

MICHIGAN CITY COMMON COUNCIL

FILED

RESOLUTION NO. 4497

JAN 30 2012

ADOPTING A GRIEVANCE PROCEDURE TO RESOLVE COMPLAINTS ALLEGING VIOLATIONS OF TITLE II OF THE AMERICANS WITH DISABILITIES ACT (ADA)

GALE A. NEULIEB
CITY CLERK
CITY OF MICHIGAN CITY

WHEREAS, the City of Michigan City is in the process of preparing the federally mandated Americans with Disabilities Act (ADA) assessment and transition plan;

WHEREAS, at the request of the Federal Highway Administration (FHWA), the Northwest Indiana Regional Planning Commission (NIRPC) is coordinating and monitoring the compliance of political subdivisions in this region with the federally mandated ADA assessment and transition plan as it relates to accessibility guidelines for pedestrian facilities in the public right-of-way, which typically includes sidewalks, pedestrian paths, curb ramps, street crossings, driveway crossings, crosswalks, median crossings, public transit stops, and pedestrian activated signal systems;

WHEREAS, in an effort to ensure compliance with Title II of the ADA, NIRPC has requested that the City of Michigan City formally adopt by resolution a grievance procedure for resolving complaints alleging violations of Title II of the ADA; and

WHEREAS, the Common Council believes it to be in the best interest to adopt a grievance procedure for resolving complaints alleging violations of Title II of the ADA.

NOW, THEREFORE, BE IT RESOLVED by the Michigan City Common Council as follows:

1. The City of Michigan City adopts the Grievance Procedure, which is attached hereto and incorporated herein as "Exhibit 1" as the procedure for addressing complaints alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits provided by the City.
2. The Board of Public Works and Safety shall adopt any additional rules and regulations for the administration of the Grievance Procedure as it deems necessary. In addition, the Board of Public Works and Safety has the limited authority to amend the Grievance Procedure and related forms to update any and all names, addresses, phone numbers, and email addresses to ensure said contact information is current and accurate.

This Resolution shall be in full force and effect after passage by the Michigan City Common Council and approval by the Mayor.

Introduced By: Richard Murphy
Richard Murphy, Member
Michigan City Common Council

Patricia Boy
Patricia Boy, Member
Michigan City Common Council

Adopted by the Common Council of the City of Michigan City, Indiana by a vote of 9-0
this 7th day of February, 2012.

Marc Espar
Marc Espar, President
Michigan City Common Council

Approved by me this 8th day of February, 2012.

Ron Meer
Ron Meer, Mayor
City of Michigan City, Indiana

ATTEST:

Gale Neulieb
Gale Neulieb, City Clerk

cc: City Attorney
City Engineer
Planning Dept.

Prepared by the City Attorney's Office Upon Request

**GRIEVANCE PROCEDURE
AMERICANS WITH DISABILITIES ACT (ADA)
CITY OF MICHIGAN CITY, INDIANA**

PURPOSE

In accordance with Section 35.107(b) of Title 28 of the Code of Federal Regulations, the City of Michigan City (hereinafter referred to as “the City”) has adopted this formal grievance procedure to address any grievances that allege the City is not in compliance with Title II of the Americans with Disabilities Act of 1990. This procedure should be followed by anyone who seeks to file a grievance alleging disability discrimination by the City pertaining to City services, activities, programs, or benefits. This grievance procedure shall not apply to any claims under Title I of the ADA (employment-related complaints of disability discrimination).

PROCEDURES FOR FILING A GRIEVANCE

1. **Grievance Form/Americans with Disabilities Act:** A grievance shall be made in writing to the ADA Coordinator on a specified form, unless the claimant’s disability prevents him or her from filing a written grievance, in which case alternative means of filing a grievance will be made available for persons with disabilities upon request (ie: personal interview, tape recording, etc.). The “*Grievance Form/Americans with Disabilities Act (ADA)*” is attached hereto and incorporated herein as “*Exhibit A.*” The “*Grievance Form/Americans with Disabilities Act (ADA)*” may be obtained online at the City’s website at www.emichigancity.com or at the office of the ADA Coordinator, which is located at:

Contact: Charles G. Peller, Jr.
Address: 100 E. Michigan Blvd., Michigan City, Indiana 46360
Phone: (219) 873-1426 (ext. 333)
Email: cpeller@emichigancity.com

2. **Deadline for Filing Grievance:** A grievance should be filed with the ADA Coordinator as soon as possible, but no later than sixty (60) days after claimant becomes aware of the alleged violation.

3. **Investigation Process:** Within fifteen (15) calendar days of receiving the grievance, the ADA Coordinator, or his/her designee, shall contact the claimant to discuss the grievance and possible resolutions. In the event the ADA Coordinator and the claimant cannot agree upon a satisfactory resolution of the matter, the ADA Coordinator shall issue a written response upon completion of the investigation, which shall include a response in a format accessible to the claimant (ie: print, large print, audio tape, etc.), if applicable.

