

CITY OF NEWTON
IN BOARD OF ALDERMEN
PROGRAMS AND SERVICES COMMITTEE REPORT

WEDNESDAY, NOVEMBER 4, 2015

Present: Ald. Sangiolo (Chairman), Rice, Norton, Leary, Blazar, Hess-Mahan, Kalis and Baker
Also Present: Ald. Gentile
City Staff Present: Karyn Dean

#31-15(2) THE PROGRAMS & SERVICES COMMITTEE requesting to amend
Chapter 20-13, Noise Control, relative to time restrictions on the use of
yard, garden or grounds maintenance equipment. [03/19/15 @ 12:14PM]

ACTION: **HELD 7-0 (Ald. Blazar not voting)**

NOTE: See note below.

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

ACTION: **HELD 7-0 (Ald. Blazar not voting)**

NOTE: Ald. Sangiolo thanked the landscapers that were involved in the leaf blower demonstration earlier in the day, as well as the many people who came out to watch the demonstration. She felt it was useful for the Committee to see the various types of equipment, how efficient they were and what the different dB levels sounded like. The Committee would like to thank Chris Pitts for recording the demonstration and editing and posting the video, which can be found online at: <https://youtu.be/sCa5FzUhHPs>

Ald. Gentile's Comments

Ald. Gentile addressed the Committee. He noted that the Board has probably gotten more email on this issue than any other in his memory and he has read every one of them. He knows that there are some who still want a total ban, but the majority of people seem to want either no action, or a compromise action. A compromise, in his view, would be to move this ahead in small increments and for now, limiting the hours, days, and number of blowers among other things in a similar vein. He would be comfortable with those kinds of limits and give the industry the opportunity to comply with those limits and hopefully satisfy the majority of the expressed concerns. The current draft ordinance goes too far in his opinion. He does not think it is fair to the industry and those in the industry are long-time Newton families who work hard and want to do the right thing.

As far as enforcement of the current ordinance, the Police department does not do a very good job of it and they are not interested in enforcing it. The most egregious violator of the noise ordinance in regard to leaf blowers is his golf club, Woodland. He feels they are not conforming

and complying with the current ordinance and he got the Board to increase the fines in order to encourage compliance. However, the police don't seem to be enforcing it and a lot of excuses have been made. None on the Board want to be in the position of passing an ordinance that is difficult to enforce. There needs to be an enforcement mechanism in the new ordinance.

The other issue is that there are no exemptions in the current draft. He feels everyone needs to be treated fairly and equally, but if the City is not exempt from the ordinance, then the item should be referred to Finance Committee as it would have a significant financial impact on the City's budget. He will request such a referral from the Full Board if the Committee does not recommend it. He also anticipates several proposed amendments on the floor of the Board. He asked that the Committee explore all possible areas of compromise.

Working Session

Ald. Sangiolo said that in light of some current suggestions of amendments that came in to the Committee, as well as information from the demonstration and Ald. Gentile's comments, the Committee has more to consider and a vote will not take place this evening.

Ald. Baker and other Committee members thanked those who participated in the demonstration. He recognized that they took time out of their work day in order to be there and he knows their work is not easy. He wanted everyone to understand that the Committee has nothing but respect and admiration for the hard work of the landscaping community. The questions they are wrestling with is the right policy for the technology, time of day and so forth for the active use of the technologies.

Ald. Leary explained that she spoke with a contractor from Brookline, Faith Michaels. Some of the issues she was discussing would be worth sharing with the Committee. Also the "green" landscaper that gave a demonstration that afternoon had some very good information. He did seem more like an "uber" company than a "taxi" company and there are changes that are going on and perhaps some adaptations could be considered in current business practices that could have less of an impact on noise for neighbors. There are many ways to approach the problem and she wants to be sure they explore them all. She feels that the gas-powered leaf blowers will probably not be used in 5 years with the improving technology that is coming.

Total Ban Provision

A suggestion was made by some Committee members to exclude the total ban provision in the ordinance. Ald. Hess-Mahan was concerned that the ordinance would not pass the full Board with a total ban included. He is trying to weigh the issues and is not ready to vote on this yet, so will abstain, but agrees that this needs to move in increments in order to make progress.

