

**TITLE 44 – PROTECTION AND ADVOCACY
FOR DISABLED PERSONS**

Chapters:

01 Parking for Persons with Disabilities

**TITLE 44 – CHAPTER 01 – PARKING FOR
PERSONS WITH DISABILITIES**

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Editor’s Note: 25 Sep 2024.

Recovered rule from OPAD. Title 44 previously designated as “Reserved” in the recently released 2024 Edition of the American Samoa Administrative Code and is herein revised accordingly as a supplement thereto and posted on www.osas.as.gov. This Rule was promulgated in 2016 without an official Rule number designation and is hereby retroactively designated as Rule No. 2016-0001.

44.0101 Authority

These administrative rules are promulgated under the authority given the Office of Protection & Advocacy for the Disabled under the American Samoa Code Annotated (“A.S.C.A.”) Sections 4.1403 and 4.1409, and also in compliance with the Administrative Procedures Act, A.S.C.A. § 4.1001 et. seq.

History: Rule 2016-0001, eff 2 Mar 16.

44.0102 Purpose and Scope

The purpose of these rules is to establish a uniform parking system in American Samoa for persons with disabilities to enhance access and the safety of persons with disabilities which limit or impair their

ability to walk in conformance with the American with Disabilities Act of 1990 (“ADA”) standards and Federal Regulations governing parking for persons with disabilities, 42 U.S.C. § 12101 et. seq. and 23 C.F.R., Part 1235.

History: Rule 2016-0001, eff 2 Mar 16.

44.0103 Interpretation

These rules shall be construed liberally and consistent with the purpose stated above in American Samoa Administrative Code (“A.S.A.C.”) Section 44.0102.

History: Rule 2016-0001, eff 2 Mar 16.

44.0104 Severability

These rules are declared to be severable and if any portion or the application thereof to any person, circumstance, or property is held invalid for any reason, the validity of the remainder of these rules or the application of the remainder to other persons, circumstances, or property shall not be affected.

History: Rule 2016-0001, eff 2 Mar 16.

44.0105 Definitions

As used in this chapter, unless the context clearly indicates otherwise:

- (a) “Access Aisle” means an accessible route adjacent to a Parking Space Reserved for Persons with Disabilities that provides for appropriate clearances for the loading and unloading of mobility devices and qualified persons with disabilities from a vehicle parked in a space specifically reserved for persons with a disability.
- (b) “Accessible Parking” means a public or private parking space, including the Access Aisle, reserved for persons with a disability, which is designed and constructed in compliance with the requirements of the ADA, as amended, and related rules and guidelines. All accessible parking spaces must be marked with a sign designating the parking space as reserved for persons with a disability.
- (c) “Certificate of Disability” means the medical statement on the Disabled Parking Permit Application form signed by a Licensed Practicing Physician who certifies that the applicant is a Person with Disability which limits or impairs the ability to walk, as defined in A.S.A.C. Section 44.0105(i).

- (d) “Reserved Parking Permit Application” means a form provided by the Issuing Agency that contains the Certificate of Disability and other necessary information required of all applicants for Parking Permits.
- (e) “Enforcement Officer” means a police officer, an employee of the Issuing Agency, other authorized personnel or a private security agent.
- (f) “Fee” means those moneys collected by the Issuing Agency, for processing Disabled Parking Permit Applications and issuance of Placards.
- (g) “International Symbol of Access” means the symbol adopted by Rehabilitation International in 1969 at its Eleventh World Congress on Rehabilitation of the Disabled.
- (h) “Issuing Agency” means the Office of Protection and Advocacy for the Disabled (“OPAD”).
- (i) “Licensed Practicing Physician” means a doctor of medicine, naturopathy, osteopathy, or podiatry duly licensed and authorized to practice medicine in the Territory of American Samoa or the United States of America.
- (j) “Off-Street Parking” means any designated parking space or area that is not on a public street.
- (k) “Paid Parking” means a street, portion of a street, or other public parking area established by ordinance as a zone in which the parking of vehicles upon such street or other public parking area requires payment.
- (l) “Parking Permit” means a Removable Windshield Placard or Temporary Removable Windshield Placard.
- (m) “Persons with a disabilities which limit or impair the ability to walk” means a person, who as determined by a Licensed Practicing Physician”
- (1) Cannot walk two hundred feet without stopping to rest due to a diagnosed arthritic, neurological, orthopedic, renal, oncological, or vascular condition;
 - (2) Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair or other assistive device;
- (3) 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 sixty mm/hg on room air at rest;
- (4) Uses portable oxygen; or
- (5) 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.
- (n) “Placard” means the Removable Windshield Placard or Temporary Removable Windshield Placard.
- (o) “Private Entity” means a private owner or lessee of a parking facility or site where invitation to the general public is expressed or implied, except where a private entity is also a religious entity.
- (p) “Public Entity” means the American Samoa Government or any agency of the American Samoa Government.
- (q) “Removable Windshield Placard” means a two-sided, hanger-style placard issued to a person who has been certified as having a disability which is expected to last six years, and which includes:
- (1) The International Symbol of Access, which is at least two and one-half inches in height and is white on a blue shield;
 - (2) An identification number;
 - (3) A date of expiration; and
 - (4) The words “American Samoa”.
- (r) “Accessible Parking Sign” means a sign that contains:
- (1) The words, “Reserved Parking”;
 - (2) The International Symbol of Access;
 - (3) Words indicating that the space is reserved for parking by persons with disabilities who have a valid Parking Permit; and

