

**ORDINANCE NO. 7-21**

**AN ORDINANCE AMENDING CHAPTER 156, USE OF PUBLIC PROPERTY ORDINANCE, OF THE CODE OF THE BOROUGH OF KINNELON TO ESTABLISH UNIFORM RULES AND REGULATIONS FOR THE USE OF BOROUGH PARKS, RECREATIONAL AREAS, OPEN SPACE, AND OTHER PUBLIC PROPERTY**

**WHEREAS**, pursuant to N.J.S.A. 40:48-1 et. seq., the governing body of a municipality may make, amend, repeal and enforce ordinances to manage, regulate and control the real property of the municipality; and

**WHEREAS**, the Borough of Kinnelon desires to amend Chapter 156 (“Public Property, Use of”) of the Code of the Borough of Kinnelon to repeal existing Articles I and II, add new Articles I through XII, and renumber existing Article III, in order to establish clearer and more uniform rules and regulations for the use of all parks, recreational areas, open space and other public property owned by or under the jurisdiction and care of the Borough of Kinnelon, to ensure public safety and pleasure, and to protect and adequately control said parks, recreational areas, open space and other public property.

**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.** Article I “Motor Vehicles and Horses” and Article II “Parks and Recreation Areas” of Chapter 156 of the Code of the Borough of Kinnelon shall be stricken in their entirety and replaced with the following Articles I through XII and shall now read as follows:

## ARTICLE I DEFINITIONS

### Section 1. Definition of Terms

Whenever used in any Borough of Kinnelon Regulations, the following respective terms, unless otherwise therein expressly defined, shall mean and include each of the meanings herein respectively set forth:

- a. "Borough": Borough of Kinnelon, Morris County, New Jersey.
- b. "Kinnelon Parks" or "Parks," "Park Areas," "Park System," "Open Space,": All the real property acquired by or under the jurisdiction and care of the Borough of Kinnelon; or which may be hereafter acquired by it or come under its jurisdiction for recreational purposes or other municipal purposes.
- c. "Public property" or "municipal property": property owned by or under the jurisdiction and care of the Borough of Kinnelon.
- d. "Dusk": Sunset
- e. "Regulations": Any Regulations duly adopted, posted, and published by the Borough of Kinnelon.
- f. "Owner": Any person, firm, association, co-partnership, or corporation owning, operating, or having the exclusive use of a vehicle, under a lease or otherwise, for a period greater than thirty (30) days.
- g. "Parking Place": Any part of the drive or space designated as a place for the standing of vehicles.
- h. "Officer": Any Police Officer or other designated official of the Borough of Kinnelon.
- i. "Bridle Path" or "Equestrian Trail": Any path maintained for persons riding on horseback.
- j. "Walk": Any path maintained for pedestrians.
- k. "Permit": Any written license issued by or under the authority of the Borough of Kinnelon, permitting the performance of a specified act or acts.
- l. "Person": Any natural person, corporation, company, association, joint stock association, firm, or co-partnership.
- m. "Vehicle": Any motorized vehicle or any vehicle propelled by muscular power, either licensed or unlicensed.

- n. “Off Road Vehicles”: Any powered vehicle designed for cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other terrain that would include, but not be limited to, such vehicles as all-terrain vehicles, dirt bikes, motorcycles, mopeds, ebikes, snowmobiles, amphibious and air cushion vehicles; except those vehicles utilized for fire, emergency, or law enforcement purposes and any vehicle whose use is expressly authorized by the Borough of Kinnelon.
- o. “Official Opening”: The time when gates, entrances, or doors to facilities are opened to allow entrance to the public or signs indicating an opening time are posted.
- p. “Solicit”: Selling goods or services by sample or taking orders for future delivery, with or without accepting advance payment for the goods or services, or seeking any form of contributions.

