

Americans with Disabilities Act (ADA)

Lee Open Space and Recreation Transition Plan

In 2015, the Town of Lee conducted a Self-Evaluation of its policies and recreational facilities in order to determine if they comply with ADA requirements and, where non-compliance is found, to establish a program to bring the facilities into compliance.

I. Administrative Requirements

1. Lee ADA Coordinator. The ADA requires public entities with 50 or more employees to designate at least one employee to coordinate its efforts to comply with the ADA and investigate any complaints of ADA-related discrimination. Bob Nason, Lee Town Administrator, is the town's designated ADA Coordinator.
2. Grievance Procedures. ADA regulations also require that the town adopt a formal grievance procedure in the event that an ADA-related complaint is filed with a local governmental department. The Town of Lee's ADA Grievance Procedure is located at the end of this report.
3. Public Notification Requirements. A public entity is required to inform applicants, participants, beneficiaries and other interested parties of their rights and protections afforded by the ADA. A copy of the Town of Lee's Policy of Non Discrimination on the Basis of Disability is located at the end of this report.
4. Representation of the Disabled Community. The Town of Lee Self Evaluation of its recreational facilities was conducted by Lee residents with the technical assistance of the Program Manager from AdLib Inc., a private, non-profit, community based, consumer controlled Independent Living Center. The Center provides independent living and specialized services for people with disabilities in Berkshire County. The details of the evaluation, site visits and their results are found in Section II.

II. Program Accessibility

1. Inventory of Open Spaces and Recreation Areas

This ADA Self-Evaluation reviewed the conditions found at outdoor recreational facilities owned and maintained by the Town of Lee. In the summer of 2015 Ryan Fajardo, a Williams College intern serving with the Berkshire Regional Planning Commission, conducted an initial evaluation of several town recreational facilities. This work resulted in a draft transition plan, complete with photographs demonstrating the areas of need and recommendations for improvement. The evaluations were conducted using guidance and inventory forms found in the *Open Space and Recreation Planner's Workbook*, issued by the Division of Conservation Services.

The initial self-evaluation did not cover all the town-owned parks and playing fields, so a follow up evaluation was conducted on November 12, 2015 by a team of three people: Clare (Bunnie)

Lahey, member of the Lee Youth Commission and Lee Tennis Community Association; Ed Lahey, Lee resident who currently walks with aid of a cane; and Catherine Carchedi, Program Manager of AdLib, Inc., the county's advocate and supporter for people with disabilities. Taking the experience they learned from Ms. Carchedi, Bunnie and Ed Lahey evaluated the town's conservation lands.

Ms. Carchedi's participation was invaluable, as she has assisted several communities in Berkshire County in developing ADA transitions plans. As suspected, she concurred that most town properties that were evaluated need parking and pathway improvements to allow people with disabilities to get into the parks and playing fields. Making sure that at least one handicap portable toilet is ordered for each site that receives them in the summer is an easy and affordable step that can be taken immediately.

Aware of the town's limited resources, Ms. Carchedi suggested first phasing in the actions that improve access for a wide array of people, such as senior citizens and others with mobility challenges. She noted that the town has an aging population, many with mobility issues, including grandparents who wish to take their grandkids to the playground, watch them at their games, and join in family picnics. When viewed from this perspective, focusing first on creating designated parking and pathways to viewing areas, benches, picnic tables, and toilets makes good sense. Asphalt paths, rather than packed airport mix, are preferred, as they can hold up under wheelchair wheels and when the asphalt cracks or heaves, it can be easily patched.

As for prioritizing facilities, she suggested focusing on one central area which serves the greatest number of people, such as complementing work that is occurring at the Lee Athletic Field. As she stated, "If people with disabilities know that there is one fully accessible area, [the town] will get the greatest impact for the buck."

In general, the number of children with disabilities is small in a low density area, such as Lee. Ms. Carchedi suggested phasing in additional accessible equipment to the existing parks, such as one accessible swing added to the old swing set. She felt that some of the play areas simply had to be smoothed out, the South Lee Playground packed-dirt being a good example of a smooth play surface. Wood chips are not friendly for wheel chairs, but they should be used under equipment as long as a solid path between the equipment is provided.

