

ORDINANCE 17-2009

**AN ORDINANCE TO AMEND AND SUPPLEMENT
THE REVISED GENERAL ORDINANCES OF THE
TOWNSHIP OF MENDHAM TO AUTHORIZE THE
WAIVER OF CONSTRUCTION PERMIT FEES,
BUILDING DEPARTMENT AND MUNICIPAL
APPLICATION FEES FOR CONSTRUCTION AND
APPROVALS TO PROMOTE HANDICAP
ACCESSIBILITY**

WHEREAS, the Township Committee of the Township of Mendham (referred to hereinafter as the "Township Committee") wishes to uphold and promote handicapped accessibility to existing residential structures within the Township; and

WHEREAS, the Township Committee finds that the imposition of fees for construction projects related to providing handicapped accessibility is detrimental to the goal of handicapped accessibility; and

WHEREAS, the State Uniform Construction Code Act, N.J.S.A. 52:27D-119, et seq. (the "Act") permits municipalities, by ordinance, to waive all construction permit surcharge fees and Township Building Department fees for any construction, reconstruction, alteration or improvement designed and undertaken to promote accessibility by disabled persons to that person's existing living unit; and

WHEREAS, the Act and the Municipal Land Use Law, N.J.S.A. 40:55D-8(e) further permit municipalities, by ordinance, to waive all municipal fees and charges to secure a construction permit for any disabled person or family member for any construction, reconstruction, alteration or improvement which promotes accessibility to his/her own living unit.

NOW , THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Mendham , in the County of Morris and the State of New Jersey , as follows:

Section 1. Subsection 25-1.4 entitled "Fees" of the "Revised General Ordinances of the Township of Mendham ," (referred to hereinafter as the "Code"), is hereby amended to include the following:

"25-1.4(d) **Waiver of Fees and Charges Related to Handicap Accessibility.** Notwithstanding the fees set forth in Section 25-1.4(a) through (c), no person shall be charged a construction permit surcharge fee or Township Building Department fee for any construction, reconstruction, alteration or improvement designed and undertaken solely to promote accessibility by disabled persons to an existing living unit or any of the facilities contained therein."

Section 2. For purposes of this ordinance, “disabled person” means a person who has the total and permanent inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment, including blindness, and shall include, but not be limited to, any resident of this State who is disabled pursuant to the federal Social Security Act (42 U.S.C. § 416), or the federal Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.) or is rated as having a 60% disability or higher pursuant to any federal law administered by the United States Veteran’s Act. For purposes of this ordinance, “blindness” means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered as having a central visual acuity of 20/200 or less.

Section 3. Subsection 13-14 entitled “Application Fees and Related Charges” is hereby amended to include the following:

“13-14.1(o) Notwithstanding the fees set forth in this Section 13-14.1, no disabled person, or the parent or sibling of a disabled person, shall be charged any application fee in order to secure an approval for any construction, reconstruction, alteration or improvement which promotes accessibility to his or her own living unit.”

Section 4. Chapter XII entitled “General Definitions” of the Code is hereby amended to include the following:

“Disabled Person means a person who has the total and permanent inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment, including blindness, and shall include, but not be limited to, any resident of this State who is disabled pursuant to the federal Social Security Act (42 U.S.C. § 416), or the federal Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.) or is rated as having a 60% disability or higher pursuant to any federal law administered by the United States Veteran’s Act. For purposes of this ordinance, “blindness” means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered as having a central visual acuity of 20/200 or less.

Section 5. If any portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion, and such holding shall not affect the validity of the remaining portions hereof.

Section 6. All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

Section 7. This Ordinance shall take effect immediately upon final passage and publication in the manner according to law.

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Introduced: July 28, 2009

Adopted:

Effective:

Attest:

TOWNSHIP OF MENDHAM

COUNTY OF MORRIS

Ann L. Carlson, RMC

Frank V. Cioppettini, Jr.

Township Clerk

Mayor