

CITY OF NEWTON

IN BOARD OF ALDERMEN

PROGRAMS AND SERVICES COMMITTEE AGENDA

WEDNESDAY, NOVEMBER 7, 2007

7:45 PM
Room 222

ITEMS TO BE DISCUSSED:

Re-appointment by His Honor the Mayor

- #348-07 BRUCE HENDERSON, 52 Vaughn Ave., Newton as a member of the Newton Community Education Commission for a term to expire on June 30, 2009 (60 days 1-4-08). [10-15-07 @ 2:54 PM]
- #242-03 ALD. JOHNSON, SAMUELSON AND SANGIOLO requesting a discussion to determine times and places where dogs may be off leash on public grounds excluding schoolyards.
- #346-99 ALD. SANGIOLO requesting creation of an ordinance that would prohibit dogs (leashed or unleashed) from all elementary school playgrounds.
- #329-05 ALD. JOHNSON & ALD. ALBRIGHT requesting that the **Noise Ordinance** be revised and updated to better reflect the noise problem being faced by the City.
- #422-06 ALD. HESS-MAHAN requesting creation of an ordinance prohibiting the use of portable gasoline-powered leaf blowers within the City limits.
- #227-07(3) PRESIDENT BAKER, ALD. SANGIOLO, JOHNSON AND COLETTI requesting consideration of an appropriate compensation schedule for the Clerk of the Board/City Clerk in light of any changed conditions since the compensation was last set in 2006. [08-06-07 @ 3:04PM]

ITEMS NOT YET SCHEDULED FOR DISCUSSION:

- #349-07 ALD. LINSKY AND ALD. BURG requesting adoption by the Board of a resolution to be forwarded to Newton’s congressional delegation on behalf of the citizens of Newton, who are signatories to a petition containing said resolution, in conjunction with similar resolutions and actions being taken by communities nationwide to:
- (a) strongly urge the President and the Defense Department to commence immediately an orderly and rapid withdrawal of all United States military personnel from Iraq;
 - (b) strongly urge the President and the Department of State to act in accordance with international law by pursuing the security and stability of Iraq through diplomacy with the cooperation of other nations and the United Nations; and
 - (c) strongly urge members of Congress to use their legislative powers to bring about an end to the war and the adoption of other means to assist Iraq and defend the safety of the United States. [10-25-07 @10:53 AM]

REFERRED TO FINANCE AND APPROPRIATE COMMITTEES

- #358-07 HIS HONOR THE MAYOR submitting the FY09-FY13 Capital Improvement Program pursuant to section 5-3 of the Newton City Charter which requires Board of Aldermen approval of a plan to finance \$194,907,647 of new local projects over the next several years:

SUMMARY

PUBLIC WORKS (CITY AND GRANT/FEE FUNDED)	\$ 67,632,500
PUBLIC SAFETY	\$ 6,230,535
PUBLIC BUILDINGS	\$ 16,772,295
SCHOOL DEPARTMENT	\$ 94,259,767
PARKS AND RECREATION	\$ 7,366,000
OTHER	\$ 2,646,546
TOTAL	\$194,907,647

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

- #359-07 HIS HONOR THE MAYOR requesting that the sum of \$50,000 be appropriated from Free Cash to conduct a study of the properties along Crystal Lake for the purpose of developing a Master Plan for the redevelopment of these city-owned properties. [10-30-07 @ 5:17 P.M.]

**REFERRED TO PROG. & SERV., COMMITTEE ON COMM. PRESERVATION
AND FINANCE COMMITTEE**

#360-07 COMMUNITY PRESERVATION COMMITTEE recommending that the sum of \$1,400,000 be appropriated, by issuance of ten-year bonds, from the Community Preservation Fund for purposes of acquiring title to 230 Lake avenue by purchase, for public use as recreational land and open space. [10-26-07 @ 1:36 P.M.]

**REFERRED TO PROG. & SERV., COMMITTEE ON COMM. PRESERVATION
AND FINANCE COMMITTEE**

#360-07(2) HIS HONOR THE MAYOR requesting that the sum of \$550,000 be appropriated from bonded indebtedness for the purpose of acquiring by purchase the title to 230 Lake Avenue. [10-30-07 @ 5:17 P.M.]

#263-07 ALD. LINSKY, JOHNSON, ALBRIGHT, GENTILE, SANGIOLO, DANBERG, BURG, HESS-MAHAN, HARNEY, PARKER, WEISBUCH AND SAMUELSON, along with the recommendation from the smoke-free zone subcommittee of the Newton North High School Liaison Committee, Newton North High School Principal Jennifer Price, Chairman, requesting amendment of Newton ordinances to include, effective January 1, 2008, creation of a no-smoking zone on public properties extending from a set radius from the Newton North High School site boundaries for the purpose of assisting the cessation of smoking among Newton North High School students and staff as well as the protection of public health. [08-24-07 @ 9:38AM]
APPROVED 5-0 subject to a revised draft ordinance approved by the Law Dept. (Ald. Sangiolo not voting).

#114-07 ALD. LINSKY requesting to evaluate whether the present location of the Johnny Kelley statue represents the best possible location for achieving the established purpose when it was erected. [04-10-07 @ 7:39PM]
HELD 5-0 (Ald. Baker not voting)

#287-07 ALD. PARKER requesting a Testimonial Resolution to honor and recognize Olympic figure skater and Newton resident Tenley Albright and to request a discussion with the Parks and Recreation Department in regards to an appropriate marker or plaque to honor her skating exhibition at the Crystal Lake upon her return from the 1956 Olympic Games where she won a gold medal. [09-20-07 @ 1:22pm]

REFERRED TO LAND USE & PROGRAMS & SERVICES COMMITTEES

- #274-07 ALD. SANGIOLO proposing that Article X of the Rules & Orders of the Board relative to Special Permit and Site Plan Approval Petitions be amended to require the applicant to post on the subject property a notice that would include but not be limited to identifying the subject matter and the date and time of the public hearing.
- #262-07 ALD. VANCE AND HESS-MAHAN seeking approval by the Board of Aldermen of a home rule petition to the General Court that would authorize an amendment to the charter of the City of Newton that would change the length of terms of the members of the Board of Aldermen to three years and would provide for electing one-third of the aldermen, one from each ward, every year. [08-22-07 @ 3:53 PM]
- #130-07 ALD. LENNON proposing amendments to Section 20-56, **Musical performers; regulations; license.**
- #109-06 ALD. PARKER proposing charter amendments to improve the operation and accountability of City government.

