Parking: A Guide to Getting Your Space

Accessible parking is often difficult to find and violations often go unenforced. This self-advocacy guide will outline:

1. laws and regulations regarding accessible parking spaces;
2. the minimum specifications for an accessible parking space;
3. advocacy efforts to increase awareness and enforcement of accessible parking; and
4. requesting assigned parking as a reasonable accommodation in the employment context.

Which laws apply?

Federal Laws

The Americans with Disabilities Act of 1990 (ADA) is a landmark federal civil rights statute that prohibits discrimination against people with disabilities by their employers, state and local governments, and private businesses that are open to the public. The ADA is divided into several sections, **Title I** applies to employers, **Title II** applies to state and local government programs and services and **Title III** applies to private businesses that are open to the public.

The ADA prohibits state and local governments, such as state museums, town parks and recreation departments, or county tax offices, from discriminating on the basis of disability in its programs or services.[1] It also prohibits places, buildings, or outdoor spaces that a person can enter with or without a fee, from discriminating based on disability. Examples of "places of public accommodations" include: hotels, restaurants, theaters, stadiums, auditoriums, bakeries, clothing stores, video stores, professional offices, gas stations, funeral parlors, stations used for public transportation, museums, gardens, galleries, parks, zoos, private schools, homeless shelters, day care centers, gymnasiums, and golf courses.[2] Public accommodations do not include "private clubs"[3] or religious entities.[4]

The **ADA Architectural Guidelines (ADAAG)** establish minimum accessibility standards for buildings and facilities operated by state and local governments (Title II)[5], places of

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public accommodations and commercial operations (Title III).[6] The 2010 regulations include a “safe harbor” for features where construction began on or after September 15, 2010 through March 15, 2012, that already comply with the 1991 standards[7] or with the Uniform Federal Accessibility Standards (UFAS),[8] but do not meet the new 2010 standards.[9] Any alterations, such as re-striping or re-surfacing a parking lot, made after March 15, 2012, must comply with the 2010 Standards.[10]

The Fair Housing Act (FHA) prohibits discrimination in housing on the basis of disability. The FHA makes it unlawful for a person to refuse “to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.”[11]

State & Local Laws

Parking Privileges for drivers and passengers with disabilities are provided under North Carolina state law, and administered by the N.C. Department of Transportation, Division of Motor Vehicles.

- When the car owner has a disability, the owner can apply for and display a distinguishing license plate and receive one removable windshield placard.[12] For more information, visit http://www.ncdot.gov/dmv/vehicle/plates/handicapped/.

Parking Violations. Committing the following unlawful acts is an infraction and can be penalized by a fine of at least one-hundred dollars ($100) but no more than two-hundred and fifty dollars ($250).

- It is **unlawful** to:
    - To park a vehicle in an accessible parking space when the vehicle does not have a distinguishing license plate, or removable windshield placard, or a disabled veteran registration plate;
    - For a person who is not eligible for a distinguishing license place or windshield placard to use or attempt to use a vehicle with a distinguishing license plate or removable windshield placard, or a disabled veteran registration plate;

    - To park or leave standing any vehicle so as to obstruct a curb ramp or curb cut; and

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- To erect or use signs that do not conform with the requirements for designating accessible parking spaces.[13]

- It is not unlawful for a car/sedan to park in a van-accessible parking space if the vehicle has a distinguishing license plate, removable windshield placard, or a disabled veteran plate.

The North Carolina Persons with Disabilities Protection Act is a state law that is similar to the Americans with Disabilities Act. It also prohibits discrimination by employers, public accommodations and public services.[14] **The N.C. Building Code** specifies minimum state requirements for the design and construction of buildings and structures. **Chapter 11** of the N.C. Building Code addresses accessibility requirements for buildings, including parking facilities. Many towns, cities, and counties have adopted the N.C. Building Code to serve as the **local building ordinances.**

What are the Minimum Specifications for Accessible Parking Spaces?

How many accessible parking spaces are needed!

