

**Town of Montville Town Council  
Public Hearing Meeting Minutes for Monday, December 10, 2012  
6:30 p.m. – Town Council Chambers**

1. Call to Order

Chairperson Buebendorf called the meeting to order at 6:30 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, Jones, Longton, McFee (6:37), Tanner, and Buebendorf. Councilor Murphy was absent due to illness. 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 November 14, 2012 and a public hearing thereon and for its consideration by the Town Council will be held at Town Hall Council Chambers, December 10, 2012 at 6:30 P.M.

AN ORDINANCE TO AMEND ORDINANCE NO. 2012-008 “ORDINANCE TO ESTABLISH SENIOR SAFETY ZONES” ADOPTED OCTOBER 10, 2012

THE TOWN OF MONTVILLE HEREBY ORDAINS that the ordinance entitled “Ordinance to Establish Senior Safety Zones” adopted October 10, 2012 and more specifically designated as Ordinance No. 2012-008 is hereby amended as follows:

**Purpose: Administration.**

Since the Town of Montville has a compelling interest in protecting seniors from the threat of sexual abuse from sex offenders, it is hereby resolved that, to preserve and promote the health, safety and general welfare of the seniors of the Town, it is in the common interest to enact reasonable regulation restricting sex offenders from entering Senior Safety Zones.

**Definitions:**

When used in this Ordinance, the terms, phrases, words, and derivations shall have the meanings set forth thereafter. When not inconsistent with the context, words in the plural number include the singular and words in the singular number include the plural. The word “shall” is always mandatory and not merely directory. Terms not defined below shall have the meanings set forth in Section 54-250 of the Connecticut General Statutes, as amended.

**Senior.**

Any natural person who has reached the age of sixty (60) years.

**Senior Safety Zone.**

Any park, senior center, senior bus, elderly community, elderly housing, elderly event, elderly function, or other like facility, wherein seniors congregate, which is 1) under the jurisdiction of any department, agency, or authority of the Town, or 2) leased by the Town to another person for the purpose of operating a like facility; to include any and all buildings, land, parking areas or other improvements located on the same parcel on which any of the aforementioned facilities are located, but does not include any public street or public sidewalk located on the outside boundary of Senior Safety Zones.

**Sex Offender.**

(a) A person who:

1) Has been convicted or found not guilty by reason of mental disease or defect of a “criminal offense against a victim who is a minor”; “nonviolent sexual offense”; “sexually violent offense”; or any felony that the Court finds was committed for a “sexual purpose” as those terms are defined in Subdivisions (2), (5), (11) and (12) of Section 54-250 of the Connecticut General Statutes as amended and who is required to register with the Commissioner of Public Safety pursuant to Sections 54-251, 54-252, 54-253 or 54-254 of the Connecticut General Statutes, as amended.

2) [a person who] Has been convicted or found not guilty by reason of mental disease or defect in any other State, in a Federal or Military Court or in any foreign jurisdiction of any crime the essential elements of which are substantially the same as any of the crimes specified in Subdivisions (2), (5), (11) of Section 54-250 of the Connecticut General Statutes, as amended, or which requires registration as a Sexual Offender in such other State or in the Federal or Military system, and who resides in this State on and after October 1, 1998.

**Prohibition.**

It shall be unlawful for a Sex Offender to be present in a Senior Safety Zone.

**Exclusions.**

This Prohibition shall not apply to the following:

(1) To any person whose name has been removed from the Connecticut Department of Public Safety’s Sex Offender Registry or from the registry of any other State or in the Federal or Military system by act of a Court or by expiration of the term.

(2) To any person who is a lawful resident of housing for elderly persons pursuant to section 8-114a of the general statutes or congregate housing for the elderly pursuant to section 8-119h of the general statutes.

[(2)] (3) To any person entering into a facility in a Senior Safety Zone for the sole purpose of voting in any Municipal, State [of] or Federal election or referendum, provided that the person leaves the facility immediately after voting.

[(3)] (4) To the extent that the conduct prohibited by this Ordinance is in conflict with any sentence or order of probation or parole imposed upon a sex offender.

[(4)] (5) To any person who enters a Senior Safety Zone for the purpose of dropping off or picking up his or her own parent, provided that the person leaves the Senior Safety Zone immediately after dropping off or picking up his or her parent.

[(5)] (6) To any person who enters a Senior Safety Zone to meet with any official, agent, employee or representative of a facility to discuss his or her own parent’s health or

general welfare, provided that the person leaves the Senior Safety Zone immediately after completing the meeting or discussion.