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

- #83-07 ALD. YATES requesting that the City of Newton take all possible steps to persuade the General Court to adopt the proportion of Governors Municipal Partnership that would allow the City to reduce employee health insurance costs by joining the Group Insurance Commission. [02-27-07 @ 10:21PM]
- #82-07 ALD. YATES requesting that the City of Newton take all possible steps to persuade the General Court to allow the cities and towns to tax all telecommunications facilities in the City (which would yield at least \$1.6 million per year for Newton). [02-27-07 @ 10:21pm]
- #52-07 ALD. PARKER, SANGIOLO, MANSFIELD, HARNEY, DANBERG, VANCE, LINSKY, HESS-MAHAN, BURG, ALBRIGHT & JOHNSON requesting an ordinance amendment to create a health care advisory committee whose function would be to recommend measures to control the rate of increase of health insurance costs, as recommended by the Newton Finance & Management Working Group in 2005 and the Blue Ribbon Commission on the Municipal Budget in 2007. [02-09-07 @ 12:36 pm]

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

- #36-07 ALD. JOHNSON, LINSKY, VANCE, SANGIOLO, HESS-MAHAN, ALBRIGHT, FISCHMAN, MANSFIELD, LIPOF, LAPPIN, BURG, PARKER, & DANBERG proposing the use of general overrides and/or debt exclusions of Proposition 2 ½ limits in addition to other revenue enhancing or cost saving measures as proposed by the *Blue Ribbon Commission* to close the gap between revenue and expenses and enhance the City's ability to invest in annual capital maintenance requirements. [02-13-07 @ 8:57 am]
- #242-05 ALD. SANGIOLO requesting the Executive Department and IT Departments post all city board and commission meeting agendas and minutes on to the City Website

REFERRED TO PROGRAMS & SERVICES, PUBLIC FACILITIES, AND FINANCE COMMITTEES

- #309-01 ALD. PARKER requesting increase in the income eligibility level of the 30% water/sewer discount for low-income senior citizens.
- #370-06 ALD. SANGIOLO, PARKER, MANSFIELD requesting home rule legislation to allow advisory questions to be asked in a Newton special election.

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

- #267-06(3) ALD. PARKER, BURG, LINSKY, FISCHMAN, HESS-MAHAN, VANCE, HARNEY, JOHNSON, & DANBERG proposing Home Rule Legislation authorizing the City of Newton to apply the ordinance proposed in item #267-06(2) to assets held by the City's retirement system.

REFERRED TO PROG&SERVICES & POST AUDIT & OVERSIGHT

- #371-06 ALD. COLETTI respectfully docketing under section 2-11 of the Newton City Charter an investigation of the facts surrounding the failure to properly certify the proper number of citizen signatures relative to the site plan referendum question.

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

- #67-07 ALD. WEISBUCH requesting a RESOLUTION asking His Honor the Mayor to fund the INTERFACE SYSTEM, which coordinates mental health services among school age children. [2/26/07@ 3:28 PM]

REFERRED TO FINANCE AND PROGRAMS & SERVICES COMMITTEES

#245-06

ALD. JOHNSON AND HESS-MAHAN requesting an amendment to the City Charter to require the Mayor annually to prepare and submit to the Board of Aldermen a long-term financial forecast of anticipated revenue, expenditures and the general financial condition of the City, including, but not limited to identification of any factors which will affect the financial condition of the City; projected revenue and expenditure trends; potential sources of new or expanded revenues; anticipated municipal needs likely to require major expenditures; and a strategic plan for meeting anticipated municipal needs, to include, but not be limited to, any long or short-term actions that may be taken to enhance the financial condition of the City.

Respectfully Submitted,

Marcia Johnson, Chairman

**BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF
NEWTON AS FOLLOWS:**

That the Revised Ordinances of Newton, Massachusetts, 2001, as amended, be and are hereby further amended with respect to Chapter 3, Article II *DOGS* as follows:

Following **Section 3-29 Removal and Disposal of Canine Wastes**, insert a new Section as follows:

Sec. 3-30 Dogs Off-Leash Pilot Program

(a) Notwithstanding the provisions of Sec. 3-26(a) *Restraint of Dogs*, in areas officially designated as “Designated Off –Leash Area” by a municipal agency with care, custody and control of public land, a dog may be permitted off-leash under the following minimum conditions, and subject to any other rules and regulations or time restrictions established from time to time by such agency.

1. The dog shall at all times be accompanied by and under the control of a person, who shall ensure that the animal does not disturb the surrounding area by excessive barking, and shall ensure that it does not disturb or threaten other dogs or persons using the designated off-leash area or surrounding area; the dog shall be leashed when entering and exiting the designated off-leash area.
2. Any dog left unattended is subject to impoundment by the Newton Police;
3. The person in charge of a dog inside a designated off-leash area shall immediately remove and as soon as practicable properly dispose of any fecal waste deposited by that dog.
4. The dog shall wear a collar with identification at all times, be licensed and vaccinated, healthy and parasite free. Dogs must be at least four months old to be allowed off-leash.
5. The number of dogs per person in a designated off-leash area is limited to three.
6. The dog owner and/or person in charge of a dog are responsible to ensure that the dog’s activity conforms to all rules and regulations pertaining to the Off-Leash Area, as well as for any injury or damage to public property caused by the dog.

