

MEETING TO ORDER.

The regular meeting of the Kinnelon Borough Governing Body was called to order by Mayor James Freda at 8:00 p.m., on Thursday, November 17, 2022 in the Kinnelon Municipal Building, 130 Kinnelon Road, Kinnelon NJ.

There was a Salute to the Flag, after which the Assistant Borough Clerk stated this meeting is being held pursuant to the New Jersey Open Public Meeting Act. Adequate notice of this meeting was given by advertising in the January 9, 2022 edition of the Trends and was provided to the Star Ledger, Daily Record and the North Jersey Herald News. Adequate notice was also posted on the Municipal Building Bulletin Board, filed with the Borough Clerk and provided to those persons or entities requesting notification.

ROLL CALL:

The roll was called and present and answering were Councilpersons William Yago, Sean Mabey, Vincent Russo, Randal Charles and James Lorkowski. Absent were Councilman Robert Roy.

TREASURER'S REPORT:

The Treasurer's Report for November, 2022 indicated we started out with cash on hand as of September 30, 2022, in the amount of \$8,784,323.32. Receipts for the month of October totaled \$3,595,717.44, with disbursements amounting to \$4,329,981.59. The new balance on hand as of October 31, 2022 was \$8,050,059.17.

HEARING FROM THE PUBLIC:

Mayor Freda, asked if anyone from the public wishes to be heard.

Mr. & Mrs. Philippy of 14 Dog wood Trail spoke on the berm that was repair at their home and thanked the Mayor and Council. Also spoke on the engineer coming out to look at the retaining wall that needs to be repaired.

Councilman Charlies stated that the borough will have the engineer come out to look at this issue.

Ms. Sinski, 17 Misty Ridge Circle spoke on the issue that they are having with their neighbor and ask what can be done about this. Mayor Freda stated that this would have to be brought to the Morris County Court because this is a neighbor dispute.

Mr. Chiro, 8 Harrison Road spoke on the HVAC plans and this is a big investment on the borough and would like to know if the library is paying for there part to be replaced. Councilman Russo stated that this would be looked into.

Mr. Merlucci, 18 Dogwood Trail also spoke on the library's part of the replacement to the HVAC and how is this being paid for, and what would be the cost. Councilman Russo stated that this will be looked into.

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Range of Checking Accts: First to Last Range of Check Dates: 10/21/22 to 12/31/22
Report Type: All Checks Report Format: Super Condensed Check Type: Computer: Y Manual: Y Dir Deposit: Y

Check #	Check Date	Vendor	Amount Paid	Reconciled/Void	Ref Num
GENERAL		General Account Payab			
24815	11/17/22	ACT04 ACTION DATA SERVICES	941.67		4932
24816	11/17/22	ACU01 ACU-DATA BUSINESS PRODUCTS INC	3,865.00		4932
24817	11/17/22	AFF02 AFFILIATED TECHNOLOGY	190.82		4932
24818	11/17/22	AIR03 AIR GROUP	240.00		4932
24819	11/17/22	ALL04 ALLIED OIL COMPANY	4,047.09		4932
24820	11/17/22	AME16 AMERICAN HOSE & HYDRAULIC CO.	586.44		4932
24821	11/17/22	ATL01 ATLANTIC SALT INC.	25,884.75		4932
24822	11/17/22	AUT05 THE AUTO PARTS SOURCE	378.38		4932
24823	11/17/22	BAC01 BERNARD BACCHETTA ESQ.	2,400.00		4932
24824	11/17/22	BAL11 STEVEN T. BALDISSEROTTO	2,675.00		4932
24825	11/17/22	BEL11 DENISE BELLANTONI	654.00		4932
24826	11/17/22	BOR BOROUGH OF BUTLER	0.00	11/17/22 VOID	0
24827	11/17/22	BOR BOROUGH OF BUTLER	103,489.59		4932
24828	11/17/22	BOR01 BOROUGH OF BUTLER ELECTRIC	6,450.63		4932
24829	11/17/22	BOR02 BOROUGH OF KINNELON	11,078.61		4932
24830	11/17/22	BOR11 BOROUGH OF BLOOMINGDALE	67,206.25		4932
24831	11/17/22	BOS01 JAMES BOSCH	599.00		4932
24832	11/17/22	BOT02 DAVID BOTT	599.00		4932
24833	11/17/22	BOW03 JUSTIN BOWER	599.00		4932
24834	11/17/22	BOX01 BOXCAST INC	139.00		4932
24835	11/17/22	BRE01 GAIL L. BRESETT	599.00		4932
24836	11/17/22	BRE03 ALAN BRESETT	599.00		4932
24837	11/17/22	BRE08 JEFFREY BRESETT	599.00		4932
24838	11/17/22	BRO09 TIMOTHY BROWN	419.30		4932
24839	11/17/22	BUS03 PHILLIP BUSSEY	533.11		4932
24840	11/17/22	BUZ01 THE BUZAK LAW GROUP, LLC.	14,012.50		4932
24841	11/17/22	CAB01 OPTIMUM	59.11		4932
24842	11/17/22	CAB02 OPTIMUM	117.73		4932
24843	11/17/22	CAB03 OPTIMUM	116.18		4932
24844	11/17/22	CAB04 OPTIMUM	116.18		4932
24845	11/17/22	CAB05 OPTIMUM	116.18		4932
24846	11/17/22	CAB06 OPTIMUM	116.18		4932
24847	11/17/22	CAB07 OPTIMUM	116.18		4932
24848	11/17/22	CAB08 OPTIMUM	216.18		4932
24849	11/17/22	CAB09 OPTIMUM	116.18		4932
24850	11/17/22	CAB10 OPTIMUM	367.93		4932
24851	11/17/22	CAS03 PATRICK CASERTA	599.00		4932
24852	11/17/22	CIN05 CINTAS CORPORATION #111	439.50		4932
24853	11/17/22	CIT05 CIT FINANCE LLC	586.73		4932
24854	11/17/22	CLE03 WILLIAM CLEMENT	599.00		4932
24855	11/17/22	COB03 ANTHONY COBELL	449.25		4932
24856	11/17/22	CON16 CONNELL CONSULTING LLC	298.00		4932
24857	11/17/22	COO03 COOPERATIVE COMMUNICATIONS INC	3,859.36		4932
24858	11/17/22	COU02 COUNTY OF MORRIS	17,876.84		4932
24859	11/17/22	COU04 COUNTY OF MORRIS	495.19		4932
24860	11/17/22	COU12 COUNTY OF MORRIS, TREASURER	7,940.00		4932
24861	11/17/22	CQF01 CQFLUENCY	9.90		4932
24862	11/17/22	CRA02 JEFFREY CRANE	593.01		4932
24863	11/17/22	CRE01 CREW ENGINEERS INC.	44,631.23		4932

Check #	Check Date	Vendor	Amount Paid	Reconciled/Void Ref Num
GENERAL		General Account		
		Account Payab		
		Continued		
24864	11/17/22	CRO02 CROWN AWARDS	2,034.49	4932
24865	11/17/22	CRO04 DAVID CROUTHAMEL	35.16	4932
24866	11/17/22	CUS01 CUSTOM BANDAG INC.	3,681.02	4932
24867	11/17/22	DAN01 DAN COMO & SONS INC.	1,820.00	4932
24868	11/17/22	DAR01 DARMOFALSKI ENGINEERING ASSOC.	11,750.00	4932
24869	11/17/22	DEB03 DE BLOCK ENVIRONMENTAL SERVICE	6,000.00	4932
24870	11/17/22	DEM06 TARYN DEMERI	365.39	4932
24871	11/17/22	DOR06 DORSEY & SEMRAU, LLC	1,250.20	4932
24872	11/17/22	EDW04 KEVIN EDWARDS	599.00	4932
24873	11/17/22	EJG01 EJG SPORTS	768.00	4932
24874	11/17/22	EPS02 LAWRENCE EPSTEIN	407.32	4932
24875	11/17/22	EXC01 EXCELSIOR LUMBER CO. INC.	583.38	4932
24876	11/17/22	EXT01 EXTRA SPACE STORAGE	357.00	4932
24877	11/17/22	FIN08 FINGER'S RADIATOR HOSPITAL, INC	395.00	4932
24878	11/17/22	FRA13 FSC LEAK DETECTION	1,840.00	4932
24879	11/17/22	GAM01 GAME DAY SPORTS	87.92	4932
24880	11/17/22	GEN03 GENERAL CODE, LLC	1,758.42	4932
24881	11/17/22	GRA01 GRAINGER INC.	417.12	4932
24882	11/17/22	GSB01 GLATFELTER SPECIALTY BENEFITS	726.00	4932
24883	11/17/22	HAI04 ELLEN HAID	87.76	4932
24884	11/17/22	HAL02 DARREN HALL	122.99	4932
24885	11/17/22	HAR13 ERIC HARRIZ	599.00	4932
24886	11/17/22	HAW03 HAWTHORNE CHEVROLET	395.10	4932
24887	11/17/22	HEI03 ANDREW HEILMANN	587.02	4932
24888	11/17/22	HIC01 HARRY HICKS	599.00	4932
24889	11/17/22	HOD01 DAVID HODAS	503.16	4932
24890	11/17/22	HOM02 HOME DEPOT CREDIT SERVICE	38.70	4932
24891	11/17/22	HOR04 HORIZON OFFICE EQUIPMENT	255.00	4932
24892	11/17/22	INS05 INSTITUTE FOR FORENSIC PSYCH.	450.00	4932
24893	11/17/22	INT15 INT'L INSTITUTE OF MUN. CLERKS	215.00	4932
24894	11/17/22	IUE01 KAREN IUELE	110.00	4932
24895	11/17/22	JCP01 JCP&L	13.83	4932
24896	11/17/22	JER03 JERSEY PAPER PLUS	1,059.62	4932
24897	11/17/22	JIM01 JIMMY THE SHOE DOCTOR	1,449.83	4932
24898	11/17/22	JUN01 BRYAN JUNCOSA	599.00	4932
24899	11/17/22	KAP02 MANDA KAPLAN DVM	300.00	4932
24900	11/17/22	KHS04 KHSUSA	2,000.00	4932
24901	11/17/22	KIN08 KINNELON VOLUNTEER FIRE CO.	9,625.00	4932
24902	11/17/22	KIN09 KINNELON BOARD OF EDUCATION	3,383,387.50	4932
24903	11/17/22	KJA01 K&J ACCESSORIES INC	1,790.00	4932
24904	11/17/22	LAK02 LAKELAND BANK EQUIP FINANCE	2,533.10	4932
24905	11/17/22	LAK13 LAKELAND AUTO PARTS	332.72	4932
24906	11/17/22	LAW07 LAWSOFT INC.	695.00	4932
24907	11/17/22	LON05 LONGFELLOW'S COFFEE	353.00	4932
24908	11/17/22	LUD01 DONALD B LUDWIG	395.34	4932
24909	11/17/22	MAT04 MATTHIJSSSEN, INC.	4,499.00	4932
24910	11/17/22	MER07 ALEXANDER MERLUCCI	443.26	4932
24911	11/17/22	MON14 MONMOUTH TELECOM	499.20	4932
24912	11/17/22	MOR21 MORRIS COUNTY M.U.A.	35,217.95	4932
24913	11/17/22	MOR42 THE LAND CONSERVANCY OF NJ	3,125.00	4932
24914	11/17/22	MOR52 MORRIS COUNTY MUNICIPAL JOINT	93,193.00	4932
24915	11/17/22	NEI01 NICHOLAS NEILL	479.20	4932