Accessible parking spaces must comply with the ADAAG to the maximum extent feasible.[15]

Total Number of Spaces in Parking Facility (including accessible spaces)	Minimum Number of Accessible Parking Spaces Required
1 – 25	1
26 – 50	2
51 – 75	3
76 – 100	4
101 – 150	5
151 – 200	6
201 – 300	7
301 – 400	8
401 – 500	9
501 – 1000	20, plus 1 for each 100, or fraction thereof, over 1000

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- For every six or fraction of six accessible parking spaces, at least one must be a van-accessible parking space.
- Accessible spaces must connect to the shortest possible accessible route to the accessible building entrance or facility they serve.
- Where separate parking facilities serve the same building or entrance, accessible spaces may be grouped together, as long as the number of spaces provided is determined according to each of the separate parking facilities.
    - For example: A building has two parking lots, the primary lot with 1000 spaces and a secondary lot several blocks away with 1500 spaces. The primary lot needs 20 spaces (4 of which must be van-accessible), and the secondary lot needs 25 accessible spaces (5 of which must be van-accessible). Because accessible spaces should be near to the building, the 45 accessible spaces (including 9 van-accessible) could be located in the primary lot.
- Certain types of medical facilities need more accessible parking:
    - Hospital outpatient facilities need 10% of patient/visitor spaces to be accessible.
    - Rehabilitation facilities that specialize in treating conditions that affect mobility and outpatient physical therapy facilities need 20% of patient/visitor spaces to be accessible.

What does an accessible parking space look like?

All dimensions are minimums.[16]

- **Accessible Car parking spaces** are 8 feet (96 inches) wide.
- **Accessible Van parking spaces** are 11 ft. (132 inches) wide.
    - Exception: Van parking spaces can be 8 ft. (96 in.) wide where the access aisle is 8 ft. wide.
- **Access aisles** are 5 feet (60 inches) wide and extend the full length of the parking space they serve. When located adjacent to the parking space, access aisles provide room for individuals to deploy vehicle-mounted wheelchair lifts and/or unload and use mobility devices such as wheelchairs, walkers, etc. Two spaces can share one access aisle.

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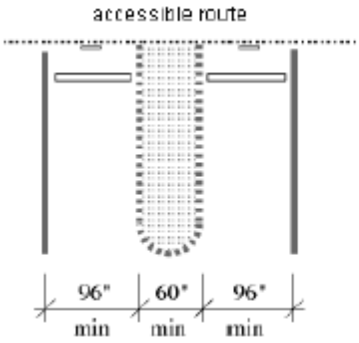
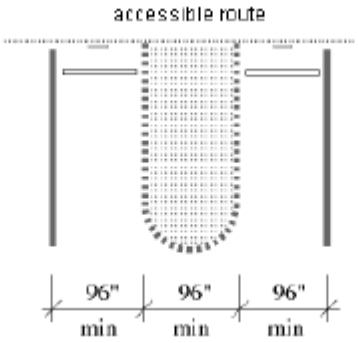
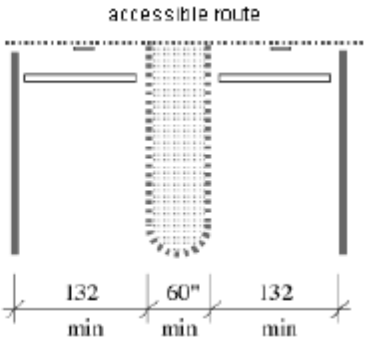


Car-Accessible Spaces



Van-Accessible



Spaces Universal Spaces

- **Vertical clearance** of 98 inches must be provided to parking spaces.

Signs: Accessible parking must be identified by signs that include the International Symbol of Accessibility.[17] Signs identifying van parking spaces must include the phrase "van-accessible."[18] Signs must be at least 5 feet (60 inches) above the ground to help ensure visibility both for motorists and local enforcement officials.[19] In order to be enforceable under state law, it must state "Maximum Penalty $250."[20]

Maintenance: Accessible parking spaces, aisles, and routes should be maintained in good repair and marked clearly. Spaces must be not be used for snow, ice, or fallen leaf removal.

Advocating for Enforcement of Accessible Parking Violations

Organizing with the disability rights community in your area, including local disability rights non-profit organizations, and county, city, or town committees, commissions or task forces that represent the needs of people with disabilities is an effective way of increasing the impact of your advocacy efforts.

- **Illegal Use of an Accessible Parking Space or Placard –** If you feel that abuse of reserved parking spaces is a problem in your community, here are some suggestions.
    - **Tell Someone or Call Local Law Enforcement.** If you see a car parked illegally in an accessible space, you can contact the business owner and/or local law enforcement. Make sure to record the address of the vehicle; the make, model, and color of the car; and the license plate number of the car. The business owner and/or local law enforcement have the authority to have the vehicle towed from its location.

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- **Start a media campaign.** Raise awareness about the abuse of accessible parking by writing letters to the editors of your local newspaper. Examples: The Arc of the Triangle started the “Respect the Space” campaign in 2014. For more information, visit www.arctriangle.org/respect_the_space. Other organizations in other countries and across the United States have staged “park-ins” to protest the lack of accessible parking enforcement.

