



Borough of Kinnelon

130 Kinnelon Road
Kinnelon, New Jersey 07405

973-838-5401
Fax: 973-838-1862
www.kinnelonboro.org

RULES AND REGULATIONS FOR OBTAINING A SOLICITING PERMIT

1. Fill out the attached application and return it to the Bourgh Clerk's office
2. A copy of your driver's license is required by the Police
3. A 2X2 (two inch by two inch) clear picture is needed
4. The fee for a permit for the calendar year expiring on December 31 shall be \$100.00

A permit granted for (1 day shall be \$20.00)

5. No solicitor, canvasser, hawker or peddler shall solicit, canvass, hawk or Peddle before 9:00 am or after 9:00 pm on any day

As of February 1, 1994, the State of New Jerrey passed the amendment below stating you must have a Sales Tax Certificate before a soliciting permit is issued.

TO: All County & Municipal Clerks/ Administrators

FROM: Alan B. Granetz, Executive Director-MFA

REFERENCE: Chapter 274 Laws of New Jersey 1993 (Senate Bill #1165) Signed into Law by Governor Florio November 27, 1993...new amendments to the Collection of sales tax by transient merchants.

Dear Administrator:

These new amendments require transient merchants...i.e. those not have a fixed Place of business... to registrar with the State of New Jersey 15 days BEFORE commencing business AND requires local municipalities to obtain a COPY OF THE CERTIFICATE OF AUTHORITY TO COLLECT SALES TAX BEFORE issuing a peddler's license.



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BOROUGH OF KINNELON SOLICITING REGISTRATION FORM

DATE _____

Name of Applicant _____

Home Address _____

Social Security # _____ SEX _____ AGE _____

Driver's License # _____ Veteran? Yes _____ No _____

State Where Driver's License Issued _____

Birthdate _____ Birth Place _____

Name of Employer _____

Employer's Address _____

Employer's Telephone # _____

Purpose of This Registration _____

Approximate Dates and Hours of Soliciting _____

Address of Your Residence While Working in Kinnelon:

PLEASE ATTACH ANY DISSCRIPTIVE LITERATURE REGARDING YOUR WORK TO
THIS APPLICATION.

Certificate of Authority to Collect Sales Tax must be attached to this application.

Do Not Write Below This Line.

Chapter 151. Peddlers and Solicitors

[HISTORY: Adopted by the Mayor and Council of the Borough of Kinnelon 3-20-1980 by Ord. No. 3-80 (Ch. 61 of the 1972 Code); amended in its entirety 5-21-2009 by Ord. No. 6-09. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Donation clothing bins — See Ch. 111.

Noise — See Ch. 146.

§ 151-1. Purpose.

The Borough Council desires to regulate the activities of canvassers, solicitors, peddlers and hawkers within the Borough in a manner so as to protect against fraudulent and criminal activity and to ensure to the Borough's residents the maximum amount of privacy and security in their homes that is permissible under the law and in light of court decisions mandating certain types and amounts of access to residents and residential areas by canvassers, solicitors, peddlers and hawkers. It is, therefore, the intent of the Borough Council in enacting this chapter to recognize the potential for fraudulent and criminal activity in connection with door-to-door canvassing, soliciting, peddling, hawking and similar activities, while providing opportunities for canvassers, solicitors, peddlers and hawkers as required by law. This chapter is to be interpreted so as to be in conformity with relevant state and federal court decisions.

§ 151-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CANVASSER or SOLICITOR

A person who goes from place to place, house to house or person to person selling or taking orders for or offering to sell or take orders for goods, wares, merchandise or any article for future delivery or for services to be performed in the future or for the making, manufacturing or repairing of any article or thing whatsoever for future delivery or for the solicitation of money for any purposes whatsoever.

COMMERCIAL

The sale of goods or services for monetary compensation, consideration or profit.

PEDDLER or HAWKER

A person who goes from house to house, on foot or with a conveyance, carrying with him goods, wares or merchandise for the purpose of selling and delivering to customers.

PERSON

Any individual, corporation, company, partnership, firm, association, or political subdivision.