Check #	Check Date	Vendor	Amount Paid	Reconciled/Void	Ref Num
GENERAL		General Account			Continued
24916	11/17/22	NES01 NESTLE PURE LIFE DIRECT	63.37		4932
24917	11/17/22	NJA10 NJ ADVANCE MEDIA	1,009.15		4932
24918	11/17/22	NJD07 NJ DEPT HEALTH & SENIOR SERV	12.00		4932
24919	11/17/22	NJLM01 NEW JERSEY STATE LEAGUE	115.00		4932
24920	11/17/22	NOR02 NORTH JERSEY MEDIA GROUP	786.12		4932
24921	11/17/22	NOR13 NORTH JERSEY MUNICIPAL	3,597.00		4932
24922	11/17/22	NOR18 NORTHEAST COMMUNICATIONS, INC.	409.68		4932
24923	11/17/22	NOR23 NORTH JERSEY PARTY RENTAL	500.00		4932
24924	11/17/22	NWR01 NW REFS	5,520.00		4932
24925	11/17/22	NY 02 NY-NJ TRAILER SUPPLY	80.46		4932
24926	11/17/22	ONE02 ONE CALL CONCEPTS, INC.	87.23		4932
24927	11/17/22	PAS11 ALEXIS PASTRE	120.00		4932
24928	11/17/22	PAT04 SEAN PATALITA	104.14		4932
24929	11/17/22	PAV KEITH PAVLAK	599.00		4932
24930	11/17/22	PHO03 PHOENIX ADVISORS, LLC	1,510.00		4932
24931	11/17/22	PIR01 FRANK PIROG	599.00		4932
24932	11/17/22	POL08 THE POLICE AND SHERIFFS PRESS	17.60		4932
24933	11/17/22	PSE01 P.S.E. & G.	1,514.37		4932
24934	11/17/22	RAC02 RACHLES/MICHELE'S OIL CO., INC	1,448.85		4932
24935	11/17/22	RIV03 RIVERDALE POWER MOWER INC.	703.00		4932
24936	11/17/22	ROU01 ROUTE 23 AUTO MALL	500.84		4932
24937	11/17/22	RUTGERS RUTGERS, CENTER FOR GOVT SERV	646.00		4932
24938	11/17/22	SCH30 MELANIE SCHUCKERS	60.24		4932
24939	11/17/22	SHA03 THE SHADE TREE DEPARTMENT LLC	1,896.91		4932
24940	11/17/22	SHE12 THE SHERWIN WILLIAMS CO.	600.00		4932
24941	11/17/22	SIS02 GLENN L. SISCO	599.00		4932
24942	11/17/22	SMI13 JOHN F. SMIALEK	383.36		4932
24943	11/17/22	STA STAPLES ADVANTAGE, DEPT NY	775.68		4932
24944	11/17/22	STA05 STATE OF NEW JERSEY PWT	171.65		4932
24945	11/17/22	STA11 TERRY STAGG	431.28		4932
24946	11/17/22	STA32 ALEXANDER STAGG	371.38		4932
24947	11/17/22	STE15 THOMAS STEARN	563.06		4932
24948	11/17/22	SUB03 SUBURBAN DISPOSAL INC.	62,805.55		4932
24949	11/17/22	SUP03 SUPERIOR TREE WIZARDS, LLC	1,350.00		4932
24950	11/17/22	TAN07 DARA TANZOLA	60.00		4932
24951	11/17/22	TIL01 TILCON NEW YORK INC.	1,366.27		4932
24952	11/17/22	TRI20 TRIONAID ASSOCIATES	105.00		4932
24953	11/17/22	TUR01 TURN-OUT UNIFORMS INC.	1,127.89		4932
24954	11/17/22	VAR04 DANIEL VARNER	359.40		4932
24955	11/17/22	VER06 VERIZON WIRELESS	473.67		4932
24956	11/17/22	VER11 VERIZON WIRELESS - KPD	152.04		4932
24957	11/17/22	VER15 VERIZON CONNECT NWF, INC	339.99		4932
24958	11/17/22	VER18 VERIZON CONNECT NWF, INC	188.90		4932
24959	11/17/22	WAS04 WASH HOUNDS	54.00		4932
24960	11/17/22	WEI07 WEINER LAW GROUP LLP	1,252.00		4932

Checking Account Totals	Paid	Void	Amount Paid	Amount Void
Checks:	145	1	4,004,879.96	0.00
Direct Deposit:	0	0	0.00	0.00
Total:	145	1	4,004,879.96	0.00

PLANNING 2 Columbia Bank
1869 11/17/22 DAR01 DARMOFALSKI ENGINEERING ASSOC. 2,825.00 4933

Check #	Check Date	Vendor	Amount Paid	Reconciled/Void	Ref Num
PLANNING 2		Columbia Bank			
1870	11/17/22	SZY01 ALBERT SZYMANSKI	1,000.00		4933
1871	11/17/22	WEI07 WEINER LAW GROUP LLP	112.50		4933
Continued					
Checking Account Totals					
		<u>Paid</u>	<u>Amount Paid</u>	<u>Amount Void</u>	
	Checks:	3	3,937.50	0.00	
	Direct Deposit:	0	0.00	0.00	
	Total:	<u>3</u>	<u>3,937.50</u>	<u>0.00</u>	
Report Totals					
		<u>Paid</u>	<u>Amount Paid</u>	<u>Amount Void</u>	
	Checks:	148	4,008,817.46	0.00	
	Direct Deposit:	0	0.00	0.00	
	Total:	<u>148</u>	<u>4,008,817.46</u>	<u>0.00</u>	

BOROUGH OF KINNELON
Check Register By Check Date

Totals by Year-Fund Fund Description	Fund	Budget Total	Revenue Total	G/L Total	Total
CURRENT FUND	2-01	3,856,686.34	0.00	0.00	3,856,686.34
WATER FUND	2-05	108,377.77	0.00	0.00	108,377.77
SEWER FUND	2-07	14,024.59	0.00	0.00	14,024.59
Year Total:		3,979,088.70	0.00	0.00	3,979,088.70
	C-04	7,250.00	0.00	0.00	7,250.00
DOG TAX	D-13	432.00	0.00	0.00	432.00
STATE AND FEDERAL GRANTS	G-02	800.00	0.00	0.00	800.00
KAMELOT	K-17	2,000.00	0.00	0.00	2,000.00
RECREATION SPECIAL	R-16	8,503.24	0.00	0.00	8,503.24
	V-27	3,125.00	0.00	0.00	3,125.00
RECYCLE FUND	Y-21	3,681.02	0.00	0.00	3,681.02
Total of All Funds:		4,004,879.96	0.00	0.00	4,004,879.96

Project Description	Project No.	Project Total
8 FOOTHILL DR- PEREZ	1112001	125.00
144 KinneLon Rd #111509 Aflani	111509	125.00
4 TAMARACK WJOHNSON 11702109	11702109	75.00
1 STANDISH DELAMONTAIGNE 1541	1541	125.00
41 CABOT LN MANETTA 1543	1543	375.00
5 GRACEVIEW-CENTERLIN #1845	1845	67.50
236 SOUTH GLEN ROAD	23201130	125.00
SZYMANSKI 59 VOORHIS 56904129	56904129	1,000.00
GELENER 15 HEMLOCK #843	843	45.00
PYRAMID 68 DENISE DR 850	850	1,875.00
Total of All Projects:		<u>3,937.50</u>

**RESOLUTION #11.01.22 AUTHORIZING THE PURCHASE OF
GOODS AND SERVICES FROM VARIOUS MORRIS
COUNTY COOPERATIVE PRICING COUNCIL VENDORS
FOR THE CUTLASS ROAD IMPROVEMENTS PROJECT,
FOR A TOTAL COST OF \$370,378.15**

WHEREAS, the Borough of Kinnelon ("Borough") desires to complete a roadway improvement project for the entire length of Cutlass Road, 0.94 miles long, beginning at the intersection of Boonton Avenue and ending municipal boundary with the Borough of Riverdale, (the "Project"); and,

WHEREAS, the Borough has received a grant in the amount of \$231,700.00 from the State of New Jersey Department of Transportation's Transportation Trust Fund for the Fiscal Year 2021 to perform improvements within the limits of the Project; and,

WHEREAS, the Borough desires to use the Morris County Cooperative Pricing Council ("MCCPC") in order to award contracts to various vendors to complete the Project; and,

WHEREAS, the Borough desires to purchase materials and services from the various vendors awarded contracts by the MCCPC as follows:

- A. MCCPC Contract #6, Categories A, B & F to Tilcon New York Inc., located at 9 Entin Rd., Parsippany, New Jersey, 07054, for road resurfacing;
- B. MCCPC Contract #26 to Road Safety Systems, LLC, located at 12 Park Drive, Shamong, New Jersey 08088, for guide rails and safety ends;
- C. MCCPC Contract #28, Category A, E & F to Garden State Highway Products, Inc., located at 301 Riverside Dr., Millville, New Jersey 08332, for traffic sign materials.
- D. MCCPC Contract #36, Category A to Denville Line Painting, Inc., located at 2 Green Pond Road, Rockaway, New Jersey 07866, for traffic striping on roadways;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Kinnelon, County of Morris, State of New Jersey, the following:

1. The Borough of Kinnelon hereby authorizes the purchase of the following:
 - a) Road resurfacing services from Tilcon New York Inc., in the amount of \$302,890.00;
 - b) Beam guide rails and safety ends from Road Safety Systems, LLC, in the amount of \$52,660.00;
 - c) Traffic sign materials from Garden State Highway Products, Inc., in the amount of \$3,144.95; and,

- d) Traffic striping on roadway services from Denville Line Painting, Inc., in the amount of \$11,683.20.
2. The Mayor and Borough Clerk are hereby authorized and directed to execute MCCPC Contract Nos. 6, 26, 28, and 36, and said officers, together with all other officers, professionals and employees of the Borough are hereby authorized and directed to take any and all steps necessary to effectuate the purposes of this Resolution.
 3. The foregoing awards are subject to the certification of availability of funds by the appropriate officers of the Borough.
 4. This Resolution shall take effect as herein provided.

CERTIFICATION

I, **Karen M. Iuele, R.M.C., Borough Clerk** of the Borough of Kinnelon hereby certify the foregoing to be a true copy of a Resolution adopted by the Borough Council of the Borough of Kinnelon at a duly convened meeting held on **November 10, 2022**.



Karen M. Iuele, R.M.C. Borough Clerk

RESOLUTION: 11.02.2022

AUTHORIZING MAYOR TO SIGN
NEW JERSEY 2022 MUNICIPAL
BEST PRACTICE QUESTIONNAIRE

WHEREAS, the Council of the Borough of Kinnelon do hereby authorize the Mayor of the Borough of Kinnelon to sign the New Jersey 2022 Municipal Best Practice Questionnaire.

NOW, THEREFORE, BE IT RESOVED by the Council of the Borough of Kinnelon do hereby authorize the Mayor of the Borough of Kinnelon to sign the New Jersey 2022 Municipal Best Practice Questionnaire.

Date: 11/09/22

A handwritten signature in cursive script, appearing to read "Karen M. Iuele", is written over a solid horizontal line.

