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**Americans with Disabilities Act Compliance**  
**Section 504 of the Rehabilitation Act Compliance**

**City of Middletown, Ohio Compliance Regarding Americans with Disability Act Section 504 of the Rehabilitation Act of 1973**

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**1.0 SUBJECT TITLE**

Americans with Disability and Section 504 of the Rehabilitation Act of 1973 Compliance

**2.0 PURPOSE**

To affirm The City of Middletown's (City) policy and practice that physical facilities, and programs, services and activities of the City government are accessible to

members of the public, including qualified individuals with disabilities.

### **3.0 ORGANIZATIONS AFFECTED**

- 3.1 Americans with Disabilities Act (ADA) - All City Departments, Divisions, Offices and Agencies
- 3.2 Section 504 of the Rehabilitation Act of 1973 - City departments funding for specified programs, services and activities

### **4.0 REFERENCES**

- 4.1 Americans with Disabilities Act of 1990 (ADA)
- 4.2 Section 504 of the Rehabilitation Act of 1973, as amended (Section 504)
- 4.3 Regulations promulgated under Section 504 include those by the U.S. Departments of Agriculture (7 CFR 156), Education (34 CFR 104), Health and Human Services (45 CFR 84), Justice (28 CFR 42), Interior (43 CFR 17), Housing and Urban Development (24 CFR 8), Labor and Transportation (49 CFR 27) implementing the ADA and Section 504 Requirements
- 4.4 Regulations promulgated by Ohio State agencies implementing state disability non-discrimination laws.
- 4.5 City of Middletown Ordinance Section 207.

### **5.0 DEFINITIONS**

- 5.1 "Qualified individual with a disability": An individual with a disability who meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided to the public by the City, with or without reasonable modifications to rules, policies, or practices, the removal of architectural or communication barriers, or the provision of auxiliary aids and services (Section 504 of the Rehabilitation Act of 1973, as amended, 42 U.S.C. Section 12131 et seq., 28 CFR Part 35, the Americans with Disabilities Act of 1990, and RCW 49.60).
- 5.2 Barrier-free design: Design that gives users the opportunity for movement without restriction. By using principles of barrier-free design, people with disabilities will be able to participate fully and avail themselves equally of the opportunities to benefit from the City programs and services.
- 5.3 Usability: Within facilities constructed prior to the passage of the ADA, some architectural elements may not meet current codes and requirements for accessibility. If a barrier to access by people with disabilities does not result, the facility is usable and complies with this policy. In other cases, though requirements of the applicable laws, codes, and regulations have been met, a barrier may exist to a qualified individual with a disability. In such cases, it may be necessary to modify

the element in the facility to make the facility usable by qualified individuals with disabilities providing that such change and/or alteration does not result in an undue financial burden.

- 5.4 Overall Program Accessibility: The ADA requires that programs as a whole be accessible to people with disabilities, and requires the City to account how the program's elements work together as a whole and how services are delivered.
- 5.5 Self-evaluation: The evaluation of policies, practices, and physical facilities to identify potential barriers to accessibility and corrective actions to reduce or eliminate those barriers.
- 5.6 Disability Transition Plan for Physical Facilities: A written plan which outlines identified physical barriers and a schedule of activities to remove those barriers and improve program accessibility. By definition, a transition plan must contain:
  - 5.6.1 Identify physical barriers that limit accessibility to City programs, activities or services;
  - 5.6.2 Outline of the methods which will be used to remove the barriers and make the facility more accessible;
  - 5.6.3 The schedule for the necessary steps to achieve improved compliance; and
  - 5.6.4 The name of the management staff responsible for the plan's implementation.

## **6.0 POLICIES**

- 6.1 In accordance with Title II of the ADA and its implementing regulations, Section 504, (collectively called the "disability non-discrimination laws"), no qualified individual with a disability shall, on the basis of such a disability, be subjected to discrimination or be excluded from participation in, or denied the benefits of the services, programs, activities or physical facilities which the City provides to the public.
- 6.2 To the extent feasible, City departments shall comply with the provisions of the disability non-discrimination laws regarding access applicable to programs, activities, services, and physical facilities.
- 6.3 To the extent feasible, City departments will ensure that physical facilities are usable by qualified individuals with disabilities. Where physical facilities cannot be made usable, overall program accessibility must be ensured.
- 6.4 Physical facilities owned by the City shall comply with the applicable regulations on barrier-free design and physical

accessibility.

