

**ORDINANCE NO. 09-2020      AN ORDINANCE AMENDING AND SUPPLEMENTING  
CHAPTER 151, THE PEDDLERS AND SOLICITORS  
ORDINANCE, OF THE CODE OF THE BOROUGH OF  
KINNELON TO AMEND THE PERMIT FEE SCHEDULE  
AND TO CLARIFY THE PERMIT APPLICATION,  
PERMIT REVOCATION, AND PERMIT DENIAL AND  
REVOCATION APPEAL PROCESSES**

**WHEREAS**, pursuant to N.J.S.A. 40:48-1 et. seq., N.J.S.A. 40:52-1; and N.J.S.A. 45:24-1 et. seq. the governing body of a municipality may make, amend, repeal and enforce ordinances to regulate the conduct of peddlers and solicitors; and

**WHEREAS**, the Borough of Kinnelon desires to amend Section 151-8 “Fees” of Chapter 151 of the Code of the Borough of Kinnelon (the “Peddlers and Solicitors Ordinance”) in order to amend the permit fee schedule and required fees contained therein; and

**WHEREAS**, the Borough of Kinnelon desires to amend Sections 151-4 “Application for Permit”, 151-5 “Investigation by Borough Chief of Police; Report of approval or disapproval”, and 151-6 “Issuance of permit; grounds for denial” of the Peddlers and Solicitors Ordinance in order to clarify the application process for a permit and to strike the submission of fingerprints to the Borough as a requirement for issuance of a permit so that the Borough Code is consistent with the holding set forth in N.J. Citizen Action v. Edison Township, 797 F.2d 1250 (3d Cir. 1986) invalidating a fingerprinting requirement for solicitor permits in the absence of supporting evidence that solicitors pose a significant history of criminal behavior within a municipality; and

**WHEREAS**, the Borough of Kinnelon desires to amend Section 151-13 “Revocation of Permit; hearing” of the Peddlers and Solicitors Ordinance and add new Section 151-14 in order to clarify the revocation process for holders of a permit and to clarify the permit revocation and permit denial appeal processes.

**NOW, THEREFORE, BE IT ORDAINED**, by the Governing Body of the Borough of Kinnelon, County of Morris, State of New Jersey, as follows:

**SECTION 1.** Section 151-8 “Fees” at subsection “A” shall be amended such that the fee for a permit issued for a calendar year expiring on December 31 shall be amended from \$200.00 to \$100.00 and the permit fee for a daily permit shall be amended from \$50.00 to \$20.00, such that as amended, subsection “A” shall read as follows:

- A. The fee for a permit granted for the calendar year expiring on December 31 shall be \$100.00. A permit granted for one day shall be \$20.00.

**SECTION 2.** Section 151-8 “Fees”, subsection “B” shall be stricken in its entirety and subsection “C” of Section 151-8 re-lettered to be subsection “B” of Section 151-8 “Fees”.

**SECTION 3.** Section 151-4 “Application for Permit” shall be stricken in its entirety and replaced with the following language and shall now read as follows:

**§151-4. Application for Permit.**

All persons, except as otherwise provided by this Chapter or by law, desiring to solicit for charitable or other purposes or to peddle, solicit, canvass, hawk (collectively “solicit”) within the Borough shall file with the Borough Clerk prior to any such solicitation, a solicitation permit application on forms provided by the Borough Clerk. This shall include all persons who are driving a vehicle within the Borough to transport persons peddling, soliciting, canvassing and hawking. The application shall set forth, and include, the following information:

A. Whether the person registering is a natural person, partnership, or corporation and:

i. if a natural person, the business and residence address and telephone number must be given.

ii. if a partnership, the names of all partners and the principal business address and telephone number of each partner must be given.

iii. if a corporation, trust, foundation, association, society or other group, the person registering must state whether it is organized under the laws of New Jersey or is a foreign corporation and must state the mailing address, the business location, the telephone number, the name of the individual in charge of the local office of such corporation;

B. The name, address, date of birth, social security number and photo identification (which the Borough Clerk will photocopy and attach to the application) of the person or persons who shall be conducting the solicitation or otherwise peddling, soliciting, canvassing or hawking. Each individual must answer if he/she has been convicted of a crime, and if "yes", must provide an explanation of the crime, location, and date;

C. A brief description of the nature of the business and the goods to be sold or services to be performed for which funds are to be solicited and an explanation of the intended use of the funds toward that purpose;

D. The time period within which the solicitation or the peddling, soliciting, canvassing or hawking is to be conducted, giving the date of the commencement and termination of the effort;