Karen M. Iuele, RMC
Borough Clerk

LICENSE FOR: Raffle License No. RL-874 -KB
(Insert Bingo or Raffles)

Identification No. 238-1-10979

Insert Name Of Municipality BOROUGH OF KINNELON (Display this license conspicuously During the conduct of the games)

Insert Name of Licensee Our Lady of the Magnificat RC Church

Address 2 Miller Road, KINNEON NJ 07405

1. This license allows the licensee to conduct (cross out line which) Bingo (not to Exceed 35 games), Raffles of the kind stated,
The winner to be determined on each of the dates, at the places and during the hours shown below:

Kind of Game	Date	Place	During hours
Calendar Raffle	February 18, 2023	OLM	6:00PM
	March 18, 2023	2 Miller Road,	
	April 15, 2023	Kinnelon, New Jersey	
	May 20, 2023	June 17, 2023	

2. The value and character of the prizes authorized to be offered and given on each date are:

1 st Prize \$400.00
2 nd Prize \$300.00
3 rd Prize \$200.00
4 th Prize \$100.00

3. This license is valid only if the entire net proceeds are devoted to the following specific purpose:

OLM Ladies Guild Charitable works including donations to Women's Shelters, Food Banks, Homeless Shelters
Cancer Support Groups, Nursing Homes. Activities include Nursing Home resident luncheon, Christmas toy drives

4. The names and addresses of the members under whom the games will be held, operated and conducted are:

Names	Addresses
Marilyn Koziol	14 McKinley Drive, Kinnelon, NJ 07405
Maureen Galligan	19 McKinley Drive, Kinnelon, NJ 07405
Lynn Draizin	254 Kinnelon Road, Kinnelon, NJ 07405
Diane Lattanzio	31 Forestdale Road, Kinnelon, NJ 07405
Margaret Markert	14 Joanna Way, Kinnelon, NJ 071405

Issued by order of MAYOR AND COUNCIL ON November 1, 2022

(SEAL)


(Signature of Municipal Clerk)

Games must be played in accordance with the rules of the Control Commission.
See Parts VI, VII and VIII of Rules and Regulations.

RESOLUTION: 11.03.22

AUTHORIZING THE AWARD OF A CONTRACT FOR SOLID WASTE, BULK WASTE AND RECYCLABLE MATERIALS CURBSIDE COLLECTION AND TRANSPORTATION SERVICES TO SUBURBAN DISPOSAL, INC. IN THE BID AMOUNT \$1,481,000.00 FOR SOLID WASTE AND BULK WASTE CURBSIDE COLLECTION AND TRANSPORTATION AND IN THE BID AMOUNT OF \$1,430,000.00 FOR DUAL-STREAM RECYCLABLE MATERIALS CURBSIDE COLLECTION, TRANSPORTATION AND DISPOSAL FOR THE PERIOD OF JANUARY 1, 2023 THROUGH DECEMBER 31, 2024

WHEREAS, the Borough of Kinnelon (“Borough”) duly sought bids for a Contract for Solid Waste, Bulk Waste and Recyclable Materials Curbside Collection and Transportation Services commencing January 1, 2023 (“Contract”); and

WHEREAS, one (1) sealed bid was received and opened by the Borough on September 20, 2022; and

WHEREAS, Suburban Disposal, Inc., 54 Montesano Road, Fairfield, New Jersey, provided a bid dated September 20, 2022 in the bid amount of One-Million, Four-Hundred and Eighty-One Thousand Dollars (\$1,481,000.00) for solid waste and bulk waste curbside collection and transportation for the period 2023 through 2024 and in the bid amount of One-Million, Four-Hundred and Thirty Thousand Dollars (\$1,430,000.00) for dual-stream recyclable materials curbside collection, transportation disposal for the period 2023 through 2024; and

WHEREAS, Suburban Disposal, Inc.’s bid documents are in order and the contract for Solid Waste, Bulk Waste and Recyclable Materials Curbside Collection and Transportation Services commencing on January 1, 2023 should be awarded to Suburban Disposal, Inc. as the lowest responsive and responsible bidder; and

WHEREAS, the Borough desires to authorize the award of the Contract as set forth above for a two-year period to Suburban Disposal, Inc. as the only responsive and responsible bidder.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Kinnelon, County of Morris, State of New Jersey, they being the Governing Body thereof as follows:

1. The Contract for Solid Waste, Bulk Waste and Recyclable Materials Curbside Collection and Transportation Services from January 1, 2023 through December 31, 2024, in the bid amount of One-Million, Four-Hundred and Eight-One Thousand Dollars (1,481,000.00) for solid waste and bulk waste curbside collection and transportation and in the bid amount of One-Million, Four-Hundred and Thirty Thousand Dollars (\$1,430,000.00) for dual-stream recyclable materials

curbside collection, transportation and disposal is hereby awarded to Suburban Disposal, Inc. as the lowest responsive and responsible bidder.

2. The Mayor and Borough Clerk are hereby authorized and directed to execute the contract subsequent to execution by Suburban Disposal, Inc., and aid officers, together with all other officers, professionals and employees of the Borough are hereby authorized and directed to take any and all steps necessary to effectuate the purpose of this Resolution.

3. This award is subject to the Contractor's compliance with the requirements of P.L. 1975, c.127 (N.J.S.A. 10:5-31, et seq.) and the regulations thereunder regarding affirmative action.

4. The foregoing award is further subject to the certification of availability of funds by the appropriate officers of the Borough.

5. This Resolution shall take effect immediately.

CERTIFICATION

I, Karen M. Iuele, Borough Clerk of the Borough of Kinnelon hereby certify the foregoing to be a true copy of a Resolution adopted by the Governing Body of the Borough of Kinnelon at a duly convened meeting held on November 17, 2022



Karen M. Iuele, Borough Clerk

ORDINANCE NO. 17-22
AN ORDINANCE AMENDING ARTICLE V, SECTION 207-13.1 "ALTERNATIVE ENERGY" OF CHAPTER 207 "ZONING" OF THE KINNELON BOROUGH CODE

WHEREAS, pursuant to N.J.S.A. 40:48-2, the governing body of a municipality may

make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this state or of the United States, as it may deem necessary and proper for the good government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

WHEREAS, the Borough of Kinmelon desires to amend certain provisions within Section 207-13.1 "Alternative Energy" in Article V of Chapter 207 of its Code.

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

SECTION 1. Section 207-13.1 "Alternative Energy", paragraph C(1) pertaining to permit requirements shall be amended to now read as follows:

"(1) Before any solar panel may be installed, plans for such installation shall be submitted to the Kinmelon Building Department. No solar panel shall be installed without the required permits issued by the Borough Construction Official."

SECTION 2. The introductory paragraph to Section 207-13.1 "Alternative Energy" paragraph D(5) pertaining to installation requirements is deleted in its entirety and said introductory paragraph is replaced with the following introductory paragraph:

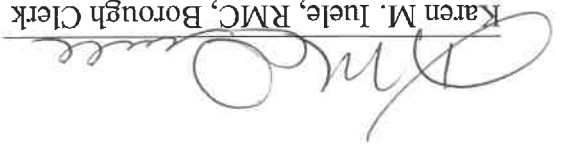
BOROUGH OF KINNELON

James J. Freda, Mayor



ATTEST:

Karen M. Iuele, RMC, Borough Clerk



by law.

SECTION 7. This Ordinance shall take effect after approval and publication as required

deemed valid and effective.

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

SECTION 6. If any section, paragraph, article, subdivision, clause or provision of this

inconsistency.

resolutions and regulations inconsistent herewith are hereby repealed to the extent of such

SECTION 5. All ordinances, resolutions and regulations or parts of ordinances,

and effect.

SECTION 4. Any provisions not amended by this Ordinance shall remain in full force

(e) In addition to the required signage, property owners shall provide the Borough Construction Official with a map illustrating the location of the disconnect switch, as well as any information regarding the vendor authorized to deactivate the solar panel.”

installation requirements shall be amended to now read as follows:

SECTION 3. Section 207-13.1 “Alternative Energy”, paragraph D(5)(e) pertaining to

(5) All solar energy systems shall comply with the following conditions:”

ORDINANCE NO. 18-22 AN ORDINANCE DISSOLVING THE OPEN SPACE COMMITTEE AND ENVIRONMENTAL ADVISORY COMMITTEE, AND CREATING A NEW SUSTAINABILITY AND OPEN SPACE ADVISORY COMMITTEE

WHEREAS, pursuant to N.J.S.A. 40:48-2, the governing body of a municipality may make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this state or of the United States, as it may deem necessary and proper for the good government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

WHEREAS, the Borough of Kinnelon desires to dissolve the Open Space Advisory Committee and the Environmental Advisory Committee, and to in their place establish a new Sustainability and Open Space Advisory Committee (“SOSAC”); and

WHEREAS, the Borough of Kinnelon desires to amend Subsection 47-12 of Chapter 47 “Land Use Procedures” to be consistent with the dissolution of the Environmental Advisory Committee and the establishment of SOSAC.

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. Chapter 29 “Environmental Advisory Committee” of the Code shall be repealed in its entirety.

SECTION 2. Existing Chapter 51 “Open Space Advisory Committee” of the Code shall

be repealed in its entirety.

SECTION 3. A new Chapter 51 titled “Sustainability and Open Space Advisory Committee” shall be added and shall read as follows:

Chapter 51 Sustainability and Open Space Advisory Committee

§51-1 Establishment.

A Sustainability and Open Space Advisory Committee (SOSAC) is hereby established in and for the Borough of Kinnelon.

§51-2 Members; terms; qualifications; Council liaison; Secretary.

- A. The SOSAC shall be comprised of seven (7) regular members and two alternates:
- four members from the public,
 - one member from the Kinnelon Planning Board,
 - one member from the Kinnelon Recreation Committee,
 - one member from the Kinnelon Historical Preservation Advisory Committee and
 - two alternates from the public designated as Alternate No.1 and Alternate No. 2 who may participate in all matters but may not vote except in the absence or disqualification of a regular member. Alternate No. 1 shall be the first to vote in the place of a regular member, then Alternate No. 2.

The Mayor shall appoint, with the advice and consent of the Council, all members of SOSAC. All members of SOSAC shall be residents of the Borough of Kinnelon.

- B. The terms of the members first appointed shall be as follows:
- a. The Planning Board, Recreation and Historical Committee members shall serve terms that correspond to the terms of their respective representing board/committee.
 - b. Two alternates from the public shall be appointed for one-year term;
 - c. Two members from the public shall be appointed for two-year terms; and
 - d. Two members from the public shall be appointed for three-year terms.
 - e. Thereafter, the term for each member of the public shall be for a period of three years.
 - f. Any vacancy occurring during the term of any of the members of the public shall be filled for the balance of the unexpired term.

- C. After SOSAC members have been initially appointed, future members from the public may be interviewed by the members of the SOSAC and their recommendation forwarded to the Mayor and Council for their consideration prior to appointing new members.
- D. Determination of Quorum – Quorum is achieved when there are four members/alternate members in attendance.
- E. A member of the Borough Council shall be designated annually by the Mayor to serve as a nonvoting liaison between the Council and the SOSAC.
- F. The Mayor is a non-voting ex officio member of the committee.
- G. A secretary will be provided by the Borough of Kinnelon to record meetings, take and provide minutes of each meeting and serve necessary functions of the SOSAC.
- H. The committee shall annually designate a Chair to conduct the meetings, and a Vice Chair to act in the absence of a Chair in attendance.

§51-3 Purpose.

The Sustainability & Open Space Advisory Committee is intended to serve in an advisory capacity to the Borough Council, its officials and boards, and shall provide information, advice and recommendations relating to sustainability, environmental and open space issues.

§51-4 Duties.