7. No person shall bring a female dog in heat into any designated off-leash area.

8. Any dog which is the subject of a complaint, investigation, order or proceeding under Section 3-25 or Section 3-27 of this ordinance, and/or under General Laws Chapter 140, section 157 shall be banned from Designated Off-Leash areas.

(b) *Sites for Designated Off-Leash Areas.*

1. A municipal agency with care, custody and control of public land, may from time to time designate one or more specific areas on such land to be Designated Off-Leash Areas. Such custodial agency may from time to time establish rules and regulations for use of each such area, which shall be posted at the site. With respect to this section, such agency shall have sole authority over land subject to its care custody and control, may limit the number of designated areas, and may revoke a designation at any time.

(c) *Dogs Off-Leash Advisory Committee.*

1. To assist a custodial agency in its decisions, there shall be formed a Dogs Off-Leash Advisory Committee, under the auspices of the Department of Planning and Development. The Advisory Committee shall consist of one representative from the Parks and Recreation Department, nominated by the Parks and Recreation Commission; one representative from the Conservation Commission, nominated by that commission; an animal control officer of the City of Newton, ex officio; and four citizens of Newton to be appointed by the Board of Aldermen. To insure an orderly transition, current citizen members of the existing off-leash task force shall be asked to serve as the initial citizen appointees of the Dogs Off-Leash Advisory Committee for a term not to exceed one year, **unless further appointed.** (These 3 words were inadvertently omitted from the last draft).

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2. The Advisory Committee shall develop and recommend site selection criteria to custodial agencies and shall from time to time recommend to the appropriate custodial agency a site or sites which said agency may consider for designation as official off-leash areas. The Advisory Committee shall consider only those proposed sites for which a local resident group will sponsor the site; will designate a person to serve as liaison with the city; will agree to mitigate dog-related impact on the site; and will agree to such other terms and conditions as the Advisory Committee and the custodial agency may deem appropriate for that site. The custodial agency with control over such site shall take such steps as it

deems appropriate to notify and to solicit the opinions and suggestions of abutters and other neighborhood residents prior to designation.

3. The Advisory Committee shall recommend to the custodial agency rules, regulations and time restrictions to be established for each off-leash area, and may at any time recommend that the agency revise said rules, regulations or time restrictions for any or all Designated Off-Leash Areas.

4. The Advisory Committee shall monitor and evaluate the Dogs Off-Leash Program and shall report to the custodial agency on a regular basis, but no less than twice a year. The Advisory Committee may recommend additional sites for designation, and may recommend that designation for a particular site or sites be revoked.

5. The Advisory Committee shall establish a procedure for receiving and logging comments and complaints pertaining to activities in designated off-leash areas. The log shall be made available to the custodial agency and the Board of Aldermen on an ongoing basis. The Advisory Committee shall consider comments and complaints received in order to assist in its evaluation of off-leash areas and in the reports required by Section 3-30(c)(3) and Section 3-30 (e).

6. The Advisory Committee may appoint interested residents to assist, as it may deem appropriate, in its review of Off-Leash sites and other tasks as assigned by the Committee.

(d) *Penalties:* The owner and/or the person in charge of a dog in a Designated Off-Leash Area who fails to control said dog or who violates any of the rules, regulations or time restrictions pertaining to the Designated Off-Leash Area shall be subject to the penalties set forth in Sec. 3-26 (b).

(e) The provisions of this section will expire two years after passage unless terminated earlier, or unless renewed or revised by the Board of Aldermen. Six months prior to expiration, the Advisory Committee shall report and make recommendations to custodial agencies and to the Board of Aldermen as to whether the program set forth in this ordinance should be terminated, renewed in its present form, or revised.

Sec. 20-13 Noise control.

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(a) This ordinance may be cited as the "Noise Control Ordinance of the City of Newton."

(b) **Declaration of findings and policy.** Whereas excessive sound is a serious hazard to the public health and welfare, safety, and the quality of life; and whereas a substantial body of science and technology exists by which excessive sound may be substantially abated; and, whereas the people have a right to and should be ensured an environment free from excessive sound that may jeopardize their health or welfare or safety or degrade the quality of life; now therefor it is the policy of the City of Newton to prevent excessive sound which may jeopardize the health and welfare or safety of its citizens or degrade the quality of life.

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(c) **Scope.** This ordinance shall apply to the control of all sound originating within the limits of the City of Newton except as follows:

(1) the emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work or in training exercises related to emergency activities; and

(2) all snow clearance activities; and

(3) any program or activity supervised by the parks and recreation department of the city in effect and as it exists on June 1, 1983.

(d) **Definitions.** For the purposes of this ordinance the following words and phrases shall have the meanings respectively ascribed to them by this section:

Construction and demolition: Any excavation, highway construction, land development or land clearing work, or the erection, demolition, alteration, repair, or relocation of any building or structure, which uses powered equipment such as backhoes, trucks, tractors, excavators, earth moving equipment, compressors, motorized, or power hand tools, manual tools, or equipment of a similar nature as well as two-way radios or other communication equipment; or use of any equipment for recycling, screening, separating, or any other processing of soil, rocks, concrete, asphalt or other raw material.

Deleted: Construction and demolition: any site preparation, assembly, erection, substantial repair, alteration, destruction or similar action for public or private rights-of-way, structures, utilities, or similar property.¶

Electronic devices: any radio, tape recorder or player, television, phonograph, public address system, loudspeaker, amplified musical instrument or any other similar device, except two-way communication radios.

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Emergency: any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Emergency work: any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

Gross vehicle weight rating (GVWR): the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

Motorcycle: any unenclosed motor vehicle having two or three wheels in contact with the ground, including, but not limited to, motor scooters, minibikes, and mopeds.