This self-evaluation effort reviewed town parks and athletic facilities that could reasonably be used by people with disabilities, such as town parks, athletic fields and open space areas located on relatively level terrain. Fortunately most of these facilities are located in the central part of the town where the population densities are higher and thus available to greater numbers of residents.

As noted in the town's *Open Space and Recreation Plan*, a good portion of the town is located within steep terrain, where slopes often reach or exceed 15%. Many of the town's conservation lands are located on such areas of steep terrain such as Ferncliff Reservation and the Golden Hill/Town Forest properties. Currently these sites consist of rustic, single-track hiking trails, where steep slopes, boulders or other natural physical barriers on many trail sections prohibit their use by people with mobility challenges.

Bradley St. Park



There is no designated parking lot for Bradley Street Park. Curbside disability accessible parking could be designated.



There is no accessible path leading from the sidewalk into the park and the gate to enter the park cannot be opened with a closed fist. An appropriate path should be installed and an accessible latch should be placed on the gate.



The equipment in Bradley Street Park is inaccessible, with no path leading from the sidewalk to the playground or basketball court. Adding an accessible swing to existing equipment would increase accessible use.

Lee Athletic Field



At the Lee Athletic Field, there were no designated spots in the parking lot. Spots should be designated and one should be specifically set aside to meet ADA regulations.

The gate to the park is both too narrow and on an incline. This makes disability access extremely difficult. The path should be leveled and the gate should be widened.





The basketball court was paved and level, but there is no path that leads from the court to the recreation shelter, skate park, or playgrounds. Appropriate access should be provided to these areas by paving an accessible path. In addition, the shelter area contained no ADA accessible picnic table and one should be acquired.

It would be beneficial to construct an accessible path to the river, which is at the back of the property.

The playground itself was also inaccessible with no transition areas or smooth playing surfaces. Transition bars can be added to equipment to meet requirements rather simply, but a smooth playing surface should also be added to ease movement and increase safety.



East Lee Park



The parking lot of East Lee Park was unpaved but had plenty of space. An ADA parking spot should be designated. The portable restroom at the park is also inaccessible and an accessible one could be purchased or leased.



There is no path that led to the equipment and a suitable path should be installed. There are also no accessible swings on the swing set and one could be installed.

River Park



River Park is located next to a post office and government office complex and has many ADA parking spots. The area leading into the park from the parking lot is rough and uneven and may need re-pavement in the future to prevent an ADA violation.



The gazebo in the park is accessible, but does not contain ADA picnic tables and one could be installed.



The benches in the park are not connected to the path and did not have an even surface next to the benches for wheelchair access. A proper path should lead to the benches and to adjoining wheelchair access.

Marble Street Park (Note: this property is privately owned, but maintained by the town for public access)



Marble Street Park has no designated parking lot and all parking is done on the side of the road on grass. A space should be cleared and designated as an ADA parking spot.



In addition, there was no path that led from the lot to the playground equipment. There is also no playground surfacing below the equipment. Installing level safe surfacing would both increase accessibility and increase safety. There are also no ADA swings on the swing set and one could be installed to provide for accessibility.

Benches could be moved closer to play area with a connecting accessible path.

Lee Soccer Fields



The Lee Soccer Fields are located next to the waste management site and share some of the parking with this building. All other parking is on the grass near the field. This means that there are a few ADA designated spots, but perhaps not enough spots for the true amount of cars visiting.



There was one portable bathroom located in the area, but was not ADA accessible. In addition, the bathroom was located on grass and somewhat inaccessible. An ADA portable bathroom could be purchased or leased and placed near the gravel path to ease accessibility.

South Lee Park



South Lee Park had no designated parking lot and no ADA designated spots. A spot near the entrance of the park shown above could be designated for ADA access. In addition, the basketball court and playground equipment in the park was not accessible; there is no path that leads from the street to the equipment. The play surface under the equipment was smooth (packed earth). As well, the swing set in the park did not have an ADA accessible swing and one could be installed.

