

# **AMERICANS WITH DISABILITIES ACT ACCESS AUDIT AND TRANSITION PLAN**

## **REPORT TO CHARLESTON COUNTY PARKS AND RECREATION COMMISSION**

### **SUMMARY AND RECOMMENDATIONS**

**JUNE 15, 2020**

**Charleston County Parks and Recreation Commission Report  
Access Audit and Transition Plan Summary and Recommendations  
June 15, 2020 page 2**

**PARKS AND RECREATION COMMISSION STAFF PROJECT TEAM**

**Steve Hutton**  
Director of Recreation

**Ashley Houdyschell**  
Recreation Administrative Manager



**WT GROUP ACCESSIBILITY PRACTICE PROJECT TEAM**

**John N. McGovern, JD**  
Principal in Charge

**Shelley A. Zuniga, CASp, CTRS, Certified ADA Coordinator**  
Principal

**Heidi Lapin**  
Project Manager

**Tanya R. Scheibe**  
Project Manager



## TABLE OF CONTENTS

<b>Introduction</b>	<b>page 5</b>
<b>Guide to this Report</b>	<b>page 5</b>
<b>Requirements of the Americans with Disabilities Act</b>	<b>page 6</b>
<b>Common Issues</b>	<b>page 13</b>
<b>Program Access Test</b>	<b>page 20</b>
<b>Playgrounds</b>	<b>page 21</b>
<b>Boat Launches</b>	<b>page 22</b>
<b>Fishing Piers</b>	<b>page 23</b>
<b>Beach Access</b>	<b>page 24</b>
<b>Tennis Courts</b>	<b>page 24</b>
<b>Basketball Courts</b>	<b>page 25</b>
<b>Ball Fields</b>	<b>page 25</b>
<b>Athletic Fields</b>	<b>page 26</b>
<b>Sand Volleyball</b>	<b>page 26</b>
<b>Horseshoes</b>	<b>page 27</b>
<b>Trails</b>	<b>page 27</b>
<b>Dog Parks</b>	<b>page 28</b>
<b>Picnic Areas and Picnic Shelters</b>	<b>page 28</b>
<b>Camping</b>	<b>page 29</b>
<b>Archery</b>	<b>page 30</b>
<b>Transition Plan</b>	<b>page 30</b>
<b>Community Engagement</b>	<b>page 31</b>
<b>Funding Access Retrofits</b>	<b>page 32</b>
<b>Implementation Strategies</b>	<b>page 34</b>
<b>Conclusion</b>	<b>page 35</b>

**Charleston County Parks and Recreation Commission Report  
Access Audit and Transition Plan Summary and Recommendations  
June 15, 2020 page 5**

**Introduction**

The accessibility of Charleston County Parks and Recreation Commission sites is mandated by federal requirements. This report is a summary of our findings and recommendations to make Charleston County parks and trails more accessible to people with disabilities. The detail, and all recommendations, are in the site reports. This report also includes recommendations which meet the federal and state requirements and incorporate smart practices.

For efficiency, we urge the integration of ADA initiatives. Whether it is in regard to parks and park assets, other County buildings, public right-of-way (PROW), one integrated plan should be adopted and implemented.

The Commission cannot implement all of our recommendations at once; no local government can do so. We suggest a phased approach to retrofits. It is important that Charleston County Parks and Recreation staffs gain a good understanding of these findings and recommendations. We suggest a step-by-step approach, as described below.

**A Guide to this Report**

There are approximately 3,500 access deficits identified in the 51 site reports. The ADA requires that the access audit identify every access deficit at every site. For each deficit, a solution must be identified.

As discussed later in more detail, the Commission does **not necessarily have to make every site accessible**. It **does** have to make every program it conducts within its sites accessible.

In this report, we identify some broad solutions, such as refreshing all accessible parking, as a way to address issues identified in the site reports, and as a way for the Commission to better manage compliance. This gives the Commission flexibility within its compliance efforts to move resources so that they are applied with optimal impact. We offer these systemic changes as a complement to a site-by-site approach. The Commission will determine how to proceed, and many municipalities apply a hybrid of a systemic and site-by-site approach.

The scope of our work does not include the design of a solution. Our recommendations are performance based. For example, if a parking stall at a community center needs to be made accessible by having the proper striping and signage, we will make that recommendation, and will note the dimensions and sign type. The design of a solution is a task for Commission staff or contractors.

We recommend the following to facilitate review:

**First, read the final report cover letter.** It describes the concepts and requirements invoked throughout the report.

**Second, read this Report.** It provides a “big picture” review of the issues and solutions.

**Third, read the 51 site reports.** Use your computer and you’ll have instant access to the report for that site, the photos, and the completed checklists.

**Fourth, use your knowledge of the sites and the expertise of Commission staff.**

Commission staff know Charleston sites better than we do, and Commission staff know the staff better than we do. Blend in what you know with what we recommend in the report. There are many ways to solve access problems, and the successful alternative may well be one you define.

**Requirements of the Americans with Disabilities Act**

The Americans with Disabilities Act (ADA) is a comprehensive federal civil rights law. This portion of the report describes the ADA mandates and applies them to the Commission.

***Americans with Disabilities Act (ADA) General Mandates***

The [Americans with Disabilities Act](#) (ADA) is a comprehensive federal civil rights law that prohibits discrimination on the basis of disability. It became effective on January 26, 1992, and has been amended by Congress only once, by a statute adopted in 2008. The ADA has three principal chapters or titles. Title II applies to the Commission and the approximately 89,000 other units of state and local government across the country, and it requires the Commission to make parks, facilities, policies, communications, and programs, accessible to and usable by people with disabilities. Title I prohibits employers of 15 or more, or by any unit of state or local government regardless of the number of employees, from discrimination on the basis of disability. Title III prohibits privately owned places of public accommodation of all size, such as restaurants, fitness centers, hotels, and nonprofit agencies that are open to the public, from discrimination on the basis of disability.

The subject of this report is Commission parks and facilities. As with any statute, there is some overlap. A space used principally by Commission employees that might be visited by a member of the public is not solely an employee space, and must have a level of accessibility for that visitor if he or she has a disability. The Commission has relationships with many entities and nonprofits, and when a nonprofit uses or benefits from the use of Commission property or resources, the nonprofit is strictly prohibited from discrimination on the basis of disability.

The ADA is to be broadly interpreted. In this section of the final report, we will define terms as they are defined by the ADA. In the remainder of this section, we will review the ADA administrative requirements for the Commission, review the ways in which the ADA applies to new design and construction, review the ADA requirements for existing facilities, review the ADA Transition Plan requirement, review ADA requirements for Commission public facing policies, review the ADA requirements for Commission programs, and review the ADA requirements for Commission communications. Finally, this section concludes with a review of the limitations on the accessibility requirements, including technical infeasibility and the concepts of undue burden.

***The ADA Administrative Requirements***

The US Department of Justice (DOJ) published the title II implementing regulation in 1991, and it became effective on January 26, 1992. It has been amended once, and those changes became effective March 15, 2011. The DOJ title II regulation is [here](#).

**Charleston County Parks and Recreation Commission Report**  
**Access Audit and Transition Plan Summary and Recommendations**  
**June 15, 2020 page 7**

The Commission faces many administrative requirements under title II of the ADA. In this section of the report, we will describe and review five key administrative requirements.

**35.106 Notice Requirement:** The Commission must make its citizens aware of the “...protections against discrimination assured them...” by the ADA. In doing so, the Commission must provide information about how parks, facilities, programs, policies, and communications are affected by the ADA. We recommend the Commission do so in a way that is inviting and appealing, and consistent with the way in which the Commission communicates with members of other protected classes. The Commission appears to meet this requirement.

**35.107(a) Designation of Responsible Employee:** The Commission must appoint at least one employee “...to coordinate its efforts to comply with and carry out...” its obligations under the ADA. Known as the ADA Coordinator, this role is responsible for investigating complaints regarding noncompliance, as well as coordination of overall ADA implementation. The Commission does have an ADA Coordinator.

**35.107(b) Complaint Procedure:** The Commission must have a process by which disputes regarding accessibility at sites, effective communications, and inclusion in programs and services can result in “...prompt and effective resolution...”. DOJ refers to this as a “grievance procedure”, and we know the Commission does have such a process. We do recommend that the Commission change the way it refers to this process.

