

**Township of Middletown  
County of Monmouth  
State of New Jersey**

**AMERICANS WITH DISABILITIES ACT  
REVISED TRANSITION PLAN**

Adopted: April 24, 2008  
Revised: \_\_\_\_\_, 2011

**Original Transition Plan Prepared By:**  
Complete Access Solutions LLC

**Revised Plan Prepared By:**  
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[www.middletownnj.org/ada](http://www.middletownnj.org/ada)

**Township of Middletown  
County of Monmouth**

**ADA Compliance Committee**

The following individuals provided input and assisted in the review and preparation, or in the implementation of the Township's revised ADA Transition Plan.

Anthony Mercantante, Administrator  
Jim Van Nest, Assistant Administrator  
Ted Maloney, P.E., Engineer & Director of Public Works  
Cindy Veneziano, ADA Compliance Officer  
Brian M. Nelson, Esq., Township Attorney  
Robert Keady, P.E., Township Consulting Engineer  
Gregg A. Silva, Director of Parks, Recreation & Cultural Affairs  
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## **SECTION 1**

### **Overview of the Americans With Disabilities Act (“ADA”) Obligations for Municipal Governments**

#### **OBLIGATIONS UNDER ADA GENERALLY**

The Americans with Disabilities Act (“ADA”), enacted on July 26, 1990, provides comprehensive civil rights protections to persons with disabilities in the areas of employment, state and local government services, access to public accommodations, transportation, and telecommunications. The ADA is companion civil rights legislation with the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973. This legislation mandates that qualified disabled individuals shall not be excluded from participation in, denied the benefit of, or be subjected to discrimination under any program or activity. The Act also provides disabled employees with certain protections and requires employers to make reasonable accommodation for disabled applicants and employees.

The particular focus of the Township of Middletown’s Transition Plan is to provide accessibility to disabled individuals by addressing and eliminating structural barriers associated with the Township’s public facilities, 43 of which are specifically addressed in this revised Transition Plan’s Facilities Compliance Plan.<sup>1</sup> Access to civic life by people with disabilities is a fundamental goal of the ADA. To ensure that this goal is met, Title II of the ADA requires local

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<sup>1</sup> These 43 identified facilities include, in many cases, numerous individual structures that are addressed thereunder.

governments make their programs and services accessible to persons with disabilities. This requirement extends not only to physical access at government facilities, programs, and events -- but also to policy changes that governmental entities must make to ensure that all people with disabilities can take part in, and benefit from, the programs and services of local governments. In addition, governmental entities must ensure effective communication -- including the provision of necessary auxiliary aids and services -- so that individuals with disabilities can participate in civic life.

#### **NO GRANDFATHERING, BUT FLEXIBILITY PERMITTED**

The ADA does not allow for the “grandfathering” of pre-existing facilities. It does, however, permit flexibility in how and when access is provided as public resources permit. Specifically, in providing access, local governments are not required to take any action that would result in a fundamental alteration to the nature of the service, program, or activity in question, or that would result in undue financial and administrative burdens. This determination can only be made by the head of the public entity or a designee and must be accompanied by a written statement of the reasons for reaching that conclusion. The determination that undue burden would result must be based on all resources available for use in a program. If an action would result in such an alteration or such burdens, a local government must take any other action that it can to ensure that people with disabilities receive the benefits and services of the program or activity. 28 C.F.R. § 35.150(a)(3).

Title II requires municipal governments to ensure that all of their programs, services, and activities, when viewed in their entirety, are accessible to people with disabilities. Program access is intended to remove physical barriers to municipal services, programs, and activities, but it generally does not require that a municipal government make each facility, or each part of a facility, accessible. For example, each restroom in a facility need not be made accessible as this could be prohibitively costly or physically impossible. Signage, however, directing people with disabilities to alternative accessible features and spaces in a facility should be provided.

In addition to the prior illustration, program accessibility may be achieved in a variety of ways. Local governments may choose to make structural changes to existing facilities to achieve access. But local governments can also pursue alternatives to structural changes to achieve program accessibility. For example, municipal governments can move public meetings to accessible buildings and can relocate services for individuals with disabilities to accessible levels or parts of buildings. When choosing between possible methods of program accessibility, however, municipal governments must give priority to the choices that offer services, programs, and activities in the most integrated setting appropriate. All newly constructed local government facilities, however, must be fully accessible to people with disabilities. 28 C.F.R. §§ 35.149, 35.150, 35.151, 35.163.

