

CITY OF NEWTON

IN BOARD OF ALDERMEN

PROGRAMS AND SERVICES COMMITTEE REPORT

WEDNESDAY, MARCH 18, 2015

Present: Ald. Sangiolo (Chairman), Baker, Blazar, Hess-Mahan, Rice, Norton, Leary and Kalis  
City Staff Present: Captain Christopher Marzilli (Newton Police Dept.), Marie Lawlor (Assistant City Solicitor), Karyn Dean (Committee Clerk)

Appointment by the President of the Board

#66-15 SYDRA SCHNIPPER, 273 Ward Street, Newton Centre, appointed as a member of the NEWTON COMMUNITY EDUCATION COMMISSION for a term to expire April 30, 2017 (60 days 5/15/15) [03/05/15 @ 12:53PM]

**ACTION:** **APPROVED 6-0 (Ald. Kalis and Baker not voting)**

**NOTE:** Ms. Schnipper joined the Committee and explained that she would like to get involved in serving the community again and since her life has been public education, the Newton Community Education Commission seemed like the perfect fit for her. She has knowledge of buildings as well as experience with public education. She felt these skills could be useful for this wonderful organization.

She has not yet had the opportunity to meet with staff or members of the Commission. Ald. Sangiolo mentioned that she had asked President Lennon to set up a meeting with Ms. Schnipper and the director of Newton Community Ed. Ms. Schnipper said that she will look forward to that and is excited to get involved as soon as possible. Ald. Sangiolo said she would like to meet with Community Education, probably during the budget discussions, to see how they are partnering with the Parks & Recreation Department.

Ald. Rice moved approval and the Committee voted in favor.

Appointment by the President of the Board

#67-15 PATRICK COSTELLO, 32 Wolcott Street, Newton, appointed as a member of the FARM COMMISSION for a term to expire June 30, 2018 (60 days 5/15/15) [03/09/15 @ 11:31AM]

**ACTION:** **APPROVED 7-0 (Ald. Kalis not voting)**

**NOTE:** Mr. Costello joined the Committee. He explained that he is a long-time Newton resident along with his family. It has been their hobby to take care of their own garden, but a number of the public lands around the neighborhood including Wolcott Park and part of the median on Commonwealth Avenue across from Shaws Supermarket. The Farm Commission is about governance, compliance, strategy and providing advice to the farm Board of Directors on how to run the farm. He is a consultant in financial services specializing in firms maintaining third-party relationships with service providers. Most of his work is involved with recovering

funds from the Bernie Madoff scandal. He believes those professional skills will be useful on the Farm Commission. He attended the January meeting this year and heard the presentation of the 2015 plan, which was approved in March. The farm building is in good shape and they are trying to determine what to do with the tractor. Now that some repairs have been made, the hope is that more educational programs can take place in the building.

Ald. Hess-Mahan noted that the West Newton Farmer's Market has been a great place for the farm to be able to sell their produce. The first weekend of the market drew 900 people which was a vast improvement over the number of people who attended the market when it was located at Post 440. Ald. Rice noted that the Hyde Playground has a big garden and they are always looking for volunteers.

Ald. Rice moved approval and the Committee voted in favor.

#9-15            SRDJAN S. NEDELJKOVIC et al. petitioning the Board of Aldermen to expand the area represented by the Newton Highlands Neighborhood Area Council to include areas immediately contiguous with the existing service area of the Newton Highlands Neighborhood Area Council pursuant to Article 9, Section 9-4, of the City of Newton Charter. [12/23/14 @ 12:20 PM]

**ACTION:**    **HEARING CLOSED; APPROVED AS AMENDED 7-0-1 (Ald. Sangiolo abstaining)**

**NOTE:** This is a continuation of the public hearing on the item to expand the Newton Highlands Neighborhood Area Council (NHNAC). Srdjan Nedeljkovic, President of the NHNAC addressed the Committee. He felt the purpose of area councils was to allow residents to feel involved in various community issues and affairs and engender neighborly communication and cooperation. He noted that some issues arose from the last discussion of this item: clarification was needed relative to the authority of the Board in determining area council borders; and some resolution was necessary in order to determine in which area council certain streets should lie.

Ald. Rice arranged a conversation between the leadership of the Waban Area Council (WAC) and the NHNAC to resolve the issue of the contested streets. The meeting resulted in an amendment to the original petition, which is attached. This compromise accomplishes the goal of allowing residents to be involved in the area council they feel best represents them and includes removing some addresses from the original petition. It also creating a "buffer zone" on some border streets that were in question so that those within the buffer zone could choose their desired area council.

Ald. Rice consulted David Olson who runs the City's elections about the difficulty in conducting an election for the buffer zone residents. Mr. Olson told him that he could put the buffer streets in both polling locations and the resident could vote in either one (but not both). Election law for area councils is quite new so they are able to work out this issue in a fairly easy manner. Ald. Rice also consulted with Marie Lawlor in the Law Department and confirmed that the Board of Aldermen has jurisdiction in determining boundaries of area councils and could put streets into buffer zones with those residents choosing between two area councils. He felt confident the buffer zone solution could be successful.

Ald. Hess-Mahan felt the dispute was unseemly and instead of building community it had the possible effect of dividing it. The area council boundaries do not have money tied to them as would a precinct or ward for state appropriations nor do they change the representation people have long received from a state rep or congress member, for example. He felt the compromise solution was satisfactory.

Public Comment

*Sallee Lipshutz*, President of the WAC attended the joint meeting and was pleased with the compromise solution to the contested streets issue. They wanted residents to have the freedom of choice in the “buffer” streets between the two area councils. This is a new problem as two area councils have never come so close to abutting each other and felt this was a good solution.

*Members of the NHNA, Bob Burke and Steven Feinstein* spoke in favor of the amendment. They felt that the buffer zone was a good solution and accomplished the goals of area councils, which is to allow people to feel involved and to participate. *Barbara Darnell* was concerned about the buffer zone and felt that there should be a clearer line drawn and definite boundaries set. Having a patchwork of membership on certain streets would be confusing.

Seeing no other request for comment, Ald. Sangiolo closed the public hearing

Ald. Rice said he would look into facilitating voting for area council elections with other city elections. Perhaps the voting could be coordinated to one location.

