



Town of Litchfield
Land Use Office
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March 26, 2021

To: Planning & Zoning Commission
From: Dennis Tobin, PhD – Land Use Administrator
Subject: Review of text amendments for consideration at the April 5, 2021 meeting

I recommend the following draft motions and supporting documents:

3a & b, Food Vending, Food Vending Units:

Motion to **Deny** with the recommendation that the Board of Selectmen regulate food trucks subsumed under Litchfield Town Ordinance Peddling & Soliciting, Chapter 76

The following documents support for the denial and directing of food vending to the Selectmen:

1. Article II, Section 8-21, Town of Litchfield Ordinance 8-22-29, *Peddlers, Hawkers, and Solicitors*
2. Chapter 76 1-14. Borough of Litchfield, *Peddling and Soliciting*
3. State of Connecticut Statute, Chapter 408, Section 21- 36 thru 38, *Hawkers & Peddlers*
4. Republican American article, March 10, 2021, *Tragedy spurs traffic safety bill: 10-year-old boy's death inspires dessert truck plan, Trucks: Death Spurs traffic safety measure*
5. Republican American e-article, March 10, 2021, *Ice cream truck legislation gets bipartisan support; prompted by Cheshire tragedy*
6. Connecticut General Assembly, Proposed Bill No. 608: An Act Concerning the Safety of Children When Buying Ice Cream from and Ice Cream Truck, January Session, 2021
7. S.B. No. 608, Session Year 2021
8. Fire Marshal review e-mail, January 21, 2021
9. Animal Protection: New Mexico: Understanding the Differences Between Statutes, Regulations, Ordinances, and Common Law
10. March 1, 2021, Litchfield Planning & Zoning Commission minutes
11. Town of Litchfield Proposed 2021-2022 Town Budget

A quick summary of the attached material involves the following bullets:

- In January the PZC proposed food truck regulations and a public hearing was held on March 1, 2021
- The public expressed opinion for more expansive food truck regulations by expanding associated picnic tables, chairs and port-a-lets; warnings for violations, more than 14 operation days, more than one food truck per parcel, no zoning permit fee, no inspections, desired multiple trucks for multiple events, and requested that the permit not go to the parcel owner as host. The public expressed opinion that the proposed regulation was unsatisfactory.
- The Commission and Land Use Administrator expressed concerns of public safety during the review process prior to the public hearing.
- Further investigation reveals that the Town, the Borough, and the State currently have ordinances and a statute that regulate peddling products via a vehicle.
- The Town ordinance contains language for background check for vendors, especially important because food trucks have been operated illegally on school grounds. Schools require background checks for outside contractors, why not for food truck vendors? These check also ensure safety throughout town.
- The Town ordinance also regulates credentials, conduct, hours of sale and provides for assistant to perform clerical functions of the reg, as well as penalties for violations.
- The Borough ordinance also regulates peddlers with vehicles.
- In addition the CT statute empower municipalities to regulate such entities as food trucks.
- The state is currently considering safety measures for ice cream trucks. Current state legislation would coincide with the town ordinance to ensure safety.
- The proposed legal budget of \$2,000 is much too small to administer food trucks.
- It is proposed that the Board of Selectmen with their legal budget to contract with their Town attorney to review the applicability of food trucks and the Town Peddlers, Hawkers, and Solicitors ordinance.

3c thru f, Worship Place, Worship Place Accessory, Ecclesiastical Commercial Kitchen, Solar Harvesting Facilities, and Zone Change

Motion to Approve with any editing required by the Commission

ARTICLE II. PEDDLERS, HAWKERS AND SOLICITORS*

Sec. 8-21. Registration – Required.

It shall be unlawful for any person over sixteen (16) years of age to solicit orders of purchase for future delivery of or to hawk, peddle or vend any goods, wares or merchandise, including magazines and other printed matter, from door-to-door or on any street or highway within the town without first registering with the first selectman and having his credentials stamped as provided in this article. Registration shall not constitute a permit to enter privately policed areas. This article shall not apply to mail or telephone solicitation.

Sec. 8-22. Same – Application contents.

