

**PUBLIC MEETING
MINUTES**

The Public Meeting of the Mayor and Council was held virtually by Zoom and also held in the Council Chambers and called to order at 7:31 PM. Adequate notification was published in the official newspaper of the Borough of Montvale. Master Sergeant Dieter Koelling led the Pledge of Allegiance to the Flag, and roll call was taken.

OPEN PUBLIC MEETING STATEMENT

Adequate notice of this meeting was provided to The Bergen Record informing the public of the time and place according to the provisions of the Open Public Meeting Law (Chapter 231, P.L. 1975).

Also Present: Mayor Mike Ghassali; Borough Attorney, Joe Voytus; Borough Engineer, Andrew Hipolit; Administrator/Municipal Clerk, Maureen Iarossi-Alwan; and Deputy Municipal Clerk, Fran Scordo

ROLL CALL:

Councilmember Arendacs

Councilmember Curry - absent

Councilmember Koelling

Councilmember Lane

Councilmember Roche

Councilmember Russo-Vogelsang

2021 BUDGET PRESENTATION: Councilmember Timothy Lane/Finance
Councilmember Christopher Roche/Finance

PUBLIC HEARING 2021 MUNICIPAL BUDGET

Councilmembers agreed this is a good budget and thanked the finance committee for their hard work going line by line; Jeff Bliss, Borough Auditor, stated that the stimulus money is approximately \$850,000 which can be spent by 2024. The Department of Local Government Services are currently working on the guidelines as to how to use the funds. Some potential uses could be for infrastructure expenses, broadband uses, COVID related expenses. If the funds are needed this year we can do a resolution Chapter 159.

MEETING OPEN TO PUBLIC:

Municipal Budget Only

Motion to open meeting to the public by Councilmember Lane; seconded by Councilmember Roche – all ayes

Carolee Adams

In regards to the budget presentation, the graphs were appreciated.

Motion to close meeting to the public by Councilmember Lane; seconded by Councilmember Roche – all ayes

MEETING CLOSED TO PUBLIC:

Municipal Budget Only

Resolution 93-2021 Adoption of 2021 Municipal Budget

Introduced by: Councilmember Lane; seconded by Councilmember Roche - a roll call was taken - all ayes

ORDINANCES:

PUBLIC HEARING ORDINANCE NO. 2021-1501 AN ORDINANCE OF THE BOROUGH OF MONTVALE, COUNTY OF BERGEN, STATE OF NEW JERSEY, REPEALING AND REPLACING CHAPTER 274 ENTITLED "NOISE" TO READOPT CERTAIN EXISTING NOISE RESTRICTIONS **WHEREAS**, the Borough of Montvale currently regulates unnecessary noise through an ordinance codified in Chapter 274 of the Borough Code entitled "Noise"; and **WHEREAS**, Chapter 274 does not contain any measurable noise standards but rather prohibits noise that is unreasonable and unnecessary; and **WHEREAS**, by separate ordinance, the Borough will be adopting the NJDEP Model Noise Ordinance to provide for certain measurable standards for noise complaints; and **WHEREAS**, despite this, the Borough is still desirous of maintaining standards that prohibit objectively unreasonable and unnecessary noise, to protect the health, safety and welfare of the public and to help maintain the neighborhood character of the Borough. **NOW, THEREFORE, BE IT ORDAINED** by the Governing Body of the Borough of Montvale as follows:

Section 1. Chapter 274 shall be repealed and replaced as follows:

**Article I
Noise**

- | | |
|---------------|---|
| §274-1 | Unnecessary noise prohibited. |
| §274-2 | Enumeration of unnecessary noises. |
| §274-3 | Violations and penalties. |
| §274-4 | Enforcement. |

**Article I
Noise**

§274-1 Unnecessary noise prohibited.

It shall be unlawful to make, create, cause, suffer, encourage or permit to be made any unnecessary, loud, prolonged or disturbing noise within the limits of the Borough of Montvale.

§274-2 Enumeration of unnecessary noises.

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 in an unnecessarily loud manner and which unreasonably disturbs or interferes with the peace, comfort, and repose of any resident, nor shall any person refuse or intentionally fail to cease the unreasonable noise when ordered to do so by a Police Officer or other authorized enforcement officer. The following noises, which enumeration shall not be exclusive, are declared to be a nuisance and a violation of this Article to the extent that such noises are determined to be "unreasonably and unnecessarily loud":

- A. The sounding of any horn or signal device on any premises, within any building or on any automobile, motorcycle, bus or other vehicle, except as a necessary warning or danger signal.
- B. The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.
- C. The discharge into the open air or the exhaust of any motor vehicle or engine, except through a muffler which effectively prevents loud, explosive noises therefrom, or discharging any pistol, gun, firearm, weapon or explosive.
- D. The use, operation or running of any automobile, motorcycle, mechanical equipment or vehicle so out of repair or in such a manner as to create loud or unnecessary grating, grinding, rattling or other noise, whether upon the streets or highways or adjacent thereto.

