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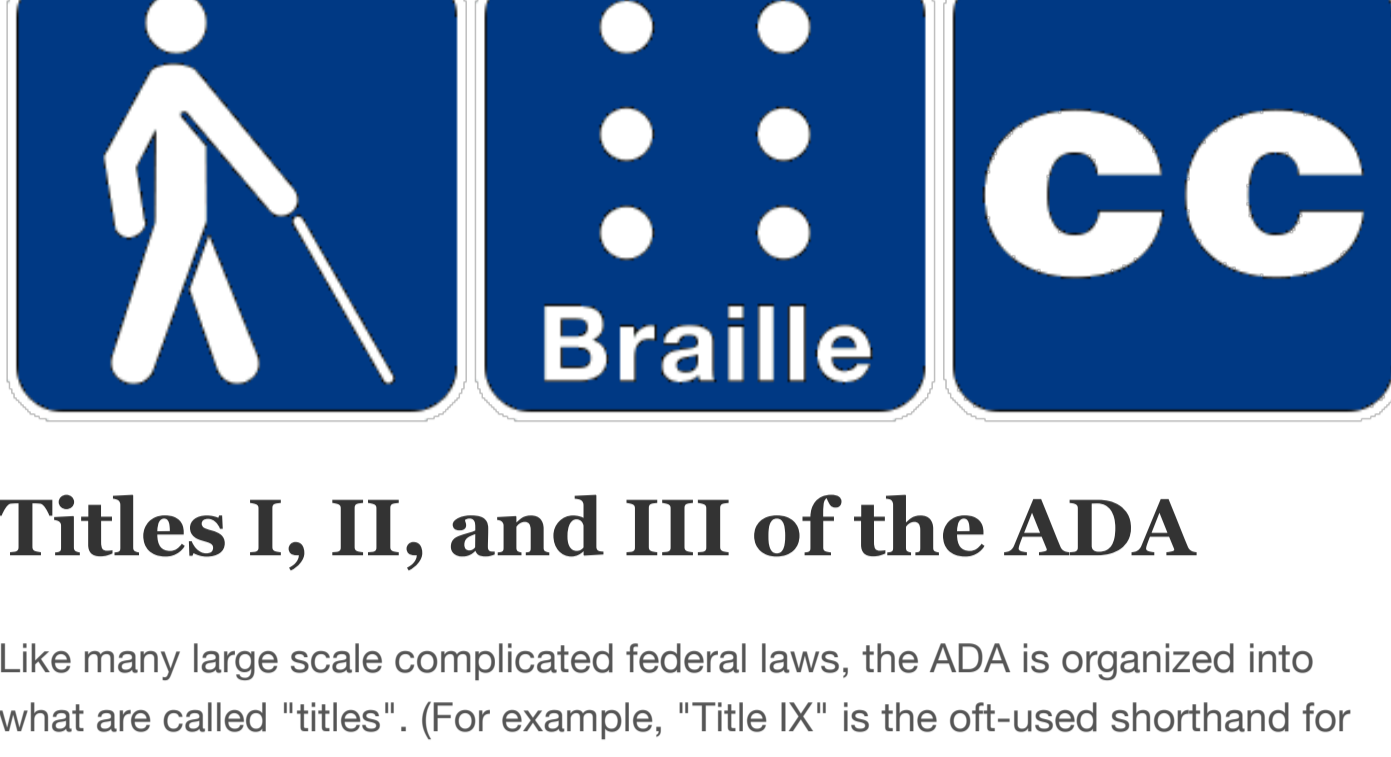
How Utica Works: The ADA

The Americans with Disabilities Act, commonly referred to simply as the "ADA", is a landmark federal law. It passed both the Senate and House of Representatives and was signed into law by President George H.W. Bush in 1990. In some fundamental ways, it is parallel to the Civil Rights Act of 1964, which made it illegal to discriminate against people on the basis of race, religion, sex, and eventually sexual orientation. In other words, the Civil Rights Act extended the promise of equality, enshrined in our Declaration of Independence and Constitution, to all Americans. The ADA carried that principle further and guaranteed that equality before the law also applied to people with disabilities. The ADA protects that fundamental equality of Americans by making sure that employers cannot use disability as a reason to not hire someone, and by making public facilities accessible to everyone.