- (4) The maximum fine for parking illegally in the space.
- (s) “Temporary Removable Windshield Placard” means a two-sided, hanger-style placard, issued to a person who has been certified with a temporary disability up to a period of six months and includes on each side:
 - (1) The International Symbol of Access, which is at least two and one-half inches in height and is white on a red shield;
 - (2) An identification number;
 - (3) A date of expiration;
 - (4) The words “American Samoa”; and
 - (5) The word “TEMPORARY”.

History: Rule 2016-0001, eff 2 Mar 16.

44.0106 RESERVED PARKING PERMIT APPLICATION

- (a) In order to be considered for a Reserved Parking Permit, the applicant shall complete a Reserved Parking Permit Application form and pay all applicable Fees. The Certificate of Disability section of the form shall be completed by a Licensed Practicing Physician. For applicants with temporary disabilities, the Certification of Disability shall also include the period of time that the physician determines the applicant will have the disability, not to exceed six months.
- (b) Reasons for which a Reserved Parking Permit Application may be rejected shall include, but is not limited to the following:
 - (1) Portion of the Reserved Parking Permit Application are illegible or incomplete, or
 - (2) There are discrepancies within any portion of the Reserved Parking Permit Application which suggests that the applicant has provided falsified information.
- (c) Individuals who belong to any of the following classes do not automatically qualify for a Reserved Parking Permit based solely on that status:
 - (1) Persons who have a visual impairment;
 - (2) Persons who have a mental illness;
 - (3) Persons who are 55 years of age or older; or
 - (4) Persons who are infants.

- (d) Upon submitting the application from, the applicant shall be required to present proof of being the person named on the Reserved Parking Permit Application form.
- (e) The applicant shall submit the Reserved Parking Permit Application form in person unless specifically exempted for medical reasons by certifying physician; in which case, the applicant may authorize another person to submit the application on the applicant’s behalf.

History: Rule 2016-0001, eff 2 Mar 16.

44.0107 Issuance of Parking Permits

- (a) For the applicant whose disability is expected to last for at least six years, as certified by a Licensed Practicing Physician, the Issuing Agency shall, upon payment of any applicable Fees:
 - (1) Issue on Removable Windshield Placard. The permit shall be valid for a period of 3 years.
- (b) For the applicant whose disability is temporary, as certified by a Licensed Practicing Physician, the Issuing Agency shall upon payment of applicable Fees:
 - (1) Issue one Temporary Removable Windshield Placard. The expiration date of a temporary permit shall be based on the period of disability specified in the Certificates of Disability, and shall not exceed six months after the date of issuance.

History: Rule 2016-0001, eff 2 Mar 16.

44.0108 Renewal and Replacement of Reserved Parking Permits

- (a) Parking Permits may be renewed up to sixty days prior to the expiration date of the permit.
- (b) Proof that the applicant is the person named on the Reserved Parking Permit Application form is required for renewal.

- (c) To renew a Reserved Parking Permit, a person must once again complete the application process set forth in Section 44.0106.
- (d) To replace a Reserved Parking Permit due to loss or significant damage, a person must go through the application process set forth in Section 44.0106.

History: Rule 2016-0001, eff 2 Mar 16.

44.0109 Application and Permit Fees

- (a) Reserved Parking Permit Application Fee: None
- (b) Placard: \$10.00
- (c) Renewal Fee for Reserved Parking Permit Application: None
- (d) Renewal or Replacement Placard: \$ 10.00

History: Rule 2016-0001, eff 2 Mar 16.