- E. The creation of any excessive or unnecessary noise on any street or grounds adjacent thereto within 500 feet of any school, place of worship, public meeting or court while the same is in session, or any hospital, short-term care facility or nursing home at any time which interferes with the orderly, quiet and effective conduct and operation of the same.
- F. The use of any drum, band, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any rally, performance, show, carnival, fair or the sale of either real or personal property, except when permission has been granted by the Borough or some authorized person or committee acting under its authority. This shall not be construed to prevent or limit religious, political or patriotic activities, if conducted within the limits set forth in Chapter 275 hereof.
- G. Nothing contained herein shall be construed to limit the use of a horn, buzzer, whistle or similar signaling device for control of a sporting event at any school, athletic field or similar venue, as long as any such signaling device is used solely for the reasonable control of the athletic event. Notwithstanding the foregoing, no such signaling devices shall be permitted for use other than between the following hours:
 - 1. Monday through Thursday: 8:00 a.m. through 9:00 p.m.
 - 2. Friday and Saturday: 8:00 a.m. through 10:00 p.m.
 - 3. Sunday: 9:00 a.m. through 5:00 p.m.
- H. Vibration. Operating or permitting the operation of any device that creates vibration which is above the vibration perception threshold of an individual at or beyond the property boundary of the source if on private property, or at fifty (50) feet from the source if on a public space or public right-of-way. For purposes of this section, "vibration perception threshold" means the minimum ground or structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.
- I. Radios, television sets, sound amplifiers and similar devices;
 - 1. Operating or permitting the use or operation of any radio receiving set, television set, musical instrument, stereo, sound system, drum, phonograph or other device for the production or reproduction of sound, except as provided for in subsection (F) of this section hereafter set forth.
 - 2. Operating any such device on weekdays between the hours of 10:00 p.m. and 7:00 a.m. the following day and, in the event the following day is a Sunday or legal holiday, between the hours of 10:00 p.m. and 9:00 a.m. the following day, in such a manner as to be plainly audible or to create a noise disturbance across a real property boundary or through partitions common to two parties within the same building.
 - 3. Operating any such device in such a manner as to be plainly audible or to create a noise disturbance at fifty (50) feet from such device when operated in a public space or public right-of-way, when operated in or on a motor vehicle on a public space or public right-of-way or in such a manner as to be audible to any person other than the operator when operated on a common carrier by any passenger.

§274-3 Violations and penalties.

Violations of this Article shall be subject to the penalties set forth in Chapter 1, General Provisions, Article I, General Penalty.

§274-4 Enforcement.

It shall be the duty of any Police Officer of the Borough of Montvale to enforce the provisions of this Article against any person found to be violating the same.

Section 2. Severability.

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 and shall remain in full force and effect.

Section 3. Effective date.

This Ordinance shall take effect immediately upon adoption and publication as required by law.

Section 4. Repeal of inconsistent ordinances.

All ordinances and parts of ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

A motion Introduced for second reading **Ordinance No. 2021-1501** by Councilmember Koelling; seconded by Councilmember Lane; Clerk read by title only.

Motion to open meeting to public by Councilmember Lane; seconded by Councilmember Roche

- All ayes

No Public Comment

Motion to close meeting to the public by Councilmember Lane; seconded by Councilmember Roche

- all ayes

Motion to adopt on Second and Final Reading in The Bergen Record by Councilmember Roche; seconded by Councilmember Lane; Clerk read by title only. - All ayes on a roll call vote

PUBLIC HEARING ORDINANCE NO. 2021-1502 AN ORDINANCE OF THE BOROUGH OF MONTVALE, COUNTY OF BERGEN, STATE OF NEW JERSEY, ADOPTING A NEW CHAPTER 275 ENTITLED "NOISE CONTROL ACT" TO ADOPT A MUNICIPAL NOISE ORDINANCE PURSUANT TO THE NOISE CONTROL ACT OF 1971

WHEREAS, the Borough of Montvale currently regulates unnecessary noise through an ordinance codified in Chapter 274 of the Borough Code entitled "Noise"; and

WHEREAS, Chapter 274 does not contain any measurable noise standards but rather prohibits noise that is unreasonable and unnecessary; and

WHEREAS, the Borough is desirous of adopting a new Chapter 275, entitled "Noise Control Act," to implement Model Noise Ordinance prepared by the New Jersey Department of Environmental Protection pursuant to the Noise Control Act of 1971, with certain amendments to incorporate a number of existing, more restrictive standards in the Borough Code; and

WHEREAS, the Borough believes that adoption of this Ordinance will allow for, in addition to existing subjective standards, a set of objective and measurable standards of noise that may be more easily enforceable in addition to the existing standards set forth in Chapter 274; and

WHEREAS, this Ordinance has been provided to the NJDEP Bureau of Local Environmental Management and has been approved; and

WHEREAS, within 30 days after adoption of this Ordinance, a copy of same shall be sent to the NJDEP by the Borough Clerk in accordance with applicable regulations; and

WHEREAS, because the NorthWest Bergen Regional Health Commission shall have enforcement powers pursuant to this Ordinance, the Borough must obtain consent of the NWBRHC and provide a copy of same to the NJDEP; and

WHEREAS, this Ordinance shall not be effective until approved by the NJDEP and the NWBRHC.