The SOSAC shall have the duties and responsibilities as follows:

- A. Study and make reports and recommendations as may be directed by the Borough Council regarding environmental issues such as land use and development, solid waste management, toxic materials storage, air and water pollution, light pollution, noise control, open space preservation, water resources management, energy conservation and any other areas that are deemed relevant;
- B. Serve as a repository for information relating to the above ;
- C. Recommend to the Borough Council, subject to funds being available, the hiring of experts to assist the SOSAC in carrying out its duties.
- D. Make recommendations to the Borough Council regarding parcels of land for acquisition;
- E. Make recommendations to the Borough Council regarding the preservation, management and use of open space;
- F. Provide input for the updating of the Open Space and Recreation Plan;

- G. Assist the Borough in the development of an open space tracking system to catalogue the undeveloped or underdeveloped lands in the Borough and record the progress with respect to open space preservation.
- H. Coordinate activities in cooperation with other committees entrusted with responsibilities related to various SOSAC relevant issues;
- I. Submit reports to the Borough Council of various SOSAC activities.
- J. Assist the Borough in the evaluation, establishment and implementation of sustainable and resource management initiatives;
- K. Coordinate with the Recreation Committee and Historical Committee the Recreation and Historic Sites information for the Open Space and Recreation Plan.
- L. Make recommendations to the Planning Board to maintain the Borough's
 - a. Environmental Resource Inventory – the basis for land use planning that protects natural resources.
 - b. Critical Habitat Conservation and Management Plan – Stewardship and monitoring of Critical Habitats in the Highlands Preservation Area if required by NJ DEP.
 - c. Open Space and Recreation Plan – a guide for protection and preservation of open space in Kinnelon.
- M. Establish subcommittees and delegate tasks as needed.
- N. Periodically review its function and submit a recommendation to the Borough Council as to whether additional duties should be assigned or delegated to the Committee.
- O. Recommend to the Borough Council grants of interest.
- P. Develop a public education program with the goal of promoting sustainability, environmental and open space preservation in the Borough

§51-5 Compensation.

The members of the SOSAC shall receive no salary or other compensation for their services.

SECTION 4. Subsection 47-12 “Environmental Commission” of Chapter 47 “Land Use Procedures” shall be amended such that “Environmental Commission” shall be replaced with “Sustainability & Open Space Advisory Committee”, and shall now read as follows:

§47-12 Sustainability & Open Space Advisory Committee.

Whenever the Sustainability & Open Space Advisory Committee has prepared and submitted to the Planning Board an index of the natural resources of the municipality, the Planning Board shall make available to the Sustainability & Open Space Advisory Committee an informational copy of every application for development to the Planning

Board. Failure of the Planning Board to make such informational copy available to the Sustainability & Open Space Advisory Committee shall not invalidate any hearing or proceeding.

SECTION 5. Any provisions not amended by this Ordinance shall remain in full force and effect.

SECTION 6. All ordinances, resolutions and regulations or parts of ordinances, resolutions and regulations inconsistent herewith are hereby repealed to the extent of such inconsistency.


SECTION 7. 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 8. 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

The Mayor announced the meeting was open to hear any objections to this ordinance that may be presented by any taxpayer of the Borough of Kinnelon, and all parties in interest, and citizens. Hearing none, Mayor Freda brought it back to the dais, does anyone from the council wish to speak on this ordinance at this time.

There was no other desire to discuss this ordinance, and the Mayor asked the Borough Clerk to call the roll on the passage thereof, and the vote was as follows:

Roll Call: W. Yago; V. Russo, Yes;
R. Charlies, Yes;
S. Mabey, Yes; J. Lorkowski, Yes.

NEW BUSINESS:

ORDINANCE 16-22

An Ordinance Amending and Supplementing Chapter 207 “Zoning Of the Kinnelon Borough Code to Add and Designate a New Billboard Overlay Zone; Supplement Section 207-4 “Definitions and Word Usage: And Amend and Supplement Section 207-19 “Signs”

This Ordinance was withdrawn and cancelled.

Roll Call: W. Yago; V. Russo, Yes;
R. Charlies, Yes;
S. Mabey, Yes; J. Lorkowski, Yes.

ORDINANCE 19-22

An Ordinance Amending and Supplementing Chapter 169 “Soil Disturbance” of the Kinnelon Borough Code

Councilman R. Russo introduced the following ordinance and moved the same be read by title and passed on first reading. This was seconded by Councilman W. Yago.

Mayor J. Freda read the following notice and ordinance in full and stated that the notice has been published as required by law, a copy was posted on the Municipal Building Bulletin Board, and additional copies were made available to the public.

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**ORDINANCE NO. 19-22 AN ORDINANCE AMENDING AND SUPPLEMENTING
CHAPTER 169 "SOIL DISTURBANCE" OF THE
KINNELON BOROUGH CODE**

WHEREAS, pursuant to N.J.S.A. 40:48-2, the governing body of a municipality may make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this state or of the United States, as it may deem necessary and proper for the good government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

WHEREAS, the Borough of Kinnelon desires to update Chapter 169 "Soil Disturbance" of its Code by amending and supplementing provisions therein.

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 169-2 "Grading plans required", Paragraph A therein, is hereby amended such that the minimum escrow amount required to be submitted with a grading plan under said section is increased from \$1,000 to \$1,500, and said section now reads as follows:

- A. Any soil disturbance that results in a change in grade or elevation of two feet or more, but does not fall within the limits set forth below in § **169-3**, shall require approval from the Borough Engineer. A grading plan shall be prepared and submitted to the Borough Engineer for approval, along with a minimum escrow amount of \$1,500. The applicant shall also file a building permit application with the Building Department and pay the appropriate fee. The Borough Engineer may request additional escrow funds as warranted.

SECTION 2. Section 169-3 “Soil disturbance permit required”, Paragraphs A and B therein, are hereby amended and now read as follows:

- A. Any soil disturbance within the Borough of Kinnelon involving 50 cubic yards volume of soil or more on one site shall comply with the provisions of this chapter. Any soil disturbance within the Borough of Kinnelon involving 50 cubic yards volume of soil or more on one site requires first obtaining a soil disturbance permit, as provided herein. This section shall not apply to soil disturbance by the Borough or its contractors.
- B. This section shall also apply to soil disturbance incidents under a permit issued by the Construction Official for the enlargement or addition to an existing single-family residence, construction of a single-family dwelling and its accessory structures (such as garages, decks, retaining walls, sheds, swimming pools, cabana houses, driveways, etc.).

SECTION 3. Section 169-3 “Soil disturbance permit required”, Paragraph C therein, is hereby amended and revised such that an application for an extension of a soil disturbance permit will no longer be made to the Borough Council but to the Borough Engineer, and said section now reads as follows:

- C. The soil disturbance permit shall expire after one year from the date it is issued. In the event the soil disturbance activity for which the permit was issued is not completed within one year, the applicant may apply to the Borough Engineer for an extension of said permit. Approval of said extension shall not be unreasonably withheld.

SECTION 4. Section 169-3 “Soil disturbance permit required”, Paragraph F(1)(f) therein, is hereby amended and now reads as follows:

- F.(1)(f) Cut and fill operations over an area less than 400 square feet that result in no more than a two-foot change in elevation at any point.

SECTION 5. Section 169-4 “Application and contour map”, Paragraph A therein, is hereby amended and now reads as follows:

- A. Application. Any disturbance of soil within the Borough of Kinnelon of 5,000 square feet of surface area or more on one site or 50 cubic yards' volume of soil or more on one site requires the submission to the Borough Clerk of an application for a soil disturbance permit. In addition, an application fee in the amount of \$150 must be submitted with the application if the applicant proposes to disturb 50 to 500 cubic yards of soil. An application fee in the amount of \$500 must be submitted with the application if the applicant proposes to disturb 501 or more cubic yards of soil. In the event soil is being exported from one site within the

Borough of Kinnelon and imported to another site within the Borough of Kinnelon, then two soil disturbance permits must be obtained: one permit for the exportation and one permit for the importation. Applications can be obtained from the Borough Clerk's office and shall be signed by the person intending to perform the soil disturbance and by the owner of the site where the soil is to be disturbed. In addition, the application must include a contour map of the site where the soil is to be disturbed, the appropriate fee, and when the application involves the importation or exportation of soil, a traffic plan. Four copies of the application shall be submitted to the Borough Clerk.

SECTION 6. The introductory portion of Paragraph B in Section 169-4 "Application and contour map" relating to the contour map is hereby amended and now reads as follows:

- B. Contour map. Accompanying the application shall be a contour map of the site where the soil is to be disturbed showing the proposed grades resulting from the intended soil disturbance in relation to the existing topography of the site. Four copies of the map and earthwork calculations shall be submitted to the Borough Clerk with the application. The map and earthwork calculations must include not only the site where the soil is to be disturbed, but also all surrounding lands within 200 feet of the perimeter of the site. The map and earthwork calculations shall be prepared and certified by a licensed professional engineer of the State of New Jersey. The map must be prepared using a scale of not less than one inch to 30 feet, showing the site and its relation to all of the surrounding lands in the following manner:

SECTION 7. Section 169-4 "Application and contour map" is hereby amended such that existing Paragraph C therein relating to "Traffic Plan" is re-lettered Paragraph "D" and subsections (1)(e) and (2) within said paragraph revised, and now read as follows:

(1)(e) The required traffic plan shall comply with the following requirements.

[1] Except for emergencies, all soil shall be imported or exported from the subject site during the hours of 7:00 a.m. through 6:00 p.m., Eastern time, on weekdays only (excluding holidays).

[2] The scheduling of trucks used to move soil to and from the subject site shall be done in such a way as to minimize truck traffic within school zones during the morning and afternoon school hours.

(2) Four copies of the traffic plan shall be submitted to the Borough Clerk with the application.

SECTION 8. Section 169-4 "Application and contour map" is hereby supplemented to include a new Paragraph C which reads as follows:

- C. Stormwater Management. All applications for building permits and/or grading plan approval for properties applicable to this ordinance shall contain plans, construction details, calculations and reports that provide for zero increase in the rate and volume stormwater runoff for the completed project to ensure there will be no adverse impact on downstream structures, steep slopes, properties and public roads. For projects having less than 5,000 square feet of disturbance and less than 1,000 square feet of impervious cover, the Applicant's Engineer shall size stormwater facilities to store three (3") inches of rainfall depth over the area of new impervious coverage. Where disturbances and coverages are greater than noted above, the Applicant's Engineer shall use the modified rational method, or NRCS method, or a method as may be deemed appropriate by the Borough Engineer.

SECTION 9. Section 169-5 "Review and examination of application" is hereby repealed in its entirety and replaced with the following, and now reads as follows:

§ 169-5 Review and examination of application.

- A. Upon receipt of an application for a soil disturbance permit in conjunction with an application before the Planning Board or Board of Adjustment, the Borough Clerk shall send a copy of the same to the Planning Board or Board of Adjustment, as appropriate, and the Borough Engineer. The Borough Engineer shall review the application and the findings of the Planning Board or Board of Adjustment, and submit a report to the Borough Clerk approving or denying the soil disturbance permit. In the event a soil disturbance permit application is submitted in conjunction with soil disturbance on property that is not before the Planning Board or Board of Adjustment, the permit application shall be submitted to the Borough Clerk for distribution to the Borough Engineer. The Borough Engineer shall review the application and submit a report to the Borough Clerk approving or denying the soil disturbance permit.
- B. The Planning Board or Board of Adjustment and/or Borough Engineer, in considering and reviewing the application and the contour map, shall take into consideration the public health, safety and general welfare, and shall give particular consideration to the following factors:
- (1) The potential for soil erosion by water and wind.
 - (2) The prevention of silt and sediment from entering brooks, streams, ponds, lakes, rivers and other bodies of water.
 - (3) The existing drainage of the site involved and any changes in drainage patterns that may result from the establishment of new contours.
 - (4) Types and fertility of the soil to be removed and the use to which it will be put.
 - (5) Lateral support slopes and grades of abutting streets and lands.