E. If a vehicle or vehicles are to be used in the solicitation, or to transport persons soliciting, a description of the same, including year, make and model, together with the license plate number, state, vehicle registration certificate information and liability insurance information or other satisfactory means of identification;

F. Complete driver's license information and driver's license numbers of all solicitors, canvassers, peddlers and hawkers, copies of current Motor Vehicle Commission ("MVC") driver history abstracts for the last five (5) years and a criminal history background check from a State of New Jersey approved vendor. Neither the MVC abstracts nor the criminal history background checks shall be older than thirty (30) days from the date the permit application is filed with the Borough;

G. The applicant shall be responsible for the payment of all fees associated with obtaining the MVC driver's history abstract and criminal history background check from a State approved vendor. The MVC driver history abstract must be transmitted directly from the MVC to the Borough Police Department with a copy to the Applicant, and the criminal history background check must be transmitted directly from the State approved vendor to the Borough Police Department, with a copy to the Applicant;

H. The names of any other municipalities in which the person registering has solicited or otherwise peddled, solicited, canvassed or hawked within the previous 12 months;

I. An application for a permit shall be verified under oath and shall contain such information determined to be necessary to identify each person or organization and the cause or purpose of the solicitation, peddling, canvassing or hawking. It shall be the sole responsibility of the applicant to secure MVC driver history abstracts and criminal history background checks, and arrange for/authorize them to be sent to the Borough Police Department. An application shall not be complete until such time as all reports (including but not limited to MVC driver history abstracts and criminal history background checks) have been RECEIVED by the Borough Clerk/Police Department as applicable;

J. If while the application is pending, or during the term of any permit granted hereunder, there is any change in the information set forth in the application, the applicant shall notify the Borough Clerk in writing thereof within 24 hours after such change; and

K. The Borough Chief of Police shall review all complete applications, MVC driver history abstracts and criminal history background checks and applicant qualifications as set forth herein and shall provide recommendations to the Borough Clerk.

**SECTION 4.** Section 151-5 "Investigation by Borough Chief of Police; report of approval or disapproval" shall be amended and re-titled "Review by Borough Chief of Police; report of approval or disapproval". Subsections "A" and "B" of Section 151-5 are stricken in their entirety and replaced with the following language and shall now read as follows:

**§151-5. Review by Borough Chief of Police; report of approval or disapproval.**

A. Upon receipt of such application, the original shall be filed with the Borough Clerk and a duplicate shall be referred to the Borough Chief of Police. The Borough Chief of Police shall review the complete permit application inclusive of MVC driver history abstract and criminal history background check, and all information required to be submitted to determine its compliance with the terms of this Chapter within 14 business days after receipt of the complete application. The Borough Chief of Police shall review said application to ascertain that the applicant has not been convicted of a crime (and is not subject to any outstanding criminal warrants or indictments) relating to fraud, deception, theft or assault, and that he/she is selling or soliciting for a project free from fraud or other criminal purpose.

**SECTION 5.** Subsection “C” of Section 151-5 shall be re-lettered to be subsection “B” of Section 151-5 “Review by Borough Chief of Police; report of approval or disapproval” and the opening paragraph therein amended with the following language to now read as follows:

B. Upon completion of his review, the Borough Chief of Police shall make a written report to the Borough Clerk with his recommendations and reasons therefore regarding approval or disapproval and return the application to the Borough Clerk. Any recommendation by the Borough Chief of Police that a permit should not be issued to the applicant shall be based on one or more of the following findings of fact with respect to the applicant:

**SECTION 6.** Section 151-6 “Issuance of permit; grounds for denial” at subsection “A” shall be amended such that as amended, subsection “A” shall read as follows:

A. Prior to issuing any permit, the Borough Clerk shall consider all of the information supplied in and with the application as well as the written report by the Borough Chief of Police.

**SECTION 7.** Section 151-6 “Issuance of permit; grounds for denial” shall be supplemented with the addition of the following subsection:

C. Within 3 business days of receiving the Chief of Police’s written report, the Borough Clerk shall upon payment of the prescribed fee or in the event of an applicant who is not required to pay a fee, issue a permit and certificate of registration to the applicant or notify the applicant that his/her application is disapproved and that no permit will be issued. The reasons for disapproval shall be noted on the application and notice shall be by regular U.S. mail, postage prepaid to the applicant at the address shown on the application form or at the applicant’s last known address, as well as to the applicant’s email address as listed on the application.

