

**BOROUGH OF KENILWORTH
ORDINANCE NO. 2013-06**

**AN ORDINANCE OF THE BOROUGH OF KENILWORTH ADDING TO THE
EXISTING CHAPTER 170 known as the "Streets and Sidewalks" of the Borough of
Kenilworth**

HANDICAP PARKING ON MUNICIPAL STREETS

§ 170-40. Purpose

The purpose of this Ordinance is to supplement Chapter 170 as provided by State Law so as to permit handicap individuals to safely and efficiently access their home and/or business from municipal streets.

§ 170-41. Parking Zones for Handicapped Persons

- A. In accordance with N.J.S.A. 40:48-2.46 and N.J.S.A. 39:4-197.6, handicapped parking zones are hereby established within the Borough of Kenilworth. A handicapped parking zone means an area of a public roadway designated for use by a particular handicapped person as provided for therein and which is so marked by proper signage and roadway markings. The term "handicapped driver" is defined as set forth in N.J.S. 39:4-204.
- B. No person shall park a vehicle in any designated parking stalls in locations which have been established as restricted parking zones as referred to in the Schedule maintained in the Office of the Borough Clerk and in the schedule of handicap space within the general ordinances of the Borough, unless such person is a physically handicapped individual who has applied for the establishment of the handicapped parking zone in accordance with N.J.S.A. 39:4-197.6 and pursuant to this section. Any vehicle parked in a parking zone which does not display the permit for the use of that particular handicapped parking zone pursuant to N.J.S.A. 39:4-197.7, is presumed to have been parked in such a stall unlawfully and subject to the fines and penalties set forth in Title 39 of the New Jersey Statutes.
- C. Handicapped parking zones may be established in front of or as may safely be placed near the residences occupied by handicapped drivers provided that such parking is not otherwise prohibited and does not interfere with the normal flow of traffic. No handicapped parking zone will be established for persons who do not possess a valid "handicapped person" identification card and placard or handicapped plates, and/or a valid vehicle registration with the vehicle registered in their name or that of a spouse who

resides at the same location. However, those persons who are parents or legal guardians of developmentally handicapped children residing on a full time basis within the same household and conforming to subsection (A) herein may be eligible. No restricted parking zone will be established for applicants who have a driveway, carport, garage or other off-street parking space within one hundred feet of their residence and it is available for their use.

§ 170-42. Parking Spaces for Handicapped Persons.

- A. In accordance with N.J.S.A. 39:4-197.5 and N.J.S.A. 39:4-205, parking spaces for handicapped persons are established. A handicapped parking space means an area of a public roadway or public parking lot designated for use by any handicapped person as provided for and which is so marked by proper signage and roadway markings. The term "handicapped driver" is defined as set forth in N.J.S. 39:4-204.

- B. No person shall park a vehicle in any of the designated parking stalls for parking for use by handicapped persons in locations referred to in the ordinances of the Borough, unless such person is a physically handicapped individual. Any vehicle parked in a parking stall reserved for handicapped drivers pursuant to this chapter which does not display the official state license plate, or special identification sticker or placard from the division of motor vehicles, is presumed to have parked in such a stall unlawfully, and subject to the fines and penalties set forth in Title 39 of the New Jersey Statutes.

- C. Applications for the establishment of handicapped parking zones and handicapped parking spaces may be obtained from the Borough Clerk's office and are filed along with the appropriate documentation with the Borough's Police Department and a copy provided to the municipal Clerk. The applicant shall submit an initial processing fee of one hundred seventy-five dollars (\$175.00) for a handicapped parking space to the Borough Clerk made payable to the Borough at the time the application is filed. An annual renewal fee thereafter of one hundred (\$100.00) dollars is paid with the submission of each annual renewal application. The Traffic Officer shall within ten business days after receipt of an application, review it and shall investigate each application for compliance with this chapter. After the Traffic Officer has determined compliance and the validity of the need, the application is to be submitted so that an amendment to the municipal code for the reserved parking space may be drafted. The Traffic Officer may, at his discretion, require a personal interview with the applicant at their residents. The applicant present at the interview any and all documentation which he or she believes relevant to the applicant's request. If the applicant does not possess adequate documentation to verify his or her eligibility under this chapter, the application may be denied.