**ARTICLE II  
PERMITS FOR SPECIAL EVENTS**

Section 1. Permit Application

Permits for special events or activities shall be obtained by application to the Kinnelon Recreation Director or Borough Clerk in accordance with the following procedures:

- a. A person seeking issuance of a permit for recreational or athletic use shall file an application with the Recreation Director. A person seeking issuance of a permit for a non-recreational or non-athletic use (such as for a concert, rally or political event, etc.) shall file an application with the Borough Clerk.
- b. Permit applications for recreational or athletic use should be made at least 7 days in advance of the proposed use. Permit applications for non-recreational or non-athletic use shall be made at least 60 days in advance of the proposed use.
- c. A person seeking issuance of a permit hereunder shall provide the following information:
  - 1. The name and address of the applicant;
  - 2. The name and address of the person, persons, corporation, or association sponsoring the activity, if any;
  - 3. The day and hours for which the permit is desired;
  - 4. The park, or portion thereof, for which such permit is desired;
  - 5. Any other information which the Recreation Director or Borough Clerk shall find reasonably necessary to render a fair determination as to whether a permit should be issued hereunder.
- d. A person seeking issuance of a permit hereunder shall submit the following:
  - 1. A certificate of liability insurance or an indemnification agreement;

2. Proof of non-profit status (if applicable);
3. Payment by check of the required usage fee (recreational and athletic fees are set forth in Chapter 119, Article I);
4. Acknowledgment of adherence to Borough health and safety guidelines.

## Section 2. Standards for Issuance

Standards for issuance of a use permit by the Recreation Director or Borough Clerk include the following findings:

- a. The proposed activity or use of the park will not unreasonably interfere with or detract from the general public enjoyment of the park.
- b. The proposed activity and use will not unreasonably interfere or detract from the promotion of public health, welfare, safety and recreation.
- c. The proposed activity or uses that are reasonably anticipated will not include violence, crime or disorderly conduct.
- d. The proposed activity will not entail extraordinary or burdensome expense or policing by the Borough. The need for police presence will be determined by the Kinnelon Police Department. All costs incurred for policing of the proposed activity shall be paid by the permittee.
- e. The facilities desired have not been reserved for other use at the date and hour requested in the application.

For any denial of an application, the Recreation Director or Borough Clerk shall apprise an applicant of the denial and the reasons for refusal in writing.

## Section 3. General Provisions

- a. A permit to do any act shall authorize the same only insofar as it may be performed in strict accordance with terms and conditions thereof. Any violation by its holder or his agents or employees of any terms or conditions thereof, shall constitute grounds for its revocation by the Borough.
- b. A permittee shall be bound by all park rules and regulations and all applicable ordinances fully as though the same were inserted in the permits.
- c. The person or persons to whom the permit is issued shall be liable for all loss, damage or injury sustained by any person whatever by reason of the negligence of the person or persons to whom the permit shall have been issued. The Recreation Director or Borough Clerk shall have the right to require any permittee to submit evidence of liability insurance covering injuries to members of the general public

arising out of such permitted activities in such amounts as may be from time to time determined by the Recreation Director or Borough Clerk prior to the commencement of any activity for which a permit has been issued or issuance of any permit.

- d. All permits that are granted must be produced upon demand of a Police officer or other designated Borough official.

#### Section 4. Revocation

The Recreation Director or Borough Clerk shall have the absolute authority to revoke a permit upon finding of a violation of any rule, regulation or ordinance or upon good cause shown. In case of the revocation of any Borough permit, all monies paid for or on account thereof shall, at the option of the Borough, be forfeited to and be retained by it; and the holder of such permit, together with his agents and employees who violated such terms and conditions, shall be jointly and severally liable to the Borough for all damages and loss suffered by it in excess of the money so forfeited and retained; but neither such forfeiture and retention by the Borough of the whole or any part of such monies, nor the recovery or collection thereby of such damages, or both, shall in any manner relieve such person or persons from liability to punishment for any violation of any provision of any Borough Regulation. These Regulations shall be deemed a part of each permit issued.

### **ARTICLE III PROHIBITED ACTS**

#### Section 1. Advertising

No person shall advertise within the Park System without the written authorization of the Borough.

#### Section 2. Solicitation

No person, business, group, or organization shall solicit for business, alms, contributions, or for any purpose, or distribute any leaflets, literature or promotional material of any kind, without written authorization of the Borough.

