program or activity;
- To the program or activity environment in which the duties of a position are performed so that a person with a disability can perform the essential functions of the program or activity; and
- That enables individuals with disabilities to enjoy equally the benefits of the program or activity as other similarly situated individuals without disabilities enjoy.

A modification includes making existing facilities and equipment used by individuals readily accessible and usable by individuals with disabilities.

A modification applies to known disabilities only. A modification is not required if it changes the essential nature of a program or activity of the person with a disability, it creates a hazardous situation, adjustments or modifications requested are primarily for the personal benefit of the individual with a disability, or it poses an undue burden on the City of Newport

Auxiliary Aids and Services

The term auxiliary aids and services include:

- Qualified interpreters or other effective methods of making orally delivered materials available to individuals with hearing impairments;
- Qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;
- Acquisition or modification of equipment or devices; and
- Other similar services and actions.

1.6 Discrimination and Accessibility

ADA Title II Disability Discrimination Policy

Program accessibility means that, when viewed in its entirety, each program is readily accessible to and usable by individuals with disabilities. Program accessibility is necessary not only for individuals with mobility needs, but also to individuals with sensory and cognitive disabilities.

Accessibility applies to all aspects of a program or service, including but not limited to physical access, advertisement, orientation, eligibility, participation, testing or evaluation, provision of auxiliary aids, transportation, policies, and communication.

The following are examples of elements that should be evaluated for barriers to accessibility:

Elements with Potential Barriers

- Building signage
- Customer communication and interaction

- Sidewalks or curb ramps
- Emergency notifications, alarms, and visible signals
- Participation opportunities for City-sponsored events
- Parking
- Path of travel to, throughout, and between buildings and amenities
- Doors
- Service counters
- Restrooms
- Drinking fountains
- Path of travel along sidewalk corridors within the public right-of-way
- Access to pedestrian equipment at signalized intersections

2.0 *Self-Evaluation Findings*

The City of Newport's Transition Plan reflects the results of a comprehensive review and survey of the buildings, facilities, programs, and practices that are under the jurisdiction of the City of Newport; which, through its functions, provides these programs and services to the public. The review and survey identified both program and architectural barriers to persons with disabilities interested in accessing the City of Newport's programs and services.

Some evaluations were completed during the parks and recreation master planning process in 2018. Some evaluation findings documented in this section may have been corrected by the time the document is completed. There have been other improvements that are identified in this document that have been corrected by the City of Newport through annual funding earmarked specifically for ADA improvements.

2.1 *Title I Grievance Procedure and Compliant Form (Disability Discrimination Policy and Complaint Form)*

Grievance Policy:

One of the responsibilities of the Americans with Disabilities Office is to receive and investigate complaints. The purpose of the complaint procedure is to provide a mechanism for the resolution of discrimination issues at the state level, rather than require the complainant resorting to resolution at the federal level.

The ADA grievance procedure is established to meet the requirements of the Americans with Disabilities Act of 1990. It may be used by anyone wishing to file a complaint alleging discrimination on the basis of disability in employment practices and policies or the provision of services, activities, programs, or benefits by the Tennessee Department of Transportation.

The complaint should be in writing, if possible, and contain information about the alleged discrimination including name, address, phone number of complainant and location, date, and description of the situation. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint will be made available for persons with disabilities upon request.

2.2 Facilities

Eva Sexton Park

The park has three swinging chairs and two pavilions as well as the greenway. One pavilion sits in the grass. The other pavilion has a bench. The trail is ADA accessible, but the last pavilion and last swinging chair are not accessible because they are at the top of the hill without a path leading to them. The following recommendations would enhance the park:

- Install a paved path from the river walk to the top of the hill where there is a sitting pavilion and swinging chair.
- Since the guardrail is only in certain locations on site, it needs to be continued on the entire length of the river walk to have unity throughout the site.

To bring the park to full compliance:

- The parking lot needs to have designated ADA stall for the park specifically.
- Install paved paths to every node in the park to allow for maximum ADA accessibility.

Bryant Town Park

Bryant Town was recently upgraded, and ADA compliance issues were addressed during the planning and construction phases.

Fifth and Filbert Park

This park was recently upgraded to improve ADA parking, add ADA accessible playground equipment and upgrade the basketball court entrance / exit. No recommendations for compliance at this time.

Newport City Park

The flagship park was found to be in very good ADA compliance; however, some small changes were recommended to be implemented over the next few years:

- Adding ADA paths to every node of the park, which includes playground equipment as well as the football bleachers to the concession stand. *
- Upgrade ADA surfaces at each playground equipment station. *

*Some of these improvements have already been completed.

