

TOWNSHIP OF TULPEHOCKEN, BERKS COUNTY, PENNSYLVANIA

ORDINANCE NO. 2014-1

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF TULPEHOCKEN, BERKS COUNTY, PENNSYLVANIA, AMENDING ORDINANCE 2010-01, THE OMNIBUS TRAFFIC AND ROADS ORDINANCE, AS AMENDED BY ORDINANCE 2013-6, BY AMENDING PART 6 ENTITLED "GENERAL PARKING REGULATIONS", SECTION 601 ENTITLED "PARKING PROHIBITED AT ALL TIMES IN CERTAIN LOCATIONS" TO ALTER THE NO PARKING AREA AT THE INTERSECTION OF GODFREY STREET AND TEEN CHALLENGE ROAD FROM FORTY FEET (40') TO SIXTY FEET (60') AND BY ADDING PART 7 TO BE ENTITLED "SPECIAL PURPOSE PARKING: PARKING SPACES FOR HANDICAPPED PERSONS AND SEVERELY DISABLED VETERANS" TO PROVIDE FOR DESIGNATION OF PARKING SPACES FOR HANDICAPPED PERSONS AND SEVERELY DISABLED VETERANS AND PENALTIES FOR VIOLATION THEREOF ALONG STREETS AND ROADS IN THE TOWNSHIP.

WHEREAS, pursuant to 75 Pa.C.S. §6101 et seq., traffic and parking regulations by local authorities shall be established by duly enacted ordinances of the governing body of the local authority; and

WHEREAS, the Board of Supervisors of Tulpehocken Township, Berks County, Pennsylvania ("Township") enacted Ordinance 2010-1 on May 10, 2010, consolidating and amending regulations for traffic and roads in the Township creating an Omnibus Traffic and Roads Ordinance; and

WHEREAS, Section 6109(a)(1) of the Pennsylvania Motor Vehicle Code, 75 Pa.C.S.A. § 6109(a)(1), authorizes local authorities to exercise their police power to regulate or prohibit stopping, standing or parking; and

WHEREAS, action by local authorities regulating or prohibiting parking per Section 6109(a)(1) of the Pennsylvania Motor Vehicle Code, 75 Pa.C.S.A. §6109(a), shall be taken by ordinance of the local authority; and

WHEREAS, Tulpehocken Township is a Second Class Township is the Commonwealth of Pennsylvania and as such is governed by the Second Class Township of the Commonwealth; and

WHEREAS, Section 2328 of the Pennsylvania Second Class Township Code, 53 P.S. §67328, authorizes the Board of Supervisors by ordinance to regulate parking; and

WHEREAS, by Ordinance 2013-6, enacted November 13, 2013, the Tulpehocken Township Board of Supervisors amended the Township's Omnibus Traffic and Roads Ordinance by adding a new Part 6 entitled "General Parking Regulations" including Section 601 entitled "Parking Prohibited at all Times in Certain Locations"; and

WHEREAS, Section 601 entitled "Parking Prohibited at all Times in Certain Locations" sets forth locations and dimensions of no parking areas in the Township; and

WHEREAS, Section 601 provided for no parking of forty feet (40') on Godfrey Street with its intersection of Teen Challenge Road; and

WHEREAS, the Board of Supervisors of Tulpehocken Township desires to change the no parking area on Godfrey Street at its intersection with Teen Challenge Road to sixty feet (60'); and

WHEREAS, the Township has received requests from residents for designated handicapped parking spaces near their residences; and

WHEREAS, per Section 2328 of the Pennsylvania Second Class Township Code, 53 P.S. §67328, the Board of Supervisors may, in addition to regulating parking in general, by ordinance provide parking accommodations to promote the convenience and protection of the public, post signs regulating parking in areas established or designated for handicapped or severely disabled veteran parking and imposed penalties for violations of those regulations; and

WHEREAS, the Board of Supervisors of Tulpehocken Township desires to consider requests from residents for designated handicapped parking spaces near residences; and

WHEREAS, per Section 3354 of the Pennsylvania Motor Vehicle Code, 75 Pa.C.S.A. § 3354, the Board of Supervisors of Tulpehocken Township, as the local authority, may at the request of a person with a disability or a severely disabled veteran, erect on the highway as close as possible to the person's or veteran's place of residence a sign or signs indicating that that place is reserved for a person with a disability or a severely disabled veteran, and that no parking is allowed there by others; and

WHEREAS, Section 3354 of the Pennsylvania Motor Vehicle Code, 75 Pa.C.S.A. § 3354, further provides that as the local authority the Board of Supervisors of the Township may provide that any unauthorized person parking in spots designated for a person with a disability or severely disabled veteran shall be subject to a fine and may be towed; and