- 6.5 The City will seek to lease space that complies with the applicable regulations on barrier-free design and physical accessibility.
- 6.6 The construction and renovation of City facilities shall comply with applicable regulations on barrier-free design and physical accessibility.
- 6.7 Public meetings will be held at accessible locations and in such a manner that qualified, people with disabilities are able to fully participate.
- 6.8 Qualified people with disabilities shall not be discriminated against in participation on boards, commissions, or on advisory and planning committees.
- 6.9 City offices and programs shall be accessible to users of TTYs (teletypewriters).
- 6.10 Individuals with disabilities accompanied by service animals will be afforded access to all City facilities, programs, services, and activities as are open to other members

## **7.0 PROCEDURES**

<u>Action by:</u>	<u>Action:</u>
City Council	7.1 Approve Ordinances regarding ADA
City Manager	7.2 Approve City Policies regarding ADA/ Section 504
	7.3 Appoint ADA Coordinator – (Law Dept.)
Law Director	7.4 Review City policies and ADA legal issues
Law Dept.	7.5 Conduct evaluation of all City facilities, programs, services, and activities for ADA compliance.
	7.6 Prepare training materials as appropriate for City employees.
	7.7 Conduct ADA complaint investigations.
	7.8 Conduct accessibility surveys of all City facilities and prepare written reports.
	7.9 Ensure City owned and leased facilities are evaluated to determine compliance with the applicable regulations on barrier-free design and physical accessibility and ensure that they are

usable by qualified individuals with disabilities whenever possible.

- 7.10 Prepare, maintain and update the City Transition Plan.
- 7.11 Review and update the City's ADA policy and procedures as required.
- 7.12 Provide technical assistance to City departments on ADA issues.
- 7.13 Receive, coordinate activities and assist in the resolution of grievances alleging discrimination based on disability by the City.
- 7.14 Maintain ADA complaint file and records.

Community Revitalization  
Director

- 7.15 Prepare Section 504 Compliance policies, reports and forms.
- 7.16 Assist Section 504 Coordinator.

HUD Program Administrator

- 7.17 Ensure compliance to all Section 504 mandates on all federally funded programs, services, and activities.
- 7.18 Monitor contractors to ensure contract provisions requiring compliance with disability non-discrimination laws regarding access are satisfied.

Personnel Department

- 7.19 Prepare City policies and procedures regarding employment and the ADA.
- 7.20 Respond to employee ADA grievances.
- 7.21 Make reasonable accommodation to employment situations as needed.

Employees

- 7.22 Assist disabled citizens in acquiring and accessing City programs services and activities.

**8.0 RESPONSIBILITIES**

- 8.1 The City Manager is responsible for ensuring the City's compliance with disability non-discrimination laws regarding access. Under the law, the City is required to have at least one designated ADA coordinator. The City Manager has designated the Law Department as the ADA Coordinator(s) to facilitate the City's efforts to comply with disability non-discrimination laws regarding access.
- 8.2 Department heads and officials shall cooperate with the City

Manager to ensure compliance with the requirements of disability non-discrimination laws regarding access, and with this policy and related procedures. Compliance-related activities include documenting:

- 8.2.1 Disability accessibility accommodations made within their departments;
  - 8.2.2 Participation in the evaluation of programs, services, activities, and physical facilities to identify potential barriers to accessibility;
  - 8.2.3 The preparation of necessary Disability Corrective Action Plans and/or Disability Transition Plans; and
  - 8.2.4 The coordination of budget approval to implement such plans.
- 8.3 The City Law Department will provide technical assistance to City personnel on disability access issues.
- 8.4 The City Law Department shall establish and implement internal grievance procedures to receive and resolve grievances from the public alleging non-compliance with disability non-discrimination laws regarding access in accordance with Middletown Ordinance Section 207. The City Law Dept. will serve as the initial point of appeal regarding ADA grievances.
- 8.5 The City Law Department shall develop such other policies and procedures necessary to improve accessibility of programs, services, activities, and physical facilities of the City government.

## **9.0 ADA GRIEVANCES – COMPLAINT PROCEDURE.**

- 9.1 The City of Middletown Grievance Procedure – Purpose - The grievance procedure shall address concerns regarding Title II of the ADA and Section 504 of the Rehabilitation Act of 1973, as it applies to the City of Middletown department programs, services and activities.
- 9.2 Complaint Procedure and Format – Middletown Ordinance Section 207(c) describes the complaint process and format, complaint filing, complaint review, and appeal process for the City of Middletown.
- 9.3 Complaint Retention – All written complaints received by the City of Middletown, appeals, and responses will be kept by the City Law Department for at least three years.

## **10.0 504 COMPLIANCE – FEDERAL GRANTS**

- 10.1 The objective of Section 504 of the Rehabilitation Act of 1973 is to ensure that entities receiving federal funding or grants do not

discriminate against persons with disabilities. Some City departments receive federal funding in support of specific programs, services and activities administered by those departments.