Ald. Baker would like to explore adding transitional language relative to advancing technology and the use of the devices. There may be equipment available in the near future that could solve the problem in the long run and improve things in the short term. He would not support taking out the total ban provision at this point.

The Committee voted in favor of removing all language relative to the total ban provision with Ald. Baker opposed and Ald. Hess-Mahan abstaining.

Common Nuisance/Blowing Leaves onto Other's Property

Ald. Hess-Mahan noted that he wanted to see something in the ordinance that prevents people from blowing leaves and yard debris onto the street or onto other resident's property. The Common Nuisance concept is something that is not part of Newton's ordinances per se, but he recently won a case based on that concept; a resident was consistently blowing leaves onto his client's property. So, the case was won but his client had to spend money on legal fees. Neighbors should not treat each other that way; he did not think landscapers were guilty of this practice.

Ald. Sangiolo noted that the Law Department memo addressed this concern saying that such a regulation is not within the scope of the noise ordinance. Two other sections may be applicable; Chapter 11 regulates proper disposal of leaf and yard waste; and Chapter 20-51 prohibits discarding rubbish or litter of any kind on a property or street without consent of the owner. Ald. Hess-Mahan said he would like to find the appropriate section in which to include his suggestion. It would be better to have something specifically expressed. He felt perhaps a parens item could be docketed, but then determined it could be covered under this docket item as it is a broad docket item. Ald. Hess-Mahan will submit some language. Ald. Norton was concerned with the enforcement issue of this provision.

Ald. Sangiolo pointed out that Cambridge includes a best practices section on their website which can also be helpful with these types of issues. Ald. Leary felt the landscapers might be helpful in coming up with those best practices.

Exemptions

Ald. Sangiolo brought a letter that was provided by Steve Buchbinder on behalf of Brae Burn Country Club, which is attached. It asks for certain exemptions for the club. Ald. Sangiolo asked Mr. Buchbinder to look at Cambridge's ordinance as it does have a large property exemption process and also requires all commercial operators of leaf blowers to submit an operations plan. A sample of an approved application is attached. Ald. Leary felt this could be a good model for Newton.

The Parks & Recreation Commissioner and the Public Works Commissioner, while asked for comments, did not have any at this time

Ald. Hess-Mahan knows the people who were on the task force in Cambridge who worked on their regulations. An exemption needs to be based on an objective criteria and not on the user, if it's going to be done. Anything other than that would not be acceptable to him. Cambridge spent quite a bit of time coming to their conclusions and he hopes that Parks & Recreation and the Public Works Departments will respond in some way. The Committee needs to know what the impact will be on their staff, resources and any possible impact on the City's budget. If the City is going to take a position on this, the Committee needs to know as soon as possible. As suggested by Ald. Gentile, this item may need to go through Finance Committee.

Ald. Sangiolo agreed. She also mentioned that Lasell College and Boston College may be providing specific language as well. If the Committee decides to put in some exemption

language, it needs to be hard and fast rules and very narrowly regulated. Ald. Baker would also like to discuss what the enforcement mechanism would be with the Law Department. There are certain kinds and quality of land on golf courses that might need some exemption, so he would like to see what else the golf courses might propose.

Invitations for Next Meeting or Meetings

- Commissioner DeRubeis, Parks & Recreation
- Commissioner McGonagle, Public Works

Ald. Sangiolo would like to have one last opportunity for comments on the draft language in the ordinance with suggestions for specific language, and the reasons for the amendments to the language only. She would like to invite:

- Faith Michaels, Landscaper, Brookline
- Joe Caruso, Landscaper, Newton (or a designee)
- Karen Bray, Newton Safe and Sound (or a designee)
- George Carrette, EcoQuiet Lawncare
- Representatives from golf courses
- Representatives from colleges

Ald. Baker said there may be others that could provide some information on technology and would like to keep that open. Ald. Sangiolo noted that they could tentatively hold December 2nd as a special meeting if necessary.

The Committee would like to get any suggestions for language from anyone on the Board so that it may be discussed in Committee and not on the floor of the Board as Ald. Gentile had mentioned.