§ 151-3. Permit required.

Subject to the provisions of N.J.S.A. 45:24-9 et seq. with respect to hawking, peddling and vending by veterans and exempt volunteer firemen, and unless otherwise exempt pursuant to this chapter, no



person shall engage in the business of solicitor, canvasser, hawker or peddler within the Borough without first obtaining a permit therefor as hereinafter provided.

§ 151-4. Application for permit.

[Amended 6-18-2020 by Ord. No. 09-2020]

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

- A. Whether the person registering is a natural person, partnership, or corporation and:
 - (1) If a natural person, the business and residence address and telephone number must be given;
 - (2) If a partnership, the names of all partners and the principal business address and telephone number of each partner must be given;
 - (3) If a corporation, trust, foundation, association, society or other group, the person registering must state whether it is organized under the laws of New Jersey or is a foreign corporation and must state the mailing address, the business location, the telephone number, the name of the individual in charge of the local office of such corporation;
- B. The name, address, date of birth, social security number and photo identification (which the Borough Clerk will photocopy and attach to the application) of the person or persons who shall be conducting the solicitation or otherwise peddling, soliciting, canvassing or hawking. Each individual must answer if he/she has been convicted of a crime, and if "yes," must provide an explanation of the crime, location, and date;
- C. A brief description of the nature of the business and the goods to be sold or services to be performed for which funds are to be solicited and an explanation of the intended use of the funds toward that purpose;
- D. The time period within which the solicitation or the peddling, soliciting, canvassing or hawking is to be conducted, giving the date of the commencement and termination of the effort;
- E. If a vehicle or vehicles are to be used in the solicitation, or to transport persons soliciting, a description of the same, including year, make and model, together with the license plate number, state, vehicle registration certificate information and liability insurance information or other satisfactory means of identification;
- F. Complete driver's license information and driver's license numbers of all solicitors, canvassers, peddlers and hawkers, copies of current Motor Vehicle Commission ("MVC") driver history abstracts for the last five years and a criminal history background check from a State of New Jersey approved vendor. Neither the MVC abstracts nor the criminal history background checks shall be older than thirty (30) days from the date the permit application is filed with the Borough;
- G. The applicant shall be responsible for the payment of all fees associated with obtaining the MVC driver's history abstract and criminal history background check from a state approved vendor. The MVC driver history abstract must be transmitted directly from the MVC to the Borough Police Department with a copy to the applicant, and the criminal history background check must be transmitted directly from the state approved vendor to the Borough Police Department, with a copy to the applicant;
- H. The names of any other municipalities in which the person registering has solicited or otherwise peddled, solicited, canvassed or hawked within the previous 12 months;



- I. An application for a permit shall be verified under oath and shall contain such information determined to be necessary to identify each person or organization and the cause or purpose of the solicitation, peddling, canvassing or hawking. It shall be the sole responsibility of the applicant to secure MVC driver history abstracts and criminal history background checks, and arrange for/authorize them to be sent to the Borough Police Department. An application shall not be complete until such time as all reports (including but not limited to MVC driver history abstracts and criminal history background checks) have been received by the Borough Clerk/Police Department as applicable;
- J. If while the application is pending, or during the term of any permit granted hereunder, there is any change in the information set forth in the application, the applicant shall notify the Borough Clerk in writing thereof within 24 hours after such change; and
- K. The Borough Chief of Police shall review all complete applications, MVC driver history abstracts and criminal history background checks and applicant qualifications as set forth herein and shall provide recommendations to the Borough Clerk.

