



Town of Chatham, Massachusetts

PART C – Self-Evaluation Summary

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Introduction

This Americans with Disabilities Act (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). Self-Evaluation report also includes a summary of architectural barriers identified during accessibility surveys performed by IHCD teams between March 23 – May 17, 2021.

Together these findings are designed to help move the City 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 Chatham 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;

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

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- Being regarded by others as having an impairment such as individuals with severe facial scarring.

It is important to stress that the primary obligation to public entities such as the Town of Chatham, 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.

The Town must **communicate effectively** with people who have hearing, vision, or speech disabilities. The Town 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 or otherwise communicated must be as clear and understandable to people with hearing, vision, speech or other disabilities as they are defined in the Americans with Disabilities Act as it is for people who do not have disabilities. In addition, the ADA requires the provision of "auxiliary aid and service" to meet the responsibility for effective communication. Auxiliary aids 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 (DOJ) issued the 1991 ADA Standards for Accessible Design to address physical access to facilities and transportation. In 2010 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 met or exceed the 1991 ADA Standards when they were built or modified 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.

For renovation, remodeling, or alteration:

- The work being done must comply with the regulations.
- If the work done in any 36-month period is greater than \$100,000, the “work being performed” is required to comply. In addition, an accessible entrance and an accessible toilet room, telephone and drinking fountain (if toilets, telephones and drinking fountains are provided) shall also be provided.
- If the work done in a 36-month period is more than 30% of the “full and fair cash value” of the building², the entire building must come into compliance.

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 This is usually the assessed value established by the city or City. See [521 C.M.R. § 5.38](#) for details about establishing value where no assessment exists.

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 purpose of having a responsible employee – ADA Coordinator - is to ensure that when the public deals with a state or local government agency, the public is able to identify a person who is knowledgeable with the requirements of the ADA.

The Town of Chatham has met its obligation to designate a responsible employee by appointing Jay Briggs, the Town Building Commissioner, as the ADA Coordinator.

IHCD recommends that the Town clarify the role of the ADA Coordinator, which includes responsibility for reasonable accommodation requests from municipal employees. Highlighting this information will improve compliance and make for more efficient operations with respect to the needs of both Chatham employees and members of the public with disabilities. The name and role of the ADA Coordinator should be made clear on the Town’s website, in employee information, and in public notifications.

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 effective notice should state the Town’s obligations under the ADA and include the complete contact information of the ADA Coordinator.

The Town of Chatham has a public Notice of Non-Discrimination; however, the Public Notice does not clearly state that the Town “...does not discriminate on the basis of disability in its programs, services, activities and employment practices.” Additionally, the Notice uses outdated language with the term “handicap.” IHCD recommends the use of terminology like “*accessible for people with disabilities.*”

The content in the Public Notice discussing interpreters may be confusing. Upon reading, the phrasing may inadvertently be interpreted to be placing the onus of arranging and paying for an interpreter on the person requesting the auxiliary aid. This section of the Notice may need modification. Finally, people are instructed to contact the Town Clerk’s Office to arrange for auxiliary aids and services; it might be helpful to specify a specific contact or job title to ask for within that office.

IHCD recommends the Town take steps to clarify with employees the process of posting of the ADA Notice of Non-Discrimination policy to comply with the ADA Title II requirement that states that public entities shall take initial steps to notify employees, program/service participants and beneficiaries of its obligations. Modify the Public Notice to inform the staff and citizens of Chatham that the Town does not discriminate on the basis of disability in its services, programs, or activities and that the Town has a Grievance Procedure.

The Town has an obligation as a Title II entity under the ADA to provide auxiliary aids and services such as interpreters for members of the public who are deaf or hard of hearing. The Notice should be modified so that it is clear that the responsibility to provide the interpreters falls on the Town. In addition, identify the specific staff person who makes arrangements for auxiliary aids and services with their contact information as well as including the ADA Coordinator’s name and contact information. Publish the Notice in all the materials distributed by the Town; post the Notice on the Town’s website home page and post copies in public locations in the Town’s buildings. Distribute the Notice to all department heads. Copies should also be provided to any person upon request and state the commitment to provide copies in accessible formats upon request.

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 Chatham has a Grievance Procedure. However, survey responses regarding the Grievance Procedure included “*We don’t have a Grievance Procedure;*” “*None that we are aware of;*” or “*Not applicable.*” However, there was also a very detailed and accurate account of the Procedure provided in one survey response.

IHCD recommends the Town provide an “ADA Compliance” link on the Town’s website home page directly to the Grievance Procedure form and state the commitment to provide copies in accessible formats upon request. Ensure good record keeping for all complaints submitted and documentation for steps taken towards resolution. Distribute the Grievance Procedure to all department heads, and post copies of it in noticeable locations in each of the Town’s public buildings. Ensure Town employees are aware of the Grievance Procedure process and can provide information to members of the public about the process when appropriate. Ensure the complete contact information for the ADA Coordinator is included in the Grievance Procedure.

