DISABILITY RIGHTS PENNSYLVANIA

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PARKING ISSUES FOR PEOPLE WITH DISABILITIES

I. OVERVIEW

Parking is an issue of special concern for many people with disabilities. For people with disabilities that substantially limit their ability to walk, parking in close proximity to one's home, workplace, government offices, and places of public accommodations (such as restaurants and stores) is often essential to assure that they have the same access to those places as people who do not have such disabilities.

Various federal, state, and local laws address issues related to parking for people with disabilities. For instance, state law determines who is eligible for license plates and parking placards issued to people with disabilities; state and local laws determine the parking rules that apply to individuals using disability license plates and placards; federal and local laws affect access to reserved residential parking spaces; and federal law addresses access to parking for people with disabilities at the workplace, government facilities, and public accommodations.

This Fact Sheet will address the following issues that affect parking for people with disabilities to provide general guidance on what the law does and does not provide:

- Eligibility for Disability License Plates and Placards;
- Reserved Residential Parking Spaces;
- Reserved Parking Places at Work;
- Accessible Parking Places at Public Accommodations and Commercial Facilities; and
- Accessible Parking at State and Local Government Facilities.

IMPORTANT: THIS PUBLICATION IS FOR GENERAL INFORMATION PURPOSES ONLY. THIS PUBLICATION IS NOT INTENDED NOR SHOULD BE CONSTRUED TO CREATE AN ATTORNEY-CLIENT RELATIONSHIP BETWEEN DISABILITY RIGHTS PENNSYLVANIA AND ANY PERSON. NOTHING IN THIS PUBLICATION SHOULD BE CONSIDERED LEGAL ADVICE.

II. LICENSE PLATES AND PLACARDS FOR PEOPLE WITH DISABILITIES

In order to qualify to use designated parking places for people with disabilities, a person will need proof that he or she needs accessible parking due to a disability. This proof generally will take the form of a special license plate or placard that designates the vehicle as one used for a person with a disability.

A. Types of Disability License Plates and Placards

The Bureau of Motor Vehicles of Pennsylvania's Department of Transportation (PennDOT) offers several types of license plates and

placards for which people with disabilities may qualify. 75 Pa. Cons. Stat. Ann. §§ 1338, 1342.

Person with Disability License (Registration) Plates – Person with Disability license plates are for use on a passenger car or vehicle weighing not more than 14,000 pounds to designate the vehicle as one used by or for the benefit of a person with a disability. To be eligible to obtain a person with a disability plate, an applicant must show that she or he:

- is blind;
- does not have full use of one or both arms;
- cannot walk more than 200 feet without stopping to rest;
- cannot walk without the use of, or assistance from, a brace, crutch, cane, another person, prosthetic device, wheelchair, or other assistive device;
- is restricted by lung disease to such an extent that the person's forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter or the arterial oxygen tension is less than 60 mm/hg on room air at rest;
- uses portable oxygen;
- has a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to the standards set by the American Heart Association; or
- is severely limited in his or her ability to walk due to an arthritic, neuro-logical, or orthopedic condition.

A qualified health care professional (physician, podiatrist, chiropractor, physician assistant, or certified registered nurse practitioner licensed or

certified in Pennsylvania or a contiguous state) must certify that the applicant meets one of these eligibility criteria, although a written certification by a police officer that an applicant is blind or does not have the full use of one or both legs can be submitted instead of a certification by a qualified professional. Once a person has been certified as having a qualifying disability, she or he need not submit additional certifications to renew the registration.

Person with Disability plates can be issued not only to a person with an eligible disability who is the registered owner of the vehicle, but also to: (a) the spouse of a person with an eligible disability; (b) the parent (including adoptive or foster parent) of a minor or adult child with an eligible disability if the parent has custody, care or control of the child; or (c) a person who is in loco parentis of an eligible person with a disability.

To apply for a Person with Disability plate, a person must submit a completed PennDOT Form MV-145 (Application for Person with a Disability or Hearing Impaired Registration Plate or a Person with a Disability Motorcycle Plate), http://www.dot.state.pa.us/public/dvspubsforms/BMV/BMV%20Forms/mv-145.pdf. The form includes the certification that must be completed by a qualified professional or police officer. The form must be notarized and a fee (currently $11) must be submitted with the form.