- **Request a Law Enforcement Sweep.** Ask law enforcement to conduct several enforcement sweeps throughout the year. The use of an enforcement sweep could help to raise awareness about the abuse of accessible parking and act as a deterrent.

- **Start a volunteer parking enforcement program** by working with your local police department.[21] These programs, which have been developed in municipalities and cities throughout the country, use citizen volunteers to fight accessible parking abuse. Volunteers have the ability to write citations and warnings to drivers who park illegally in accessible spaces. For example: Asheville has a successful Volunteer Parking Enforcement Program. Training takes place once a year. In 2013, volunteers wrote 80% of the accessible parking citations.

- **Lack of Marked or Sufficient Number of Accessible Parking Spaces. -** Use the enclosed Accessible Parking Compliance Checklist to access the parking lot of the building in question.

  - **Inform the Building Owner.** If you find that a building does not have the appropriate number of accessible spaces, take pictures, contact the building owner and inform them of your findings. A sample letter to the business is enclosed with this publication to use as a guide.

  - **File a Complaint.** You can file a complaint with the local (town, city or county) building inspector and request that it use its authority to enforce the law. A sample letter to the local building inspector is enclosed with this publication to use as a guide.

  - **Contact the Local ADA Coordinator.** If the building is a local government building, and you do not receive a response from the local building inspector, try contacting the ADA Coordinator. For more information on ADA Coordinators, see our self-advocacy packet Advocating for Access: Using Coordinators & Grievance Procedures to Resolve Disputes. “

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Parking as a Reasonable Accommodation

As discussed above, the ADA and FHA require that if an individual has a disability, reasonable accommodations should be provided for the person to have an equal opportunity to employment, government services, public places, and housing as people without disabilities. Title I of the ADA requires businesses that employ more than 15 employees to provide **"reasonable accommodations"** for employees with disabilities, unless doing so would cause undue hardship.[22] Similarly, the Fair Housing Act requires that landlords and property owners maintain accessible parking and make modifications of parking policies to provide tenants equal access to their homes.

When must an employer provide parking for an employee with a disability as a reasonable accommodation?

If an employee is a qualified individual for the job, an employer is required to provide reasonable accommodations for that individual to perform the essential functions of his or her job. Under some circumstances, accessible or assigned, designated parking constitutes a reasonable accommodation.

The following scenarios explain the legal obligation of businesses with regard to making reasonable accommodations under the ADA:

- A **first-come, first-served** policy may need to be modified to accommodate the parking needs of employees with disabilities.
    - For example: The business owns the parking lot adjacent to the building, and the lot is open to both customers and employees. Employees get a designated space that is assigned on a first-come, first-served basis. Parking may be a reasonable accommodation for an employee with a mobility disability, in the form of either a designated space (for instance, one closer to the building), or an accessible space.
- When the business has a policy of providing **preferential treatment to executive employees** with regard to parking, the employer does not need to modify the policy to accommodate employees with disabilities.
    - For example: The business owns the parking lot adjacent to the building, and offers special parking to executive management which is located closer to the entrance of the building. The business does not otherwise offer parking to employees. Since parking is not offered as a general benefit of employment, this executive-level benefit need not be extended to employees with disabilities who do not otherwise qualify for executive-level parking.

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- When a **third party** owns the parking lot, both the third party and the business that contracts with the third party are responsible to provide accessible parking. At the outset, the parties should address how they will accommodate the parking needs of users with disabilities. As new needs are identified, the employer and third-party operator must take equal responsibility to ensure the parking benefit, and the parking facility, are accessible to the new employee.

- If parking is **not provided as a benefit of employment**, parking may still be a reasonable accommodation if an employee is otherwise unable to access the worksite and the parking would not impose an undue burden on the employer.

For more information on employment rights and how to request a reasonable accommodation, see our self-advocacy guide on employment, Standing Up for Your Rights at Work. A sample letter to your employer requesting an assigned parking space as a reasonable accommodation is enclosed with this publication to use as a guide.

When must a landlord provide parking for a tenant with a disability as a reasonable accommodation?

The analysis for employers to provide reasonable accommodations is similar to that for housing providers. For more information on housing rights and how to request a reasonable accommodation, review Fair Housing for Tenants with Disabilities, a joint publication by the N.C. Department of Health and Human Services, N.C. Housing Finance Agency, and the UNC-Chapel Hill Reasonable Accommodation Study Group.[23] A sample letter to your landlord requesting an assigned parking space as a reasonable accommodation is enclosed with this publication to use as a guide.

