

Ordinance No. 2-19

**AN ORDINANCE ALLOWING FOR ON-STREET HANDICAPPED PARKING AND SETTING REQUIREMENTS AND PROVISIONS RELATING THERETO.**

**WHEREAS**, the laws of the Commonwealth allow Pennsylvania municipalities to establish on-street handicapped parking zones; and

**WHEREAS**, the Borough Council would like to make appropriate accommodations for residents while concurrently establishing effective criteria to regulate handicap parking requests;

**THEREFORE BE IT ORDAINED AS FOLLOWS:**

**Section 1: Handicapped Parking Zones Established.**

1. The Borough Council may, upon request of a resident of the Borough, erect and maintain appropriate signage and pavement markings to reserve a parking space for vehicles displaying a valid handicapped placard or plate provided that the reserved space is otherwise a legal parking zone.
2. No handicapped parking zones may be established without a majority vote of the Borough Council at a regularly scheduled and advertised meeting.
3. A list of all current handicapped parking spaces shall be maintained at all time by the Borough Manager, and a copy shall be distributed to the Millersburg Borough Police Department every time a zone is added, revised, or deleted. This list shall constitute the "official list" of handicapped parking zones and shall be enforced as detailed below.
4. Any curb cuts or other alterations to a sidewalk or curb for the purpose of enhancing access shall be the sole financial responsibility of the property owner.

**Section 2a: Application Procedure -- Residential.**

Any individual wishing to establish a handicapped parking space adjacent to his or her residence shall provide the following documentation in writing to the Borough Manager:

1. The name, address and telephone number of the resident.
2. The name, address and telephone number of a caregiver if applicable.
3. Proof of the issuance of a handicapped placard or plate by the Pennsylvania Department of Transportation.
4. The make, model and license plate number of the vehicle to which a handicapped or severely disabled veteran registration plate or placard was issued by PennDOT
5. If the residence is not owner-occupied, a statement of consent by the property owner to the handicapped parking space shall be included in the application.
6. Payment of all applicable fees. Fees shall be refunded in the event that an application is denied.
7. Handicapped parking spaces approved under this Section shall be subject to an annual review under Section 11 of this Ordinance.
8. The Borough reserves the right to create a form to be used in lieu of a written application.

**Section 3: Application Procedure – Commercial, Institutional, and non-residential**

Any individual or organization owning and operating a business or other non-residential institution catering to the general public who wishes to receive a handicapped parking space near the place of business shall provide the following documentation to the Borough Manager.

1. The name, address and telephone number of the business and the name of the owner, location manager or other responsible party.
2. The name, address and telephone number of the owner of building (if different from the information contained in subsection "1" above).
3. A description of the business.
4. A justification for the handicapped space.
5. If the property is not occupied or operated by the property owner, a statement of consent by the property owner to the handicapped parking space shall be included in the application.
6. Payment of all applicable fees. Fees shall be refunded in the event that an application is denied.
7. The Borough reserves the right to create a form to be used in lieu of a written application.

Handicapped parking spaces allowable under this Section shall be limited to those businesses providing medical, dental, vision or pharmaceutical services; institutions offering financial services (banks and credit unions); governmental facilities and US post offices; or facilities which otherwise primarily cater to the physical or mental needs of the elderly, infirm or handicapped population.

#### **Section 4: Review Procedures.**

Upon receipt of an application, the Borough Manager shall visit the site of the requested handicapped parking space, assess the needs of the applicant, and study the available on-street and off-street parking of the affected property. The Manager shall make a recommendation to Council on whether or not to grant the requested handicapped parking space. If an application is received more than five (5) business days prior to a regularly scheduled meeting of the Borough Council, the request shall be considered at the next meeting. If the application is received five (5) or fewer business days in advance of the next regularly scheduled meeting of the Borough Council, the Manager may delay action until the subsequent meeting.

#### **Section 5: Review Criteria.**

In formulating the recommendation required above, the Manager shall consider the following criteria.

1. Physical needs of the applicant or the applicant's caregiver(s). The following limitations shall qualify for consideration:
  - a. Applicant is confined to a wheelchair.
  - b. Applicant is unable to walk a distance of 50 feet without the use of a cane or walker.
  - c. Applicant requires the use of prosthetic devices and/or artificial limbs for normal ambulation.
  - d. Applicant requires the use of ambulatory oxygen.
  - e. Applicant is legally blind.
  - f. Applicant is classified as a severely disabled veteran.
  - g. Another severe physical or mental disability that necessitates parking in close proximity to the residence.

2. The physical geography of the residence or business. An on-street handicapped space shall not be provided if the residence or business has adequate and accessible off-street parking. "Accessible" shall mean the existence of a generally level path measuring less than 50 feet leading from a parking area to the residence or business or formal handicapped parking that complies with the Americans with Disabilities Act.
3. Existing parking patterns. The Manager shall consider the following factors in formulating a recommendation.
  - a. Traffic or pedestrian safety issues with the proposed location of a handicapped parking space.
  - b. Availability of parking on the block.
  - c. Number of existing handicapped spaces on the block.
  - d. Whether the proposed handicapped space would block or otherwise impede access to a residence, business or accessory structure.
  - e. Handicapped parking spaces will not be considered in alleys or streets that primarily provide vehicle access to the rear of properties.
  - f. No more than one handicapped parking space will be approved on each side of any block with parking meters. If a handicapped parking space is granted in such an area, the meter shall be removed.
4. Any other extenuating circumstances. These circumstances shall be clearly documented and retained.

#### **Section 6: Consultation.**

1. The Manager may seek additional guidance and research from members of the Borough Council (particularly the President of Council and the Streets Committee Chair), Pennsylvania's Local Technical Assistance Program, the Pennsylvania Department of Transportation, the Borough Engineer, the Pennsylvania State Association of Boroughs, and any other resources available.
2. Direct costs of traffic engineering studies may be billed to the applicant. An estimated cost shall be provided to the resident for approval prior to initiating fee-based studies.