NGS Park – Skate Park

Facilities are mostly in compliance. Better paved ADA paths to get from the bleachers to the fields are recommended.

Kiwanis Park

There is no ADA path to the park or the current equipment. The playground surfaces also need to be updated.

Park To Float

New facility and was built to ADA standard. No recommendations were made.

Pet Milk Park

This park needs ADA paths to playground equipment as well as updates to playground surfaces, some of which have already been completed.

Harold Carr Jr Park – White Oak

This park is undergoing a complete redesign and redevelopment. There currently is little to no ADA compliance in this park. The upgrades will attempt to make the entire area ADA compliant although the topography will make this difficult. This should be completed in the next 1-3 years.

Newport Community Center

While many accommodations exist at the Newport Community Center, it was constructed prior to the Americans with Disabilities Act and those amenities are not compliant. The recommended replacements for the Center over the next few years are:

- Parking lot to the front of the building is not compliant
- Improved parking lot signage to meet the intent of the ADA
- Improved HC accessible spectator seating in the gym area
- Replace water fountains
- Replace concession stand counters to be compliant

Some of the water fountains have already been replaced and an upcoming upgrade to the facility to move the “front entrance” to the actual front of the building will solve the parking lot issue. The other issues will be addressed as resources become available.

Newport City Hall

The City of Newport’s second most visited public building, Newport City Hall’s parking and automatic door access have been updated recently. There is an ADA compliant restroom

- Customer service counter is not ADA compliant and must be updated in some way.
Current counter is too high
- Water fountains must be replaced with compliant facilities

Newport Fire Department Station 1

Station 1 is where the chief and assistant chief have offices and is the main station for the FD. Their facilities are not designed to have public entry as there is no customer service window. Long term, a new Public Safety facility will be planned and constructed that will alleviate the barriers listed below. In the short term, these updates will be done to the facilities to eliminate as many barriers as possible.

- Parking spaces must be striped and signage placed
- Restroom facility needs updated door that is compliant and handrails
- Compliant ADA door needs to be placed at the facility entrance
- Compliant ramping needs to be installed

Newport Fire Department Station 2

- Restroom facility requires compliant door and handrails
- ADA parking needs to be striped and signage placed
- Automatic / compliant door should be installed

Newport Police Department

The Police Department facility is very old and was built nearly 100 years before the ADA was made law. The many barriers in this building will be eliminated once a new, compliant facility is designed and built in the long run, but in the short term some issues must be addressed. An ADA compliant automatic door was installed recently and there is compliant ramping and parking on site. The customer service counter is currently non-compliant, but a minor remodel of some of the NPD facilities will increase the footprint of the customer service area and improve the situation with the counter tops at the customer service desk.

Newport Street Garage

The Newport Street Garage is a facility that is used for vehicle maintenance and storage for the street crew's equipment and is not intended to be a place where the public visits or programs or activities are held. However, there are sometimes visitors to the facility that go to speak to the street superintendent. For those few customers who approach the street garage, the existing barriers

- ADA parking signage and striping
- ADA accessible doors (internal and external)
- Customer service window that is ADA compliant

The long-term solution is for a new street garage facility that will be constructed within the next five years. The barriers listed in this assessment will be addressed at this time as we start from scratch with the new facility. In the short-term, the parking signage and striping will be adjusted to better serve the intent of the ADA.

Newport Animal Control

Newport Animal Control is currently located in a facility that was not intended to be an animal control facility. It is the result of the local animal shelter and the City of Newport reaching an impasse on funding and the Newport Animal Control offices being relocated to a building that the city owned that was intended to be demolished. Repairs were made to the building to attempt to quickly get it up to code and open two years ago. This building has many barriers. There is no ADA parking currently striped or signage for such. The door to enter the building is not ADA compliant. There is no accessible restroom there. These barriers will be addressed once the street department is moved to their new facility and the old street department building will be retrofit for the animal control facilities to be located to. At this time, we will address the barriers listed here as well as other issues that will arise when the move is made.

In the short term, ADA parking and signage will be added outside the current facility being used for animal control.

Newport Recycle Center

The Newport Recycle Center does not offer customer parking or services

Sidewalks and other pedestrian infrastructure

Over the past two years several ADA accessible crossings have been added to the Newport sidewalk system that did not previously exist. Other improvements are planned as each year we are attempting to slowly but surely make all of our pedestrian infrastructure ADA compliant. A walking inventory of the sidewalk system in Newport has been completed. There are several signaled intersections that require pedestrian signalization and crossing markings that will also make the signals ADA compliant. These intersections will be addressed through local funding as well as grant funding that will be pursued over the next several years as Newport also is currently completing a bike and pedestrian plan for the City.

