

**Town of Montville Town Council
Public Hearing Meeting Minutes for Monday, March 11, 2013
6:00 p.m. – Town Council Chambers**

1. Call to Order

Chairperson Buebendorf called the meeting to order at 6:00 p.m. after establishing a quorum.

2. Pledge of Allegiance followed by a moment of silence in honor of our military.

3. Roll Call

Present were Councilors Caron, Jaskiewicz, Longton, McFee, Tanner, and Buebendorf.
Absent was Councilor Jones. Also present was Mayor Ronald McDaniel.

4. Public Hearing

Chairperson Buebendorf opened the public hearing and read the following into the record:

The following Ordinance, copies of which may be obtained at the office of the Town Clerk during office hours, was introduced at a regular meeting of the Town Council held January 14, 2013 and a public hearing thereon and for its consideration by the Town Council will be held at Town Hall Council Chambers, March 11, 2013 at 6:00 P.M.

**ORDINANCE AMENDING CHAPTER 289, ORDINANCE NO. O-G-4,
“ORDINANCE REGULATING PEDDLERS, VENDORS AND SOLICITORS”**

The Town of Montville hereby ordains:

289-1 License required.

No person shall engage in the peddling, vending or selling of any provisions, foods, goods, wares or merchandise upon any of the public streets of the Town, or from house to house, without first having obtained a license from the Chief of Police or designated representative.

289-2 Exemptions.

The following classes of persons and businesses shall be exempt from the provisions of this chapter:

- A. Farmers and gardeners offering for sale the product of their farms and gardens;
- B. Sales made by minors, who are Town residents or newspapers, magazines and periodicals;
- C. Sales made to dealers and business establishments by commercial travelers or selling agents;
- D. Sales made to regularly established customers at their place of residence;
- E. Sales made by persons who are residents of the Town and who are sponsored by a religious, civic, charitable or educational organization having a place of business in New London County.

289-3 Temporary associations with local dealers and merchants.

No street vendor or itinerant vendor shall be relieved or exempted from the provisions or requirements of this chapter by reason of associating temporarily with any local dealer, auctioneer, trader or merchant or by conducting any temporary or transient business in connection with or in the name of any local dealer, auctioneer, trader or merchant.

289-4 License fee; expiration of license.

- A. The fee for such license shall be \$25 per year or portion thereof for nonprofit organizations and \$200 or portion thereof for all other licenses.
- B. Said license shall expire on the 31st day of December each calendar year.

289-5 License application.

- A. The license application shall contain the following information:
 - (1). Name and address, including former names;
 - (2). Age, weight, height, color of hair and eyes;
 - (3). A brief description of the products to be sold and the trade name, if any, under such business will operate;
 - (4). If this applicant is to be employed by or associated with another licensee, permittee or applicant, the name of such person shall be included on the application;
 - (5). The applicants fingerprints;
 - (6). A statement as to whether or not the applicant has been convicted of any crime, including misdemeanors and motor vehicle violations, the nature of the offense, if any, and the punishment or penalty assessed;
 - (7). The name of any municipality and state from which the applicant has previously sought a license or permit as a peddler, street vendor or solicitor and the dates of such application;
 - (8). The registration number and the name of the owner of any motor vehicle which will be used in connection with the applicants business;
 - (9). A description of the route to be served or the temporary business location; include written permission from property owner if applicable, written approval from the state if located on a state right-of-way;
- B. Each person applying for a license shall have their photograph taken by the Police Department of the Town of Montville for inclusion on the license with the actual cost of the photo license paid by applicant.

289-6 Investigation of applicant by Chief of Police.

- A. Upon receipt of an application the Chief of Police or his designated representative shall, within 21 days, investigate the applicant's background to the extent necessary to protect the public welfare. Upon completion of such investigation he shall:
 - (1). Endorse on any application found unsatisfactory his disapproval and the reasons therefore and return same to the applicant by mailing to his address listed thereon;
 - (2). Endorse on any application his approval, execute a license and notify the applicant by mail that he can obtain same upon payment of the license fee. A copy of this chapter shall be given to all licensees at the town the license is issued.
- B. ~~The Chief of Police shall not issue a license to any vendor if his stand or temporary place of business will be within one mile of a permanent business which sells a similar product. A "permanent business" is defined as a business which is operated within a permanent structure and is assessed property taxes by the Town of Montville. The Chief of Police may not issue a license for any activity associated with this chapter if said activity will result in the creation of a hazard to the motoring public.~~

289-7 License to be displayed in visible location.

Each license holder shall be required to affix the license to the vehicle, cart, stand, carrying case or support structure used in peddling or vending in a location clearly visible to the public. The license shall be made available for inspection at the request of any citizen.

289-8 Vehicles to be inspected by Director of Health.

Vendors engaged in the sale of products for human consumption shall have their vehicles inspected by the Director of Health or his representative prior to filing for a license approval or renewal. Written proof of the inspection must be presented with the application.

289-9 Vendor to keep area clean; penalties for offenses.