- (a) An applicant for permission to solicit, hawk, peddle or vend under the terms of this article shall complete an application blank provided by the board of selectmen, which application blank shall contain the following information:
 - (1) The name, home address and local address, if any, of the applicant;
 - (2) A physical description of the applicant setting forth the applicant's age, date of birth, height, weight and color of hair and eyes;
 - (3) The name and address of the person, firm or corporation for whom or through whom orders are to be solicited or cleared or goods and merchandise obtained;
 - (4) The nature of the goods, wares or merchandise which are to be sold or for which orders are to be solicited;
 - (5) A statement as to whether the applicant has been arrested or convicted of any crime or misdemeanor and, if so, what;
 - (6) A statement as to the period during which the applicant intends to solicit, hawk, peddle or vend.
- (b) The applicant, at the time of executing such application blank, shall also submit identification satisfactory to the first selectman which shall contain a specimen of the applicant.

Sec. 8-23. License fee; contents, stamping and issuance of credentials.

Upon compliance by the applicant with the provisions of section 8-22 and the payment of a license fee for a one-day license, for a one-week license or for a six-month license in advance by the licensee to the town, which fees shall be as established from time to time, the first selectman shall stamp the credentials of the applicant, which credentials shall set forth the name and address of the applicant and of his employer, if any; the nature of the goods, wares or merchandise for which orders are to be solicited, hawked, peddled or vended; and the period during which the applicant may solicit, hawk, peddle or vend which shall be for either one(1) day, one (1) week or six (6) months, as appropriate; provided, however, that the first selectman shall not be required to grant such permission to any person who has been convicted of any crime or misdemeanor involving moral

- (b) This article shall not apply to those persons exempted by the statutes of the state. The license fee may be waived by the first selectman for students in the public schools of the town.

Sec. 8-28. Appointment and responsibilities of assistant to perform clerical functions of article.

The board of selectmen may appoint any person to perform the clerical functions of registering solicitors, hawkers, peddlers or vendors under this article; provided, however, that such agent shall not receive any separate compensation from the town for the performance of any duties under this article and shall not refuse to stamp the credentials of any solicitor except upon the direction of the first selectman. The cancellation of the credentials stamp shall be effected only by the first selectman or by some other member of the board of selectman designated by him.

Sec. 8-29. Violations; penalties.

Any person violating any of the provisions of this article or making any false statements or misrepresentations of fact for the purpose of obtaining permission to solicit orders shall, upon conviction thereof and in addition to other penalties provided by law, be punished as provided in section 1-10 of the Code and, pending trial therefore, the first selectman may suspend permission to solicit. Upon the conviction of any registered person for any crime or offense under this article or involving moral turpitude, the stamped credentials of such person shall be delivered to the first selectman and the first selectman's stamp on the credentials shall be canceled and such person shall not thereafter solicit orders in the town without reregistering.

§ 76-3. Application procedure.

Peddlers and solicitors, as defined above, shall make application for a license in person at the office of the Warden upon a required application form which shall contain the following information:

- A. The name and description of the applicant.
- B. The permanent home address and full local address of the applicant.
- C. A brief description of the nature of the business and the goods to be sold.
- D. If employed, the name and address of the employer, together with credentials establishing the exact relationship.
- E. The length of time for which the right to peddle or solicit is desired.
- F. A photograph of the applicant, showing the head and shoulders of the applicant in a clear and distinguishing manner.
- G. A statement as to whether or not the applicant has been convicted of any crime of misdemeanor or violation of any municipal ordinance and the nature of the offense and the punishment or penalty assessed therefor.

§ 76-4. Issuance of license.

- A. The granting of such license shall be under the supervision of the Warden and, in each and every case, a license shall be issued by him, if approved, within five (5) days after receipt of application therefor.
- B. Such license shall contain:
 - (1) The signature of the issuing officer and date of issuance.
 - (2) The name and address of the applicant.
 - (3) A description of the nature of the goods to be sold.
 - (4) An identifying description of any vehicle used in such peddling.

CHAPTER 408

HAWKERS AND PEDDLERS

Table of Contents

Sec. 21-36. Definitions.

Sec. 21-37. Town ordinances re vending, hawking or peddling. Fees. Permit fees not required of certain veterans.

Sec. 21-38. Penalty.

Sec. 21-36. Definitions. "Hawker" or "peddler", as used in this chapter, means any person, whether principal or agent, who goes from town to town or from place to place in the same town selling or bartering, or carrying for sale or barter, or exposing therefor, any goods, wares or merchandise, either on foot or from any animal or vehicle.

(1949 Rev., S. 4683.)