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

[Amended 6-18-2020 by Ord. No. 09-2020]

- A. Upon receipt of such application, the original shall be filed with the Borough Clerk and a duplicate shall be referred to the Borough Chief of Police. The Borough Chief of Police shall review the complete permit application inclusive of MVC driver history abstract and criminal history background check, and all information required to be submitted to determine its compliance with the terms of this chapter within 14 business days after receipt of the complete application. The Borough Chief of Police shall review said application to ascertain that the applicant has not been convicted of a crime (and is not subject to any outstanding criminal warrants or indictments) relating to fraud, deception, theft or assault, and that he/she is selling or soliciting for a project free from fraud or other criminal purpose.
- B. Upon completion of his review, the Borough Chief of Police shall make a written report to the Borough Clerk with his recommendations and reasons therefor regarding approval or disapproval and return the application to the Borough Clerk. Any recommendation by the Borough Chief of Police that a permit should not be issued to the applicant shall be based on one or more of the following findings of fact with respect to the applicant:
 - (1) Conviction of a crime adverse to solicitation activities pursuant to N.J.S.A. 2A:168A-2. In determining whether a conviction relates adversely to solicitation activities, the following factors shall be considered:
 - (a) Nature of solicitation activities;
 - (b) Nature and seriousness of the crime;
 - (c) Circumstances under which the crime occurred;
 - (d) Date of the crime;
 - (e) Age of the person when the crime was committed;
 - (f) Whether the crime was an isolated or repeated incident;
 - (g) Social conditions which may have contributed to the crime; and
 - (h) Any evidence of rehabilitation.



§ 151-6. Issuance of permit; grounds for denial.

- A. Prior to issuing any permit, the Borough Clerk shall consider all of the information supplied in and with the application as well as the written report by the Borough Chief of Police.
[Amended 6-18-2020 by Ord. No. 09-2020]
- B. No permit shall be denied on the grounds that the applicant has a criminal record unless the Clerk determines that the conviction relates adversely to door-to-door soliciting. In making such determination, the Borough Clerk shall consider the same factors utilized by the Borough Chief of Police in § 151-5.
- C. Within three business days of receiving the Chief of Police's written report, the Borough Clerk shall upon payment of the prescribed fee or in the event of an applicant who is not required to pay a fee, issue a permit and certificate of registration to the applicant or notify the applicant that his/her application is disapproved and that no permit will be issued. The reasons for disapproval shall be noted on the application and notice shall be by regular U.S. mail, postage prepaid to the applicant at the address shown on the application form or at the applicant's last known address, as well as to the applicant's email address as listed on the application.
[Added 6-18-2020 by Ord. No. 09-2020]

§ 151-7. Permit cards.

- A. Permits issued shall be evidenced by a card or cards to be supplied to such permittee and shall contain the following:
 - (1) Permit number;
 - (2) Passport-sized photograph (supplied by applicant);
 - (3) Term of permit; and
 - (4) Signature of permittee.
- B. The permit card shall be prominently exhibited and displayed by the permittee at all times while engaged in the business for which the permit was issued.

§ 151-8. Fees.

[Amended 3-21-2019 by Ord. No. 04-19; 6-18-2020 by Ord. No. 09-2020]

- A. The fee for a permit granted for the calendar year expiring on December 31 shall be \$100. A permit granted for one day shall be \$20.
- B. The fees, as above set, are to cover the administrative costs of this chapter.

§ 151-9. Conduct of permittee.

No solicitor, canvasser, hawker or peddler shall:

- A. Solicit, canvass, hawk or peddle before 9:00 a.m. or after 9:00 p.m. on Monday through Saturday or at any time on Sunday. However, ice cream vendors shall be permitted to sell on Borough streets during permitted hours on Sunday, but shall not be permitted to solicit from door to door on that day; and
[Amended 7-19-2018 by Ord. No. 11-18]



- B. Call attention to his business or to his merchandise by crying out, by blowing a horn, by ringing a bell other than a doorbell at a house or by any loud or unusual noise.

§ 151-10. Exemptions.