- (6) Land values and uses of those properties affected directly or indirectly by the proposed disturbance of soil.
 - (7) Such other factors as may bear upon or relate to a coordinated, adjusted and harmonious physical development of the site in connection with the surrounding lands in accordance with the master plan for the development of the Borough.
- C.
- (1) The Borough Engineer shall respond in writing, either recommending approval or denial, to the Borough Clerk within forty-five (45) days of receipt of a complete soil disturbance permit application.
 - (2) As directed by the Borough Engineer, the Borough Clerk shall issue or deny the soil disturbance permit within five (5) days after receipt of the report and recommendation of the Borough Engineer.
 - (3) A denial of a soil disturbance permit may be appealed to the Borough Council, who shall hear such appeal at its next regularly scheduled meeting.

SECTION 10. Section 169-6 “Fees”, Paragraph A therein, is hereby amended such that the minimum escrow to be established is increased from \$1,000 to \$1,500, and said paragraph now reads as follows:

- A. An application fee of \$150 must be submitted with the application if the applicant proposes to disturb 50 to 500 cubic yards of soil. An application fee in the amount of \$500 must be submitted with the application if the applicant proposes to disturb 501 or more cubic yards of soil. In addition to the application fee stated herein, a minimum escrow of \$1,500 must be established. The Borough Engineer may request additional escrow funds as warranted.

SECTION 11. Section 169-6 “Fees” is hereby further amended such that existing Paragraphs B and C therein are repealed in their entirety.

SECTION 12. Section 169-7 “Performance Guarantee” is hereby amended such that approval for soil disturbance permits and permission for soil disturbance are not obtained from the Borough Council, and said section now reads as follows:

Before any permit or permission for soil disturbance is granted or issued, the owner or applicant shall file with the Borough Clerk, in such amount as in the opinion of the Borough Engineer shall be sufficient, a performance guarantee, in a form satisfactory to the Borough Attorney, consistent with the guarantee form permitted under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., to insure the faithful performance of the work to be undertaken pursuant to the provisions of this section. For those soil permit

applications submitted in connection with an application before the Planning Board or Board of Adjustment, said performance guarantee may be included in the guarantee required by the developer's agreement. An as-constructed contour map shall be filed and approved by the Borough Engineer prior to the release of any bond required.

SECTION 13. Any provisions not amended by this Ordinance shall remain in full force and effect.

SECTION 14. All ordinances, resolutions and regulations or parts of ordinances, resolutions and regulations inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 15. 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 16. 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

There was no other desire to discuss this ordinance, and Mayor Freda asked the Borough Clerk to call the roll on the passage thereof, and the vote was as followed.

Roll Call: W. Yago, Yes; V. Russo, Yes;
 R. Charlies, Yes;
 S. Mabey, Yes; J. Lorkowski, Yes.

WHEREAS, the above ordinance was introduced at this meeting held on November 17, 2022 and read by title, and passed on first reading:

NOW, THEREFORE, BE IT RESOLVED, that at the regular meeting to be held on December 15, 2022 at 8:00 pm, prevailing time, at the Kinnelon Municipal Building, this Council further consider for second reading and final passage the said ordinance.

BE IT FURTHER RESOLVED that the Borough Clerk of this Borough be and she is hereby directed to publish the proper notice thereof.

Councilman R. Charles offered a motion to publish the foregoing resolution. This was second by Councilman V. Russo.

Roll Call: W. Yago, Yes; V. Russo, Yes;
 R. Charlies, Yes.
 S. Mabey, Yes; J. Lorkowski, Yes.

ORDINANCE 20-22

**An Ordinance Adding a New Chapter 147 Titled
"Disturbing the Peace" to the Borough of Kinnelon
Code**

This Ordinance was withdrawn and cancelled.

Roll Call: W. Yago; V. Russo, Yes;
 R. Charlies, Yes;
 S. Mabey, Yes; J. Lorkowski, Yes.

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**ORDINANCE NO. 21-22 AN ORDINANCE ADOPTING THE NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL
PROTECTION'S MODEL LOCAL NOISE CONTROL
ORDINANCE**

WHEREAS, pursuant to N.J.S.A. 40:48-2, the governing body of a municipality may make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this state or of the United States, as it may deem necessary and proper for the good government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

WHEREAS, the Borough of Kinnelon ("Borough") desires to adopt a noise control ordinance pursuant to the State of New Jersey's Noise Control Act of 1971, N.J.S.A. 13:1G-1 et seq., and more specifically, the Model Local Noise Control Ordinance promulgated by the NJ Department of Environmental Protection ("Department").

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. Existing Chapter 146 "Noise" of the Borough Code is hereby repealed in its entirety and replaced with the following such that said chapter now reads as follows:

Chapter 146 Noise

146-1 Declaration of Findings and Policy.

WHEREAS excessive sound is a serious hazard to the public health, welfare, safety, and the quality of life; and, WHEREAS a substantial body of science and technology exists by which

excessive sound may be substantially abated; and, WHEREAS the people have a right to, and should be ensured of, an environment free from excessive sound,

Now THEREFORE, it is the policy of the Borough to prevent excessive sound that may jeopardize the health, welfare, or safety of the citizens or degrade the quality of life.

This ordinance shall apply to the control of sound originating from sources within the Borough of Kinnelon.

146-2 Definitions.

The following words and terms, when used in this ordinance, shall have the following meanings, unless the context clearly indicates otherwise. Terms not defined in this ordinance have the same meaning as those defined in N.J.A.C. 7:29.

"Construction" means any site preparation, assembly, erection, repair, alteration or similar action of buildings or structures.

"dBC" means the sound level as measured using the "C" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors. The unit of reporting is dB(C). The "C" weighting network is more sensitive to low frequencies than is the "A" weighting network.

"Demolition" means any dismantling, destruction or removal of buildings, structures, or roadways.

"Department" means the New Jersey Department of Environmental Protection.

"Emergency work" means any work or action necessary at the site of an emergency to restore or deliver essential services including, but not limited to, repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, dredging navigational waterways, or abating life-threatening conditions or a state of emergency declared by a governing agency.

"Impulsive sound" means either a single pressure peak or a single burst (multiple pressure peaks) that has a duration of less than one second.

"Minor Violation" means a violation that is not the result of the purposeful, reckless or criminally negligent conduct of the alleged violator; and/or the activity or condition constituting the violation has not been the subject of an enforcement action by any authorized local, county or state enforcement agency against the violator within the immediately preceding 12 months for the same or substantially similar violation.

"Motor vehicle" means any vehicle that is propelled other than by human or animal power on land.

"Muffler" means a properly functioning sound dissipative device or system for abating the sound on engines or equipment where such device is part of the normal configuration of the equipment.

"Multi-dwelling unit building" means any building comprising two or more dwelling units, including, but not limited to, apartments, condominiums, co-ops, multiple family houses, townhouses, and attached residences.

"Multi-use property" means any distinct parcel of land that is used for more than one category of activity. Examples include, but are not limited to:

1. A commercial, residential, industrial or public service property having boilers, incinerators, elevators, automatic garage doors, air conditioners, laundry rooms, utility provisions, or health and recreational facilities, or other similar devices or areas, either in the interior or on the exterior of the building, which may be a source of elevated sound levels at another category on the same distinct parcel of land; or
2. A building, which is both commercial (usually on the ground floor) and residential property, located above, below or otherwise adjacent to.

"Noise Control Officer" (NCO) means an employee of a local, county or regional health agency which is certified pursuant to the County Environmental Health Act (N.J.S.A. 26:3A2-21 *et seq.*) to perform noise enforcement activities or an employee of a municipality with a Department-approved model noise control ordinance. All NCOs must receive noise enforcement training as specified by the Department in N.J.A.C. 7:29 and is currently certified in noise enforcement. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a summons.

"Noise Control Investigator" (NCI) means an employee of a municipality, county or regional health commission that has a Department-approved model noise control ordinance and the employee has not received noise enforcement training as specified by the Department in N.J.A.C. 7:29. However, they are knowledgeable about their model noise ordinance and enforcement procedures. A Noise Control Investigator may only enforce sections of the ordinance that do not require the use of a sound level meter. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a summons.

"Plainly audible" means any sound that can be detected by a NCO or an NCI using his or her unaided hearing faculties of normal acuity. As an example, if the sound source under investigation is a portable or vehicular sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound. The NCO or NCI need not determine the title, specific words, or the artist performing the song.

"Private right-of-way" means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a non-governmental entity.

"Public right-of-way" means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity.

"Public space" means any real property or structures thereon that are owned, leased, or controlled by a governmental entity.

"Real property line" means either (a) the vertical boundary that separates one parcel of property (i.e., lot and block) from another residential or commercial property; (b) the vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling unit building; or (c) on a multi-use property as defined herein, the vertical or horizontal boundaries between the two portions of the property on which different categories of activity are being performed (e.g., if the multi-use property is a building which is residential upstairs and commercial downstairs, then the real property line would be the interface between the residential area and the commercial area, or if there is an outdoor sound source such as an HVAC unit on the same parcel of property, the boundary line is the exterior wall of the receiving unit). Note- this definition shall not apply to a commercial source and a commercial receptor which are both located on the same parcel of property (e.g., a strip mall).

"Sound production device" means any device whose primary function is the production of sound, including, but not limited to any, musical instrument, loudspeaker, radio, television, digital or analog music player, public address system or sound-amplifying equipment.

"Sound reduction device" means any device, such as a muffler, baffle, shroud, jacket, enclosure, isolator, or dampener provided by the manufacturer with the equipment, or that is otherwise required, that mitigates the sound emissions of the equipment.

"Weekday" means any day that is not a federal holiday, and beginning on Monday at 7:00 a.m. and ending on the following Friday at 6:00 p.m.

"Weekends" means beginning on Friday at 6:00 p.m. and ending on the following Monday at 7:00 a.m.

146-3 Applicability.

- A. This model noise ordinance applies to sound from the following property categories:
- (1) Industrial facilities;
 - (2) Commercial facilities;
 - (3) Community service facilities;
 - (4) Residential properties;

- (5) Multi-use properties;
 - (6) Public and private right-of-ways;
 - (7) Public spaces; and
 - (8) Multi-dwelling unit buildings.
- B. This model noise ordinance applies to sound received at the following property categories:
- (1) Commercial facilities;
 - (2) Community service facilities (i.e. non-profits and/or religious facilities)
 - (3) Residential properties;
 - (4) Multi-use properties;
 - (5) Multi-dwelling unit buildings.
- C. Sound from stationary emergency signaling devices shall be regulated in accordance with N.J.A.C. 7:29-1.4, except that the testing of the electromechanical functioning of a stationary emergency signaling device shall not meet or exceed 10 seconds.

146-4 Exemptions.

- A. Except as provided in 146-9 . and 146-10. below, the provisions of this ordinance shall not apply to the exceptions listed at N.J.A.C. 7:29-1.5.
- B. Sound production devices required or sanctioned under the Americans with Disabilities Act (ADA), FEMA or other government agencies to the extent that they comply with the noise requirement of the enabling legislation or regulation. Devices which are exempted under N.J.A.C. 7:29-1.5 shall continue to be exempted.
- C. Construction and demolition activities are exempt from the sound level limits set forth in tables I and II and III except as provided for in 146-9 . below.