Motor vehicles: any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, go-carts, snowmobiles, dune buggies, or racing vehicles, but not including motorcycles.

Noise pollution: a condition caused by a noise source that increases noise levels 10 dB(A) or more above background noise level, except that if the noise source produces a tonal sound, an increase at 5 dB(A) or more above background noise level is sufficient to cause noise pollution.

Tonal sound: any sound that is judged by a listener to have the characteristics of a pure tone, whine, hum or buzz.

(e) Noise Pollution Prohibited.

(1) No person shall willfully, negligently, or through failure to provide necessary equipment or facilities or to take necessary precautions permit the establishment or continuation of a condition of noise pollution caused by a noise source (other than a dog or bird) owned, leased, kept, or controlled by such person, or caused by any activity of such person.

(2) When the offending noise source is located in public spaces, noise measurements shall be made at, and noise pollution determinations made in relation to, any location a passerby might reasonably occupy. When the offending noise source is located on private property, noise measurements shall be made at, and noise pollution determinations made in relation to, the boundary line of the property within which the offending source is located, or as close thereto as feasible.

(3) All noise level measurements made pursuant to section (e) shall be made with a Type I or II A-weighted sound level meter as specified under the American National Standards Institute (ANSI) standards.

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Deleted: All electric motors and internal combustion engines employed in yard and garden maintenance shall be prohibited from use on Sunday through Thursday evenings from 8:00 p.m. until 7:00 a.m. the following morning, and on Friday and Saturday evenings from 8:00 p.m. until 9:30 a.m. the following morning

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Deleted: All electric motors and internal combustion engines employed in outdoor construction, demolition, or earth moving shall be prohibited from use every evening from 7:00 p.m. until 7:00 a.m. the following morning, except on Friday evening from 7:00 p.m. until 8:00 a.m. on Saturday morning; and provided that all such devices shall be prohibited from operating at any hour on Sunday except by permit issued by the mayor or his designee in accordance with the provisions of subsection (h)(1) unless declared as emergency work pursuant to subsection (c)(1).¶
Provided, however, that all electric motors and internal combustion engines employed in outdoor construction, demolition, or earth moving that is conducted pursuant to a building permit or special permit issued prior to March 28, 2000, shall not be subject to the provisions of the prior paragraph, but instead shall be prohibited from use every evening from 7:00 p.m. until 7:00 a.m. the following morning, except on Su... [1]

(f) Time Restrictions.

(1) Notwithstanding the provisions of Section (e) and subject to the maximum noise levels listed in Section (g), the generation of any noise from all electric motors and/or internal combustion engines employed in yard, garden, or grounds maintenance is prohibited except during the following time periods:

(A) Between 7:00 a.m. and 8:00 p.m. on weekdays; or

(B) Between 9:30 a.m. and 8:00 p.m. on Saturdays, Sundays, and legal holidays as established in Section 2-26 of these revised ordinances.

(2) Notwithstanding the provisions of Section (e) and subject to the maximum noise levels listed in Section (g), the generation of any noise from construction and demolition activity is prohibited except during the following time periods:

(A) Between 7:00 a.m. and 7:00 p.m. on weekdays; or

(B) Between 8:00 a.m. and 7:00 p.m. on Saturdays.

(C) Generation of any noise from construction and demolition activity is prohibited at any hour on Sundays and legal holidays as established in Section 2-26 of these revised ordinances, except by permit issued in accordance with subsection (h)(1).

(3) All public address loudspeakers, either mobile or stationary, shall be prohibited from operating every evening from 9:00 p.m. until 7:00 a.m. the following morning.

(4) No automobile, motorcycle, truck or vehicle-mounted refrigeration equipment, or other motorized vehicle, shall be left running when not in traffic, within three hundred (300) feet of any dwelling, hotel or residence, for a period of greater than five (5) minutes.

(5) Between the hours of midnight and 6:00 a.m. deliveries and pick-ups for commercial or business purposes are prohibited within 300 feet of any dwelling within a residential zone excepting deliveries to such dwellings, deliveries of gasoline to gasoline stations, deliveries or pick-ups at state or federal governmental offices and any other commercial or business delivery or pick-up operation that does not increase noise levels 5dB(A) or more above background noise level. For

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purposes of this subsection, "deliveries" and "pick-ups" shall include the loading and unloading of a vehicle.

(6) Between the hours of 7:00 p.m. and 7:00 a.m. trash collection shall be prohibited within five hundred (500) feet of any dwelling.

(7) Between the hours of 11:00 p.m. and 7:00 a.m. no person or persons shall disturb the peace by causing or allowing to be made any unreasonable or excessive noise, including but not limited to such noise resulting from the operation of any electronic device, or from the playing of any band or orchestra, or from the making of excessive outcries, exclamations, or loud singing or any other excessive noise by a person or group of persons, provided however, that any performance, concert, establishment, band group or person who has received and maintains a valid license or permit from any department, board, or commission of the City of Newton authorized to issue such license or permit shall be exempt from the provisions of this section. Unreasonable or excessive noise for the purposes of this section shall be defined as 5dB(A) or more above background level when measured not closer than the lot line of a residential lot or from the nearest affected dwelling unit.

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(g) Maximum Noise Levels. Notwithstanding the provisions of subsections (e)(1) and (e)(2), the following are the maximum noise levels that are permitted for the specified noise sources:

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Maximum noise level dB(A) permitted:

(1) Vehicles

<u>Vehicle Class</u>	<u>Stationary or Moving</u>
<u>All vehicles over 10,000 lbs. GVW or GCWR</u>	<u>86</u>
<u>All Motorcycles</u>	<u>82</u>
<u>Automobiles and light trucks</u>	<u>75</u>

Noise measurements shall be made at a distance of fifty (50) feet from the closest point of pass-by of a source or fifty (50) feet from a stationary vehicle.

(2) Construction equipment.