Severely Disabled Veteran License (Registration) Plates – PennDOT will issue a Severely Disabled Veteran plate (or a decal for use on a motorcycle plate) for use on a passenger car or vehicle weighing not more

than 14,000 pounds if an applicant is a veteran who either: (a) has a service-connected disability that is certified at 100% by the service unit of the armed forces in which she or he served or by the United States Veterans' Administration (which can be proved by a photocopy of the Letter of Promulgation or Awards Letter), or (b) has a service-connected disability that would meet the criteria to qualify for a Person with a Disability plate (detailed above) (which must be proved by a certification from the U.S. Department of Veterans' Affairs Regional Office Administrator in Philadelphia or Pittsburgh or the service unit in which the veteran served). Severely Disabled Veteran plates can be issued not only to the severely disabled veteran, but also to: (a) the spouse of a qualifying veteran; (b) the parent (including adoptive or foster parent) of an adult child of the qualifying veteran if the parent has custody, care or control of the child; or (c) a person who is in loco parentis of a qualifying veteran.

To apply for a Severely Disabled Veteran plate, a person must submit a completed PennDOT Form MV-145V (Application for a Disabled Veteran, Severely Disabled Veteran Registration Plate or Severely Disabled Veteran Motorcycle Plate Decal), http://www.dot.state.pa.us/public/dvspubsforms/BMV/BMV%20Forms/mv-145V.pdf. The form includes the certification that must be completed by the U.S. Department of Veterans' Affairs or the service unit in which the veteran served in order to establish her or her eligibility if he or she has less than a 100% service-connected disability. The form must be notarized. A fee (currently $11) generally must be paid to receive a Severely Disabled Veteran Plate (though some exceptions to the fee are listed on the form and no fee is required for a Severely Disabled Veteran motorcycle plate decal).

NOTE: PennDOT also issues "Disabled Veteran" plates to individuals with service-connected disabilities. This type of plate does **not** allow the person who uses it to obtain any special parking privileges that are available to persons with Severely Disabled Veteran plates or Person with a Disability plates.

Person with Disability plates or Severely Disabled Veteran plates (described above). These placards can be used in any vehicle operated by the person with a disability or used by another person to transport the person with a disability.

Placards can be either temporary (which are valid for up to 6 months) or permanent (which are valid for 5 years). Eligibility for a temporary placard must include a certification by a qualified health care professional; police officer certifications are not sufficient for a temporary placard. Temporary placards may not be extended for an additional period of time. If additional time is needed, the applicant must complete a new application that is certified by a qualified health care professional.

To apply for a Person with a Disability or Severely Disabled Veteran placard (temporary or permanent), a person must submit a completed PennDOT Form MV-145A (Person with a Disability Parking Placard Application), http://www.dot.state.pa.us/public/dvspubsforms/BMV/BMV%20Forms/mv-145a.pdf. The form includes the certification that must be completed by the appropriate person, depending on the nature of the placard for which the application is submitted (e.g., a qualified professional, police officer, or Veterans' Administration). The form must be notarized, but no fee currently is required.

B. Parking Privileges for Vehicles with Disability/Severely Disabled Veteran Plates and Placards

Pennsylvania law confers certain privileges on vehicles with Person with Disability or Severely Disabled Veteran plates (including motorcycle decals) or placards. 75 Pa. Cons. Stat. Ann. §§ 3354(d)-(e).

- Motor vehicles with Person with Disability or Severely Disabled Veteran plates or placards can park in parking spaces that are reserved for persons with disabilities as long as the vehicle is being operated by or used for the transportation of a person with a disability or severely disabled veteran.
- Motor vehicles with Person with Disability or Severely Disabled Veteran plates or placards can park for a period of 60 minutes in excess of the legal parking period permitted by local authorities as long as they are being operated by or used for the transportation of a person with a disability or severely disabled veteran. In other words, a person with a disability who has one of these plates or placards is entitled to a one-hour grace period before he or she can be issued a parking citation.
- Motor vehicles with Person with Disability or Severely Disabled Veteran plates or placards **cannot** park in places where parking is prohibited to accommodate heavy traffic during morning, afternoon, or evening hours. For instance, a person with a Person with a Disability or Severely Disabled Veteran plate or placard will be ticketed and the vehicle may be towed if it is parked at 7:00 a.m. in a space where parking is prohibited between 7:00 a.m. and 9:00 a.m.

