

City Council

2022-2023

City of Newton

April 14, 2022

Jonathan Yeo, Chief Operating Officer
John Carmichael Jr., Chief of Police
John Lojek, Commissioner of Inspectional Services



RE: Following up discussion of #58-22, #108-22, and #198-22

Dear COO Yeo, Chief Carmichael and Commissioner Lojek:

The members of the Programs and Services Committee are grateful for your participation in our discussion of the items referenced below. I must admit we were a bit surprised to learn that six months after our last meeting, and after the committee followed up with a detailed letter outlining our concerns and next steps, it appeared that a limited amount of cross department collaboration had occurred. As everyone is aware, we are in year five of this ordinance, the challenges in the initial roll-out coupled with limited collaboration among departments has resulted in constituents being more frustrated with the ordinance today than perhaps when it was initially proposed.

What was clearly demonstrated at the meeting Wednesday night is that all parties involved want to see this ordinance work, and effectively mitigate the noise pollution and environmental damage perpetuated by gas leaf blowers.

Towards that end, and in accordance with the vote of the Committee, this letter is designed to summarize some of what we heard and some suggestions that emerged as part of our collective discussion, supplemented by some additional information which we hope will be helpful.

The letter has two appendices, one referencing the first item related to enforcement of construction noise and hours of operation, and the second regarding the two items relating to leaf blowers. Consistent with our discussion on April 6, the Committee plans to set these items down for discussion in June after the budget deliberations are concluded to see what further progress has been made in addition to the helpful actions you reported or have underway.

Thank you and please reach out to me on behalf of the Committee if you have any questions.

Sincerely,

Councilor Brenda Noel,
Vice-Chair, Programs and Services Committee

CC: City Council
Mayor Ruthanne Fuller
Alissa Ocasio Giuliani, City Solicitor

Appendix A: Construction Noise

#58-22

Request for a discussion with ISD regarding noise ordinance Compliance

COUNCILORS BAKER, RYAN AND WRIGHT requesting discussion with Inspectional Services about possible ways of enhancing compliance with the provisions of Newton's noise ordinance which limits construction activity to certain times of day and on Sundays and legal holidays, including possible additional measures to advise contractors and subcontractors of applicable rules to minimize the need for complaint driven enforcement by city staff or police.

Members of the Committee appreciated Commissioner Lojek's candor about scofflaw behavior, which Councilor Ryan confirmed. In light of that we have the following recommendations:

1. Provide in the new online permitting system for building and other permit applications a place that applicants are informed about the Sunday and Holiday as well as time of day work restrictions and certify that they understand and will abide by them.
2. The Police and ISD work out a protocol for contemporaneous sharing of information about complaints received so that a suitable response, perhaps joint, be shaped. This might not only include individual tickets but also a record of enforcement for specific sites so that it can be accessed by both Departments.
3. The CEO, Police and ISD determine, in consultation with the law Department, what remedies beyond civil ticketing may be available for noise ordinance violations, e.g., stop work orders. If not available, ask the Law Department to determine if can they be added by ordinance.

Consider if additional measures should be implemented to strengthen the noise ordinance for construction activity, such as requiring registration for building contractors like commercial landscaping companies using leaf blowers.

Appendix B: Leaf Blower Operator Compliance and Strengthening the Ordinance

Referred to Public Safety & Transportation and Programs & Services Committees

#108-22 Requesting report as to the implementation of the leaf-blower landscaper registration and enforcement

COUNCILORS BAKER, GREENBERG, HUMPHREY, NOEL, ALBRIGHT, AND WRIGHT requesting a report from the Executive Department, including the Chief of Police and the Commissioner of Inspectional Services, as to the implementation of the leaf-blower landscaper registration and enforcement ordinance amendments effective Labor Day 2021.

#198-22 Request for leaf blower ordinance discussion and amendments

COUNCILORS BAKER, HUMPHREY, AND NORTON recommending discussion of possible amendments to strengthen the ordinances relating to leaf blower activity.

