

Town of Montville Town Council
Public Hearing Minutes
Monday, April 13, 2020
6:30 p.m. – Montville Town Hall – Council Chambers

**This meeting was held electronically via FreeConferenceCall
Dial In 605-313-5935 Access Code 401237#**

The Town of Montville utilized a virtual FreeConferenceCall service for the April Town Council Public Hearing on April 13, 2020.

On March 14, 2020 Governor Ned Lamont issued an Executive Order 7B suspending in-person open meeting requirements, and to hold such meetings or proceedings remotely by conference call, videoconference or other technology.

Link: <https://portal.ct.gov/-/media/Office-of-the-Governor/Executive-Orders/Lamont-Executive-Orders/Executive-Order-No-7B.pdf>

Public comments on agenda items or topics in accordance with the Town Charter were submitted in writing in advance or by live audio via FreeConferenceCall.

Written comments were emailed to the Town Clerk at townclerk@montville-ct.org at least **1 working day in advance and were read into the record.**

Live audio comments were made via **FreeConferenceCall.com by calling **605-313-5935 (Access Code 401237#)**. Comments were only accepted at times designated for public comment by the Chair of the meeting. The Montville Town Council Rules of Procedure, decorum, timeliness and suitability were followed and enforced in the same manner as if the meeting were held in person.**

1. Call to Order
Chairman May called the meeting to order at 6:30 p.m.
2. Pledge of Allegiance followed by a moment of silence in honor of our military.
3. Roll Call
Present were Councilors Bunnell, Caron, Jaskiewicz, May, Pollard, Rix, and Rogulski. Also present was Mayor Ronald McDaniel.
4. Public Hearing

**TOWN OF MONTVILLE
Noise Control Ordinance**

- I. PURPOSE:** Pursuant to the general authority of Connecticut General Statutes § 7- 148 and the specific authority of Connecticut General Statute § 22a-73(c) it is hereby resolved that to reserve and promote the health, safety and general we are of the citizens of the Town of Montville (the "Town"), it is in the common interest to enact a reasonable regulation pertaining to the reduction, control and/or prevention of noise as to promote a general environment free from excessive noise and vibration.

This ordinance is enacted to preserve, protect and promote the public health, safety, convenience, general welfare, peace, quality of life, and property values for the citizens of Montville, and to facilitate the enjoyment of natural resources and tranquility of the town, through the reduction, control and prevention of excessive noise and vibration.

- II. DEFINITIONS:** The following definitions shall apply in the interpretation and enforcement of this chapter:

AMBIENT NOISE OR BACKGROUND NOISE - Noise of a measurable intensity which exists at a point as a result of a combination of many distant sources individually indistinguishable.

TOWN COUNCIL - The Town Council of the Town of Montville or a duly authorized officer.

COMMERCIAL ZONE - As set forth in the Montville Zoning Regulations and all associated therewith either permitted as of right or as a special exception.

CONSTRUCTION - Any site preparation, assembly, erection, substantial repair, alteration or similar action, for or of public or private rights-of-way, structures, utilities or similar properties, but excluding demolition.

CONSTRUCTION EQUIPMENT - Any equipment or device operated by any fuel or electric power used in construction or demolition work.

DAYTIME HOURS - The hours between 7:00 a.m. and 10:00 p.m., Monday through Saturday, and the hours 9:00 a.m. through 10:00 p.m. on Sundays.

DECIBEL - A logarithmic unit of measure in measuring magnitudes or sound. The symbol of dB.

DEMOLITION - any dismantling, intentional destruction or removal of structures, utilities, public or private right-or-way surfaces or similar properties,

DOMESTIC POWER EQUIPMENT - Including but not limited to wet saws, drills, grinders, lawn and garden tools and other domestic power equipment intended for use in residential areas by a homeowner.

EMERGENCY - Any occurrence or set of circumstances involving actual or perceived imminent physical trauma or property damage which demands immediate action

EMERGENCY VEHICLE - Any motor vehicle authorized by the State of Connecticut to have sound warning devices, such as sirens and bells, which can lawfully be used when responding to an emergency. (14-283)

EMERGENCY WORK - Work made necessary to restore property to a safe condition following an emergency or work required to protect persons or property from exposure of imminent danger.