- A. The provisions of this chapter shall not apply to the following:
- (1) Payments required by law to be collected or paid;
 - (2) Payments to or from governmental agencies;
 - (3) Public utility employees in the performance of their employment duties;
 - (4) Persons engaging in the sale of newspaper solicitations;
 - (5) Members of a nationally recognized youth organization, including, but not limited to, the Boy Scouts of America and the Boys and Girls Clubs of America, engaging in such organization's sponsored fundraising events; or
 - (6) School children engaging in school-authorized or -sponsored fundraising activities.
- B. Any person, agent or representative of a charitable, religious, patriotic, philanthropic or community nature desiring to solicit or have solicited in its name money, property or financial assistance shall be exempt from §§ 151-4 to 151-8, provided that they register with the Borough Clerk and provide the following information:
- (1) The purpose or cause for which solicitation is being made;
 - (2) The names and addresses of the officers of the organization;
 - (3) The name, address, and date of birth of each agent or representative who will solicit, canvass or distribute literature within the Borough; and
 - (4) Each such agent or representative shall also provide a valid form of photo identification to be copied and kept on file at the municipal building.

§ 151-11. Borough Clerk to determine classification; appeal.

- A. In reviewing applications for permits, the Borough Clerk shall have the power to determine if a particular organization or activity falls within the provisions of § 151-10. The Borough Clerk shall have the power to exempt others from the provisions of §§ 151-4 to 151-8 inclusive, when enforcement of said sections would create substantial hardship on the applicant.
- B. Persons or organizations aggrieved by the decision of the Borough Clerk with respect to this provision or her refusal to issue a permit for any reason shall have the right to appeal to the Borough Council, which may either reverse or affirm said decision.

§ 151-12. No Knock Registry.

[Added 4-16-2020 by Ord. No. 02-2020^[1]]

- A. The Borough Clerk ("Clerk") shall prepare a list of addresses of those premises within the Borough where the owner and /or occupant has notified the Clerk that peddling, hawking, canvassing or soliciting business (hereinafter collectively "soliciting/solicit") is not permitted on the premises. Said list shall hereinafter be referred to as the "No Knock Registry." Owners/occupants of premises who desire to participate in the "No Knock Registry" shall complete and submit a form which has been



prepared by the Clerk, and which is available at the Clerk's office during normal business hours. The Borough's "No Knock Registry" shall be maintained as follows:

- (1) The Borough Clerk shall update the list on a monthly basis.
 - (2) The Kinnelon Borough "No Knock Registry" shall consist solely of property addresses, and shall include no further identifying information concerning the ownership of each property listed.
 - (3) The Borough Tax Assessor shall notify the Clerk of any change in ownership of property which is listed on the "No Knock Registry." The Clerk shall remove from the "No Knock Registry" any property which has changed ownership, until and unless the new owner has registered pursuant to § 151-12A above.
 - (4) Other than by sale of property, a property once listed may be removed from the "No Knock Registry" by submitting a written, sworn and notarized request to the Borough Clerk.
- B. The Borough Clerk shall distribute the current Kinnelon Borough "No Knock Registry" to each permittee at the time of issuance of a peddlers and solicitors permit. The permittee shall not solicit at any premises identified on the then current Borough "No Knock Registry." Updated "No Knock Registry" lists may be provided by the Clerk to the licensee at the mailing address, or email address provided in the permittee's application, on a periodic basis.
- C. Although the most current list of registrants on the "No Knock Registry" shall be provided by the Borough Clerk to the permittee at the time the permit is issued, it is the obligation of the permittee to secure the most current list of registrants on the Borough "No Knock Registry" prior to commencing solicitation, and each time, within the Borough.
- D. Violation of this § 151-12 shall be grounds for permit revocation, fines and penalties as set forth below.
- [1] *Editor's Note: This ordinance also redesignated former §§ 151-12 through 151-14 as §§ 151-13 through 151-15, respectively.*

§ 151-13. Revocation or suspension of permit; hearing.