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

From the survey responses submitted by staff, there is no evidence that the Town was unable to provide a reasonable modification when requested. However, there is also no indication that the Town has developed written policies to ensure modification to policies and procedures.

IHCD recommends the Town ensure that Town employees can provide information to members of the public about the process of requesting reasonable modification of policies when appropriate. Ensure that the form for requesting reasonable modifications of policies is on the Town’s website, and state the commitment to provide copies in accessible formats upon request. Include the complete contact information for the ADA Coordinator on materials and publications that contain general information disseminated to staff and members of the public. Ensure the form for requesting reasonable modifications of policies is 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. This requirement may include modifying work schedules, job restructuring, and making facilities used by employees readily accessible to an employee

with a disability, or moving the employee, if possible without compromising job responsibilities, to an accessible location.

The Town has an *Americans with Disabilities Act Policy Statement* available for employees with disabilities. All survey respondents confirm that an employment policy is in place. However, the posting of notices were inconsistent. Some respondents claimed there were no Policy Statements posted in their departments while others found such postings in vestibules and breakrooms. It is not certain whom employees with disabilities should contact for reasonable accommodation requests. The *Policy Statement* recommends people contact the Personnel Administrator to notify the Town about issues of discrimination or reasonable accommodations. No such individual could be located on the Town's website. There may be further confusion with regard to the responsibilities of the Town's Human Resources Department. They appear to manage general employee matters and the *Anti-Harassment and Discrimination Administrative Procedure*. There are no clear indications to confirm that Human Resources is the department to manage all employment matters.

Regarding questions about reasonable accommodations and other related topics, IHCD recommends that the Town of Chatham becomes familiar with the excellent free national resources from the *Job Accommodation Network* (<https://askjan.org>).

6. Provide *Auxiliary aids and services* (ADA Title II – 28 CFR Part 35.160) to ensure effective communication with people with disabilities. This provision requires ADA Title II entities to take steps to ensure that communication with members of the public and employees with disabilities is as effective as communication with others. This requirement may include but is not limited to providing sign language interpreters, providing Computer-Assisted-Real-time-Translation (CART), written materials for persons who are deaf or have difficulty hearing, braille or large print information or information in digital format for people who are blind or have difficulty seeing.

The Town's Public Notice provides several details on auxiliary aids and services and generally where to make such requests. Survey respondents indicate "*they can make accommodations as situations arise*", "*provide if needed*," or "*complete requests on a case by case basis*." The public is instructed to contact the Town Clerk's office to arrange for auxiliary aids and services, but does not provide contact information for a specific person or position that makes such arrangements.

IHCD recommends that the Town distribute the Effective Communication Notice to all department heads; publish it in a local newspaper of general circulation serving the Town; in all materials regarding the Town’s programs, services or activities, and on the Town’s website home page. Post copies in prominent locations in the Town’s public buildings. Ensure that all the fillable forms on the Town’s website are accessible to people with disabilities. IHCD recommends providing web forms or accessible fillable PDF’s for all the forms available on the Town’s website. Include Alt Text on all images on the Town’s website for people who are blind or has low vision to identify the content of the image with screen reading technology.

Ensure that the Town’s website and other web-based services are and continue to be 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.

IHCD’s New England ADA Center staff can provide training on effective communication if the Town is interested.

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:

Public Buildings

Town Hall
Town Hall Annex
Council on Aging
Community Center
Police Department
Fire Department
Public Library
Wharfinger Building
Veterans Public Toilet Room
Orpheum Toilet Room

Semi-Public Buildings

DPW Office Building
Railroad Museum
Doc Keene Scout Hall
Trap Doc
Transfer Station

Parks, Beaches and Harbors

Chase Park
Kate Gould Park & Toilet Rooms
Hardings Beach Parking Lot Attendant Shed and Toilet Rooms
Oyster Pond Beach
Stage Harbor - Harbormaster's Office
Stage Harbor - Service Garage

Other Locations

Airport Office & Maint.
Seaside Links Golf Course
Eldred Garage & Parking Lot

Building Facilities Overview

Under Title II of the ADA, the Town of Chatham 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 following Town facilities:

Public Buildings

Town Hall

- Renovate accessible routes.
- Provide a curb ramp.

- Renovate parking lot.
- Provide compliant signage (directional, designation and egress signs).
- Renovate doors.
- Renovate stairs.
- Renovate toilet rooms.
- Renovate ramps.
- Provide accessible service counters.
- Provide accessible work surface.

Town Hall Annex

- Renovate exterior accessible routes.
- Renovate toilet rooms.
- Provide compliant signage (directional and designation).

Council on Aging

- Provide compliant ramps.
- Provide compliant signage (designation, egress, directional and illuminated International Symbol of Accessibility (ISA) signs).
- Renovate toilet rooms.
- Provide compliant doors (door knobs, thresholds, etc.).
- Provide compliant sinks (with knee and toe clearance).
- Provide accessible work surfaces.
- Provide cane-detectable barriers at elements that protrude into the circulation paths.