Ald. Sangiolo said that problems occurred in the past with the proposed creation of a Newton Centre area council. The process got very messy and she felt the buffer zone proposed here was similarly messy so she will abstain on this vote. Ald. Blazar felt the situation in Newton Centre was in no way similar to this situation and supported the item and amendments.

Ald. Hess-Mahan moved approval of the item and amendments and the Committee voted in favor.

#8-15      ALD. HESS-MAHAN, NORTON, SANGIOLO AND LEARY requesting discussion with the Law Department and Inspectional Services Department regarding enforcement of the noise ordinance as it pertains to leaf blowers.  
[12/15/14 7:44 PM]

**ACTION:**      **NO ACTION NECESSARY 7-0-1 (Ald. Sangiolo abstaining)**

**NOTE:** Ald. Hess-Mahan explained that this item was docketed because there seemed to be a difference of opinion in the interpretation of the noise ordinance relative to leafblowers. He said the intention was that there would be a maximum sound limit for leafblowers (65dB) which should be measured without regard to background noise. He has heard that instead, background noise was being taken into consideration by the Police Dept. and the Inspectional Services Department (ISD). The rest of the ordinance in regard to noise pollution provided for the measurement of noise generated from a host of other sources to be measured against background noise, but leafblowers and the other pieces of equipment that were specifically called out in the

noise ordinance were not. That is why they were specifically listed. The leaf blower on its own should not be more than 65dB.

Ald. Hess-Mahan explained that cumulative sound was not mathematic. For instance two leafblowers at 65 dB did not equal 130 dB, but in fact equaled 68dB, which was twice as loud as 65dB. This was the problem with the noise ordinance and the way it was being enforced. The way it was currently being measured was wrong. There needed to be a different way to determine a violation other than measuring dB levels – it's too complicated.

#### Police Department Response

Captain Christopher Marzilli, Patrol Bureau Commander, said that ISD was the lead enforcement agency for the noise ordinance, but after business hours it became the responsibility of the police. Most complaints that the police received were about air conditioning units, trucks running, construction noise, etc. and those were generally at night. Police were trained to use the dB meter to measure those kinds of violations initially, not leaf blowers. There were two officers on the day watch that were trained on the dB meter. If they received a complaint about a leaf blower, they would go to the station to get the meter and head to the site. Usually, by the time they got there the landscaper was gone. Most complaints (and he noted there were not many) were relative to landscaping companies with only a few for individual homeowners. If the leaf blower was still running they would take a measurement of the ambient noise and the machine to get the measurement

Captain Marzilli said that if the Board would like the police to actively enforce the noise ordinance, they would need more personnel and more meters. As it stands, even if an officer were to pass by a landscaper working before or after the allowable time, the officer would not stop to enforce. Some Committee members said that since the ordinance gives discretion to the police for enforcement, an officer could stop and enforce without receiving a complaint particularly if they were not attending to an issue more urgent at the time. Captain Marzilli stated that the Board would have to speak with Chief Mintz for a policy change as the current policy dictated that noise ordinance enforcement was strictly complaint driven. When asked what would lend itself to the most effective enforcement, the Captain stated that a very simple ordinance would be best. If there was a seasonal or total ban, and/or if only electric leaf blower were allowed, that would be very clear cut and simpler to enforce. Along those lines, he would also like to see one fine for each violation and not a progressive fine system. It would promote more enforcement and was easier to track.

#### Notice/Education

There was a suggestion in Committee that notice should be sent to homeowners so they understood the ordinance and could relay that information to their landscaping contractors. Perhaps fines should be sent to homeowners and not the contractors. Overall there should be a public education component to tackling this so that everyone was aware of what the ordinance was and clarify the restrictions on time in particular. Marie Lawlor said this would be a more informal educational opportunity as there were no statutory requirements for notice. Residents were presumed to know the law. A noise ordinance reminder for construction can be issued when someone comes to pull a building permit, for instance. Notice could be sent in the tax bill, in the Tab, or on the website for instance.

Follow Up

The Committee concluded that the conversation was very informative and a more clear cut measure needs to be explored. It was suggested that Inspectional Services work with the Law Department on methods of notice and education of the noise ordinance relative to noise for construction and yard work equipment. Captain Marzilli will speak to Chief Mintz and let him know that the Committee expressed interest in more enforcement of before-hours generation of noise, particularly on weekends.

Ald. Hess-Mahan moved No Action Necessary and the Committee voted in favor.

#31-15            PROGRAMS & SERVICES COMMITTEE proposing an ordinance to limit the use of leafblowers. [01/26/15 @ 2:20PM]

**ACTION:**     **HELD 8-0**

**NOTE:** Ald. Sangiolo explained that based on the last discussion of this item, three draft ordinances were prepared: total ban on all leaf blowers; seasonal ban for all leaf blowers; and seasonal ban on electric leaf blowers and a total ban on gas leaf blowers. The drafts are attached to this report. Marie Lawlor noted that these drafts have a graduated fine system, which the Committee may want to change, and that the date and time restrictions stated for the seasonal bans are just placeholders and are open for discussion as well.

Ald. Sangiolo noted that she had correspondence from a lobbyist for the Echo Corporation which included a draft model ordinance (attached). The Echo Corporation is a major manufacturer of leaf blowers and this lobbyist had been in touch with Ald. Hess-Mahan during past discussions of a ban. There is a provision in the model ordinance that references the type of equipment that could be used as it relates to EPA designations. This could be useful for the Newton ban considering the last discussion of how difficult it is to enforce the noise ordinance based on dB levels. There are ratings by the American National Standards Institute (ANSI) which measure the dB level of leaf blowers and many ordinances require an ANSI designation and not a field-tested dB level. It was suggested that equipment have a rating that is easy for an enforcement officer to see to make a determination of violation.

Ald. Sangiolo provided a list of leaf blowers available through Home Depot, which is attached. She noted that very few of them were rated at 65dB or below and even the electric leaf blowers were fairly high. The electric leaf blowers have different issues including a high-pitched tone that can not be heard, but may be harmful to hearing.

