

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 96-1373

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA, ALASKA
ADOPTING AMERICANS WITH DISABILITIES ACT
GRIEVANCE PROCEDURES


1. **CLASSIFICATION.** This ordinance is not of a permanent nature and is not intended to become a part of the Sitka General Code.
2. **SEVERABILITY.** If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and application thereof to any person or circumstance shall not be affected thereby.
3. **PURPOSE.** 28 CFR 35.170(b) requires that public entities "...adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action which might be prohibited..." under the regulations implementing the Americans with Disabilities Act. This ordinance adopts an adaptation of State procedures.
4. **ENACTMENT.** NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that the Grievance Procedures for Americans with Disabilities Act Complaints attached hereto are hereby adopted.
5. **EFFECTIVE DATE.** This ordinance shall become effective on the day after the date of its passage.

PASSED, APPROVED, AND ADOPTED by the Assembly of the City and Borough of Sitka, Alaska this 23rd day of July, 1996.



Peter S. Hallgren, Mayor

ATTEST:



Colleen Pellett, CMC
Municipal Clerk

GRIEVANCE PROCEDURES

FOR

AMERICANS WITH DISABILITIES

ACT COMPLAINTS

These procedures are established for individuals with disabilities who believe that they have been discriminated against because of a disability by the City and Borough of Sitka

Adopted July 23, 1996
Ordinance 96-1373

**CITY AND BOROUGH OF SITKA
POLICY AGAINST DISCRIMINATION**

IT IS THE POLICY of the City and Borough of Sitka that:

- ▶ No qualified individual with a disability shall be excluded, by reason of such disability, from the participation in or be denied the benefits of the services, programs, or activities of a municipal department or be subjected to discrimination by any such department.
- ▶ No department shall discriminate against a qualified individual with a disability, because of the disability of such individual, in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, or any other term, condition, and privilege of employment.
- ▶ Each department shall operate each of its services, programs and activities so that a service, program or activity, when viewed in its entirety, is readily accessible to and usable by individual with disabilities.
- ▶ Each department shall ensure that services, programs and activities conducted through municipal funds or contracts are accessible to and usable by individuals with disabilities.

INTRODUCTION:

This pamphlet describes the City and Borough of Sitka ADA complaint procedure. This procedure is designed to informally resolve a conflict with a municipal department if you believe that a department is not in compliance with Title II of the Americans with Disabilities Act of 1990 (ADA). Title II of the ADA requires that municipal government programs, services and benefits be accessible to individuals with disabilities.

In accordance with Ordinance 96-1373, employment discrimination complaints subject to Title I of the ADA will be referred to the Finance Director.

On July 23, 1996, the Assembly established, through Ordinance 96-1373, the Americans with Disabilities Act grievance procedures of the City and Borough of Sitka. The purpose of the order and the establishment of the ADA compliance program is to:

1. Prevent and eliminate discrimination against individuals with disabilities in employment and public services within municipal government; and
2. Establish policies, guidelines and procedures for municipal departments to follow in order to comply with Title I and Title II of the Americans with Disabilities Act of 1990.

In order to ensure that the municipal ADA compliance program was implemented, the Assembly appointed the Finance Director to serve as municipal ADA coordinator, and ordered all department heads to appoint departmental coordinators. Department coordinators are the first point of contact for filing an ADA complaint with a department.

COMPLAINTS:

- A. WHO MAY FILE:** Anyone who believes that they, or a specific class of individuals, have been subjected to discrimination on the basis of a disability by a municipal department, may file a complaint. An authorized representative may file on your behalf.
- B. WHERE AND WITH WHOM TO FILE:** A complaint is filed by contacting the ADA coordinator of the department where the discriminatory practice or action happened. (A list of the ADA coordinators is provided at the end of this brochure.)
- C. QUALIFIED MUNICIPAL EMPLOYEE AND APPLICANT COMPLAINTS:** All employment discrimination complaints will be referred to the Finance Director, if an ADA issue cannot be resolved between a qualified department employee or applicant and a department.
- D. TIME FOR FILING:** A complaint may be filed at any time within 90 days from the date of the discriminatory practice or action. There must be compelling reasons (good cause) for extending the 90-day time limit for filing a complaint.
- E. CONTENTS OF COMPLAINT:** The complaint must be in writing and be signed by either you or your representative. The complaint must contain the following information (see Complete Complaint in the definitions section):
1. Your name, address and a phone number or TDD number where you can be reached; and
 2. The department where you feel the discrimination occurred; and
 3. A detailed description of the discriminatory practice or action which occurred.
- F. REQUESTING ASSISTANCE TO WRITE A COMPLAINT:** If you need assistance to write the complaint and are unable to locate someone to assist you, a department ADA coordinator will, upon request, assist you in locating an advocate or representative who is not associated with their agency to assist you.