(7) To any person who has a relative in such housing or congregate housing described in subsection (2) of these exclusions, who is present at such housing or congregate housing to visit said relative. Said person may visit only at the discretion of such person's probation or parole officer, or if such person is not on probation or parole, at the discretion of the Chief of Police of the Town or its Resident State Trooper.

(8) To any person who is lawfully employed in a position that might require providing services within such Senior Safety Zone, as defined herein, for the purpose of providing such employment services. Said person may provide services in the scope of employment only at the discretion of such person's probation or parole officer, or if such person is not on probation or parole, at the discretion of the Chief of Police of the Town or its Resident State Trooper.

#### **Notice.**

The Mayor acting as Chief of Police or Resident State Trooper or his/her designee shall make reasonable efforts to provide written notice of the enactment of this Ordinance [( ) (which notice shall contain a copy of the Ordinance) to all persons who are listed on the Sex Offender Registry as of the effective date of this Ordinance as well as those persons who are added to the Sex Offender Registry thereafter, which persons' addresses (as shown on the Sex Offender Registry) are within the Town. Such notice requirement may be satisfied by the mailing of such notice by Registered or Certified Mail, Return Receipt Requested to the last known address of such person as listed on the Sex Offender Registry or as otherwise known to the Mayor acting as Chief of Police or Resident State Trooper or his/her designee. The failure of any person to receive such actual written notice shall not be a defense to a violation of the Ordinance.

#### **Enforcement.**

(a) If a Police Officer [reasonable believes] has a reasonable suspicion that a sex offender is in a Senior Safety Zone in violation of this Ordinance, the Officer shall require the suspected sex offender to provide [his/her name, address and telephone number] proper identification. If it is established that the individual is a sex offender, then the Officer may issue an Infraction ticket to the offender and require the offender to leave the Senior Safety Zone.

(b) Any person in violation of this Ordinance shall be fined in the amount of ninety-nine dollars (\$99.00) for each violation or the maximum imposed by State Statute.

#### **Severability.**

Any provision of this Ordinance held to be unconstitutional or superseded by State law or regulation shall not serve to invalidate the remaining unaffected provisions hereof. No provision of this Ordinance shall serve to validate any activity otherwise prohibited by State or local law or lawfully enacted zoning regulations.

#### **Senior Safety Zone.**

Each Senior Safety Zone may be identified by a sign conspicuously posted at the primary entrance to the Senior Safety Zone and any building within the Senior Safety Zone. In addition, the Town of Montville will make available a map outlining each Senior Safety Zone in Montville and a document listing each Senior Safety Zone at the Mayor's Office and the Montville Town Police Department. Any maps or similar documents showing or

listing the designated Senior Safety Zones in Montville will be placed on the Town of Montville's website for viewing.

This ordinance shall become effective thirty (30) days from the date of its adoption.

Dated at Montville Connecticut this 15<sup>th</sup> day of November 2012.

Lisa Terry, Town Clerk

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

State Senator Edith Prague of the 19<sup>th</sup> District spoke strongly in favor of the ordinance. Last year, at the request of Councilor Caron, the Aging Commission put forth legislation on Senior Safety Zones for the State of Connecticut. This resolution, which mirrors some of recommendations of the original resolution, prevents sex offenders from entering any senior center or elderly housing establishment. There are some exceptions to this proposed ordinance, including if the senior center is a voting place, if the offender is visiting a residing relative, and if the offender is working in the area, e.g., delivery truck driver who must deliver a package. In any of these exceptions, the offender may enter the area, but is required to leave the premises immediately after he has completed his task. Upon reviewing the ordinance, Senator Prague noticed that one of the exclusions includes that a sex offender may also reside in the senior center or elderly housing (Exclusions, item 2) and will be proposing the Committee on Aging to amend the ordinance to read that no sex offender be allowed to live in senior center/elderly housing establishment. She understands there may be an issue regarding the infringement of people's rights, but feels that public safety overrides those infringements. She also supports the same ordinance regarding the creation of Child Safety Zones.

Ms. Sandra Stauffer, 7 Edward Road, Uncasville, President of Montville Seniors, spoke in favor of the ordinance reading a letter she wrote to the Town Council. Also noted in the letter is the unrest and lack of civility among the Council members she has witnessed over the years. She asks the Council for their cooperation and hopes that they will be able to agree to disagree on the issues which are herewith brought forth.

Mr. Joseph Socha, 3 Ventura Drive, Oakdale, wholeheartedly supports the ordinance and hopes that it will be passed by the Council. He thanks those who created and presented the ordinance and those in the Council who support the ordinance.