In California, as the requirements have changed, the manufacturers have been changing with them. It was felt that the landscaping industry would catch up to the changing needs and requirements from communities as well. Many industries have changed over the years and adapted as new regulations have been put in place.

Some Committee members would like to incorporate any new restrictions into the existing noise ordinance and keep the current fine structure instead of creating a separate leaf blower ordinance.

Some felt that a flat fine would be easier to administer, as was stated previously by Capt. Marzilli.

It was noted that some communities have enacted total bans and then reverted to a seasonal ban. This is not just a nuisance issue, but also a health issue and the goal is to make the environment safer for operators and residents. It did not seem to make sense to say that the detrimental health factors were known and the City cared enough about that to make this an issue, and then not go as far as possible to mitigate them. Moving towards a total ban would seem to make the most sense.

Some Committee members noted that leaf blowers were first used in Japan to apply pesticides and were brought into this country and used for a purpose that was never intended. They are not essential equipment for landscaping and were not even used until a few decades ago.

#### Proposed Restrictions

The Committee would like to consider the following restrictions for a seasonal ban similar to the Brookline and Cambridge laws, with the plan of phasing to a total ban in 3-4 years. This will be an amendment to the noise ordinance. There also needs to be an amendment to the noise ordinance to change the hours of operation of all landscaping equipment to match the leafblowers. This will be docketed.

- **Times allowed:** 8am-8pm Monday through Friday; Saturday 9am-8pm; prohibited on Sunday and legal holidays
- **Prohibited Dates:** Prohibited all days except March 15-May 15 (or June 15) and September 15-December 15
- **Exemptions:** Still under consideration is whether to exempt the City and its contractors and non-residential large parcels.
- **Equipment:** This needs to be discussed further to determine whether to use some sort of rating system.
- All recommendations are still open to discussion.

It was noted that the current Newton ordinance allows for landscaping work on Sundays. This was changed several years ago because there was an argument that many people in the City observe religiously on Saturdays and it was not fair to discriminate.

Many Committee members felt that the City should not be exempt and that any restrictions should be applied to all. Many also felt that the guidelines should be more restrictive relative to times and dates allowed. Past discussions with Bob DeRubeis, Commissioner of Parks & Recreation, and Dave Turocy, Commissioner of Public Works, revealed that although they felt it would be less efficient and cost effective, they would do what they had to do to comply. The Newton Commonwealth Golf Course was also a concern and they had expressed in the past that it would be burdensome for them. Some Committee members felt that the large parcels could use less noisy equipment like vacuums. There are options.

Follow Up

Marie Lawlor will draft a seasonal ban with a phase-in to a total ban based on the Committee's recommendations and the item will be docketed to change the hours of operation of all landscaping equipment to match the leafblower hours of operation. The Committee will take this up again at the April 8<sup>th</sup> meeting.

Meeting adjourned.

Respectfully Submitted,

Amy Mah Sangiolo



# Newton Highlands Neighborhood Area Council

## Memorandum

Amy Sangiolo  
Chair, Program & Services Committee  
Board of Aldermen, City of Newton  
1000 Commonwealth Avenue  
Newton, MA 02459

March 17, 2015

Docket item #9-15: Newton Highlands Neighborhood Area Council expansion

Dear Ms. Sangiolo and members of the P & S Committee:

The Newton Highlands Neighborhood Area Council (NHNAC) submitted a petition in December 2014 requesting expansion of our service area and inclusion of certain omitted streets and addresses. At the February 4 2015 Program & Services Committee meeting of the Board of Aldermen, this item was held pending clarification of the role that the BOA has in deciding Area Council borders and pending a resolution of issues between adjacent Area Councils relevant to this petition.

To that effect, a meeting took place between leadership of the Newton Highlands Area Council and the Waban Area Council on February 25 2015, which was facilitated by Alderman John Rice. The following amendments to our original petition are to be presented for consideration at the upcoming Program & Services Committee meeting on March 18, 2015.

1. The four houses west of the Cold Spring entrance on Beacon Street (#1238 to #1256) shall be removed from the NHNAC petition.
2. The border between the NHNAC and the WAC shall run through Cold Spring Park.
3. The portion of Winslow (#75-#149) and Puritan (#73-#89) shall fall within a "Joint Council Zone" where each voter may decide which area council to join (but may not be a member of both simultaneously).
4. The following properties have been added to the NHNAC petition: #1063-#1099 Beacon Street and #858-#916 Walnut Street.
5. Any omitted parcels within the contiguous boundaries of the area council service area are to be considered included in the area council service area.

Our original petition had an adequate number of signatures to meet the 20% requirement for these areas. With these modifications, our petition will continue to be compliant with that requirement. We look forward to the Board of Aldermen approving our petition to expand the NHNAC.