What Counts as a "Disability"?

For many of us, when we think of someone with a "disability", we are most likely to picture someone with mobility impairments who uses a wheelchair to get around. This assumption is not unreasonable as using a wheelchair is very visible to us, and because using a wheelchair requires specific accommodations that we are all familiar with, such as designated parking spaces, larger bathroom stalls, etc.

But there are many other physical and mental conditions that also count as disabilities. Many people are hearing impaired, others are visually impaired or blind. Some people have autism, others have learning disabilities. These disabilities can be thought of as "invisible disabilities". Even long term illness, such as cancer or being HIV-positive may disable people. Conditions do not need to be severe or permanent to count as disabilities. Our understanding of what counts as a disability and how best to ensure that all Americans are treated fairly and have access to all that our society offers, is an ongoing process.



Titles I, II, and III of the ADA

Like many large scale complicated federal laws, the ADA is organized into what are called "titles". (For example, "Title IX" is the oft-used shorthand for the federal law requiring that women's and girls sports get equal funding in all schools that receive federal funding. It is part of the same Civil Rights Act that I referred to above.)

Title I of the ADA deals with employment and specifically prohibits discriminating against disabled people in the workplace. The ADA stipulates that any employer with 15 or more employees (the State of New York is more stringent, and covers smaller businesses as well) cannot discriminate against any employee or applicant on the basis of a person's disability. As long as a potential employee can do the job, then their disability cannot be a reason not to hire them, or a reason to fire them, or a reason to treat them differently in the workplace. Moreover, employers are required to make "reasonable accommodations" to the workplace. An example of this might be a work station that a person in a wheelchair can use, or text-reader software for someone who is visually impaired. "Reasonable accommodation" means that employers are not required to make changes to the workplace that would involve undue hardship, such as excessive cost. Also, disabled individuals must still be able to perform the essential functions of their job and meet normal performance requirements.

The second main part of the ADA, Title II, deals with public entities at the local and state levels, including public transportation. Public entities include schools, municipalities, libraries, local government, etc. These entities, just like employers, cannot discriminate against people with disabilities. Perhaps the best known example of this is that buses must be able to accommodate wheelchairs so that public transportation is available to all of us, and stops must be announced as well as posted, so that both visually impaired and non-visually impaired people can know when they have arrived at their destination. These reasonable accommodations are meant to guarantee that no one is excluded from society on the basis of a disability.

And finally, Title III, requires that public places accommodate people with disabilities. This means restaurants, hotels, stores, transportation, recreation facilities, and the like, must make reasonable efforts to ensure that everyone, regardless of ability or disability, be able to enjoy the goods and services that living in a society entail. So restaurants, for instance, must have ramps so that wheelchairs can access them, and doors wide enough for wheelchairs to pass through. Title III also grants disabled people the right to bring service animals (such as guide dogs) into places where such animals might not be otherwise allowed.

(Title IV of the ADA is about telecommunications, and Title X contains a number of miscellaneous provisions.)



A poolside lift ensures that everyone can enjoy a swim at a public pool.

How does the ADA intersect with the City of Utica?

