

AN ORDINANCE OF THE COUNCIL OF THE CITY OF WHEELING AMENDING AND REENACTING PART THREE-TRAFFIC CODE ARTICLE 361 – ACCESSIBLE PARKING TO CREATE SUBSECTION 361.06 (J) CONCERNING THE DESIGNATION OF CITY STAFF AND THE CITY MANAGER AS ADMINISTRATORS OF SUCH ACCESSIBLE PARKING

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WHEELING:

Section 1. Sections 361.06, entitled “Accessible Parking” of the Codified Ordinances amended and reenacted to provide for the modifications of the Sections which shall hereafter read as follows:

361.06 ACCESSIBLE PARKING.

(a) As used in this section, the following terms have the meanings ascribed to them in this subsection:

(1) A person or applicant with a “mobility impairment” means a person who is a citizen of West Virginia and as determined by a physician, allopath or osteopath chiropractor, advanced nurse practitioner or physician’s assistant licensed to practice in West Virginia:

- A. Cannot walk two hundred feet without stopping to rest;
- B. Cannot walk without the use of or assistance from a brace, cane, crutch, prosthetic device, wheelchair, other assistive device or another person;
- C. Is restricted by lung disease to such an extent that the person’s force (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter or the arterial oxygen tension is less than sixty mm/hg on room air at rest;
- D. Uses portable oxygen;
- E. Has a cardiac condition to such an extent that the person’s functional limitations are classified in severity as Class III or Class IV according to standards established by the American heart association; or
- F. Is severely limited in his or her ability to walk because of an arthritic, neurological, or other orthopedic physical condition.

(2) “Special registration plate” means a registration plate that displays the international symbol of access, as adopted by the Rehabilitation International Organization in nineteen hundred sixty-nine at its Eleventh World Congress on Rehabilitation of the Disabled, in a color that contrasts with the background, in letters and numbers the same size as those on the plate, and which may be used in lieu of a regular registration plate;

(3) “Removable windshield placard” (permanent or temporary) means a two- sided, hanger style placard measuring three inches by nine- and one-half inches, with all of the following on each side:

- A. The international symbol of access, measuring at least three inches in height, centered on the placard, in white on a blue background for permanent designations and in white on a red background for temporary designations;
- B. An identification number measuring one inch in height;
- C. An expiration date in numbers measuring one inch in height; and
- D. The seal or other identifying symbol of the issuing authority.

(4) “Public entity” means state or local government or any department, agency, special

purpose district or other instrumentality of a state or local government.

(5) “Public facility” means all or any part of any buildings, structures, sites, complexes, roads, parking lots or other real or personal property, including the site where the facility is located.

(6) “Place(s) of public accommodation” means a facility or facilities operated by a private entity whose operations affect commerce and fall within at least one of the following categories:

- A. Inns, hotels, motels and other places of lodging;
- B. Restaurants, bars or other establishments serving food or drink;
- C. Motion picture houses, theaters, concert halls, stadiums or other places of exhibition or entertainment;
- D. Auditoriums, convention centers, lecture halls or other places of public gatherings;
- E. Bakeries, grocery stores, clothing stores, hardware stores, shopping centers or other sales or rental establishments;
- F. Laundromats, dry cleaners, banks, barber and beauty shops, travel agencies, shoe repair shops, funeral parlors, gas or service stations, offices of accountants and attorneys, pharmacies, insurance offices, offices of professional health care providers, hospitals or other service establishments;
- G. Terminals, depots or other stations used for public transportation;
- H. Museums, libraries, galleries or other places of public display or collection;
- I. Parks, zoos, amusement parks or other places of recreation;
- J. Public or private nursery, elementary, secondary, undergraduate or post-graduate schools or other places of learning and day care centers, senior citizen centers, homeless shelters, food banks, adoption agencies or other social service establishments; and
- K. Gymnasiums, health spas, bowling alleys, golf courses or other places of exercise or recreation.

(7) “Commercial facility” means a facility whose operations affect commerce and which are intended for nonresidential use by a private entity.

(8) “Accessible parking” formerly known as “handicapped parking” is the present phrase consistent with language within the American with Disabilities Act (ADA).

(9) “Parking enforcement personnel” includes any law enforcement officer as defined by West Virginia Code 30-29-1, and private security guards, parking personnel and other personnel authorized by a city, county or the state to issue parking citations.

(b) An accessible parking space should comply with the provisions of the Americans with Disabilities Act accessibility guidelines, contained in 28 C.F.R. 36, Appendix A, Section 4.6. In particular, the parking space should be a minimum of eight feet wide with an adjacent eight-foot access aisle for vans having side mounted hydraulic lifts or ramps or a five-foot access aisle for standard vehicles. Access aisles should be marked using diagonal two- to four-inch-wide stripes spaced every twelve or twenty-four inches apart along with the words “no parking” in painted letters which are at least twelve inches in height. All accessible parking spaces should have a signpost in front or adjacent to the accessible parking space displaying the international symbol of access sign mounted at a minimum of eight feet above the pavement or sidewalk and the top of the sign. Lines or markings on the pavement or curbs for parking spaces and access aisles may be in any color, although blue is the generally accepted color for accessible parking.