Sincerely,

*Srdjan S. Nedeljkovic, M.D.*

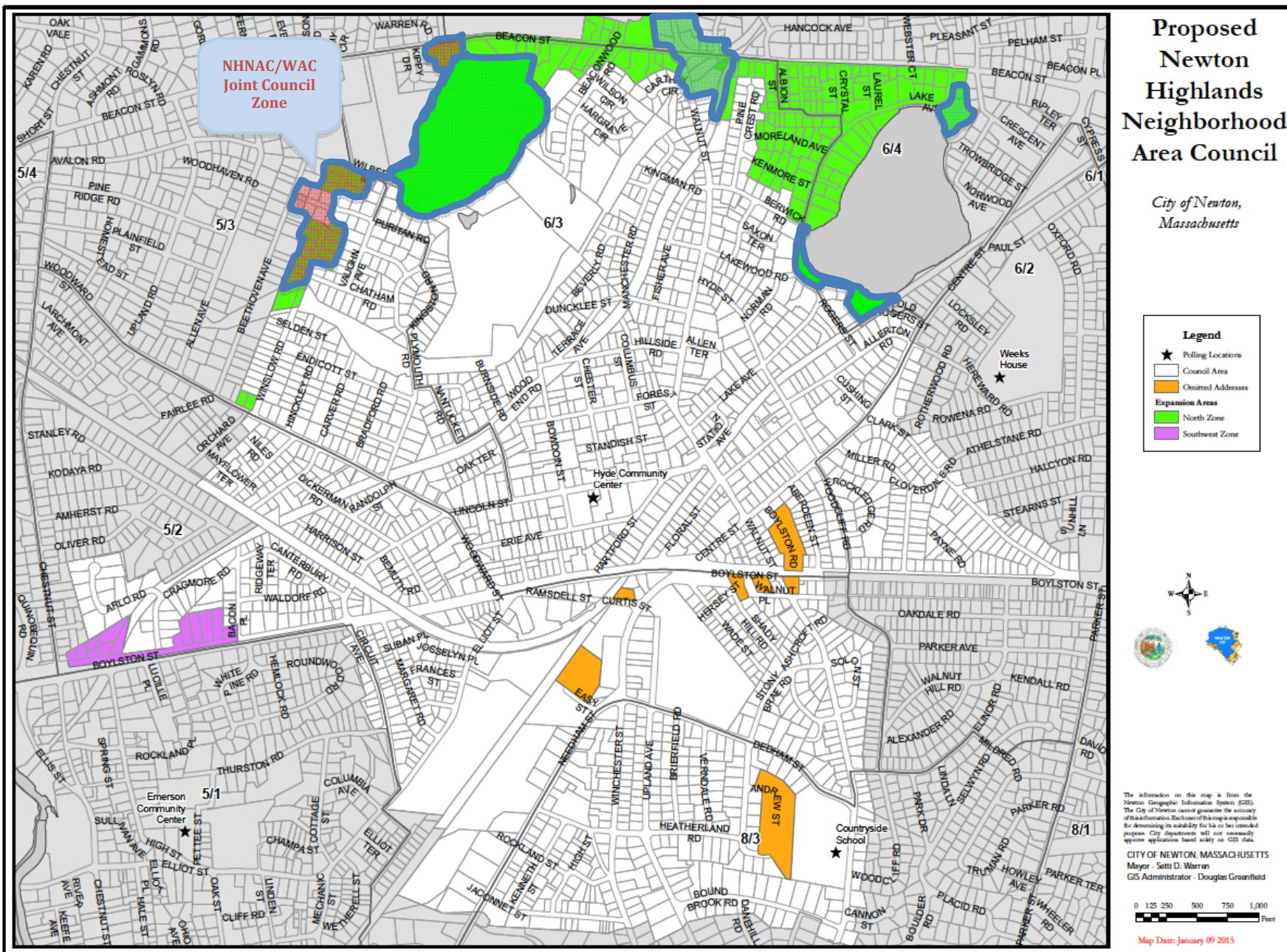
Srdjan S. Nedeljkovic, President  
On behalf of the Newton Highlands Neighborhood Area Council

NHNAC Memo

Election Commission memo (March 17, 2015)



# NHNAC – Petition to expand area council (Map to accompany March 17, 2015 amendment)



**OPTION 1 - TOTAL BAN - DRAFT FOR DISCUSSION**

Add a new section 20-14 as follows:

**20-14 Regulation of Use of Leaf Blowers**

(a) *Purpose* In order to protect the environment, health, well-being and safety of residents from excessive and unnecessary noise, fumes, dust and debris, use of leaf blowers within the City of Newton is hereby regulated as follows.

(b) *Definition*

*Leaf blower.* Any portable hand-held or backpack style motorized device, 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, vacuuming, redistributing, or removing dust, dirt, leaves, grass or plant clippings, snow, litter or other debris.

(c) *Use of leaf blowers prohibited*

It shall be unlawful for any person within the City, including any City employee or contractor, to use or operate a leaf blower within the City of Newton.

(d) *Emergency Use.* During times of emergency caused by a storm or other special circumstance, the Mayor may temporarily suspend application of this section for purposes of cleaning up from such storm or other special circumstance.

(e) *Violations/Penalties*

(1) Each instance in which a person operates a leaf blower within the City limits in violation of the foregoing provisions of this ordinance shall constitute a separate violation of the ordinance, and such person, upon conviction shall be fined an amount not to exceed three hundred dollars (\$300.00). If the person who violates the foregoing provisions of this ordinance is an employee acting under the supervision and control of an employer, and such violation is committed with the knowledge and consent of such employer, the employer shall be deemed to have committed such violation and the employee shall not be liable therefor.

(2) *Non-criminal disposition.* In addition to the penalty set forth in (a), where non-criminal disposition of specified sections of this ordinance by civil fine has been provided for in sections 20-20 and 20-21 of the revised ordinances as amended, pursuant to the authority granted by G.L. c. 40, sec. 21 D, said violations may be enforced in the manner provided in such statute. The civil penalty for each such violation is set out in section 20-21(d).

- (e) *Severability*. If any provision of this ordinance or the application of such provision(s) to any person or circumstances shall be held invalid, the validity of the remainder of this section and the applicability of such provision to other persons or circumstances shall not be affected thereby.

AMEND Sec. 20-21(d) by adding the following new section:

Sec. 20-14 Leaf Blowers

- ( ) First offense in calendar year ..... warning
- ( ) Second offense in calendar year ..... \$100.00
- ( ) Third offense in calendar year ..... \$200.00
- ( ) Fourth and subsequent offenses in a calendar year ..... \$300.00

AMEND Sec. 20-13 by deleting all references to leaf blowers.

## OPTION 2 - SEASONAL BAN - DRAFT FOR DISCUSSION

Add a new section 20-14 as follows:

### Regulation of Use of Leaf Blowers

(a) *Purpose* In order to protect the environment, health, well-being and safety of residents from excessive and unnecessary noise, fumes, dust and debris, use of leaf blowers within the City of Newton is hereby regulated as follows.

(b) *Definition*

*Leaf blower.* Any portable hand-held or backpack style motorized device, 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, vacuuming, redistributing, or removing dust, dirt, leaves, grass or plant clippings, litter or other debris.

(c) *Use of leaf blowers restricted.* No person, including City employee or contractor, shall use or operate a leaf blower within the City of Newton except between March 15<sup>th</sup> – June 15<sup>th</sup>, and September 15<sup>th</sup> – December 15<sup>th</sup>, subject to the following provisions:

(1) Permitted hours of use:

Between 8:00 a.m. and 7:00 p.m. on weekdays,

Between 9:30 a.m. and 5:00 p.m. on weekends or legal holidays.