Community Center

- Provide accessible routes.
- Provide a compliant ramp (teen room).
- Provide accessible work surfaces (with knee and toe clearance).
- Provide a cane-detectable barrier skirt under the high drinking fountain.
- Provide compliant signage.
- Provide an accessible picnic table (with knee clearance).

Police Department

- Renovate exterior access route.
- Provide a compliant toilet/lavatory unit at juvenile cell.
- Provide an accessible service counter.

- Provide a drinking fountain for standing users.

Fire Department

- Renovate area of refuge.
- Provide assistive listening system.
- Renovate toilet rooms.
- Provide an accessible service counter.
- Provide compliant egress signage.

Public Library

- Renovate exterior access routes including renovating and providing two (2) curb ramps.
- Renovate toilet rooms.
- Renovate kitchen (provide an accessible sink and cooktop).
- Renovate and provide stair handrails.
- Provide seven accessible work surfaces.
- Provide compliant signage (egress, designation, and directional signage).
- Provide a drinking fountain for a seated user.
- Provide an accessible route to the stage in Forgeron Hall.
- Provide an accessible picnic table.

Wharfinger Building

- Renovate exterior accessible routes.
- Renovate ramps.
- Renovate stairs.
- Renovate toilet rooms.
- Provide a drinking fountain for standing users.
- Provide a directional sign (indicating that the pier can be accessed by car from the lower parking lot).

Veterans Public Toilet Room

- Renovate toilet rooms.
- Provide a drinking fountain for standing users.
- Provide a cane-detectable barrier at the drinking fountains.

Orpheum Toilet Room

- Renovate toilet rooms.
- Provide a drinking fountain for standing users.
- Provide compliant signage (with raised characters and braille).
- Renovate parking lot.

Semi-Public Buildings

DPW Office Building

- Provide compliant egress signage.
- Provide an illuminated sign with the International Symbol of Accessibility (ISA) at the accessible exit.
- Provide an accessible work surface.
- Provide an accessible picnic table.

Railroad Museum

- Provide a compliant ramp.
- Provide an accessible single-user toilet room.
- Provide compliant signage (egress and directional signage).

Doc Keene Scout Hall

- Renovate and provide exterior accessible routes.
- Renovate toilet rooms.
- Provide accessible parking spaces.
- Provide compliant signage (designation, egress and directional signage).
- Provide accessible dining and work surfaces.

Trap Dock

- IHCD team did not identify any accessibility issues at the Trap Dock.

Transfer Station

- Renovate exterior ramp.
- Renovate volunteer building.
- Renovate parking lot (household trash area) and provide complaint identification signs.

Parks, Beaches and Harbors

Chase Park

- Renovate and provide exterior accessible routes.
- Provide an accessible parking space at the Cross Street parking lot and provide an access aisle at the parking lot located on Shattuck Place
- Provide compliant handrails on both sides at the stairs leading to the windmill.

Kate Gould Park & Toilet Rooms

- Renovate and provide accessible exterior accessible routes.
- Provide a ramp on to the bandstand.
- Renovate toilet rooms.
- Provide an identification sign with the designation “Van Accessible” at the van accessible parking space.

Hardings Beach Parking Lot Attendant Shed and Toilet Rooms

- Renovate exterior routes.
- Renovate parking.
- Renovate toilet rooms.
- Renovate shower.
- Provide compliant door hardware

Oyster Pond Beach

- Provide an accessible route that extends to the high tide level (beach mat) and connects all the amenities at the beach.
- Provide compliant accessible routes around the toilet rooms.
- Renovate the toilet rooms and outdoor shower
- Provide a drinking fountain for a standing user and a cane-detectable barrier at the drinking fountains.
- Provide identification signs at parking lot.
- Provide compliant designation signs, (with braille and raised characters).

Stage Harbor - Harbormaster's Office

- Renovate ramp to Harbormaster’s Office staircase.
- Renovate and provide railings at ramps and staircase.
- Renovate parking lot.
- Renovate toilet rooms.

- Provide compliant door hardware.
- Provide compliant signage (with braille and raised characters) at toilet rooms.
- Provide an accessible service counter.
- Renovate and provide stairs with closed risers.

Stage Harbor - Service Garage

- Renovate exterior accessible routes.

Other Locations

Airport Office & Maintenance.

- Renovate exterior routes.
- Renovate toilet room.
- Provide compliant signage (with braille and raised characters).
- Provide an accessible service counter.

Seaside Links Golf Course

- Renovate existing exterior routes.
- Renovate toilet rooms.
- Provide an accessible portable toilet.
- Provide compliant signage (with braille and raised characters).
- Provide an accessible service counter.

Eldred Garage & Parking Lot

- Provide an accessible parking space.

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