Members of the Committee appreciated the emphasis on stepped up enforcement. In light of that we have the following recommendations:

1. It would be helpful if the Executive Department would respond specifically to the suggestions in the prior Committee letter, as well as the communication from Ms. Bray, both attached, including having the registration form describe the requirements as well as consequences of violation.
2. The new part-time enforcement officer in ISD should be asked to issue tickets for registration violations as well as for improper equipment use, after initial warnings for educational purposes, with the objective of minimizing police responses.
3. Homeowners using unregistered landscaping firms should be given warnings, but then tickets if an if an unregistered firm continues to be involved, as the ordinance requires.
4. Create a 311 portal for reporting leaf-blower violations, like Cambridge, especially for registered landscapers, where ISD has additional suspension authority.
5. ISD and the Police share information so that leaf-blower registration and improper use enforcement efforts are coordinated.
6. Learn from positive administrative and enforcement experience elsewhere, e.g., Cambridge. Consider future strengthening amendments, such as provided in the Cambridge and Lexington ordinances, attached for reference, as well as ordinance amendments to take account of other increasingly noisy equipment, such as leaf vacuums and riding leaf blowers.



October 28, 2021

Jonathan Yeo, Chief Operating Officer
John Lojek, Commissioner of Inspectional Services
John Carmichael, Jr., Chief of Police

RE: Following up discussion of #49-20(3) relating to leaf blower enforcement

Dear COO Yeo, Commissioner Lojek and Chief Carmichael,

Thank you for attending the discussion of the leaf blower enforcement on Wednesday, October 20, in a joint meeting of the Programs & Services and Public Safety & Transportation Committees of the Council. As you know, both Committees voted to hold the above item.

The Programs & Services Committee also agreed to send a letter through the Acting Chair, Vice-Chair Noel, to recommend some ideas for you to consider in enhancing enforcement of this important regulation for the health and welfare of both residents and landscaping personnel. The Committees may request you return after some further experience to see what progress has been made and to discuss possible next steps, if any.

Ultimately the success of the effort will require an unusual cross-cooperation among both Inspectional Services and the Police. That a part-time individual has been hired to help inform landscapers of their obligation, leaving rapid response in the hands of the police, is a welcome sign. (It was disappointing, however, to learn that the new hire is not bilingual, since language barriers are reported as a challenge to enforcement. We hope that he might be aided somehow in this regard to enhance his success in his work.). When the Committees take this item up again, we would welcome having him join us to describe his experience and offer advice after some time on the job. In the meantime, here are some of the ideas, some of which were discussed on Wednesday:

- **Updating the online ordinances:** Currently, the City Ordinances, which are updated in print form every five years, but updated unofficially on a regular basis, have not yet incorporated the provisions passed last May and effective Labor Day this year. President Albright mentioned at the meeting that this is something which the Clerk of the Council might help with, though she and her staff will need the assistance of the Law Department as it should review the updated noise ordinance as a whole.
- **Updating the leaf blower brochure:** The City has prepared a brochure, currently available on the Inspectional Services website, that needs updating to reflect the new rules. We note that it is bilingual, and we believe that effective communication to those using the devices is needed.
- **Enhancing the registration application:** Currently, the application requires leaf-blower operator certification that the operator understands the new rules. It would enhance enforcement if the application itself, as Commissioner Lojek indicated at our meeting, might be expanded to summarize the new rules. The advent of online permitting may lead to a swift click-through without fully understanding the application, so it should acknowledge that these new requirements, at a minimum, may include:
 - Annual registration and sticker display on each vehicle.

