

## ORDINANCE 2025-06

### ORDINANCE ADOPTING AMENDMENTS TO CHAPTER 141, "PARKS AND RECREATION," TO ENACT ARTICLE I, "DISPLAY OF FLAGS" OF CHAPTER 141, "PARKS AND RECREATION," OF THE MUNICIPAL CODE OF THE BOROUGH OF KENILWORTH

**WHEREAS**, pursuant to N.J.S.A. 40:48-1, the governing body of a municipality may make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this State or Federal Government, as it may deem necessary and proper for the good of government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

**WHEREAS**, the Borough of Kenilworth ("Borough") owns municipal property, including flagpoles and flagstaffs; and

**WHEREAS**, the Borough regulates the use of certain municipal property of the Borough through Chapter 141, "Parks and Recreation" of the Borough Code; and

**WHEREAS**, wishes to establish regulations governing the display of flags on municipal property, including flagpoles and flagstaffs; and

**WHEREAS**, the Borough Council has determined that the Borough's flagpoles, flagstaffs and public buildings are not intended to serve as a forum for free expression by the public. Rather, the Borough's flagpoles, flagstaffs and public buildings are nonpublic fora to be used exclusively by the Borough, where the Council may display a commemorative flag as a form of government expression; and

**WHEREAS**, the Borough has determined that it is in the best interest of the Borough to amend Chapter 141 of the Borough Code to adopt a new Article I, "Display of Flags" of Chapter 141, "Parks and Recreation" of the Borough Code; and

**WHEREAS**, the Borough now wishes to adopt the within ordinance amending Chapter 141 of the Borough Code.

**NOW, THEREFORE, BE IT ORDAINED** by the Borough Council of the Borough of Kenilworth in the County of Union, State of New Jersey as follows:

**SECTION 1.** The foregoing whereas clauses are incorporated herein by reference and made a part hereof.

**SECTION 2.** Chapter 141 "Parks and Recreation," Article I "Display of Flags" of the Borough Code shall be adopted as follows:

**Note:** Additions are shown in **bold and underlined** and deletions are shown as **strikethrough**.

## Article I. Display of Flags

### § 141-1. United States of America Flag; Permitted flags; and Authorized flags.

- A. The Official Flag of the United States of America shall be displayed highest and any such additional flags shall be flown below the Official Flag of the United States of America. The Official Flag of the United States of America shall be displayed in accordance with and in the manner prescribed in Chapter 1 of Title 4 of the United States Code ( 4 U.S.C.S. §§ 1-10).
- B. In addition to the Official Flag of the United States of America, the following flags are hereby permitted to be displayed upon flagpoles, flagstaffs and on public buildings owned by the Borough of Kenilworth as a form of expression of government speech, in the manner set forth above:
  - (1) The Official Flag of the State of New Jersey;
  - (2) P.O.W./M.I.A. (Prisoner of War/Missing in Action) flag as provided in Title 36, Chapter 9, § 902 of the United State Code (36 U.S.C.S. § 902);
  - (3) The official flags of the Army, the Navy, the Marine Corp., the Airforce, the Coast Guard and the Space Force of the United States of America; and
  - (4) The official flag of the Borough of Kenilworth.

### § 141-2. Third-party flags.

The Borough's flagpoles, flagstaffs and public buildings are not intended to serve as a forum for free expression by the public. Rather, the Borough's flagpoles, flagstaffs and public buildings are nonpublic fora to be used exclusively by the Borough, where the Council may display a commemorative flag as a form of government expression. The Borough will not display a commemorative flag based on a request from a third party, nor will the Borough use its flagpoles to sponsor the expression of a third party.

### § 141-3. Authorization required for flagpole use.

No person shall display or place upon any flagpole, flagstaffs, or on public buildings owned by the Borough of Kenilworth any flag or other object not otherwise

**authorized as an expression of government speech by the Borough Council of the Borough of Kenilworth.**

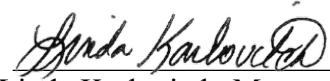
**§ 141-4. Citizen requests permitted.**

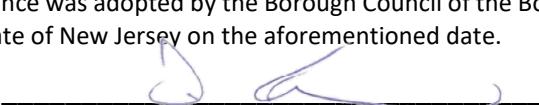
**Nothing contained herein is intended to abridge the right of the citizens of the Borough of Kenilworth from exercising their freedom of speech to petition or request the Borough Council to authorize an expression of government speech.**

**SECTION 3.** If any section, paragraph, subdivision, sentence, clause, or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, sentence, clause, or provision so adjudged and the remainder of this Ordinance shall remain valid and effective.

**SECTION 4.** Any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

**SECTION 5.** This Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

  
Linda Karlovitch, Mayor

INTRODUCTION						COUNCILPERSON	FINAL ADOPTION				
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.
				<b>X</b>		PATRICK BOYLE			<b>X</b>		
		<b>X</b>				JOSEPH FINISTRELLA			<b>X</b>		
<b>X</b>		<b>X</b>				TONI GIORDANO PICERNO			<b>X</b>		
		<b>X</b>				WILLIAM MAURO		<b>X</b>	<b>X</b>		
		<b>X</b>				DOUGLAS PIPER			<b>X</b>		
	<b>X</b>	<b>X</b>				SAVINO SCORESE	<b>X</b>		<b>X</b>		
Introduced: <b>May 21, 2025</b>			I hereby certify the above ordinance was adopted by the Borough Council of the Borough of Kenilworth, County of Union, State of New Jersey on the aforementioned date.								
Final Adoption: <b>June 17, 2025</b>			 Laura Reinertsen, Borough Clerk								