Naming it a complaint process or grievance process gives it the appearance of an adversarial process. It need not be, and in fact, many believe that a more positive approach yields “prompt and effective resolution” in a much more customer-friendly way. We suggest the Commission consider renaming the process to Access and Inclusion Solutions Process, or some other appropriate name that is inviting, not adversarial.

**35.130(b)(7) Make Reasonable Modifications:** The Commission must make reasonable modifications that enable access to programs and facilities, when so requested by a person with a disability, unless doing so creates an undue burden (see page 12 of this report). The statute and the DOJ regulation identify many actions or devices that are a reasonable modification. In addition, court decisions and DOJ settlement agreements help further define the term and the limits on the concept of reasonable modification. The DOJ ADA website is a good source of information on this subject at [www.ada.gov](http://www.ada.gov).

**35.150(a)(3) Writing Requirement:** The Commission, whenever it denies a request for a reasonable modification, must create a writing. This is a mandate once it is determined by Commission staff that a request would create an undue burden (again, see page 12 of this report). Importantly, the writing is to be signed by “...the head of the entity or his or her designee...”. In making this decision, the entity is to consider “...all resources available for use in the funding and operation of the service, program, or activity...”.

We recommend that the Commission delegate this authority to the Executive Director, who can then delegate it to department heads or program managers with the authority to make such decisions. We also recommend that these writings produced by all departments be kept together for ease of access and analysis. These will have great risk management value and will help greatly in forecasting the types of requests the Commission will receive.

### ***The ADA Requirements for New Design and Construction***

Many of the ADA requirements are open to some interpretation regarding compliance. There is, however, one set of requirements that is clear: all Commission new design and construction must comply with the federal [2010 Standards for Accessible Design](#) and any State of South Carolina requirements that are more stringent from an access perspective. The DOJ regulation at section 35.151 establishes this requirement, and permits a variance only when it is “structurally impracticable” to fully comply with the Standards.

Experts estimate that design and construction for ADA compliance adds not more than 1% to the facility cost. For the Commission, it is critical that all designers and contractors understand this mandate and comply with this mandate. Plan review and effective project management by Commission staff assure that plans and ongoing construction are compliant. The investment of human resources towards this goal is much less costly than removing barriers after a facility or park asset has been constructed or installed.

New design and construction includes the design and construction of alterations and additions, therefore alterations and additions must strictly adhere to the 2010 Standards. The DOJ title II regulation, at 35.151(b)(4), establishes a requirement that when alterations or additions occur at an existing Commission facility, that a “path of travel” is required to connect the accessible elements of the existing facility with accessible elements in the altered area or addition. In preparing the regulation, DOJ recognized the inequity of a result whereby the accessibility portion of an alteration or addition, the path of travel, could require more fiscal resources than the alteration or addition. The regulation therefore introduces the concept of disproportionality, which permits the Commission to limit path of travel costs to 20% of the cost of a project

Three clarifications are necessary regarding the concept of disproportionality.

First, the Commission may elect to apply the concept of disproportionality; it is not required to do so. If the Commission wishes to make the cap 30% of the cost of the alteration or addition, it may do so. The ADA sets the floor, not the ceiling.

Second, the path of travel must be applied when the alteration or addition is to a primary function area. A primary function area is “...a major activity for which the facility is intended.” Examples in the title II regulation include “...the dining area of a cafeteria, the meeting rooms in a conference center, as well as offices and other work areas in which the activities of the public entity using the facility are carried out.” We would add other examples, pertinent to Commission facilities. These include:

- Swimming pools and changing rooms at Commission pools;
- Playground surfaces and playground components at Commission playgrounds;
- Spectator seating and player seating at Commission softball and baseball fields; and
- Restrooms within Commission facilities or located at Commission parks, whether the restroom is a permanent construction or a temporarily located facility.

Third, some work at an alteration or addition is simply maintenance and the cost of that work may be deducted from the determination of the cost of the alteration or addition, thereby affecting the amount necessary to meet the 20% disproportionality test. At most sites these non-alteration costs are very small. In a world where every Commission penny counts, it is appropriate to properly apply the concept of disproportionality.

Access requirements for new design and construction are important in the context of the Commission Capital Improvement Plan (CIP). CIP projects, designers, and contractors meet or exceed federal and local requirements.

### ***The ADA Requirements for Existing Facilities***

The title II requirements for existing facilities begin with a requirement that the **programs** within those facilities and sites are what is to be made accessible. DOJ title II at 35.149 clearly states 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."

The term "program" is to be broadly interpreted. For the Commission, a program is the opportunity made available to the public. Making public comment at a Commission meeting is a program. Playgrounds are a program. Having picnic tables in a park is a program. Staffing and conducting recreation activities during the summer or afterschool is a program. Think broadly here, and understand that a program is not just an organized activity for which one registers and participates. In applying 35.149, it is a violation of the ADA if a Commission program cannot be accessed by a person with a disability because the facility in which the program is located is inaccessible.

Title II at 35.150 discusses the parameters for making existing facilities accessible. It requires the Commission to view that program "...in its entirety..." at 35.150(a). This is interpreted to mean that all of the locations of a program, e.g., every Commission fishing area, must be viewed before determining which will be made accessible and which will be left as is until next altered or replaced. This latter statement is made clear at 35.150(a)(1), where the Commission is told by DOJ that these requirements do not "...necessarily require a public entity to make each of its existing facilities accessible to and usable by individuals with disabilities...".

Making a program accessible does not always require making a facility accessible. This is explained by DOJ at title II 35.150(b), where it reviews some of the methods to make a program accessible. The non-structural methods, include, but are not limited to:

- Relocating a program from an inaccessible site to a site that is accessible;
- Providing a program at two or more sites, one of which is not accessible and at least one of which is accessible;
- Redesign or acquisition of equipment to make program participation possible;
- Bringing the program to the person with a disability by making home visits;

**Charleston County Parks and Recreation Commission Report  
Access Audit and Transition Plan Summary and Recommendations  
June 15, 2020 page 10**

- Construction of new accessible facilities to house the program;
- Providing extra staff to facilitate interaction by program beneficiaries; and
- Use of accessible rolling stock or other means of conveyance.

Elsewhere in title II, the Commission is required to make changes to rules and policies as well. These nonstructural alternatives may be effective in making a program accessible. However, when nonstructural alternatives are not effective in making the program accessible, 35.150(b) requires the Commission to make alterations to existing parks, facilities, and assets, and when doing so, to treat the alteration as new work and comply with title II 35.151. The Commission must also give the highest priority "...to those methods that offer services, programs, and activities...in the most integrated setting appropriate". This mandate is integral to the ADA and reflects clear intent by Congress that separate is not equal. Additionally, the Commission must disperse the accessible programs that are to be retrofit. For example, all accessible playgrounds cannot be located in one quadrant of the Commission.

The 2011 title II regulation amendments introduced the concept of safe harbor for the Commission and other states and local governments at 35.150(b)(2). In essence, if the Commission in designing and constructing an asset, prior to March 15, 2012, complied with the 1991 Standards for Accessible Design, cannot be penalized if the Standards change at a later date. An example of safe harbor is the reach range requirement. In the 1991 Standards, reach range could be as high as 54" above the finished floor (aff) if a side approach was used, and only 48" aff if a forward approach was used. In the 2010 Standards, because of confusion about forward reach and side reach, the maximum reach range was simply reduced to 48" aff. The safe harbor concept applies here, and at Commission facilities designed and constructed before March 15, 2012, where a proper side reach can be used, an operating mechanism can be as high as 54" aff. However, if that hypothetical operating mechanism is at 55" aff, it failed to meet the 1991 Standards and must be retrofit to meet the 2010 Standards maximum of 48" aff.

It is important to note that many Commission assets were not addressed by the 1991 Standards, and were only addressed later in the 2010 Standards. That includes Commission playgrounds, swimming facilities, sports fields, and sports courts, to name a few. As such, the concept of safe harbor cannot apply to these assets, and the program access test reviewed earlier in this section applies. As an example, playgrounds, but not necessarily all, must be accessible. See page 30 regarding the transition plan for more detail.