WHEREAS, Section 212.114(f)(1) of the Pennsylvania Code, 67 Pa. Code § 212.114(f)(1), permits local authorities to regulate parking for reserved parking spaces without an engineering and traffic study; and

WHEREAS, the Board of Supervisors desires to provide upon request for the erection of a sign on the highway as close as possible to the person's or veteran's place of residence a sign or signs indicating that that place is reserved for a person with a disability or severely disabled veteran, that no parking is allowed there by others, and persons parking in violation thereof are subject to fines and penalties; and

WHEREAS, the Board of Supervisors desires to establish rules and regulations for submission and consideration of applications for designated handicapped parking spaces near resident's homes; and

WHEREAS, the Board of Supervisors desires to amend certain parking and traffic regulations on local roadways in the Township;

NOW THEREFORE, BE IT ENACTED and ORDAINED by the Board of Supervisors of Tulpehocken Township, Berks County, Pennsylvania and it is hereby enacted and ordained by the authority of the same as follows:

SECTION 1. The Tulpehocken Township Omnibus Traffic and Roads Ordinance, Ordinance 2010-1, Part 6 entitled "General Parking Regulations" Section 601 entitled "Parking Prohibited at all Times in Certain Locations" is amended to prohibit parking along Godfrey Street for the following location and distances:

<u>Street</u>	<u>Side</u>	<u>Between</u>
Godfrey Street	East	From Teen Challenge Road to a point 60 feet East of intersection with Teen Challenge Road
Godfrey Street	East	From Teen Challenge Road to a point 60 feet West of intersection with Teen Challenge Road
Godfrey Street	West	From Teen Challenge Road to a point 60 feet East of intersection with Teen Challenge Road
Godfrey Street	West	From Teen Challenge Road to a point 60 feet West of intersection with Teen Challenge Road

SECTION 2. All locations where parking is prohibited as designated in Part 6 entitled “General Parking Regulations” Section 601 entitled “Parking Prohibited at all Times in Certain Locations” shall remain unchanged and in full force and effect.

SECTION 3. The Tulpehocken Township Omnibus Traffic and Roads Ordinance, Ordinance 2010-1, as amended, is hereby amended to add a new Part 7 to be entitled “Special Purpose Parking: Parking Spaces for Handicapped Persons and Severely Disabled Veterans”.

SECTION 4. Part 7 entitled “Special Purpose Parking: Parking Spaces for Handicapped Persons and Severely Disabled Veterans” of the Tulpehocken Township Omnibus Traffic and Roads Ordinance, Ordinance 2010-1, as amended, shall read in its entirety as follows:

§ 701. Purpose. A disabled person meeting the criteria set forth in this Part shall be eligible for a Handicapped Parking Space, which is comprised of a blue curb and a handicapped only parking sign post in accordance with Pennsylvania law, to be installed in front of his/her residence to accommodate his/her parking needs in accordance with the guidelines of this Part.

§ 702. Intent.

1. A Handicapped Parking Space is intended to provide safe, close parking for eligible individuals in a residential area of the Township with a high parking demand, where parking in front of a residence may not be readily available.
2. A Handicapped Parking Space is not intended to replace off-street parking, which is otherwise available at the residence of the Disabled Person.

§ 703. Definitions.

Disabled Person – shall mean any individual, who applies for a Handicapped Parking Space in accordance with this Part.

Handicapped Parking Space – an on-street parking space reserved for use by individuals in possession of a handicapped person, disabled person or disabled veteran handicapped license plate or placard issued by the Pennsylvania Department of Transportation for his/her motor vehicle.

Township – shall mean the Township of Tulpehocken, Berks County, Pennsylvania.

§ 704. Eligibility.

1. If a Disabled Person meets the eligibility requirements for a Handicapped Parking Space through the application process set forth herein, then the

Township shall reserve a Handicapped Parking Space in front of his/her residence in accordance with the terms and conditions of this Part and any rules or regulations adopted in accordance herewith.

2. A Handicapped Parking Space located within the Township remains open for use by any individual in possession of a handicapped person, disabled person or disabled veteran handicapped license plate or placard issued by the Pennsylvania Department of Transportation for his/her motor vehicle. Accordingly, a Disabled Person granted a Handicapped Parking Space in front of his/her residence pursuant to this Part does not obtain an exclusive right to the use of said Handicapped Parking Space.

§ 705. Procedure.