Local ordinances may provide for more expansive parking privileges than those afforded by Pennsylvania law. In Philadelphia, for example, a vehicle that is identified as a wheelchair lift-equipped van and is operated by or for a person with a disability can park without limitation as to time and without payment of any parking meter fees on streets where parking is otherwise time-limited but not prohibited. 12 Phila. Code § 12-1117(2)(b).

Pennsylvania's plates and placards for people with disabilities and severely disabled veterans should be recognized in states other than Pennsylvania. However, the precise extent of parking benefits allowed by other states may not be identical to those available in Pennsylvania.

C. Violations

Any violation of Pennsylvania's provisions governing applications for Person with Disability and Severely Disabled Veteran plates and placards is a summary offense (including, for instance, parking a vehicle with a disability plate or placard in a reserved space for people with disabilities when the vehicle is not operating or being used to transport a person with a disability). Upon conviction of such a violation, a person will be sentenced to pay a fine. 75 Pa. Cons. Stat. Ann. §§ 1338(d), 3354(f).

D. Complaints

Any complaints regarding issuance of a Person with Disability or Severely Disabled Veteran plates or placards should be directed to PennDOT's Department of Motor Vehicles. A person whose request for such a plate or placard is denied can challenge that decision in an administrative hearing,

67 Pa. Code Ch. 491, and can appeal an adverse administrative decision to Pennsylvania Commonwealth Court. 2 Pa. Cons. Stat. Ann. §§ 701-704. A person who observes a vehicle parked illegally in a space reserved for persons with disabilities should contact the local police department and provide the license plate number of the illegally parked vehicle as well as the date, time, and location of the violation.

III. PARKING FOR PEOPLE WITH DISABILITIES NEAR THEIR HOMES

A. On-Street Residential Parking

1. Pennsylvania Law

Pennsylvania law allows – but does not require – local authorities to provide reserved residential parking spaces for individuals who have Person with Disability or Severely Disabled Veteran plates or placards. 75 Pa. Cons. Stat. Ann. § 3354(d). This means that a local government can post on the street, as close as possible to the individual's place of residence, a sign that indicates that the space is reserved for people with disabilities.

Use of these reserved, designated parking spaces is not limited to the residents of the home. They can be used by any person operating a vehicle with a Person with Disability or Severely Disabled Veteran plate or placard, provided at the time the vehicles is being operated by or for the transportation of a person with a disability.

People who do not have disabilities who park in those designated spaces may have their vehicles towed, provided that the sign advises that unlawfully parked vehicles will be towed. People who do not have disabilities who parking those designated spaces will also be subject to payment of a fine. 75 Pa. Cons. Stat. Ann. §§ 3354(d)(2)-(3).

In light of Pennsylvania law allowing local governments to designate reserved residential parking spaces near the homes of people with disabilities, a person with a disability who desires such a space should check with his or her city, municipality, borough, or township to determine if it permits reserved residential parking spaces and, if so, how to apply for such a space. Usually, the local government will require the applicant to submit a form with documentation that an occupant of the home has a Person with Disability or Severely Disabled Veteran parking plate or placard. The local government may conduct a review of whether the applicant has available off-street parking (such as a driveway or garage) and whether there are other designated spaces for people with disabilities in the area. If the local government grants the request, it may periodically review its decision or require updated documentation.

If a person's application or renewal for reserved residential parking under his or her local government's law is denied, he or she can file an appeal of that decision in the county Court of Common Pleas under Pennsylvania's Local Agency Law. 2 Pa. Cons. Stat. Ann. §§ 751-754. Alternatively, the person may pursue a claim under federal law as described in the next subsection.

2. Federal Law

What if the local government does not have a policy or law that allows for designation of reserved parking spaces for people with disabilities? What if the local government has such a law or policy but rejects an individual's request for such a parking space or rescinds a previously-authorized reserved parking space? In these situations, a person may have potential claims under Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12131-12134, which bars disability discrimination by state and local governments, and/or under Section 504 of the Rehabilitation Act (RA), 29 U.S.C. § 794, which bars disability discrimination by recipients of federal funds (and thus applies to state governments and most, but not all, local governments).