(2). 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;

C. Leaf blowers must have a manufacturer documented noise rating of 65dB(A) or less;

D. Leaf blowers may only be used with any muffler, full extension tube and sound attenuating devices supplied by the manufacturer of the leaf blower.

(d) *Emergency Use.* During times of emergency caused by a storm or other special circumstance, the Mayor may temporarily suspend application of this section for purposes of cleaning up from such storm or other special circumstance.

(d) *Violations/Penalties*

(1) Each instance in which a person operates a leaf blower within the City limits in violation of the foregoing provisions of this ordinance shall constitute a separate violation of the ordinance, and such person, upon conviction shall be fined an amount not to exceed three hundred dollars (\$300.00). If the person who violates the foregoing provisions of this ordinance is an employee acting under the supervision and control of an employer, and such violation is committed with the knowledge and consent of such employer, the employer shall be deemed to have committed such violation and the employee shall not be liable therefor.

(2) *Non-criminal disposition.* In addition to the penalty set forth in (a), where non-criminal disposition of specified sections of this ordinance by civil fine has been provided for in sections 20-20 and 20-21 of the revised ordinances as amended, pursuant to the authority granted by G.L. c. 40, sec. 21 D, said violations may be enforced in the manner provided in such statute. The civil penalty for each such violation is set out in section 20-21(d).

(e) *Severability.* If any provision of this ordinance or the application of such provision(s) to any person or circumstances shall be held invalid, the validity of the remainder of this section and the applicability of such provision to other persons or circumstances shall not be affected thereby.

AMEND Sec. 20-21(d) by adding the following new section:

Sec. 20-14 Leaf Blowers

- ( ) First offense in calendar year ..... warning
- ( ) Second offense in calendar year ..... \$100.00
- ( ) Third offense in calendar year ..... \$200.00
- ( ) Fourth and subsequent offenses in a calendar year ..... \$300.00

AMEND Sec. 20-13 by deleting all references to leaf blowers.

**OPTION 3 – TOTAL BAN FOR GAS POWERED - SEASONAL BAN FOR ELECTRIC  
- DRAFT FOR DISCUSSION**

Add a new section 20-14 as follows:

Regulation of Use of Leaf Blowers

(a) *Purpose* In order to protect the environment, health, well-being and safety of residents from excessive and unnecessary noise, fumes, dust and debris, use of leaf blowers within the City of Newton is hereby regulated as follows.

(b) *Definition*

*Leaf blower.* Any portable hand-held or backpack style motorized device, 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, vacuuming, redistributing, or removing dust, dirt, leaves, grass or plant clippings, litter or other debris.

(c) *Use of gasoline powered leaf blowers prohibited*

It shall be unlawful for any person within the City, including any City employee or contractor, to use or operate a leaf blower powered by gasoline or other fuel with within the City of Newton.

(d) *Use of electric leaf blowers restricted.* No person, including City employee or contractor, shall use or operate a leaf blower powered by electricity or battery within the City of Newton except between March 15<sup>th</sup> – June 15<sup>th</sup>, and September 15<sup>th</sup> – December 15<sup>th</sup>, subject to the following provisions:

(1) Permitted hours of use:

Between 8:00 a.m. and 7:00 p.m. on weekdays,

Between 9:30 a.m. and 5:00 p.m. on weekends or legal holidays.

(2) Allowed equipment. Only leaf blowers that meet 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;

C. Leaf blowers must have a manufacturer documented noise rating of 65dB(A) or less;

D. Leaf blowers may only be used with any muffler, full extension tube and sound attenuating devices supplied by the manufacturer of the leaf blower.

(d) *Emergency Use.* During times of emergency caused by a storm or other special circumstance, the Mayor may temporarily suspend application of this section for purposes of cleaning up from such storm or other special circumstance.

(d) *Violations/Penalties*

(1) Each instance in which a person operates a leaf blower within the City limits in violation of the foregoing provisions of this ordinance shall constitute a separate violation of the ordinance, and such person, upon conviction shall be fined an amount not to exceed three hundred dollars (\$300.00). If the person who violates the foregoing provisions of this ordinance is an employee acting under the supervision and control of an employer, and such violation is committed with the knowledge and consent of such employer, the employer shall be deemed to have committed such violation and the employee shall not be liable therefor.

(2) *Non-criminal disposition.* In addition to the penalty set forth in (a), where non-criminal disposition of specified sections of this ordinance by civil fine has been provided for in sections 20-20 and 20-21 of the revised ordinances as amended, pursuant to the authority granted by G.L. c. 40, sec. 21 D, said violations may be enforced in the manner provided in such statute. The civil penalty for each such violation is set out in section 20-21(d).

(e) *Severability.* If any provision of this ordinance or the application of such provision(s) to any person or circumstances shall be held invalid, the validity of the remainder of this section and the applicability of such provision to other persons or circumstances shall not be affected thereby.

AMEND Sec. 20-21(d) by adding the following new section:

Sec. 20-14 Leaf Blowers

- ( ) First offense in calendar year ..... warning
- ( ) Second offense in calendar year ..... \$100.00
- ( ) Third offense in calendar year ..... \$200.00
- ( ) Fourth and subsequent offenses in a calendar year ..... \$300.00

AMEND Sec. 20-13 by deleting all references to leaf blowers.