- Identifying information (spelled out) on each vehicle, including the responsible person to call.
- Operation of no equipment greater than 65db on the machine in any season.
- Use of electric-only equipment from Memorial Day to Labor Day.
- Operation of leaf-blowers allowed only during certain hours, and not on Sundays or legal holidays (including Monday holidays celebrated in Newton).
- Fines for violations, and suspension of operations in Newton for multiple violations while registered.
- **Making sure large users are aware of the new rules:** These include municipal agencies and large users with their own staff and equipment, such as schools and colleges.
- **Helping our enforcement personnel work together with affected citizens:**
 - Cross-refencing police and ISD enforcement experiences with landscapers (Several of the violators on the police logs are not yet registered).
 - Ensuring tickets follow warnings (Two landscapers have received multiple warnings in the logs provided).
 - A welcoming protocol for citizen complaints (Currently citizens are asked to give not only the address of the violation, but also their name and their phone number. Some citizens might be afraid to disclose their identity without some sense it would be protected).
 - Awareness that there are multiple leaf-blower related rules which might usually show up in the police logs. For example, log references to leaf blowers as being in compliance do not reference whether the landscaper, not just the leaf-blower, complied with such non-equipment related aspects such as hourly limits, registration, visible identification or other requirements of the updated ordinance.
 - Analyzing response times to see whether they impact effective enforcement, as a delay may allow reported violators to leave the premises (This response time analysis recognizes that other public safety matters may take priority).
 - Warnings and tickets to property owners whose landscapers violate the rules and are unregistered at the time.
 - Education that compliant models can look almost identical to non-compliant models (easy to mistake for one another). Landscapers may use a mix of compliant and non-compliant models, so each blower should still be verified by checking its noise rating on the manufacturer's sticker. This mix of equipment will require a check of each machine, not just the one which may be first offered to the inspector, or the officer involved (Please see the photo below from one manufacturer showing machines which may seem identical but are not).
 - ISD adopts a dedicated phone line, webpage, and/or email for complaints and information as it will need to assess a pattern of violations to see when and if a suspension is warranted.
 - Helping our personnel use protective equipment, as may be appropriate, which may also be advisable for those operating the equipment – including City personnel - but

often rarely seen. See <https://www.stihlusa.com/information/how-to-guides/leaf-blower-safety-tips/>
#49-20(3)

We are sure that there are other ideas to help the enforcement effort succeed, and we look forward to continuing the conversation with you.

Sincerely,



Councilor Brenda Noel,
Vice Chair, Programs and Services Committee

CC: City Council
Mayor Ruthanne Fuller
Alissa Ocasio Giuliani, City Solicitor



BR 500

65db



BR 600

75db



BR 700

75db



BR 700 X

75db

Nathan Giacalone

From: Karen Bray [REDACTED]
Sent: Tuesday, April 5, 2022 6:42 AM
To: Joshua Krintzman
Cc: City Council; Ruthanne Fuller; John Carmichael; John Lojek; Nathan Giacalone
Subject: Leaf Blowers on the agenda 4/6/22

[DO NOT OPEN links/attachments unless you are sure the content is safe.]

Dear Councilor Krintzman,

We understand that leaf blowers will be discussed again at the Programs and Services Committee on Wednesday, April 6.

Many Newton residents feel it is time to act with urgency to assure that our leaf blower ordinance will be fully enforced and that landscapers will abide by Newton's noise ordinance.

The ordinance was passed in 2017 and enforcement has yet to be robust year 'round. Many municipalities around the country are banning gas powered leaf blowers (see attachment below) for health and environmental reasons. Many residents in Newton believe that our local landscapers have gotten more aggressive in their use of leaf blowers (using > 4-5 at a time, for example).

We would like to suggest items for consideration at your upcoming P & S meeting:

1. Currently, the wording of the registration form states that landscapers need only sign to say that they "understand" the ordinance. Our recommendation would be to have them sign that they will "abide" by the ordinance, (not simply understand) and, the consequences of not abiding should be spelled out clearly when they sign. How can their behavior change if they need only "understand" the ordinance?
2. Currently, the 311 system on [newtonma.gov](https://www.newtonma.gov) website has no system by which residents may report leaf blower violations to Inspectional Services. Calling IS usually does not result in action toward violators. Cambridge and many municipalities around the country use a software system called "SeeClickFix". It would be worth considering for Newton; it would reduce calls to police and IS, simplify communication, and save time and money.
https://www.civicplus.com/seeclickfix/request-demo?utm_medium=email&_hsmt=207241544&_hsenc=p2ANqtz-9KodPxxHj_TRm5ek4SU8LCbu30sVNfU3ctyFMV8Zv3QSD-cKG7M-cCQY6xrNCnW2ZMfA0OmHpeEGqQTWNvu7UoKer2VQ&utm_content=207239479&utm_source=hs_email3.
3. Also, the leaf blower brochure on [newtonma.gov](https://www.newtonma.gov) website has not yet been updated to reflect the changes made requiring landscapers to register and has not yet been updated to say that homeowners are liable if they do not hire registered landscapers.
4. We would like to see a list or recommended landscapers on the [newtonma.gov](https://www.newtonma.gov) website. Green Newton's & NewtonCALM's has compiled a list of landscapers who abide by Newton's Leaf Blower Ordinance.
<https://greennewton.org/gn-recommended-lawn-care-provider-info/>
5. Lexington voters approved a year-round ban of gas leaf blowers:
<https://www.boston.com/news/local-news/2022/03/08/lexington-leaf-blowers/>

6. Washington DC leaf blower ban:

Article: <https://www.theguardian.com/us-news/2022/jan/05/gas-leaf-blowers-banned-washington-dc>

DC's Leaf Blower Information page, with a complaint form for reporting violations:

<https://dcra.dc.gov/leafblower>

Thank you very much for your continued efforts toward making our Newton homes less polluted and less noisy.