***The ADA Transition Plan Requirement***

The title II regulation, at 35.150(c) and 35.150(d), make clear the requirements of the Transition Plan. A transition plan is a phased order of retrofit for existing parks and facilities. The Commission, in pursuing compliance with this requirement, has wisely chosen to exceed the minimum requirements for the content of a Transition Plan. At 35.150(d), the requirements are:

- Describe the deficits at every Commission asset;
- Describe a solution for each deficit, or if it is to be left as is, describe why (see 1.9 of this report);

**Charleston County Parks and Recreation Commission Report  
Access Audit and Transition Plan Summary and Recommendations  
June 15, 2020 page 11**

- Specify the year or by what date in which the retrofit will occur; and
- Name the Commission official responsible for assuring compliance.

No Commission plan can be effective, however, without cost references or estimates. In developing the Transition Plan, the Commission has required cost references or cost estimates to enable effective planning for the retrofits that will occur.

A key issue for the Commission is understanding guidance as to by what date all retrofits must be completed. The title II regulation, at 35.150(c), discussing the time period for compliance, offers this guidance:

“Where structural changes in facilities are undertaken to comply with the obligations established under this section, such changes shall be made within three years of January 26, 1992, but in any event as expeditiously as possible.”

To suggest that this is not helpful guidance to the Commission is an understatement, for several reasons.

First, it would be literally impossible for the Commission to have, in 1992, made all of the necessary retrofits by January 26, 1995. In fact, it would be literally impossible for the Commission to make all retrofits that are necessary during any three-year period.

Second, when the title II regulation was amended by DOJ and made effective March 15, 2011, this language was not updated with a new compliance date.

Third, when the 2010 Standards were published and included for the first time certain types of recreation assets (see page 10 above), there was no change to the completion date of 1995.

The Commission can draw guidance from the statement above by acknowledging that retrofits will occur as soon as is possible. This requires a balancing of Commission resources, integration of Transition Plan retrofits with CIP activity, and making Transition Plan work a higher priority than discretionary development and acquisition.

Regarding parks and facilities, there is other guidance by DOJ. If there is only one of a type of asset it must be made accessible. This would apply to the Commission headquarters and other one-of-a-kind facilities that serve the public. If there are numerous assets of the same or similar type, such as pools, playgrounds, trails, and libraries, not necessarily all must be made accessible (see page 9 above).

When this recurring asset issue arises, DOJ does not specify a percentage or ratio that must be accessible. Our work in preparing the transition plan recommendations relies on making a minimum of one of every three recurring assets accessible, and dispersing accessible assets throughout the Commission. This assures that no matter where a resident is, some Commission assets are near him or her and are accessible.

Lastly, title II at 35.150(d)(a) requires the Commission to provide an opportunity for the public to participate in the development of the transition plan. The Commission implemented a robust

community engagement process, conducting public feedback sessions and focus groups, and these greatly influenced our recommendations. This is discussed in more detail on page 31.

### ***The ADA Requirements for Commission Communications***

The title II regulation, at 35.160, requires that Commission communications to the public with disabilities must be “as effective” as communications to those without disabilities. People with certain health conditions such as deafness or impaired vision may not be able to ascertain the message within the communication. People with a cognitive impairment may not understand the message. People with physical disabilities that limit their ability to use a mouse may not be able to get the cursor to the content on the website.

More and more local governments were using their websites for communication with the public as well as with employees. Certainly today, in a Covid-19 era, that reliance has only grown.

The broad requirements apply to the Commission website, letters, hard copies of contracts, aural communication that might occur at a Commission governing board meeting, emails, phone calls, and more.

### ***The ADA Limitations: Technical Infeasibility and Undue Burden***

Title II does impose some restraint on the making of reasonable modifications, removal of architectural barriers, and making communications accessible. DOJ expects that these restraints will be implemented as an exception, rather than the rule.

In the 2010 Standards, technical infeasibility is defined within section 106.5 regarding Defined Terms. The Commission need not make retrofits when doing so is technically infeasible. Again, recognizing that the ADA sets a floor and not the ceiling, the Commission can choose to make the retrofit. A retrofit to an existing facility may be deemed as technically infeasible when it meets the condition described below:

“With respect to an alteration of a building or a facility, something that has little likelihood of being accomplished because existing structural conditions would require removing or altering a load-bearing member that is an essential part of the structural frame; or because other existing physical or site constraints prohibit modification or addition of elements, spaces, or features that are in full and strict compliance with the minimum requirements.”

Title II also defines undue burden. The concept of undue burden typically includes three elements: undue administrative burden, undue economic burden, and fundamental alteration. DOJ requires at 35.130(a)(3) that the Commission bear the burden of demonstrating that denial of a request by a person with a disability rises to the level of one of these three conditions. Each is cited and discussed below.

**35.150(a)(3) Undue Administrative Burden:** DOJ and the US Congress recognized that there may be circumstances in which a small municipality, or a municipality in a rural area, will find it difficult to administratively obtain the personnel, devices, and processes by which it can make

**Charleston County Parks and Recreation Commission Report  
Access Audit and Transition Plan Summary and Recommendations  
June 15, 2020 page 13**

reasonable modifications, or remove barriers. This circumstance will be hard to show in Charleston County.

**35.150(a)(3) Undue Financial Burden:** DOJ and the US Congress recognized that there may be circumstances in which a municipality will find it difficult to provide the fiscal resources to make a modification or to remove barriers. This circumstance will be hard to show in Charleston. The FY 20 Operating Budget was approved at \$32,429,603 and the FY 20 Capital Budget is \$15,057,055. DOJ guidance requires that the entire Commission budget be considered before claiming Undue Financial Burden. For example, if a modification for a child with a physical disability will require the creation of accessible routes through a park, the Commission must consider unexpended operating and capital budget resources in making the determination that it can or cannot grant this request for modification. With budgets in this range, it will be very, very difficult to show Undue Financial Burden.

As an important final note, Commission staff must be made aware of this. Often, local government staff will consider only the budget for which they exercise control, in making decisions about Undue Financial Burden. That is not the correct approach. If the Commission Executive Director departs for a job in another state, and there are \$10,000 in salary savings due to that departure, it is the burden of the Commission to show why that \$10,000 could not be allocated to the park accessible route example above.

**35.130(b)(7) Fundamental Alteration in Nature of the Service, Program, or Activity:** DOJ and the Congress recognized that a circumstance may arise where a local government will find it difficult to provide the requested modification based on disability because in doing so the fundamental nature of the service, program, or activity will be changed. As an example, beach volleyball is very popular. However, a person using a wheelchair will be unable to negotiate the sand surface in a beach volleyball court. If he or she requests a modification such as replacing the sand with a hard surface court (wood, asphalt, concrete, etc.), the Commission could do so, as the engineering is not complex. Were that to happen however, the very nature of sand volleyball would be changed.

These same three concepts apply to Commission communications. These must be as effective for people with communication impairments as the Commission communications for people without disabilities are effective. Language identical to 35.150(a)(3) and 35.130(b)(7) is found at title II 35.164.

### **Common Issues**

In our work, some common big picture issues arose that complement the recommendations in the specific site reports. One of these is that ways in which maintenance affects accessibility to playground surfaces and other assets.

### **Maintenance**

The Commission uses a conscientious staff to maintain its parks and facilities. However, over time, every site yields to wear and tear. The recommendations below describe ways in which attention to maintenance can specifically address some access deficits.

**Charleston County Parks and Recreation Commission Report  
Access Audit and Transition Plan Summary and Recommendations  
June 15, 2020 page 14**

1. **Provide training** to maintenance staffs regarding the features of an accessible route and how to ensure that it remains unobstructed so that park amenities, e.g., garbage cans or signs, are placed adjacent to the accessible route.
2. **Add door closer checks** to park maintenance staff checklists, and record observations on a regular basis. When too much force is required to open a door, adjust the closer.
3. **Purchase some new tools.** The Commission needs battery-powered 2' digital levels, and tools to measure pounds of force that are designed for this purpose. Do not use 4' digital levels. Acquire several door gauges for measuring door pressure. These tools can be assigned to staff for scheduled spot-checks at doors.