All peddlers and vendors shall make adequate provisions for collection and disposals of all used containers, wrappings and other disposables, including garbage. Further, all street vendors engaged in food sales shall be responsible for keeping the area within 100 feet of their vehicle clean, neat and free of litter, including garbage. Failure to keep said area clean and free of litter and garbage shall result in a fine of \$99 per day, each day constituting a separate violation.

289-10 Revocation of license.

Any license granted under this chapter may be revoked by the Chief of Police for any false statement made by the applicant in his application or contained in the credentials or evidence furnished by him to secure a license, for violation of any Town ordinance or state or federal law or for creating any nuisance situation.

289-11 Vending or soliciting without license; penalties for offenses.

Any person found to be vending or soliciting in the Town of Montville without having secured and possessing the required license shall be fined \$100 per day, each day constituting a separate violation.

289-12 Repealer.

The Town ordinance entitled "Ordinance Requiring Peddlers License" passed at Special Town Meeting held on February 26, 1916 is hereby repealed.

Dated at Montville Connecticut this 11th day of February 2013.

Lisa Terry, Town Clerk

Chairperson Buebendorf asked if there was anyone present who would like to speak regarding the proposed ordinance.

Marcia Vlaun, Montville Town Planner, felt that the Ordinance was poorly drafted. The Ordinance, as proposed, would threaten the brick and mortar businesses, which have been established through the hard work and private capital investments of the owners, during these economically precarious times by allowing vendors to sell the same items next to them. The current Ordinance contains no rules as to the goods a vendor may sell, enforcement mechanism, regulation of hours of operation, required site plans, or traffic studies.

Harry Heller, 596 Route 32, Uncasville, recommended the Ordinance be tabled, reconsidered and re-drafted with the appropriate standards. The revised Ordinance does not provide the Chief of Police with any guidance regarding the issuance of a vendors permit and gives a competitive advantage to a vendor, who has not incurred the same economic burdens, over an established, legitimate business to sell the same product and situate themselves within one-mile of an established business.

Bill Pieniadz, Chairman, Planning & Zoning Commission, 157 Simpson Lane, Oakdale, urged the Town Council to table proposal. He felt that the initial intent of the Ordinance was to allow a vendor to sell goods for a temporary period at a local event and not for an extended period of time. He reiterated the previous speakers' statements, noting the costs incurred by the brick and mortar businesses for site plans, surveys, consultants, etc. and felt that the procedure to obtain a vendor's license is less involved than for other permits.

Edward Lusher, 6 Williamsburg Drive, Waterford, who owns three properties on Route 32, felt that the allowance of an individual(s) to set up shop without any of the costs, rules, regulations, and inspections required by a brick and mortar business is outrageous and urged the Town Council to vote for the taxpayers and against the Ordinance.

Dana McFee, 27 Crestview Drive, Uncasville, a vendor and former small business owner, urged the Town Council to send the Ordinance back to the Planning & Zoning Commission who, with the Economic Development Commission, can review and devise a better plan. In addition to the aforementioned reasons, he felt that the deletion of the one-mile limitation would cause individual(s) to undercut the tax-paying brick and mortar businesses. After contacting a number of neighboring towns, he discovered that, among these towns, Montville rates second in business-friendliness and feels that allowing vendors to conduct business near a physically existing business is not business-friendly.

John Sanocki, 1400 Route 163, Oakdale, who does not own a business, questioned whether there might exist a conflict of interest with those Council members who personally associate with former Councilor Murphy who made the initial request to eliminate the one-mile rule. He also felt that the rule should be extended to seven miles in light of the fact that the Ordinance was established in 1916 when the main mode of transportation was a horse and wagon, which is significantly slower than a vehicle.

Elmer Wittkofske, 18 Wyndwood Road, while he is neither a business owner nor a vendor, he spoke in favor of the brick and mortar business owners and against the Ordinance. Mr. Wittkofske felt it would not be right to undercut those who have placed their life's blood on the line to own a business, pays their taxes and helps support the Town. He added that no one individual should have the absolute authority to issue a \$25 vending permit.

Gary Murphy, 6 Carolina Drive, Oakdale, who confessed to instigating the issue, spoke in favor of the Ordinance. He stated that he is a taxpaying citizen of Montville, and, since its inception, has been paying taxes for the vehicle towing the cart, which is equipped with a hand sink and undergoes health inspections. While he does not disagree with the Planning & Zoning Commission's concerns, he does question the Ordinance with regards to those who obtain the permission of and pays rent to the landowner where the cart is placed and as it pertains to an ice cream truck that travels through areas in which a similar physical business exists or a temporary fireworks stand. He added that the income he earns is funneled back into the Town by his patronization of local businesses.

Chairperson Buebendorf asked three times if there were any additional persons from the public who would like to speak regarding the proposed ordinance.

5. Adjournment

The Public Hearing was closed at 6:25 p.m.

Respectfully Submitted by:

Agnes Miyuki, Recording Secretary for the Town of Montville

AN AUDIO RECORD OF THE MEETING IS ON FILE IN THE MONTVILLE TOWN CLERK'S OFFICE