146-5. Enforcement Officers

- A. Noise Control Officers shall have the authority within their designated jurisdiction to investigate suspected violations of any section of this ordinance and pursue enforcement activities.
- B. Noise Control Investigators shall have the authority within their designated jurisdiction to investigate suspected violations of any section of this ordinance that do not require the use of a sound level meter (i.e., plainly audible, times of day and/or distance determinations) and pursue enforcement activities. The Kinnelon Police Department and its officers, Health Department officials, Code

Enforcement Officer and Zoning Officer are all designated noise control investigators.

- C. Noise Control Officers and Investigators may cooperate with NCOs and NCIs of an adjacent municipality in enforcing one another's municipal noise ordinances.

146-6. Measurement Protocols.

- A. Sound measurements made by a Noise Control Officer shall conform to the procedures set forth at N.J.A.C. 7:29-2, except that interior sound level measurements shall also conform with the procedures set forth in 146-6(B) of this ordinance and with the definition of "real property line" as contained herein.
- B. When conducting indoor sound level measurements across a real property line the measurements shall be taken at least three feet from any wall, floor or ceiling and all exterior doors and windows may, at the discretion of the investigator, be closed. The neighborhood residual sound level shall be measured in accordance with N.J.A.C. 7:29-2.9(b)2. When measuring total sound level, the configuration of the windows and doors shall be the same and all sound sources within the dwelling unit must be shut off (e.g., television, stereo). Measurements shall not be taken in areas which receive only casual use such as hallways, closets and bathrooms.

146-7. Maximum Permissible Sound Levels.

- A. No person shall cause, suffer, allow, or permit the operation of any source of sound on any source property listed in 146-3(A) above in such a manner as to create a sound level that equals or exceeds the sound level limits set forth in Tables I, II or III when measured at or within the real property line of any of the receiving properties listed in Tables I, II or III except as specified in 146-6(B).
- B. Impulsive Sound

Between 7:00 a.m. and 10:00 p.m., impulsive sound shall not equal or exceed 80 decibels. Between 10:00 p.m. and 7:00 a.m., impulsive sound which occurs less than four times in any hour shall not equal or exceed 80 decibels. Impulsive sound which repeats four or more times in any hour shall be measured as continuous sound and shall meet the requirements as shown in Tables I and II.

**TABLE I
 MAXIMUM PERMISSIBLE A-WEIGHTED SOUND LEVELS
 WHEN MEASURED OUTDOORS**

RECEIVING PROPERTY CATEGORY	Residential property, or residential portion of a multi-use property		Commercial facility, non-residential portion of a multi-use property, or community service facility
TIME	7 a.m.-10 p.m.	10 p.m.-7 a.m.	24 hours
Maximum A-Weighted sound level standard, dB	65	50	65

**TABLE II
 MAXIMUM PERMISSIBLE A-WEIGHTED SOUND LEVELS
 WHEN MEASURED INDOORS**

RECEIVING PROPERTY CATEGORY	Residential property, or residential portion of a multi-use property		Commercial facility or non-residential portion of a multi-use property
TIME	7 a.m.-10 p.m.	10 p.m.-7 a.m.	24 Hours
Maximum A-Weighted sound level standard, dB	55	40	55

Note: Table II shall only apply when the source and the receptor are separated by a real property line and they also share a common or abutting wall, floor or ceiling, or are on the same parcel of property.

**TABLE III
MAXIMUM PERMISSIBLE OCTAVE BAND
SOUND PRESSURE LEVELS IN DECIBELS**

Receiving Property Category	Residential property, or residential portion of a multi-use property		Residential property, or residential portion of a multi-use property		Commercial facility, non-residential portion of a multi-use property, or community service facility	Commercial facility or non-residential portion of a multi-use property
	OUTDOORS		INDOORS		OUTDOORS	INDOORS
Octave Band Center Frequency, Hz.	Octave Band Sound Pressure Level, dB		Octave Band Sound Pressure Level, dB		Octave Band Sound Pressure Level, dB	Octave Band Sound Pressure Level, dB
Time	7 a.m.-10 p.m.	10 p.m.-7 a.m.	7 a.m.-10 p.m.	10 p.m.-7 a.m.	24 hours	24 hours
31.5	96	86	86	76	96	86
63	82	71	72	61	82	72
125	74	61	64	51	74	64
250	67	53	57	43	67	57
500	63	48	53	38	63	53
1,000	60	45	50	35	60	50
2,000	57	42	47	32	57	47
4,000	55	40	45	30	55	45
8,000	53	38	43	28	53	43

Note: When octave measurements are made, the sound from the source must be constant in level and character. If octave band sound pressure level variations exceed plus or minus 2 dB in the bands containing the principal source frequencies, discontinue the measurement.

146-8. Sound Production Devices.

No person shall cause, suffer, allow, or permit the operation of any sound production device in such a manner that the sound crosses a property line and raises the total sound levels above the neighborhood residual sound level by more than the permissible sound level limits set forth in Table IV when measured within the residence of a complainant according to the measurement protocol in 146-6(B) of this ordinance. These sound level

measurements shall be conducted with the sound level meter set for "C" weighting, "fast" response.

**TABLE IV
MAXIMUM PERMISSIBLE INCREASE IN TOTAL SOUND LEVELS
WITHIN A RESIDENTIAL PROPERTY**

Weeknights 10:00 p.m. - 7:00 a.m. Weekend nights 11:00 p.m. and 9:00 a.m.	All other times
3 dB(C)	6 dB(C)

146-9. Restricted Uses and Activities.

The following standards shall apply to the activities or sources of sound set forth below:

- A. Excluding emergency work, power tools, home maintenance tools, landscaping and/or yard maintenance equipment used by a residential property owner or tenant shall not be operated between the hours of 8:00 p.m. and 8:00 a.m., unless such activities can meet the applicable limits set forth in Tables I, II or III. At all other times the limits set forth in Tables I, II or III do not apply. All motorized equipment used in these activities shall be operated with a muffler and/or sound reduction device.

- B. Excluding emergency work, power tools, landscaping and/or yard maintenance equipment used by nonresidential operators (e.g. commercial operators, public employees) shall not be operated on a residential, commercial, industrial or public (e.g. golf course, parks, athletic fields) property between the hours of 6:00 p.m. and 8:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. on weekends or federal holidays, unless such activities can meet the limits set forth in Tables I, II or III. At all other times the limits set forth in Tables I, II or III do not apply. All motorized equipment used in these activities shall be operated with a muffler and/or sound reduction device.

- C. All construction and demolition activity, excluding emergency work, shall not be performed between the hours of 6:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. on weekends and federal holidays, unless such activities can meet the limits set forth in Tables I, II or III. At all other times the limits set forth in Tables I, II or III do not apply. All motorized equipment used in construction and demolition activity shall be operated with a muffler and/or sound reduction device.

- D. Motorized snow removal equipment shall be operated with a muffler and/or a sound reduction device when being used for snow removal. At all other times the limits set forth in Tables I, II or III do not apply.
- E. All interior and exterior burglar alarms of a building or motor vehicle must be activated in such a manner that the burglar alarm terminates its operation within five (5) minutes for continuous airborne sound and fifteen (15) minutes for intermittent sound after it has been activated. At all other times the limits set forth in Tables I, II or III do not apply.
- F. Self-contained, portable, non-vehicular music or sound production devices shall not be operated on a public space or public right-of-way in such a manner as to be plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 8:00 a.m., sound, operated on a public space or public right-of-way, from such equipment shall not be plainly audible at a distance of 25 feet in any direction from the operator;
- G. It shall be unlawful for any property owner or tenant to allow any domesticated or caged animal to create a sound across a real property line which unreasonably disturbs or interferes with the peace, comfort, and repose of any resident, or to refuse or intentionally fail to cease the unreasonable noise when ordered to do so by a Noise Control Officer or Noise Control Investigator. Prima facie evidence of a violation of this section shall include but not be limited to:
 - (1) Vocalizing (howling, yelping, barking, squawking etc.) for five (5) minutes without interruption, defined as an average of four or more vocalizations per minute in that period; or,
 - (2) Vocalizing for twenty (20) minutes intermittently, defined as an average of two vocalizations or more per minute in that period.

It is an affirmative defense under this subsection that the dog or other animal was intentionally provoked to bark or make any other noise.

146-10. Motor Vehicles.

Violations of each paragraph of this section shall be considered purposeful and therefore non-minor violations.

- A. No person shall remove or render inoperative, or cause to be removed or rendered inoperative or less effective than originally equipped, other than for the purposes of maintenance, repair, or replacement, of any device or element of design incorporated in any motor vehicle for the purpose of noise control. No person shall operate a motor vehicle or motorcycle which has been so modified. A vehicle not meeting these requirements shall be deemed in violation of this

provision if it is operated stationary or in motion in any public space or public right-of-way.

- B. No motorcycle shall be operated stationary or in motion unless it has a muffler that complies with and is labeled in accordance with the Federal Noise Regulations under 40 CFR Part 205.
- C. Personal or commercial vehicular music amplification or reproduction equipment shall not be operated in such a manner that it is plainly audible at distance of 25 feet in any direction from the operator between the hours of 10:00 p.m. and 8:00 a.m.
- D. Personal or commercial vehicular music amplification or reproduction equipment shall not be operated in such a manner that is plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m.

146-11. Enforcement.

- A. Violation of any provision of this ordinance shall be cause for a Notice of Violation (NOV) or a Notice of Penalty Assessment (NOPA) document to be issued to the violator by the Noise Control Officer or Noise Control Investigator.
- B. Any person who violates any provision of this ordinance shall be subject to a civil penalty for each offense of not more than the maximum penalty pursuant to N.J.S.A. 40:49-5, which is \$2,000 as of December 2014. If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate, and distinct offense.
- C. Upon identification of a violation of this Ordinance the Noise Control Officer or Noise Control Investigator shall issue an enforcement document to the violator. The enforcement document shall identify the condition or activity that constitutes the violation and the specific provision of this Ordinance that has been violated. It shall also indicate whether the violator has a period of time to correct the violation before a penalty is sought.
- D. If the violation is deemed by the Noise Control Officer or Noise Control Investigator to be a minor violation (as defined in 146-2 of this ordinance) a NOV shall be issued to the violator.
 - (1) The document shall indicate that the purpose of the NOV is intended to serve as a notice to warn the responsible party/violator of the violation conditions in order to provide them with an opportunity to voluntarily investigate the matter and voluntarily take corrective action to address the identified violation.