**Changes in Level and Gaps**

The routes and sidewalks that make up the Commission's network of accessible routes are in fair condition. Wear and tear, settling, weather, and other factors combine to cause changes in level, and gaps along portions of those accessible routes, making that portion noncompliant and a barrier to many visitors with physical and sensory disabilities.

Removing changes in level and gaps has a significant universal design benefit too, as more people with all types of conditions can more easily use Commission routes, such as staff pushing carts of supplies, parents with kids in strollers, and people using an assistive device such as a wheelchair, Segway, or walker.

4. **Add change in level of more than .25" to park maintenance safety checklists** in 2020. This will help identify and correct these problems before they expand. Make or buy pre-measured shims and distribute to employees for their use and ease of measurement.
5. **Add inspections for gaps of greater than .5" to park maintenance safety checklists** in 2020. Identify and fill these gaps before they expand. **In the alternative, consider resurfacing segments of deteriorated asphalt routes.**
6. **Eliminate changes in level** by the end of 2024. Using the rationale that the most severe changes in level are the greatest barriers to access, make changes in level of greater than .75" the highest priority. Make changes in level of between .5" and .75" the second priority. Make beveling of changes in level of .25" to .5" the third priority. **Consider acquiring or contracting for a grinder.**
7. **Adopt** a policy about the use of Other Power-Driven Mobility Devices (OPDMD) at Commission sites, and promote that policy to the general public. Every day, people with limited physical mobility start to use a Segway or similar machines. We have included a sample policy in our deliverables.

**Per the new ADA title II regulation published September 14, 2010, Commission policies or processes permitting the use of OPDMDs were required as of March 15, 2011.**

These assistive devices provide great benefits to people with disabilities and the sooner the Commission has a policy in regard to their use the better. The policy could, at a

minimum, address times of allowed use (dawn to dusk), speed limits, off-limits areas, status of the user as a person with a disability, and minimum age.

It is important to note that a power driven mobility device is not a wheelchair. That device has a separate definition and is already allowed in facilities and parks. We have provided a guidance memo for your use. The Department of Justice has a good advisory on this topic. It is [here](#).

### **Obstructed Accessible Routes**

Employees **may** see an accessible route as an empty 36" wide space in which a potted plant or garbage can is a perfect fit. However, that blocks or obstructs the accessible route.

8. **Provide training to park maintenance, recreation, and administration staffs** regarding maintenance of accessible routes in parks and in recreation facilities.

### **Employee Work Areas**

Charleston County Parks and Recreation Commission employs many qualified and skilled full time staff, making parks and recreation services available to residents. The Commission employs many more on a part-time or seasonal basis. The Commission likely has employees with disabilities and in the future, will have **more** employees with disabilities, in all categories of employment.

It is important to address access to work areas, and both the title II regulation and the work of the Access Board do so. In section 203.9 of the 2010 Standards for Accessible Design, the treatment of employee areas is made clear.

Generally, a person with a disability should be able to **approach, enter, and exit** the work area. This is addressed by requirements for accessible routes and accessible means of egress. Other factors are door width, and threshold changes in level.

Excluded from this exception are several types of common spaces in employee areas. Spaces such as the ones below must meet the access guidelines as they are excluded from the definition of employee-only areas:

- corridors;
- toilet rooms;
- kitchenettes for employee dining use, and
- break rooms.

In short, the key issues are the accessible route, changes in level, doors and entries, and maneuvering space once within the work area. This approach is effective so long as when the Commission hires an employee with a disability, or a current employee acquires a disability, it will remove architectural barriers in work areas or make other accommodations. The two recommendations below are important for all employees at all Commission sites.

9. **Address accessibility in the Commission personnel policies**, and note that, upon request by an employee, the Commission will make reasonable accommodations, which **may** include the removal of architectural barriers in work spaces.
10. **Require new construction, and alterations or additions** that include employee work areas to be designed and constructed so they are compliant with the 2010 Standards for Accessible Design.

### Accessible Parking

The Commission maintains approximately 5,000 standard parking spaces at sites, and 160 more that are designated as accessible parking stalls. The test for the ratio of accessible stalls to all stalls is per parking lot. See our site reports for details. As an alternative to a site-by-site approach, the Commission could address all of them at once to eliminate inconsistencies.

11. **Create a parking stall template.** A suggested template is below.

### Parking Stall Dimensions

Stalls are a minimum of 8' wide. An adjacent access aisle must also be a minimum of 5' wide. The access aisle must be diagonally striped with **high quality paint**. The access aisle can be shared by two accessible stalls.

The collection of signs must include the US Department of Transportation R7-8 standard sign (the blue icon in a wheelchair). Below that must be the statewide fine sign. Unless the Commission has adopted a higher fine by ordinance, the sign must note the statewide fine. Federal settlement agreements require a third sign, on at least one stall, that says VAN ACCESSIBLE. This stall must be 11' wide with a 5' access aisle. An acceptable alternate is 8' and 8'.

Finally, the bottom edge of the R7-8 sign is a minimum of 60" above the finished grade. We suggest that the signpost be centered at the head of the accessible stall and we suggest that the curb cut and detectable warning run the distance of the access aisle.

**The most common deficit** in accessible parking stalls and access aisles is the slope. The 2010 Standards limit the slope to **not more than 2.08% in any direction**. **This is a challenging requirement that can take considerable effort to meet.**

### Connection to the Accessible Route

The access aisles should connect to an accessible route. The maximum running slope for the accessible route is 5%, and to account for heaving and settling, we recommend 4%. The maximum cross slope is 2%.

### Passenger Loading Zone

The loading zone, if provided, must have an access aisle adjacent and parallel to vehicle pull-up space. The loading zone access aisle must be a minimum of 60" wide and 20' long.

12. In 2020 **implement a plan to correct or refresh every accessible stall** at every Commission facility. Incorporate this task into other plans that require parking lot repair, restriping, or resurfacing.

### Running Slope and Cross Slope

There are many sites with running slopes steeper than permitted. At some sites this was a minimal issue, but at other sites it was a significant variance. This condition naturally occurs when concrete settles, or when connections between new and old routes are off by fractions of an inch. Cross slope is equally important, as it serves drainage as well as access purposes.

13. **Revise standard specifications and details** so that in new construction and alterations the slope of the AR shall not exceed 1:21, or 4.7%, as opposed to 1:20, or 5%. This allows room for field error.
14. **Revise standard specifications and details** so that in new construction and alterations the ramp slope shall not exceed 1:13, or 7.7%, as opposed to 1:12, or 8.33%. This allows room for field error. It also makes ramps easier to use for everyone, not just people with disabilities. This universal design approach is also a risk management tool.
15. **Revise standard specifications and details** so that in new construction or alterations the cross slope shall be an integral part of the project and shall not exceed 2% or 1:50.

### Detectable Warnings

The US Access Board suspended the detectable warning requirement in the late 1990's, for several years. It was restored in 2002. However, it is not required in the 2010 Standards. **As a smart practice, WT Group recommends the use of detectable warnings.**

The detectable warnings at curbs **that are not compliant** are often a concrete cross-cut, or a grid laid on wet concrete to create a diamond indentation. Over time these should be replaced.

16. As with parking, **develop a template for detectable warnings.**
17. In the same year that parking is refreshed, **implement a plan to correct or refresh every detectable warning** at every curb or crossing at Commission facilities. If necessary, phase this out over a two or three-year period.
18. Weather greatly affects the life of detectable warnings. We recommend the use of durable, metal plates as opposed to plastic plates.

### Door Opening Force Requirements

Buildings within parks have approximately 575 doors. Many have closer mechanisms. Some of these need adjustment to bring the pounds of force (lbf) necessary into compliance (5 lbf for interior doors and a recommended 8.5 lbf for exterior doors). However, some of the closers are just old. The wear and tear of 20 or more years erodes the closer effectiveness.

19. **Evaluate and determine the age of door closers.**

**Charleston County Parks and Recreation Commission Report  
Access Audit and Transition Plan Summary and Recommendations  
June 15, 2020 page 18**

20. **Add door closer maintenance checks** to safety checklists in 2020 and for closers with 10 years of service or less, aggressively maintain them for effectiveness.
21. **Purchase and install new door closers** for all exterior doors (with closers 20 years old or more) and 50% of interior doors in 2022 or as soon as is possible.
22. **Purchase and install** new door closers for all remaining interior doors (with closers 20 years old or more) in 2024 or as soon as is possible.
23. **Consider acquiring, installing, and maintaining** power assisted door openers for Commission facilities with heavy consumer traffic.