## **RULES GOVERNING HISTORIC STRUCTURES**

Under ADA regulations, historically significant facilities are defined as those facilities or properties that are listed or eligible for listing in the National Register of Historic Places or properties designated as historic under state or local law. Structural changes to these facilities that would threaten or destroy the historical significance of the property or would fundamentally change the program being offered at the historic facility need not be undertaken.

Nevertheless, a local government must consider alternatives to structural changes in these instances -- including using audio-visual materials to depict the inaccessible portions of the facility and other innovative solutions.

If alterations are being made to a historically significant property, however, these changes must be made in conformance with the ADA Standards for Accessible Design, ("the Standards"), 28 C.F.R. Part 36, § 4.1.7, or the Uniform Federal Accessibility Standards, ("UFAS") § 4.1.7, to the maximum extent feasible. If following either set of standards would threaten or destroy the historical significance of the property, alternative standards, which provide a minimal level of access, may be used.

This decision must be made in consultation with the appropriate historic advisory board designated in the Standards or UFAS, and interested persons should be invited to participate in the decision-making process. 28 C.F.R. §§ 35.150(b)(2); 35.151(d); Standards § 4.1.7; UFAS § 4.1.7. If these lesser standards would threaten or destroy historically significant features, then the

programs or services conducted in the facility must be offered in an alternative accessible manner or location.

## **RULES GOVERNING INSTALLATION OF CURB CUTS**

When streets and roads are newly built or altered, they must have ramps wherever there are curbs or other barriers to entry from a pedestrian walkway. Likewise, when new sidewalks or walkways are built or altered, they must contain curb ramps or sloped areas wherever they intersect with streets or roads. While resurfacing a street or sidewalk is considered an alteration for these purposes, filling in potholes alone will not trigger the alterations requirements. At existing roads and sidewalks that have not been altered, however, local governments may choose to construct curb ramps at every point where a pedestrian walkway intersects a curb, but they are not necessarily required to do so. Under program access, alternative routes to buildings that make use of existing curb ramps may be acceptable where people with disabilities must only travel a marginally longer route.

One way to ensure the proper integration of curb ramps throughout a municipality is to set a series of milestones for curb ramp compliance in a municipality's transition plan. Milestones are progress dates for meeting curb ramp compliance throughout the municipality. Milestones should occur on a regular basis throughout the course of the transition plan and must reflect a priority to walkways serving government buildings and facilities, bus stops and other transportation services, places of public accommodation, and business



districts, followed by walkways serving residential areas.

It also may be appropriate for a municipal government to establish an ongoing procedure for installing curb ramps upon request in both residential and nonresidential areas frequented by individuals with disabilities. 28 C.F.R. §§ 35.150(d)(2); 35.151(e). In setting milestones and in implementing a curb cut transition plan for existing sidewalks, the actual number of curb cuts installed in any given year may be limited by the fundamental alteration and undue burden limitations.

## **SELF-EVALUATION & TRANSITION PLANNING**

One important way to ensure that Title II's requirements are being met in municipalities of all sizes is through self-evaluation, which is required by the ADA regulations. Specifically, all local governments were required to complete a self-evaluation of their facilities, programs, policies, and practices. The self-evaluation identifies and corrects those policies and practices that are inconsistent with Title II's requirements. Self-evaluations should consider all of a local government's programs, activities, and services, as well as the policies and practices that a city has put in place to implement its various programs and services. Self-evaluation enables local governments to pinpoint the facilities, programs and services that must be modified or relocated to ensure that local governments are complying with the ADA.

Remedial measures necessary to bring the programs, policies, and services into compliance with Title II should be specified -- including, but not

limited to: (1) relocation of programs to accessible facilities; (2) offering programs in an alternative accessible manner; (3) structural changes to provide program access; (4) policy modifications to ensure nondiscrimination; and (5) auxiliary aids needed to provide effective communication. In the case of the Township of Middletown, which employs more than fifty (50) people, it must also develop a transition plan that identifies those changes and sets a schedule for implementing them. Both the self-evaluation and transition plans must be available to the public. 28 C.F.R. §§ 35.105, 35.150(d).

## SECTION 2

### History of ADA Litigation & Compliance In Middletown

On January 25, 2004, the Township of Middletown was sued in federal court as part of a private action in the matter of Advocates for Disabled Americans (AFDA), et al. v. Township of Middletown, alleging certain violations of the ADA and Rehabilitation Act arising from alleged barriers to accessibility on municipally owned properties. On February 27, 2006, this matter was settled upon entry of a Consent Order addressing the disputed claims absent adjudication on the merits and without any admission by the Township of Middletown of any violations of the ADA, Rehabilitation Act or other Federal or State Civil Rights laws. In turn, the 2006 Consent Order required the Township of Middletown to adopt a Transition Plan pursuant to 28 C.F.R. § 35.150 within one year of entry of the Consent Order.

