

Chapter 20, Sec. 20-13(h)(6) and Chapter 17, Sec. 17-23 (c) and (d):*(h) Restrictions on use of leaf blowers.*

Notwithstanding the provisions of sections 20-13 (f) and (g), no property owner or the operation of leaf blowers on property under their control; no contractor or commercial landscaper, including a City contractor or employee, shall use or operate or authorize or permit any agent or employee to use or operate a leaf blower; nor shall any person use or operate a leaf blower within the City unless they do so in compliance with the provisions of this section. The following definitions shall apply to this section:

Leaf blower: any portable motorized device, whether carried or pushed, whether powered by gasoline or other fuel, electricity or battery, used in any landscape or property construction or maintenance activity, for the purpose of blowing, dispersing, redistributing, or removing dust, dirt, leaves, grass or plant clippings, litter or other debris.

Commercial leaf blower operator: any individual, entity or organization, including a contractor or commercial landscaper, that receives compensation for services that include operation of a leaf blower.

- (1) Summer Ban. No leaf blower may be operated from Memorial Day through Labor Day in each year, except that one 65 dB(A) electric or battery powered leaf blower per lot may be used during this period subject to the permitted hours of use specified in Subsection (2) below. At all other times leaf blowers may be operated subject to the following provisions:
- (2) *Permitted hours of use.* Leaf blowers may be operated only during the following times:

Monday - Friday: 7:00 a.m. - 5:00 p.m., except that the City of Newton, through its parks, recreation and culture department, shall be allowed to use leaf blowers prior to 7:00 a.m. for the sole purpose of maintaining city village centers.

Saturday: 8:00 a.m. - 5:00 p.m.

Sundays and legal holidays: prohibited except for operation by a resident of the property on which the leaf blower is operated between 9:30 a.m. and 5:00 p.m.; and except for operation of leaf blowers on contiguous lots under single ownership that total a minimum of thirty acres used for institutional or recreational purposes between 9:30 a.m. and 12:00 p.m.

- (3) Only leaf blowers meeting the following criteria are permitted for use:
- A. Leaf blowers must be manufactured after January 1, 2005 for EPA Class 4 engines and after January 1, 2008 for EPA Class 5 engines;
 - B. Leaf blowers must bear an affixed manufacturer's label indicating the model number of the leaf blower; such label must not be altered or concealed;
 - C. Leaf blowers must bear an affixed manufacturer's label documenting a noise rating of 65 dB(A) or less; such label must not be altered or concealed; and
 - D. Leaf blowers must only be used with any muffler, full extension tube and sound attenuating devices supplied by the manufacturer of the leaf blower. Non-factory modifications are not permitted.
- (4) During times of emergency caused by a storm or other special circumstance, the Mayor or his designee may temporarily suspend application of all or a portion of this section for purposes of cleaning up from such storm or other special circumstance.
- (5) The provisions of section 20-13 (i) shall not apply to leaf blower operation.
- (6) Any violation of the restrictions contained in this sections 20-13 (h)~~(4) through (h)(6) above~~ shall be subject to the penalties set forth in sections 20-13 (k) and (m) below, provided that the first offense by any person subject to this section, including a property owner, shall be subject to a warning only, and provided further that a violation committed by a commercial operator holding a valid permit and in good standing on the public list provided for in section (7) A, shall be enforced against the commercial operator only, and not against the property owner, manager or person in control of the property upon which the violation has occurred. ~~In addition, penalties after warning for commercial leaf blower operation in violation of the restrictions in this Section 20-13 (h)(1-3) shall be \$300 for each offense.~~
- (7) Commercial Leaf Blower Operators - permit required.
- A. No commercial leaf blower operator may operate a leaf blower or permit or authorize an agent or employee to operate a leaf blower in the City of Newton without an annual permit from the commissioner of inspectional services, who shall provide application forms; who may establish rules governing the display of permits on permittee's vehicles; and who shall maintain a public

list of commercial leaf blower operators who hold a valid permit under this section. The commissioner may set a reasonable fee for such permit. Such application form shall require the name and telephone number of a contact and shall require the applicant to certify under pains and penalties of perjury that they have read and understand this ordinance pertaining to leaf blower restrictions, and that they will inform all employees of the restrictions. If a violation of any leaf blower restriction under this ordinance is committed by an employee or agent of and while performing work for said commercial leaf blower operator, the commercial leaf blower operator shall be responsible for the violation and the employee or agent shall not be individually liable.

B. A commercial leaf blower operator shall ensure that its name, address, telephone number and its commercial leaf blower permit number are clearly visible on any vehicle it uses to conduct business in Newton.