### **Signage**

Commission signs serve several purposes. First, signs assist wayfinding in large sites such as James Island County Park. Second, signs identify important permanent elements of facilities, such as restrooms. Third, signs facilitate access by people with vision and physical limitations.

The 2010 Standards treats two types of signs differently. Signs for permanent spaces, such as a bathroom, must be in both Grade 2 Braille and raised lettering. Signs that are directional or informational only require visual lettering of a certain size. Be certain to incorporate these approaches into signs in buildings and sites operated by the Commission.

24. **Revise the sign template in use by the Commission** in 2020, that describes where and in what facilities signs will be used. The template could include size of sign, mounting height, mounting location, size of characters, space between characters, contrast between characters and background, icons or symbols used in the signs, Commission information in the signs (name of facility? phone number? main office number?), and more.
25. **Implement signage template and refresh** Commission signs in 2022.

### **Bathrooms**

Bathrooms are an essential part of a visit to a Charleston County Parks and Recreation Commission site. Exercise, food and beverage, social activities, and more all rely on one of the oldest designs known to us. Making those facilities accessible is tremendously important.

26. **Develop a bathroom template in 2021.** Confirm it with the State of South Carolina. This is a list of criterion for restrooms, not a design template. Be sure to include temporary facilities such as portable toilets in the template. The template should address the toilet, grab bars, items in the stall such as toilet paper and hooks, the stall, operating mechanisms, mirrors, sinks, hand towels, and more.
27. **Include bathroom renovations** at facilities in the Charleston County Parks and Recreation Commission's Capital Improvement Plan.
28. **Consider the use of automatic flush controls.** These have environmental benefits and are also a great way to eliminate some accessibility problems.

29. **In the interim, implement non-structural modifications recommended in each section of this report**, such as lowering mirrors, remounting grab bars, changing the height of toilets and urinals, installing compliant stall hardware, and so forth. These less costly changes on a site-by-site basis will serve your customers well until resources are available to renovate restrooms on a comprehensive scale.
30. **Make at least one portable toilet**, where provided at a site, accessible. This includes a portable toilet placed at a picnic shelter or adjacent to sports fields. These must be accessible and must be served by **an accessible route**.

**The Commission has sites with portable toilets; this must be addressed. Use our single-user toilet checklist, and require compliance by Commission vendors.**

### Alarms

In existing facilities where an aural or audible fire alarm system is provided, a visual alarm is not required unless the building was constructed after January 26, 1992 or has been upgraded since that same date.

If an alarm in an existing facility is audible only, it need not be modified to include a visual alarm unless it is replaced or upgraded in the future.

31. **Determine in 2020** if systems have been upgraded or replaced since 1992.
32. **Develop a plan in 2021** for the installation of aural and visual alarms in renovations.
33. **Retrofit construction that has occurred since 1992** to include aural and visual alarms by the end of 2023.

### Publications and Online Information

The use of a site grid in the Charleston County Parks and Recreation Commission print and online materials is an important tool for residents and can now be used to communicate about accessibility. Create one to incorporate the access work the Commission staff completes and indicate in your grid the location of accessible picnic areas and accessible playgrounds.

34. **Update website parks and facilities** information to reflect Commission plans regarding access, and to note which sites are accessible or will be made accessible.

### Maintenance Buildings

Maintenance areas are addressed in specific site reports, and employee areas are addressed earlier in this report. We note earlier that the Commission can apply a different standard to employee work areas, but employee work areas are not exempted from access requirements. Commission maintenance staff should receive training in regard to applying the **approach, enter, and exit** strategy so that they understand the reason for the various requirements.

35. **Train maintenance staff supervisors** in accessibility concepts that are applicable to the maintenance building.

36. **Implement recommendations regarding parking, accessible route, changes in level, gaps, doors, and alarm systems** at the maintenance areas.

### **Program Access Test**

The US DOJ test for existing facilities is known as the “program access test”. A “program” is an opportunity made available by the Commission. It can be as diverse as eating a sandwich at a picnic table in a park, enjoying a playground at a park, enjoying a walk at Kiawah Beachwalker Park, and attending a meeting and making public comment. A program is not just an activity for which a person registers and pays a fee.

We note early in this section that the program access test does not apply to new construction or alterations and additions. New construction and alterations and additions must be designed and constructed to comply with the 2010 Standards for Accessible Design.

In the title II regulation, section 35.150(b) describes the methods an entity can use to make programs accessible. They include:

- Redesign or acquisition of equipment;
- Reassignment of services to accessible buildings;
- Assignment of aides to program beneficiaries;
- Delivery of services at alternate accessible sites;
- Alteration of existing facilities and construction of new facilities;
- Use of accessible rolling stock or other conveyances; and
- Any other methods that result in making its services, programs, and activities readily accessible to and usable by individuals with disabilities.

Importantly, this section notes that a “...public entity is not required to make structural changes in existing facilities...” when any other method, such as those noted above, are effective. An element of the program access test is dispersion. For example, if there are 20 recurring assets in the Commission, the number to be accessible shall be dispersed throughout the agency.

What is the right number, or ratio of accessible to inaccessible, for recurring assets? That is an unknown today. US DOJ has not, and likely never will, established a ratio or percentage. We do know that DOJ guidance indicates that unique or infrequently occurring assets are more likely to require alteration than frequently occurring assets. We recommend the Commission adopt an approach requiring that a minimum of one of three recurring sites be made accessible. Additionally, unique sites shall be made accessible.

The program access test for the Commission and other units of state and local government is radically different than the approach to existing facilities that a business or nonprofit may take.

**Charleston County Parks and Recreation Commission Report  
Access Audit and Transition Plan Summary and Recommendations  
June 15, 2020 page 21**

Our approach of one-of-three has been accepted by Federal District Courts, the US DOJ, the Department of Interior, state courts, and state enforcement agencies. We know it is an effective approach that allows counties to optimize resources and make sites accessible to residents.

The concept of technical infeasibility is an important exception. The US DOJ 2010 Standards for Accessible Design note that when meeting the technical requirements, if the movement of a load bearing wall or element is required, technical infeasibility may arise. The Charleston County Parks and Recreation Commission need not make alterations at a site when it is technically infeasible to do so.

In the subsequent discussions regarding playgrounds, trails, and other park assets, we apply our interpretation of the program access test. We note that this is a summary; for the detailed retrofit recommendations, see the individual site reports. For each category of asset, we will note whether we believe the asset is accessible; whether the asset should be retrofit for accessibility; or whether the asset should be left as is and inaccessible, because the asset category satisfies the program access test. We take no position as to whether the Commission has a number of assets in a category, such as tennis courts, that is adequate to the demand for tennis in the Commission communities. That is not within our scope.

### **Playgrounds**

The **minimum required** of the Commission by title II of the ADA is that the “program” of playgrounds be accessible to residents. This is measured by the “program access test” described in section 35.150 of the title II regulation (see 28 CFR Part 35). For similar multiple sites, no guidance is given as to how many existing playgrounds must be accessible. Treat this as a planning exercise and aim for 1 of 3 playgrounds being made accessible.

Our evaluation included eight playgrounds. Of these, four are accessible. We recommend two more be made accessible. Any playgrounds to be replaced at any time in the future, or designed and built where one did not exist, must comply with the 2010 Standards and will therefore be accessible.

The Program Access Chart, along with the CCPRC Playground Map at the end of this section, illustrates the areas where work is recommended so that every resident of the County is close to an accessible playground. [[CCPRC Playground Map](#)]

37. **Continue to maintain surfaces and components**, per the site reports, so that the playgrounds at the sites below **remain** accessible:
  - **Haut Gap Recreation Complex**
  - **James Island County Park (2)**
  - **Palmetto Islands County Park (1 of 2)**
  
38. Make corrections at the below site to make the playground accessible
  - **North Charleston Wannamaker County Park (2)**
  
39. **Leave as is** the playgrounds at the parks named below, and if future alterations or renovations occur at those sites, make them accessible.