- (2) The NOV shall identify the time period (up to 90 days), pursuant to the Grace Period Law, N.J.S.A. 13:1D-125 et seq. where the responsible party's/violator's voluntary action can prevent a formal enforcement action with penalties issued by the Kinnelon Health Department. It shall be noted that the NOV does not constitute a formal enforcement action, a final agency action or a final legal determination that a violation has occurred. Therefore, the NOV may not be appealed or contested.
- E. If the violation is deemed by the Noise Control Officer or Noise Control Investigator to be a non-minor violation, the violator shall be notified that if the violation is not immediately corrected, a NOPA with a civil penalty of not more than the maximum penalty allowed pursuant to N.J.S.A. 40:49-5, which is \$2,000 as of December 2014, will be issued. If a non-minor violation is immediately corrected, a NOV without a civil penalty shall still be issued to document the violation. If the violation occurs again (within 12 months of the initial violation) a NOPA shall be issued regardless of whether the violation is immediately corrected or not.
- F. The violator may request from the Noise Control Officer or Noise Control Investigator, an extension of the compliance deadline in the enforcement action. The Noise Control Officer or Noise Control Investigator shall have the option to approve any reasonable request for an extension (not to exceed 180 days) if the violator can demonstrate that a good faith effort has been made to achieve compliance. If an extension is not granted and the violation continues to exist after the grace period ends, a NOPA shall be issued.
- G. The recipient of a NOPA shall be entitled to a hearing in a municipal court having jurisdiction to contest such action.
- H. The Noise Control Officer or Noise Control Investigator may seek injunctive relief if the responsible party does not remediate the violation within the period of time specified in the NOPA issued.
- I. Any claim for a civil penalty may be compromised and settled based on the following factors:
1. Mitigating or any other extenuating circumstances;
 2. The timely implementation by the violator of measures which lead to compliance;
 3. The conduct of the violator; and
 4. The compliance history of the violator.

146-12. Consistency, Severability and Repealer.

- A. If any provision or portion of a provision of this ordinance is held to be unconstitutional, preempted by Federal or State law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.
- B. All ordinances or parts of ordinances, resolutions and regulations which are inconsistent with any provisions of this ordinance, are hereby repealed as to the extent of such inconsistencies.
- C. No provision of this ordinance shall be construed to impair any common law or statutory cause of action, or legal remedy there from, of any person for injury or damage arising from any violation of this ordinance or from other law.

SECTION 2. 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 3. 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

ORDINANCE NO. 22-22 AN ORDINANCE GRANTING MUNICIPAL CONSENT FOR THE RENEWAL OF A CABLE TELEVISION FRANCHISE TO CABLEVISION OF OAKLAND, LLC FOR THE SUPPLYING OF CABLE TELEVISION SERVICES IN THE BOROUGH OF KINNELON, COUNTY OF MORRIS, STATE OF NEW JERSEY

WHEREAS, by Ordinance 7-73, as amended, the Mayor and Council of the Borough of Kinnelon (the "Borough") granted a non-exclusive franchise for cable television services to Micro Cable Communications Corp., d/b/a UA-Columbia Cablevision of New Jersey ("UACC"), for a period of fifteen (15) years; and

WHEREAS, by Ordinance 7-89, as amended, the Mayor and Council of the Borough, granted a non-exclusive consent for the renewal of the cable television franchise to UACC for a period of ten (10) years; and

WHEREAS, on June 25, 1990, the cable operator became United Artists Cable of New Jersey; in 1991 the cable operator became United Artists Cable Company, a TCI Company; in November 1992, the cable operator became TCI of Northern New Jersey; and, as of March 4, 1998, the cable system was transferred to Cablevision of Oakland, Inc. and on December 26, 2001 the cable system was transferred to Cablevision of Oakland, LLC (the "Company"); and

WHEREAS, by Ordinance 8-99, as amended, the Mayor and Council of the Borough granted a non-exclusive consent for the renewal of the Cable Television Franchise to the Company for a period of ten (10) years; and

WHEREAS, by Ordinance 10-11, as amended, the Mayor and Council of the Borough granted a non-exclusive consent for the renewal of the Cable Television Franchise to the Company for a period of ten (10) years; and

WHEREAS, the Company has filed with the Borough of Kinnelon an Application for Municipal Consent for the renewal of the non-exclusive cable television franchise in accordance with the law; and

WHEREAS, on July 12, 2022 a public hearing concerning the renewal of the franchise for

the placement, operation and maintenance of a cable television system was duly held, after proper public notice, pursuant to the terms and conditions of the Cable Communications Policy Act of 1984 and its amendments (47 U.S.C. 521, et seq.), the New Jersey Cable Television Act (N.J.S.A. 48:5A-1, et seq.) and administrative regulations promulgated thereunder (N.J.A.C. 14:17-1.1, et seq.), and other applicable law; and all comments and presentations regarding the qualifications of the Company for renewal of the franchise having been received and considered; and

WHEREAS, the Borough, by its governing body, hereby makes and finds the following determinations with respect to the Application for Municipal Consent (the "Application") of the Company:

- a. The Company has substantially complied with the material terms of the existing franchise and applicable law;
- b. The quality of the Company's service has been reasonable in light of community needs;
- c. The Company possesses the financial, legal, and technical ability to provide the services, facilities and equipment set forth in its Application and proposal, the terms of which are incorporated herein;
- d. The Company's Application and proposal is reasonable to meet the future cable-related community needs and interest, taking into account the cost of meeting such needs and interests.

WHEREAS, the Borough desires to grant the renewal of the franchise for cable television services to the Company under the terms and conditions as set forth in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Kinnelon, County of Morris, State of New Jersey, as follows:

SECTION 1. GRANT OF NON-EXCLUSIVE FRANCHISE. The Borough hereby grants to the Company its non-exclusive consent to place in, upon, along, across, above, over and under the highways, streets, alleys, sidewalks, public ways, and public places in the Borough poles, wires,

cables, and fixtures necessary for the maintenance and operation in the Borough of a cable television system or other communications facilities and for the provision of any communication service over such facilities. Operation and construction, pursuant to said consent, is conditioned upon prior approval of the Board of Public Utilities.

SECTION 2. DEFINITIONS. For the purposes of the Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. Such meaning or definition of terms is supplemental to those definitions given by the Federal Communications Commission, F.C.C. Rules and Regulations 47 C.F.R. Subsection 76.1 et seq.; the Cable Communications Policy Act of 1984, 47 U.S.C. 521 et seq., as amended; and the Cable Television Act, N.J.S.A. 48:5A-1 et seq. and shall in no way be construed to broaden, alter or conflict with federal or state definitions:

- a. "Borough" shall mean the Borough of Kinnelon, County of Morris, State of New Jersey.
- b. "Company" shall mean Cablevision of Oakland, LLC, the grantee of rights under this Ordinance.
- c. "State" shall mean the State of New Jersey.
- d. "Act" or "Cable Television Act" shall mean that statute of the State of New Jersey relating to cable television, known as the Cable Television Act, N.J.S.A. 48:5A-1 et seq., and subsequent amendment thereto.
- e. "Federal Act" shall mean the federal statute relating to cable communications known as the Cable Communications Policy Act of 1984, 47 U.S.C. 521, et seq., and the Telecommunications Act of 1996, and subsequent amendments thereto.
- f. "FCC" shall mean the Federal Communications Commission.
- g. "Board" shall mean the Board of Public Utilities of the State of New Jersey or its

successor agency.

h. "Office of Cable Television" shall mean the Board of Public Utilities of the State of New Jersey, Office of Cable Television.

i. "Application" shall mean the Application for Renewal of Municipal Consent submitted by the Company to the Borough, dated April 15, 2022, which application is on file in the Borough's office and is incorporated herein by reference and made a part hereof, except as modified, changed, limited or altered by this Ordinance.

j. "Standard Installation" shall mean the installation of drop cable to a customer's premises where the distance from the point of entry into the building being served is less than 150 feet from the active cable television system plant.

k. "Federal Regulations" shall mean those federal regulations relating to cable television services, 47 C.F.R. Section 76.1 et seq., and subsequent amendments thereto.

l. "State Regulations" shall mean those state regulations relating to cable television, N.J.A.C. 14:17-1.1 et seq. and 14:18-1 et seq., and subsequent amendments thereto.

SECTION 3. STATEMENT OF FINDINGS. On July 12, 2022, a public hearing concerning the consent herein granted to the Company was held after proper public notice pursuant to the terms and conditions of the Act. Said hearing having been held and fully open to the public, and the Borough having received all comments regarding the qualifications of the Company to receive this consent, the Borough hereby finds the Company possesses the necessary legal, technical, character, financial and other qualifications to support municipal consent, and that the Company's operating and construction arrangements are adequate and feasible.

SECTION 4. DURATION OF FRANCHISE. The consent herein granted shall be non-exclusive and shall be for a term of fifteen (15) years from the date of issuance of a Certificate of

Approval by the Board.

SECTION 5. EXPIRATION AND SUBSEQUENT RENEWAL. If the Company seeks a successive consent, it shall, prior to the expiration of this consent, apply for a municipal consent and Certificate of Approval in accordance with N.J.S.A. 48:5A-16, and applicable State and federal rules and regulations. In accordance with N.J.S.A. 48:5A-25.1, both the Borough and the Company shall be bound by the terms of this municipal consent until such time as the Company converts the municipal consent (and any Certificate of Approval) into a system-wide franchise.

SECTION 6. FRANCHISE FEE. Pursuant to the terms and conditions of the Act, the Company shall, during each year of operation under the consent granted herein, pay to the Borough two percent (2%) of the gross revenues from all recurring charges in the nature of subscription fees paid by subscribers to its cable television reception service in the Borough or any amount mandated by the Act or otherwise required by law in excess of the fee provided for in this Section, which increase shall become effective ninety (90) days after the month following the modification in the Act or law that requires the increase. In the event a change in the Act or law requires a larger franchise fee to be collected, but does not fix the amount thereof, the Company and the Borough shall negotiate in good faith as to the amount of the franchise fee.

The Company may use electronic funds transfer to make any payments to the Borough required under this Ordinance.

SECTION 7. TERRITORY. The consent granted herein to the Company shall apply to the entirety of the Borough and any property hereafter annexed.

SECTION 8. PROVISION OF SERVICE. The Company shall be required to proffer service along any public right-of-way to any person's residence located in those areas of the franchise territory described herein, in accordance with the proposal for the provision of services as described in the

Application. Any additional extension of the system will be made in accordance with the Company's line extension policy as set forth in the Application. Commercial entities will be proffered service in accordance with the Company's commercial line extension policy as identified in the Application.

SECTION 9. CONSTRUCTION REQUIREMENTS. Cablevision shall perform construction and installation of its plant and facilities in accordance with applicable State and federal law. The Company shall be subject to the following additional construction requirements with respect to the installation of its plant and facilities in the Borough:

(a) In the event that the Company or its agents shall disturb any pavement, street surfaces, sidewalks, driveways or other surfaces in the natural topography, the Company shall at its sole expense restore and replace such disturbances in as good a condition as existed prior to the commencement of said work.

(b) If at any time during the period of this consent, the Borough shall alter or change the grade of any street, alley or other way or place, the Company, upon reasonable notice by the Borough, shall remove, re-lay and relocate its equipment, at the expense of the Company.

(c) Upon at least 14 days' written notice, the Company shall temporarily move or remove appropriate parts of its facilities to allow for the construction or moving of buildings, use of machinery or in other similar circumstances. The expense of any such temporary removal or relocation shall be borne by the party requesting such action except when requested by the Borough, in which case the Company shall bear the costs.

(d) During the exercise of its rights and privileges under this franchise, the Company, upon notice to the Borough Clerk, emergency situations excepted, shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places of the Borough so as to prevent the branches of such trees from coming in contact with the wires, cables, conduits and fixtures of the

Company. Such trimming shall be only to the extent necessary to maintain proper clearance for the Company's facilities.

SECTION 10. TECHNICAL AND CUSTOMER SERVICE STANDARDS. The Company shall comply with the technical and customer service standards established for the cable industry under applicable State and federal laws, rules and regulations.

SECTION 11. LOCAL OFFICE. During the term of this franchise, and any renewal thereof, the Company shall maintain a local business office or agent for the purpose of receiving, investigating, and resolving all complaints regarding the quality of service, equipment malfunctions and similar matters as prescribed in N.J.S.A. 48:5A-26(d). Such local business office shall be open in no event less than 9:00 a.m. to 5:00 p.m. Monday through Friday, with the exception of Holidays.