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Borough of Montvale as follows:

Section 1. The Borough Code shall be amended and supplemented by adding a new Chapter 275 entitled "Noise Control Act," as follows:

CHAPTER 275 – NOISE CONTROL ACT

Article I

Noise Control Act

§275-1	Declaration of Findings and Policy.
§275-2	Definitions.
§275-3	Applicability.
§275-4	Exemptions.
§275-5	Enforcement Officers.
§275-6	Measurement Protocols.
§275-7	Maximum Permissible Sound Levels.
§275-8	Sound Production Devices.
§275-9	Restricted Uses and Activities.
§275-10	Motor Vehicles.
§275-11	Enforcement.
§275-12	Consistency, Severability and Repealer.

Article I

Noise Control Act

§274-1 Declaration of Findings and Policy.

The Borough of Montvale has determined that: 1) excessive sound is a serious hazard to the public health, welfare, safety, and the quality of life; 2) a substantial body of science and technology exists by which excessive sound may be substantially abated; and 3) the people have a right to, and should be ensured of, an environment free from excessive sound,

It is therefore the policy of the Borough of Montvale to prevent excessive sound that may jeopardize the health, welfare, or safety of the citizens or degrade the quality of life.

This Article shall apply to the control of sound originating from sources within the Borough of Montvale.

§274-2 Definitions.

The following words and terms, when used in this Article, shall have the following meanings, unless the context clearly indicates otherwise. Terms not defined in this Article 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:

- A. 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
- B. 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 an 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.

§275-3 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.

§275-4 Exemptions.

- A. Except as provided in Sections 9 and 10 below, the provisions of this Article 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 Section 9 below.

§275-5 Enforcement Officers.

- A. Noise Control Officers shall have the authority within their designated jurisdiction to investigate suspected violations of any section of this Article 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 Article 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.
- C. Noise Control Officers and Investigators may cooperate with NCOs and NCIs of an adjacent municipality in enforcing one another's municipal noise ordinances.

§275-6 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 Section 6B of this Article 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.

§275-7 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 Section 3A 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 Section 6B.

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 Freq.	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.

§275-8 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 Section 6B of this Article. 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

Week nights 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)

§275-9 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 may only be operated between the following hours, unless such activities can meet the applicable limits set forth in Tables I, II or III:

1. Monday through Friday: 7:00 a.m. and the earlier of sunset or 8:00 p.m.
2. Saturday: 9:00 a.m. and the earlier of sunset or 6:00 p.m.
3. Sunday: Not permitted (except landscaping activities between 9:00 a.m. and the earlier of sunset or 6:00 p.m.)

All motorized equipment used in these activities shall be operated with a muffler and/or sound reduction device. During the above time periods, the limits set forth in Table I, II or III shall not apply.

- B. Excluding emergency work, power tools, landscaping and/or yard maintenance equipment used by nonresidential operators (e.g. commercial operators, public employees) may only be operated on a residential, commercial, industrial or public (e.g. golf course, parks, athletic fields) property between the following hours, unless such activities can meet the limits set forth in Tables I, II or III:

1. Monday through Friday: 7:00 a.m. and the earlier of sunset or 8:00 p.m.
2. Saturday: 9:00 a.m. and the earlier of sunset or 6:00 p.m.
3. Sunday: Not permitted

All motorized equipment used in these activities shall be operated with a muffler and/or sound reduction device. During the above time periods, the limits set forth in Table I, II or III shall not apply.

- C. All construction and demolition activity, excluding emergency work, may only be performed between the following hours, unless such activities can meet the limits set forth in Tables I, II or III:

1. Monday through Friday: 7:00 a.m. and the earlier of sunset or 8:00 p.m.
2. Saturday: 9:00 a.m. and the earlier of sunset or 6:00 p.m.
3. Sunday: Not permitted

All motorized equipment used in construction and demolition activity shall be operated with a muffler and/or sound reduction device. During the above time periods, the limits set forth in Table I, II or III shall not apply.

- D. Motorized snow removal equipment shall be operated with a muffler and/or a sound reduction device when being used for snow removal. During the operation of such equipment, the limits set forth in Tables I, II or III shall 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. During the permissible duration of operation, the limits set forth in Tables I, II or III shall 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 from such equipment, operated on a public space or public right-of-way, 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.

H. Any of the foregoing time limitations may be temporarily relaxed in cases of urgent necessity or in the interest of public safety and in such cases only under written authorization from the Construction Official, or in cases where the Governing Body determines: 1) that the proposed activity will not unreasonably disturb any member of the public as a result of the creation of such noise; or 2) that the benefits of the proposed activity substantially outweigh the detriments of any such disturbance.