IMPULSE NOISE - Sound of short duration, usually less than one (1) second, with an abrupt onset and rapid decay.

INDUSTRIAL ZONE - As set forth in the Montville Zoning Regulations and all uses associated therewith, either permitted as a right or as a special use.

MOTOR VEHICLE - Per Section 14-1 of the Connecticut General Statutes.

MUFFLER - A device for abating sounds such as escaping gases.

NIGHTTIME HOURS - The hours between 10:00 p.m. and 7 a.m., Sunday evening through Saturday morning, except that "night" shall mean the hours between 10 p.m. Saturday and 9:00 a.m. Sunday.

NOISE - Any sound, the intensity of which exceeds the standards set forth on Page 3.

NOISE LEVEL - The sound pressure level as measured with a sound level meter using the A- weighting network. The level so read is designated db(A) or dBA.

PERSON - Any individual, firm, partnership, association, syndicate, company, trust, corporation, municipality, agency or political or administrative subdivision of the state or other legal entity of any kind.

PREMISES - Any building structure, land or portion thereof, including all appurtenances, and shall include yards, lots, courts, inner yards and real properties without building or improvements owned or controlled by a person. The emitter's premises include contiguous publicly dedicated street and highway rights-of-way, all road rights-of-ways and waters of the state.

PROPERTY LINE - That real or imaginary line along the ground surface and its vertical extension which separates real property owned or controlled by any person from contiguous real property owned or controlled by another person and separates real property from the public right-of-way.

PUBLIC RIGHT-OF-WAY - Any street, avenue, boulevard, highway, sidewalk, alley, park, waterway, railroad or similar place which is owned or controlled by a governmental entity.

RECREATIONAL MOTORIZED VEHICLE — Any motorized vehicle, whether or not duly licensed and registered, including but not limited to commercial or non-commercial racing vehicles, motorcycles, dirt bikes, go-carts, ATV's, snowmobiles, amphibious craft, campers and dune buggies, but not including motorboats or aircraft.

RESIDENTIAL ZONE - Those residential districts as defined and set forth in the Montville Zoning Regulations and all uses associated therewith either permitted as a right or as a special use.

SOUND - A transmission of energy through solid, liquid or gaseous media in the form of vibrations which constitute alterations in pressure or position of the particles in the medium and which, in air, evoke physiological sensations including but not limited to an auditory response when impinging on the ear.

SOUND LEVEL METER - An instrument used to take sound-level measurements, and which should conform, as a minimum, to the operational specifications of the American National Standards Institute for Sound Level Meters S1.4 - 1971. (Type S2A)

SOUND PRESSURE LEVEL - Twenty (20) times the logarithm to the base 10 of the ratio of the pressure of a sound to the reference pressure of twenty (20) micronewtons per square meter and is expressed in decibels (dB).

III. NOISE LEVELS: No person shall cause or allow the emission of excessive noise beyond the boundaries of his/her premises in excess of the following Noise Levels:

Maximum Continuous Noise Levels (measured in dBA)

<u>Emitter Zone</u>	<u>Receptor Zone</u>		
	Industrial	Commercial	Residential (day/night)
Industrial	70	66	61/51
Commercial	62	62	55/45
Residential	62	55	55/45

Measurements shall be taken at a point on the property line of the emitter closest to the receptor and/or at the property line at any neighboring property (that may or may not be contiguous) with a more restrictive decibel allowance. In cases where the emitter is located on jointly owned property, such as industrial parks and condominiums, the noise measuring equipment (i.e. microphone) shall be placed at a fifty feet (50') distance from the noise source. The microphone shall be placed no closer than five feet from any wall and not less than three feet above ground that is located about one foot (1') beyond the boundary of the emitter's premises within the receptors premises. The emitter's premises include his/her individual unit of land or group of contiguous parcels under same ownership as indicted by public land records.

- A. No person shall cause or allow the emission of impulse noise in excess of one hundred (100) dBA peak sound pressure level at any time to any zone.
- B. No person shall cause or allow the emission of impulse noise in excess of one hundred (100) dBA peak sound pressure level at any time to any zone.
- C. In those individual cases where the background noise levels caused by sources not subject to this ordinance exceed the standards contained herein, a source shall be considered to cause excessive noise if the noise emitted by such source exceeds the background noise level by 5 dBA, provided that no source subject to the provisions of the Noise Levels section (Page 3), shall emit noise in excess of 80 dBA at any

time, and provided that this section does not decrease the permissible levels of the other sections of this ordinance.

