

**REGULAR MEETING OF THE MONTVALE BOARD OF HEALTH
CONFERENCE ROOM #1, 2nd FLOOR
12 MERCEDES DRIVE, MONTVALE, NEW JERSEY 07645
September 8, 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), M. Danna (P), C. Flagg (A), L. Hopper (P), J. Jacobson (P), J. Landzberg (A), & P. Lennon (A).

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

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

Approval of June 2, 2014 Minutes

A motion to approve minutes was made by J. Jacobson & seconded by L. Hopper. The minutes were approved & will be posted on web site.

Meeting Opened/Closed to the Public

A motion was made by J. Jacobson & 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 L. Hopper.

New Business

President Cohen asked for a moment of silence for the recent passing of long time friend, Board of Health member & Vice President, Ray Woodward.

Narita Maraj is appointed as the part- time Deputy Registrar of Vital Statistics. She will be paid a stipend. She was previously voted as such by the Board.

J. Cohen suggested that the position of Vice-President is currently vacant and the vote will be made in January at the reorganization meeting.

President Cohen asked for a motion to have the second public reading of **Ordinance Number 2014-01** by title only. The ordinance will be advertised in *The Record* and after publication will be adopted. M.Danna made the motion and L. Hopper seconded it. President Cohen read the ordinance by title.

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

- | | |
|---------------|-------------------------------------|
| § 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
Joyce Cohen, Board of Health President

ATTEST: Janet Russo
Janet Russo, Board of Health Secretary

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

President Cohen discussed that the governing bodies in several communities have passed an ordinance prohibiting smoking in public parks. President Cohen asked Council Liaison Curry, if Montvale Mayor & Council would be interested in an ordinance to ban smoking in public parks and fields, or if the Board of Health should look into it. Councilwoman Curry said the Board of Health could forward this request to the Borough Attorney. President Cohen asked for motion that the attorney be contacted and asked to develop an ordinance prohibiting smoking in the parks and fields within the borough. J. Jacobson made the motion to contact the Borough attorney and M. Danna seconded it. The Health Officer said free signage may be available.

A. Musella asked at the last meeting 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 owners to have the certificate(s) for their staff prior to opening. President Cohen and the members agree with A. Musella's recommendation and reviewed the existing ordinance and the proposed ordinance provided by A. Musella. A draft of the ordinance will be forwarded to Borough attorney for review. Once the draft of the ordinance is returned by the attorney, Board members will review and discuss

President Cohen distributed copies of the current poultry ordinance, and ordinances from two other communities for members to review. The absent members and Carol Tyler will receive their copies in the mail. All members were asked to be prepared to discuss the ordinance at the next meeting.

President Cohen stated that other municipalities in New Jersey are passing resolutions in recognition of the numerous public health dangers including contamination of potable water resulting from fracking. This is done in support of a proposed law to ban fracking. The Board had previously watched a Power Point presentation by Gail Brunner and a graduate student. President Cohen asked the Board to offer support for the banning of fracking and to support that fracking waste be banned from being transported through the Borough. After discussion, there was unanimous support. Information will be sent to R. Curry to request the Mayor and Council to vote on a resolution.

Flu Vaccination Clinic will be held on Saturday, September 13 at the Community Center. The information is available on website, TV access, on community board, at Borough hall, in library and advertised in the local papers. Local schools have also been sent the press release because children over the age of three are welcomed to attend. The cost is \$25 for those that do not participate in Medicare.

Old Business

The Board of Health will not be ordering jackets or shirts to wear at the upcoming clinics.

Committee Reports

NWBRHC Activity Report

A. Musella distributed & read activity reports for June, July and August.

Registrar of Vital Statistics & Health Revenue Reports: L. Hopper read the reports.

Tyco Animal Control Report: L. Hopper read report.

Liaison Report: Councilwoman Curry said that the Mayor and Council approved a memorial bench for Ray Woodward. The bench will be erected at Huff Park. The expense of the bench was privately funded.

Adjournment

President Cohen requested a motion to adjourn.

M. Danna made a motion, seconded by J. Jacobson. The meeting was adjourned at 9:10pm.