§275-10 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.

§275-11**Enforcement.**

A. Violation of any provision of this Article 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 Article shall be subject to the penalties set forth in Chapter 1, Article I, General Penalty. 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 Article 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 Article 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 Section 2 of this Chapter) 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 a Noise Control Officer or Noise Control Investigator, as appropriate. 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 Chapter 1, Article I, General Penalty, 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.

§275-12 Consistency, Severability and Repealer.

- A. If any provision or portion of a provision of this Article 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 Article shall not be invalidated.
- B. All ordinances or parts of ordinances, which are inconsistent with any provisions of this Article, are hereby repealed as to the extent of such inconsistencies.
- C. No provision of this Article 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 Article or from other law.

Section 2. Severability.

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 and shall remain in full force and effect.

Section 3. Effective date.

This Ordinance shall take effect immediately upon adoption and publication as required by law.

Section 4. Repeal of inconsistent ordinances.

All ordinances and parts of ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

A motion Introduced for second reading **Ordinance No. 2021-1502** by Councilmember Koelling; seconded by Councilmember Lane; Clerk read by title only.

Motion to open meeting to public by Councilmember Lane; seconded by Councilmember Roche - All ayes

No Public Comment

Motion to close meeting to the public by Councilmember Lane; seconded by Councilmember Roche - all ayes

Motion to adopt on Second and Final Reading in The Bergen Record by Councilmember Lane; seconded by Councilmember Roche; Clerk read by title only. - All ayes on a roll call vote

INTRODUCTION ORDINANCE NO. 2021-1504 AN ORDINANCE TO AMEND SALARY ORDINANCE NO. 2021-1498 TO PROVIDE FOR AND DETERMINE THE RATE, AMOUNT AND METHOD OF PAYMENT OF COMPENSATION TO PERSONS HOLDING CERTAIN OFFICES AND POSITIONS OF EMPLOYMENT IN THE BOROUGH OF MONTVALE, COUNTY OF BERGEN AND STATE OF NEW JERSEY FOR THE YEAR 2021

(Public Hearing 5-25-21)

A motion to Introduce Ordinance **2021-1504** for first reading was made by Councilmember Koelling; seconded by Councilmember Lane; Clerk read by title only; Councilmember Lane made a motion that this ordinance be passed on first reading and advertised in The Bergen Record; seconded by Councilmember Roche - a roll call was taken – all ayes

INTRODUCTION ORDINANCE NO. 2021-1505 AN ORDINANCE OF THE BOROUGH OF MONTVALE, COUNTY OF BERGEN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 400 OF THE BOROUGH CODE TO PROHIBIT THE OPERATION OF ANY CLASS OF CANNABIS BUSINESSES WITHIN ITS GEOGRAPHICAL BOUNDARIES

(Public Hearing 6-10-21)

A motion to Introduce Ordinance **2021-1505** for first reading was made by Councilmember Koelling; seconded by Councilmember Lane; Clerk read by title only; Councilmember Lane made a motion that this ordinance be passed on first reading and advertised in The Bergen Record; seconded by Councilmember Koelling - a roll call was taken – all ayes

INTRODUCTION ORDINANCE NO. 2021-1506 AN ORDINANCE OF THE BOROUGH OF MONTVALE AMENDING AND SUPPLEMENTING THE BOROUGH CODE TO ADD A NEW CHAPTER 250 ENTITLED "LIGHTING" TO REGULATE OUTDOOR LIGHTING IN THE BOROUGH OF MONTVALE

(Public Hearing 6-10-21)

A motion to Introduce Ordinance **2021-1506** for first reading was made by Councilmember Koelling; seconded by Councilmember Lane; Clerk read by title only; Councilmember Lane made a motion that this ordinance be passed on first reading and advertised in The Bergen Record; seconded by Councilmember Roche - a roll call was taken – all ayes

Councilmember Lane is this ordinance includes the string of lights that you would use around your deck. Mr. Voytus stated this ordinance is for lights in the public right of way, private residences including flood lights and spot lights.

MEETING OPEN TO PUBLIC:

Agenda Items Only

Motion to open meeting to the public by Councilmember Lane; seconded by Councilmember Roche – all ayes

Steve Frischer

In regards to Ordinance 2021-1504, where are the funds coming from? What is the responsibility of this individual? What is their level of authority? What is the projection of revenue? Will the zoom meetings continue? Ordinance 2021-1505, there is no language right now if we do choose to opt in. What about CBD products? Wegmans, Montvale Market and 7-11 all sell hemp and CBD products Mr. Voytus, Borough Attorney, stated CBD products are excluded and will remain allowable to sell. Mayor Ghassali stated that the borough will be hiring a Park Monitor which will include all parks and courts; Councilmember Roche added that a portion of our field use fees will pay the salary of the park monitor.