What is an undue hardship?

Undue hardship is "an action requiring significant difficulty or expense."[24] It is determined on a case-by-case basis, so an accommodation that poses an undue hardship on one employer may not pose an undue hardship for another employer.[25]

- The following factors are considered when determining whether an action is an undue hardship:

  i. The nature and cost of the accommodation needed;

  ii. The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility;

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iii. The overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type and location of its facilities; and

iv. The type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.[26]

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ACCESSIBLE PARKING COMPLIANCE CHECKLIST

NAME OF BUSINESS: _____

ADDRESS: _____

DATE & TIME OF VISIT: _____

 Count Number of Total Parking Spaces. Do not count parallel spaces on the street, as accessibility rules do not apply to these spaces.

- o ____ Total Number of Parking Spaces
- o ____ Total Number of Accessible Parking Spaces
- o ____ Total Number of Van Accessible Parking Spaces

 Calculate how many Accessible and Van Accessible Parking Spaces are required by using the enclosed table.

- o ____ Total Number of Accessible Parking Spaces
- o ____ Total Number of Van Accessible Parking Spaces

 Each accessible space is at least 96" wide (8 ft.) with at least a 60" (5 ft.) wide access aisle.

 Each van accessible space is at least 132" (11 ft.) wide with at least a 60" (5 ft.) wide access aisle. Note exception: If a van accessible parking space is less than 132" (11ft.) wide, it will meet guidelines if it is at least 96" (8ft.) wide with an access aisle at least 96" (8ft. wide).

 Each accessible space has its own or shares an adjacent access aisle that is at least 60" (5 ft.) wide, and clearly marked and striped.

Each accessible parking space has a sign with the International Symbol of Accessibility.

Each sign has the maximum penalty ($250) listed.

There is a clear and safe accessible path of travel to the building. If the path of travel crosses traffic, it is clearly marked.

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Sample Letter: Requesting Business to Improve Parking Lot

Date

Name Business Owner/Property Manager
Business Name/Property Management Company
Address

Dear Sir or Madam:

I write concerning the parking lot of [address, and name of local business or government service, program, or activity] and its compliance with the Americans with Disabilities Act (ADA).

I am a person with a disability, in that [provide diagnosis or explain ways in which some major life activities are substantially limited]. It has been my experience that the parking lot at the location mentioned above is not accessible because [give details of violations, and location, date, and description of the problem, including details about previous issues].

The Americans with Disabilities Act Accessibility Guidelines (ADAAG), in addition to the N.C. Building Code, provide for minimum requirements regarding accessible parking spaces in parking lots. To ensure accessibility of [business or government service/program/activity name], I respectfully request that you inspect your building's parking lot and make the following improvements:

- List what needs to be improved.

For more information about my rights and your responsibilities under the Americans with Disabilities Act, including tax credits available to make these improvements, you can contact the Southeast ADA Center at 1-800-949-4232 or visit www.adasoutheast.org.

Please reply to my request in writing within [ten (10) business days OR # of days listed in adopted grievance procedure]. If you have any questions about my request, please do not hesitate to contact me at ( )____-_____ .

Sincerely,

_____

[Signature]
Name
Address

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Sample Letter: Requesting Local Inspector to Inspect Parking Lot of Building

Date

Name
Building Inspector
State/local government agency
Address

Dear Sir or Madam:

I write concerning the parking lot of: address, and name of local business or government service, program, or activity] and its compliance with the Americans with Disabilities Act (ADA).

I am a person with a disability, in that [provide diagnosis or explain ways in which some major life activities are substantially limited]. It has been my experience that the parking lot at the location mentioned above is not accessible because [give details of violations, and location, date, and description of the problem, including details about previous issues]. I have attempted to address my concerns with the property owner [give details of location, date, and description of conversations.]

The Americans with Disabilities Act Accessibility Guidelines (ADAAG), in addition to the N.C. Building Code, provide for minimum requirements regarding accessible parking spaces in parking lots.

To ensure accessibility of [business or government service/program/activity name], I respectfully request that you inspect the building and parking lot referenced above, and enforce this violation of the ADAAG and N.C. Building Code to the fullest extent of your authority.

If you have any questions about my request you can contact me in writing or by phone. However, I would appreciate a written response to this request within two weeks of the date of this letter.