Sandy Beach Park (Note: this property is privately owned, but maintained by the town for public access)



The parking lot for Sandy Beach Park was relatively level and an accessible surface, but no spots were designated as ADA accessible.



There were two paths from the parking lot to Sandy Beach. Path 1 (Pic. 1, 2, and 3) is somewhat narrow and uneven and leads to stairs. Path 2 is accessible (Pic. 4) but somewhat rough since it is of gravel. Path 2 is drivable and accessible parking is available next to the bathrooms.



The path leads to the beach where there is no accessible path to the water. A Mobi mat could be placed above the sand to provide wheel chair access down to the water front. In addition, the space leading to the bathrooms (Pic. 2) is rough and leads to a gap. A proper re-pavement of surrounding area is necessary to ensure the bathrooms are ADA accessible.



The picnic tables in the park are also not ADA accessible and one could be installed in the area.

The Golden Hill / Town Forest Property

The Pinnacle is largely inaccessible due to steep grades and rough surface of trails with protruding roots and rocks. Below is the trail entrance and a trail junction.



The parking lot on Golden Hill Road is fairly level, so a few ADA parking spaces at the entrance, with possibly about 100 yards of fairly level trail improved to ADA specifications, might be possible. Accessible bench(s) could be placed along the way if slopes prove greater than 5%.



Longcope Property

This is a wooded area of beautiful trails and a stream. There are no amenities other than basic trails on the property.

As shown to the right, there is the potential for an ADA parking space in the existing small parking area off Church Street.



Unlike many of the conservation lands in the town, one of the trails is fairly level and could possibly be improved for a few hundred feet to meet ADA specifications. Crushed stone may be an appropriate material to blend in with the natural feel of this site.

Ferncliff Property

This is generally a steeply sloped and very rocky area. At this time there are narrow dirt trails leading from St. Mary's School to the old high school on High Street. If the school allowed, an ADA parking space could be located at the end of their parking area adjacent to a level field leading to the trail entrance into the woods.



Above is the parking area and the open field leading to the trail system. Below is the trail.



The trail from St. Mary's School to historical Peter's Cave is fairly level. That portion of the wooded trail to a view of Peter's Cave could possibly be improved, although a survey of the exact slope would be required to see if the terrain meets ADA specifications.

At that point there could be an ADA bench and historical marker describing the saga of Peter Wilcox, a local farmer, who fought valiantly for America in the Revolutionary War, only to return home, unpaid for his service, to find his home being confiscated for taxes. History books call him an “insurrectionist,” but his battle against the new American government, attempting to protect his rights, helped lead our founding fathers to writing the Bill of Rights, the addendum to the Constitution. This is a wonderful piece of Lee history that should be made accessible to all. To the right is a view of Peter’s Cave from the fairly level portion of the trail.

Some trail portions are steep and rocky, but offer great views.



Edith Wharton Property

This conservation area is approximately 15 acres in size and is jointly owned by the towns of Lee (~3 acres) and Lenox (~12 acres). At this time the site is an undeveloped, natural area, with no trails or immediate plans from either town to create public recreational amenities.

The site is bordered by unpaved Laurel Lake Road on one side, two sides bordered by Laurel Lake and 4th side bordered by a copse of trees. A large gently sloping grass field stretches from the road to the lake.



A parking area with ADA spaces could be developed near the road, as well as an ADA path to the shoreline, with perhaps ADA benches or gazebo along the way.

Dunn Property

This area is totally natural, heavily wooded site, with wetlands and no trails or amenities. Wetlands pose a constraint to trail development. Great undisturbed area for wildlife sanctuary.