Motion to close meeting to the public by Councilmember Lane; seconded by Councilmember Roche – all ayes

MEETING CLOSED TO PUBLIC:

Agenda Items Only

MINUTES:

April 27, 2021

A motion to accept minutes by Councilmember Lane; seconded by Councilmember Roche – all ayes

CLOSED/EXECUTIVE MINUTES:

April 27, 2021

A motion to accept closed session minutes by Councilmember Lane; seconded by Councilmember Roche – all ayes

RESOLUTIONS: (CONSENT AGENDA*)

*All items listed on a consent agenda are considered to be routine and non-controversial by the Borough Council and will be approved by a motion, seconded and a roll call vote. There will be no separate discussion on these items unless a Council member(s) so request it, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda.

94-2021 Governor's Council on Alcoholism & Drug Abuse Fiscal Grant Cycle July 2020-June 2025

WHEREAS, the Governor's Council on Alcoholism and Drug Abuse established the Municipal Alliances for the Prevention of Alcoholism and Drug Abuse in 1989 to educate and engage residents, local government and law enforcement officials, schools, nonprofit organizations, the faith community, parents, youth and other allies in efforts to prevent alcoholism and drug abuse in communities throughout New Jersey.

WHEREAS, The Borough Council of the Borough of Montvale, County of Bergen, State of New Jersey recognizes that the abuse of alcohol and drugs is a serious problem in our society amongst persons of all ages; and therefore has an established Municipal Alliance Committee; and,

WHEREAS, the Borough Council further recognizes that it is incumbent upon not only public officials but upon the entire community to take action to prevent such abuses in our community; and,

WHEREAS, the Borough Council has applied for funding to the Governor's Council on Alcoholism and Drug Abuse through the County of Bergen;

NOW, THEREFORE, BE IT RESOLVED by the Borough of Montvale County of Bergen, State of New Jersey hereby recognizes the following:

1. The Borough Council does hereby authorize submission of a strategic plan for the Montvale Municipal Alliance grant for **fiscal year 2022** in the amount of:

DEDR	\$ 3836.33
Cash Match	\$ 959.08
In-Kind	\$ 2877.25
2. The Borough Council acknowledges the terms and conditions for administering the Municipal Alliance grant, including the administrative compliance and audit requirements.

96-2021 Refund Tax Overpayment / Block 803; Lot 7 / 47 Middletown Road

WHEREAS, a resolution authorizing the Borough of Montvale to refund an overpayment of taxes; and

WHEREAS, the owner of 47 Middletown Road, the Estate of Sylvia Lovenson, made a payment in error for the second quarter taxes, the property was sold in February 2021; and

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Montvale, County of Bergen, New Jersey, that the Tax Collector be and is hereby authorized to refund in the amount of \$748.00 to The Estate of Sylvia Lovenson, 200 F. Kearsing Parkway, Monsey, NY 10952

97-2021 Authorize Change Order No. 1 / Cifelli & Sons / NJDOT FY 2019 Edgren Way & Ramapo Road Improvements

WHEREAS, the Borough of Montvale awarded a contract via Resolution No. 105-2020 to Cifelli & Sons, 81 Franklin Ave., Nutley, NJ 07110 for the NJDOT FY 2019 Edgren Way & Ramapo Road; and

WHEREAS, the original contract amount is \$249,858.25; and

WHEREAS, the Borough Engineer, in a letter dated May 5, 2021 which is attached to the original of this resolution has been monitoring the project and recommends in detail this Change Order #1 in the amount of (\$35,817.07) and authorizes payment #2 in the amount of \$45,151.71; and

Contractor

Total Contract Amount	\$ 249,858.25
Change Order #1	(35,817.07)
Adjusted Total Contract Amount	\$ 214,041.18

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the Borough of Montvale authorize Change Order #1 in the amount of \$35,817.07 is hereby approved; and

WHEREAS, the Chief Financial Officer of the Borough has certified that funds have been appropriated and are available for this purpose, a copy of said certification attached to the original copy of this Resolution

NOW, THEREFORE, BE IT FURTHER RESOLVED, by the Mayor and Council of the Borough of Montvale that the above reference Change Order #1 is hereby approved.

98-2020 Authorize Hiring / Part Time on Call / Crossing Guard / Cynthia Meeks

WHEREAS, the Montvale Police Department desires to hire a part-time on call crossing guard in the Borough of Montvale; and,

WHEREAS, Cynthia Meeks has met the qualifications for this position, agrees to the terms and conditions of employment; and

NOW THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Montvale, County of Bergen, State of New Jersey that the above-named individual is hereby appointed to the position of Part-time on Call Crossing Guard, effective May 11, 2021.