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Table of Contents) List of Chapters) List of Titles)

Sec. 21-37. Town ordinances re vending, hawking or peddling. Fees. Permit fees not required of certain veterans. Any town may make reasonable ordinances with reference to the vending or hawking upon its public streets or upon any state highway, except limited access highways, within such town or any land abutting such streets or highways of any goods, wares or other merchandise at public or private sale or auction, or to the vending or peddling of such articles from house to house within its limits, including the imposition of a fee, not exceeding two hundred dollars a year, applicable with respect to any person engaged in such vending, hawking or peddling, for the privilege of so vending, hawking or peddling such merchandise. Any ordinance adopted pursuant to this section which requires a permit may require that no such permit shall be issued to any person who has not obtained a permit to engage in or transact business as a seller within the state in accordance with section 12-409 and shall require that any permit issued pursuant to such ordinance shall be conspicuously displayed at the place the activities are undertaken. Such ordinances may provide that the authority issuing such permit may waive the permit fee for a nonprofit organization exempt from federal taxation by Section 501 of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, or a charitable organization. No town shall require a permit fee from any resident of this state who has resided within the state for a period of two years next preceding the date of application for such permit, who is (1) a veteran who served in time of war, as defined in section 27-103, (2) a hawker or peddler as defined in section 21-36, and (3) a principal pursuant to section 21-36. This section shall not apply to sales by farmers and gardeners of the produce of their farms, gardens and greenhouses, including fruit, vegetables and flowers, or to the sale, distribution and delivery of milk, teas, coffees, spices, groceries, meats and bakery goods, to sales on approval, to conditional sales of merchandise, or to the taking of orders for merchandise for future delivery when full payment is not required at the time of solicitation. Nothing in this section shall be construed to limit in any manner the Commissioner of Transportation's statutory authority concerning state highways. Nothing in this section shall be construed as empowering any municipality to prohibit, regulate, control or impose a fee on any person operating any business on any state highway or land abutting any state highway pursuant to a contract with the state.

(1949 Rev., S. 4684; 1957, P.A. 13, S. 91; P.A. 79-545; P.A. 84-289; P.A. 93-435, S. 88, 95; P.A. 95-281, S. 1; P.A. 02-137, S. 7.)

THE LEGISLATURE

Tragedy spurs traffic safety bill

10-year-old boy's death inspires dessert truck plan

BY PAUL HUGHES
REPUBLICAN-AMERICAN

HARTFORD — State legislators are moving swiftly to pass traffic safety legislation inspired by the death of a 10-year-old Wallingford boy, who was killed in Cheshire last June by a car passing a stopped ice cream truck.

The Transportation Committee on Wednesday advanced a bipartisan bill imposing new requirements for frozen dessert trucks and motorists to follow, including

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TRUCKS: Death spurs traffic safety measure

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adding signals and signs for increasing a stopped truck's visibility, and warning drivers children may be present.

The unanimous vote came just two days after a heart-wrenching hearing on the legislation.

"The testimony was hard for a lot of our members, and it was certainly difficult for the family that was most impacted," said Rep. Roland J. Lemar, D-New Haven, House chairman of the Transportation Committee.

Committee members singled out testimony from the parents of Tristan Barhorst, the boy who was fatally struck by a car passing an ice cream truck stopped on Wiese Road in Cheshire that he had just visited.

"The testimony was absolutely gut-wrenching and, as a parent, my heart breaks for the family," said Rep. Amy Morrin Bello, a first-term Democrat from Wethersfield.

Rep. Gristin McCarthy-Vahey, D-Fairfield, said Tristan's parents, Tyler Barhorst and Christi Carrano, showed "amazing compassion" Monday for the 17-year-old driver who was behind the wheel of the car that hit their son.

Lemar said Senate Bill 608 is being fast-tracked in hopes of expeditious House and Senate approvals.

The goal is get the new safety requirements in place ahead of the busy summer season for

ice cream trucks, said Sen. Will Haskell, D-Wilton, the Senate chairman of the Transportation Committee.

Tristan was struck June 12, 2020, after finishing his final day of fourth grade at St. Bridget School in Cheshire.

"I'm very committed to making sure that we try to pass this legislation before the summer season," Haskell said.

McCarthy-Vahey said it is an imperative.

"I know the sound of summer, the bell on the ice cream truck ringing, and what child doesn't go running?" she said. "So the fact we can do this will help assure that other children will be safe in the future."