IV. EXCLUSIONS: These levels shall not apply to noise emitted by or related to:

- A. Natural phenomena
- B. Any bell or chime from any building clock, school or church.
- C. Any siren, whistle or bell lawfully used by emergency vehicles or any other alarm system used in an emergency situation; provided however, that burglar alarms not terminating in thirty minutes after being activated shall be unlawful.
- D. Warning devices required by the Occupational Safety and Health Administration or other state or federal safety regulations.
- E. Farming equipment or farming activity.
- F. Train horns and signals.

V. EXEMPTIONS: The following shall be exempt from these regulations subject to special conditions as spelled out:

- A. Noise generated by any construction equipment which is operated during daytime hours. Noise generated by construction equipment during nighttime hours shall not exceed the maximum noise levels as specified on Sec. III.
- B. Noise created as a result of or relating to an emergency.
- C. Noise from domestic power equipment such as but not limited to power saws, sanders, grinders, lawn and garden tools or similar devices operated during daytime hours.
- D. Noise from snow removal equipment.
- E. Noise from demolition work conducted during daytime hours. When considered emergency work, demolition shall be exempted at all times from the noise levels set in this regulation.
- F. Noise created by any aircraft flight operations which are specifically permitted by the Federal Aviation Administration.
- G. Noise created by any recreational activities which are permitted by law and for which a license or permit has been granted by the town or State of Connecticut, including but not limited to parades, sporting events, concerts and firework displays.
- H. Noise created by blasting other than that conducted in connection with construction activities shall be exempted, provided that the blasting is conducted between 8:00 a.m. and 5:00 p.m. local time at specified hours previously announced to the local public or provided that a permit for such blasting is obtained from local authorities.
- I. Noise generated by the police and other established shooting facilities as permitted by Connecticut Firearms Laws Sec. 22a-74a.

VI. MOTOR VEHICLE NOISE:

- A. All motor vehicles as defined in Section 14-1 of Chapter 246 of the Connecticut General Statutes, operated within the limits of the Town of Montville shall be subject to the noise standards and decibel levels set forth in the regulations authorized in Section 14-80a of the Connecticut General Statutes.
- B. No sound-amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels as specified in the Noise Levels Section III.
- C. No person shall operate or cause to be operated any Recreational Motorized Vehicle off a public right-of-way in such a manner that the sound level emitted therefrom exceeds the limits set forth in Section III, Noise Levels.

VII. ENFORCEMENT AND PENALTIES FOR OFFENSES

- A. The Montville Police Department (the "Police Department") shall be responsible for investigating and documenting, through acoustic measurements, violations of this ordinance.
- B. Any person or entity violating any provision of this ordinance shall be fined ninety (\$90.00) dollars and each additional violation shall constitute a separate offense. Any

certified law enforcement agent with jurisdiction in the Town of Montville is hereby authorized to issue infraction ticket(s) pursuant to Connecticut General Statutes § 51-164p(a), § 51-164m and §51-164n.

- C. The provisions of this ordinance are in addition to, and not in lieu of, any other remedies available to the Town of Montville under the Connecticut General Statutes and other sections of the Town Charter. The issuance of infraction tickets under this ordinance shall not preclude the exercise of such other remedies. In addition, the Town of Montville may seek injunctive relief for continued or repeated violations.

VIII. VARIANCES

- A. Any person living or doing business in Montville may apply to the Town's Council for a variance from one (1) or more of the provisions of the ordinance which are more stringent than the Connecticut Department of Energy and Environmental Protection regulations for the control of noise, provided that the applicant supplied all of the following information to the Town Council at least twenty (20) days prior to the start of said activity.
 - 1. The location and nature of the activity.
 - 2. The time period and hours of operation of said activity.
 - 3. The nature and intensity of the noise that will be generated.
 - 4. Any other information required by the Town Council.
- B. No variance from these regulations shall be allowed unless it has been demonstrated that:
 - 1. The proposed activity will not violate any provisions of the Connecticut Department of Energy and Environmental Protection regulations,
 - 2. The noise levels generated by the proposed activity will not constitute a danger to the public health.
 - 3. Compliance with the regulations constitutes an unreasonable hardship on the applicant.
- C. The application for variance shall be reviewed and either approved or rejected at least five (5) days prior to the proposed start of said activity. The approval or rejection shall be in writing and shall state the condition(s) of approval, if any, or the reason(s) for rejection.
- D. Failure to rule on the application in the designated time shall constitute approval of the variance.