Introduced by: Councilmember Lane; seconded by Councilmember Roche - a roll call was taken - all ayes

95-2021 Refund Overpayment of Taxes/ Due to Veteran Exempt Status

WHEREAS, a resolution authorizing the Borough of Montvale to refund the following overpayment of taxes; and

WHEREAS, the owner of 26 Old Chestnut Ridge Road, E. Charles Wehrle, is totally exempt from taxes due to his Veteran status, he received, a Homestead Rebate, from the State of New Jersey, which is applied as a credit towards 2nd quarter taxes in the amount of \$996.30; and

WHEREAS, the owner of 7 Wayne Street, Ronald Waldt, is totally exempt from taxes due to his Veteran status, he received, a Homestead Rebate, from the State of New Jersey, which is applied as a credit towards 2nd quarter taxes in the amount of \$557.68; and

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Montvale, County of Bergen, New Jersey, that the Tax Collector be and is hereby authorized to refund in the amount of \$996.30 to E. Charles Wehrle, 26 Old Chestnut Ridge Road, Montvale, NJ 07645 and \$557.68 to Ronald Waldt, 7 Wayne Street, Montvale, NJ 07645

Introduced by: Councilmember Lane; seconded by Councilmember Arendacs - a roll call was taken - all ayes with the exception of Councilmember Koelling abstaining

100-2021 Award Professional Service Contract /Engineering Services /Colliers Engineering & Design Phase I Environmental Site Assessment and NJDEP Preliminary Assessment/13 West Grand Avenue/Block 1601 Lot 22

WHEREAS, the Borough of Montvale has deemed it necessary to engage the professional services of an Engineer to provide professional services for conducting a combined Phase I Environmental Site Assessment and a NJDPE compliant Preliminary Assessment of the property located at 13 West Grand Avenue; and

WHEREAS, section N.J.S.A. 40A:11-5 of the Local Public Contracts Law, (N.J.S.A. 40A:11-1 et seq.) exempts such professional services from competitive bidding; and

WHEREAS, Colliers Engineering & Design, 400 Valley Road, Mt. Arlington, NJ 07856 has submitted a detailed proposal of services dated April 30, 2021 to provide the engineering services which is attached to the original of this resolution, and

WHEREAS, the Certified Municipal Finance Officer has certified funds are available certification hereto attached to the original of this resolution.

NOW, THEREFORE BE IT RESOLVED by the Borough of Montvale as follows:

- 1) That the proposal for the scope of engineering services is attached to this resolution which is made part of this resolution shall be awarded to Colliers Engineering & Design.
- 2) That the following be provided: See detailed proposal attached to the original of this resolution dated April 30, 2021
- 3) The cost not to exceed shall be \$39,000.00 The Engineer shall be required to submit itemized bills and payment shall be made based upon services rendered. The rates for this work are in accordance with the hourly contractual agreement with the Borough of Montvale.

BE IT FURTHER RESOLVED, that a copy of this resolution be published an official newspaper of the Borough of Montvale, be on file, available for public inspection, in the office of the Municipal Clerk, Municipal Complex, 12 Mercedes Drive, Montvale, NJ 07645.

Introduced by: Councilmember Lane; seconded by Councilmember Roche - a roll call was taken - all ayes

BILLS: Municipal Clerk read the Bill Report.

Motion to pay bills by Councilmember Lane; seconded by Councilmember Roche - all ayes

REPORT OF REVENUE: Municipal Clerk read the Report of Revenue - April

COMMITTEE REPORTS:

Council President Lane

Fire Dept

17 fires, 2 drills, 4 extra credits and 1 meeting; Chief Gibbons is updating the standard operating procedures.

Diversity Committee

Pride in the Park celebration will be on June 13 from 5-7pm;

Councilmember Roche

Regional BOE

Potentially bringing all students back for the morning sessions next week. The board approved a moderate plan to replace the mascots including signage

Environmental Commission

Received a Bergen County grant for their clean-up day

Chamber of Commerce

Street Fair is scheduled for October 17;

Special Events/Recreation

Recreation is currently seeking adult or high school volunteers to assist in the planning and coordinating of Montvale's annual events such as Day In The Park, the Halloween Carnival, the Christmas Tree Lighting, the Spring Fling and more! To join the Special Events Committee, please call 201-391-5700 ext. 251 or email MontvaleRecreation@montvaleboro.org for more information.

The committee is currently working on setting dates for 2021's community events. The committee is tentatively planning for outdoor movie nights, a fishing tournament, Day in the Park, the Halloween Carnival, the Christmas Tree Lighting and the Menorah Lighting Ceremony. Spring Programs are Yoga, Tai Chi, Tennis Lessons, Golf Lessons, and Ultimate Frisbee

Basketball Badges

Basketball Badges can be obtained at Borough Hall Monday-Friday 8:30am-4:30pm. Evening registration dates at the basketball courts will also be posted on the Borough Facebook, website and Rec Facebook pages. The next evening badge registration will occur Thursday, May 13 from 5:30-8:00pm at 1 Memorial Drive on the Basketball Courts.

MAL

All coaches must fully complete a criminal history background check before they can begin coaching for the Spring season. Please email backgroundchecks@montvaleboro.org for instructions on how to do so.