#### **Section 7: Approval.**

The Manager shall present a written report at the Borough Council Meeting as provided for in Section 5 of this Ordinance. A handicapped parking space shall be granted upon a majority vote of Council. If a handicapped parking space application is denied, the applicant shall be advised of such decision in writing within five (5) business days of the decision.

#### **Section 8: Existing Handicapped Parking Zones**

Handicapped parking spaces existing on the effective date of this Ordinance shall continue and remain in effect until such time as Council directs them to be terminated. Such handicapped parking spaces shall not be subject to the annual renewal as detailed in Section 11 of this Ordinance. The following locations are declared to be existing at the time of adoption of this Ordinance:

1. 349 Union Street (Mid Penn Bank)
2. 570 Center Street (Sabnis Vishwas, DDS)
3. 242 Market Street (Millersburg Pharmacy)
4. 192 West Center Street (Family Practice Center)

### **Section 9: Applicability.**

1. No person shall stop, park or allow to stand any motorized or non-motorized vehicle within a designated handicapped parking space unless such vehicle has a proper handicapped placard or plate.
2. The creation of any handicapped parking space is not a reserved parking space for the applicant but may be utilized by any vehicle with the proper disability parking placard or registration plate. In the event that an individual other than the person for whom the space was approved in a residential area begins to utilize the space on a consistent or regular basis simply because that individual does not want to follow the procedures to secure his or her own disability parking space, the following action is authorized: A letter shall be sent to the registered owner of the vehicle advising him or her to cease utilizing the space and warning that continued use of the space will constitute an illegal use and additionally, recommending that such person apply for his or her own disability space. Should the person fail to positively respond to the letter, a violation of the provisions of this Section shall be deemed to have occurred.

### **Section 10: Appeals.**

Any applicant denied a handicapped parking space may appeal the decision to the Borough Council. The applicant and/or the applicant's caregiver shall appear at the next meeting of the Borough Council to present an appeal. The Borough Council may then maintain or reverse their previous decision or may direct additional studies to be performed prior to a future vote.

### **Section 11: Annual renewal.**

1. On or before the second Monday in January, the applicant for any residential handicapped parking space shall submit a renewal application for the space. Such renewal shall indicate whether the applicant's disability continues to exist and shall indicate that the applicant still resides at the residence.
2. Upon failure of the applicant to submit a renewal application, the Borough Manager shall provide written notice to the original applicant. The applicant shall have an additional 30 days to submit a renewal application.
3. Upon failure of the applicant to respond following the 30-day notice, the Borough shall remove any signage and pavement markings.
4. To reestablish a handicap parking zone, the applicant will be required to reapply and pay all applicable fees if a handicapped parking space has been removed under this section.
5. The Borough reserves the right to create a form to be used in lieu of a written application renewal.
6. Handicapped parking spaces approved for business or non-residential use under Section 3 of this Ordinance are not subject to annual review. Such handicapped parking spaces shall be removed upon the termination of the business or institutional operations for which the space was originally granted.

### **Section 12: Termination of Need and Change of Vehicle.**

The applicant shall give notice to the Borough Manager within 10 days of any of the following changes in status:

1. Discontinuation of the condition for which the handicapped parking space was originally granted. This provision includes the death of the resident requiring the handicap parking zone. The handicapped parking space will be removed as quickly as is practicable.
2. Relocation from the residence for which the handicapped parking space was approved. If the applicant is relocating within Millersburg Borough, the applicant may submit a new application for the new address.
3. Discontinuation of operation for any business at which a handicapped parking space has been granted. If the applicant is relocating within Millersburg Borough, the applicant may submit a new application for the new address.
4. Change in the make, model or license plate number of the vehicle to which handicapped or severely disabled veteran registration plate or placard was issued by PennDOT for handicapped parking spaces at residential addresses.

A handicapped parking shall be removed upon discontinuation of need as outlined in subsections 1-3 in this Section.

#### **Section 13: Fees.**

The Borough Council may set and revise fees by resolution from time to time. Fees are intended to cover the costs of purchasing, installing and moving signs and pavement markings as well as administrative costs.

#### **Section 14: Penalties.**

1. Any person found to be in violation of Section 9 is guilty of a summary offence and shall, upon conviction, be sentenced to pay a fine of not less than \$50, nor more than \$250 plus the costs of prosecution.
2. Any person intentionally making false or misleading statements on any application or form required in this Ordinance may be charged by the Millersburg Borough Police under current Commonwealth laws relating to unsworn falsification.
3. Any person found to be in violation of Section 12 is guilty of a summary offence and shall, upon conviction, be sentenced to pay a fine of not less than \$25, nor more than \$150 plus the costs of prosecution.

#### **Section 15: Confidentiality of Records.**

All medical documentation required for application for a handicapped parking space shall be handled and treated by the Borough in accordance with the Health Insurance Portability and Accountability Act (HIPAA) and all other state and federal privacy laws.

#### **Section 16: Severability.**

In the event that any provision, section, sentence, clause, or part of this Ordinance is held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of the Ordinance, it being the intent of the Millersburg Borough Council that such remainder shall be and shall remain in full force and effect and for this purpose the provisions of this Ordinance are hereby declared to be severable.

**Section 17: Repealer.**

Any ordinance of the Borough that conflicts with this Ordinance is hereby repealed.

ENACTED AND ORDAINED this \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

MILLERSBURG BOROUGH  
DAUPHIN COUNTY, PENNSYLVANIA

ATTEST:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
President

\_\_\_\_\_  
Mayor

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