#### Section 3. Animals

No person shall cause or permit any animal owned by him, in his custody or under his control, except a dog in a permitted area when restrained by a leash not exceeding 6 feet in length, or a service animal as defined by New Jersey state law or federal law, to go or be in any Park area, and each such animal so found at large may be seized and disposed of as provided by the law or ordinance covering the disposal of stray animals on highways or public property then in effect at the place where such stray animal may be seen.

Any person having control, or person that should have control over an animal or animals within the Park System shall dispose of any feces left by the animal(s) in a publicly maintained area or close enough to a publicly maintained area as to cause public annoyance. Such feces shall be disposed of in a sanitary manner.

Section 4. Explosives

No person shall bring into, or have in said Parks, any explosives without the written authorization of the Borough.

Section 5. Poisons

No person shall bring into, or have in said Parks, any poison or poisonous substance, without the written authorization of the Borough.

Section 6. Fires and fireworks.

No person shall build, light, or maintain any fire, camp fire, barbeque, grill or stove for any purpose without the written authorization of the Borough.

No person shall discharge or set off within the Park System any firecrackers, torpedo rockets or other fireworks. At the discretion of the Recreation Director and Mayor and Council, permits may be given for conducting properly supervised fireworks in designated areas.

Section 7. Loitering

No person shall be permitted within the Park System after sunset except as authorized by a specific Borough activity or permit, or enter the Park System before its official opening.

Section 8. Merchandise Sale Prohibited

No person shall sell or offer for sale any object or merchandise or any other thing, whether corporeal or incorporeal, except pursuant to a permit issued by the Borough.

Section 9. Alcohol

It shall be unlawful for anyone to possess or consume alcoholic beverages in Borough parks and recreation areas except in such instances when permission shall be given by the Mayor and Council for a specific use, in which event a resolution shall set forth the name of the organization receiving such permission, the date and hours of permitted use, and any other limitations or restrictions which might be deemed appropriate.

A person shall be presumed to have consumed an alcoholic beverage in violation of this section if an unsealed container of an alcoholic beverage is found in their possession or constructive possession, the contents have been partially consumed, and the physical appearance or conduct of the person may be associated with the consumption of an alcoholic beverage. For the

purposes of this section, the term “unsealed” shall mean a container with its original seal broken or a container such as a glass or a cup.

Section 10. Possession of Weapons

No person, except duly authorized law enforcement officers, shall possess any weapons as defined by NJSA 2C:39-1 in any Park without the written authorization of the Borough.

Section 11. Discharge of Weapons

No person, shall discharge a weapon within the Park System without the written authorization of the Borough. The term weapon shall include, but not be limited to, firearms, paint guns, toy cannons, bows and arrows, crossbows, air guns, and sling shots. Nothing in this section shall apply to police officers or animal game wardens discharging their weapons in the performance of their duties.

Section 12. Urinating and Defecating

No person shall urinate or defecate except in facilities provided for such use.

Section 13. Changing/Disrobing in Unauthorized Areas

No person shall change in or out of any clothing or bathing attire except in areas designated or customarily provided for such use.

Section 14. Spitting

No person shall spit within the Park System except into sinks, containers, or materials customarily provided for such purposes, and any such spitting that is allowed shall be disposed of in a sanitary manner.

Section 15. Tobacco

No person shall smoke cigarettes, cigars, or other tobacco or vaping products within a Borough Park, Open Space or Recreation area.

Section 16. Marijuana

No person shall smoke, vape, chew or otherwise ingest marijuana, cannabis and derivative products, nor sell, purchase or convey any of the aforesaid, within a Borough Park, Open Space, Recreation area or other municipal property.

Section 17. Camping

No person shall erect or maintain a tent or shelter and/or camp in any Park except as approved by a Borough permit. Such permit will specify the date, time and duration of the permitted activity. RV's, campers and trailers are prohibited.

Section 18. Litter – Carry In, Carry Out

No person shall leave any litter, trash or refuse of any kind in any Park. Containers, wrappers, etc. from permitted food or drinks must be removed from the Park. In areas where refuse and/or recyclable receptacles are provided, refuse and recyclables may be deposited in receptacles provided for that purpose.