[Amended 6-18-2020 by Ord. No. 09-2020]

- A. Any permit issued under the provisions of this chapter may be suspended or revoked by the Chief of Police on a showing that any of the provisions of this chapter have been violated or for other good cause. Upon learning of the alleged violation of any provisions of this chapter, or for other good cause, the Chief of Police shall notify the permittee that a suspension hearing on the permit will be held before him the following day. The notice shall be personally served upon the permittee and contain a statement of facts upon which the Chief of Police will act in suspending the permit and the date, time and place of the hearing. If at such hearing, or in the event the permittee fails to appear at such hearing, the Chief of Police finds that this chapter has been violated or other good cause exists, he may immediately order the permittee to suspend further operations. Thereafter, within five days of such suspension, the Chief of Police shall give the permittee written notice of a hearing to be held by him to determine whether or not the permit should be revoked. The notice shall contain a statement of facts upon which the Chief of Police may act to revoke the permit and the date, time and place of the hearing on the revocation. Said notice shall be served by mailing a copy to the permit holder at the address shown on the application form or at his/her last known address by certified mail, return receipt requested. Notice shall be effective upon mailing. A copy of said notice shall also be sent to the permit holder's email address as listed on the application. If, after such hearing, the Chief of Police finds that this chapter has been violated or other good cause exists, he shall, within five days of the hearing, revoke the permit and give the holder thereof written notice of said revocation and the reasons thereof; said notice shall be served in the same manner as that of the initial revocation hearing notice. Or in the absence of such finding, the permit holder shall within five days of the hearing be given written notice of the termination of the suspension of



the permit; said notice shall be served in the same manner as that of the initial revocation hearing notice.

[Amended 10-15-2020 by Ord. No. 12-2020]

- B. In addition, any permit which may have been issued may be revoked for a violation of this chapter or on good cause shown by majority vote of the Borough Council at any regular or special meeting thereof after five days' written notice to the permit holder and upon affording the said holder of an opportunity to be heard with respect to the reasons for such revocation. Notice shall be served by certified U.S. mail, return receipt requested, to the permit holder at the address shown on the application form or at his/her last known address, and shall be effective upon mailing. A copy of said notice shall also be sent to the permit holder's email address as listed on the application.
- C. Any revocation made by the Chief of Police or Borough Council shall be for one year from the date of revocation.

§ 151-14. Appeal; reinstatement of revoked permit.

[Added 6-18-2020 by Ord. No. 09-2020^[1]]

- A. Any person aggrieved by the action of the Borough Clerk or Chief of Police in the denial of an application for a permit, or in the decision with reference to revocation of a permit, shall have the right to appeal to the Borough Council. Such appeal shall be taken by filing with the Borough Clerk, within 14 days after notice of the action complained of has been mailed to such applicant or permit holder's address as stated on the application or last known address, a written statement setting forth fully the grounds for a hearing on such appeal. The Borough Council shall set a time and place for hearing the appeal and a notice of the hearing shall be given to the permit holder/applicant. The decision of the Borough Council on the appeal shall be final and conclusive.
- B. The Borough Council may issue another permit to a person whose permit has been revoked or denied as provided in this chapter if, acting after a hearing they are satisfied by clear and convincing evidence that the acts which led to the revocation or denial will not occur again; otherwise, no person whose permit has been revoked or denied nor any person for him/her, directly or indirectly shall be issued another permit to solicit. The revocation shall be for one year from the date of revocation, after which the person may make another application, which shall be reviewed in accordance with this chapter.

- [1] *Editor's Note: This ordinance also renumbered former §§ 151-14 and 151-15 as §§ 151-15 and 151-16, respectively.*

§ 151-15. Violations and penalties.

Any person, firm or corporation violating this chapter shall be subject, upon conviction, to one or more of the following at the discretion of the court: a fine not to exceed \$1,000 or imprisonment in the county jail for a term not to exceed 90 days or community service not to exceed 90 days. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

§ 151-16. Severability.

- A. It is hereby declared to be the intention of the Borough Council that the articles, sections, paragraphs, sentences, clauses, phrases and words of this chapter are severable, and if any article, section, paragraph, sentence, clause, phrase, or word(s) of this chapter shall be declared unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not affect any of the remaining articles, sections, paragraphs, sentences, clauses, phrases and words of this chapter.



- B. If any provision or any portion of any provision of this chapter is for any reason held to be unconstitutional or otherwise unenforceable by a court of competent jurisdiction, such provision or portion thereof shall be deemed separate, distinct and independent of the remaining provisions of this chapter and shall be severed therefrom without affecting the validity of the remaining portions of this chapter.