Summer Camp

Summer Camp Registration is now open online only. Please visit Montvale.org for all camp and registration information. The following groups have reached capacity:

Girls- Grades 2 and 3

Boys- Grades 3, 4 and 5

Adventure Camp

Adventure Camp Registration is open online only. Registration and camp info can also be found on MontvaleRecreation.org. All age groups are full and being waitlisted except for the 7th grade girls.

Councilmember Arendacs**DPW**

Spring clean-up has begun with the ball fields, the center of town clean-up along with patching pot holes and street cleaning;

Engineering

Out for bid for bocce courts; Grand Ave and Mercedes Drive signal will be modified by the County; 2021 road program is waiting for the budget to be approved. LaTrenta field is now open.

Commended the Police department for writing and receiving a grant per resolution 94-2021 that was passed tonight to bring funding into the borough for alcohol and drug abuse awareness programs.

Councilmember Koelling**Police**

Monthly report included in original minutes;

BOH

Flu vaccinations will be in October; rabies clinic will be a drive thru clinic in November;

Planning Board

Outdoor dining continues

Councilmember Russo-Vogelsang**Construction**

53 permits; 79 miscellaneous permits; March and April was a very slow month due to the builders are not getting enough supplies; temporary CO was issued to the Law Office of Beattie Padovano for 200 Market Street; anyone in town with a property maintenance issue, please take care of it.

MAYOR

20 residents currently have COVID; vaccines are available at CVS on Kinderkamack Road and Wegmans by appointment; working with our engineers, our fire department and SUEZ on a solution for the water pressure issues; After a brief discussion with councilmembers it was decided to have the first council meeting of the month be hybrid and the last meeting of the month be in person only; May 20 will be celebrating Asian and Pacific American month at 7:30 hosted by the Diversity Committee; May 27 will be bicycle safety at Memorial School; Will have a Memorial Day ceremony at 9am.

ENGINEER'S REPORT:

Andrew Hipolit

Report/Update

- a. 2021 Road Improvement Program/Listing of Proposed Roads

14 roads and 38 roads by PSEG

- b. Report Receipt of Bids/Bocce Courts

Received bids and will award at next meeting

ATTORNEY REPORT:

Joe Voytus, Esq.

Report/Update

No Report

UNFINISHED BUSINESS:

- a. Review Prior Adopted Resolution Authorizing Temporary Outdoor Operating Permits for Gyms, Fitness Center, Yoga Studio/Proposed Extension of Time/Proposed Draft Extension Until 12-31-2021

101-2021 A Resolution Authorizing Temporary Outdoor Operating Permits for Gyms, Fitness Centers, Yoga Studios and Other Similar Exercise Facilities in the Borough of Montvale and Setting Forth a Procedure for Obtaining Said Permits

WHEREAS, gyms, fitness centers, yoga studios and other similar exercise facilities are not currently permitted to operate indoors as a result of the current COVID-19 pandemic and certain Executive Orders pertaining to same; and

WHEREAS, the Borough of Montvale recognizes the hardship placed upon these businesses and would like to establish a temporary procedure to allow such businesses to operate in certain parking areas as approved by the Site Plan Review Committee, similar to the procedure established for temporary outdoor restaurant seating.

NOW, THEREFORE, BE IT RESOLVED that effective immediately, the Borough hereby adopts the following procedure for the issuance of Temporary Outdoor Operating Permits for gyms, fitness centers, yoga studios and other similar exercise facilities in the Borough of Montvale:

1. Temporary Outdoor Operating Permits (hereinafter "Permits") shall be issued by the Zoning Officer.
2. Permit Applications shall be submitted to the Land Use Administrator on a form approved by the Borough.
3. The Application Form shall require, at a minimum, the following information:

- a. Name, address, email, cell phone and owner(s) of the Applicant
 - b. Name, address and owner(s) of the property (if different than the Applicant) and consent of the property owner to the Application
 - c. Copy of most recent approved Site Plan for the property
 - d. A drawing, survey or sketch showing the proposed Outdoor Operating Area, which shall only be permitted in a portion of a parking lot or parking garage, including proposed set-up of equipment, and the location and size of any tents, fencing, barriers, etc. Please note that all equipment must be stored inside overnight and may not be kept outside, unless authorized by the Property Owner and approved by the Reviewing Entities.
 - e. A narrative summary describing in detail the problems that may be generated by the proposed Outdoor Operating Area (e.g., diminished parking, encroachment on set-backs, increased outdoor lighting, increased noise, traffic flow, patron safety) and the manner in which the Applicant intends to address these problems
 - f. Proof of compliance with all requirements established by the CDC, the Governor and/or the State of New Jersey pertaining to such facilities or the Outdoor Operating Area, including but not limited to social distancing requirements, masks and/or face coverings, and the sanitizing of equipment.
 - g. Proof of insurance covering the proposed Outdoor Operating Area and the intended use of the property.
 - h. A statement acknowledging that nothing in this Resolution or in the issuance of any Permit pursuant to this Resolution shall be considered a land use approval pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., nor shall any Permit be deemed to authorize the use of any Outdoor Operating Area past December 31, 2021.
 - i. A statement acknowledging the following: Tents may not exceed 40'x40' in size. Tents may not have sides and must be open-air. Open flames are not permitted underneath tent structures. Outdoor Operating Areas may not have electrical service, extension cords or "wired" lighting without separate approval from the Building Department and compliance with all applicable requirements.
 - j. A statement acknowledging that failure to comply with the terms and conditions of any Permit, or with any of the requirements established by the CDC, the Governor and/or the State of New Jersey, may result in the Borough revoking the Permit and closing the Outdoor Operating Area
4. Upon receipt of a completed Application, the Land Use Administrator shall refer the Application to the following officials and/or departments or their designees (the "Reviewing Entities") for a review and recommendation:
 - a. Planning Board Site Plan Review Committee
 - b. Police Department
 - c. Fire Department
 - d. Board of Health