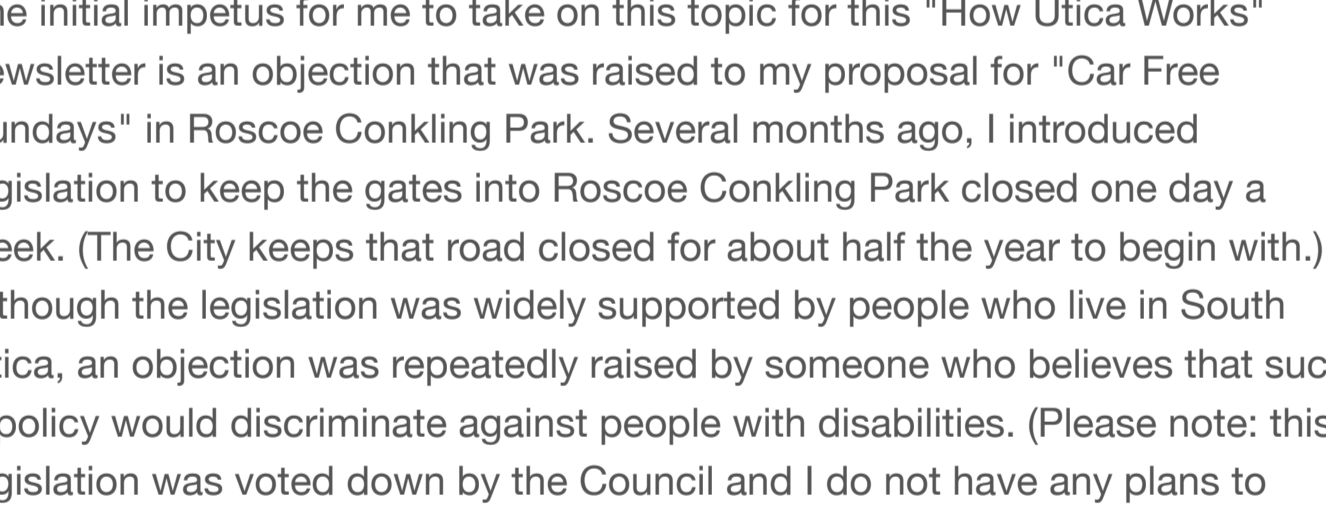
This newsletter is part of my series called "How Utica Works". So now that we have some of the basics of the ADA laid out, I will turn my attention to the two main ways in which the City of Utica interacts with the ADA.

First, our local, city government is itself an entity subject to the laws of Title II of the Act. City Hall, and other City buildings, must be accessible to people with disabilities. The City recently got a grant to remodel the bathrooms on the first floor of City Hall so that they are wheelchair accessible. This is a good example of how the City must accommodate itself to everyone, irrespective of ability or disability. The Engineering Department creates curb ramps at intersections, which is necessary to comply with the ADA, but also makes the world better for all of us. Parents pushing strollers benefit from curb ramps, as do all of us with bad knees, or pulling carts, etc.

Second, our city, and specifically our Codes Department, is responsible for enforcing many of the specific applications of Title III. It is the Codes Department, when granting new Certificates of Occupancy, makes sure that a building such as a store or restaurant, etc. is compliant with ADA requirements for accessibility. Are doors wide enough for wheelchairs? Do bathrooms have handicapped stalls and lowered sinks? Do doors have automatic openers? The Utica Police Department has the authority to enforce handicapped parking law. So enforcement of both federal and state law is an important way in which the City responds to the specific provisions of the ADA.

Of course, not only the City government must abide by the ADA. When the County built the new pedestrian bridge over the arterial a few years ago, the ramp leading up to it, designed to be accessible, was immediately found to be defective. Although the grade was low enough, it did not include level "resting" platforms, which are required. So as soon as it had been completed, it had to be torn down and then replaced. A shame indeed, but necessary to ensure that everyone can use the pedestrian bridge.

There are many ways in which the City could do more in order to be more accessible. For example, I would like to see pedestrian crossings more accessible across the board, including crossing indicators that both light up but also have an audio function for the visually impaired. I would also like to see our sidewalks better maintained all year round, so that everyone can safely move around our City. I also believe that all of our public pools should have working lifts. Handicapped parking spaces need to be well signed, both on the surface of the parking space, but also on a vertical post that can be seen year round. And of course, we need to enforce the law when it comes to those handicapped parking spaces.



The ramp to the pedestrian bridge, before being rebuilt to comply with accessibility standards.