(c) A vehicle from any other state, United States territory or foreign country displaying an officially issued special registration plate, placard or decal bearing the international symbol of access shall be recognized and accepted as meeting the requirements of this section, regardless of where the plate, placard or decal is mounted or displayed on the vehicle.

(d) Free stopping, standing or parking places marked with the international symbol of access

shall be designated in close proximity to all public entities including state, county and municipal buildings and facilities, places of public accommodation and commercial facilities. These parking places shall be reserved solely for persons with a mobility impairment at all times.

(e) Any person whose vehicle properly displays a valid, unexpired special registration plate or removable windshield placard may park the vehicle for unlimited periods of time in parking zones unrestricted as to length of parking time permitted: Provided, that this privilege does not mean that the vehicle may park in any zone where stopping, standing or parking is prohibited or which creates parking zones for special types of vehicles or which prohibits parking during heavy traffic periods during specified rush hours or where parking would clearly present a traffic hazard. To the extent any provision of any ordinance of any political subdivision of this State is contrary to the provisions of this section, the provisions of this section take precedence and apply.

The parking privileges provided for in this subsection apply only during those times when the vehicle is being used for the loading or unloading of a person with a mobility impairment. Any person who knowingly exercises, or attempts to exercise these privileges at a time when the vehicle is not being used for the loading or unloading of a person with a mobility impairment, upon first conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined two hundred dollars (\$200.00); upon second conviction thereof, in addition to any other penalty, he or she may otherwise incur, shall be fined three hundred dollars (\$300.00); and upon third and subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined five hundred dollars (\$500.00).

(f) Any person whose vehicle does not display a valid, special registration plate or removable windshield placard may not stop, stand or park a motor vehicle in an area designated, zoned or marked for accessible parking with signs or instructions displaying the international symbol of access, either by itself or with explanatory text. The signs may be mounted on a post or a wall in front of the accessible parking space and instructions may appear on the ground or pavement, but use of both methods is preferred. Accessible parking spaces for vans having an eight-foot adjacent access aisle should be designated as "van accessible" but may be used by any vehicle displaying a valid special registration plate or removable windshield placard.

Any person who violates the provisions of this subsection shall be fined two hundred dollars (\$200.00); upon second conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined three hundred dollars (\$300.00); and upon third and subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined five hundred dollars (\$500.00).

(g) All signs that designate areas as "accessible parking" or that display the international symbol of access shall also include the words "Up to \$500 fine".

(h) No person may stop, stand or park a motor vehicle in an area designated or marked off as an accessible aisle to a van-accessible parking space or regular accessible parking space. Any person, including a driver of a vehicle displaying a valid removable windshield placard or special registration plate, who violates the provisions of this subsection shall be fined two hundred dollars (\$200.00); upon second conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined three hundred dollars (\$300.00); and upon third and subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined five hundred dollars (\$500.00).

(i) Parking enforcement personnel who otherwise enforce parking violations may issue citations for violations of this section and shall reference the number on the vehicle's license plate, since the driver normally will not be present.

(j) Law-enforcement agencies may establish a program to use trained volunteers to collect

information necessary to issue citations to persons who illegally park in designated accessible parking spaces. Any law-enforcement agency choosing to establish a program shall provide for workers' compensation and liability coverage. The volunteers shall photograph the illegally parked vehicle and complete a form, to be developed by supervising law-enforcement agencies, that includes the vehicle's license plate number, date, time and location of the illegally parked vehicle. The photographs must show the vehicle in the accessible space and a readable view of the license plate. Within the discretion of the supervising law-enforcement agency, the volunteers may issue citations or the volunteers may submit the photographs of the illegally parked vehicle and the form to the supervising law-enforcement agency, who may issue a citation, which includes the photographs and the form, to the owner of the illegally parked vehicle. Volunteers shall be trained on the requirements for citations for vehicles parked in marked, zoned or designated accessible parking areas by the supervising law-enforcement agency.

(k) The Municipality in enforcing this section shall retain all fines and associated late fees. These revenues shall be used first to fund the provisions of subsection (j) of this section, if adopted by the Municipality or otherwise shall go into the Municipality's General Revenue Fund. (WVaC 17C-13-6)

(j) Accessible Parking space application, approvals and location modification and removals, previously administered through a Traffic Commission process, shall be administered by City Staff. Such handicap accessible parking matters shall proceed in a similar fashion as other parking regulations initiating with the office of the City Clerk, however the City Manager or his delegee has the authority to make all final decision regarding such handicapped accessible parking spaces.

Section 2. This ordinance shall be effective from and after the date of its passage.

By the Administration.