The legislation requires drivers yield to pedestrians crossing a street to or from a stopped ice cream truck. It also details how to approach and overtake an ice cream truck displaying flashing red signal lights and extending its stop signal and front crossing arms.

Republicans also agreed swift passage is needed in this case.

"I want to make sure we can get this done quickly through both the House and Senate," said Rep. Devin Carney, R-Old Lyme, the ranking House member of the Transportation Committee. "I'm very happy to see this pass so quickly with bipartisan support and bipartisan introduction because certainly many issues, especially issues like this, rise above partisan politics."

"I'm very committed to making sure that we try to pass this legislation prior to the summer season," Haskell said.

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"I know the sound of summer, the bell on the ice cream truck ringing, and what child doesn't go running, and so the fact that we can do this will help assure that other children will be safe in the future," she said.

The sentiment is bipartisan.

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Sen. Henri Martin, R-Bristol, the ranking Senate member, observed the Committee on Children heard testimony Tuesday on a House version of the traffic safety bill. Rep. Liz Linehan, D-Cheshire, is the committee's House chairwoman, and Martin is also the ranking Senate member.

Lemar said supporters will work out a final version between House Bill 6566 and Senate Bill 608 and which legislative chamber will go first.



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14 is facing away from the travel lane of the roadway, and (6) prohibit the
15 sale of ice cream or similar food items to a child when such child is
16 standing in the travel lane of the roadway or in an area unsafe for
17 pedestrians, except when such child is accompanied by an adult, and
18 make a violation of such prohibition an infraction.

Statement of Purpose:

To protect children in the course of buying ice cream from ice cream trucks by increasing the truck's visibility to other drivers and warning drivers that children may be present.

Date ↕		Action Taken ↕
3/10/2021	(TRA)	Joint Favorable Substitute
3/4/2021		Public Hearing 03/08
3/3/2021		Referred to Joint Committee on Transportation
3/2/2021		Drafted by Committee
2/10/2021	(TRA)	Vote to Draft
1/27/2021		Referred to Joint Committee on Transportation

Co-sponsors of SB-608

Sen. Paul Cicarella, 34th Dist.
 Sen. Jorge Cabrera, 17th Dist.
 Rep. Vincent J. Candelora, 86th Dist.
 Rep. Craig C. Fishbein, 90th Dist.
 Rep. Alphonse Paolillo, 97th Dist.
 Rep. Dave W. Yaccarino, 87th Dist.
 Rep. Joseph H. Zullo, 99th Dist.
 Rep. Christine Conley, 40th Dist.
 Rep. Devin R. Carney, 23rd Dist.
 Rep. Nicole Klarides-Ditria, 105th Dist.
 Rep. David Michel, 146th Dist.
 Rep. Tami Zawistowski, 61st Dist.
 Rep. Lezlye Zupkus, 89th Dist.
 Rep. Michael DiGiovancarlo, 74th Dist.
 Rep. Amy Morrin Bello, 28th Dist.
 Sen. Kevin C. Kelly, 21st Dist.
 Rep. Greg S. Howard, 43rd Dist.
 Rep. Brian T. Smith, 48th Dist.
 Sen. Eric C. Berthel, 32nd Dist.
 Rep. Tom O'Dea, 125th Dist.
 Rep. David Arconti, 109th Dist.
 Rep. Patrick E. Callahan, 108th Dist.
 Rep. John K. Hampton, 16th Dist.
 Rep. Joseph P. Gresko, 121st Dist.
 Rep. Michael D Quinn, 82nd Dist.
 Rep. Matthew Ritter, 1st Dist.
 Rep. Edwin Vargas, 6th Dist.
 Sen. Kevin D. Witkos, 8th Dist.
 Rep. Jason Rojas, 9th Dist.
 Sen. Paul M. Formica, 20th Dist.



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Understanding the Differences Between Statutes, Regulations, Ordinances and Common Law

Citizens are subject to a variety of laws made by city, county, state and federal governments. In general, all laws are part of a hierarchy in which federal laws are at the top, local laws at the bottom, and state laws somewhere in between. In order for individuals to work effectively on behalf of animals, it is important to understand how these laws fit together. A brief summary follows of each of the different kinds of laws, with an explanation of how they are interrelated. (Please note that Tribal lands are sovereign nations, each with their own sets of laws.)