IX. SEVERABILITY

- A. If any term or provision, or any portion thereof, of this Ordinance, or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Ordinance, or the application of such term or provision to persons or circumstances, other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Ordinance shall be valid and be enforced to the fullest extent permitted by law. Should a court of competent jurisdiction find any provision or part of a provision unenforceable as written the court may reform such provision or part of a provision to render it enforceable consistent with the general intent of the remaining portion of such provision and/or this Ordinance.

Councilor Jaskiewicz provided a brief background of the Ordinance, which, he felt, would be beneficial for the town, and recited the second paragraph which clearly states the purpose of the Ordinance, which is to:

“ preserve, protect and promote the public health, safety, convenience, general welfare, peace, quality of life, and property values for the citizens of Montville, and to facilitate the enjoyment of natural resources and tranquility of the town, through the reduction, control and prevention of excessive noise and vibration.”

The Town Administration/Rules & Procedures (TARP) Standing Committee has been working on the Ordinance for the past two (2) years and the Ordinance has been reviewed by CT DEEP (CT Department of Energy and Environmental Protection).

5. Remarks from the Public with a three-minute limit

Live audio comments may be made via [FreeConferenceCall.com](https://www.freeconferencecall.com) by calling 605-313-5935 (Access Code 401237#).

Chairman May asked three times if there was anyone from the public who would like to speak in opposition to the Ordinance.

There being none, Chairman May asked three times if there was anyone from the public who would like to speak in favor of the Ordinance.

There being none, Chairman May asked three times if there was anyone from the public who would like to speak regarding the Ordinance.

An e-mail correspondence received by Dillon Troxell, 561 Route 163, was read into the record. Mr. Troxell, who stated his strong opposition to the Ordinance, felt that the “limits set forth by this ordinance are not fair for the members of our community who enjoy hobbies such as, riding dirt bikes or ATVs, boating, shooting, or working on race cars on their own property. There are many places in our town that allow people to enjoy these hobbies, but this ordinance could put an end to that.”

6. Remarks from the Councilors and the Mayor

Councilor Rix expressed her concerns regarding the Public Hearing, in general, due to the lack of public and/or public comment.

Councilor Pollard agreed and proposed postponing the Public Hearing until the Councilors and the public could be gathered together to discuss the Ordinance.

Councilor Bunnell stated that not only has the TARP Standing Committee discussed the Ordinance for over two (2) years, but the item has also been discussed during his entire tenure with the Montville Police Department. Same and/or similar Ordinances are currently in place in other towns throughout the State and the Ordinance includes several checks and balances and discretions. He agreed with Councilors Rix and Pollard regarding the need to reconsider the Public Hearing due to the unprecedented times that they are being confronted with and the need to provide the residents with a better opportunity to express their thoughts.

Councilor Jaskiewicz concurred with the previous Councilors’ comments, adding that, in all due fairness to those on both sides, he plans to make a motion to postpone the approval and adoption of the Ordinance.

Councilor Caron thanked the TARP Standing Committee for all of their hard work, agreed with his fellow Councilors, and proposed revisiting the Ordinance at a more opportune time.

Councilor Rogulski agreed with the Councilors regarding the postponement of the Public Hearing.

Mayor McDaniel stated that he has received no comments, either for or against the Ordinance.

Chairman May concurred with his colleagues’ comments and proposed discussing the matter in the near future.

7. Adjournment

Motion made by Councilor Jaskiewicz, seconded by Councilor Bunnell, to adjourn the meeting at 6:42 p.m. Discussion: None. Voice vote, 7-0, all in favor. Meeting adjourned.

Respectfully Submitted by: Agnes T. Miyuki, Recording Secretary for the Town of Montville

**AN AUDIO RECORD OF THE MEETING CAN BE FOUND ON THE TOWN’S WEBSITE
LOCATED UNDER RESOURCES – FORM REPOSITORY – MEETING RECORDINGS**