- Isle of Palms County Park
  - Palmetto Islands County Park (1 of 2)
40. **Advertise the accessible playgrounds** in the Commission website and publications. This is an important way to make the public aware of opportunities, and complies with the section 35.106 notice requirement in the title II regulation.
41. **Gradually eliminate the use of loose fill as an impact attenuating playground surface.**

For this surface to remain accessible, Commission staffs must more frequently inspect and maintain the surface. Unitary surfaces such as poured-in-place rubber or interlocking rubber tiles, and the artificial turf surface, are much easier to use for persons with mobility impairments and also meet the required standard for impact attenuation. A recent settlement agreement between the Department of Justice and an Iowa school district illustrates the difficulty of claiming that engineered wood fiber is accessible. See the decision [here](#), or go to [www.ada.gov](http://www.ada.gov).

### **Boat Launches**

The **minimum required** of the Commission by title II of the ADA is that the “program” of boat launches be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35). For similar multiple sites, no guidance is given as to how many existing sites should be accessible. We recommend that at least one of every three be accessible.

There are 25 launches and 14 are accessible. **We recommend no new access.**

The Program Access Chart at the end of this section, along with the CCPRC Boat Launch Map, illustrates the areas where work is recommended so that every resident is close to an accessible boat launch. [[CCPRC Boat Launch Map](#)]

42. **Make corrections** cited in reports so the boat launches **remain** accessible:
- Cherry Point Landing
  - Dawhoo Landing
  - Folly Beach Landing
  - Limehouse Landing
  - Remley’s Point Landing
  - Riverland Terrace Landing
  - Shem Creek Landing
  - Sol Legare Landing
  - Steamboat Landing
  - W.O. Thomas Jr. Landing
  - Wappoo Cut Landing
  - James Island County Park
  - North Charleston Wannamaker County Park
  - Palmetto Island Park (rentals)

43. **Leave as is**, launches at the sites listed below until next altered:

- **Bulow Landing**
- **Gasonville Landing**
- **Martins Landing**
- **Paradise Landing**
- **Penny Creek Landing**
- **Pierpoint Landing**
- **Toogoodoo Landing**
- **Willtown Bluff Landing**
- **Palmetto Island County Park (kayak launch)**

44. **Advertise the accessible boat launches** in Commission website and publications.

### **Fishing Piers**

The **minimum required** of the Commission by title II of the ADA is that the “program” of fishing be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35). For similar multiple sites, no guidance is given as to how many existing fishing areas should be accessible. We recommend that at least one of every three be accessible.

There are 10 fishing piers and eight are accessible. **We recommend no new access.**

The Program Access Chart at the end of this section, along with the CCPRC Fishing Pier Map, illustrates the areas where work is recommended so that every resident is close to an accessible pier. [[CCPRC Fishing Pier Map](#)]

45. **Make corrections** cited in reports so the piers **remain** accessible:

- **Cherry Point Landing**
- **Dawhoo Landing**
- **Limehouse Landing**
- **Remleys’ Point Landing**
- **Sol Legare Landing**
- **Steamboat Landing**
- **James Island County Park (1 of 2)**
- **Mt. Pleasant Pier**

46. **Leave as is**, piers at the sites listed below until next altered:

- **James Island County Park (1 of 2)**
- **Palmetto Islands County Park**

47. **Advertise the accessible fishing piers** in Commission website and publications.

## Beach Access

The **minimum required** of the Commission by title II of the ADA is that the “program” of beaches be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35). For similar multiple sites, no guidance is given as to how many existing beaches should be accessible. We recommend that at least one of every three be accessible.

There are four beaches and none are accessible. **We recommend access to all.**

The Program Access Chart at the end of this section, along with the CCPRC Beach Map, illustrates the areas where work is recommended so that every resident is close to an accessible beach. [[CCPRC Beach Map](#)]

48. **Make corrections** cited in reports so the beach **becomes** accessible:

- **Kiawah Beachwalker Park**
- **Folly Beach Pier**
- **Folly Beach County Park**
- **Isle of Palms County Park**

49. **Advertise the accessible beaches** in Commission website and publications.

## Tennis

The **minimum required** of the Commission by title II of the ADA is that the “program” of tennis be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35). For similar multiple sites, no guidance is given as to how many existing tennis courts should be accessible. We recommend that at least one of every three be accessible.

There are nine courts and four are accessible. **We recommend no new access.**

The Program Access Chart at the end of this section, along with the CCPRC Tennis Map, illustrates the areas where work is recommended so that every resident is close to an accessible court. [[CCPRC Tennis Map](#)]

50. **Make corrections** cited in reports so the tennis courts **remain** accessible:

- **Baptist Hill Tennis Complex (2)**
- **St. James-Santee Recreation Complex (2)**

51. **Leave as is**, tennis courts at the sites listed below until next resurfaced or altered:

- **Haut Gap Recreation Complex (2)**
- **Schroder Community Center (3)**

52. **Advertise the accessible tennis courts** in Commission website and publications.

## **Basketball**

The **minimum required** of the Commission by title II of the ADA is that the “program” of basketball be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing basketball courts should be accessible. We recommend that a minimum of one court of every three be accessible. We saw five basketball courts and two are accessible. **We recommend no new access.**

The Program Access Chart at the end of this section, along with the CCPRC Basketball Map, illustrates areas where work is recommended so every resident is close to an accessible court. [[CCPRC Basketball Map](#)]

53. **Make corrections** cited in the reports so the courts below **remain** accessible:
  - **Haut Gap Recreation Complex**
  - **St. James-Santee Recreation Complex**
54. **Leave as is** the courts at the following sites until next resurfaced or altered:
  - **Schroder Community Center (2)**
  - **Thompson Hill Recreation Complex**
55. **Advertise the accessible basketball courts** in Commission website and publications.

## **Ball Fields**

The **minimum required** of the Commission by title II of the ADA is that the “program” of ball fields be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35). For similar multiple sites, no guidance is given as to how many existing fields should be accessible.

We recommend that a minimum of one field of every three be accessible. We saw four ball fields and two are accessible. **We recommend no new access.**

The Program Access Chart at the end of this section, along with the CCPRC Ball Field Map, illustrates the areas where work is recommended so that every resident is close to an accessible field. [[CCPRC Ball Field Map](#)]

56. **Make corrections** cited in the reports so the fields below **become** accessible:
  - **Haut Gap Recreation Complex**
  - **St. James-Santee Recreation Complex**
57. **Leave as is** the fields at the following sites:
  - **Schroder Community Center**
  - **Thompson Hill**

58. **Advertise the accessible ball fields** in Commission website and publications.

### Athletic Fields

The **minimum required** of the Commission by title II of the ADA is that the “program” of athletic fields be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35). For similar multiple sites, no guidance is given as to how many existing fields should be accessible.

We recommend that a minimum of one field of every three be accessible. We saw three athletic fields and two are accessible. **We recommend no new access.**

The Program Access Chart at the end of this section, along with the CCPRC Athletic Fields Map, illustrates the areas where work is recommended so that every resident is close to an accessible field. [[CCPRC Athletic Fields Map](#)]

59. **Make corrections** cited in the reports so the fields below **remain** accessible:

- **Haut Gap Recreation Complex**
- **St. James-Santee Recreation Complex**

60. **Leave as is** the fields at the following sites:

- **Schroder Community Center**

61. **Advertise the accessible fields** in Commission website and publications.

### Sand Volleyball

The **minimum required** of the Commission by title II of the ADA is that the “program” of sand volleyball be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35). For similar multiple sites, no guidance is given as to how many existing courts must be accessible. We recommend that at least one of every three be accessible. There are five sand volleyball courts, but none are accessible. **We recommend access to three.**

The Program Access Chart at the end of this section, along with the CCPRC Volleyball Map, illustrates the areas where work is recommended so that every resident is close to an accessible court. [[CCPRC Volleyball Map](#)]

62. **Make corrections** cited in reports so the courts below **become** accessible:

- **Edisto Hall**
- **North Charleston Wannamaker Park (2)**

63. **Leave as is**, the court at the park listed below:

- **Haut Gap Recreation Complex**
- **Isle of Palms County Park**

64. **Advertise the accessible volleyball courts** in Commission website and publications.