Statutes

The United States Constitution is the supreme law of the land. No federal or state law may violate it. Federal laws (statutes), enacted by the United States Congress, must be followed by every state in the country. If a state law contradicts a federal law, the federal statute preempts the state law, and the state will be required to abide by the federal statute. However, federal laws do not cover all areas of the law, and in those instances, state or local laws will control.

Similarly, within a state, the state constitution represents the highest legal authority. The state may then enact state statutes, which apply to everyone within the state. State statutes cannot violate the state constitution, the federal constitution, or federal law.

The term "statute" simply refers to a law enacted by a legislative body of a government, whether federal or state. At the federal level, statutes regarding animals usually focus on the interstate aspects of our relationships to animals. Protection of migratory birds, for example, or the importation, interstate transportation and sale of endangered animals are covered by federal statutes.

The states have the authority to regulate animals within their borders. Wildlife is considered to be held in public trust by a state for the benefit of its citizens. Each state may enact laws to govern how its wildlife is used, protected, etc. Domestic animals are privately owned, and are generally considered to be property under state law. A state may enact laws to govern how these animals are bought and sold. A state may also enact laws for the benefit of public health and welfare, which govern how animals may be treated. However, state statutes are sometimes challenged. For instance, when there is a question as to a statute's meaning, or to determine if a statute follows the state constitution, the Supreme Court is asked to review the law. The Court then writes an opinion on that law.

State statutes are the starting points for most animal law in New Mexico. State statutes provide the framework for the comprehensive structure of animal law throughout the state. The state cannot explicitly cover all the potential interests in



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Volunteer

Animal Protection New Mexico is looking for energetic, enthusiastic individuals to join our lifesaving work for animals on a volunteer basis. Apply to discover opportunities that fit with your interests and schedule!

Contact Us

We would love to hear from you. Reach out to us and let us know how we can help you. We love to hear new ideas about how we can help New Mexico animals and be better advocates for them. Please reach out to us.

Sign Up for E-Alerts

Join the APNM mailing list and be the first to know about the threats and triumphs affecting all of the animals around our state, and what you can do to show them your support.

**LITCHFIELD PLANNING AND ZONING COMMISSION
MEETING MINUTES**

March 1, 2021, 7:00 p.m.

Remote Meeting by Live Internet Video Stream and Telephone

Call to Order – Chairman Carol Bramley called the meeting to order at 7:02 p.m.

Members Present: Max McIntyre, Robert Lupo, John Cox, Jordan Richards, Peter Losee,

Members Absent: William Conti, Stephen Simonin, Abby Conroy

Appointment of Alternates – None

Commissioners' requests – None

Motion to add item 7a to agenda for Site plan modification Litchfield Distillery, 569 Bantam Rd. for building addition reconfiguration by J. Cox, seconded by R. Lupo, motion passed unanimously.

APPLICATION CONSIDERATION

Wakefield

Naser Rd. (Map 091/014/006)

3/1/21

Re-subdivision of a parcel with Conservation Restrictions into 2 parcels.

The application is to divide a 4.71 acre parcel of land into two lots to separate the co-owners' interest. The property is located on Naser Rd. (091/014/006) and is currently owned by David Wakefield and Bertha Wakefield as shown as Parcel A (1.956 acres) and Parcel B (2.755 acres) on "Map showing Division of Land for Conservation Purposes, Prepared for David P. Wakefield Jr. and Berth Anne Wakefield, Naser Road" by licensed surveyor Roy V. Cheney dated January 2021,. The Chairman explained that because the land will only be used for conservation or agricultural purposes this division does not constitute a "subdivision" as defined in Section 8-18 of the CGS. The applicant submitted the existing Conservation Restriction agreements for both properties (A & B) as required.

Motion by M. McIntyre moved to approve the "Resolution" dividing the property, M. McIntyre seconded and the motion passed unanimously.

PUBLIC HEARINGS

Proposed text amendments to the Zoning Regulations:

The Chairman opened the hearings and read the legal notice into the record.

She read referral responses from the Board of Selectmen, Town Clerk, Public Works and the Fire Marshal

- a. Specific Standards and Requirements: Food Vending**
- b. Glossary of Terms and Phrases: Food Vending Units**

M. McIntyre read the proposed amendments into the record and the chairman opened the hearing to the public.

Roberta Andrulis Mette spoke in favor of the food vending units.

