

Chapter 39

AMERICANS WITH DISABILITIES ACT OF 1990

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39.01 DECLARATION OF POLICY.

It is hereby declared to be the policy of the Village of Paddock Lake 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 municipal services, activities, programs, employment, public accommodations and commercial facilities; and to that end, the Village of Paddock Lake hereby enacts the following Ordinance which provides a non-exclusive 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.

39.02 DEFINITIONS.

In this section, unless the context otherwise requires:

(a) "ADA" means the Americans With Disabilities Act of 1990 that prohibits discrimination on the basis of disability, as may be amended from time to time.

(b) "ADA Coordinator" shall mean the Village Clerk/Treasurer of the Village of Paddock Lake, or such other person as may be designated as ADA Coordinator from time to time by a duly enacted resolution of the Village Board of the Village of Paddock Lake as ADA Coordinator pursuant to the requirements of the ADA.

(c) "Commission" means the ADA Compliance Commission duly appointed by the Village Board. The Commission shall consist of not fewer than five (5) persons, one (1) of whom shall be a member of the Village 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 non-profit sector, a person in the education profession and a person in the health or medical services professions. Residency in the Village of Paddock Lake shall not be a requisite for membership on the Commission. The members of the Commission shall be nominated by the President and confirmed by not less than a simple majority of the Village Board of Trustees.

(d) "Discriminate" and "Discrimination" means 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.

(e) "Person" means any individual, partnership, labor or other association, corporation, legal representative, receiver, trustee, manager, employee or any other agent of any such person.

(f) "Public Notice" shall mean such notice as may be required by the Wisconsin Statutes and/or Village 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.

(g) "Village Attorney" shall mean the duly-appointed attorney for the Village of Paddock Lake. In all proceedings undertaken in the grievance procedure described herein, the Village Attorney shall represent the Village Board and, to the extent deemed advisable, all elected or appointed officials or employees of the Village, 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 Village Attorney to represent both the Village Board and an elected or appointed official or employee of the Village, then the Village Attorney shall confine his or her representation to the Village Board. In such circumstances, the Village Board may appoint independent counsel to render legal services to elected or appointed officials or employees of the Village for purposes of representation in connection with the grievance procedure set forth herein.

(h) "Village Board" shall mean the duly elected Board of Trustees of the Village of Paddock Lake who convene in open session pursuant to Section 19.81 et. seq. of the Wisconsin Statutes, as may be amended from time to time.

39.03 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 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 Village Attorney. If appropriate, a copy of the complaint may be forwarded to such other Village 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 fifteen (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 sixty (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 thirty (30) days, after giving not less than ten (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 (5) 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 Village 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 Village Board. The Village Board shall reduce its determination to writing within five (5) working days of the meeting of the Village Board concerning such complaint, as may adjourned from time to time. The decision of the Village Board shall be final.

(d) With regard to any proceedings brought before the Commission or the Village Board, such proceedings shall be recorded by audio recording and minutes shall be transcribed for the permanent records of the Village.

39.04 NATURE OF REMEDIES: NON-EXCLUSIVE JURISDICTION.

The criteria for the successful resolution of a complaint under the grievance procedure detailed herein shall be resolution to the satisfaction of the person aggrieved. The right of the person aggrieved to prompt an 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 non-exclusive and the use of this grievance procedure is not a prerequisite to the pursuit of any other remedy or remedies.