Process for Providing Information

Ald. Leary wondered how all interested parties could get information about what the Committee is doing. She has heard some criticism from some people, including Jeanne Levesque from Boston College who said she was unaware of the conversations and work that was taking place relative to leaf blowers.

Ald. Sangiolo said the Committee members reached out to many people including the colleges and golf courses. She was surprised Boston College didn't realize what was happening because it was in both the Tab and the Boston Globe on several occasions and the Newton Needham Chamber of Commerce sent out information as well. She said she met with Boston College and they said they were working with Lasell College on language. Ald. Baker said he spoke to Boston College as well and Ald. Hess-Mahan said their legal counsel picks up a packet every week and this was no surprise to them, not to mention all the information is online. Lasell has commented that it will also be reaching out to Mt. Ida.

Non-compliant Equipment

Ald. Sangiolo was troubled by what she learned at the leaf blower demonstration, which is that the equipment that is most commonly used by landscaping contractors does not comply with the current ordinance. People need to understand that whatever happens with this new ordinance, there is a problem with compliance and that is probably part of the problem. The blowers are much noisier than what is allowed and perhaps that is part of the reason residents started looking for further regulations.

Number of Blowers per Lot

Ald. Kalis still had some questions about whether one blower per 10,000 square feet was the right number. Ald. Norton heard a suggestion from Kenneth Glusman that blowers should not be operating closer than 100 feet from each other. The Committee would think about this further with no changes at this point.

The Committee voted to hold this item.

#34-13 ALD. DANBERG, ALBRIGHT, BLAZAR, RICE, LINSKY AND CROSSLEY
requesting a prohibition on polystyrene-based disposable food or beverage
containers in the City of Newton if that packaging takes place on the premises of
food establishments within the City. [01/03/13 @ 11:01 AM]

ACTION: **HELD 8-0**

NOTE: Ald. Danberg addressed the Committee. She commented on the current draft ordinance and the fact that it addresses food and beverage containers, but not meat trays used in grocery stores or packing “peanuts”. She would like to see those as part of the ban, but the language would need to be amended. The fines would be a warning first, then \$100; \$200; and \$300 for the third and any subsequent offenses.

Ald. Sangiolo said that there needed to be some outreach in the community especially after the comments that there was not enough outreach on the leaf blower regulations. The plastic bag ban required that the Committee reach out to the Newton Needham Chamber of Commerce and members physically visited commercial establishments, along with phone calls. Ald. Danberg reported that she reached out to the Economic Development Commission and they provided a list of a few places in Newton that they felt would be highly affected by the ordinance. She has worked to speak with owners of those places and they would prefer that no ban be instituted. Ald. Blazar made some calls as well as Ald. Leary.

Ald. Leary said she has not been able to do as much local research on polystyrene as she was able to on plastic bags. She went to Coney Island in West Newton to ask about the affect the ban would have on them. The owner said it would be significant as they use Styrofoam for ice cream and milkshakes with the alternative being far more expensive. Ald. Leary proposed an exemption for smaller businesses, as was done with the plastic bag ban. However, she would like to get more data from other businesses. She would like to phase something in gradually with the smaller businesses in mind and working with the Chamber of Commerce.

Ald. Blazar spoke to Whole Foods who eliminated polystyrene some years ago. They use an alternative which works very well, but is more expensive. Blue Ribbon BBQ in West Newton explained that they used polystyrene because the food is covered with sauce and it's the best product for their food. He agreed that smaller businesses could be phased in or there could be some exemptions.

Ald. Kalis asked about the public comment meeting on this issue and was reminded that no one showed up for comment.

Ald. Baker said this shouldn't really be driven by cost, but by the policy decision that Newton does not want this material in its waste stream. If that is the policy decision, then the costs would not make much of an impact on the decision making process. Brookline has demonstrated that a ban has not had a significant financial impact on businesses and things are going well.

Ald. Norton noted that a Boston Globe article reported that benzene leached into food and drinks that were heated in a microwave in polystyrene containers. She also noted that Staples sold 25 hot/cold Styrofoam cups cost 69 cents and a 50-pack of paper cups cost \$5.99, so there is a significant cost difference, but that shouldn't prevent this from moving forward. She also felt that the City should be included in the ban.

