



ADA Transition Plan

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Executive Summary

Title II of the Americans with Disabilities Act (ADA) regulates programs, activities and services provided by state and local governments. As such, City of Morganton must comply with this section, which states: “no qualified individual with a disability shall, by reason of such disability, 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 such entity” (42 USC Sec. 12132; 28 CFR Sec. 35.130).

In accordance with Title II, the City of Morganton conducted an ADA compliance self-evaluation of its services, programs, activities, and facilities on public property and in public rights-of-way. With this information, an ADA Transition Plan has been developed to share findings of the self-evaluation and to establish strategies for improving ADA accessibility within our community.

Our self-evaluation reviewed three fundamental areas for ADA compliance: (1) communications, information and facility signage; (2) public buildings and spaces; and (3) pedestrian facilities and public rights of way. Results of the self-evaluation are contained in Appendix A – D. A summary of building recommendations can be found in Appendix E.

Improvements for each of these three areas will be addressed by level of priority, which contains low, medium, and high priority actions. To accommodate the larger-scale projects, the City will integrate many into future Capital Improvement Plan (CIP) and will continue to work with the North Carolina Department of Transportation (NCDOT) to align Transportation Improvement Program (TIP) projects with ADA compliance needs. Funding for the identified improvements will be appropriated through the City’s annual operational and capital improvement budgets.

ADA self-evaluation, transition planning and implementation will be a continuous effort for the City of Morganton. The City is committed to updating the ADA Transition Plan annually with oversight of the City Manager and every five years with required action by the City Council. Involvement of other community leaders and support organizations is, and will continue to be, a critical part of the ADA transition process.

Introduction

Transition Plan Need and Purpose

The Americans with Disabilities Act (ADA) is a civil rights law prohibiting discrimination against individuals based on disability. It was enacted on July 26, 1990, and was amended in 2008 with the ADA Amendments Act. The ADA consists of five titles outlining protections in the following areas:

- I. Employment
- II. State and local government services
- III. Public accommodations
- IV. Telecommunications
- V. Miscellaneous Provisions

Title II of ADA pertains to the programs, activities and services provided by public entities. The City of Morganton must comply with this section of the Act, as it specifically applies to public service agencies. Title II of ADA states “no qualified individual with a disability shall, by reason of such disability, 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 such entity” (42 USC Sec. 12132; 28 CFR Sec. 35.130).

As required by Title II of ADA (28 CFR Part 35 Sec. 35.105 and Sec. 35.150), the City of Morganton has conducted a self-evaluation of its services, programs, activities, and facilities on public property and within public rights-of-way. Further, the City developed this Transition Plan to detail methods to be used in working toward compliance with ADA accessibility requirements into the future.

Agency Requirements

Under Title II of the ADA, the City of Morganton must meet these general requirements:

- Must operate programs so that, when viewed in their entirety, the programs are accessible to and useable by individuals with disabilities [28 CFR Sec. 35.150].
- May not refuse to allow a person with a disability to participate in a service, program or activity simply because the person has a disability [28 CFR Sec. 35.130 (a)].
- Must make reasonable modifications in policies, practices and procedures that deny equal access to individuals with disabilities unless a fundamental alteration in the program would result [28 CFR Sec. 35.130(b)(7)].

- May not provide services or benefits to individuals with disabilities through programs that are separate or different unless the separate or different measures are necessary to ensure that benefits and services are equally effective [28 CFR Sec. 35.130(b)(iv) and (d)].
- Must take appropriate steps to ensure that communications with applicants, participants and members of the public with disabilities are as effective as communications with others [29 CFR Sec. 35.160(a)].
- Must designate at least one responsible employee to coordinate ADA compliance [28 CFR Sec. 35.107(a)]. This person is typically referred to as the ADA Coordinator. The public entity must provide the ADA Coordinator's name, office address, and telephone number to all interested individuals [28 CFR Sec. 35.107(a)].
- Must provide notice of ADA requirements. All public entities, regardless of size, must provide information about the rights and protections of Title II of the ADA to applicants, participants, beneficiaries, employees, and other interested persons [28 CFR Sec. 35.106]. The notice must include the identification of the employee serving as the ADA Coordinator and must provide this information on an ongoing basis [28 CFR Sec. 104.8(a)].
- Must establish a grievance procedure. Public entities must adopt and publish grievance procedures providing for prompt and equitable resolution of complaints [28 CFR Sec. 35.107(b)]. This requirement provides for a timely resolution of all problems or conflicts related to ADA compliance before they escalate to litigation and/or the federal complaint process.

Designation of Responsibility

In accordance with 28 CFR 35.107(a), the City of Morganton has designated the following to serve as ADA Title II Coordinator, to oversee the City's policies and procedures:

Name: Andrew T. Smith

Job Title: Risk Management Coordinator

Phone: (828) 438-5279

Email: asmith@morgantonnc.gov

In accordance with 28 CFR 35.150(d)(3), the City of Morganton has designated the following to serve as ADA Transition Plan Implementation Coordinator, to monitor the City's progress and manage review and updates of this document:

Name: Sally Sandy

Job Title: City Manager

Phone: (828) 438-5228

Email: citymanager@morgantonncc.gov

Training is an important tool for ensuring compliance with ADA requirements. Responsible parties will identify resources and opportunities for agency employees, at various levels, to receive ADA-related training appropriate to their job functions.

Self-Evaluation

Overview

Under Title II of the ADA (28 CFR Sec. 35.105), public entities are required to perform a self-evaluation of their current services, policies and practices with regard to accessibility. The goal of the self-evaluation is to verify that, in managing its programs and facilities, the agency is providing accessibility and not adversely affecting the full participation of individuals with disabilities.