Sincerely,

Karen Bray,

Newton Centre

with contributions from members of NewtonCALM - a group of more than 200 Newton residents, fighting for regulations on leaf blowers for more than 20 years.



CITY OF CAMBRIDGE LEAF BLOWER REGULATIONS

Notice: Pursuant to Cambridge Municipal Code 8.16.081.4, the following Regulations were adopted on 9/12/16 by Public Works Commissioner Owen O’Riordan and License Commission Chair Nicole Murati Ferrer. These are effective immediately and are subject to changes and amendments.

- (1) All provisions of Cambridge Municipal Code (the “Code”), Noise Control, Chapter 8.16 are incorporated herein and made a part hereof.
- (2) Unless explicitly exempted, all persons and municipal contractors or commercial leaf blower operators and their employees must comply with all provisions of Chapter 8.16 of the Code, including but not limited to 8.16.081 (“Ordinance”), and the Regulations (the “Regulations”) herein.
- (3) Only leaf blowers that are portable, handheld or back style powered by fuel or electricity are regulated by the Ordinance.
- (4) Commercial leaf blower operators, as defined by the Ordinance, must be permitted by the License Commission prior to operating, or allowing any of its employees to operate, leaf blowers in Cambridge.
 - (a) The permit must be applied for annually.
 - (b) The permit is subject to conditions, revocation, suspension and/or fines.
- (5) Any company or person, including the property owner, who violates, or allows any other to violate, the provisions of the Code or these Regulations, may be subject to fines of \$300.00 per violation.
- (6) All leaf blowers must meet current EPA emissions standards and cannot emit noise greater than 65 decibels, as rated by the manufacturer.
- (7) The user of a leaf blower must make all reasonable efforts to use it at the speed/throttle which emits the least sound and is least disturbing but can still accomplish the work to be performed.
- (8) Only one leaf blower can be used in parcels of 10,000 square feet or smaller.
- (9) Multiple leaf blowers can be used on parcels of land larger than 10,000 square feet so long as the leaf blowers are at least 10,000 square feet apart from each other.
- (10) When employees of the same commercial leaf blower operator are servicing adjacent parcels, the employees must not operate them simultaneously unless they are at least 10,000 square feet apart from each other.
- (11) Leaf blowers can only be used March 15 – June 15 and September 15 – December 31. The proper hours of operation during these periods are: Mondays through Fridays, 8:00 a.m. – 5:00 p.m.; Saturdays, 9:00 a.m. – 5:00 p.m.; Indigenous Peoples’ Day, 12:00 p.m. – 5:00 p.m.; and Veterans’ Day, 1:00 p.m. – 5:00 p.m. They cannot be operated on Sundays or any other legal holiday. This Regulation does not apply to municipal employees or municipal contractors working at Danehy Park, Fresh Pond Reservation, Fresh Pond Golf Course, Municipal Cemetery, Old Burial Ground, or after an emergency after a storm.
- (12) Commercial leaf blower operators must submit their employees to any training offered by the License Commission or submit an affidavit attesting they have trained all employees on the provisions of the Code and the Regulations.