Councilor Rosetta Jones, 61 Old Colchester Road Extension, Oakdale, expressed her opposition of the ordinance and her great respect for Senator Prague. Originally called SB-141, the bill, prohibiting sex offenders from entering senior citizen centers, was introduced to the Senate in February 2012. The ordinance was introduced to the General Assembly, went through the Aging Committee and the Senate, but was not supported, in full, by the House. With approximately 20,000 citizens living in the town of Montville, only three individuals — Councilors Buebendorf and Caron, and Kathie Doherty — testified on behalf of this bill. While she believes their intent is of good will, she would feel more comfortable supporting the ordinance if it was, first, supported by the State Legislature as she is concerned that it is a quagmire for litigation. During her 3-1/2 years as a Legislative Liaison for the Department of Corrections, she learned that one of the strategies to suppress a bill, which is passed by the Committee and is publicly supported, may have an unfavorable amendment attached to it. Clearly, this appears to be the case in this situation and the Legislature may have, similarly, realized that this ordinance is a magnet for litigation. While the act, at face value, appears to add an additional layer of support and protection to seniors, it, rather, provides them with a false sense of security. By definition of the ordinance, she is, herself,

a senior citizen and, as such, has a compelling interest in wanting to ensure their safety. Having worked as a warden for the Department of Corrections for 22 years, she is well aware that simply drawing a line around a building or anywhere else or posting signs and imposing a \$99 fine will not deter criminals from attacking others. If this were true, we would not have over 15 overcrowded prisons housing approximately 17,000 offenders. While such an occurrence is possible, she has researched the issue, including conducting a poll of rape crisis centers and the state, and discovered that there have not been any such incidents, to date, of any sex offender attempting to attack or sexually assault a senior at a senior center. In addition, the ordinance restricts the freedom of people, including sex offenders, who are protected by the Fourth Amendment — the right for people to secure their person against unreasonable search and seizure. Councilor Jones is very concerned with how the potential sex offender will be identified, suspected, and detained until the authorities arrive. Personally and professionally, this ordinance does not make her, as a senior, feel any safer and doubts that others will not feel the same way. She encourages the voice of reason and effective focus on teaching seniors tactics to be safe and evade and discourage confrontations or any type of attack whether at home, shopping, or at a senior citizens center. These types of self-defense strategies should automatically be built into the ordinance. One such tactic includes devices currently on the market designed to enhance personal safety, i.e., personal alarms, sirens, whistles, electric alarm mechanisms. These devices are lightweight, may be worn, or easily carried with keychain attachments and can be sounded off to attract attention and discourage any kind of assailant. She encourages the Town to invest in such devices for seniors and implores the Council to investigate some professional training strategies which are offered free of charge from the Department of Corrections, rape crisis centers, and colleges. These strategies will better empower seniors to protect themselves no matter where they are and will be much more effective than creating a red zone with a \$99 fine. Additionally, these programs are designed for people of all ages and physical abilities and will provide one with the sense of safety and security no matter where they are. In closing, Councilor Jones encourages the Council not to approve this ordinance at this time and wait until the State first endorses such Legislation thus decreasing the potential for any unnecessary litigation.

Ms. Stauffer inquired about the rights of the perpetrators versus those of the victims as she felt that once an individual commits a major crime, their rights should be taken away. She also questioned whether, once an individual is deemed a sex offender, they can be required to wear an ankle bracelet. She agreed with Councilor Jones regarding the \$99 fine. Councilor Jones clarified that both the perpetrators and victims have rights; all individuals are protected under the constitutional amendment and it is important that these freedoms be protected. Those who have committed a sexual offense, be it major or minor, e.g., an 18 year-old with an underage girlfriend, have been dealt with, by law, and recorded on the registry. Once the offender has served their sentence, they are, once again, free citizens with restrictions through the probationary and parole systems, but they cannot be restricted from walking in or through public areas. She reiterated her concern regarding the identification, reporting, and detainment of the suspected individual by a senior citizen. Currently, the Town of Danbury has a Child Safety Zone Ordinance in place where the fine has been set at \$250, but it is only one of 169 towns in the state with such an ordinance. Councilor McFee added that there are currently no towns in the country with a Senior Safety Zone Ordinance in place.

Senator Prague commented that one of the great things about this country is the ability for the people to be able to have and voice their own opinion(s). She opened an invitation to Councilor Jones to attend and testify at the hearing before the Aging Committee and express her thoughts and concerns regarding the bill. It is important that they hear from everyone so that the legislation is a sound. Councilor Jones accepted the invitation. While Senator Prague believes that we must protect the rights of the people, her first concern is to protect safety of both children and seniors of the community. The fine is simply an attempt by local officials to protect the seniors and children

and do what they were elected to do which is to protect the people of their town. She again urged the Council to support the ordinance and do as they were elected.

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

5. Adjournment

There being no additional questions or comments, the Public Hearing was closed at 6:58 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**