The City of Newport allocates \$60,000 each year for ADA upgrades and improvements. This has been used most recently at our parks and in our pedestrian infrastructure. We will continue to make improvements each year as we will continually allocate this funding toward ADA compliance.

City of Newport Website

The City of Newport's Website was run through WAVE's website accessibility evaluation tool. This is an accessibility situation that we were not previously aware of and will be working to correct the around 70 minor coding issues that make the website less than friendly for individuals with certain disabilities.

2.3 ADA Complaint Policy

As part of the City of Newport becoming ADA compliant as well as satisfying the requests of the State of Tennessee, the following ADA complaint policy has been established and will be posted online, conspicuously on the City of Newport's Website.

City of Newport's ADA Complaint Process

- A. Individuals alleging discrimination on the basis of disability by the City, a City official, employee, or contractor, or a sub recipient of federal funds may submit a written complaint to the City's ADA coordinator, the City's Community Development Director or the City's Human Resources Manager for resolution. Complaints by City employees and job applicants alleging violations may be done in person to either person previously listed or in writing with the ADA Request Form.
- B. Complaints should be submitted as soon as possible after the alleged discrimination. Complaints, other than those brought by a City employee or job applicant must be submitted no later than 180 days after the alleged discrimination occurred.
- C. A decision will be rendered within 10 working days of receiving the complaint. The City will maintain a record of the complaint and all actions taken in response to the complaint.
- D. If the complaint cannot be resolved to the complainant's satisfaction, the complaint will be forwarded to the Newport City Council for review.
- E. The City Council will consider complaints of inadequate reasonable accommodation by a disabled employee provided both the employee and the City Administrator agree. The Council is directed to hear all complaints in public, after adequate public notice, in an unbiased, objective manner, and to make a written decision within 30 days of the next scheduled City Council meeting. Proceedings of the Committee shall be recorded and maintained. The decision of the City Council is final.
- F. A record of action taken on each request or complaint will be maintained as a part of the records or minutes at each level of the complaint process.
- G. The right to a prompt and equitable resolution of the complaint shall not be impaired by a disabled person's pursuit of other remedies, such as the filing of a complaint with the Department of Justice or other appropriate federal agency, or the filing of a suit in state or federal court. Use of this complaint procedure is not a prerequisite to the pursuit of other remedies.
- H. Anyone with a complaint may also contact the employee's supervisor, department head, or the City Administrator. Individuals may also choose to contact any of the following government agencies: U.S. Equal Employment Opportunity Commission, 220 Athens Way, Suite 350, Nashville, Tennessee 37228-9940, (615) 736-2107; US Department of Justice, 950 Pennsylvania Avenue, NW, Civil Rights Division Disability Rights Section – 1425 NYAV, Washington, D.C. 20530, (202) 307-0663 (voice and TTY); or Tennessee Human Rights Commission, 710 James Robertson Parkway, Suite 100, Nashville, Tennessee, 37243-1219, (615) 741-5825. Both the U.S. Department of Labor and the U.S. Department of Justice

have established websites (<http://www.disability.gov> and <http://www.ada.gov>, respectively) devoted to ADA issues.

- I. The City's ADA Complaint Procedure is an administrative process that does not provide for compensatory or punitive damages.
 - The ADA complaint process does not cover complaints based on protections afforded under other civil rights statutes, such race, color, national origin, religion, sex, marital status, age or source of income. If a complaint is filed alleging such discrimination, the complainant will be notified that it cannot be processed as an ADA complaint. Complaints of discrimination based on race, color or national origin will be handled under the City's Civil Rights Title VI complaint process that is substantially similar to this complaint process. More information regarding the City's Civil Rights Title VI complaint process may be found on our Title VI page.

Prepared by: Gary Carver, Director of Community Development

REFERENCES

Tennessee Department of Transportation ADA Transition Plan prepared by Kimley Horn, Accessology and Gresham Smith and Partners

Newport Parks and Recreation Ten Year Master Plan prepared by Community Development Partners, Brown Pearman Russell, LLC and CRJA

WAVE Web Accessibility Evaluation Tool, <https://wave.webaim.org/>

Americans with Disabilities Act Homepage, <https://www.ada.gov/>