10.2 24 CFR PART 8 – SECTION 504 - “No otherwise qualified individual with a disability in the United States... shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, service or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service.”

### **11.0 SECTION 504 - RECIPIENT DEFINED**

11.1 Regulations define “recipient” as any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended for any program or activity directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance. An entity or person receiving housing assistance payments from a recipient on behalf of eligible families under a housing assistance payments program or a voucher program is not a recipient or sub-recipient merely by virtue of receipt of such payments [24 CFR 8.3].

### **12.0 SECTION 504 - COVERAGE**

12.1 Section 504 covers all programs, services and activities of recipients of federal financial assistance, including, for example:

- 12.1.1 Outreach and public contact, including contact with program applicants and participants
- 12.1.2 Eligibility criteria
- 12.1.3 Application process
- 12.1.4 Admission to the program
- 12.1.5 Tenancy, including eviction
- 12.1.6 Service delivery
- 12.1.7 Employment policies and practices

### **13.0 SECTION 504 - PROHIBITIONS AGAINST DISCRIMINATION**

#### Right Guaranteed

#### Discrimination Prohibition

Opportunity to participate      13.1 Denying a qualified individual with disabilities the

		opportunity to participate in, or benefit from, the housing, aid, benefit, or service
Equality of benefits	13.2	Failing to afford a qualified individual with disabilities the opportunity for equal participation and benefit
Equality of opportunity	13.3	Failing to provide a qualified individual with disabilities a program or service that affords the same opportunity to benefit as that afforded others.
No unnecessary difference or separateness	13.4	Providing different or separate housing, aid, benefits or services on the basis of disability unless providing such is necessary to provide housing or benefits that are as effective as that provided to persons without disabilities
No assistance to entities that discriminate	13.5	Providing significant assistance to an agency, organization or person that discriminates on the basis of disability in any aspect of a federally assisted activity
Opportunity to serve on boards	13.6	Denying a qualified individual with disabilities the opportunity to participate as a member of planning or advisory boards
No denial of right to a dwelling	13.7	Denying a dwelling to an otherwise qualified buyer or renter because of a disability of that buyer or renter or another prospective tenant
No discriminatory limitation of benefits	13.8	Limiting in any other manner a qualified individual with disabilities in the enjoyment of any right, privilege, advantage, or opportunity afforded to others
Most integrated setting	13.9	Providing programs or services to qualified individuals with disabilities in settings that are unnecessarily separate, segregated or restricted

**14.0 SECTION 504 - CITY OF MIDDLETOWN RESPONSIBILITIES**

- 14.1 To comply with Section 504, City departments receiving federal funding shall:
  - 14.1.1 Take steps to ensure effective communication with applicants, beneficiaries, and members of the public. [24 CFR 8.6]
  - 14.1.2 Take steps to ensure that employment activities, including job announcements, recruitment, interviews, hiring, work assignments, promotions and dismissals, do



not discriminate on the basis of disability. [24 CFR 8.10 – 8.13]

- 14.1.3 Ensure that all non-housing programs are operated in a manner that does not discriminate on the basis of disability and that new construction and alterations of non-housing facilities are made accessible in accordance with applicable standards. [24 CFR 8.21]
- 14.1.4 Operate existing housing programs in a manner that does not discriminate on the basis of disability, and take steps, as needed, to ensure that existing housing programs are readily accessible to and usable by persons with disabilities. Develop and implement a transition plan to assure compliance. [24 CFR 8.24]
- 14.1.5 Provide reasonable accommodations which may be necessary for a person with a disability to use or participate in the program, service or activity; unless the recipient can demonstrate that the accommodation will result in an undue financial and administrative burden or a fundamental alteration in the nature of the program, service or activity. A reasonable accommodation is an adaptation or modification to a policy, program, service, or workplace which will allow a qualified person with a disability to participate fully in a program, take advantage of a service, or perform a job. Reasonable accommodations may include, but are not limited to, adjustments or modifications to buildings, facilities, dwellings, and may also include provision of auxiliary aids, such as readers, interpreters, and materials in accessible formats. [24 CFR 8.4, 8.11, 8.20, 8.21, 8.24, 8.25, 8.33]
- 14.1.6 Pay for a reasonable accommodation needed by the individual (e.g., a ramp to a unit) unless providing that accommodation would be an undue financial and administrative burden or a fundamental alteration of the program. [24 CFR 8.4, 8.11, 8.20, 8.21, 8.24, 8.25, 8.33]
- 14.1.7 Ensure that all new construction of non-housing facilities and multi-family housing facilities are readily accessible to and usable by persons with disabilities, and meets the requirements of applicable accessibility standards. [24 CFR 8.21, 8.22 and 8.32]
- 14.1.8 Ensure that substantial alterations, when undertaken, meet the requirements for new construction. [24 CFR 8.23(a)] Ensure that all other alterations, to the maximum extent feasible, meet the requirements of the applicable accessibility standards. [24 CFR 8.23(b)]
- 14.1.9 Conduct any required needs assessments (for recipients who are public housing agencies) to determine the extent to which the housing needs of persons with disabilities are being met in the recipient's program and in the community. [24 CFR 8.25]
- 14.1.10 Distribute accessible dwelling units throughout projects and