Ald. Danberg asked the Committee if they would like to see packing peanuts and meat trays included in the ban. Ald. Leary wondered how the enforcement of packing peanuts would work. Ald. Danberg said that the UPS Stores and Mailboxes Etc. stores in the City would have to move to a different packing material. They could not ban packages filled with packing peanuts being shipped into the City from elsewhere. There was also a question about retail establishments selling polystyrene products. Ald. Danberg will have some conversations with Brookline about these issues.

Follow Up

Some Committee members would like to get more financial data because those questions are sure to come up on the floor of the Board. The businesses need to provide some information on how the ban could affect their bottom line. If the businesses, the EDC or the Chamber of Commerce have no data, then the Committee can report that they have done their due diligence and no comments were forthcoming. Ald. Danberg will work on collecting the data and send a letter out to the EDC and the Chamber of Commerce. This item will be referred to the next Board.

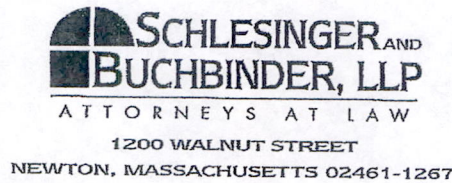
The Committee voted to hold this item.

Meeting adjourned.

Respectfully Submitted,

Amy Mah Sangiolo

Golfcourse Exemption
Language



STEPHEN J. BUCHBINDER
ALAN J. SCHLESINGER
LEONARD M. DAVIDSON
SHERMAN H. STARR, JR.
HEATHER G. MERRILL
PAUL N. BELL
KATHERINE BRAUCHER ADAMS
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MEMORANDUM - BY EMAIL

To: Alderman Amy Sangiolo
From: Stephen J. Buchbinder, Esquire
Re: Proposed Guidelines for Golf Clubs
Date: November 3, 2015

In accordance with our prior discussions, I wanted to propose the following guidelines for the use of leaf blowers at golf clubs on behalf of Brae Burn Country Club (the "Club"). My client and I are happy to discuss these proposed guidelines with you and the members of the Committee at your convenience.

1. Between the hours of 7:00 a.m. and 8:00 a.m., the golf clubs would be able to commence leaf blowing operations as follows:
 - (a) The leaf blowing operation would start at the interior of the golf course and move outwards to the perimeter.
 - (b) No leaf blowing would be permitted on any hole or green with a common border with residential neighbors.
 - (c) Even on holes or greens with no common borders with residential neighbors, leaf blowers would need to be a minimum distance of 300 feet from the property line.
2. Between the hours of 8:00 a.m. and 5:30 p.m., leaf blowers may be used on portions of the golf course with a common border with residential neighbors provided, however, that leaf blowers will not operate any one location for more than 45 minutes, with a 15 minute break each hour. Furthermore, only two leaf blowers would be permitted to be used within a 5,000 square foot area.

The Club is receptive to other suggestions.

City of Cambridge
License Commission
831 Massachusetts Avenue, Cambridge, MA 02139
617-349-6140(telephone); 617-349-6148(fax); 617-349-6112 (TTY)

**Commercial Operator Application for
Leaf Blower Operations Plan pursuant to
Section 8.16.081 of the Cambridge Municipal Code**

Instructions for Commercial Operators: Complete this application and return to above address for review and approval.

Company Name: ABC Landscaping Company
Owner's Name: John Doe
Address: 123 4th Street
Contact Name: Mr. Doe Email: doe@123.com
Business Phone: 555 123 4567 Fax: same Cell phone: 555 232 2697
Number of Employees: four

Section A

- I certify that I have reviewed and agree to comply with the provisions of 8.16.081 of the Cambridge Municipal Code regarding the use of leaf blowers and agree to its requirements.
- I certify that all Leaf blowers used by me/my company meet current EPA emissions standards and the sound emitted from any leaf blower shall be rated by the manufacturer to be no greater than 65 decibels.
- I certify that only one leaf blower will be used by me/my company in parcels of 10,000 square feet or smaller. Larger parcels may use only one leaf blower within each 10,000 square foot area.
- I certify that I/my company will use leaf blowers only within permitted dates:
March 15-June 15
September 15-December 31
- I certify that I/my company will use leaf blowers only in permitted times:
Monday-Friday: 8:00 a.m. -5:00 p.m.
Saturday: 9:00 a.m. - 5:00 p.m.
Columbus Day: 12 noon-5:00 p.m.
Veterans Day: 1:00 p.m. - 5:00 p.m.