Section 19. Illegal Substances

No person shall possess, use, sell, purchase or convey any drugs or other illegal or controlled substances, or the paraphernalia utilized for such substances.

**ARTICLE IV  
REGULATED ACTS**

Section 1. Aviation

No person, except in an emergency, shall launch, land, or operate any aviation apparatus within the Park System without the written authorization of the Borough.

Section 2. Bathing

No person shall bathe, wade, or swim in any park waters except at such times and in such places as the Borough may designate.

Section 3. Boating

Any person operating a boat, kayak, canoe, inflated float, raft, or other watercraft in any park waters must abide by the following regulations:

- a. Gasoline powered watercraft, including jet skis, are prohibited, except as used by police, fire department and other first responders in an emergency.
- b. Inflatable conveyences such as rafts, inner tubes, etc. are prohibited.
- c. All boaters are required to wear life preservers.
- d. Boaters shall refrain from rocking, tipping, or otherwise operating the boat in an unsafe manner.
- e. Boats shall dock at designated areas only. Landing boats at any area other than a designated boat dock or ramp is strictly prohibited.
- f. Boats shall maintain a safe distance from a dam or other hazardous areas and from other boaters.



- g. Boaters are required to remain seated in their boats at all times. Bathing or jumping in the water from boats is prohibited.
- h. Boaters are required to conform to limits on the number of occupants and weight load per boat, as designated by the capacity/weight specifications of their boat.
- i. Anyone destroying Borough property will be directed to leave and be further liable for damages.
- j. Those persons utilizing a lake, pond or other waterway shall conform with the directions of Borough Police Officers, or any other authorized representative of the Borough.
- k. Pets are prohibited on any boat.
- l. Children under the age of 14 in boats must be accompanied by an adult.
- m. No watercraft or other personal property may be stored in any Park.

#### Section 4. Skating

No person shall use in-line skates, roller skates, skateboards or scooters except at places designated by the Borough. No person shall ice skate or go upon the ice except at such times and upon such places as designated by the Borough.

#### Section 5. Sledding, Skiing

No person shall coast with sleds, bobs, skis or carts within a Borough park or recreation area.

#### Section 6. Aviation Models/Drones

No person shall engage in the use of gas or battery operated model aviation devices, including drones, within a Borough park, recreation area, or other public or municipal property.

#### Section 7. Horses

No person shall use, ride, or drive a horse except at such times and only in paths and areas designated by the Borough.

#### Section 8. Bicycles

Riding of bicycles on playing fields is prohibited. Bicycles must be placed in designated parking areas.

#### Section 9. Groups

No group of ten (10) or more persons shall use a Park or recreation area for a picnic or outing without first having obtained a permit in advance from the Recreation Director. Adult supervision of children's groups is required at all times.

No person shall call or hold any public meeting or give any concert or entertainment of any kind or erect any structure, stand, tent, or platform, utilize any loudspeaker, public address system, or

amplifier except by the specific written authority of the Borough, as authorized by permit. In addition, any athletic event or organized game, not sponsored by the Borough, to be played or conducted on Park facilities shall require a permit issued by the Borough noting the date, hour, and duration. No other organized group or persons other than the one holding the permit shall use such facilities during the time indicated on the permit.

If Police officers or other security is required for a permitted event, the cost of such security will be paid for by the group requesting the permit at the time the permit is issued. The need and level of security will be determined by the Borough.

#### Section 10. Playing Fields

Playing fields may be used during scheduled hours only, except when they are being used for a Borough sponsored or permitted event. Permits for an organized event shall be obtained from the Recreation Director. No other organized group or person other than the one holding the permit shall use such facilities during the time covered by the specific authority of the Director.

#### Section 11. Tennis Courts

Tennis courts shall be open for use on a first come first served basis, except when the courts are being utilized for a Borough sponsored or permitted event.

#### Section 12. Field Houses

Entrance to field houses in Borough parks and recreation areas is restricted to authorized Borough personnel. All other persons must have and obtain the permission of the Recreation Director to gain entry.

#### Section 13. Regulation of Activities

Borough Police officers, or other designated Borough officials, have the right and the power to enforce all the Rules and Regulations of the Borough, and violators of the Rules and Regulations may be directed to leave and may be subject to further penalties as determined by the Borough or Statutes.