Maximum noise level dB(A) permitted:

Backhoe, bulldozer, concrete mixer, dump truck, loader, paver, pneumatic tools, roller, scraper90

Air compressor85

Generator 90

Electric drills, sanders, saws (except chainsaws) or other power tools of all types, whether hand held or otherwise.... 75

Noise measurements shall be made at a distance of fifty (50) feet from the source.

(3) Yard, Garden, or Grounds Maintenance Equipment

(i) Maximum noise level dB(A) permitted:

Commercial Chipper, 3 1/2 inch or greater limb capacity (running at full speed but not chipping).90

Commercial truck-mounted leaf vacuum.....90

All other equipment, including home tractor, leaf blower, lawn mower or trimmer.....65

Noise measurements shall be made at a distance of fifty (50) feet from the source.

(ii) Transition period. Notwithstanding the maximum maintenance equipment noise levels listed in subsection (3)(i) above, maximum noise levels dB(A) for all yard, garden, or grounds maintenance equipment, excluding commercial chippers and vacuums shall be as follows:

1. Maximum noise level dB(A) permitted up to two (2) years after effective date of this Section:

- a) Home tractor, leaf blower.....80
- b) Lawn mower or trimmer..... 75

2. Maximum noise level dB(A) permitted from two (2) years to four (4) years after effective date of this section, all equipment.....70

(4) Maximum Noise Level Exclusions. The following devices shall be exempt from the maximum noise limitations set forth in subsection (g)(2) above: jack hammers, pavement breakers; pile drivers, rock drills, provided that effective noise barriers are used to shield nearby areas from a condition of noise pollution. The time limitations contained in subsection (f)(2) shall still apply.

(5) Maximum Noise Levels for HVAC Systems. No person shall operate any air conditioning, refrigeration or heating equipment for any residence or other structure or operate any pumping, filtering or heating equipment for any pool or reservoir in such manner as to create any noise which would cause the noise level on the premises of any other occupied property or if a condominium, apartment house, duplex, or attached business, within any adjoining unit, to exceed the background noise level by more than five (5) dB(A). This provision shall not apply, however, to periodic or emergency maintenance or testing of such equipment reasonably necessary to maintain such equipment in good working order. Noise measurements and noise pollution determinations shall be taken in accordance with subsections (e)(2) and (e)(3).

(6) Tonal Sound Corrections. When a tonal sound is emitted by a noise source specified in subsections (g)(1) and (g)(2) and (g)(3) herein, the limit on maximum noise levels shall be five (5) dB(A) lower than as specified in subsections (g)(1), ((g)(2) and (g)(3).

(7) Noise Measurements. All noise-level measurements made pursuant to subsection (g) shall be made with a Type I or II A-weighted sound level meter as specified under the American National Standards Institute (ANSI) standards.

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Maximum noise level dB(A) permitted¶
Stationary Run-Up, Speed Limit Speed Limit Vehicle Class 35 mph or less 35-45 mph¶
All vehicles over 10,000 lbs. GVW or GCWR 86 90¶
All motorcycles 82 82 ¶
Automobiles and light trucks 75 75¶
Measurements shall be made at a distance of fifty (50) feet from the closest point of pass-by of a source or fifty (50) feet from a stationary vehicle.¶
(2) Construction and maintenance equipment.¶
Maximum noise level dB(A) permitted¶
Construction Item¶
Backhoe, bulldozer, concrete mixer, dump truck, loader, paver, pneumatic tools, roller, scraper 90¶
Air compressor 85¶
Generator 90¶ ... [2]

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(8) Alternative Measurement Procedures. If it is not possible to make a good noise level measurement at the distance specified in subsections **(g)(1), (g)(3) and (g)(3)**, measurement may be made at an alternate distance and the noise level subsequently calculated for the specified distance. Calculations shall be made in accordance with established engineering procedures.

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Deleted: (6) All noise-level measurements made pursuant to subsection (f) shall be made with a Type I or II A-weighted sound level meter as specified under the American National Standards Institute (ANSI) standards.

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Deleted: (g) Noise Sources Causing Noise Pollution.¶

(1) No person shall willfully, negligently, or through failure to provide necessary equipment or facilities or to take necessary precautions permit the establishment or continuation of a condition of noise pollution caused by a noise source (other than a dog or bird) owned, leased, kept, or controlled by such person, or caused by any activity of such person.¶

(2) When the offending noise source is located in public spaces, noise measurements shall be made at, and noise pollution determinations made in relation to, any location a passerby might reasonably occupy. When the offending noise source is located on private property, noise measurements shall be made at, and noise pollution determinations made in relation to, the boundary line of the property within which the offending source is located, or as close thereto as feasible.¶

(3) All noise level measurement... [19]

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(h) 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 board of aldermen **and to each ward alderman for the affected ward promptly after issuance.**

(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. **Copies of all such extensions shall be filed with the clerk of the board of aldermen and to each ward alderman for the affected ward.**

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

(j) 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 one hundred dollars (\$100.00). Each day that such violation continues shall be considered to be a separate offense.

(k) 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 20-20 and 20-21 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 20-21(c) and 20-21(d).

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(k) Severability. If any provision(s) 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 ordinance and the applicability of such provision to other persons or circumstances shall not be affected thereby. (Ord. No. R-331, 6-20-83; Ord. No. T-62, 12-4-89; Ord. No. T-200, 12-16-91; Ord. No. V-286, 3-6-00)

Cross reference—Sounding warning devices on motor vehicles, § 19-72; noise by hawkers and peddlers, § 17-26

Secs. 20-14—20-19. Reserved.