The name, location and both phone and TDD numbers of each department ADA coordinator is posted in a prominent and accessible location at their department facility.

- G. FILING A COMPLAINT WITH THE FEDERAL GOVERNMENT:** You are under no obligation to use the municipal complaint procedure before filing a formal complaint with the Department of Justice (Title II, Public Services complaint) or the Equal Employment Opportunity Commission (Title I, Employment complaint). The ADA complaint procedure is an informal process. It is designed solely for the purpose of promptly and fairly resolving an ADA complaint with a department.

Department ADA coordinators will provide you with instructions on how to file a formal complaint with the federal government if you wish to do so. (Instructions for filing a formal Title II complaint are provided at the end of this brochure.)

You have 180 days to file a complaint with the U.S. Department of Justice or EEOC.

- H. RETALIATION:** Departments are prohibited from obstructing, intimidating, coercing or retaliating against individuals with disabilities or their representatives who file an ADA complaint against a department.

COMPLAINT PROCEDURE:

Step 1: Address a Complete Complaint (see definitions) in writing to the ADA coordinator of the department where the discrimination occurred.

Step 2: (a) Within 10 working days of having received the complete complaint, the department ADA coordinator will meet with you personally or by telephone or TDD. The purpose of the meeting will be to resolve the complaint.

If you need an auxiliary aid or service at the meeting (i.e. An interpreter, reader, larger print, Brailled materials or cassette tape), you must let the department ADA coordinator know in advance so he or she may effectively communicate with you.

(b) Within 5 working days after this meeting, a copy of the complaint will be forwarded to the Finance Director so that she or he is aware that a complaint has been filed with the agency.

Step 3: (a) If a satisfactory resolution is reached at the meeting, a written agreement will be jointly developed and signed by you, the department ADA coordinator and the department head where the complaint was filed. The formal agreement will be issued to you within 10 days of the meeting and will be in an accessible format, if necessary. The written agreement will include:

- 1) A description of the complaint;
- 2) A finding of facts;
- 3) A description of how the complaint will be resolved;
- 4) When the complaint will be resolved; and
- 5) An assurance that the department will comply with the specific terms of the agreement.

(b) If the department is unable to resolve the complaint, you will be notified in writing and in an accessible format, if necessary, within 10 days of the meeting of the reason(s) why the department was unable to resolve the complaint. The notification will include:

- 1) A description of the complaint;
- 2) A summary of any resolution proposed; and
- 3) A statement concerning the issues which could not be resolved.

Step 4: You may request a review of the complaint by the Finance Director, the designated municipal ADA coordinator, if a satisfactory resolution is not reached through the department ADA coordinator. You must request this review within 10 days of the time you received notification that a department level ADA coordinator was unable to resolve the complaint. Your request must be in writing and must include:

- (a) Your name, address and telephone number or TDD number, if applicable;
- (b) A detailed statement of the reason(s) for your request of a review of the complaint;
- (c) The name of the department which was unable to resolve the complaint; and
- (d) Your signature or that of your representative.

Step 5: The Finance Director will issue a written response to your request for review of the complaint within 30 days. The written response will be sent to both you and the department.

If the Finance Director finds that the complaint can be resolved, the Finance Director will work with the department head to resolve the complaint. If the Finance Director finds that the department in question is in compliance with the ADA or has not engaged in discriminatory activities against you, the Finance Director will advise you of the steps necessary to file a formal complaint with the federal government.

DEFINITIONS:

Complete Complaint: (See "Complaints" part E, "Content of Complaint")

A signed, written statement by you or your representative that contains your name, address and telephone or TDD number, and describes the discrimination you believe to have occurred in enough detail to inform the agency of the nature and date of the occurrence. Complaints filed on behalf of classes or third parties must describe or identify (by name, if possible) the individuals who are alleged to have been subjected to discrimination.

Accessible Format: Auxiliary aid or service:

The provision of auxiliary aids and services to ensure effective communication. Auxiliary aids and services include a wide range of services that promote effective communication and provide an easily understood means of presenting written and spoken information.

Examples of auxiliary aids and services for individuals who are deaf or hard of hearing are qualified interpreters, note takers, computer-aided transcription services, written materials, telephone handset amplifiers, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunication devices for deaf persons (TDD) and video text displays.

Providing written materials in Braille, large print or on cassette tapes are examples of accessible formats for individuals who are blind or visually impaired.

ADA Coordinator:

An official from within the municipality appointed by the Assembly to:

- (A) Coordinate and direct the efforts of the department to comply with Title I and Title II of the ADA;
- (B) Serve as the municipality's primary contact and liaison with the public and departments on compliance issues regarding the ADA and the municipal ADA compliance program;
- (C) Ensure compliance with the order;

- (D) Communicate to the public and interested individuals information regarding the ADA compliance programs and the names, office addresses and telephone numbers of department ADA coordinators;
- (E) Serve as the primary point of service for, and overall coordination of, the municipality's response to all ADA complaints filed against departments where the allegations describe that the municipality discriminated in its services, policies or practices, or failed to comply with the Americans with Disabilities Act.