## **MODEL LEAF BLOWER ORDINANCE**

1. No person shall operate any leaf blower which does not bear an affixed manufacturer's label indicating the model number of the leaf blower and designating a noise level not in excess of sixty-five dBA when measured from a distance of fifty feet utilizing American National Standard Institute B175.2 methodology. Any leaf blower which bears such a manufacturer's label shall be presumed to comply with any noise level limit of this chapter provided that it is operated with all mufflers and full extension tubes supplied by the manufacturer for that leaf blower. No person shall operate any leaf blower without attachment of all mufflers, full extension tubes, shrouds and sound attenuating devices supplied by the manufacturer for that leaf blower.
2. No person shall operate any leaf blowers within a residential zone except during the following hours: 9:00 a.m. and 5:00 p.m. Monday through Friday and 10:00 a.m. and 4:00 p.m. Saturday. No person shall operate any leaf blower within any non-residential zone except during the following hours: 8:00 a.m. and 6:00 p.m. Monday through Friday, and 10:00 a.m. to 4:00 p.m. Saturday. No person shall operate any leaf blowers on Sundays and holidays.
3. Any persons operating leaf blowers for remuneration are required to successfully complete at least once every three years, training approved by the Police Department on how to operate a leaf blower in a manner designed to minimize the generation of fugitive dust emissions. Persons required to be trained under this subsection shall complete the initial training no later than (date).
4. Commercial operators of leaf blowers are prohibited from operating any leaf blower within the city if they do not prominently display a certificate of operator qualification approved by the Chief of Police verifying that the operator has been trained to operate leaf blowers according to standards adopted by the Chief of Police.
5. In addition to all authorizations and restrictions otherwise provided in this chapter, public streets, sidewalks, and parking lots in business districts and at Municipal Golf Courses and all city parks may be cleaned between 4:00 a.m. and 8:00 p.m. using leaf blowers which bear an affixed manufacturer's label indicating the model number of the leaf blower and designating a noise level not in excess of sixty-five dB(A) when measured from a distance of fifty feet utilizing American National Standard Institute methodology.
6. After (date), no person shall use a leaf blower to move landscape debris into public roadways.
7. After (date), no person shall operate a leaf blower on unstable ground. Leaf blowers may be used on surfaces that have been stabilized with asphalt or cement concrete, hardscape, penetration treatment of bituminous material or seal coat of bituminous binder, a mineral aggregate gravel cover, decorative rock, decomposed granite cover, crushed granite cover, aggregate cover, grass, other continuous vegetative cover or any combination thereof.



8. No person shall use a leaf blower that was build before January 1, 2005 for EPA class 4 engines and January 1, 2007 for EPA Class 5 engines in order to ensure they are at their lowest possible emission level per the federally mandated "Small Off Road Engine, Tier 2 Emission Standard

| Gas Leaf Blowers for Sale at Home Depot |               |                  |            |                 |             |
|-----------------------------------------|---------------|------------------|------------|-----------------|-------------|
| Brand                                   | Model No.     | # Cycles/Strokes | Comm Grade | CARB Compliance | Noise Level |
| Hitachi 23.9 cc 170 mh 441 CFM          | RB24EAP       | 2 cycle          | Yes        | Yes             | 107         |
| Homelite 150 mph 400 CFM                | UT09526       | 2 cycle          | No         | Yes             | 68.9        |
| Ryobi 185 mph 510 CFM                   | RY08420A      | 2 cycle          | No         | Yes             | 74          |
| Echo 191 mph 354 CFM                    | PB-255LN      | 2 cycle          | Yes        | No              | 64          |
| Echo 165 mph 391 CFM                    | PB-250LNAA    | 2 cycle          | Yes        | No              | 65          |
| Remington 27cc 150mph 450 CFM           | RMV2BV Ambush | 2 cycle          | No         | Yes             | 74          |
| Toro 160 mph 420 CFM                    | 51987         | 2 cycle          | YES        | yES             | 69.1        |
| Remington 27 cc 150 mph 450 CFM         | RMZBL Ambush  | 2 cycle          | No         | Yes             | 74          |
| Echo 191 mph 354 CFM CA ONLY            | PB-255LNC     | 2 cycle          | Yes        | Yes             | 64          |
| Echo 158 mph 375 CFM                    | PB-265LNC     | 2 cycle          | Yes        | Yes             | 64          |
| Echo 165 mph 391 CFM                    | PB-250LNAA    | 2 cycle          | Yes        | No              | 65          |
| Ryobi 150 mph 400 CFM 26 cc             | RY09056       | 2 cycle          | No         | Yes             | 70.2        |
| Echo 195 mph 465 CFM                    | PB-500T       | 2 cycle          | Yes        | No              | 70          |
| Echo 165 mph 391 CFM                    | ES-250        | 2 cycle          | Yes        | No              | 70          |
| Echo 195 mph 465 CFM                    | PB-500TC      | 2 cycle          | Yes        | Yes             | 70          |
| Ryobi 155 mph 400 CFM                   | RY099466A     | 4 cycle          | No         | Yes             | 68.3        |
| Toro 160 mph 420 CFM                    | 51988         | 2 cycle          | Yes        | Yes             | 69.1        |
| Echo 158 mph 375 CFM                    | PB265LN       | 2 cycle          | Yes        | No              | 64          |
| Echo 195 mph 465 CFM                    | PB-500H       | 2 cycle          | Yes        | No              | 70          |
| Echo 191 mph 354 CFM                    | ES-255        | 2 cycle          | Yes        | No              | 69          |
| Remington 27 cc 145 mph 445 CFM         | RM2BP Slinger | 2 cycle          | No         | Yes             | 73          |
| Echo 234 mph 756 CFM                    | PB-770HC      | 2 cycle          | Yes        | Yes             | 73          |
| Echo 140 mph 305 CFM                    | ES-210        | 2 cycle          | Yes        | No              | 71          |
| Echo 195 mph 465 CFM CA ONLY            | PB-500HC      | 2 cycle          | Yes        | Yes             | 70          |
| Echo 165 mph 391 CFM - CA ONLY          | ES-250C       | 2 cycle          | Yes        | Yes             | 70          |
| Echo 191 mph 354 CFM - CA ONLY          | ES-255C       | 2 cycle          | Yes        | Yes             | 70          |
| Echo 165 mph 391 CFM - CA ONLY          | PB-250LNC     | 2 cycle          | Yes        | Yes             | 65          |
| Powermate Cyclone 150 mph 1,200 CFM     | PWB163150E    | 4 cycle          | No         | No              | 76          |
| Echo 234 mph 756 CFM                    | PB-770T       | 2 cycle          | Yes        | No              | 73          |
| Southland 150 mph 1,200 CFM             | SWB163150E    | 4 cycle          | No         | No              | 76          |
| Cub Cadet 150 mph 1,000 CFM 208cc       | JS1150        | 4 cycle          | No         | Yes             | 100         |
| Cub Cadet 150 mph 450 CFM 25 cc         | BV428         | 4 cycle          | No         | Yes             | 72          |