### Horseshoes

The **minimum required** of the Commission by title II of the ADA is that the “program” of horseshoes be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35). For similar multiple sites, no guidance is given as to how many existing courts must be accessible. We recommend that at least one of every three be accessible.

There are two courts and none are accessible. **We recommend access to one.** The Program Access Chart at the end of this section, along with the CCPRC Horseshoes Map, illustrates the areas where work is recommended so that every resident is close to an accessible horseshoe court. [[CCPRC Horseshoes Map](#)]

65. **Make corrections** cited in reports so the courts below **become** accessible:

- **Schroder Community Center**

66. **Leave as is**, court at the park listed below:

- **Edisto Hall**

67. **Advertise the accessible horseshoe courts** in Commission website and publications

### Trails

The **minimum required** of the Commission by title II of the ADA is that the “program” of trails be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35). For similar multiple sites, no guidance is given as to how many existing trails should be accessible.

We recommend that a minimum of one trail of every three be accessible. We saw nine trails. Six trails are accessible. **We recommend no new access.**

**Trail access guidance is not yet in the form of a final and enforceable standard.** The US Access Board does offer significant guidance, and we have applied it here to Commission trails. However, the US Access Board does not have the authority to establish a Standard, which is the step above the **final guideline** that exists today. That said, we recommend Commission continue as a smart practice to adhere to the Access Board guidance on this matter.

The Program Access Chart at the end of this section, along with the CCPRC Trail Map, illustrates the areas where work is recommended so that every resident is close to an accessible trail. [[CCPRC Trail Map](#)]

68. **Make corrections** cited in the reports so the trails below **remain** accessible:

- **Caw Caw Interpretive Center**
- **James Island County Park (3)**

- North Charleston Wannamaker Park
- Schroder Community Center (1 of 2)

69. Leave as is the trails at the parks named below:

- Laurel Hill County Park
- Meggett County Park
- Schroder Community Center (1 of 2)

70. Advertise the accessible trails in Commission website and publications

### Dog Parks

The **minimum required** of the Commission by title II of the ADA is that the “program” of dog parks be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35). For similar multiple sites, no guidance is given as to how many dog parks must be accessible. We recommend that at least one of every three be accessible.

There are five parks and none are accessible. **We recommend access to three.** The Program Access Chart at the end of this section, along with the CCPRC Dog Park Map, illustrates the areas where work is recommended so that every resident is close to an accessible dog park. [[CCPRC Dog Park Map](#)]

71. **Make corrections** cited in reports so the parks below **become** accessible:

- New park at North Charleston Wannamaker Park
- Dog parks at James Island County Park (2)

72. Leave as is, park listed below:

- Palmetto Island County Park (2)

73. Advertise the accessible dog parks in Commission website and publications

### Picnic Areas and Picnic Shelters

The **minimum required** of the Commission by title II of the ADA is that the “program” of picnicking be accessible to residents. This is measured by the “program access test” described in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing shelters or picnic areas should be accessible. There are 32 picnic areas and picnic shelters and 14 are accessible. **We recommend access to five more. Many of these sites need tables or minor corrections.**

**Picnic area access guidance is not yet in the form of a final and enforceable standard.** The US Access Board offers significant guidance, and we apply it here to Commission shelters.

**Charleston County Parks and Recreation Commission Report  
Access Audit and Transition Plan Summary and Recommendations  
June 15, 2020 page 29**

However, the US Access Board does not have the authority to establish a Standard, which is the step above the **final guideline** that exists today. That said, we recommend the Commission continue as a smart practice to adhere to the Access Board guidance on this matter.

The Program Access Chart at the end of this section, with the CCRC Picnic Areas Map, illustrates accessible picnic areas so that every resident of the Commission is close to an accessible picnic area/shelter. [[CCPRC Picnic Areas Map](#)]

74. **Make corrections** needed to **create or maintain access**, including adding tables, to shelters at:

- **Folly Beach County Park (1 of 2)**
- **Haut Gap Recreation Complex**
- **Isle of Palms County Park (2 of 3)**
- **James Island County Park (5)**
- **McLeod Plantation Historic Site**
- **North Charleston Wannamaker County Park (3)**
- **Palmetto Islands County Park (3 of 6)**
- **Whirlin' Waters (3)**

75. **Leave as is** the shelters at the following sites, until next altered:

- **Cooper River Marina (2)**
- **Edisto Hall**
- **Folly Beach County Park (1 of 2)**
- **Isle of Palms County Park (1 of 3)**
- **John's Island County Park**
- **Kiawah Beachwalker Park**
- **Laurel Hill County Park**
- **Meggett County Park**
- **Palmetto Islands County Park (3 of 6)**
- **Splash Island**

76. **Advertise accessible shelters** in the Commission website and publications.

### **Camping**

The **minimum required** of the Commission by title II of the ADA is that the "program" of camping be accessible to residents. This is measured by the "program access test" found in section 35.150 of the title II regulation (see 28 CFR Part 35). For similar multiple sites, no guidance is given as to how many campgrounds must be accessible. We recommend that at least one of every three be accessible.

There are two sites with camping and one has accessible sites. **We recommend creating three more sites at James Island and at least one at John's Island.** The Program Access Chart at the end of this section, along with the CCPRC Camping Map, illustrates the areas where work is recommended so that every resident is close to an accessible campsite.

[[CCPRC Camping Map](#)]

77. **Make corrections** cited in reports so the campgrounds below **remain or become** accessible:

- **Campground at James Island County Park**
- **John's Island Campground**

78. **Advertise accessible campsites** in the Commission website and publications

### **Archery**

The **minimum required** of the Commission by title II of the ADA is that the “program” of archery be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35). For similar multiple sites, no guidance is given as to how many existing ranges must be accessible. We recommend that at least one of every three be accessible.

There are three ranges and none are accessible. **We recommend access to one.** The Program Access Chart at the end of this section, along with the CCPRC Archery Map, illustrates the areas where work is recommended so that every resident is close to an accessible range. [[CCPRC Archery Map](#)]

79. **Make corrections** cited in reports so the range below **becomes** accessible:

- **John's Island County Park (1 of 2)**

80. **Leave as is**, range listed below:

- **John's Island County Park (1 of 2)**
- **Edisto Hall**

81. **Advertise accessible archery range** in the Commission website and publications

### **Transition Plan**

The Commission must have a transition plan per 35.150(d) of the DOJ title II regulation. The plan should identify the barrier, the corrective work, the date by which the work will occur (in our reports, the Phase), and the person responsible for barrier removal.

Barriers should be removed as soon as is possible. Phasing the work to be done allows for access to occur and makes the best use of the resources of Charleston County Parks and Recreation Commission. We recognize that each phase could require up to four fiscal years for implementation. The Commission should determine the annual activity within its fiscal years.

In the view of DOJ, the recreation design requirements were available to the Commission since 2004, if not earlier. Enforcement staff has said at meetings and in conversations that work should have already been underway to identify and remedy access deficits.

**Charleston County Parks and Recreation Commission Report  
Access Audit and Transition Plan Summary and Recommendations  
June 15, 2020 page 31**

We recommend work in three phases. We also note work we believe need *not* occur in a category titled Commission Option. Should Commission plans change, or should other resources become available, the corrective work needed at these sites is known.

We have made cost **references** for the corrective work recommended. We note that these are not estimates and should be used only for planning purposes. The final design, the year in which the work will occur, the relationship with the contractor, and many other factors must be considered before a cost estimate is made.

Our total of all cost references is \$4,435,446.51. Our phasing is described below.

- In Phase One, we recommend work in two categories: easy to do with existing staff and fiscal resources (low-hanging fruit), and work at recently built sites that is not compliant (such as parking). We suggest that completion of this phase requires four fiscal years. Cost references for Phase One are \$768,805.50.
- In Phase Two, we recommend work in areas that are new to the 2010 Standards. This typically includes sports fields and courts, playgrounds surfaces, playground components, and other park assets. We suggest that completion of this phase requires three fiscal years. Cost references for Phase Two are \$1,992,551.16.
- In Phase Three, we recommend work in areas in two categories: elements not yet addressed by a final Standard, such as trails, and elements where correction is complex or costly. We suggest that completion of this phase requires four fiscal years. Cost references for Phase Three are \$1,482,661.60.
- We do phase some work as Commission Option. This is work at a site or element with access deficits where we believe the Commission already meets the program access test and need not make these sites accessible, until later altered for another purpose. Cost references for Commission Option are \$191,428.25.