On July 31, 2007, however, a more comprehensive Consent Order was entered as a result of continuing mediation and arbitration over fees, which continued the effectiveness of the 2006 Consent Order but modified certain terms including those governing the adoption and implementation of the Township's Transition Plan. Specifically, the 2007 Consent Order required: (1) the issuance of a Request for Proposals ("RFP") on or before September 15, 2007; (2) the submission of qualified bids being received no later than November 15, 2007; (3) an award of contract being made no later than

February 1, 2008; and (4) the completion of a Transition Plan by August 1, 2008. The 2007 Consent Order also called for the appointment of an ADA coordinator by August 15, 2007. The Township of Middletown met all of these deadlines.

First, in August 2007, Cindy Veneziano, the Township's EEO Officer was appointed by the Township Administrator to serve as the Township's ADA Compliance Officer. Ms. Veneziano has worked in the human resources field for more than twenty-two (22) years and between 2005 to present has received extensive training in ADA issues and compliance. Ms. Veneziano's continuing appointment as the Township's ADA Compliance Officer was reconfirmed by Resolution of the governing body in 2010, and she is now specifically compensated for these duties under this title pursuant to the Township's salary ordinance.<sup>2</sup>

Second, a timely RFP was issued pursuant to the Local Public Contracts Law with four (4) responses being received on November 17, 2007. These bids ranged in cost from \$119,250 from the Plaintiff's expert to \$88,300 from Complete Access Solutions LLC. On January 22, 2008, by Resolution No. 08-077, the Township awarded Complete Access Solutions LLC a contract in the amount of \$88,300 for the specific purpose of developing the Township's ADA Transition Plan.

On April 28, 2008, Complete Access Solutions LLC delivered its

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<sup>2</sup> Ordinance No. 2011-3027 (adopted April 18, 2011).

Transition Plan to the Township. Incorporated into this revised Transition Plan, it reviewed every known Township facility, identified barriers to access, recommended detailed corrective actions based on applicable standards, and established priority levels and cost estimates for completing the same. Since the adoption of the Township's original Transition Plan, the Township has budgeted and begun to expend more than \$250,000, exclusive of staff time and other soft costs, towards implementation of the Transition Plan's recommended corrective actions, which have been far more costly than estimates provided in the Township's original Transition Plan. Despite continuing dramatic losses in revenue, including \$4.6 million in proposed spending cuts in 2011, the Township continues to budget \$100,000 annually in its capital budget for ADA improvements.

In addition to capital funds being dedicated to ADA improvements at municipal facilities and parks that have taken place and are under way, curb cuts are being installed during all roadway reconstruction and resurfacing projects. Since 2008 alone, the Township has completed 110 curb cuts on municipal roadways, with 34 already engineered into plans that will be completed as part of the 2010 capital road program in 2011. Curb cuts are also required as part of all applicable new construction projects in the Township.

## **SECTION 3**

### **Revised Transition Plan Adoption Process**

Revisions to the Township of Middletown's Transition Plan will be considered through an open public process. First, the draft revised Transition Plan will be work-shopped by the Governing Body for its preliminary consideration and review. Second, the draft revised Transition Plan will be posted on the Township's website for public review and receipt of written comments for a period of thirty (30) calendar days before any public hearing is held. Hard copies will also be made readily available upon request from the Township Clerk's office.

After the draft revised Transition Plan has been made available online and through the Township Clerk's Office for submission of written comment for a period of not less than thirty (30) calendar days, a date for a public hearing on the draft revised Transition Plan will be announced through the Township Clerk's Office with a minimum of two (2) weeks public notice. This announcement will be advertised on the Township's website, official bulletin boards and through a paid advertisement in the Township's official newspaper, with public notices being sent to all other newspapers covering the Township.

The public hearing on the draft revised Transition Plan will be held during one of the Governing Body's regularly scheduled meetings and be specific only to the draft revised Transition Plan with interested parties being provided ten

(10) minutes each to publicly comment. After the hearing is complete, the Township's ADA Compliance Committee identified in this revised Transition Plan shall review the written and oral comments received to determine what, if any, recommended changes should be made prior to final presentation to the Governing Body for its final adoption of the revised Transition Plan by Resolution.

Upon adoption, the revised Transition Plan will be made available on the Township's website and by hard copy in the Township Clerk's office. Any future reviews or revisions made to the Township's Transition Plan should be conducted in this same public manner.