### **ARTICLE V VEHICLES**

#### Section 1. Additional regulated public property.

In addition to Kinnelon Parks, Park Areas, Park System and Open Space, this Article shall, as applicable, also regulate easements and sidewalks or areas dedicated or commonly used for pedestrian traffic, Borough storage facilities, Borough garage areas, pet parks, Board of Education properties and any and all other Borough and publicly owned or rented lands and premises, other than improved rights-of-way, parking areas, driveways and dedicated roads and streets (hereinafter "other public property").

## Section 2. Motor Vehicle Act and Traffic Laws

All the provisions of the New Jersey State Motor Vehicle Act and Traffic Laws shall apply in the Parks and other public property and shall be strictly enforced with also such further restrictions as may be hereinafter stated.

## Section 3. Vehicles Where Prohibited

No person shall ride or drive any type of vehicle within or upon a walk, bridle path, or any part of the park not designated or customarily used for such purpose, or within or upon any other public property, except or unless authorized by a specific permit issued by the Borough, or directed by a Borough Police Officer or other authorized Borough official.

## Section 4. Obeying Officers

When a Borough Police officer or other designated Borough official is directing traffic, all drivers of vehicles and pedestrians shall obey his/her orders and directions whether by hand, voice, or other manner.

## Section 5. Parking

No owner or driver shall park any vehicle anywhere outside of designated parking spaces, or leave a vehicle parked anywhere on Borough Park or other municipal property after sunset or the conclusion of an authorized Borough event, whichever is later, except at such times and in such places as the Borough may designate. Any vehicle parked or standing as to obstruct or impede a normal flow of traffic, block entrances or exit ways, loading zones, oil or gas fills, any grass area, fire zone, pedestrian walkways, after the permitted parking time, or present, in any way a safety or traffic hazard, may be removed by towing. The cost of towing and storage shall be borne by the owner and shall be paid before regaining possession of the vehicle. In addition, the owner or driver will be subject to penalties established by this Chapter. The use of parking spaces on Borough Park property is limited to vehicles of individuals actually utilizing Borough Park property.

## Section 6. Off-Road Vehicles

No person shall drive or operate any off-road vehicle or snowmobile anywhere within a Borough Park except at such times and places as may be designated by the Borough and/or as authorized by a specific Borough permit.

## Section 7. Restricted Traffic

When a road, drive, or parkway shall be restricted as to traffic or closed and duly marked by signs, road markings, or barricades, it shall be a violation of this Regulation to fail to observe and obey such signs, road markings, or barricades.

Section 8 Impoundment of Vehicles

The Borough Police Department is hereby authorized to confiscate and impound any motorized vehicle, licensed or unlicensed, which is allegedly operated in violation of the terms of this Chapter.

Section 9. Exceptions

a. It shall not be unlawful for any Borough employee, school board employee or other public employee to operate vehicles for the purpose of maintaining, repairing or doing work for the public, the Borough or the Board of Education on Borough Park property or other public property.

b. It shall not be unlawful for any individual or recognized organization which has applied for and received permission from the Recreation Director or Borough Clerk to operate or park motor vehicles on Borough Park or other public property for a specific purpose. Said individuals or organizations shall be responsible for any damage done to Borough property. If permission is granted to use a tractor-type vehicle for grooming, the blade must be removed prior to operating same on Borough Park or other public property.

c. The terms and provisions herein shall not be applicable to police or other emergency vehicles, including but not limited to police cars, ambulances, motorcycles, fire-control vehicles and the like, or to motorized lawn mowers, tractors or farm vehicles or construction equipment operated by or at the direction of the Borough.

**ARTICLE VI  
PROTECTION OF PROPERTY**

Section 1. Damage to Property

No person shall damage, deface, remove, or tamper with any property within a Borough Park.

**ARTICLE VII  
WILDLIFE**

Section 1. Wildlife

No person shall kill, wound, harass, trap, hunt, remove, or have in his/her possession any animal, reptile, bird, or nest, or to remove the eggs or young of any of the above, unless authorized by a specific Borough permit.

