

CHECKLIST FOR PROPOSED ORDINANCES

TO: The RTM Ordinance Committee

FROM: Kristin Schneeman, Andrew Colabella, and Jessica Bram

DATE: March 15, 2021

RE: Ordinance restricting the use of gas-powered leaf blowers in Westport

CONTACT PERSON: Kristin Schneeman

1) Why do we need this ordinance? (What problem does it solve?)

Answer:

This ordinance proposes to limit the use of gas-powered leaf blowers (GLBs) in Westport to two 6-week periods in the spring and the fall. This ordinance will permit the use of electric- and battery-powered leaf blowers year-round. Leaf blowers with gas engines have been shown to present a threat to human health from noise, emissions, unspent fuel, and the disturbance of ground particulate matter. The noise, in particular, is also a significant and escalating threat to the quality of life in our community. GLBs are often used solely for cosmetic purposes and far in excess of what is needed for landscape maintenance, and they can actually be detrimental to the health of lawns and the environment. More powerful and efficient electric and battery-powered equipment has come on the market in recent years, providing more readily available alternatives. More than two hundred communities across the U.S., as well as some whole states and countries, have restricted or banned the use of GLBs.

2) Is the proposed ordinance a new one or an amendment to an existing Westport ordinance? If an amendment, what are the proposed changes and why are they important? (Copy of existing ordinance to be attached.)

Answer:

This is a new ordinance.

3) Is this the only practical solution to the perceived problem or are there other options (either legislative or non-legislative):

Answer:

Voluntary restrictions are ineffective as there are no incentives for homeowners or landscapers to change behavior. Legislative mandates accompanied by public education efforts have brought relief in many communities across the country.

4) Have we exhausted all non-legislative alternatives?

Answer:

The experience of many other communities demonstrates that there are not effective non-legislative alternatives to reduce the use of these harmful machines and the impacts they cause. This regulation creates a uniform, level playing field for all homeowners and landscapers.

5) Does the problem warrant the solution? That is, is the problem serious enough, or widespread enough, to justify any restrictions that will result if this ordinance is passed?

Answer:

GLBs produce high levels of noise, as well as ozone-forming exhaust (including volatile organic compounds) and ultrafine particulate matter. The scientific literature on the health hazards to workers and residents of the noise and combustion products is vast, representing decades of research and tens of thousands of studies. For instance, a report from the Massachusetts Medical Society concluded that the noise and emissions produced by GLBs threaten the health of workers and the public; it specifically linked emissions from GLBs to hearing damage, worsened asthma, chronic obstructive pulmonary disease, malignancies, and heart attacks.

The World Health Organization recommends an outdoor noise level below 55 decibels. Anything above 60 decibels increases the risk of heart disease, and levels above 75 decibels increase the risk of hearing damage. Leading commercial brands of GLBs are 100+ decibels at the source and as high as 83 decibels at 50 feet. Industry training materials to protect workers' hearing state that noise levels from most of today's gas equipment are upwards of 1000 times higher than safe occupational levels and acknowledge the danger to hearing as well as heart health; manufacturers also recommend the use of only one GLB at a time, a rule which is routinely disregarded. GLB noise is louder than electric blower noise (even when rated at the same decibel level) and able to carry harmful levels of noise over long distances and penetrate through windows because of a strong low-frequency component. The CDC estimates that hearing damage is possible after two hours of exposure to leaf blowers.

An ancillary benefit to the Town of restricting the use of GLBs is a reduction in pollution, improving air quality and helping Westport achieve its goal of Net Zero by 2050. The gas engines in leaf blowers are extremely inefficient and produce high levels of harmful pollutants. An often-cited [study](#) by Edmunds.com found that "to equal the hydrocarbon emissions of about a half-hour of yard work with [a] two-stroke leaf blower, you'd have to drive a [Ford F-150] Raptor [pickup truck] for 3,887 miles, or the distance from Northern Texas to Anchorage, Alaska." New York state's Department of Environmental Conservation found "the amount of CO (carbon monoxide) emitted from a typical backpack leaf blower for just one hour is equal to CO coming from the tailpipe of a current year automobile operating for over eight hours." In addition, "leaf blowers push 300

to 700 cubic feet of air per minute at 150 to 280 mph. The resulting dust can contain PM 2.5 and PM 10 particles including pollen and mold, animal feces, heavy metals, and chemicals from herbicides and pesticides.”

The hurricane-force jets of GLBs are also detrimental to the environment in other ways. They destroy new plant growth and blow topsoil away, cause soil compaction and dehydration, spread disease spores and kill beneficial insects.

6) Is the proposed ordinance fair to Westport’s citizens?

Answer:

Yes. Complaints about GLBs have been on the rise as use of the machines increases, and as Westport residents work and go to school from home in greater numbers. Use of lower-impact electric- and battery-powered blowers will be allowed year-round, and GLBs will still be permitted during spring and fall clean-up and for emergencies declared by local, state or federal authorities.

7) Have the rights of all Westporters been considered?

Answer:

Yes. Effective alternative equipment exists that residents and landscapers can use to do their work. Use of GLBs will continue to be allowed during spring and fall clean-up periods, as well as during emergencies declared by local, state or federal authorities. The right of Westporters to peaceful enjoyment of their properties and to not have their health negatively impacted carries equal weight to the right of Westporters to keep their properties immaculately free of debris – especially given that there are reasonable alternatives available. The Town of Westport will benefit from creating a quieter, cleaner, safer, and healthier community for all its current and prospective residents.