- e. Borough Engineer
 - f. Any other official that the Land Use Administrator deems necessary to assist the Site Plan Review Committee.
5. The Reviewing Entities shall review the Application in order to determine that the business has demonstrated that allowing the Outdoor Operating Area is safe for both the customers and the public. The Reviewing Entities shall work with Applicants to reach reasonable accommodations to assist such businesses to obtain a Permit from the Borough, and they shall make any recommendations deemed necessary to protect the health, safety and welfare of the public.
 6. The Reviewing Entities shall review the Application and the proposed Outdoor Operating Area and either recommend to the Zoning Officer the approval, denial or revision of the Application. The approval of an Application shall set forth all terms and conditions of approval.
 7. Upon receipt of the recommendation of approval by all Reviewing Entities, the Zoning Officer shall issue a Permit to the Applicant. All terms and conditions set forth by any Reviewing Entities with a recommendation of approval shall become conditions on the issuance of a Permit by the Zoning Officer.
 8. There shall be no fee for a Permit Application.
 9. The hours of operation of any Temporary Outdoor Operating Area shall be limited to 7:00 a.m. to 10:00 p.m.
 10. All Permits issued pursuant to this Resolution and procedure shall terminate on December 31, 2021.
 11. Nothing in this Resolution or in the issuance of any Permit pursuant to this Resolution shall be considered a land use approval pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., nor shall any Permit be deemed to authorize the use of any Outdoor Operating Area past December 31, 2021.
 12. All applicants seeking approval of permanent outdoor operating areas shall apply to the Planning Board in accordance with existing procedures.

BE IT FURTHER RESOLVED that a copy of this resolution shall be forwarded to the Chamber of Commerce to alert them of the Temporary Outdoor Operating Permit option for gyms, fitness centers, yoga studios and other similar exercise facilities.

Introduced by: Councilmember Lane; seconded by Councilmember Roche - a roll call was taken - all ayes

NEW BUSINESS:

- a. Re-Schedule Mayor & Council Meeting of June 8th, 2021 to Thursday June 10th, 2021 due to Primary Elections/Montvale Municipal Building new District #4 polling location.

Councilmembers agreed to change the meeting date to June 10, 2021

COMMUNICATION CORRESPONDENCE:

None

MEETING OPEN TO THE PUBLIC:

HEARING OF CITIZENS WHO WISH TO ADDRESS THE MAYOR AND COUNCIL:

Upon recognition by the Mayor, the person shall proceed to the floor and give his/her name and address in an audible tone of voice for the records. Unless further time is granted by the Council, he/she shall limit his/her statement to five (5) minutes. Statements shall be addressed to the Council as a body and not to any member thereof. No person, other than the person having the floor, shall be permitted to enter into any discussion, without recognition by the Mayor.

Motion to open meeting to the public by Councilmember Lane; seconded by Councilmember Roche
- all ayes

Carolee Adams

Thanked all for planning bicycle safety on May 27; May 9-15 is National Police Week, is the borough doing anything special? With Memorial Day approaching, many residents have been purchasing signs to help Park Ridge American Legion Post.

Motion to close meeting to the public by Councilmember Lane; seconded by Councilmember Roche
- all ayes

MEETING CLOSED TO THE PUBLIC:

ADJOURNMENT:

Motion to adjourn Public Meeting by Councilmember Lane; seconded by Councilmember Roche
- all ayes

Meeting was adjourned at 9:11pm

Next Meeting of the Mayor & Council will be on May 25th, 2021: Please Note: May 25th will resume in-person attendance only for participation at Mayor & Council Meetings. The method of Hybrid (In-Person and Zoom) will cease.

June Public Meeting Date Thursday, June 10th 7:30 p.m.

Zoom information is as follows:

Topic: M&C Meeting

<https://us02web.zoom.us/j/88491084325?pwd=L2U5RVpYMGIMeFdaNzdGcFFWUTd3UT09>

Passcode: 222775

By phone

1 929 436 2866

Webinar ID: 884 9108 4325

Passcode: 222775

Respectfully submitted, Fran Scordo, Deputy Municipal Clerk