BE IT FUTHER ENACTED:

That the Revised Ordinances of Newton, as amended, be and are hereby further amended by adding the following additional paragraph to both subsection (c) and to subsection (d) of section 20-21, *Enforcing persons and revised ordinances subject to civil fine:*

Section 20-13 Noise Control

() Any offense penalty: \$50.00

All electric motors and internal combustion engines employed in outdoor construction, demolition, or earth moving shall be prohibited from use every evening from 7:00 p.m. until 7:00 a.m. the following morning, except on Friday evening from 7:00 p.m. until 8:00 a.m. on Saturday morning; and provided that all such devices shall be prohibited from operating at any hour on Sunday except by permit issued by the mayor or his designee in accordance with the provisions of subsection (h)(1) unless declared as emergency work pursuant to subsection (c)(1).

Provided, however, that all electric motors and internal combustion engines employed in outdoor construction, demolition, or earth moving that is conducted pursuant to a building permit or special permit issued prior to March 28, 2000, shall not be subject to the provisions of the prior paragraph, but instead shall be prohibited from use every evening from 7:00 p.m. until 7:00 a.m. the following morning, except on Sunday, when all such devices shall be prohibited from operating at any hour except by permit issued by the mayor or his designee in accordance with the provisions of subsection (h)(1) unless declared as emergency work pursuant to subsection (c)(1).

(1) Vehicular sources.

Maximum noise level dB(A) permitted

Stationary Run-Up, Speed Limit Speed Limit Vehicle Class 35 mph or less 35-45 mph

All vehicles over 10,000 lbs. GVW or GCWR 86 90

All motorcycles 82 82

Automobiles and light trucks 75 75

Measurements shall be made at a distance of fifty (50) feet from the closest point of pass-by of a source or fifty (50) feet from a stationary vehicle.

(2) Construction and maintenance equipment.

Maximum noise level dB(A) permitted

Construction Item

Backhoe, bulldozer, concrete mixer, dump truck, loader, paver, pneumatic tools, roller, scraper 90

Air compressor 85

Generator 90

Electric drills, sanders, saws (except chainsaws) or other power tools of all types, whether hand held or otherwise 75

Maintenance Item

Chipper (running at full speed but not chipping), leaf vacuum 90

Home tractor, leaf blower 80

Lawn mower or trimmer 75

Noise measurements shall be made at a distance of fifty (50) feet from the source.

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(g) Noise Sources Causing Noise Pollution.

(1) No person shall willfully, negligently, or through failure to provide necessary equipment or facilities or to take necessary precautions permit the establishment or continuation of a condition of noise pollution caused by a noise source (other than a dog or bird) owned, leased, kept, or controlled by such person, or caused by any activity of such person.

(2) When the offending noise source is located in public spaces, noise measurements shall be made at, and noise pollution determinations made in relation to, any location a passerby might reasonably occupy. When the offending noise source is located on private property, noise measurements shall be made at, and noise pollution determinations made in relation to, the boundary line of the property within which the offending source is located, or as close thereto as feasible.

(3) All noise level measurements made pursuant to section (g) shall be made with a Type I or II A-weighted sound level meter as specified under the American National Standards Institute (ANSI) standards.

Sec. 20-13 Noise control.

(a) This ordinance may be cited as the "Noise Control Ordinance of the City of Newton."

(b) Declaration of findings and policy. Whereas excessive sound is a serious hazard to the public health and welfare, safety, and the quality of life; and whereas a substantial body of science and technology exists by which excessive sound may be substantially abated; and, whereas the people have a right to and should be ensured an environment free from excessive sound that may jeopardize their health or welfare or safety or degrade the quality of life; now therefor it is the policy of the City of Newton to prevent excessive sound which may jeopardize the health and welfare or safety of its citizens or degrade the quality of life.

(c) Scope. This ordinance shall apply to the control of all sound originating within the limits of the City of Newton except as follows:

(1) the emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work or in training exercises related to emergency activities; and

(2) all snow clearance activities; and

(3) any program or activity supervised by the parks and recreation department of the city in effect and as it exists on June 1, 1983.

(d) Definitions. For the purposes of this ordinance the following words and phrases shall have the meanings respectively ascribed to them by this section:

Construction and demolition: Any excavation, highway construction, land development or land clearing work, or the erection, demolition, alteration, repair, or relocation of any building or structure, which uses powered equipment such as backhoes, trucks, tractors, excavators, earth moving equipment, compressors, motorized, or power hand tools, manual tools, or equipment of a similar nature as well as two-way radios or other communication equipment; or use of any equipment for recycling, screening, separating, or any other processing of soil, rocks, concrete, asphalt or other raw material.

Electronic devices: any radio, tape recorder or player, television, phonograph, public address system, loudspeaker, amplified musical instrument or any other similar device, except two-way communication radios.

Emergency: any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Emergency work: any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

Gross vehicle weight rating (GVWR): the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

Motorcycle: any unenclosed motor vehicle having two or three wheels in contact with the ground, including, but not limited to, motor scooters, minibikes, and mopeds.

Motor vehicles: any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, go-carts, snowmobiles, dune buggies, or racing vehicles, but not including motorcycles.

Noise pollution: a condition caused by a noise source that increases noise levels 10 dB(A) or more above background noise level, except that if the noise source produces a tonal sound, an increase at 5 dB(A) or more above background noise level is sufficient to cause noise pollution.

Tonal sound: any sound that is judged by a listener to have the characteristics of a pure tone, whine, hum or buzz.

(e) Noise Pollution Prohibited.

(1) No person shall willfully, negligently, or through failure to provide necessary equipment or facilities or to take necessary precautions permit the establishment or continuation of a condition of noise pollution caused by a noise source (other than a dog or bird) owned, leased, kept, or controlled by such person, or caused by any activity of such person.

(2) When the offending noise source is located in public spaces, noise measurements shall be made at, and noise pollution determinations made in relation to, any location a passerby might reasonably occupy. When the offending noise source is located on private property, noise measurements shall be made at, and noise pollution determinations made in relation to, the boundary line of the property within which the offending source is located, or as close thereto as feasible.