|                                     |           |         |     |     |    |
|-------------------------------------|-----------|---------|-----|-----|----|
| Echo 234 mph 756 CFM                | PB-770TC  | 2 cycle | Yes | Yes | 73 |
| Echo 234 mph 756 CFM                | PB-770H   | 2 cycle | Yes | No  | 73 |
| Makita 195 mph 526 CFM              | BBX7600N  | 4 cycle | Yes | Yes | 74 |
| Cub Cadet 145 mph 445 CFM 27cc      | BB230     | 2 cycle | No  | Yes | 73 |
| Makita 145 mph 356 CFM 24.5 cc      | BHX2500CA | 4 cycle | Yes | Yes | 67 |
| Cub Cadet 150 mph 450 CFM 27cc      | BV228     | 2 cycle | No  | Yes | 74 |
| Ryobi Refurbished 150 mph 400 CFM   | ZRRY09050 |         | No  | N/A | 69 |
| Southland 170 mph 400 CFM 25 cc     | SHB25170  | 2 cycle | No  | Yes | 79 |
| Ryobi Reconditioned 185 mph 510 CFM | ZRRY08420 |         | No  | Yes | 74 |

**Electric Leaf Blowers for Sale at Home Depot**

| Brand                                 | Model    | # Cycles/Strokes | Commercial G | CARB Compliance | Noise Rating |
|---------------------------------------|----------|------------------|--------------|-----------------|--------------|
| Toro Power Sweep 160 mph 155 CFM      | 51585    |                  | No           |                 | 63.5         |
| Toro 230 mph 390 CFM                  | 51618    |                  | No           |                 | 67           |
| Toro 230 mph 390 CFM                  | 51602    |                  | No           |                 | 63           |
| Homelite 220 mph 350 CFM              | UT42120A |                  | No           |                 | 65           |
| Pro Series 114 mph 110 CFM            | PS07424  |                  | No           |                 | 32           |
| Homelite 150 mph 233 CFM              | UT42100B |                  | No           |                 | 65           |
| Black and Decker 140- 250 mph 400 CFM | BC6600   |                  | No           |                 | 68           |
| Black and Decker 250 mph 400 CFM      | BV5600   |                  | No           |                 | 68           |
| Black and Decker 120 mph 120 CFM      | LSW20    |                  | No           |                 | 66           |
| Ryobi 155 mph 300 CFM                 | RY40411  |                  | No           |                 | 67.4         |
| EGO 480 CFM 3 speed Turbo             | LB4801   |                  | No           |                 | 64           |
| Toro Ultra 250 mph 350 CFM            | 51619    |                  | No           |                 | 68           |
| Ryobi One+ 120 mph                    | P2105    |                  | No           |                 | 67           |
| Ryobi One+ 150 mph 200 CFM            | P2107A   |                  | No           |                 | 65           |
| EGO 480 CFM 3 speed Turbo             | LB4800   |                  | No           |                 | 64           |
| Worx 240 mph 385 CFM                  | WG508    |                  | No           |                 | 50           |
| Ryobi One+ 150 mph 200 CFM            | P2170    |                  | No           |                 | 65           |
| Black and Decker 180/250 mph 400 CFM  | BV6000   |                  | No           |                 | 68           |
| Remington 215 mph 370 CFM             | RM193BVT |                  | No           |                 | --           |

|                                          |                    |       |     |    |      |
|------------------------------------------|--------------------|-------|-----|----|------|
| Makita 18 volt LXT                       | BUB1822            |       | No  |    | 83   |
| Black and Decker 230 mph 385 CRM         | BV3600             |       | No  |    | 69   |
| Makita 203 mph 145 CFM                   | UB1103             |       |     |    |      |
| Black and Decker 120 mph 120 CFM         | LSW20B             |       | No  |    | 66   |
| Toro 215 mph 350 CFM                     |                    | 51617 | No  |    | 66.5 |
| Sun Joe Blower Joe 200 mph 450 CFM       | SBJ604E            |       | No  |    | 68   |
| Worx 120 mph 80 CFM                      | WG545.1            |       | No  |    | 61   |
| Black and Decker 120 mph 90 CFM          | NSW18              |       | No  |    | 65   |
| Worx 210 mph 350 CFM                     | WG509              |       | No  |    | 50   |
| Worx 120 mph 80 CFM                      | WG575.1            |       | No  |    | 61   |
| Makita 208 MPH 155 CFM                   | XBU01Z             |       | Yes |    | 86   |
| Ryobi Reconditioned One+ 150 mph 200 CFM | ZRP2170            |       | No  |    | 65   |
| Toro UltraPlus 250 mph 350 CFM           |                    | 51621 | No  |    | 68   |
| Toro 120 mph 149 CFM                     |                    | 51702 | No  | -- |      |
| Worx 120 mph 350 CFM                     | WG505              |       | No  |    | 50   |
| Toro 116 mph 146 CFM                     |                    | 51701 | No  | -- |      |
| Toro 115 mph 146 CRM                     | 51701T             |       | No  | -- |      |
| Remington 150 mph 350 CFM                | RM1300 Mulchinator |       | No  | -- |      |
| Toro 120 mph 149 CFM                     | 51702T             |       | No  | -- |      |
| Remington 150 mph 180 CFM                | RM180 Mighty Sweet |       | No  |    | 66   |
| Greenworks 160 mph 150 CFM               | GW24012            |       | No  |    | 65   |
| Greenworks 150 mph 235 CFM               | GW24072            |       | No  |    | 63   |
| Greenworks 230 mph 375 CFM               | GW24022            |       | No  |    | 63   |
| Earthwise 130 mph                        | LB21018            |       | No  |    | 80.2 |
| Earthwise 18 volt                        | CB20018            |       | No  |    | 80.2 |
| Makita 208 mph 155 CFM                   | UB360DWB           |       | No  |    | 86   |
| Toro 230 mph 390 CFM                     |                    | 51592 | No  |    | 67   |
| Black and Decker 240 mph 385 CFM         | BV3800             |       | No  |    | 69   |
| Lawnmaster 160 mph 160 CFM               | BL705              |       | No  | -- |      |
| Earthwise 200 mph 180 CFM                | BLR20070           |       | No  |    | 85.2 |
| Sun Joe Blower Joe 240 mph 421 CFM       | SBJ603E            |       | No  |    | 96   |
| Earthwise 240 mph 390 CFM                | BVM22012           |       | No  |    | 82.9 |