8) If the proposed ordinance involves a fine or penalty, is the penalty reasonable in amount and fair in application? How was the amount determined? Is a maximum penalty specified? Are there any exceptions for extenuating circumstances? Is an appeals process specified? Is the appeals process fair? Is it practical?

Answer:

The fines included in the ordinance are reasonable and are comparable to those implemented in many other communities. Property owners in violation of the ordinance will initially be issued a warning; the fine will be \$100 for the second infraction, \$200 for the third, and \$250 for every subsequent infraction. Exceptions allow the continued use of GLBs during spring and fall clean-up as well as during emergencies declared by local, state or federal authorities.

The enforcement provision is simple, designed to minimize confrontation in town, and informed by best practices and lessons learned from other towns with GLB restrictions. Fines are against the property owners, as landscapers can be difficult to identify and track. Frivolous complaints are discouraged by requiring direct

notification of the property owner along with police. Police are not required to respond to the site, which makes for easier enforcement as well as preventing police confrontations with landscaping crews. First complaints are met with a warning, which serves to educate property owners and discourage further infractions.

An appeals process is specified in accordance with due process. It is to be conducted in accordance with the provisions of C.G.S. § 7-152c(c) through (g), a standard state-specified hearing and appeals process we rely on in Westport for a number of regulations.

9) Is the proposed ordinance consistent with the Town Plan of Conservation and Development?

Answer:

Yes. This ordinance will also contribute to the Town of Westport being able to achieve its goal of becoming a Net Zero community by 2050. In the comparably sized community of Lexington, MA it was calculated that municipal landscape maintenance alone – not including commercial landscapers – generates 34 tons of CO2 per year.

Questions regarding financial implications:

10) If the proposed ordinance involves the collection of any fees (including a monetary fine or penalty), will the revenue be retained by the Town? If so, how much revenue is estimated? Will it be included in the general fund? If not, where will the funds be distributed?

Answer:

We do not anticipate the revenue generated by fines will be significant, but any revenue will be retained by the Town in the general fund. The amount generated will be determined by the number of complaints pursued and fines issued, but the objective of the ordinance is to create an environment of awareness and compliance and not to be punitive.

11) Will the passage of the proposed ordinance result in a decrease in amounts currently expended by the town (for example, decreased maintenance costs)? If so, how much savings is estimated??

Answer:

Eliminating the use of GLBs in winter and summer seasons will eliminate the costs of fuel that would be incurred if the machines were in use in those seasons. Maintenance costs may also decrease because of the reduction in frequency of use. The operational costs of battery electric blowers are much lower than those of GLBs due to avoided fuel and lower maintenance costs.

12) Will the passage of the proposed ordinance result in any increased expenses for the town (for example, increased enforcement costs)? If so, how much additional cost is estimated?

Answer:

We anticipate the Town of Westport will need to purchase some battery-powered equipment, though some is already in use by the Parks and Recreation Department in particular. GLBs will still be allowed for spring/fall and emergency clean-ups. GLBs have a lifespan of approximately 2-4 years in the Northeast. As some GLBs reach the end of their useful life, they can be replaced by battery electric blowers with comparable performance and work productivity. It is possible fines collected could offset some of the cost of new equipment. A full inventory of leaf blowers owned by the Town needs to be completed.

13) Will the passage of the proposed ordinance result in any decreased revenues for the town? (An ordinance covering abatement of property taxes would be an example.)

Answer:

No.

14) If so, how much revenue loss is estimated?

Answer:

N/A

Questions to be answered with assistance from the Town Attorney or Assistant Town Attorney:

15) Does the proposed ordinance conflict with any existing laws (municipal, state or federal?) If so, what modifications can be recommended? (Or, should the proposed ordinance be rejected in favor of a non-legislate alternative?)

Answer:

The proposed ordinance does not conflict with existing laws. According to a June 2020 memorandum from the state Office of Legislative Research, “Across the country, regulation of leaf blowers is largely a matter of local ordinance rather than state law or regulation. Local ordinances may set time and day restrictions, noise restrictions, or completely ban the use of such equipment.” Greenwich, CT already has restrictions on GLBs in place.

16) Is the language (and the intent) of the proposed ordinance consistent with Westport’s powers as a municipality? (Copy of the state and/or federal enabling legislation to be attached.)

Answer:

The state of Connecticut gives municipalities the authority to protect public health and safety, preserve the public peace, prevent disturbing noises, and define and prohibit nuisances and the causes thereof. Connecticut General Statutes section 7-148(c)(10) authorizes municipalities to adopt ordinances in furtherance of general powers enumerated in CGS 7-148 and to prescribe penalties for violation of not more than \$250.

17) Are there any existing state or federal statutes covering the same subject? If so, why is the proposed ordinance necessary or advisable? (Copy of relevant state or federal law to be attached.)

Answer:

There are no federal or Connecticut state statutes covering GLBs, though there are other states that have regulated their use, including Arizona and Hawaii.

18) Do our neighboring towns have similar ordinances? (Copies to be attached.) Does the policy in neighboring towns have an impact on Westport?

Answer:

Greenwich has an ordinance restricting the use of GLBs. Many towns in New York and Massachusetts have ordinances restricting their use; most recently Larchmont amended an earlier ordinance to move toward a full phase-out of GLBs by 2022.

19) Is the language of the proposed ordinance consistent with its intent? Is the language of the proposed ordinance as clear as it can be? Will it be easily understood? Would it be clearer if definitions were added or revisions were made?

Answer:

We believe the language is clear and consistent with its intent.