1. Application. A Disabled Person may request a Handicapped Parking Space in front of his/her residence by submitting an application to the Township Secretary who shall provide the same to the Township Chief of Police. The application shall be on a form provided by the Township.
2. Criteria. In order for the an application for Handicapped Parking Space to be approved, the Disabled Person shall meet the following conditions:
 - a. The Disabled Person must be a resident of the Township of Tulpehocken; and
 - b. The Disabled Person must be eligible for, and have in his/her possession, a handicapped person, disabled person or disabled veteran handicapped license plate or placard issued by the Pennsylvania Department of Transportation for his/her motor vehicle; and
 - c. The driver of the vehicle need not be the Disabled Person provided that the driver resides in the same residence as the Disabled Person (i.e. spouse or parent) in the event that the Disabled Person is not able to drive due to age or disability; and
 - d. The Disabled Person is disabled, or will be disabled for a period of time exceeding one (1) year, or the driver is resident with a Disabled Person, who is permanently disabled or will be disabled for a period of time exceeding one (1) year; and
 - e. The Disabled Person must be able to demonstrate, by providing documentation from a treating physician, that the Disabled Person's health condition meets at least one (1) of the following criteria:

- i. The Disabled Person is impaired to the extent that ambulation is severely restricted; or
 - ii. The person requesting a permit is caring for a person who has a severe physical or mental disability.
 - iii. The applicant has severe cardiopulmonary insufficiency requiring use of ambulatory oxygen.
 - iv. The applicant requires the use of prosthetic devices that restricts normal ambulation.
 - v. The applicant has other physical or mental limitations that the Township believes are severe enough to warrant a handicapped parking space. (Applicant must be able to produce documentation verifying the condition.)
 - f. The requested location for the Handicapped Parking Space is on a public street and the width of such public street is adequate to allow parking; and
 - g. The Disabled Person resides at the address of the requested location of the Handicapped Parking Space; and
 - h. The requested location for the Handicapped Parking Space does not conflict with any parking restrictions already in place and the parking length in front of the residence must be at least twenty-two feet (22'). If this is not the case, the Disabled Person must obtain the signature of his/her adjacent property owner(s) indicating that such neighbor(s) have no objection to the installation of the Handicapped Parking Space at the requested location; and
 - i. The Disabled Person shall not have an off-street parking space available; and
 - j. The grade of the Handicapped Parking Space shall not be greater than two percent (2%). If the grade of the Handicapped Parking Space, the proposed space shall be reviewed by the Township Engineer to ascertain if the grade would allow safe utilization of the space for Handicapped Parking.
3. Review. Upon receipt of a completed application from a Disabled Person, the Township Chief of Police shall immediately forward the application to the Board of Supervisors, which shall have a period of thirty (30) days from the

date of submission of the application by the Disabled Person to review the application and issue a final determination. The Chief of Police shall review the application to determine if the application meets all of the criteria set forth herein. Following the review of the application, a timely final determination shall be made by the Board of Supervisors written notice of such determination shall be issued by the Township to the Disabled Person.

4. Appeal. An aggrieved Disabled Person shall have the ability to appeal a final determination to the entire Board of Supervisors of the Township. A Disabled Person shall file such appeal by submitting a written request for reconsideration in writing to the Township Board of Supervisors within ten (10) days of the date of the final determination. Upon such appeal, the Board of Supervisors shall review the application to determine whether the decision shall be affirmed or reversed. The Board of Supervisors shall issue a decision on the appeal within thirty (30) days of receipt of the appeal request from the aggrieved Disabled Person. The aggrieved Disabled Person shall have the ability to appeal any decision of the Board of Supervisors to the Berks County Court of Common Pleas in accordance with the Pennsylvania Local Agency Law.
5. Deemed Denial. If the Township fails to timely issue a final determination in accordance herewith or if the Board of Supervisors fails to timely issue a decision on an appeal of a final determination in accordance herewith, the application of the Disabled Person shall be deemed denied. An aggrieved Disabled Person shall have the ability to appeal a deemed denial hereunder in accordance herewith to the Berks County Court of Common Pleas in accordance with the Pennsylvania Local Agency Law.
6. Approval and Installation. If the application is approved, the Township shall cause the curb at the requested location of the Handicapped Parking Space to be marked in blue and install the handicapped only parking sign post thereat in accordance with Pennsylvania law. The approval shall expire twelve (12) months from the date of installation unless renewed in accordance herewith.
7. Incomplete Application. An incomplete initial application or renewal application under this Part may be cause for the Board of Supervisors to deny said application.

§ 706. Annual Renewal.

