

## MID-ATLANTIC ADA CENTER

### “A Few Things You Might Not Know About: Accessible Parking”

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#### **Slide 12**

>> NANCY HORTON: Good afternoon and welcome everyone. Thank you for joining us. We are going to talk about a few things about accessible parking. Jumping right in, we are going to move on to slide number 12. We based today's session on some common questions and sources of confusion that we tend to encounter, issues like how do we address accessible parking for employees? How do we figure out how many accessible parking spaces we should have and where they belong? What about restricted parking? Can accessible parking be restricted in any ways? And how do state and local laws come into play with accessible parking?

#### **Slide 13**

On our next slide, number 13, we are going to start talking about some basics as far as where the ADA standards apply, and where they don't apply.

#### **Slide 14**

On slide number 14, the ADA standards are applied through Title II and

Title III of the ADA. Title II covers state and local government agencies, and Title III covers commercial facilities, which are private businesses that are things like factories and warehouses, and things of that nature. And it also covers 12 types of places of public accommodation, which are private businesses that offer goods and services to the general public. Places like stores, and restaurants, and theaters, and a variety of businesses of that nature. So these are the types of places where the ADA standards apply. There are lots of places where the ADA standards don't apply. The ADA doesn't apply to private residential housing communities, it doesn't apply to the facilities of religious entities. So there are some places where the ADA standards just don't apply.

### **Slide 15**

On slide 15, we are going to start by talking a little bit about employment, because we talked about the standards that apply under Titles II and III, but as many folks know, the ADA has a whole title, Title I, which addresses employment. Title I covers state and local government agencies as employers, in addition to the way Title II covers state and local government agencies, programs and services that they offer to the public. Title I also covers private employers, with at least 15 employees. Title I doesn't have standards per say for facility access, the way Title II and Title III do. Many employers obviously are covered by either Title II or Title III, and therefore, they are subject to ADA standards under those titles. But employers that are covered by Title I regardless of whether they are also covered by Title II or Title III of the ADA, have to provide reasonable accommodations to workers with disabilities.

Reasonable accommodations in employment are individualized. They are individualized. So employers covered by Title I may have to do things that are different or in addition to the things they need to do under Title II or Title III. An example of that is to provide reserved parking. Reserved parking space, perhaps, for an employee with a disability. So this can be a very different issue than the straightforward application of the ADA standards. So next, we want to talk a little bit about the basic issue of how many accessible parking spaces should there be, and where do they belong, under Title II and Title III.

### **Slide 16**

## **Slide 17**

So on slide 17, jumping back to Title II and Title III, and talking about the application of the ADA standards, a lot of folks know that the number of accessible spaces that are needed is based on the total number of spaces in each particular parking lot or garage or parking facility. And if a parking lot serves more than one facility or more than one entrance, then accessible spaces should be dispersed. This is the dispersed parking is something most of us are familiar with, it's what we see at the mall, or places of that nature, where you have got one large parking lot and it serves multiple entrances, and you will see a few accessible spaces at different entrances, the accessible spaces are scattered around so that folks can utilize the different entrances.

The scoping provisions within the ADA standards are included in chapter 2 of the ADA standards. This is the chapter that tells us what elements have to be accessible or how many elements have to be accessible. There is a table in chapter 2 for scoping parking, that's going to cover the majority of types of facilities that are covered under Titles II and III. There are some additional provisions for certain unique types of facilities covered like outpatient hospital facilities and a couple of other types that require some different numbers of accessible spaces. But you will find all of that in chapter 2, and a lot of us are familiar with those provisions.

## **Slide 18**

But on slide 18, there is a provision that we do tend to encounter some confusion about, what I call clustering, I don't know if anybody else calls it that, but I call it clustering, and it's this provision that basically says, sort of the flip side of dispersed parking, that we talked about just a moment ago, where you scatter the accessible parking spaces around to serve multiple entrances or multiple facilities.