- D. Any individual that may be designated as indigent by the Borough's Welfare Director or with liquid assets of less than three thousand dollars (\$3,000.00) and the prior calendar years gross income equal to or less than twelve thousand (\$12,000.00) shall be eligible to have the fees specified in section C waived upon request. The waiver of the fees shall remain in effect for two calendar years from the date so determined.
- E. The power to grant a handicapped parking space is vested solely in the authority of the borough council acting through ordinance after a recommendation from the Traffic Officer. If the Borough council so approves, the Police Department shall establish a restricted parking space in front of or near the residence of the applicant and shall issue a permit in compliance with N.J.S.A. 39:4-197.7. In the case of an application for a handicapped parking space, the Borough Council shall establish a handicapped parking space pursuant to N.J.S. 39:4-197.5. Only the motor vehicle for which a valid permit has been issued is parked in such zone and only when the permit is properly displayed. Only one permit is issued to the applicant per household.
- F. Applicants who do not meet all of the requirements of the above are to be notified of the denial of their application by mail. The application fee will not be refunded until ten (10) days after final determination of all appeals should such appeal be taken as set forth in subsection (F) below.
- G. All handicapped parking spaces are valid for the same period that the handicapped placard is valid.
- H. Any party denied a handicapped parking space, has the opportunity to request reconsideration of such decision. A letter requesting reconsideration must be received by the Traffic Officer and the Borough Clerk within twenty (20) days of the date of notice of denial is received. The applicant will then be instructed as to when the Borough Council will hold hearing at a regular scheduled work session to consider any relevant evidence pertaining to the applicant's eligibility. It is the applicant's responsibility to set forth any and all reasons and documentation in support of his or her application. The applicant will be notified by mail of the decision on reconsideration. No more than one application for reconsideration to the subcommittee will be given to each applicant in any calendar year period. Thereafter, the applicant may reapply in accordance with subsections above after six months have elapsed from the date of the notice of denial. A twenty day grace period will be afforded each licensee after the date of lapse.
- I. There will be a fine of seven hundred dollar (\$700.00) penalty per application for any fraudulent application that is submitted. In the case where a permit is granted under a fraudulent application, an additional fifty dollar (\$50.00) fine per day will be imposed on

the holder of the fraudulently procured or renewed license for a maximum penalty of two thousand hundred dollars (\$2,000.00). The penalties within this paragraph may be waived if Borough elects to prosecute the applicant as a violation under the applicable portions of Title 2C of the New Jersey State Statutes.

- J. In the event that the applicant states that due to financial hardship he or she is unable to submit the required application fees under this section, then in that event the applicant for the handicapped parking may briefly explain the circumstances of the applicant's financial hardship and request the council that the application fee or renewal fee be waived. Any applicant receiving Medicaid or participating in the State of New Jersey Pharmaceutical Assistance to the Aged & Disabled (PAAD) program shall have their fee waived without further explanation.
- K. All signage and the installation of same pursuant to this chapter shall conform to the specifications as prescribed by the New Jersey Department of Transportation and the National Manual on Uniform Traffic Control Devices.

§ 170-43. Existing Handicapped Parking Locations

- A. All locations listed in Schedules of as of the effective date of the ordinance codified in this chapter are designated a handicapped parking space.
- B. All persons with existing handicapped parking spaces shall be sent a letter by the Traffic Officer by certified and regular mail to inform them of the new ordinance and that they shall have sixty (60) days from the date of adoption of the ordinance codified in this chapter to file an application for continued status of an existing handicapped parking space or to convert this space to a handicapped parking zone with the Borough Clerk. Failure of an existing holder of a handicapped parking space to file an application for continued status or conversion with the Borough within sixty (60) days of the date of adoption and publication of the ordinance codified in this chapter results in automatic revocation of their existing handicapped parking space. After application for continued status or conversion is submitted as set forth above, and should the application be granted, the renewal thereof is on an annual – calendar year basis as set forth above.

§ 170-44. Handicapped Parking During Snow Removal

The designated location on a Borough Street for a Handicapped individual shall not be exempt from the requirement that the vehicle be removed from the Borough's thoroughfares for snow plowing.

§ 170-45. Severability

Each section, subsection, sentence, clause and phrase of this Article is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Article to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Article.

§ 170-46. Repealer

All Borough ordinances and parts of ordinances that are inconsistent with this ordinance are hereby repealed.

§ 170-47. Effective date

The existing tower for the municipality shall continue to serve the Borough with the above rate schedule until this Ordinance shall be in full force and effect. This ordinance is effective after its adoption and its publication as required by law.

Introduced: _____

Adoption: _____

Mayor Kathi Fiamingo

ATTEST: _____
Hedy Lipke
Borough Clerk