C. In addition to the penalties set forth in sections (k) and (m) below, the permit of any commercial leaf blower operator who has received two or more notices of violation of leaf blower restrictions by it or its employees or agents in a 12-month period shall be suspended for a period of sixty days. The permit of any commercial leaf blower operator whose permit has been suspended two times shall be revoked, and the operator shall be ineligible for a permit for a period of one year. The operator's name shall be removed from the public list during any period of suspension or revocation. The penalty for operating a leaf blower without a commercial operator permit shall be \$300.00. The commissioner of inspectional services may promulgate rules and regulations to implement this section.

(i) *Permits for exemptions from this ordinance and for extensions of time to comply with this ordinance.*

(1) The mayor or his designee may grant a permit for any activity otherwise forbidden by the provisions of this ordinance upon a determination by the mayor or his designee that compliance in the conduct of such activity would cause undue hardship on the person or persons conducting such activity or on the community, taking into account: (i) the extent of noise pollution caused by not requiring such compliance; and (ii) whether reasonable efforts have been made to abate the noise. The mayor or his designee shall establish appropriate procedures for the processing of requests for such permits, including such hearings as the mayor or his designee deems appropriate. In granting any such permit, the mayor or his designee may impose such appropriate conditions as he deems necessary pursuant to this section. Copies of all such permits shall be filed with the clerk of the city council promptly after issuance. Promptly after issuance, copies of all such permits shall be filed with the clerk of the city council and to each ward city councilor for the affected ward.

(2) The mayor or his designee may extend to a specified date the time for compliance with this ordinance in the case of any particular activity with respect to which a determination is made that such extension is necessary to provide a reasonable opportunity for such activity to be brought into compliance. No such extension shall be granted which has the effect of exempting such activity from compliance with this ordinance. The mayor or his designee shall establish appropriate procedures for the processing

of requests for such extensions of time, including such hearings as the mayor or his designee deems appropriate.

(j) *Judicial Review.* Any person aggrieved by the grant or denial of a permit pursuant to subsection (i)(1) or an extension of time pursuant to subsection (i)(2), or a suspension or revocation of a commercial leaf blower operator permit pursuant to subsection (h)(7) may seek relief therefrom by a civil action in any court of competent jurisdiction as provided by the laws of the Commonwealth of Massachusetts.

(k) *Penalties.* Violation of any of the provisions of this section shall constitute a misdemeanor and any person, upon conviction of such violation, shall be fined an amount not to exceed three hundred dollars (\$300.00). Each day that such violation continues shall be considered to be a separate offense.

(l) *Enforcement.* The Newton Police Department and the Inspectional Services Department shall be responsible for enforcement of this ordinance. Each department shall document the disposition of all complaints by written report available to the public. The written report shall clearly indicate whether the complaint resulted in a warning or fine. If a warning or fine was not issued for a complaint, the responding city employee shall clearly indicate the reason.

(m) *Non-criminal disposition.* In addition to the penalties set forth in subsection (j), where non-criminal disposition of specified sections of this ordinance by civil fine has been provided for in sections 17-22 and 17-23 of the Revised Ordinances, as amended, pursuant to the authority granted by G.L. c. 40, sec. 21D, said violations may be enforced in the manner provided in such statute. The civil penalty for each such violation is set out in Sections 17-23(c) and 17-23(d).

(n) In the event the person in violation of section 20-13(h) pertaining to leaf blower use is a commercial leaf blower operator, the property owner shall be notified of the violation and of any warning or other enforcement issued to the operator.

Chapter 17, Sec. 17-23:

(c) DEPARTMENT OF INSPECTIONAL SERVICES: The commissioner of inspectional services, and/or his or her designee, and building inspectors of the department of inspectional services shall be authorized to issue written notice of the following violations:

Sec. 20-13. Noise Control, any section except Sec. 20-13 (h)(7)

- () First offense in calendar year..... Warning
- () Second offense in calendar year.....\$100.00
- () Third offense in calendar year.....\$200.00
- () Fourth or subsequent offense in calendar year \$300.00

Sec. 20-13 (h)(7) Restrictions on use of Leaf Blowers - Any violation

- () First offense Warning

() Second and subsequent offenses \$300.00

~~-\$300.00~~

(d) POLICE DEPARTMENT: City police officers shall be authorized to issue written notice of the following violations:

Sec. 20-13. Noise Control, any section except Sec. 20-13 (h) ~~(7)~~

() First offense in calendar year Warning

() Second offense in calendar year \$100.00

() Third offense in calendar year \$200.00

() Fourth or subsequent offense in calendar year \$300.00

Sec. 20-13 (h)~~(7)~~ Restrictions on use of Leaf Blowers - Any violation

() First offense Warning

() Second and subsequent offenses \$300.00