Title II of the ADA and Section 504 of the RA require covered governments to make reasonable accommodations to their polices, practices, and procedures to avoid discrimination on the basis of disability unless doing so would fundamentally alter the nature of the service, program, or activity. 28 C.F.R. § 35.130(b)(7) (ADA); *Alexander v. Choate*, 469 U.S. 287, 300-01 (1985) (RA). A person with a disability who needs a reserved on-street parking space near his or her home can therefore request that his or her local government modify its first-come, first-served residential parking policy by designating such a reserved space for people with disabilities. *See Bassilios v. City of Torrance*, 166 F. Supp. 3d 1061 (C.D. Cal. 2015). Because a reasonable accommodation must be granted only if it is "necessary," it is not unlawful for the local government to ask for documentation of the individual's disability and to assess whether the

individual has access to off-street parking that is effective to meet his or her needs. Similarly, it would not be unlawful for the local government, once it authorizes such a request, to request periodic updated documentation or affirmation of the continued need for the reserved, accessible parking space.

A local government may refuse a request for a reserved accessible residential parking space under the ADA and RA, even when it is necessary, if granting such an accommodation is not "reasonable" or would result in a "fundamental alteration." Arguably, the refusal to authorize a reserved accessible parking space would be unreasonable and not be justified as a fundamental alteration if the government has an across-the-board policy not to authorize reserved residential parking spaces for people with disabilities. On the other hand, if the government refuses a particular request due to, for instance, its prior authorization of numerous other reserved spaces for people with disabilities on the same block, it might be harder to show that the government's decision is discriminatory.

Local governments cannot charge fees to process requests for reserved accessible parking spaces, to renew reserved accessible parking spaces, or to install or maintain signage marking the reserved, accessible parking spaces. The ADA prohibits the imposition of "surcharges" for the provision of reasonable accommodations. 28 C.F.R. § 35.130(f). Since a reserved, accessible parking space could be a reasonable accommodation, any fee related to such a request would be an unlawful surcharge.

A person who wants an on-street reserved residential parking space should ask his or her local government – either through the government's process

for seeking such spaces (if it has one) or submitting a letter to the appropriate official requesting such a space as a reasonable accommodation under the ADA and RA. If the request is denied and the individual wants to pursue an ADA or RA claim, he or she could file a complaint with the United States Department of Justice (DOJ). Information about filing a DOJ complaint can be found at https://www.ada.gov/filing_complaint.htm or by calling the ADA Information Hotline at 800-514-0301 (voice) or 800-514-0383 (TDD). Alternatively, the individual can file a private lawsuit under the ADA to challenge the decision.

B. Residential Parking Lots

Some residential developments, such as apartments and condominiums, have their own parking lots for residents. The federal Fair Housing Act (FHA) and Pennsylvania Human Relations Act (PHRA) govern the right to accessible parking in those privately-owned lots.[1]

1. "Covered Multifamily Dwellings" Under the FHA

The FHA requires that "covered multifamily dwellings" that were designed and constructed for first occupancy after March 13, 1991 must comply with certain accessibility requirements. 42 U.S.C. § 3604(f)(3)(C). The FHA

[1] Parking lots at public housing developments or developments that receive federal financial assistance are also subject to the requirements of Section 504 of the RA and, specifically, the Section 504 regulations promulgated by the United States Department of Housing and Urban Development at 24 C.F.R. Pt. 8. HUD-funded housing must make reasonable accommodations and, depending on when it was built and the type of development, might have to comply with specific standards for parking accessibility.

defines such covered multifamily dwellings as: (1) dwellings in a building containing four or more units with at least one elevators; or (2) ground floor units in a building containing four or more units that does not have an elevator. 42 U.S.C. § 3604(f)(7).

The FHA's regulations provide that covered multifamily dwellings with a building entrance on an accessible route must be designed so that the public and common use areas are readily accessible to people with disabilities. The United States Department of Housing and Urban Development (HUD) has issued Fair Housing Accessibility Guidelines, https://www.hud.gov/program_offices/fair_housing_equal_opp/disabilities/fhefhag, that address how the public and common use areas should be made accessible. The Guidelines provide:

- If covered multifamily dwellings provide parking, a minimum of 2% of the parking spaces serving the dwelling units must be accessible spaces and located on a route that is accessible to people who use wheelchairs.
- If there is parking at amenity sites located at covered multifamily dwellings (such as swimming pools), at least one parking space must be made accessible at each amenity.
- If visitor parking is available, there must be a sufficient number of accessible spaces to provide access to grade level entrances of covered multifamily dwellings.
- If there is an on-site sales or rental office, there must be at least one accessible parking space there.

