

**BOROUGH OF WEST EASTON**

**ORDINANCE NO. 2021 - 23**

**AN ORDINANCE OF THE BOROUGH OF WEST EASTON,  
COUNTY OF NORTHAMPTON, COMMONWEALTH OF PENNSYLVANIA,  
PROVIDING FOR THE REGULATION OF HANDICAPPED PARKING SPACES.**

**WHEREAS**, Section 1338(a) of the Vehicle Code defines a person with a disability and a severely disabled veteran for purposes of parking; and

**WHEREAS**, Section 3354(d)(2) empowers local authorities to erect signage designating a parking space for use by a person with a disability or a severely disabled veteran at their request; and

**WHEREAS**, Section 1202(31) of the Borough Code grants the Borough Council of West Easton to provide for and regulate parking to promote the convenience and the protection of the public, and to establish or designate, at its discretion, areas exclusively reserved for parking by handicapped individuals;

**NOW, THEREFORE**, the above whereas clauses are incorporated as if set forth herein at length, **BE IT AND IT IS HEREBY ORDAINED AND ENACTED** by the Borough Council of West Easton, Northampton County, Pennsylvania as follows:

A. Authority.

1. On-street handicapped/disabled veteran parking spaces located in residential neighborhoods of the Borough of West Easton shall be governed by the Pennsylvania Vehicle Code, Sections 1342, 1338 and 3354. (75 Pa. C.S.A. §§ 1342, 1338, 3354).

2. The Borough Council of West Easton ("Council"), upon the recommendation of the Borough Manager and Chief of Police, is hereby authorized to make all determinations with respect to establishment, continuation and removal of handicapped parking spaces. This authority is applicable to new applications for handicapped spaces as well as preexisting handicapped spaces and their continuation and removal. The Borough is under no obligation to provide off-street or on-street private parking for residents of the Borough with or without disabilities. Owners of apartment buildings shall make every effort to establish off-street parking for their tenants.

Any handicapped parking space created is available for use by any vehicle displaying a valid handicapped registration plate or placard. Approval of a handicapped parking space does not give the applicant exclusive use of the designated parking space.

B. Criteria and Conditions.

1. All persons requesting a handicapped parking space must submit a completed application, together with the applicable, fee, and any supporting documentation to the Borough Manager.

2. Applications for designation of handicapped/disabled veteran parking space in residential neighborhoods shall be considered on a case by case basis. In ruling on an application, Council may consider the following guidelines and any other information or considerations which Council deems appropriate:

- (a) The applicant must reside at the requested address and prove the need for the requested sign;
- (b) The applicant must possess a vehicle equipped with a valid handicapped license plate or placard and shall exhibit proof of the issuance of a handicapped or severally disabled veteran's license plate or placard by the Pennsylvania Department of Transportation.
- (c) An applicant shall not have available off-street parking, such as a driveway or garage;
- (d) A handicapped parking space will only be allowed where parking is otherwise legally permitted in the immediate vicinity of the residence.

3. An applicant must meet the eligibility requirements of 75 Pa. C.S.A. § 1338(a) and have one or more of the conditions set forth below, such that they are a:

- (a) Person who is blind;
- (b) Person who does not have full use of an arm or both arms;
- (c) Person unable to walk a distance of 200 feet without stopping to rest (applicant may be asked to perform this and/or produce documentation verifying this condition);
- (d) Person unable to walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair or other assistive device;
- (e) Person 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 60 mm/hg on room air at rest;
- (f) Person who uses portable oxygen;

(g) Person who 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;

(h) Person who is severely limited in his or her ability to walk due to an arthritic, neurological, or orthopedic condition;

(i) A person who has severe cardiopulmonary insufficiency requiring the use of ambulatory equipment;

(j) A person who requires the use of a prosthetic device to aid ambulation;

(k) A person who has other health limitations severe enough to warrant a handicapped parking space; or

(m) Someone who is caring for or is in loco parentis of a person who has one or more of the foregoing conditions.

4. No more than one handicapped parking space shall be established upon any single application.

5. No handicapped parking space shall be allowed along a street or portion thereof where parking is prohibited, or which is of an insufficient width, or where the physical conditions of the street or traffic conditions would make it unsafe for a handicapped parking space for access and use by a handicapped/disabled person.

6. No handicapped parking space shall be created or continued unless it can be demonstrated that the applicant's physical condition justifying such a parking space is reasonably expected to persist for a period of not less than one year.

7. A certified statement from the applicant's medical provider shall be submitted together with the application. The statement must be completed by a current treating physician. The statement will be one factor in Council's consideration of an application, and the Borough reserves the right to consider other factors and request additional information as it may deem necessary.

C. Location of Handicapped Parking Spaces.

1. No more than two handicapped parking spaces shall be located on any block where parking is permitted on both sides of the street, unless Council determines it to be necessary and appropriate pursuant to subsection (H) herein.

2. No more than one handicapped parking space shall be located on any block where parking is permitted on only one side of the street, unless Council determines it to be necessary and appropriate pursuant to subsection (H) herein.

3. All handicapped parking spaces permitted prior to the effective date of this ordinance shall be allowed to remain as located but must be renewed annually beginning January 1, 2022.

4. In the event that previously permitted spaces exceed the maximum allowed per block, the Council shall refrain from granting any additional spaces in that block until the number of handicapped spaces falls below the maximum allowed, unless Council determines it to be necessary and appropriate pursuant to subsection (H) herein.