Physical or mental impairment:

- (A) Any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin and endocrine; or
- (B) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, traumatic brain injury, emotional or mental illness, and specific learning disabilities.

The phrase "**major life activities**" means functions such as caring for one self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

A qualified individual with a disability with respect to employment means an individual with a disability who satisfies the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

A qualified individual with a disability under Title II of the ADA means an individual with a disability who, with or without reasonable modifications to rules, policies or practices, the removal of architectural, communication or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a department.

Department ADA Coordinator:

An official who serves as the overall administrator of a department's ADA compliance program. The department ADA coordinator receives guidance and direction from the department head and the Finance Director on matters dealing with the ADA. Department ADA coordinators are responsible for reviewing and attempting to resolve ADA complaints.

Telecommunication Device for the Deaf (TDD): (Also referred to as a text telephone).

A telephone with a typewriter keyboard attached which enables individuals who are deaf or experience speech disorders to effectively communicate via the telephone. The TDD transmits typed messages. The typed messages appear either on a display screen or on a ticker tape.

TERMS DEFINED IN THE ADA:

Disability: with respect to an individual:

- (A) A physical or mental impairment that substantially limits one or more major life activities of such individual;
- (B) Having a record or history of such impairment; or
- (C) Being perceived or regarded as having such an impairment.

Title I - Employment: (42 USC 12111 et seq; Sec. 102 Discrimination)

"(a) GENERAL RULE.---- No covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment."

--Complaints under Title I are referred to the Equal Employment Opportunity Commission.

Title II - Public Services: (42 USC 121331 et seq; Sec. 202 Discrimination)

"...no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or denied the benefits of the services, programs, or activities of a public entity, or be subject to discrimination by any such entity."

--Complaints under Title II are referred to the Department of Justice.

HOW TO FILE A TITLE II COMPLAINT WITH THE U. S. DEPARTMENT OF JUSTICE

Title II prohibits discrimination based on disability in all programs, activities, and services of State and local governments.

If you feel you or another person have been discriminated against by any agency, organization or institution covered by Title II, you have a right to file a formal complaint by sending a letter to the federal Department of Justice.

In order to file a formal complaint, you must include the following information:

- ▶ Your full name, address, telephone number and the name of the party discriminated against;
- ▶ The name of the department, agency, organization, or institution that you believe has discriminated;
- ▶ A description of the act or acts of discrimination, the date or dates of the discriminatory acts and the name or names of the individuals whom you believe discriminated; and
- ▶ Other information that you believe necessary to support the complaint. Do not send original documents. (Keep the originals.)

Sign and send the letter to the address below:

U. S. Department of Justice
Civil Rights Division
Coordinator/Review Section
P. O. Box 66118
Washington, DC 20035-6118

Phone contacts: (202) 514-0301 (voice) or
(202) 514-0383 (TDD)

DEPARTMENTAL ADA COORDINATORS

THE CITY AND BOROUGH OF SITKA does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. The City and Borough of Sitka does not discriminate on the basis of disability in its hiring or employment practices.

This notice is provided as required by Title II of the Americans with Disabilities Act of 1990.

According to ADA procedures, the City and Borough of Sitka has established procedures to informally resolve a conflict with a municipal department if you believe that a department is not in compliance with Title II of the ADA. The department heads of the City and Borough of Sitka have appointed a departmental ADA coordinator as your first point for filing an ADA complaint with a department.

DEPARTMENTAL ADA COORDINATORS

Complaints Regarding:	Contact:
Sitka School District	Jan Roan, 747-8624
Sitka Community Hospital	Chuck Moore, 747-3241
City Facilities other than above	Danielle Standerwick, 747-1816
City Facilities other than above	Paul Wescott, 747-1829

Questions, concerns, complaints, or requests for additional information regarding the ADA may be forwarded to the City and Borough of Sitka's designated ADA Compliance Coordinator, Finance Director **Paula Bush**.

NOTICE OF NON-DISCRIMINATION

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This notice is provided as required by Title II of the Americans with Disabilities Act of 1990.

Questions, concerns, complaints, or requests for additional information regarding the ADA may be forwarded to the City and Borough of Sitka's designated ADA Compliance Coordinator.

Name of ADA Coordinator:	Paula Bush
Title:	Finance Director
Office Address:	100 Lincoln Street, Rm 212
Phone Number:	747-1836, voice #
Days/Hours Available:	8:00am - 5:00pm

Individuals who need auxiliary aids for effective communication in programs and services of the City and Borough of Sitka are invited to make their needs and preferences known to the ADA Compliance Coordinator.