

**REGULAR MEETING OF THE MONTVALE BOARD OF HEALTH
CONFERENCE ROOM #1, 2nd FLOOR
12 MERCEDES DRIVE, MONTVALE, NEW JERSEY 07645
June 2, 2014 at 7:45pm**

President Cohen called the meeting of the Board of Health to order at 7:45pm. Adequate notice of the meeting was provided to The Record and the Ridgewood News, informing the public of the time and place, according to the Provisions of the Open Public Meeting Law (Chapter 231, P.L. 1975).

Roll Call

Members: J. Cohen, President (P), Woodward, V. President (A), M. Danna (P), C. Flagg (P), L. Hopper (A), J. Jacobson (P), J. Landzberg (P), & P. Lennon (P).

Non Members: Council Liaison R. Curry (A) & Secretary J. Russo (P)

Professional: A. Musella, Northwest Bergen Regional Health Commission Health Officer.

Approval of May 5, 2014 Minutes

A motion to approve minutes was made by J. Landzberg & seconded by M.Danna. The minutes were approved & will be posted on web site.

Meeting Opened/Closed to the Public

A motion was made by P. Lennon & seconded by M. Danna to open the meeting to the Public. No one from the public was present; motion to close was made by M. Danna & seconded by P. Lennon.

New Business

The Deputy Registrar of Vital Statistics position is vacant, due to a recent resignation. The administrator is currently looking for another employee to fill the void. The position pays a small stipend.

Keep Kids Alive, Drive 25® trash can decals were distributed to the members in support of the campaign to make drivers more mindful of driving safer in our community.

President Cohen distributed copies to the members and held the first public reading of **Ordinance Number 2014-01**

AN ORDINANCE OF THE BOARD OF HEALTH OF THE BOROUGH OF MONTVALE AMENDING AND SUPPLEMENTING CHAPTER 94 OF THE BOROUGH CODE TO CODIFY EXISTING RESTRICTIONS ON THE USE AND POSSESSION OF TOBACCO PRODUCTS AND TO EXPAND SUCH PROHIBITIONS TO ELECTRONIC CIGARETTES AND SIMILAR TOBACCO ALTERNATIVES.

BE IT ORDAINED by the Board of Health of the Borough of Montvale as follows:

Section 1. Chapter 94 of the Code of the Borough of Montvale is hereby amended and supplemented by designating existing Sections 94-1 through 94-8 as Article I, "Sale of Tobacco," as follows:

Article I

Sale of Tobacco

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| § 94-1 | Sale to minors prohibited. |
| § 94-2 | Identification required. |
| § 94-3 | Vending machines prohibited. |
| § 94-4 | Removal of vending machines. |
| § 94-5 | Definitions. |
| § 94-6 | Enforcement. |
| § 94-7 | Severability; construal of provisions. |
| § 94-8 | Violations and penalties. |

Section 2. Chapter 94 of the Code of the Borough of Montvale is hereby amended and supplemented by adding a new Article II, “Restrictions on Public Property,” as follows:

Article II

Restrictions on Public Property

- § 94-9 Purpose and intent.**
- § 94-10 Definitions.**
- § 94-11 Violations.**
- § 94-12 Penalties.**
- § 94-13 Enforcement.**

§ 94-9 Purpose and intent.

Smoking has been identified as a significant and preventable health hazard as a probable addictive practice with serious consequences, especially for minors. The State of New Jersey has banned the sale or furnishing of cigarettes or tobacco in any form to minors and persons under the age of nineteen (19) pursuant to N.J.S.A. 2A:170-51.4.

A substantial and legitimate public purpose exists for the Borough of Montvale to act to further promote and protect the health, safety and welfare of its inhabitants, especially minors, by forbidding the use and possession of tobacco, electronic cigarettes and other tobacco alternatives by such individuals.

It is the intent of this Article to codify existing restrictions on the use of tobacco products on public and school property, as well as to update these restrictions to reflect State laws and policies and to expand the restrictions to e-cigarettes and other tobacco alternatives.

This Ordinance is intended to be consistent with and supplement the restrictions set forth in N.J.S.A. 2A:170-51.1, et seq. It is intended that the restrictions in this Article be interpreted as broadly as possible so as to effectuate the purposes of this Article.

§ 94-10 Definitions.

TOBACCO – Any product made from the tobacco plant for the purpose of smoking, chewing, inhaling, or other personal use, including, but not limited to, cigars, chewing tobacco, snuff and cigarettes in any form. For purposes of this Article, the term shall also be deemed to include electronic cigarettes, personal vaporizers, electronic nicotine delivery systems and other similar products.

PUBLIC PLACE – Any building or enclosed structure open to the public, and any street, road, sidewalk, walkway, park, school property or open space located within the Borough of Montvale and which is open to the public, which term shall include school property.

§ 94-11 Violations.

It shall be unlawful for any person under the age of eighteen (18) years to smoke or use a tobacco product in or on any public place, or to possess in open or unopened view, an opened pack, open carton, or other open container holding a tobacco product in any public place. In all offenses the tobacco product will be confiscated.