5. Council shall, at its sole discretion, determine the particular location of any handicapped parking space within the Borough, and shall direct the Public Works Department to place appropriate signs or street or curb markings placed thereat.

6. The discretion of the Borough to establish handicapped parking areas at other locations where Council deems appropriate or to continue preexisting handicapped parking spaces shall not be limited in any way by any provision of this ordinance.

D. Application Process.

1. An applicant must complete an application form and forward all supporting documents to the Borough Hall to the attention of the Borough Manager. Supporting documents include but not limited to the following: copy of operator's license showing the address where the parking space is being requested, copy of the car registration, copy of handicapped license plate or placard, copy of disabled veteran license plate or placard, medical documentation, etc. Said application shall be provided by the Borough and substantially in the form set forth in Exhibit A.[1]

[1] Note: Exhibit A is included at the end of this chapter.

2. Upon receipt and confirmation of completeness, the Borough Manager make a preliminary recommendation to Council, and shall forward the application to the Chief of Police for review and recommendation to Council.

3. An incomplete application form or failure to provide all necessary supporting documentation may result in rejection of the request.

4. Applications shall be reviewed by the Chief of Police, who shall also make a preliminary recommendation to Council.

5. Council shall review all applications, together with the recommendations of the Borough Manager and Chief of Police, and rule on the application pursuant to the criteria and conditions herein set forth.

E. Review by Council. Hearing, Notice, and Opportunity to Be Heard.

All applications will be reviewed by Council and decided pursuant to the requirements of the Local Agency Law.

1. Upon submission of an application, the applicant shall receive written notice of the date that their application will be heard by Council, and they shall be advised of their right to appear, testify, present and cross-examine witnesses, and to hire counsel to represent them at said hearing if they wish to do so.

2. The applicant shall also be advised in writing of their right to have the hearing stenographically recorded at their sole expense. Any applicant so requesting shall not bear the cost of the entire public meeting, but only for the hearing of their application.

3. Council shall render its decision in writing. Said writing shall contain findings and the reason for the decision, and shall be served upon all parties or their counsel, either personally or by mail.

F. Renewal Process.

1. Each permit for a handicapped parking space shall be renewed annually.

2. An applicant for renewal shall complete the Renewal Application form and forward all supporting documents to the Borough Manager. Supporting documents may include: a copy of operator's license showing the address where the parking space is being requested, copy of handicapped license plate or placard, copy of handicap placard veteran license plate or placard, copy of vehicle registration, certified health care provider's statement, and any other relevant documentation.

3. Renewal applications shall be submitted to the Borough Manager between January 1 and January 31 of each calendar year.

4. In making a final determination regarding the renewal of a previously permitted handicapped space, the Council shall apply the criteria contained in this policy.

5. Once a permit is not renewed for any reason, any future application by the same applicant shall be considered a new application and shall be governed by the new application provisions of this policy.

G. Revocation of Spaces and Violations.

1. Council reserves the right to revoke and and/or deny any permit for a handicapped parking space at any time for any reason.

2. Any person violating the provisions of this section shall be deemed guilty of a summary offense and punishable by a fine of not more than \$200.

3. Any vehicle parked in violation of the provisions of this section shall, be towed at the owner's sole cost and expense.

H. General Provisions.

1. Under extraordinary circumstances, the Council may allow handicapped parking spaces other than as set forth herein.
2. Upon the death of a handicapped person to whom a parking space has been issued under this section, the parking space shall be void 30 days after death and revoked by the Council by resolution as of said date.
3. The Borough Manager shall review the status of all on-street handicapped/ disabled veteran parking areas on an annual basis to assure that the need for the parking space continues to exist. In the event there is a material improvement in the physical condition of the applicant to the extent that the applicant would no longer qualify as a handicapped person or severely disabled veteran under the criteria set forth herein, the handicapped parking space shall be removed. Likewise, the handicapped parking space shall be removed if there is a change in circumstances or conditions, such as the applicant's death or change of residence, such that the handicapped parking space shall no longer be necessary or otherwise appropriate under the criteria referred to herein.
4. All on-street parking restrictions, such as street sweeping, snow emergency route, and school zones, shall apply and be obeyed irrespective of the issuance of a handicapped parking space hereunder.

I. Right to Reconsideration and Appeal.

Anyone aggrieved by a determination of Council hereunder may request reconsideration by filing said request within fifteen (15) business days of Council's decision and within thirty (30) calendar days of any adverse decision, they may pursue their right to appeal to the Northampton County Court of Common Pleas pursuant to the Local Agency Law.

J. Repealer.

All Ordinances and parts of Ordinances inconsistent herewith are hereby specifically repealed.

K. Severability.

The provisions of this Ordinance shall be severable and, if any provision thereof shall be declared unconstitutional, illegal or invalid, such decision shall not affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as a legislative intent of the Borough of West Easton that this Ordinance would have been acted had such unconstitutional, illegal or invalid provision(s) not been included herein.

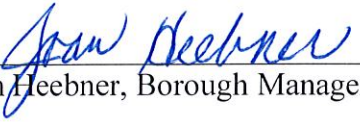
L. Effective Date.


This Ordinance shall become effective five (5) days from the date of its adoption.

**DULY ORDAINED AND ENACTED** this 9<sup>th</sup> day of August, 2021, by the Borough Council in lawful session duly assembled.


ATTEST:

BOROUGH OF WEST EASTON

  
Joan Heebner, Borough Manager

By   
Matthew Dees, President

Approved this 9<sup>th</sup> day of August, 2021.

By   
Daniel DePaul, Mayor