No person shall fish in any of the Park System waters, unless in possession of the required New Jersey fishing license, except in those cases or on those occasions where the New Jersey Division of Fish and Wildlife does not require a fishing license.

No person shall feed any animal or waterfowl any food or other substance.

No person shall hunt on any Borough land, unless authorized by a specific Borough permit.

## **ARTICLE VIII POLLUTION AND REFUSE**

### Section 1. Pollution of Waters

No person shall, within or without said Parks, open space or recreation area, discharge into the waters of the Borough or any tributary river, brook, stream, storm sewer, or drain flowing into said waters, any substance that may result in the pollution of said waters.

### Section 2. Littering

No person shall throw, deposit, or leave litter or recyclable material within the Park System.

### Section 3. Dumping

No person or company shall dump any material anywhere within the Borough Park System, open space or recreation area. This is to include depositing in any dumpster, waste station, garbage can, or recycling can any waste that is generated outside of the Park System, open space or recreation area.

## **ARTICLE IX REPEAL**

### Section 1. Repeal

All Regulations or parts thereof and all amendments thereto, heretofore adopted inconsistent with these amendments are hereby repealed. The foregoing repeal shall not affect or impair any act done, offense committed, right accruing or acquired or liability, penalty, forfeiture, or punishment incurred prior to the time these Regulations take effect; but the same may be enjoined, asserted, enforced, prosecuted, or inflicted as fully and to the same extent as if these amendments to the Regulations have not been adopted.

## **ARTICLE X PENALTIES**

### Section 1. Penalties

Any person violating any of the provisions herein shall, upon conviction thereof, before a Magistrate or Judge having jurisdiction, pay a penalty as provided by Statute and stipulated in the Borough Schedule of Penalties, at the discretion of the Magistrate or Judge. In addition to

any penalties provided thereof, restitution for the cost of labor can be ordered by the Judge or Magistrate.

Any person under the age of 18 who shall violate any of the provisions herein shall be subject to the adjudication and disposition provisions of N.J.S.A. 2A:4A-21 et seq.

## **ARTICLE XI VALIDITY**

### Section 1. Validity

These Regulations shall take effect after final adoption of the relevant Ordinance by the Borough Council. If any section, paragraph, subdivision, clause, or regulations thereof shall be adjudged invalid, the remainder of the Regulations shall not thereby be invalidated but shall continue in full force and effect.

## **ARTICLE XII SITE-SPECIFIC RULES AND REGULATIONS**

In addition to the General Park Rules and Regulations described in Articles I through XI, Site Specific Rules and Regulations may be adopted and are fully enforceable as part of these Regulations.

No person shall fail to comply with any site-specific rules that have been adopted and promulgated by the Borough.

No person shall fail to comply with any temporary restrictions that have been approved by the Borough or its designee to which adequate notice to the public has been given.

Any person who fails to comply with either a site-specific rule or temporary restriction may be directed to leave the Park System and may be subject to further penalties as determined by the Borough or Statutes.

**SECTION 2.** Article III “Code of Conduct for Recreational Activities” shall be renumbered “Article XIII”.

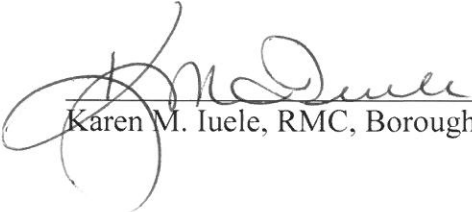
**SECTION 3.** All ordinances, resolutions and regulations or parts of ordinances, resolutions and regulations inconsistent herewith are hereby repealed to the extent of such inconsistency.


**SECTION 4.** 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 5.** This Ordinance shall take effect after approval and publication as required by law.

ATTEST:

BOROUGH OF KINNELON

  
\_\_\_\_\_  
Karen M. Iuele, RMC, Borough Clerk

  
\_\_\_\_\_  
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 June 17, 2021 and adopted by the Governing Body at a regular meeting of the Borough held on July 15, 2021.

  
\_\_\_\_\_  
Karen M. Iuele, RMC, Borough Clerk