### **Community Engagement**

As mentioned earlier on pages 11 and 12, the Commission sought community engagement in three ways. Two public feedback sessions were held, one in Mount Pleasant and the second at Commission headquarters. We also met with a variety of medical professionals at Roper during the day.

In addition, three focus groups were conducted on February 13. All were conducted in an effort to determine the access preferences and priorities of Charleston County residents. Overall, including the public feedback sessions and focus groups, we heard from more than 20 people.

Community members had good comments and those are reflected in the Transition Plan. Preferences that influenced our recommendations to the Commission included addressing beaches, and to start with the basics, such as parking, restrooms, and entries. In setting a retrofit schedule, knowing the access preferences and priorities of the community is a wise approach. While the decisions to make are the responsibility of the Commission, a better decision is made with participation by community members.

### **Funding Access Retrofits**

We have developed this section to discuss some of the potential funding sources other counties, cities, park districts, and governmental entities have used for accessibility compliance. This is intended as primer on this topic and is not intended as a comprehensive list.

#### **No Dedicated Federal Source**

There is no dedicated source of federal funds for accessibility renovations to existing sites. This will not likely change in the future. Federal funding is unpredictable.

#### **Earmarks**

Some of our clients have pursued Congressional earmarks for access work. Earmarks are unpopular, and difficult to obtain. While Congressional earmarks are not in use today, the current Administration has revived discussions regarding the use of earmarks.

We would suggest that this is a viable option in communities of influence such as Charleston.

#### **Community Development Block Grant Funds**

Several of our clients have acquired federal Community Development Block Grant (CDBG) funds for accessibility renovations at existing sites. CDBG funds often have a scale of priority. It is important to establish accessibility as a priority for CDBG applications.

#### **State Grants Programs**

Several states, and several of our clients, have successfully pursued state legislation to set aside dedicated state funds that can be used for specific purposes, including access retrofits. To name a few, Illinois, New Jersey, Colorado, Ohio, Florida, and Texas all have sources of revenue funded in various ways, such as a real estate transfer tax.

While the various states have all at times not fully funded these grant programs, they remain an effective tool for counties regarding site acquisition and development.

#### **State Discretionary Funds**

Most state legislatures provide some type of discretionary funding for members of the legislature. In some states, these are relatively small grants of under \$50,000. These can be a viable option for a county with good relationships with state legislators.

#### **Special Accessibility Legislation**

At least one state (Illinois) has adopted legislation that allows municipalities and special purpose park districts to levy a tax that can be used only for recreation for people with disabilities. The funds can be used for access retrofits at existing sites and facilities.

Statewide, local entities in Illinois levy an estimated \$50,000,000 annually for this purpose.

### **Private Giving**

Some of our clients have successfully sought private gifts for accessibility purposes. The private giving area is subject to fluctuations depending on the economy, political issues, and related fiscal impacts. In our experience, private giving works best when an agency has an employee dedicated to this purpose.

### **Corporate Giving**

Some of our clients have successfully sought grants from corporations. These may, for corporate purposes, come from marketing (such as naming rights to a facility) or from community giving. Also, many corporations have a related foundation that manages corporate giving. In our experience, corporate giving works best when an agency has an employee dedicated to this purpose.

### **Community Foundations and Other Foundations**

Community foundations, which operate on a regional basis, have also been involved in accessibility giving. Perhaps the greatest example here is the multi-million dollar Kellogg Foundation project that improved accessibility in Michigan, Ohio, Indiana, Illinois, and other states that bordered the Kellogg headquarters in Michigan.

### **Other Methods**

There are many other methods, some of which are crafted by a community to meet a unique set of circumstances. These include:

- A New Jersey community takes 100% of accessible parking fines and applies those towards recreation for people with disabilities.
- Several Illinois park districts have added a \$1 to \$10 surcharge to every registration, with the fees generated being earmarked for access and inclusion expenses.
- Several communities have successfully sought budget increases to address accessibility backlogs, just as they have with maintenance backlogs. Those increases may be general fund allocations, proceeds from successful referenda, or reallocations of under expended funds originally budgeted for other municipal purposes.

### **Risk Management**

Investing in safety saves money by avoiding legal expenses related to injuries on Commission properties. The same concept applies here. Investing in retrofits saves the Commission the cost of staff time and attorneys to defend against ADA lawsuits or administrative complaints.

While we do not believe a decision about access should hinge solely on risk management factors, we do recommend that the Charleston County Parks and Recreation Commission be aware of this factor going forward. ADA enforcement continues to grow and touch more and more communities. Relief under the ADA is intended to be injunctive in nature, but the time consumed and cost of litigation can be a great drain on human and fiscal resources.

### Implementation Strategies

Title II of the ADA is relatively straightforward. That said, we offer some suggestions below regarding implementation of the several mandates in the regulation.

1. **Maintain a strong relationship with disability advisory groups.** Make it a point to continue to seek out and work with these groups, and seek their feedback on future initiatives.
2. **Acquire and maintain the Certified ADA Coordinator credential.** There is no nationwide credential required for ADA implementation. However, a Certified ADA Coordinator will benefit the Commission, keeping it current on implementation strategies and smart practices from school districts, special purpose districts, counties, and cities throughout the United States.
3. **Identify available sign language interpreters and enter into agreements** before situations arise where the County needs such services. Negotiate rates, availability, environments where the work will occur, and so forth.
4. One of the title II requirements for communications produced by the Commission requires the Commission to respond to inquiries in the form in which the inquiry is made. We also believe that this is the courteous way to respond. Here, if an inquiry to the Commission comes in the form of a Braille document, the response from the Commission should also be in Braille.

**We recommend the Commission either locate the nearest Braille printer and enter into an arrangement for use, or simply acquire one and have employees learn how to use it.** For a review of this topic by the American Foundation for the Blind, visit [this site](#).

5. **Acquire assistive listening systems.** There are three principal types: inductive loop systems, infrared systems, and FM systems. These devices are helpful for persons with some residual hearing. These devices separate speech from ambient noise and amplify speech. People who are deaf or hard of hearing may prefer, for various reasons, one type of device. The National Association of the Deaf has a brief review of the topic [here](#).
6. **Monitor the development of the website accessibility requirements.** The Department of Justice suspended the website accessibility guideline in 2016 because technology had advanced so much that the old guideline, developed in 2011, was obsolete. The plan was that the Department of Justice would reevaluate the guidance and issue a final and enforceable Standard in 2018.

That plan is in jeopardy. A 2017 Presidential directive requires that for every new regulation issued, the issuing agency must rescind two. This has caused significant turmoil in the world of accessibility, where there are only three regulations (title II, title III, and the 2010 Standards). To rescind one of the three would have disastrous consequences for South Carolina residents with disabilities. We believe it likely that no new accessibility standards will be issued in the immediate future.

7. ***Develop an ongoing series of disability training for employees.*** Every day, new products appear on the market, agencies issue new enforcement decisions, and cities and counties develop and perfect new strategies for inclusion and access. Keep current on these developments and share this news with Commission staffs.
8. ***Require employees to add access and inclusion subject matter to their “diet” of continuing education.*** It is important to seek out and attend training events that relate to the work of the employee, and focus on access and inclusion.

### **Conclusion**

The Charleston County Parks and Recreation Commission has a variety of facilities and sites. The skilled staff operates facilities and sites the community wants and enjoys. This report identifies some issues that are typical in a parks and recreation infrastructure, and some that are unique to Charleston. The Commission takes steps towards accessibility every year and that helps greatly. That said, access work should occur every year during the transition plan.

While no one can say with certainty how long the Commission can stretch these projects, the Commission should make access retrofits an ongoing part of its annual plans and budgets. US Department of Justice officials have said work must be completed as soon as is possible. **Be certain to understand that the Commission could be forced to accelerate its pace. Making access work a high priority is critical.**



Submitted by:

**John N. McGovern, JD  
Partner, Principal in Charge  
WT Group Accessibility Practice**