2. Reasonable Accommodations Under the FHA and PHRA

Both the FHA and PHRA require housing entities to make "reasonable accommodations" in their policies and practices. 42 U.S.C. § 3604(f)(3)(B) (FHA); 43 Pa. Cons. Stat. Ann. § 955(h)(3.2). The FHA's and PHRA's reasonable accommodation requirement would require housing entities to modify their parking policies, such as increasing the number of accessible spaces or reserving a parking space for a person with a disability close to his or her unit, if doing so is necessary for the person with a disability and would not result in a fundamental alteration. *See Jankowski Lee & Assoc. v. Cisneros*, 91 F.3d 891, 895-96 (7th Cir. 1996); *Shapiro v. Cadman Towers, Inc.*, 51 F.3d 328, 336 (2d Cir. 1995); U.S. Dep't of Justice and U.S. Dep't of Housing and Urban Development, *Joint Statement on Reasonable Accommodations Under the Fair Housing Act* at 6 (May 17, 2004), https://www.justice.gov/crt/us-department-housing-and-urban-development. The questions of necessity of the accommodation, the reasonableness of the accommodation, and whether the accommodation would result in a fundamental alteration are similar to those discussed above with respect to the local governments' obligation to provide reasonable accommodations in the form of reserved accessible parking spaces under the ADA and RA.

An individual who wants a reasonable accommodation with respect to a residential parking lot should put the request in writing to the appropriate individual(s) (such as the landlord, housing manager, or condominium board).

3. Complaints

A person who believes his or her rights under the FHA have been violated can file a complaint with HUD. Information about filing a HUD fair housing complaint can be found at https://portal.hud.gov/hudportal/HUD?src=/topics/housing_discrimination or by calling 888-799-2085. Alternatively, a person can file a lawsuit in federal court to challenge violations of the FHA.

A person who believes his or her housing rights under the PHRA have been violated, can file a complaint with the Pennsylvania Human Relations Commission (PHRC). Information about filing a PHRC complaint can be found on its website, http://www.phrc.pa.gov/File-A-Complaint/Pages/About-Filing-A-Complaint.aspx

IV. PARKING FOR PEOPLE WITH DISABILITIES IN THE WORKPLACE

Some people with disabilities may not be able to work if they have a distance to walk from a parking space to the workplace. Title I of the ADA requires covered employers (those with more than 15 employees) to make "reasonable accommodations" to the known physical limitations of an employee with a disability unless doing so will result in an undue hardship on the business. 42 U.S.C. § 12112(b)(5). Under Title I's reasonable accommodation requirement, an employer may be required to provide an employee with a disability with a reserved parking space or to pay for a parking space near the office. 29 C.F.R. Pt. 1630, App., § 1630.2(o); *Lyons*

v. Legal Aid Society, 68 F.3d 1512, 1517 (2d Cir. 1995). Whether it is "reasonable" or an "undue burden" to provide this type of accommodation will depend on a number of individual factors, including, for instance, the employer's financial resources.

In addition to Title I of the ADA, there are several other employment discrimination laws that may apply in these circumstances. Section 504 of the RA requires employers that receive federal financial assistance to provide reasonable accommodations to employees. *See* 28 C.F.R. § 41.53. The PHRA applies to employers with four or more employees and, like Title I of the ADA, requires covered employers to make reasonable accommodations for their employees. 43 Pa. Cons. Stat. Ann. § 955(a); 16 Pa. Code § 44.5(b).

A person whose employer denied a requested accommodation (including a reserved parking space) and who believes this is a violation of the ADA, RA, or PHRA must file a complaint within 300 days with the United States Equal Opportunity Commission (EEOC) or within 180 days with the PHRC. For more information on filing with the EEOC, see the information at https://www.eeoc.gov/employees/howtofile.cfm. For information about filing with the PHRC, see its website at http://www.phrc.pa.gov/File-A-Complaint/Pages/About-Filing-A-Complaint.aspx