(3) All noise level measurements made pursuant to section (e) shall be made with a Type I or II A-weighted sound level meter as specified under the American National Standards Institute (ANSI) standards.

(f) Time Restrictions.

(1) Notwithstanding the provisions of Section (e) and subject to the maximum noise levels listed in Section (g), the generation of any noise from all electric motors and/or internal combustion engines employed in yard, garden, or grounds maintenance is prohibited except during the following time periods:

(A) Between 7:00 a.m. and 8:00 p.m. on weekdays; or

(B) Between 9:30 a.m. and 8:00 p.m. on Saturdays, Sundays, and legal holidays as established in Section 2-26 of these revised ordinances.

(2) Notwithstanding the provisions of Section (e) and subject to the maximum noise levels listed in Section (g), the generation of any noise from construction and demolition activity is prohibited except during the following time periods:

(A) Between 7:00 a.m. and 7:00 p.m. on weekdays; or

(B) Between 8:00 a.m. and 7:00 p.m. on Saturdays.

(C) Generation of any noise from construction and demolition activity is prohibited at any hour on Sundays and legal holidays as established in Section 2-26 of these revised ordinances, except by permit issued in accordance with subsection (h)(1).

(3) All public address loudspeakers, either mobile or stationary, shall be prohibited from operating every evening from 9:00 p.m. until 7:00 a.m. the following morning.

(4) No automobile, motorcycle, truck or vehicle-mounted refrigeration equipment, or other motorized vehicle shall be left running when not in traffic, within three hundred (300) feet of any dwelling, hotel or residence, for a period of greater than five (5) minutes.

(5) Between the hours of midnight and 6:00 a.m. deliveries and pick-ups for commercial or business purposes are prohibited within 300 feet of any dwelling within a residential zone excepting deliveries to such dwellings, deliveries of gasoline to gasoline stations, deliveries or pick-ups at state or federal governmental offices and any other commercial or business delivery or pick-up operation that does not increase noise levels 5dB(A) or more above background noise level. For purposes of this subsection, "deliveries" and "pick-ups" shall include the loading and unloading of a vehicle.

(6) Between the hours of 7:00 p.m. and 7:00 a.m. trash collection shall be prohibited within five hundred (500) feet of any dwelling.

(7) Between the hours of 11:00 p.m. and 7:00 a.m. no person or persons shall disturb the peace by causing or allowing to be made any unreasonable or excessive noise, including but not limited to such noise resulting from the operation of any electronic device, or from the playing of any band or orchestra, or from the making of excessive outcries, exclamations, or loud singing or any other excessive noise by a person or group of persons, provided however, that any performance, concert, establishment, band group or person who has received and maintains a valid license or permit from any department, board, or commission of the City of Newton authorized to issue such license or permit shall be exempt from the provisions of this section. Unreasonable or excessive noise for the purposes of this section shall be defined as 5dB(A) or more above background level when measured not closer than the lot line of a residential lot or from the nearest affected dwelling unit.

(g) Maximum Noise Levels. Notwithstanding the provisions of subsections (e)(1) and (e)(2), the following are the maximum noise levels that are permitted for the specified noise sources:

Maximum noise level dB(A) permitted:

(1) Vehicles

Vehicle Class	Stationary or Moving,
All vehicles over 10,000 lbs. GVW or GCWR	86
All Motorcycles	82
Automobiles and light trucks	75

Noise measurements shall be made at a distance of fifty (50) feet from the closest point of pass-by of a source or fifty (50) feet from a stationary vehicle.

(2) Construction equipment.

Maximum noise level dB(A) permitted:

Backhoe, bulldozer, concrete mixer, dump truck, loader, paver, pneumatic tools, roller, scraper90

Air compressor85

Generator 90

Electric drills, sanders, saws (except chainsaws) or other power tools of all types, whether hand held or otherwise.... 75

Noise measurements shall be made at a distance of fifty (50) feet from the source.

(3) Yard, Garden, or Grounds Maintenance Equipment

(i) Maximum noise level dB(A) permitted:

Commercial Chipper, 3 1/2 inch or greater limb capacity (running at full speed but not chipping).90

Commercial truck-mounted leaf vacuum.....90

All other equipment, including home tractor, leaf blower, lawn mower or trimmer.....65

Noise measurements shall be made at a distance of fifty (50) feet from the source.

(ii) Transition period. Notwithstanding the maximum maintenance equipment noise levels listed in subsection (3)(i) above, maximum noise levels dB(A) for all yard, garden, or grounds maintenance equipment, excluding commercial chippers and vacuums shall be as follows:

1. Maximum noise level dB(A) permitted up to two (2) years after effective date of this Section:

- a) Home tractor, leaf blower.....80
- b) Lawn mower or trimmer..... 75

2. Maximum noise level dB(A) permitted from two (2) years to four (4) years after effective date of this section, all equipment.....70

(4) Maximum Noise Level Exclusions. The following devices shall be exempt from the maximum noise limitations set forth in subsection (g)(2) above: jack hammers, pavement breakers; pile drivers, rock drills, provided that effective noise barriers are used to shield nearby areas from a condition of noise pollution. The time limitations contained in subsection (f)(2) shall still apply.

(5) Maximum Noise Levels for HVAC Systems. No person shall operate any air conditioning, refrigeration or heating equipment for any residence or other structure or operate any pumping, filtering or heating equipment for any pool or reservoir in such manner as to create any noise which would cause the noise level on the premises of any other occupied property or if a condominium, apartment house, duplex, or attached business, within any adjoining unit, to exceed the background noise level by more than five (5) dB(A). This provision shall not apply, however, to periodic or emergency maintenance or testing of such equipment reasonably necessary to maintain such equipment in good working order. Noise measurements and noise pollution determinations shall be taken in accordance with subsections (e)(2) and (e)(3).