44.0110 Return of Parking Permits

- (a) The Removable Windshield Placard and Temporary Removable Windshield Placard are the property of the Issuing Agency and shall be returned to the Issuing Agency:
 - (1) Upon the death of the Person with a Disability which limits or impairs the ability to walk; or
 - (2) When the person no longer qualifies as a Person with a Disability which limits or impairs the ability to walk, as defined in Section 44.0105(l), or
 - (3) When the Removable Windshield Placard and Temporary Removable Windshield Placards are expired.

History: Rule 2016-0001, eff 2 Mar 16.

44.0111 Display of Permit

- (a) The Removable Windshield Placard or Temporary Removable Windshield Placard shall be displayed in a manner that it may be viewed from the front windshield rearview mirror at all times when parking. When a Placard cannot be hung securely from the rearview mirror, the Placard shall be displayed on the dashboard.
- (b) The Person with a Disability operating or being transported in the vehicle being parked or left

standing shall carry a current identification card and present it to any Enforcement Officer upon request.

History: Rule 2016-0001, eff 2 Mar 16.

44.0112 Paid Parking privileges

Any vehicle displaying a Removable Windshield Placard, or a Temporary Removable Windshield Placard issued under this part shall be permitted to park, without payment of any Paid Parking, in any parking space for a maximum of two-and-a-half hours or the maximum amount of time it allows, whichever is longer. All parking Fees not specifically exempted under this part shall remain in effect.

History: Rule 2016-0001, eff 2 Mar 16.

44.0113 Non-Transferability

The Removable Windshield Placard or Temporary Removable Windshield Placard is nontransferable.

- (a) No person other than the Person with a Disability shall park or cause to stand a motor vehicle displaying a Placard:
 - (1) In a Parking Space Reserved for Persons with Disabilities, as defined, or
 - (2) In order to otherwise receive parking privileges, except when it is used in connection with the transport of the person with a disability.
- (b) A Removable Windshield Placard or Temporary Removable Windshield Placard may be confiscated by an Enforcement Officer for any unauthorized use.

History: Rule 2016-0001, eff 2 Mar 16.

44.0114 Accessible Parking Space

- (a) All government agencies, businesses, and schools providing off-street park shall be required to designate parking for persons with disabilities. As shown in Exhibit 4 to these regulations, for every one (1) to twenty-five (25) parking spaces a government agency, business, or school has, it must provide a minimum of one (1) parking space specifically marked for persons with disabilities. Where only (1) parking space for persons with disabilities is required, it must be a van-accessible space.

(b) Access Aisle Requirements shall be as follows:

- (1) All accessible parking spaces are required to have an access aisle. Accessible parking spaces for cars must have at least 5 feet (60 inches) wide access aisle located adjacent to the designated parking space. Accessible parking spaces for vans must have at least 8 feet (96 inches) wide access aisle located adjacent to the designated parking space. *See* Exhibit 3.
- (2) Beyond the requirements imposed by the Americans with Disabilities Act Accessibility Guidelines with respect to dimensions, location, and slope, Access Aisles shall be outlined except on the curb side of the space and shall be diagonally striped within the outline. The outline and diagonal striping shall be four inches in width. The diagonal striping shall be at a 45 degree angle to the outline and shall be clearly visible in contrast to the parking surface.

(c) Signage Requirements shall be as follows:

- (1) All accessible parking spaces must be clearly identified by a sign that includes the International Symbol of Accessibility, as shown in Exhibit 1 to these regulations. Parking spaces designated as van-accessible must have a sign that includes the additional phrase “van-accessible,” as shown in Exhibit 2 to these regulations.
- (2) All signs, including those for van-accessible spaces, shall be placed at the front of each designated space, except for parallel spaces, where the sign may be posted on the curb side of the Access Aisle. The reserved parking sign shall be mounted at minimum 5 feet (60 inches) above the finished floor to the bottom of the reserved parking sign. The reserved parking sign shall be mounted on a freestanding pole, on a wall, or suspended overhead. The reserved parking sign shall not be mounted so as to obstruct ingress to, or egress from, a vehicle parked in the Access Aisle or parking space.
- (3) For van accessible spaces, the sign with “van accessible” and the international symbol of accessibility shall be mounted high enough

so that the sign can be seen when a vehicle is parked in the space the van accessible sign.