SECTION 12. INSTALLATION OF SERVICES. The Company shall provide installation and service to any subscriber's residence within a reasonable time period under normal operating conditions in accordance with State and federal regulations.

SECTION 13. QUALITY OF SIGNAL. The Company agrees to provide quality signals in accordance with State and federal regulations.

SECTION 14. ALTERATION OF BASIC SERVICE. If required under federal Law, the Company shall not alter its basic service, including rate and channel changes, without prior notice to the Office of Cable Television and the Borough.

SECTION 15. ANNUAL SYSTEM STATUS REPORT. Upon request by the Borough, but no more than one time per year, a Company representative shall attend a Borough Council meeting to discuss any changes, improvements, new procedures or to answer any concerns the Borough may have with the provision of service in the Borough.

SECTION 16. DESIGNATION OF COMPLAINT OFFICER. The Office of Cable

Television is hereby designated as the complaint officer for the Borough pursuant to N.J.S.A. 48:5A-26. All complaints shall be received and processed in accordance with N.J.A.C. 14:17-6.5.

SECTION 17. PERFORMANCE BOND. During the term of this franchise, and any renewal thereof, the Company shall obtain and maintain, at its sole cost and expense, a bond to the Borough in the amount of \$25,000.00. Such bond shall be to insure the faithful performance of all obligations of the Company as represented in its Application and herein.

SECTION 18. RATES. The rates of the Company shall be subject to regulation as permitted by State and federal law.

SECTION 19. FREE INSTALLATION AND SERVICE. The Company shall, subject to federal law and FCC rules and orders, provide free of charge, one (1) standard installation and monthly Basic cable television reception service to each of the following for the term of this franchise Ordinance: the Municipal Building, Department of Public Works, Kinnelon Free Public Library, Police Department, all Fire Department buildings, and all public and private accredited schools located within the municipality.

The Company shall, subject to federal law and FCC rules and orders, provide free of charge one (1) standard installation, one (1) cable modem per installation and basic cable modem service to each of the following for the term of this franchise Ordinance: the Municipal Building; the Kinnelon Free Public Library; and all public and private accredited schools located within the municipality.

This offer shall be subject to the terms, conditions and use policies of the Company, as those policies may exist from time to time.

SECTION 20. SENIOR AND DISABLED DISCOUNTS. The Company voluntarily offers a discount for senior citizens meeting the eligibility requirements pursuant to the State's

Pharmaceutical Aid for the Aged and Disabled program.

SECTION 21. INSURANCE. The Company agrees to maintain and keep in full force and effect at its sole expense at all times during the term of this franchise, and any renewal thereof, sufficient liability insurance naming the Borough as an additional insured and insuring against loss by any such claim, suit, judgment, execution or demand in the minimum amounts of \$1.5 million combined single limit for bodily injury or death to one person or resulting from any one accident and for property damage resulting from any one accident. The Company shall also provide workers compensation insurance at the State mandated limited. The Company will protect, defend, indemnify, and hold harmless, the Borough from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees, or other expenses or liabilities arising out of or resulting from the operation, construction or maintenance of the cable system provided that any such claims, damage, loss, or expense is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of the tangible property including the loss of the use resulting therefrom and is caused in whole or in part by any negligent or willful act or omission of the Company.

SECTION 22. EMERGENCY USES AND SERVICES. The Company shall be required to have the capability to override the audio portion of the system in order to permit the broadcasting of emergency messages by the Borough. The Company shall in no way be held liable for any injury suffered by the Borough or any other person, during an emergency, if for any reason the Borough is unable to make full use of the cable television system as contemplated herein. The Borough shall utilize reasonable and appropriate procedures for such emergency uses.

SECTION 23. LEVEL PLAYING FIELD. In the event that the Borough approves or permits a cable system to operate in the Borough on terms more favorable or less burdensome than those contained in this ordinance, then such more favorable or less burdensome terms shall be

applicable to this franchise, pursuant to approval of a petition to amend the Certificate of Approval filed with the Board as provided for under N.J.S.A. 48:5A-47 and N.J.A.C. 14:17-6.7.

SECTION 24. PUBLIC, EDUCATIONAL, AND GOVERNMENTAL ACCESS.

A. The Company shall continue to make available non-commercial public, educational and governmental ("PEG") access services available to the residents of the Borough as described in the Application for municipal consent. All of the Company's support for PEG access shall be for the exclusive benefit of the Company's subscribers.

B. The Borough agrees that the Company shall retain the right to use the PEG access channel, or portion thereof, for non-PEG access programming, during times when the Borough is not utilizing the channel for purposes of providing PEG access programming. In the event that the Company uses said PEG access channel for the presentation of such other programming, the PEG programming shall remain the priority use and the Company's rights with respect to using the channel for non-PEG programming shall be subordinate to the Borough's provision of PEG access programming on such channel.

C. The Company shall continue to provide and maintain access return lines at the Kinnelon High School Studio Facility (the "Borough Access Center"), for use by the Borough in the production of non-commercial PEG access programming on the cable system. The Company shall have discretion to determine the format and method of transmission of the PEG access programming provided for in this Ordinance.

D. The mechanism for scheduling use of the Borough's Access Center shall be established by the Kinnelon Board of Education with the advice and consent of the Borough. The policy and rules and regulations with regard to the operation of the Borough's Access Center and programming availability guidelines, including by way of example and not limitation, scope of announcements,

program schedule, use of facilities by various groups and organizations, advocacy of legislative, budgetary or other issues, equal time and fairness doctrines shall be established solely by the Borough. Such guidelines and policy shall be strictly applied to the operation of the Borough's Access Center by the Kinnelon Board of Education. All programming produced at the Borough's Access Center shall be of a non-commercial nature. Users of the Borough's Access Center shall comply with the Company's ("PEG") Guidelines to the extent applicable.

E. In consideration for the rights granted in this Ordinance, the Company shall provide the Borough with a PEG grant in the amount of Thirteen Thousand Dollars (\$13,000.00). The Company shall provide an initial grant payment of Four Thousand Dollars (\$4,000.00) within ninety (90) days of the issuance of the Certificate of Approval by the Board. The remaining grant of Nine Thousand Dollars (\$9,000.00) shall be provided in annual installments of One Thousand Dollars (\$1,000.00) upon written request by the Borough and shall be paid within ninety (90) days from receipt of the Borough's written request.

F. The Borough agrees that all grant amounts paid pursuant to this Section shall be used for by the Borough for any cable and/or other telecommunications related purpose and/or for the exclusive support of PEG access programming such as the purchase and/or rental of PEG access equipment and facilities. On request, the Borough shall provide Cablevision with a certificate of compliance with this Section 21(f).

G. The Company shall have no further obligation to provide any PEG grant payments due and payable after the date upon which the Company converts the municipal consent granted herein to a system-wide franchise in accordance with N.J.S.A. 48:5A-25.1.

SECTION 25. REQUEST FOR NON-FRANCHISED COMPETITIVE RELIEF. In the event that a non-franchised multi-channel video programmer provides service to residents of the

Borough that creates a significant competitive disadvantage to the Company, the Company shall have the right to request amendments to this franchise Ordinance and any Certificates of Approval that relieve the Company of regulatory burdens that create the unfair competitive disadvantage. In requesting amendments, the Company shall file with the Board a petition for approval seeking to amend this franchise Ordinance. Such petition shall: i) indicate the presence of a non-franchised competitor(s), ii) identify the basis for the Company's belief that certain provisions of the Certificate of Approval place the Company at a competitive disadvantage, and iii) identify the regulatory burdens to be amended or repealed in order to eliminate the competitive disadvantage.

Should the Company seek such amendments, the parties agree to negotiate in good faith as to appropriate changes to this franchise Ordinance and, if the parties can reach an agreement on such terms, the Borough agrees to support the Company's petition to the Board to amend this franchise Ordinance pursuant to N.J.S.A. 48:5A-47 and N.J.A.C. 14:17-6.7. If the parties are unable to reach an agreement on the terms on the amendment to this franchise Ordinance, the Borough acknowledges that the Company shall still have the right to petition the Board for an amendment but the Borough shall have no obligation to support that petition or the Company's request for relief from the Board.

SECTION 26. REMOVAL OF FACILITIES. Upon the expiration, termination or revocation of this franchise Ordinance, the Company, at its sole cost and expense and upon the direction of the Borough, shall remove the cables and appurtenant constructed or maintained in connection with the services authorized herein, unless the Company, its affiliated entities or assigns, should, within six (6) months after such expiration, termination or revocation, obtain certification from the FCC to operate an Open Video System, or any other federal or state certification to provide telecommunication services. The Company shall seek approval from the Board prior to dismantling its cable system in the Borough.

SECTION 27. INCORPORATION OF APPLICATION. All of the commitments and statements contained in the Application and any amendment thereto submitted in writing to the Borough by the Company except as modified herein, are binding upon the Company as terms and conditions of this consent. The Application, any amendments thereto and any other relevant writings submitted by the Company are incorporated in this franchise Ordinance by reference and made a part hereof except to the extent they conflict with State or federal law.

SECTION 28. CONFLICTING PROVISIONS. In the event any portion of the Application or this Ordinance is in conflict with the provisions of the Cable Television Act (N.J.S.A. 48:5A-1, et seq.), the Cable Communications Policy Act of 1984 and its amendments (47 U.S.C. 521, et seq.), and/or F.C.C. Rules and Regulations (47 C.F.R. Section 76.1, et seq.), as amended, such portion shall not be construed as effective and shall be severable. The remainder of the Application and/or this Ordinance not so affected shall remain in full force and effect.

SECTION 29. SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or federal or State agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 30. INCONSISTENT ORDINANCES. Ordinances, resolutions, and regulations or parts of ordinances, resolutions, and regulations inconsistent herewith, are hereby repealed to the extent of such inconsistency.

SECTION 31. NOTICE. Notices required under this Ordinance shall in writing and shall be mailed, first class, postage prepaid, to the addresses below. Either party may change the place where notice is to be given by providing such change in writing at least thirty (30) days prior to the time such change becomes effective.

Notices to the Company shall be mailed to:

Altice USA
1 Court Square West, 49th Floor
Long island City, NY 11101
Attention: Senior Vice President for Government Affairs

With a copy to:

Cablevision of Oakland, LLC
c/o Altice USA
1 Court Square West
Long island City, NY 11101 Attention: Legal Department

Notices to the Borough shall be mailed to:

Borough of Kinnelon
130 Kinnelon Road
Kinnelon, NJ 07405
Attention: Borough Clerk

SECTION 32. EFFECTIVE DATE. This Ordinance shall take effect upon passage and publication according to law and the Company's written acceptance thereof within ten (10) days. If the Company does not accept the terms and conditions hereof, then the actions of the Borough and Company shall be governed by and subject to the provisions of the Act, the regulations related thereto and the actions of the Board and Office of Cable Television.

ATTEST:

BOROUGH OF KINNELON

Karen M. Iuele, Borough Clerk

James J. Freda, Mayor

November 17, 2022

ADJOURNMENT:

This meeting adjourned at approximately 10:00 p.m. on motion by Councilman V. Russo with the unanimous affirmative voice vote of all present.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "K. M. Iuele", written over a horizontal line.

Karen M. Iuele, RMC
Borough Clerk

A handwritten signature in cursive script, appearing to read "James Freda", written over a horizontal line.
Mayor James Freda