## **SECTION 4**

### **ADA Coordinator, Complaint Procedure & Complaint Form**

#### **ACCOMODATION AND ACCESSIBILITY REQUESTS**

The Township of Middletown is committed to providing equal access to all its programs and services in a manner that integrates individuals with disabilities as much as possible. To the greatest extent possible, the Township will provide meaningful accommodations or access to all of its services, programs, and activities for qualified individuals with disabilities. It is requested that any such requests be made at least forty-eight (48) hours in advance. Individuals requiring any special accommodations that may not be readily available to access Township programs or services should contact the Township's ADA Coordinator, Cindy Veneziano, who may be reached as follows:

Cindy Veneziano  
ADA Coordinator  
One Kings Highway  
Middletown, NJ 07748  
732-615-2000 x2017  
cvenezia@middletownnj.org  
[www.middletownnj.org/ada](http://www.middletownnj.org/ada)



## **PROCEDURES FOR MAKING ACCESS COMPLAINTS**

Any user of Township facilities or services who wishes to file a complaint regarding an ADA accommodation or the Township's alleged failure to provide such accommodation should use the Township's ADA Complaint Form attached to this Transition Plan and to be posted on the ADA section of the Township's website, to pursue his or her claim through these procedures. This form shall be filed with the Township's ADA Coordinator who shall conduct a preliminary review of the complaint and make a preliminary recommendation to the Township Administrator regarding how the complaint should be addressed. The Administrator shall then determine what, if any, corrective action may be taken within available resources, and by whom. Within forty-five (45) days of filing, the complainant should be provided an explanation regarding what corrective action has or is being taken, or if none, an explanation as to why.

## **SECTION 5**

### **Facilities Compliance Plan**

The Facilities Compliance Plan forms the backbone of the Township's revised Transition Plan. The primary purpose of the Transition Plan is to document facility changes necessary to provide adequate access to Township facilities and programs for disabled individuals. Given current economic conditions and number of Township facilities in need of barrier removal, not all accessibility improvements can be made at one time. Accordingly, a prioritization schedule has been established.

Prioritization determinations for making corrective the actions recommended under the Township's Transition Plan in 2008 are primarily made based on the availability of financing, the volume of public use at a particular facility and the scale of the barrier. Accordingly, Township facilities with the greatest use will generally be addressed first as financing is available for making the corrective actions recommended, or acceptable alternatives thereto implemented, to provide adequate accommodations or access to disabled individuals as soon as practically possible. Aside from curb cuts financed through roadway improvement programs, almost all financing for the Township's current ADA improvements is made through capital appropriations financed through bonds or notes that are adopted once per year. Since 2009, funding has been appropriated at a rate of \$100,000 per year, with an additional

\$50,000 in 2010 through Parks & Recreation principally for parks and playground barrier removal. Due to the elimination of 40 Township jobs in 2010, anticipated retirements for positions that will not be back-filled, and proposed layoffs totaling 26 at this time for 2011 that will virtually eliminate the Department of Parks & Recreation, forcing the Township's prioritization schedule must be spread over many years. Certain improvements have already been made simultaneously at many of these facilities, but complete barrier removal not anticipated until the dates provided.

## SECTION 6

### Facility Prioritization Schedule

*Detailed Facilities Data Provided In Exhibits*

<b>Covered Facility</b>	<b>Schedule</b>	<b>Exhibit</b>
Township Municipal Complex	Complete 2011	1
Cultural Arts Center	Complete 2011	2
Normandy Park	Complete 2011	3
Tindall Park	Complete 2011	4
Croyden Hall Complex	2012	5
Health Department Building	2012	6
Bayshore Recreation Center	2012	7
Tanya Keller Community Center	2012	8
Bodman Park	2012	9
Stevenson Park (Pending SL Project)	2012	10
Middletown Swim Club (Pending Cap.)	2013	11
Ideal Beach (Pending Potential Grants)	2013	12
Public Works Complex	2013	13
Nut Swamp Park	2013	14
McMahon Park	2013	15
Wilmort Park	2013	16
Poricy Park	2013	17
Port Monmouth Train Station/MHIO	2014	18
Fairview Soccer/Applebrook Park	2014	19
Kunkel/Leonardo Park	2014	20
West Front Street Park	2014	21
Middletown Twp. Park	2014	22
Navesink Tennis Courts	2014	23
Belford Park	2015	24
Ripper Collins Park	2015	25
Roosevelt Park	2015	26
Shorecrest Park	2015	27
Schulz Park	2015	28
Lincroft Acres Park	2015	29

