

CITY OF NEWTON

IN CITY COUNCIL

ORDINANCE NO. B-74

May 17, 2021

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWTON That the Revised Ordinances of Newton, Massachusetts, 2017, as amended, be and are hereby further amended with respect to **Section 20-13 of Article II Noise, Chapter 20** as follows:

1. DELETE in its entirety the definition of Leaf Blower from Sec. 20-13 (d)
2. DELETE Sec. 20-13(h) in its entirety and INSERT in place thereof the following language:

(h) *Restrictions on use of leaf blowers.*

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

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

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

(1) *Summer Ban.* No leaf blower may be operated from Memorial Day through Labor Day in each year, except that one 65 dB(A) electric or battery powered leaf blower

per lot may be used during this period subject to the permitted hours of use specified in Subsection (2) below. At all other times leaf blowers may be operated subject to the following provisions:

(2) *Permitted hours of use.* Leaf blowers may be operated only during the following times:

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

*Saturday:* 8:00 a.m. – 5:00 p.m.

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

(3) Only leaf blowers meeting the following criteria are permitted for use:

- A. Leaf blowers must be manufactured after January 1, 2005 for EPA Class 4 engines and after January 1, 2008 for EPA Class 5 engines;
- B. Leaf blowers must bear an affixed manufacturer's label indicating the model number of the leaf blower;
- C. Leaf blowers must bear an affixed manufacturer's label documenting a noise rating of 65 dB(A) or less; and
- 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. Non-factory modifications are not permitted.

(4) During times of emergency caused by a storm or other special circumstance, the Mayor or his designee may temporarily suspend application of all or a portion of this section for purposes of cleaning up from such storm or other special circumstance.

(5) The provisions of section 20-13 (i) shall not apply to leaf blower operation.

(6) Any violation of the restrictions contained in sections 20-13 (h)(1) through (h)(6) above shall be subject to the penalties set forth in sections 20-13 (k) and (m)

below, provided that the first offense by any person subject to this section shall be subject to a warning only, and provided further that a violation committed by a commercial operator holding a valid permit and in good standing on the public list provided for in section (7) A, shall be enforced against the commercial operator only, and not against the property owner, manager or person in control of the property upon which the violation has occurred.

*(7) Commercial Leaf Blower Operators – permit required.*

- A. No commercial leaf blower operator may operate a leaf blower or permit or authorize an agent or employee to operate a leaf blower in the City of Newton without an annual permit from the commissioner of inspectional services, who shall provide application forms; who may establish rules governing the display of permits on permittee's vehicles; and who shall maintain a public list of commercial leaf blower operators who hold a valid permit under this section. The commissioner may set a reasonable fee for such permit. Such application form shall require the name and telephone number of a contact and shall require the applicant to certify under pains and penalties of perjury that they have read and understand this ordinance pertaining to leaf blower restrictions, and that they will inform all employees of the restrictions. If a violation of any leaf blower restriction under this ordinance is committed by an employee or agent of and while performing work for said commercial leaf blower operator, the commercial leaf blower operator shall be responsible for the violation and the employee or agent shall not be individually liable.
- B. A commercial leaf blower operator shall ensure that its name, address, telephone number and its commercial leaf blower permit number are clearly visible on any vehicle it uses to conduct business in Newton.
- C. In addition to the penalties set forth in sections (k) and (m) below, the permit of any commercial leaf blower operator who has received two or more notices of violation of leaf blower restrictions by it or its employees or agents in a 12-month period shall be suspended for a period of sixty days. The permit of any commercial leaf blower operator whose permit has been suspended two times shall be revoked, and the operator shall be ineligible for a permit for a period of one year. The operator's name shall be removed from the public list during any period of suspension or revocation. The penalty for operating a leaf blower without a commercial operator permit shall be \$300.00.
- D. The commissioner of inspectional services may promulgate rules and

regulations to implement this section.

3. DELETE Sec. 20-13 (j) in its entirety and INSERT in place thereof the following language:

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

4. DELETE Sec. 20-13(n) in its entirety and INSERT in place thereof the following language:

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

5. DELETE, in Sec. 17-23(c) DEPARTMENT OF INSPECTIONAL SERVICES, the listing of Sec. 20-13 Noise Control in its entirety and INSERT in place thereof the following language:

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

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

Sec. 20-13 (h)(7) Commercial leaf blower operator – operation of leaf blower without a permit ..... \$300.00

6. DELETE, in Sec. 17-23(d) POLICE DEPARTMENT, the listing of Sec. 20-13 Noise Control in its entirety and INSERT in place thereof the following language:

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

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

Sec. 20-13 (h)(7) Commercial leaf blower operator – operation of leaf blower without a permit ..... \$300.00

7. This ordinance shall take effect on Labor Day, 2021.

Approved as to legal form and character:

*Alissa O. Giuliani*  
ALISSA O. GIULIANI  
City Solicitor

Under Suspension of Rules  
Readings Waived and Adopted  
23 Yeas 0 Nays 1 Absent (Councilor Gentile)

*NKhan*

(SGD) NADIA KHAN  
Acting City Clerk

EXECUTIVE DEPARTMENT  
Approved:

*Ruthanne Fuller*

(SGD) RUTHANNE FULLER  
Mayor

Date: 6/1/2021