The flip side of that is where you have got multiple parking facilities, multiple lots or garages that serve one building, one facility, then you can take the accessible spaces that belong in one lot or garage and locate them in another lot, if access is equal or better by doing that. Some of the

factors that would come into play are things like the distance to the facility, the connection via an accessible route to the facility that is served by the parking, convenience factors like covered versus open air parking, lighting, security of the parking facilities. So you can do that. You need to make sure that you do that scoping, you figure out how many accessible spaces belong in each lot or garage as a first step in doing that, before you take those accessible spaces and locate them in an alternate lot.

An example of this would be, let's say there is a large sports stadium, and it has a large parking lot, adjacent to the stadium. Then it has another lot, a remote park lot that is maybe a couple blocks away that serves the same stadium. You can figure out how many accessible spaces belong in that remote lot, that is a couple of blocks away, you can take that number of accessible spaces, and add them in to the big parking lot that is right next to the stadium, so that folks who need accessible parking will be closer to the facility served, maybe easier for them to get to the facility, and as long as you have done that scoping piece first, and then added the accessible spaces, then you can do that as long as that access and those convenience factors are all as good or better in that closer lot. And the source of confusion that we sometimes encounter is folk's count the total numbers of parking spaces in both of those lots, and then do their scoping based on that total number.

That's not the way we want to do that. We want to scope those lots separately, how many accessible spaces belong in each lot, and then add that number together and put those spaces near the stadium.

## **Slide 19**

That's an issue that is provided for in the standards. There are also a couple of kinds of facilities that are covered by the ADA but do not have to provide accessible spaces. Those include lots, parking areas that are provided for buses, trucks or other delivery vehicles, law enforcement vehicles, and vehicular impound lots. Those types of facilities are not required to include accessible spaces, as long as any of them that have public access provide an accessible passenger loading zone.

An example of that would be like the impound lot where you have to go to retrieve your vehicle when it's been towed, and they might have a small parking lot there for folks. They don't have to provide accessible spaces, as

long as they provide an accessible passenger loading zone.

## **Slide 20**

On slide 20, here is something that kind of flips, when you have valet parking facilities, a lot of folks tend to think that accessible parking spaces are not required in those types of facilities but they are. Here is no exception for valet parking facilities accessible spaces are needed in those facilities, particularly because a lot of folks with disabilities drive adapted vehicles, which may be difficult or unsafe or down right impossible for valets to drive, and so they wouldn't be able to park those. So valet facilities need to provide some accessible spaces and allow for self-parking.

Now here is an exemption that sometimes is overlooked or misunderstood. There is an exemption in the ADA standards for related to signs, that designate accessible parking spaces, and this exemption is only for the signs. It's not an exemption from the requirement to provide accessible parking spaces. One of these situations is sites that have four or fewer total spaces, and that's, the count would include the accessible space, is that there is an image here on this slide, if you can see it, it's a small, like a little convenience store and it has a total, grand total of four parking spaces. So it has one accessible parking space, it has all the features of an accessible parking space, the access aisle is marked there. There is a curb cut. But there is no sign. The space is not reserved for people with accessible parking permits. Anyone can park there. The other type of place that is excused from the requirement for signs are residential facilities, where parking spaces are assigned to specific dwelling units. So the kinds of residential facilities that are covered by the ADA would include state or local government housing, or housing that may be part of another type of facility that is covered under Title II or Title III, like a dormitory at a state university or something of that nature, where a parking spaces are assigned to specific dwelling units, then again the accessible spaces would not have to have a sign.

## **Slide 22**

Moving along to another issue that we sometimes a lot of questions about, is the issue of restricted parking and how that plays into accessible

parking issues.