NOTE: photos pp. 12-16 curtesy of Clare Bunnie & Ed Lahey

2. Transition Plan

Immediate (I) = 1-2 years

Moderate (M) = 3-5 years

Long-term (L) = 5 + years

Bradley Street Park			
Physical Obstacles	Actions to Be Taken	Date to Be Completed	Responsible Party
Lack of ADA Parking	Designate a curbside ADA parking spot	M	Lee Youth Commission (LYC), Lee Dept. of Public Works (DPW)
Inaccessible Gate Entrance	Widen gate to allow wheelchair access	M	LYC, DPW
No Accessible Path to Equipment	Pave or designate accessible path	M	LYC, DPW
No ADA Swing	Install ADA swing	M	DPW
No ADA picnic table	Install ADA picnic table	L	LYC, DPW
No ADA access to basketball court	Create paved path	M	LYC, DPW
Lee Athletic Field			
Physical Obstacles	Actions to Be Taken	Date to Be Completed	Responsible Party
No designated parking spots	Designate parking spots and include one for ADA accessibility	I	LYC, DPW
Gate to park and tennis courts is on an incline and narrow	Widen gate and level surface	I	LYC, DPW
No trail access to skate park, shelter area, and playground	Pave a path to different areas	I	LYC, DPW
No ADA picnic tables	Install one ADA picnic table	I	LYC, DPW
No ADA access to river at back of property	Create accessible path to river	L	LYC, DPW
No safe level playground surfacing	Install safety surfacing	I	LYC, DPW

East Lee Park			
Physical Obstacles	Actions to Be Taken	Date to Be Completed	Responsible Party
No designated parking spots	Paint designated parking spots and include an ADA spot	M	LYC, DPW
No ADA accessible portable restrooms	Install new ADA restroom	M	LYC, DPW
No path to playground	Install accessible path	M	LYC, DPW
River Park			
Physical Obstacles	Actions to Be Taken	Date to Be Completed	Responsible Party
Rough path from parking lot to gazebo area	Repave lot	M	LYC, DPW
No accessibility o benches	Include path to benches and level surfaces next to them	M	LYC, DPW
Lee Soccer Fields			
Physical Obstacles	Actions to Be Taken	Date to Be Completed	Responsible Party
Not enough ADA parking for size of park	Provide for more ADA parking on the grass	M	LYC, DPW
No ADA accessibly restroom	Install new ADA portable restroom	M	LYC, DPW
Restroom inaccessible from path	Move restroom closer to path	M	LYC, DPW
South Lee Park			
Physical Obstacles	Actions to Be Taken	Date to Be Completed	Responsible Party
No clear parking or ADA parking	Designate ADA parking or drop off zone near park	I	LYC, DPW
No path to basketball court or playground equipment	Install new paths to equipment	M	LYC, DPW
No ADA swings on swing set	Install ADA swing	M	LYC, DPW

Sandy Beach Park (Site privately owned, but maintained by town for public use)			
Physical Obstacles	Actions to Be Taken	Date to Be Completed	Responsible Party
No designated ADA spots	Designate ADA spot	I	Sandy Beach Comm., LYC
Somewhat steep and rough path to beach	Ensure future smoothness of path to beach	I	Sandy Beach Comm., LYC
No accessible path to water front area over the sand	Install Mobi mat across the beach to reach the water front	I	Sandy Beach Comm., LYC
Uneven surface leading to bathrooms	Ensure no gaps from ground to paved bathroom surface	I	Sandy Beach Comm., LYC
No ADA picnic tables	Install one ADA picnic table	M	Sandy Beach Comm., LYC
Golden Hill / Town Forest			
Physical Obstacles	Actions to Be Taken	Date to Be Completed	Responsible Party
Possible short length of ADA trail section at parking lot trailhead	Survey of trail must be taken to determine slope for ADA feasibility	I	Conservation Commission (CC), DPW
Parking lot is gravel with no ADA designated parking spot	If ADA trail possible, ADA parking spots will need to be created	M-L (depending on feasibility)	CC, DPW
No amenities at this site	ADA amenities should be installed if terrain will allow ADA trail	L	ADA Coordinator
Longcope Property			
Physical Obstacles	Actions to Be Taken	Date to Be Completed	Responsible Party
Possible short length of ADA trail section at parking lot trailhead	Survey of trail must be taken to determine slope for ADA feasibility	I	CC, DPW
Parking lot is gravel with no ADA designated parking spot	If ADA trail possible, ADA parking spots will need to be created	M-L (depending on feasibility)	CC, DPW
No amenities at this site	ADA amenities should be installed if terrain will allow ADA trail	L	ADA Coordinator