(6) Tonal Sound Corrections. When a tonal sound is emitted by a noise source specified in subsections (g)(1) and (g)(2) and (g)(3) herein, the limit on maximum noise levels shall be five (5) dB(A) lower than as specified in subsections (g)(1), ((g)(2) and (g)(3).

(7) Noise Measurements. All noise-level measurements made pursuant to subsection (g) shall be made with a Type I or II A-weighted sound level meter as specified under the American National Standards Institute (ANSI) standards.

(8) Alternative Measurement Procedures. If it is not possible to make a good noise level measurement at the distance specified in subsections (g)(1), (g)(3) and (g)(3), measurement may be made at an alternate distance and the noise level subsequently calculated for the specified distance. Calculations shall be made in accordance with established engineering procedures.

(h) 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 board of aldermen and to each ward alderman for the affected ward promptly after issuance.

(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. Copies of all such extensions shall be filed with the clerk of the board of aldermen and to each ward alderman for the affected ward.

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

(j) 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 one hundred dollars (\$100.00). Each day that such violation continues shall be considered to be a separate offense.

(k) 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 20-20 and 20-21 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 20-21(c) and 20-21(d).

(k) Severability. If any provision(s) 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 ordinance and the applicability of such provision to other persons or circumstances shall not be affected thereby. (Ord. No. R-331, 6-20-83; Ord. No. T-62, 12-4-89; Ord. No. T-200, 12-16-91; Ord. No. V-286, 3-6-00)

Cross reference—Sounding warning devices on motor vehicles, § 19-72; noise by hawkers and peddlers, § 17-26

Secs. 20-14—20-19. Reserved.

BE IT FUTHER ENACTED:

That the Revised Ordinances of Newton, as amended, be and are hereby further amended by adding the following additional paragraph to both subsection (c) and to subsection (d) of section 20-21, *Enforcing persons and revised ordinances subject to civil fine*:

Section 20-13 Noise Control

() Any offense penalty: \$50.00

1. The Revised Ordinances of the City of Newton, Massachusetts 2001 are hereby amended by inserting the following Section 20-14:

Restrictions on Use of Leaf Blowers Within City Limits.

Whereas, in order to control unnecessary, excessive, and annoying noise, fumes, dust and debris and to protect the environment and the health and well-being of residents of the City of Newton, it is hereby declared to be the policy of the City to regulate such noise, fumes, dust, and other debris generated by the use of leaf blowers within the City Limits.

- (a) **Definitions.** A “leaf blower” is a motorized device powered by fuel and/or electricity used in any landscape, maintenance, construction, property repair, or property maintenance activity for the purpose of blowing, dispersing, vacuuming or redistributing dust, dirt, leaves, grass clippings, cuttings and trimmings from trees or shrubs, or other debris.
- (b) **Use of Leaf Blowers Restricted.** It shall be unlawful for any person to operate any leaf blower within the City limits during the period from April 15 through and including October 15. During times of emergency caused by a storm or other special circumstances, the Mayor may declare a temporary moratorium on the operation of the foregoing restriction to permit the use of leaf blowers within the City limits for purposes of cleaning up from such storm or other special circumstances. No person shall operate any leaf blower without attachment of all mufflers and full extension tubes supplied by the manufacturer for that leaf blower.
- (c) **Use of Leaf Blowers Subject to Noise Control Ordinance.** The use of leaf blowers not otherwise prohibited by the provisions of this ordinance is subject to the provisions of the Noise Control Ordinance, in Section 20-13 of these Revised Ordinances.
- (d) **Use of Leaf Blowers In Close Proximity to Operable Windows, Doors, or Mechanical Air Intake Openings or Ducts Prohibited.** Leaf blowers shall not be operated in close proximity to any operable window, door, or mechanical air intake opening or duct of any building so as to deposit debris within such windows, doors, openings or ducts unless with the permission of the occupants of the building.
- (e) **Blowing or Depositing Debris onto Neighboring Properties and Public Right-of-Way Prohibited.** Any person operating a leaf blower shall not cause dust, dirt,

leaves, grass clippings, cuttings and trimmings from trees or shrubs, or other debris to be blown or deposited on any adjacent or neighboring properties without permission of the owners of such properties, or onto any part of the public right-of-way, including but not limited to sidewalks, streets or storm drains, without permission from the Commissioner of Public Works. Notwithstanding the foregoing provision, a person shall not be in violation of this section for depositing leaves, grass clippings, cuttings and trimmings from trees or shrubs, or other debris on part of a public right-of-way if that person removes the debris immediately thereafter and disposes of the debris in a sanitary manner which will prevent dispersal by wind, vandalism, or similar means. This section does not prohibit any person from placing leaf and yard wastes for collection pursuant to and in compliance with the provisions of Section 11-8 of these Revised Ordinances and the rules and regulations promulgated thereunder.

- (f) **Policies to Ensure Compliance with Foregoing Restrictions by City Departments Responsible for Maintaining City-Owned Property.** Any and all City departments responsible for maintaining City-owned property shall develop, implement and enforce policies to ensure compliance by City employees and contractors with the foregoing restrictions, and any applicable state or federal laws or regulations concerning occupational safety and health standards relating to the operation of leaf blowers, including, but not limited to the provision and use of appropriate protective gear.
- (g) **Violations.** 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. 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.
- (h) **Notice.** Notice of the provisions of this ordinance restricting the use of leaf blowers, and penalties for violations of such provisions, in a form to be provided by the City, shall be posted and conspicuously displayed in all stores selling leaf blowers within the City limits and provided to any person who commits his or her first offense in violation of this ordinance.

2. The Revised Ordinances of Newton, as amended, are hereby further amended by adding the following additional paragraphs to subsection (d) of Section 20-21, Enforcing persons and revised ordinances subject to civil fine:

Section 20-14 Restrictions on Use of Leaf Blowers Within City Limits

() First offense: warning

() Second offense: \$75.00

() Third offense: \$150.00

() Fourth and subsequent offenses: \$300.00