V. PARKING FOR PEOPLE WITH DISABILITIES IN COMMERCIAL AREAS

Title III of the ADA governs "public accommodations," which includes shops, restaurants, museums, movies, recreational facilities, banks, hospitals, professional offices and certain other places that are open to the public. 42 U.S.C. § 12181(7). Title III also governs "commercial facilities," which are facilities that affect commerce but are not open to the public, such as office buildings or factories. 42 U.S.C. § 12181(2). Title III's parking requirements differ depending on the type of facility and when it was constructed.[2]

- Public Accommodations Designed and Constructed for First Occupancy Before January 26, 1993 – Tittle III only requires that such existing public accommodations (unless they were altered after that date) remove architectural barriers when it is "readily achievable" for them to do so. 42 U.S.C. § 12182(b)(2)(A)(iv). This means that it must be "easily accomplishable and able to be carried out without much difficulty or expense." 42 U.S.C. § 12181(9). However, designating accessible parking spaces will often be readily achievable and it is considered a top priority since it enables many people with disabilities to use the accommodations. 28 C.F.R. §§ 36.304(b)(18), 36.304(c)(1).
- Commercial Facilities Designed and Constructed for First Occupancy Before January 26, 1993 – Unlike public accommodations, Title III does not require that such commercial facilities remove any architectural barriers to make them accessible, even parking barriers.

[2] If a public accommodation or commercial facility receives federal funding, it would also be required to comply with Section 504 of the RA. Section 504, like Title III, has particular accessibility requirements, including parking accessibility requirements. However, the timing of when Section 504 became effective and the nature of the accessibility requirements differ to some extent from Title III and are beyond the scope of this publication.

Of course, Title I of the ADA may require employers occupying such commercial facilities to provide accessible parking to an employee who needs it as a reasonable accommodation.

- Public Accommodations and Commercial Facilities Designed and Constructed for First Occupancy or Altered On or After January 26, 1993 – Title III requires that all public accommodations and commercial facilities that are designed or constructed for first occupancy after January 26, 1993 on or after January 26, 1993 must be accessible to and usable by people with disabilities unless it is structurally impractical to do so due to the unique characteristics of the terrain. 42 U.S.C. § 12183(a)(1); 28 C.F.R. § 36.401. In addition, public accommodations and commercial facilities built prior to that date but which undergo alterations after that date generally must: (1) assure that the altered areas comply with the ADA's accessibility requirements if they affect or could affect the usability of or access to an area that contains a primary function, and (2) provide an accessible path of travel that connects the altered area with the exterior approach (including parking). 42 U.S.C. § 12183(a)(2); 28 C.F.R. §§ 36.402-36.403.

  The specific requirements for accessible parking that apply to public accommodations and commercial facilities constructed or altered after January 26, 1993 depend on the date of construction or alteration. 28 C.F.R. § 36.406.

  - Between January 26, 1993 and September 14, 2010 – Public accommodations and commercial facilities constructed or altered between January 26, 1993 and before September 15,

2010 must comply with the 1991 Americans with Disabilities Accessibility Guidelines (1991 ADAAG), https://www.ada.gov/1991ADAstandards_index.htm.

- □ Between September 15, 2010 and March 14, 2012 – Public accommodations and commercial facilities constructed or altered between September 15, 2010 and March 14, 2012 can choose to comply with either the 1991 ADAAG requirements or the 2010 ADA Standards for Accessible Design (2010 Standards), https://www.ada.gov/regs2010/2010ADAStandards/2010ADAstandards.htm.
- □ On or After March 15, 2012 – Public accommodations and commercial facilities constructed or altered on or after March 15, 2012 must comply with the requirements in the 2010 Standards (link above).

There are slight differences between parking accessibility requirements under 1991 ADAAG and the 2010 Standards, but both delineate the number of accessible parking spaces that must be provided, including the number of van-accessible spaces that must be provided, which is based on the number of parking spaces in the facility. *See* 1991 ADAAG §§ 4.1.2, 4.6; 2010 Standards §§ 208.2, 502. Both sets of standards also detail the standards for "accessible" and "van-accessible" spaces (such as the dimensions of the spaces, slope of the spaces, and the signage required). Both sets of standards also require that accessible spaces be dispersed when there are multiple lots with accessible entrances and that they must be located closest to the accessible entrance(s) to the building.