1. All applications which are approved in accordance herewith shall be subject to an annual renewal process.

2. A Disabled Person may request renewal of an approved Handicapped Parking Space by submitting an application for renewal to the Township Chief of Police. An application for renewal shall be made on a form provided by the Township at least thirty (30) days prior to the expiration of the previous approval. The application shall require the Disabled Person to verify that the statements and information provided in the original application by the Disabled Person as required herein in order to maintain eligibility for a Handicapped Parking Space are still true and correct and subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities. The renewal application shall be reviewed by the Chief of Police in accordance herewith. Each approved renewal period shall expire twelve (12) months from the date of approval of the renewal application.

§707. Removal.

1. If, upon investigation, the Township determines that the Disabled Person is not eligible, as such, under the criteria set forth herein, the Township shall have the ability to remove the blue curb and handicapped parking only sign from the location upon written notice to the Disabled Person. The written notice shall state the reason(s) for the removal and provide the Disabled Person with ten (10) days in which to request a hearing before the Board of Supervisors to dispute the removal.
2. In the event that a previously approved Disabled Person fails to timely file an application for renewal in accordance herewith, the Township shall have the ability to remove the blue curb and handicapped parking only sign from the location in accordance with the notice provisions set forth herein.

§ 708. Change in Condition.

1. In the event that the Disabled Person experiences a material improvement in his/her physical condition (as supported by documentation from his/her treating physician) to the extent that the Disabled Person would no longer qualify under the criteria set forth herein, the Disabled Person shall immediately notify the Township of such change in condition within fifteen (15) days of notice from the treating physician to the Disabled Person. Upon receipt of such notice, the Township shall cause the removal of the blue curb and the handicapped parking only sign from the location.
2. Upon the death of a Disabled Person, the personal representative of the Disabled Person shall immediately notify the Township of such change in condition within fifteen (15) days of notice of such event. Upon receipt of

such notice, the Township shall cause the removal of the blue curb and the handicapped parking only sign from the location.

3. In the event that the Disabled Person would no longer reside at the address of the location of an approved Handicapped Parking Space for a period of more than thirty (30) consecutive days for whatever reason, the Disabled Person shall immediately notify the Township of such change in condition within fifteen (15) days of moving from said residence. Upon receipt of such notice, the Township shall cause the removal of the blue curb and the handicapped parking only sign from the location.

§ 709. Penalty.

1. An individual, who submits a false application or renewal application, shall upon conviction of a summary offense, be fined Five Hundred Dollars (\$500.00) plus costs, and upon default of payment, imprisonment for not more than thirty (30) days. Each false application submitted shall constitute a separate violation of this Part.
2. An individual, who fails to timely report a change in condition to the Township as required herein, shall upon conviction of a summary offense, be fined One Hundred Dollars (\$100.00) plus costs. Each day that the change in condition is not reported shall constitute a separate violation of this Part.
3. An individual, who parks a motor vehicle unlawfully in a Handicapped Parking Space, shall, upon conviction thereof, be fined not less than \$50 nor more than \$200 plus costs, and upon default of payment imprisonment for not more than thirty (30) days.
4. A vehicle parked unlawfully in a Handicapped Parking Space may be removed from that area by towing and may be reclaimed by the vehicle owner upon payment of the towing costs.

§ 710. Rules and Regulations.

The Township may from time to time promulgate or adopt or amend by resolution any rules, regulations and standards it deems appropriate to apply this Part's provisions. Such rules, regulations, standards and standard details shall be incorporated herein and shall be applied and enforced as though stated in full herein.

§711. Fee.

The fee for an initial or renewal application shall be as set from time to time by resolution adopted by the Township.

SECTION 5. Omnibus Traffic and Roads Ordinance. The Omnibus Traffic and Roads Ordinance of Tulpehocken Township, as amended, shall be and remain unchanged and in full force and effect except as amended, supplemented, and modified by this Ordinance. This Ordinance shall become a part of the Tulpehocken Township Omnibus Traffic and Roads Ordinance, as amended, upon enactment.

SECTION 6. Repealer. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance shall be and the same are hereby repealed.

SECTION 7. Severability. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Board of Supervisors of the Township of Tulpehocken that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 8. Effective Date. This Ordinance shall become effective five (5) days after enactment as provided by law.

ENACTED AND ORDAINED into an Ordinance this 10th day of November, A.D. 2014, by the Supervisors of Tulpehocken Township, Berks County, Pennsylvania in Lawful Session duly assembled.

BOARD OF SUPERVISORS
OF TULPEHOCKEN TOWNSHIP

Mary A. Dech

Richard A. Kramer

Pestus L. Feick

Attested by: Christy Flaherty
Secretary

CERTIFICATE OF ENACTMENT

I hereby certify the foregoing to be an exact copy of an Ordinance adopted by the Supervisors of Tulpehocken Township, Berks County, Pennsylvania, at a regular meeting of the Board on November 10, 2014.

Christy Flaherty
Secretary