sites and make such units available in the same ranges of sizes and amenities to provide housing choices for persons with disabilities that are the same as those provided by others. [24 CFR 8.26]

- 14.1.11 Adopt suitable means to ensure persons with disabilities are made aware of the availability of accessible units and to maximize use of accessible units by individuals needing the features of these units. [24 CFR 8.27]
- 14.1.12 Conduct any required self-evaluations of programs, services, and activities to determine if they are programmatically and physically accessible to persons with disabilities, and involve persons with disabilities in these evaluations. [24 CFR 8.51]
- 14.1.13 Recipients with 15 or more employees – designate an employee to ensure the recipients' programs, services and activities meet the requirements of Section 504; adopt a grievance procedure to effect due process standards and prompt and equitable resolutions of complaints. [24 CFR 8.53]
- 14.1.14 Recipients with 15 or more employees – notify participants, beneficiaries, applicants and employees of their nondiscriminatory provisions. [24 CFR 8.54]
- 14.1.15 Maintain records and reports of efforts to meet the requirements of Section 504, and keep these records on file so that they are available if a complaint is filed, or if (a Federal compliance office) conducts a compliance review. [24 CFR 8.55]

## **15. HUD PROGRAM ADMINISTRATOR RESPONSIBILITIES**

- 15.1 Assure that respective departments comply with all grant requirements through developing, implementing and monitoring processes.
- 15.2 Creates and insures that appropriate communication of complaint procedures for the public, employees and service recipients are posted or made known.
- 15.3 Creates and implements effective communication mechanisms to acquaint participants, beneficiaries, applicants and employees of rights under all grants.
- 15.4 Assures that sub-recipients comply with all grant requirements and that sub-recipients have complaint and compliance procedures in place.
- 15.5 Assist Law Department in investigating complaints filed under Title VI of the Civil Rights Act of 1964 as amended, Section 504 of the Rehabilitation Act of 1973, Civil Rights Restoration

Act of 1987, and the Americans with Disabilities Act of 1990, relating to any program or activity administered by the City, as well as to sub-recipients, consultants and contractors.

- 15.5 Serves as the department liaison with grantor agencies on compliance issues including on-site compliance monitoring activities.
- 15.7 Maintain all related files and reports.

## **16.0 SECTION 504 - SUB-RECIPIENT ASSURANCE OF COMPLIANCE**

- 16.1 All sub-recipients that have been awarded federal funding by the City to provide a public service will be required to comply with the ADA and Section 504 regulations. Assurance of compliance is documented in the contract with the City and at the on-site monitoring visit.

## **17.0 SECTION 504 - NOTICE TO PARTICIPANTS AND APPLICANTS OF PROGRAM**

Where possible, Section 504 Coordinators will distribute and post (or have posted) a notice to applicants and participants, that the program, service or activity is federally funded and must meet the mandates of Section 504 of the Rehabilitation Act of 1973 and the ADA. The Notice to Participants and Applicants of Program Form can be obtained by contacting the City Community Revitalization Department office.

## **18.0 SECTION 504 - COMPLAINTS**

Persons with disabilities who believe they have been subjected to discrimination prohibited by Section 504 may file a complaint with the City Law Department as prescribed in Middletown Ordinance Section 207, U.S. Department of Justice or the U.S. Department of Housing and Urban development when discrimination in housing is alleged. Any person who believes that a specific class of persons has been subjected to discrimination prohibited by Section 504 and who is a member of that class or who is the authorized representative of a member of that class may file a complaint with the department. [24 CFR 8.26(c)] To file a complaint, contact should be made with the City Law Department, the U.S. Department of Justice 950 Pennsylvania Avenue, NW; Civil Rights Division; Disability Rights - NYAVE, Washington D.C. 20530 or Fair Housing HUD – U.S Department of Housing and Urban Development; Columbus Field Office 200 North High Street, Columbus, OH 43215

## **19.0 FORMS AND DOCUMENTS**

- 19.1 Section 504 - Self-Evaluation Questionnaire Form
- 19.2 Transition Plan