**SECTION 8.** Section 151-13 “Revocation of permit; hearing” shall be stricken in its entirety and replaced with the following language and shall now read as follows:

**§151-13. Revocation or Suspension of Permit; hearing.**

Any permit issued under the provisions of this Chapter may be revoked by the Chief of Police on a showing that any of the provisions of this chapter have been violated or for other good cause. Upon learning of the alleged violation of any provisions of this Chapter, or for other good cause, the Chief of Police shall immediately suspend the permit and give the permittee written notice of a hearing to be held by him within five (5) days of such suspension to determine whether or not the permit should be revoked. The notice shall contain a statement of facts upon which the Chief of Police has acted in suspending the permit, and will be served by certified U.S. mail, return receipt requested, to the permit holder at the address shown on the application form or at the his/her last known address. Notice shall be effective upon mailing. A copy of said notice shall also be sent to the permit holder’s email address as listed on the application. If, after such hearing, the Chief of Police finds that this Chapter has been violated or other good cause exists, he shall, within five (5) days of the hearing revoke the permit and give the holder thereof written notice of said revocation and the reasons thereof. Or in the absence of such finding, the permit holder shall within five (5) days of the hearing be notified in writing of the termination of the suspension of the permit. Notice shall be by U.S. mail to the permit holder at the address shown on the application form or at his/her last known address, and shall be effective upon mailing. A copy of said notice shall also be sent to the permit holder’s email address as listed on the application.

In addition, any permit which may have been issued may be revoked for a violation of this Chapter or on good cause shown by majority vote of the Borough Council at any regular or special meeting thereof after five (5) days’

written notice to the permit holder and upon affording the said holder of an opportunity to be heard with respect to the reasons for such revocation. Notice shall be served by certified U.S. mail, return receipt requested, to the permit holder at the address shown on the application form or at the his/her last known address, and shall be effective upon mailing. A copy of said notice shall also be sent to the permit holder's email address as listed on the application.

Any revocation made by the Chief of Police or Borough Council shall be for one year from the date of revocation.

**SECTION 9.** A new Section shall be included within Chapter 151 and the new Section shall be numbered Section 151-14. The existing Section 151-14 shall be renumbered "151-15"; the existing Section 151-15 shall be renumbered "151-16".

**SECTION 10.** The new Section 151-14 shall be added to the Borough Code of the Borough of Kinnelon, in the County of Morris, State of New Jersey, and shall read as follows:

**§151-14. Appeal; Reinstatement of Revoked Permit.**

A. Any person aggrieved by the action of the Borough Clerk or Chief of Police in the denial of an application for a permit, or in the decision with reference to revocation of a permit, shall have the right to appeal to the Borough Council. Such appeal shall be taken by filing with the Borough Clerk, within fourteen (14) days after notice of the action complained of has been mailed to such applicant or permit holder's address as stated on the application or last known address, a written statement setting forth fully the grounds for a hearing on such appeal. The Borough Council shall set a time and place for hearing the appeal and a notice of the hearing shall be given to the permit holder/applicant. The decision of the Borough Council on the appeal shall be final and conclusive.

B. The Borough Council may issue another permit to a person whose permit has been revoked or denied as provided in this Chapter if, acting after a hearing they are satisfied by clear and convincing evidence that the acts which led to the revocation or denial will not occur again; otherwise, no person whose permit has been revoked or denied nor any person for him/her, directly or indirectly shall be issued another permit to solicit. The revocation shall be for one year from the date of revocation, after which the person may make another application, which shall be reviewed in accordance with this Chapter.

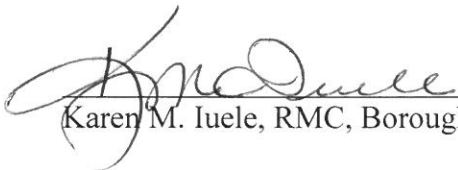
**SECTION 11.** All ordinances, resolutions and regulations or parts of ordinances, resolutions and regulations inconsistent herewith are hereby repealed to the extent of such inconsistency.


**SECTION 12.** If any section, paragraph, article, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply to the section, paragraph, article, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

**SECTION 13.** This Ordinance shall take effect after approval and publication as required by law.

ATTEST:

BOROUGH OF KINNELON

  
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Karen M. Iuele, RMC, Borough Clerk

  
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James J. Freda, Mayor

**CERTIFICATION**

I, Karen M. Iuele, Borough Clerk of the Borough of Kinnelon, County of Morris, State of New Jersey, do hereby certify the foregoing to be a true copy of an Ordinance introduced, read by title and passed on the first reading at the regular meeting of the Borough held on May 21, 2020 and adopted by the Governing Body at a regular meeting of the Borough held on June 18, 2020.

  
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Karen M. Iuele, RMC, Borough Clerk