The intent of the ADA self-evaluation is to review the agency's entire public program, including all facilities on public property and within public rights-of-way, in order to identify any obstacles or barriers to accessibility that need to be addressed. The general categories of items to be evaluated include:

- Communications, Information and Facility Signage
- Public Buildings and Spaces – offices, parking areas, parks and other types of publicly-accessible spaces
- Pedestrian Facilities and Public Rights of Way – sidewalks, curb ramps, bicycle/pedestrian trails, traffic control signals and transit facilities located within City rights-of-way

Public entities are required to provide an opportunity for interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the self-evaluation process by submitting comments [28 CFR Sec. 35.105(b)].

Furthermore, a public entity that employs 50 or more persons is required, for at least three years following the completion of the self-evaluation, to maintain on file and make available for public inspection:

- A list of the interested persons consulted;
- A description of areas examined and any problems identified; and,
- A description of any modifications made.

Process and Findings

The City of Morganton completed a self-evaluation of its services, programs, activities, and facilities on public property and within public rights-of-way with regard to accessibility. A summary of findings from this review are provided in Appendix E.

Communications, Information and Facility Signage

Title II of the ADA includes the following requirements regarding Communications.

General (28 CFR Sec. 35.160)

- A public entity shall take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others.
- A public entity shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by a public entity.
- In determining what type of auxiliary aid and service is necessary, a public entity shall consider the requests of the individual with disabilities.

Information and Signage (28 CFR Sec. 35.163)

- A public entity shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.
- A public entity shall provide signage at all inaccessible entrances to each of its facilities, directing users to an accessible entrance or to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each accessible entrance of a facility.

The City has conducted a detailed evaluation of communications, information and facility signage with regard to the ADA Title II requirements. These evaluations were completed through the use of questionnaires/checklists provided by www.adaactionguide.org and www.adachecklist.org.

Public Buildings and Spaces:

The City of Morganton is responsible for the following publicly accessible buildings and spaces:

Aquatic Center	Bethel Park
Carbon City Park	Catawba Meadows Park Concessions
Catawba Meadows Park Playground	City Hall
Collett St. Recreation Center	Collett St. Outdoor Pool
CoMMA Performing Arts Center	Community House
Drexel Heritage Park	Forest Hills Cemetery Office
Freedom Park	Greenway Playground
Mainstreet Office	Martha's Park
MLK Jr. Park	Mountain View Recreation Center
Public Safety Headquarters	Public Works Warehouse
Catawba River Soccer Complex	Catawba River Soccer Complex P3

In recent years, the City has implemented many access improvements to public facilities:

- Renovation of Community House – ADA upgrades
- Adding an elevator to the Collett. St. Recreation Center – ADA upgrades
- Improvements to the City's webpage – ADA upgrades to be completed in 2021

Note that this list is not all-inclusive of improvements completed during this period. The City has conducted a detailed accessibility evaluation of each of its building facilities, and related parking lots/areas, based on ADA guidance, North Carolina State Building Code and other established resources. Findings of this evaluation are located in the office of the Risk Management Coordinator for the City of Morganton and the summary of the findings is in Appendix E.

Pedestrian Facilities and Public Rights-of-Way

As part of the self-evaluation process, the City of Morganton has conducted an inventory and evaluation of pedestrian facilities within its public rights-of-way. The City of Morganton utilizes two methods for upgrading pedestrian facilities to current ADA standards:

1. Scheduled street and utility improvement projects. All pedestrian facilities impacted by these projects are upgraded to current ADA accessibility standards.

2. External coordination – North Carolina Department of Transportation (NCDOT)

These external agencies main long-range planning and capital programming documents for a majority of the City’s transportation network. Coordination is necessary to ensure that planning and programming documents align with ADA compliance priorities.

Public Outreach

The City of Morganton recognizes that public participation is an important component in the development of this transition plan. Input from the community has been gathered and used to help define priority areas for improvements within the jurisdiction of the City of Morganton.

Public outreach for preparation of this document has consisted of the following activities:

Posted ADA Policy Statement to webpage – Jan. 2, 2020

Posted Grievance Procedure to webpage – Jan. 2, 2020

Surveys sent to organizations – March 31, 2021

Individual survey posted to webpage and social media pages – March 31,2021

Distributed to supporting agencies:

- Morganton Human Relations Committee
- Morganton City Council
- Morganton Street Committee
- Morganton Recreation Advisory
- Morganton Recreation Foundation

This document was also made available for public comment online and at Morganton City Hall.

Public Notice of ADA Requirements and Grievance Procedure

Under the Americans with Disabilities Act, each agency is required to publish its responsibilities with regard to ADA compliance. A draft of this public notice is provided in Appendix F.

If users of the City of Morganton’s facilities and services believe the City has not provided a reasonable accommodation, they have the right to file a grievance. In accordance with 28 CFR Sec. 35.107(b), the City has developed a grievance procedure

for the purpose of the prompt and equitable resolution of citizens' complaints or concerns. This grievance procedure can be found in Appendix F.

Progress Monitoring and Transition Plan Management

This Transition Plan is considered a living document that will continue to be updated as conditions within the City evolve. A review of the complete document (main body and appendices) will be conducted at least once per year, to identify any need for updates with the results presented to the City Manager. Updates to the appendices or attachments may be made more frequently as needed. The ADA Transition Plan will be updated and presented to City Council every five years.

The City of Morganton recognizes that ADA compliance is an ongoing responsibility, which will require monitoring to identify future accessibility issues that may be encountered. For example, facilities that currently meet ADA requirements could fall out of compliance due to factors such as damage, disrepair, or changes within public rights-of-way. Therefore, an annual review of the status of the on-going monitoring/inspection program will correlate with the formulation of the yearly Capital Improvement Plan. City employees and community stakeholders are encouraged to report any accessibility concerns or deficiencies that are identified.