Owner Signature: _____

Section B

Companies must agree to follow the best management practices below, and to train all employees who use leaf blowers on the following best management practices. If there are proposed revisions to the best management practices, please attach to plan.

General Courtesy

- Be aware of neighbors, pedestrians and others nearby. Some may have respiratory illness or allergies that could be triggered by flying dust and debris.
- Be aware of surroundings. Do not use in close proximity to children playing, people reading, school groups gathering, or others nearby.
- When using equipment do not point blower at people or pets.
- Do not blow toward open windows or doors, and if possible, do not use within 10 feet of windows or doors.
- Do not blow debris onto adjacent property, the street, catch basins, gutters, vehicles, people or pets.
- Abide by time-of-day, day-of-week and seasonal of use restrictions.
- Adjust hours/times of use to accommodate residents, institutions, abutters (within time restrictions).

Sound Reduction

- Use portable leaf blowers rated 65 decibels or lower, as specified by manufacturer.
- Use at lowest possible speed/throttle to accomplish task
- Use longest possible nozzle for equipment.
- Orient nozzle to reduce sound.
- Check equipment regularly for proper operation (i.e. muffler, filters, motor).

Reduction of Dust/Particulate Matter

- Spray dusty areas with water before using blower.
- Use the full nozzle extension so that the air stream can work close to the ground.
- Do not use for construction dust, plaster dust or dry garden topsoil.
- Do not use blower to move large mounds of debris from one location to another.
- Use rakes or brooms to loosen heavier debris.

Environmental Use

- Use equipment that meets current (2006) EPA emissions standards for leaf blowers.
- Leaf blowers should be run at half throttle most of the time. Low throttle speeds not only significantly reduce noise but also provide operator with maximum control.
- Use equipment at lowest power level to accomplish job.
- Learn to control air velocity to lift leaves without lifting dust.
- Use rakes or brooms to loosen heavier debris.

Worker Safety

- Leaf blower operators will be provided with ear protection and will be offered eye protection and face masks.

Operator Training

- Provide training in proper use to all employees.
- Observe time of use restrictions (months/days/hours).
- Limit use of leaf blowers to no more than one within a lot of 10,000 square feet or smaller.
- Use rakes and brooms to supplement cleanup and to loosen debris from corners and edges.
- Develop/provide brochure on proper use - post on website, provide in workplace, make print versions available to public (e.g. English, Spanish, Portuguese, Haitian Creole).

I certify that I have reviewed and hereby agree that I/my company will follow the best management practices above, and that I/my company will train all of my company's employees who use leaf blowers on the listed best management practices.

Owner Signature: Mr. John Doe

Please describe below or attach the following information:

Inventory of all leaf blowers used. Include manufacturer's name and model number:
(2) STIHL BR500 Backpack Blowers

Training Plan:

Informed and instructed through training with manual and demonstration the proper use of blower, Informed employees of the approved dates and times usage is permitted and prohibited, reviewed language of ordinance and the City brochure. Covered the best practices, safety and courtesy language along with the proper use of equipment in our safety meetings held at the beginning of the leaf blowing season. Will hold periodic refresher classes throughout the year.

List of properties maintained in Cambridge as of date of plan submission:

8000 California Boulevard, 444 New Hampshire Highway, 89 Look Out Way, 43 Curvy Corner.

Attach additional information as may be necessary for unique circumstances.

FOR CITY OF CAMBRIDGE USE ONLY		
<input type="checkbox"/> APPROVED	<input type="checkbox"/> APPROVED WITH CONDITIONS (SEE ATTACHED)	<input type="checkbox"/> DENIED
FEE: <u> \$50.00 </u>		
SIGNED: _____		DATE: _____