- (13) Leaf blowers cannot be pointed at persons or animals. There must be a distance of at least fifty (50) feet between the user and any person or animal.
- (14) It is prohibited to blow towards open windows or doors. When possible, leaf blowers are not to be used within 10 feet of windows or doors.
- (15) Private citizens/individuals and commercial leaf blower operators are prohibited from blowing debris onto adjacent property, the street, catch basins, gutters, vehicles, people or animals.
- (16) Municipal employees or Municipal contractors may blow leaves, dust, dirt, grass clippings, cuttings and trimming from trees and shrubs on a municipal street or sidewalk for collection and pick-up, during municipal street and sidewalk sweeping and cleaning operations.
- (17) The leaf blower operator should use the longest possible nozzle for the equipment at maximum extension and orient the nozzle to reduce the sound.
- (18) The leaf blower equipment must be checked regularly to ensure proper operation and compliant sound emissions.
- (19) When feasible, prior to using a leaf blower, the operator must spray dusty areas with water.
- (20) Leaf blowers may never be used for construction dust, plaster dust or dry garden topsoil.
- (21) Leaf blowers may never be used to move large mounds of debris. Rakes and brooms should be used whenever possible and always when loosening heavier debris.
- (22) Employees must use ear protection while operating a leaf blower. The ear protection must be provided by the employer at no cost to the employee.
- (23) Leaf blower operators should use respiratory protection while operating the leaf blower. Any employee who requests respiratory protection from their employer, must be provided one at no cost to the employee.
- (24) Leaf blower operators should use eye protection gear while operating the blower. Any employee who requests such gear from their employer, must be provided one at no cost to the employee.
- (25) Commercial leaf blower operators and municipal contractors must provide each employee with a copy of the Regulations.

The Commissioners for the Public Works Department and License Commission thank you for your compliance with the Code and these Regulations. We trust that you will ensure all employees are properly trained, provided protection gear and informed that that responsible use of a leaf blower includes using common sense. If there are any complaints or violations, please report them immediately to the City of Cambridge through Commonwealth Connect, via email at License@cambridgema.gov or by phone at (617) 349-6149.

Town of Lexington

Motion

Special Town Meeting 2021-1

ARTICLE 10

**REDUCING NOISE FROM LANDSCAPE
MAINTENANCE EQUIPMENT**

MOTION:

That Chapter 80 of the Code of the Town of Lexington, Noise Control, be amended as follows, and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of the Town of Lexington:

1. Add the following definitions to § 80-3:

COMMERCIAL LANDSCAPER

A person or entity that receives compensation to utilize landscape maintenance equipment on another's property.

LANDSCAPE MAINTENANCE EQUIPMENT

Gas- or electric-powered lawn mowers, hedge trimmers, weed whackers, leaf blowers, and other equipment used in landscaping or lawn care.

2. Replace § 80-4.H with the following:
 1. The outdoor use of Landscape Maintenance Equipment by commercial landscapers shall be limited to the following days and hours:
 - i. Monday – Friday: 7:00 AM to 6:00 PM
 - ii. Saturdays: 9:00 AM to 5:00 PM
 2. The outdoor use of Landscape Maintenance Equipment by persons other than commercial landscapers shall be limited to the following days and hours:
 - i. Monday – Friday: 7:00 AM to 8:00 PM
 - ii. Saturdays, Sundays, and Legal Holidays: 9:00 AM to 5:00 PM
 3. The outdoor use of Landscape Maintenance Equipment by the Town or Town contractors on Town property shall be limited to the following hours:
 - i. Monday – Friday: 7:00 AM to 8:00 PM
 - ii. Saturdays: 9:00 AM to 5:00 PM

Town of Lexington

Motion

Special Town Meeting 2021-1

4. Landscape construction work shall be governed by §80-4.A, rather than this § 80-4.H.

Effective May 31, 2022, the use of gas-powered leaf blowers is restricted to the periods of March 15 to May 31 and September 15 to December 30.

i.

5. Effective March 15, 2025, the use of all gas-powered leaf blowers by commercial landscapers in the Town of Lexington shall be prohibited.
 6. Effective March 15, 2026, the use of all gas-powered leaf blowers by residents on their own property in the Town of Lexington shall be prohibited.
 7. The use of wheeled leaf blowers powered by four-stroke engines on properties larger than one acre is not subject to the prohibitions in paragraphs 6 and 7.
3. Amend § 80-7.B to read as follows where ~~struck through~~ text is to be removed and underlined text is to be added:

Any person who violates any provision of this by-law, or who is the owner of property on which such violation occurs, shall be fined an amount not to exceed \$50 per first violation, \$100 for the second violation, and \$200 for the third and each subsequent violation. Additionally, any person violating this by-law is also subject to the penalties under Fines issued hereunder shall be issued in accordance with Chapter 1, § 1-6 of the General By-Laws. The imposition of a penalty for any violation shall not excuse the violation or permit it to continue. Each day that such violation continues shall be considered a separate offense.

(Revised 11/17/2021)