| City/Town        | Brookline                                                                                                                                                             | Cambridge                                                                                                                                                                                                                                                                                                                                     | Arlington                                                                                                                                                 |
|------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| Prohibited Dates | Prohibited all days except March 15 <sup>th</sup> – May 15 <sup>th</sup> and September 15 <sup>th</sup> – December 15 <sup>th</sup> .                                 | Prohibited all days except March 15 <sup>th</sup> – June 15 <sup>th</sup> and September 15 <sup>th</sup> – December 15 <sup>th</sup> .<br>No Sundays or legal holidays except Columbus Day and Veteran’s Day.                                                                                                                                 | Prohibited all days between June 15 <sup>th</sup> and September 15 <sup>th</sup> . No Sundays or legal holidays.                                          |
| Hours Permitted  | Mon. – Fri.: 8 a.m. – 8 p.m.; Weekends: 9 a.m. – 8 p.m.                                                                                                               | Mon. - Fri.: 8 a.m. – 5 p.m.; Saturdays, Columbus Day and Veteran’s Day: 9 a.m. – 5 p.m.<br>Commercial Leaf Blower Operators: 12 p.m. – 5 p.m. on Columbus Day and 1:00 p.m. – 5:00 p.m. on Veteran’s Day.                                                                                                                                    | Mon. – Fri.: 7:30 a.m. – 5:30 p.m.; Saturdays: 8 a.m. – 4 p.m.                                                                                            |
| Exemptions       | Town and its contractors and emergency operations. Also, non-residential property owners but only with respect to parcels that contain at least 5 acres of open space | Municipality and it’s contractors performing leaf blowing operations at Mayor Thomas Danehy Park, Fresh Pond Reservation, Thomas O’Neil Jr. Municipal Golf Course at Fresh Pond; Cambridge Municipal Cemetary; Old Burial Ground; and emergency operations. Also provides for exemption for Commercial Operators and Large Property Owners. * | Emergency Operations. Although it does not state it in the ordinance, the Police Department confirms it would not apply to the Town and it’s contractors. |
| Enforcement      | Brookline Police Department, Building Commissioner, Commissioner of Public                                                                                            | Police Commissioner, Commissioner of Inspectional Services and Chairperson of License Commission.                                                                                                                                                                                                                                             | Arlington Police Department.                                                                                                                              |

| City/Town                     | Brookline                                                                                                                                                                                                         | Cambridge                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Arlington                                                                                                                                                                                                                                                                                                           |
|-------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                               | Works, Director of Public Health or their designee.                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                     |
| Decibel Levels:               | 67 db or less. Brookline PD inspects and issues labels for leaf blowers. Ordinance allows for a non-refundable fee for this service.                                                                              | No greater than 65 db.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 74 dBA @ 50 feet full throttle                                                                                                                                                                                                                                                                                      |
| Where ordinance/bylaw located | Contained in Noise Ordinance provision and separate ByLaw.                                                                                                                                                        | Contained in Health and Safety section of their municipal codes.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Contained in their Bylaws under Regulations Upon the Use of Private Property                                                                                                                                                                                                                                        |
| Penalties/Fines               | (a) a warning or \$50.00 for the first offense; (b) \$100.00 for the second offense; (c) \$200.00 for the third offense; (d) \$200.00 for successive violations, plus (e) court costs for any enforcement action. | Violations. Authorized enforcement personnel may: order and specify reasonable remedial actions to be taken by a violator of this chapter to achieve compliance; or issue citations, pursuant to G.L., c. 40, § 21D, for violations of these provisions assessing fines of three hundred dollars for each day such violation is committed or permitted to continue. Additionally, any person found in violation of any of the provisions of this chapter may be prosecuted for a misdemeanor and upon conviction thereof shall be fined three hundred dollars.<br><br>D.<br><br>Injunction. As an additional | Any person violating any provision of this Article shall be subject to a fine of \$200.00 for each offense and/or an action in a court of competent jurisdiction, seeking an order to cease and desist from such activity. Each day or part thereof if any violation continues shall constitute a separate offense. |

| City/Town | Brookline | Cambridge                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Arlington |
|-----------|-----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
|           |           | <p>remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision of this chapter and which causes a noise disturbance may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.</p> <p>E.</p> <p>Suspension or Revocation of License or Permit. As an additional remedy for violation of any provision of this chapter, any enforcement official under subsection A of this section may summarily suspend, and after a hearing may revoke, any license or permit, including a building or demolition permit.</p> |           |

\*Commercial leaf blower operators and owners of one or more adjoining parcels of land in common ownership that together comprise a total of two (2) acres or more seeking to operate leaf blowers on such land shall not be permitted to operate leaf blowers, but may be exempted from the prohibition of this subsection 8.16.081.2.2(c) if they submit an operations plan to the City Manager or his or her designee for review and approval. At a minimum, the operations plan shall: address the owner's or operator's efforts to mitigate the impacts of noise and emissions upon citizens and the occupants and owners of nearby property, include an inventory of all leaf blowing equipment owned and to be used by the owner or operator in its operations program, which shall comply with the noise and emission restrictions set forth in this Leaf Blower Ordinance and regulations promulgated hereunder, and include the owner's or operator's plan for educating users of its equipment on the proper use of equipment as well as the need to mitigate impacts upon others. The operations plan shall be reviewed by the City Manager or his or her designee, who shall ensure that it complies with the applicable provisions of this Leaf Blower Ordinance and regulations promulgated hereunder, and shall impose any conditions that may be required in order for the owner or operator to comply with the provisions of this Leaf Blower Ordinance and regulations promulgated hereunder. No operations plan submitted by owners of one or more adjoining parcels of land in common ownership that together comprise a total of two (2) acres or more seeking to operate leaf blowers on such land shall be approved by the City Manager unless there has been a showing of significant hardship.