- (4) Beyond the requirements imposed by the Americans with Disabilities Act Accessibility Guidelines with respect to dimensions, location, and slope, the designated disabled parking spaces shall be striped on two side of the parking space. The striping is not required at the curbside of the space. The striping shall be four (4) inches in width and shall be clearly visible in contrast to the parking surface.
- (5) Exceptions to signage and marking requirements:
 - (i) Parking lots that have eight (8) or fewer total spaces need not have a sign designating the space reserved for persons with disabilities.
 - (ii) In residential facilities, where parking spaces are assigned to specific residential dwelling units, or to individuals, identification of accessible parking spaces and Access Aisles shall not be required.

History: Rule 2016-0001, eff 2 Mar 16.

44.0115 Penalties

- (a) Falsification of Application: Any person or medical physician who knowingly falsifies an application for a Removable Windshield Placard, Temporary Removable Windshield placard, or any renewal or replacement thereof, shall be subject to suspension or revocation of disability Placard, a fine of up to thousand dollars (\$1000.00), or any combination of the above.
- (b) Failure to Comply with Disabled Parking Space Requirements: Any agency or business that fails to designate and mark disabled parking spaces as set forth in A.S.A.C. Section 44.0114, shall be subject to following penalties.
 - (1) First Offense: Agency or Business shall receive a warning and 60 day period to comply with the parking and signage requirements.

- (2) Second Offense: Agency or Business shall be subject to a fine of three hundred dollars (\$300.00).
- (3) Third Offense: Agency or Business shall be subject to a fine of one thousand dollars (\$1000.00). Any subsequent offenses shall be subject to a fine of one thousand dollars (\$1000.00).

- (c) All penalties in this Section shall be enforced by the Director of the Office of Protection & Advocacy or OPAD employee as authorized by the Director.
- (d) For government entities, the Director of the agency or department, in his official capacity, shall be responsible for any penalties issued under this Chapter. For businesses operating in the Territory, the registered owner shall be responsible for any penalties issued under this Chapter.
- (e) All monies received in connection with penalties under this Section shall be earmarked as local funds to be used by the Office of Protection & Advocacy for maintenance and training. OPAD shall create an account specifically for monies received from penalties under this Section.
- (f) Pursuant to A.S.C.A. Section 22.0321, any person who parks in a space designated for persons with disabilities without displaying a valid disabled placard issued by OPAD to the driver or register vehicle owner, is guilty of a Class C misdemeanor and subject to a fine of up to \$300.00.

History: Rule 2016-0001, eff 2 Mar 16.

44.0115 Reciprocity

The Territory of American Samoa and private property owners shall recognize valid and Removable Windshield placards and Temporary Removable Windshield Placards, which have been issued by authorities of other states and countries, for the purpose of identifying persons permitted to:

- (1) Utilize parking spaces reserved for a Person with a Disability, or
- (2) Exercise other parking privileges afforded by the Territory or private property owners for the benefit of a Person with a Disability.

History: Rule 2016-0001, eff 2 Mar 16.

Editorial Note: Recovered rule contained successive duplicative sections numbered "44.0115," the latter of which is revised herein and designated as "44.0116" as shown below.

44.0116 Reciprocity Exhibits

Exhibit 1



Exhibit 2



| Minimum Number of Accessible Parking Spaces Americans with Disabilities Act Accessibility Guidelines 4.1.2(5) | | | |
|---------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|---------------------------------------------------------------|-----------------------------------------------------------|
| Total Number of Parking Spaces Provided (per lot) | Total Minimum Number of Accessible Parking Spaces (60" & 96" access aisles) | Van Accessible Parking Spaces with min. 96" wide access aisle | Accessible Parking Spaces with min. 60" wide access aisle |
| Column A | | | |
| 1 to 25 | 1 | 1 | 0 |
| 26 to 50 | 2 | 1 | 1 |
| 51 to 75 | 3 | 1 | 2 |
| 76 to 100 | 4 | 1 | 3 |
| 101 to 150 | 5 | 1 | 4 |
| 151 to 200 | 6 | 1 | 5 |
| 201 to 300 | 7 | 1 | 6 |
| 301 to 400 | 8 | 1 | 7 |
| 401 to 500 | 9 | 2 | 7 |
| 501 to 1000 | 2% of total parking provided in each lot | 1/8 of Column A* | 7/8 of Column A** |
| 1000 and over | 20 plus 1 for each 100 over 1000 | 1/8 of column A* | 7/8 of Column A** |
| 1* out of every 8 accessible spaces | | **7 out of every 8 accessible spaces | |

History: Rule 2016-0001, eff 2 Mar 16.

END OF TITLE 44 – PROTECTION AND ADVOCACY FOR DISABLED PERSONS

Exhibit 3