Roscoe Conkling Park and My Idea of "Car-Free Sundays"

The initial impetus for me to take on this topic for this "How Utica Works" newsletter is an objection that was raised to my proposal for "Car Free Sundays" in Roscoe Conkling Park. Several months ago, I introduced legislation to keep the gates into Roscoe Conkling Park closed one day a week. (The City keeps that road closed for about half the year to begin with.) Although the legislation was widely supported by people who live in South Utica, an objection was repeatedly raised by someone who believes that such a policy would discriminate against people with disabilities. (Please note: this legislation was voted down by the Council and I do not have any plans to reintroduce it unless and until there is enough support on the Council to pass it.) This person's objection is that people with mobility disabilities need to be able to drive up to the Eagle. I think that this argument is fundamentally flawed, and here are my reasons:

- 1) The ADA guarantees that where most people can walk, those with mobility disabilities must be able to access those same places with mobility devices, which includes wheelchairs, crutches, canes, walkers, etc. But it most certainly does not require that where some can walk, others must be able to DRIVE. Imagine the consequences if this was how we interpreted the ADA. The pedestrian bridge that crosses the arterial would have to accommodate cars. The state would have to build roads up all the High Peak mountains in the Adirondacks. These would go well beyond the "reasonable accommodations" and "good faith efforts" required by the ADA. As Danny McLain, the Accessibility Consultant for RCIL, put it, "not everyone gets to go everywhere."
- 2) Roscoe Conkling Park is accessible, even when the gates are closed to cars, as the ADA, not to mention fundamental fairness, requires. There is ample parking at the Valley View entrance, and enough room for a wheelchair to get around the gates when they are closed. I have been encouraging the Administration to improve the accessibility there by improving the surface and the curb cut for wheelchairs. I will also encourage the Administration to create handicapped parking spaces there.
- 3) Not all disabilities are obvious. Given that the only access to Roscoe Conkling are the narrow roads that cut through it, walking on those roads is very unsafe for those with hearing impairments. So, if you are deaf or hard of hearing, and you cannot hear the cars coming up behind you, then you simply cannot access that Park when the roads are open to traffic. Closing them one day a week, as my legislation proposed, would allow the hearing impaired and deaf members of our community to safely access the Park.
- 4) Likewise, other "invisible" disabilities make walking on a road with cars untenable. A friend has a child with autism, which for her includes some sensory processing deficits. Walking on a road with noisy cars only makes her anxious and fearful. So even though being in a natural setting is therapeutic for this girl, she nonetheless cannot safely access Roscoe Conkling Park when the gates are open to cars.
- 5) Cities close streets to cars all the time. Our own New Year's Eve celebration put on by the Bank of Utica involves temporarily closing Genesee Street. In Ithaca, their "Ithaca Commons" is a pedestrian mall created by permanently closing a few streets to cars. In Burlington, Vermont there is a similar pedestrian mall downtown on Church Street. These are pedestrian malls are, of course, required to be accessible to people using mobility devices. But even the most adamant ADA advocate would not argue that some people must be able to drive within them, nor that they should have never been created in the first place.
- 6) Whenever the Common Council considers legislation of any kind, both our own attorney, Judge Garramone, and the Corporation Counsel, review it. Their jobs are to make sure that any proposed legislation comports with federal and state law and that the Council does not pass laws which would make us subject to lawsuits. My "Car Free" legislation was in committee before we discussed it, and neither Judge Garramone nor anyone from Corporation Counsel advised us that passing it would be problematic. Simply put, this is an implicit opinion that the proposed legislation would not result in the City being sued for violating the ADA.

One More Thing: Moss Lake

I love Moss Lake, just outside of Eagle Bay in the Adirondacks. Only an hour outside of Utica, it's my favorite place to get out of the city when it is hot, or to camp for a night or two. Moss Lake accommodates people with mobility disabilities. It has a designated handicap parking lot, that leads on a smooth, hard trail to a wheelchair accessible platform. Just off this trail is a campsite with a modified picnic table and a wheelchair accessible privy. I love the idea that this beautiful place, which I find so enjoyable, is also available to people who can enjoy it's beauty even if they cannot hike around the trail that encircles it. Good job, DEC.

I am very glad that a Constituent brought the ADA to my attention. Although it is clear that closing Roscoe Conkling to cars one day a week would not violate this important civil rights law, I now know that law better than I did before, and understand how the ADA works within our City. I really do believe in my political slogan of "Utica For All Of Us", and now I have a deeper appreciation of how that vision of a fairer, better Utica needs to be more thoroughly extended to the disabled members of our community.

