

## Chapter 14

### AMERICANS WITH DISABILITIES ACT

**[HISTORY: Adopted by the Town Board of the Town of Linn 11-13-1995 (Ch. 14 of the 1995 Code). Amendments noted where applicable.]**

#### **§ 14-1. Declaration of policy.**

It is hereby declared to be the policy of the Town of Linn pursuant to the Constitution of the United States and the State of Wisconsin and also its power to protect the public health, safety and general welfare that all persons who are disabled, who have a disability based on impairment, who have a record of a physical or mental impairment or who are regarded as having an impairment, all as is defined with more specificity in the Americans with Disabilities Act of 1990, are entitled to fair and equal access to Town services, activities, programs, employment, public accommodations and commercial facilities, and to that end the Town of Linn hereby enacts the following chapter which provides a nonexclusive complaint and grievance procedure for any person who believes that he or she has been discriminated against under any applicable provision of the Americans With Disabilities Act of 1990 by any other person by reason or on account of his or her disability.

#### **§ 14-2. Definitions.**

In this chapter, unless the context otherwise requires, the following terms shall have the meanings indicated:

ADA — The Americans With Disabilities Act of 1990 that prohibits discrimination on the basis of disability, as may be amended from time to time.

ADA COORDINATOR — The Town Clerk/Treasurer of the Town of Linn, or such other person as may be designated as ADA Coordinator from time to time by a duly enacted resolution of the Town Board of the Town of Linn pursuant to the requirements of the ADA.

COMMISSION — The ADA Compliance Commission duly appointed by the Town Board. The Commission shall consist of not fewer than five persons, one of whom shall be a member of the Town Board and the remainder of whom shall be, to the extent practicable, as follows: a representative of the disabled community, a representative of the business or nonprofit sector, a person in the education profession and a person in the health or medical services professions. Residency in the Town of Linn shall not be a requisite for membership on the Commission. The members of the Commission shall be nominated by the Chairman and confirmed by not less than a simple majority of the Town Board of Supervisors.

DISCRIMINATE and DISCRIMINATION — To segregate, separate, exclude, or treat

any person or class of persons unequally because of a disability or a disability based upon a physical or mental impairment as defined under the ADA, where such discrimination is proscribed by the ADA.

PERSON — Any individual, partnership, labor or other association, corporation, legal representative, receiver, trustee, manager, employee or any other agent of any such person.

PUBLIC NOTICE — Such notice as may be required by the Wisconsin Statutes and/or Town ordinance for a particular meeting and such notice as is reasonably likely to attract the attention of a potentially aggrieved or otherwise interested person concerning the matters alleged in the complaint.

TOWN ATTORNEY — The duly appointed attorney for the Town of Linn. In all proceedings undertaken in the grievance procedure described herein, the Town Attorney shall represent the Town Board and, to the extent deemed advisable, all elected or appointed officials or employees of the Town, including but not limited to the ADA Coordinator and the Commission. In the event that because of the type of complaint or the nature of the alleged discrimination it would appear that there is a potential conflict of interest for the Town Attorney to represent both the Town Board and an elected or appointed official or employee of the Town, then the Town Attorney shall confine his or her representation to the Town Board. In such circumstances, the Town Board may appoint independent counsel to render legal services to elected or appointed officials or employees of the Town for purposes of representation in connection with the grievance procedure set forth herein.

TOWN BOARD — The duly elected Board of Supervisors of the Town of Linn who convene in open session pursuant to § 19.81 et seq., Wis. Stats., as may be amended from time to time.

#### **§ 14-3. Grievance procedure.**

- A. Any person who claims to have been injured by a discriminatory practice or who believes that he or she will be irrevocably injured by a discriminatory practice that is about to occur or who believes that a discriminatory condition regarding access is in existence, any of which would be in violation of the ADA (hereinafter "person aggrieved"), may file a complaint, in writing, with the ADA Coordinator. Upon receipt of such a complaint, the ADA Coordinator shall conduct an investigation of the complaint and shall forward a copy of the complaint to the Town Attorney. If appropriate, a copy of the complaint may be forwarded to such other Town officials or employees as may be relevant. A record of the complaint and of the action taken, if any, will be maintained by the ADA Coordinator. A decision by the ADA Coordinator will be rendered, in writing, within 15 working days of receipt of the complaint.
- B. If the complaint cannot be resolved to the satisfaction of the person aggrieved by the ADA Coordinator as set forth in Subsection A above and the person aggrieved notifies the ADA Coordinator, in writing, of such dissatisfaction within 60 days of the written decision of the ADA Coordinator, then the complaint will be forwarded

to the Commission for review. Upon receipt of the complaint, the Commission shall conduct a public hearing within 30 days, after giving not less than 10 days' public notice of such public hearing. The Commission may solicit suggestions or opinions from disabled persons regarding access to and participation in public facilities, services, activities and functions in the community, if germane to the complaint. The Commission shall establish such procedural rules for hearing complaints, requests or suggestions as it deems advisable under the circumstances. The Commission shall render a decision at the conclusion of the public hearing, which may be adjourned from time to time, and shall reduce its decision to writing within five working days of the conclusion of the public hearing or hearings.

- C. If the complaint cannot be resolved to the satisfaction of the person aggrieved by the decision of the Commission, the complaint will be heard by the Town Board at an open, public hearing. All applicable notices required for a public hearing contained in the Wisconsin Statutes will be given prior to such meeting of the Town Board. The Town Board shall reduce its determination to writing within five working days of the meeting of the Town Board concerning such complaint, as may be adjourned from time to time. The decision of the Town Board shall be final.
- D. With regard to any proceedings brought before the Commission or the Town Board, such proceedings shall be recorded by audio recording and minutes shall be transcribed for the permanent records of the Town.

**§ 14-4. Nature of remedies; nonexclusive jurisdiction.**

The criteria for the successful resolution of a complaint under the grievance procedure detailed herein shall be resolved to the satisfaction of the person aggrieved. The right of the person aggrieved to prompt and equitable resolution of the complaint shall not be impaired by his or her pursuit of other remedies, such as the filing of a complaint with the United States Department of Justice or any other appropriate federal or state agency for resolution of an alleged violation of the ADA. The grievance procedure contained herein is nonexclusive, and the use of this grievance procedure is not a prerequisite to the pursuit of any other remedy or remedies.