Hillside Park	2016	30
Lincroft Village Green	2016	31
Greg Butler Park	2016	32
Gordon Court Park	2016	33
Fairway's Park	2016	34
Evergreen Park	2016	35
Leonardo Beach	2017	36
Dorsett Park	2017	37
Countryside Park	2017	38
Church Street Park	2017	39
Chanceville Park	2017	40
Fireman's Pond	2017	41
Crystal Pond	2017	42
Bicentennial Park	2017	43

**Facilities Not Currently Scheduled for Barrier Removal By Township:**

<b>Facility</b>	<b>Reason</b>
Bus Shelters	New Jersey Transit Owned
Port Monmouth Library	Will Consult Library Board
New Monmouth Library	Will Consult Library Board
Lincroft Library	Will Consult Library Board
Little Red School House	No Recommended Changes
Greeley Park	No Recommended Changes
Police Firing Range	No Recommended Changes
Waloo Park	No Recommended Changes
Camp Hope	No Ownership
Hillside Recreation Center	No Ownership/In Tax Foreclosure
Fire Academy	Slated for Closure
Middletown Historic Train Station	Closed Indefinitely
Skateboard Park	Closed Indefinitely
Grove House	Closed Indefinitely

## **SECTION 7**

### **Maintenance of Accessible Features**

Finally, ADA regulations require that once accessible features are installed that they must be properly maintained for continued use by persons with disabilities. 28 C.F.R. § 35.133(a). This includes not only being in proper working order, but also unobstructed by obstacles that would make such facilities or features inaccessible or unusable by individuals with disabilities. These regulations, however, do not prohibit temporary obstructions or isolated instances of mechanical failure due to maintenance or repairs needing to take place. No facilities or feature though should be out of service beyond a reasonable period of time.

To ensure that accessibility facilities or features remain in proper working order, any incidents of malfunctions, failures or repairs being needed should be immediately reported to the Township's ADA Coordinator who shall inform the Department of Public Works of the need for maintenance or repairs. The Department of Public Works should inspect the reported issue and advise the ADA Coordinator when such maintenance or repairs shall take place. If additional time will be required as it is a matter that must be handled by an outside contractor, or of the scale where additional funding sources may be required, this shall also be reported to the ADA Coordinator so other reasonable accommodations may be made while the facility or feature is out of service.

Finally, an annual inspection of Township facilities and accessibility features should be made to ensure proper maintenance and repair even in instances where issues may not have been reported. Items in need of maintenance or repair from the annual inspection should be placed on a punch list with anticipated dates of repair being provided to the ADA Coordinator. Annual ADA inspections should include, but not necessarily be limited to, an examination of the following:

1. Inspection of exterior pathways and curb cuts at Township-owned facilities for any surface irregularities that may create accessibility issues due to wear or cracking.
2. Inspection of disabled parking spaces to ensure that appropriately visible signage and markings remain along with the maintenance of access aisles being clear of obstructions and usable.
3. Inspection of all building signage to ensure it remains appropriately visible to direct persons with disabilities to the designated accessible paths of travel.
4. Inspection of door pressures to maintain them as low as possible.
5. Inspection of elevators and chair lifts to ensure property maintenance and working order.
6. Inspection of interior hallways and passage ways to ensure the no objects mounted on the walls protrude more than 4 inches into paths of travel.
7. Inspection of all audible and visual fire alarms and pull stations to be fully operational and in conformance with applicable Fire Code.
8. Inspection of all accessible plumbing fixtures, including toilets, urinals, lavatories, sinks, faucets, showers and drinking fountains to be operational and in compliance with accessibility codes.

# AMERICANS WITH DISABILITIES ACT COMPLAINT FORM



### COMPLAINANT INFORMATION

LAST NAME		FIRST NAME		MIDDLE NAME	
ADDRESS			CITY	STATE	ZIP
PHONE NUMBER Home: ( ) - Work (optional): ( ) -				DATE	

### ALTERNATE CONTACT

LAST NAME		FIRST NAME		MIDDLE NAME	
ADDRESS			CITY	STATE	ZIP
PHONE NUMBER Home: ( ) - Work (optional): ( ) -					

### COMPLAINT INFORMATION

AGENCY ALLEGED TO HAVE DISCRIMINATED / DENIED ACCESS	
DIVISION / UNIT	
LOCATION (City / County)	DATE OF INCIDENT
INCIDENT OR BARRIER	

Please describe in detail the alleged barrier or discriminatory conduct alleged to have occurred.

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