Ferncliff			
Physical Obstacles	Actions to Be Taken	Date to Be Completed	Responsible Party
Possible short length of ADA trail section from St. Mary's School parking lot to Peter's Cave	Survey of trail route must be taken to determine slope for ADA feasibility	I	CC, DPW
Parking lot is paved but no ADA designated parking spots	If ADA trail possible, ADA parking spots will need to be created	M-L (depending on feasibility)	CC, DPW
No amenities currently at this site	ADA amenities should be installed if terrain will allow ADA trail	L	ADA Coordinator
Edith Wharton Park			
Physical Obstacles	Actions to Be Taken	Date to Be Completed	Responsible Party
This property is currently kept as conservation land with no trails	Funds currently being sought to install ADA parking spot	Estimated Dec. 2016	Town of Lenox
Dunn Property			
Physical Obstacles	Actions to Be Taken	Date to Be Completed	Responsible Party
This property is currently kept as conservation land with no trails	None is being considered at this time	Not applicable	Not applicable

III. Employment Practices

Attached to this report is a signed statement attesting to the fact that the town's employment practices are in compliance with the ADA. Included are practices involving Recruitment, Personnel Actions, Leave Administration, Training, Tests, Medical Exams/ Questionnaires, Social and Recreational Programs, Fringe Benefits, Collective Bargaining Agreements and Wage and Salary Administration.

ATTACHMENTS

Nondiscrimination Policy

Grievance Procedure

Public Notification Requirements

Employment Practices Statement

NONDISCRIMINATION ON THE BASIS OF DISABILITY

Adopted: January 19, 2016

Title II of the Americans With Disabilities Act of 1992 requires that no qualified individual with a disability shall, because the Town of Lee facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the services, programs, and activities of the Town of Lee or be subject to discrimination. Nor shall the Town of Lee exclude or otherwise deny services, programs or activities to an individual because of the known disability of a person with whom the individual is known to have a relationship or association.

Definition: A “qualified individual with a disability” is 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 aides and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the Town of Lee.

Reasonable Modification: The Town of Lee shall make reasonable modification in policies, practices or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the Town of Lee can demonstrate that making the modifications would fundamentally alter the nature of the service, program or activity.

Communications: The Town of Lee shall take the appropriate steps to ensure that communications with applicants, participants and members of the public with disabilities are as effective as communications with others. To this end, the Town of Lee shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy benefits of, a services, program or activity conducted by the Town of Lee. In determining what type of auxiliary aid or service is necessary, the Town of Lee shall give primary consideration to the requests of the individuals with disabilities.

Auxiliary Aids and Services: “Auxiliary aids and services” includes (1) qualified interpreters, note takers, transcription services, written materials, assisted listening systems, and other effective methods for making aurally delivered materials available to individuals with hearing impairments; (2) qualified readers, taped texts, audio records, Braille materials, large print materials, or other effective methods for making visually delivered materials available to individuals with visual impairments; (3) acquisition or modification of equipment or devices and (4) other similar services and actions.

Limits of Required Modification: The town of Lee is not required to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program or activity or in undue financial and administrative burdens. Any decision that, in compliance with its responsibility to provide effective communication for individuals with disabilities, would fundamentally alter the service, program or activity or unduly burden the Town of Lee shall be made by the Selectmen after considering all resources available for use in funding and operating the program, service or activity. A written statement of the reasons for reaching that conclusion shall accompany the decision.

Notice: The Town of Lee shall make available to applicants, participants, beneficiaries and other interested persons information regarding the provisions of Title II of the American with Disabilities Act (ADA) and its applicability to the service, programs or activities of the Town of Lee. The information shall be made available in such a manner as the Selectmen and Town Administrator find necessary to apprise such person of the protections against discrimination assured them by the ADA.