Sincerely,

_____
[Signature]
Name
Address
Phone/Email

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Sample Letter: Requesting an Assigned Parking Space as a Reasonable Accommodation from Your Employer

Date
Mr. / Ms. _____ (Name of manager here)
Company Name
Address

Dear Mr. / Ms. _____:

I have worked at _____ (company name) as a _____ (position or position in "_____ department" if appropriate) since _____ (approximate date of hire).

I am experiencing the following difficulties because of my disability: _____. I am writing to request that you provide me with an assigned parking space (state whether it needs to be an accessible space or where it needs to be located) because it will allow me to access my work area without experiencing the difficulty that I have been experiencing.

If you have alternative suggestions regarding reasonable accommodations, please share them with me so we can work together to find a workable and effective accommodation. I have a disability as defined by the Americans with Disabilities Act, and I need this accommodation to continue successfully performing my job.

For more information about my rights and your responsibilities under the Americans with Disabilities Act, including tax credits available for providing accommodations, you can contact the Job Accommodation Network at 1-800-526-7234, the Southeast ADA Center at 1-800-949-4232, or the Equal Employment Opportunity Commission at 1-800-669-4000. The Job Accommodation Network also provides examples of possible reasonable accommodations for different disabilities.

If you have any questions about my request you can contact me in writing or by phone. However, I would appreciate a written response to this request within two weeks of the date of this letter.

Sincerely,

_____
[Signature]
Name
Address
Phone/Email

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Sample Letter: Requesting an Assigned Parking Space as a Reasonable Accommodation from Your Landlord

Date

Mr. / Ms. _____ (Landlord/Property Manager)
Company
Name
Address

Dear Mr. / Ms. _____:

I live at _____. I have a

disability that prevents me from_____.

I am requesting a reasonable accommodation of a designated, assigned parking space closer to my housing unit. I have attached verification from _____ of my disability and the functional limitations I experience. I am asking for this accommodation so that I can have full use and enjoyment of my home.

If you have any questions about my request you can contact me in writing or by phone. However, I would appreciate a written response to this request within two weeks of the date of this letter.

Sincerely,

_____ [Signature] Name Address Phone/Email

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Its team of attorneys, advocates, paralegals and support staff provide advocacy and legal services at no charge for people with disabilities across North Carolina to protect them from discrimination on the basis of their disability. All people with disabilities living in North Carolina are eligible to receive assistance from Disability Rights NC.

Contact us for assistance or to request this information in an alternate format.

Disability Rights North Carolina	919-856-2195
3724 National Drive, Suite 100	877-235-4210 (toll free)
Raleigh, North Carolina 27612	888-268-5535 (TTY)
www.disabilityrightsnc.org	919-856-2244 (fax)

[1] 42 U.S.C. §§ 12131 to 12165. Title II of the ADA has similar prohibitions to that of Section 504 of the Rehabilitation Act of 1973. 29 U.S.C. §§ 701 to 796.
[2] 42 U.S.C.A. § 12181(7).
[3] 42 U.S.C.A. § 1218. A private club is one in which membership must be voted on by other members.
[4] 42 U.S.C.A. § 12187.
[5] 42 U.S.C. §§ 12131 to 12165.
[6] 42 U.S.C. §§ 12181 to 12189.
[7] 28 C.F.R. Pt. 36, App.D.
[8] 41 CFR subpart 101-19.6 Appendix A.
[9] 28 C.F.R. § 35.151(c) (1)
[10] 28 C.F.R. § 35.151 (c) (3)
[11] 42 U.S.C. §3602 (f)(3)(B).
[12] N.C. Gen. Stat. § 20-37.6(b) (2010).
[13] N.C. Gen. Stat. § 20-37.6(e) (2010).
[14] N.C. Gen. Stat. § 168A-1 et. Seq.
[15] 36 C.F.R. § 1191, App. B 208.2 – 208.4.
[16] 28 C.F.R. § 1191, App. D 502.
[17] 28 C.F.R. § 1191, App. D 502.6.
[18] 28 C.F.R. § 1191, App. D 502.6.
[19] 28 C.F.R. § 1191, App. D 502.6.
[20] N.C. Gen. Stat. § 20-37.6(d).
[21] Under N.C. General Statutes § 160A-282(a), "[a] city may by ordinance provide for the organization of an auxiliary police department made up of volunteer members."
[22] 42 U.S.C. § 12111(8).
[23] http://www.nchfa.com/forms/Forms/ReasonableAccommodation.pdf
[24] 42 U.S.C. § 12111(10)(A).
[25] 29 C.F.R. Pt. 1630, App.
[26] 42 U.S.C. § 12111(10)(B)(i)-(iv)

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