Grievance Procedure-Americans with Disabilities Act (ADA)-adopted by resolution of Common Council on 2/7/2012

“EXHIBIT 1”

The written response of the ADA Coordinator shall restate the grievance as received in writing. The report will state the section of the ADA with which the City is alleged not to be in compliance. The report will state the finding of the ADA Coordinator. If the ADA Coordinator finds the City is not in compliance with the provisions of ADA, the report will identify in the transition plan the schedule for compliance, or identify the process and schedule to be used by the City to obtain compliance.

If it is the opinion of the ADA Coordinator, or his/her designee, that compliance has been achieved and the complainant does not agree, or his/her designee does not satisfactorily resolve the issue, the complainant may appeal the decision within fifteen (15) calendar days after receipt of the response to the Board of Public Works and Safety by timely filing a written "*Request for Review of Decision of ADA Coordinator*" in the Michigan City Clerk's Office. The "*Request for Review of Decision of ADA Coordinator*" form is attached hereto and incorporated herein as "*Exhibit B.*" In addition, the "*Request for Review of Decision of ADA Coordinator*" form may be obtained online at the City's website at www.emichigancity.com or at the office of the ADA Coordinator.

Upon receipt of the complainant's written "*Request for Review of Decision of ADA Coordinator,*" the Clerk's Office shall place the matter on the agenda for the next regularly scheduled Board of Public Works and Safety meeting. The complainant may attend the meeting and may present any additional relevant information to the Board.

The Board of Public Works and Safety will review all relevant information, including but not limited to the decision of the ADA Coordinator, the "*Request for Review of Decision of ADA Coordinator*" filed by the complainant, and any additional information presented at the meeting. The Board of Public Works and Safety will render a decision on the matter within forty-five (45) calendar days and provide the complainant with a response in writing, and where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

4. Retention of Records: The ADA Coordinator and the Board of Public Works and Safety shall maintain files and records of all grievances filed under this grievance procedure for a period of at least five (5) years following the date of the resolution or determination of the grievance by the ADA Coordinator.

5. Other Remedies: The right of a person to a prompt and equitable resolution of the grievance filed under this Grievance Procedure shall not be impaired by the person's pursuit of other remedies such as the filing of an ADA complaint with the responsible federal department or agency. Use of this grievance procedure is not a prerequisite to claimant's pursuit of other remedies.

GRIEVANCE FORM
AMERICANS WITH DISABILITIES ACT (ADA)
CITY OF MICHIGAN CITY, INDIANA

Instructions: Please fill out this form completely in black ink or type. Sign and return to the address on the next page. Alternative means of filing a grievance complaint, such as a personal interview or audio recording, will be made available upon request to the ADA Coordinator, whose contact information is listed at the end of this form.

Complainant: _____

Address: _____

City, State & Zip: _____

Home phone: _____ Mobile phone: _____

Email address: _____

Person Discriminated Against: _____
(if other than complainant)

Address: _____

City, State & Zip: _____

Home phone: _____ Mobile phone: _____

Email address: _____

City Department(s) you believe discriminated: _____

Where alleged discrimination took place: _____

When alleged discrimination took place (date/time): _____

Describe the acts of discrimination providing the name(s) where possible of the individuals who allegedly discriminated (if applicable) or facilities in violation of the Americans with Disabilities Act. Attach additional pages if necessary.

Has a complaint been filed with another bureau of the Department of Justice or any other federal, state, or local civil rights agency or court? Yes _____ No _____

If yes, with what agency or court? _____

Contact Person: _____

Address: _____

City, State, Zip: _____

Telephone Number: _____

Date Filed: _____

Do you intend to file with another agency or court? Yes _____ No _____

Agency or Court: _____

Address: _____

City, State, Zip: _____

Telephone Number: _____

Additional Space for Answers, if necessary: _____

Signature: _____ Date: _____

Return to: Charles G. Peller, Jr., Engineer/ADA Coordinator
100 E. Michigan Boulevard
Michigan City, Indiana 46360
cpeller@emichigancity.com
(219) 873-1426 (ext. 333)

**REQUEST FOR REVIEW OF DECISION OF ADA COORDINATOR
AMERICANS WITH DISABILITIES ACT (ADA)
CITY OF MICHIGAN CITY, INDIANA**

Instructions: Please fill out this form completely in black ink or type. Sign and return to the address on the next page. Alternative means of filing a grievance complaint, such as a personal interview or audio recording, will be made available upon request to the Clerk's Office, whose contact information is listed at the end of this form.

Complainant: _____

Address: _____

City, State & Zip: _____

Home phone: _____ Mobile phone: _____

Email address: _____

Date I received written response from ADA coordinator: _____

Reasons why I disagree with decision of ADA coordinator: _____

How I believe compliance can be achieved and this matter resolved:

Additional Space for Answers, if necessary: _____

Signature: _____ Date: _____

Return to: Michigan City Clerk's Office
100 E. Michigan Boulevard
Michigan City, Indiana 46360
Attn: Gale Neulieb
galen@emichigancity.com
(219) 873-1410 (telephone)