### **Slide 23**

On slide number 23, accessible parking essentially can be restricted in the same ways as the rest of the parking that it belongs with. For example, if you have got a parking lot that has a time limit on it, parking is not allowed for longer than an hour or four hours or eight hours or whatever, then the accessible spaces in that lot can have the same time limit. A lot of times we find parking lots are areas that are restricted to customers only, for example. You might see a little strip mall or a store where the whole lot has a sign when you pull into it that says, parking for customers of this store, or this mall only. And the accessible spaces can be restricted in the very same way. So if you have a store and your lot says parking for customers only of this store, you don't have to allow someone with an accessible parking permit to park in the accessible space, and then go to the store next door or down the block. So parking can be restricted in those equal kinds of ways. Cost factors, people who use accessible parking can be charged the same amount as everyone else is charged. They can't be charged more. But they can be charged exactly the same. So that is a question that we tend to get a lot.

### **Slide 24**

State and local laws and codes. On slide 24, we do tend to get a lot of questions about state and local laws and codes related to accessible parking, and how that can sometimes interact with ADA requirements.

### **Slide 25**

On slide 25, enforcement is generally very much a state and local issue. As most folks know, to obtain a permit for accessible parking for people with disabilities, is pretty much a state issue. The states and territories and District of Columbia and so forth all issue permits for accessible parking. They have eligibility criteria for that. They are usually pretty similar from one state to another, but that is a state issue. In addition, enforcement of parking of illegal parking, folks parking in accessible spaces without permits, or without paying, or staying over the time limit, or not being a customer or any of those kinds of things, are almost invariably a local law enforcement issue. It's usually a local police department that folks

call for enforcement, so ticketing, towing, all of that is usually a pretty local issue.

The only time enforcement can sort of come into play directly with the ADA, and there have been a few issues like this that have arisen over the years, is when, for example, a covered entity sort of allows an inappropriate use of their accessible parking. For example, there have been a couple of situations where covered entities sort of knowingly allowed delivery vehicles to park in their accessible parking space, because it was close to the door and there is a ramp there, and so the delivery folks are kind of using that as a convenience to deliver things to the store or the restaurant or the business or what have you, and it's making the accessible parking space unavailable for the folks that it's really intended for, and the covered entity is sort of knowingly looking the other way on that, and so there have been a few ADA issues around that sort of thing. But generally, enforcement is going to be with a local law enforcement agency.

## **Slide 26**

Now, on slide 26, something that I sometimes refer to as dueling standards as many of you may know, a lot of entities and businesses and so forth are subject to more than one law, more than one code, more than one building standard. So, you know, an entity has to comply with all the codes and all the laws that apply to it. So they have to make sure that they are following the most stringent standard for each provision that exists. You almost have to go through these different codes or different laws, point by point, and make sure that you are complying with everything, whether it has to do with application issues, how things are defined, scoping requirements, or technical specifications, what accessible elements look like, and accessible parking is an area where we do tend to see a lot of unique provisions on state and local levels.

Many states and even some cities or localities have very specific requirements that are more stringent in some cases than ADA requirements. Some states have greater scoping requirements. For instance, Maryland, the office, the state where the office is located requires more van accessible parking spaces than the ADA standards require.

Some states require a different configurations of spaces, wider accessible spaces, and many states or localities have very specific requirements related to the signage that designates accessible spaces.

They may require very particular wording. They may require that penalties be included, be posted on the sign, illegal parking can result in a fine of up to so many dollars, or that kind of information. So it's an area where we do tend to find a lot of really specific requirements that folks really need to be on the lookout for and be aware of, to make sure that they comply with those local requirements.

Just to wind up, we wanted to call everyone's attention to this particular resource, it's one of many great resources on accessible parking, but this is one of the newer resources out there. The U.S. Access Board, many of you may be familiar with them. They have a great website in general with a lot of great publications and information about facility access and design issues. You can find the ADA standards there. They also have a publication called, guide to the ADA standards. It's a great publication, very user friendly, lots of information, frequently asked questions, illustrations. They even have an animation on accessible parking, and it is just really helpful. I wanted to kind of draw your attention to that resource.