This ordinance shall not apply to a person under the age of eighteen (18) smoking or using tobacco products in a non-public place which constitutes the residence of the minor and his/her parent(s) or guardian(s).

§ 94-12 Penalties.

A. First Offense

1. Verbal warning to offender by the officer observing the violation. The officer will take the offender's name, address, telephone number, and name and address of parent(s) or guardian(s). The information will be placed on a "juvenile incident report" and kept by the Police Department as is policy with any juvenile action.
2. Unless there are other violations outstanding, or the offender is uncooperative, he/she will not be taken to Police Headquarters for a first violation. The information from the "juvenile incident report" will be transmitted to the juvenile officer who will file it and advise the parent(s) or guardian(s) of the incident and the information contained on the report.

B. Second Offense

1. Observing officer will take offender's name, age, address, telephone number, parent(s) or guardian(s) name and address and document same in a "juvenile incident report." The report will also contain the date and place of the offense. A juvenile officer shall conduct a "station house adjustment" with the offender and the offender's parent(s) or guardian(s). The station house adjustment shall involve a discussion of the third phase of enforcement and distribution of anti-tobacco literature. Unless there are extenuating circumstances, the officer does not have to take the offender into custody.

C. Third Offense

1. The information described above for "juvenile incident report" will be verified and given to the juvenile officer. The report will also contain the date and place of the offense. The juvenile officer will refer the offender to a two-hour education program at Hackensack University Medical Center or an equivalent program. Attendance is required in the form of a signed certificate or a letter by the sponsoring agency. The offender shall pay all costs incurred. Unless there are extenuating circumstances, the officer does not have to take the offender into custody.

D. Fourth Offense

1. The information described above for "juvenile incident report" will be verified and given to the juvenile officer. The report will also contain the date and place of the offense. The juvenile officer will refer the offender to a six-session smoke stop program offered at Hackensack University Medical Center or equivalent program. Any costs incurred for these programs shall be paid by the offender. Unless there are extenuating circumstances, the officer does not have to take the offender into custody.

E. Fifth Offense

1. A juvenile complaint will be issued to the offender for appearance in Juvenile Court or Municipal Court.

F. Failure to Comply. In the event the offender does not comply with any of these requirements set forth in the first, second, third or fourth offenses, a juvenile complaint will be issued to the offender for the initial and subsequent violations. A penalty of \$100 for the fifth offense, \$200 for the sixth offense, and \$300 for the seventh and any subsequent offense shall be imposed.

G. If it has been more than two years since the most recent prior offense, all prior offenses shall be deemed null and void for purposes of this Article.

§ 94-13 Enforcement.

The Police Department of the Borough of Montvale is authorized and empowered to enforce the provisions of this Article.

Section 3. Repeal of Inconsistent Ordinances.

All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 4. Savings Clause.

Nothing in this Ordinance shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed pursuant to this Ordinance, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

Section 5. Severability.

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 6. Effective Date.

This ordinance shall become effective upon adoption and publication as required by law.

Joyce Cohen, Board of Health President

ATTEST: _____
Janet Russo, Board of Health Secretary

INTRODUCED: June 2, 2014
ADOPTED: September 8, 2014
APPROVED: September 8, 2014

President Cohen asked for a motion to approve Ordinance Number 2014-01. C. Flagg made motion to approve, seconded by P. Lennon. All in favor. The second reading will be held on September 8, 2014. The secretary will advertise the ordinance in its entirety in *The Record*.

Discussion regarding whether the borough needs an additional ordinance to prevent hookah lounges from establishing themselves in Montvale. A. Musella said that this type of business, if new, is prohibited from operating in NJ under the Global Advisors on Smoke-free Policy (GASP), therefore, no ordinance is necessary.

A. Musella asked if the Board could review the current food handler license ordinance. Currently the ordinance grants a food establishment six (6) months to obtain a food license certificate. This is too long a period. A. Musella would recommend the owners to have the certificate(s) for their staff prior to opening. President Cohen and the members agree with A. Musella's recommendation and will begin with process to amend the current ordinance in September.

A. Musella mentioned that there is a grant available for municipalities to receive a limit supply of radon test kits. A. Musella will email the link to the J. Russo.

Fair Game Geese Control oiled eight (8) eggs on the Huff Park island. They reached the island via rowboat owned by the municipality. The park remains “geeseless.”

Old Business

J. Wendolowski of HARP had offered to teach a free class on AED CPR to the Borough of Montvale staff, the seniors, and the Borough residents. Classes will be held in June. It is currently advertised on the website and at Borough Hall. Several residents have registered for the class. If necessary, additional classes will be added.

Committee Reports

NWBRHC Activity Report

A. Musella distributed & read activity reports. Montvale Recreation will be hosting the Montvale Day in the Park on June 14. The food & refreshments will be sold by the Snack Shack, which is located on Memorial Drive. No additional licensing or inspections are required.

Registrar of Vital Statistics & Health Revenue Reports: C. Flagg read the reports.

Tyco Animal Control Report: C. Flagg read report.

Liaison Report: No report.

Adjournment

President Cohen requested a motion to adjourn.

M. Danna made a motion, seconded by J.Landzberg. The meeting was adjourned at 9:20pm.

No meetings in July & August