Certain types of medical care facilities need a greater amount of accessible parking under both 1991 ADAAG and the 2010 Standards. Hospital and outpatient facilities must assure that at least 10 percent of their total patient/visitor parking spaces are accessible. Rehabilitation facilities that specialize in treating individuals with mobility-related conditions and outpatient physical therapy facilities must assure that at least 20 percent of their patient/visitor parking spaces are accessible

A person who believes that a public accommodation's or commercial facility's parking facilities are not compliant with Title III of the ADA can file a complaint with DOJ. Information about filing a DOJ complaint can be found at https://www.ada.gov/filing_complaint.htm or by calling the ADA Information Hotline at 800-514-0301 (voice) or 800-514-0383 (TDD). Alternatively, the individual can file a private lawsuit under the ADA.

VI. ACCESSIBLE PARKING AT STATE AND LOCAL GOVERNMENT FACILITIES

Title II of the ADA governs the accessibility of state and local facilities (such as government office buildings), including parking at those facilities.[3] Similar to Title III, the specific accessibility standards applicable to

[3] State or local governments that receive federal funding, as most do, are also required to comply with Section 504 of the RA. Section 504, like Title II, has particular accessibility requirements, including parking accessibility requirements. However, the timing of when Section 504 became effective and the nature of the accessibility requirements differ to some extent from Title II and are beyond the scope of this publication.

government buildings under Title II depend on when the facility was constructed or altered.

- State and Local Facilities Constructed Prior to January 26, 1992 – State and local facilities for which construction commenced prior to January 26, 1992 – and that have never been altered – are not necessarily required to be made accessible. Rather, the government must assure that their programs are accessible when viewed in their entirety. 42 U.S.C. § 12132; 28 C.F.R. § 35.150. For instance, if a city library constructed prior to January 1992 is inaccessible, it need not be made accessible as long its programs and services are available to people with disabilities.
- State and Local Facilities Constructed or Altered On or After January 26, 1992 – State and local facilities where construction commenced on or after January 26, 1992 must be accessible to and usable by people with disabilities. 28 C.F.R. § 35.151(a). So, too, state and local facilities built prior to that date but which undergo alterations after that date generally must: (1) assure that the altered areas comply with the ADA's accessibility requirements if they affect or could affect the usability of or access to an area that contains a primary function, and (2) provide an accessible path of travel that connects the altered area with the exterior approach (including parking). 28 C.F.R. § 35.151(b).

  Accessibility standards for newly-constructed or altered government facilities include parking accessibility standards. But, like Title III, the specific accessibility guidelines governing newly-constructed or

altered government facilities depend on the date that the facility was constructed or altered. 28 C.F.R. § 35.151(c), App.

- □ Between January 26, 1992 and September 15, 2010 – Facilities must comply with 1991 ADAAG standards or the Uniform Federal Accessibility Standards (UFAS).
- □ Between September 15, 2010 and March 14, 2012 – Facilities must comply with 1991 ADAAG standards, UFAS, or the 2010 Standards.
- □ On or After March 15, 2012 – Facilities must comply with the 2010 Standards.

A person who believes that a public accommodation's or commercial facility's parking facilities are not compliant with Title III of the ADA can file a complaint with DOJ. Information about filing a DOJ complaint can be found at https://www.ada.gov/filing_complaint.htm or by calling the ADA Information Hotline at 800-514-0301 (voice) or 800-514-0383 (TDD). Alternatively, the individual can file a private lawsuit under the ADA.

Contact Information

If you need more information or need help, please contact Disability Rights Pennsylvania (DRP) at 800-692-7443 (voice) or 877-375-7139 (TDD). The email address is: intake@disabilityrightspa.org.

The mission of Disability Rights Pennsylvania is to advance, protect, and advocate for the human, civil, and legal rights of Pennsylvanians with disabilities. Due to our limited resources, Disability Rights Pennsylvania cannot provide individual services to every person with advocacy and legal issues. Disability Rights Pennsylvania prioritizes cases that have the

potential to result in widespread, systemic changes to benefit persons with disabilities. While we cannot provide assistance to everyone, we do seek to provide every individual with information and referral options.

IMPORTANT: This publication is for general informational purposes only. This publication is not intended, nor should be construed, to create an attorney-client relationship between Disability Rights Pennsylvania and any person. Nothing in this publication should be considered to be legal advice.

PLEASE NOTE: For information in alternative formats or a language other than English, contact Disability Rights Pennsylvania at 800-692-7443, Ext. 400, TDD: 877-375-7139, or intake@disabilityrightspa.org

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