Compliance Coordinator: The Town of Lee shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title II of ADA, including any investigation of any complaint communicated to it alleging its noncompliance or alleging any actions that would be prohibited under ADA. The town of Lee shall make available to all interested individuals the name, office address and telephone number of the employee(s) so designated and shall adopt and publish procedures for the prompt and equitable resolution of complaints alleging any action that would be prohibited under the ADA. The Selectmen are of the general view that:

1. Discrimination against a qualified disabled person solely on the basis of handicap is unfair; and
2. To the extent possible, qualified disabled persons should be in the mainstream of life in the Town of Lee. Accordingly employees of the Town of Lee will comply with the above requirements of the law and policy statements of this Committee to ensure nondiscrimination on the basis of handicap.

GRIEVANCE PROCEDURES FOR COMPLAINTS
OF DISCRIMINATION ON THE BASIS OF DISABILITY

Adopted: January 10, 2001

The following grievance procedure is established to meet the requirements of the Americans with Disabilities Act. It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in employment practices and policies or the provision of services, activities, programs and benefits by the Town of Lee.

The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date and description of the problem. Reasonable accommodations, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities who are unable to submit a written complaint.

The complaint should be submitted by the grievant and/or his/her designee as soon as possible, but no later than 60 calendar days after the alleged violation to:

Town Administrator
Town of Lee
32 Main Street
Lee, Massachusetts 01238
(413) 243-5501

Within 15 calendar days after receipt of the complaint, the Town Administrator will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the Town Administrator will respond in writing and, where appropriate, in a format accessible to the complainant such as audiotape. The response will explain the position of the Town of Lee and offer options for substantive resolution of the complaint.

If the response by the Town Administrator does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision of the Town Administrator within 15 calendar days after receipt of the response to the Board of Selectmen, or their designee.

Within 15 calendar days after receipt of the appeal, the Board of Selectmen, or their designee, will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the Board of Selectmen, or their designee, will respond in writing and, where appropriate, in a format accessible to the complainant such as audiotape, with a final resolution of the complaint.

All complaints received by the Town Administrator, appeals to the Board of Selectmen, or their designee, and responses from the Town Administrator and the Board of Selectmen, or their designee, will be kept by the Town of Lee for at least three years.



TOWN OF LEE
Office of the Town Selectmen
32 Main Street
Lee, Massachusetts 01238

Tel. 413-243-5500
Fax. 413-243-5523
Website: lee.ma.us

The Town of Lee does not discriminate on the basis of disability in admission to, access to, or in the operation of its programs, services or activities. The Town of Lee does not discriminate on the basis of disability in its hiring or employment practices.

This notice is provided as required by Title II of the Americans with Disabilities Act (ADA) of 1990.

Questions, concerns, complaints or requests for additional information regarding the ADA may be forwarded to the Town of Lee's ADA coordinator:

Robert Nason
Town Administrator
Town Hall
32 Main Street
Lee, Massachusetts 01238

Phone: (413) 243-5501
Fax: (413) 243-5523
bnason@town.lee.ma.us

Office Hours: Mon-Fri – 8:30 AM – 4:00 PM

Individuals who need auxiliary aids for effective communication in programs and services of the Town of Lee are invited to make their needs and preferences known to the ADA coordinator.

This Notice is available in large print and audiotape from the ADA coordinator.



TOWN OF LEE
Office of the Town Administrator
32 Main Street
Lee, Massachusetts 01238

Tel. 413-243-5501
Fax. 413-243-5523
Website: lee.ma.us

January 28, 2016

To whom it may concern:

The Town of Lee is an Equal Opportunity Employer. Serving as both the appointing authority and the ADA Coordinator, I can assure you that the Town does not discriminate on the basis of race, sex, color, religion, age, national origin, veterans' status, disability (where it does not fundamentally alter the job, program or activity), sexual orientation or on the basis of other non-merit factors in the hiring and promotion process. Promotion and recruitment are on the basis of qualifications and all "Help Wanted" advertisements identify the Town of Lee as an Equal Opportunity/Affirmative Action Employer. Moreover, the Town makes all employment decisions, including leave administration, training, tests, medical exams/questionnaires, social and recreational programs, fringe benefits, collective bargaining agreements, and wage and salary administration on the basis of merit; and, toward that end is committed to make reasonable accommodations for disabled persons.

Sincerely,

Robert L. Nason
Town Administrator