

DRAFT LEAF BLOWER ORDINANCE

ARTICLE __

__-1. Purpose.

Consistent with the municipal powers granted under sections 7-148(c)(7) and (10) of the Connecticut General Statutes, including the protection of the health and safety of residents and abatement of nuisances, it is the intent of this ordinance to set specific controls on the use of Leaf Blowers, in particular Gas-Powered Leaf Blowers.

__-2. Definitions.

For the purpose of this Article, the following terms shall have the meanings indicated:

“Leaf Blower” shall mean any device which is used or designed to move leaves, grass clippings, dust, dirt, or other matter by blowing them with air emitted by such device.

“Gas-Powered Leaf Blower” shall mean any Leaf Blower that is powered by an internal combustion engine utilizing gasoline, diesel, or any other similar fuel.

“Electric-Powered Leaf Blower” shall mean any Leaf Blower that is powered by electricity utilizing a plug-in cord or battery power.

__-3. Restrictions on Leaf Blower Activity.

(a) Except as provided in Sections __-3(b) and (c),

(i) the use of Electric-Powered Leaf Blowers is permitted during the period from January 1 through December 31 on all properties within the Town; and

(ii) the use of Gas-Powered Leaf Blowers is permitted only during the periods from March 15 through April 30 and October 15 through December 31. No person shall operate or cause or permit to be operated any Gas-Powered Leaf Blower on any public or private property in the Town other than during such periods.

(b) No Leaf Blowers (whether Gas-Powered or Electric-Powered) may be used before 8:00 a.m. or after 5:00 p.m.

(c) No Gas-Powered Leaf Blowers may be used on any state or federal holiday.

(d) Notwithstanding the provisions of Sections __-3 (a) through (c):

(i) the use of Gas-Powered Leaf Blowers and Electric-Powered Leaf Blowers shall be permitted for storm condition clean-up operations; and

(ii) the provisions of this Article __ shall not apply to use of Leaf Blowers on town-owned property or publicly- or privately-owned golf courses.

__-4. Penalty and Enforcement.

- (a) *Authority.* The Conservation Department is hereby authorized to enforce violations of this Article as provided in this section.
- (b) *Complaints.* Anyone who believes that a violation of this Article has occurred may notify the Conservation Department in writing (via email or hard copy) of such violation. Such notice shall include: (i) the date and address of the property where the violation occurred, (ii) the name of the persons or entity who owns the property (if known), (iii) photographic or other reasonable evidence of the violation (if available), and (iv) the name, address and signature (digital or handwritten) of the complainant.
- (c) *Notices of Violation.* Upon receipt of a complaint under subsection (b) above, or upon the Conservation Department's own discovery of a possible violation, the Conservation Director or their designee shall review and investigate the possible violation. If the Conservation Director or their designee is convinced that there is sufficient evidence to prove that a violation of this ordinance has occurred, then:

- (1) For the first violation at a specific property, the Conservation Department shall provide a written warning and educational materials about the terms of this Article to the property owner.

- (2) For the second violation at the same property, the Conservation Department shall provide a second warning and educational materials about the terms of this Article to the property owner.

- (3) For the third and any subsequent violation at the same property, the Conservation Department shall issue a written notice of violation and a citation to the property owner as provided in (d) below.

- (d) *Issuance of citation.*

- (1) The Conservation Department shall issue a notice of violation and citation when a violation occurs at the same property after two warnings as provided in subsection (c) above.

- (2) Any warning notice of violation, and citation issued by the Conservation Department shall be issued to the property owner.

- (3) Each citation shall:

- a. include copies of the warnings for the first two violations, descriptions of any subsequent violations, and a description of the violation that is the subject of such citation;

- b. impose a fine of \$100 for the violation that is the subject of the first citation, and a fine of \$249 for the violation that is the subject of each subsequent citation, plus such other penalties, costs and/or fees as may be due for each violation;

c. provide that uncontested payment of such fine(s), penalties, costs and/or fees shall be made within ten (10) days of the date of the citation, unless said violation is successfully contested as provided below;

d. provide that the property owner may contest liability before a citation hearing officer by delivering in person or by mail within ten (10) days of the date of the citation a written demand for a hearing; and

e. state that if such a hearing is not demanded, it shall be deemed an admission of liability, and an assessment and judgment shall be entered against the property owner, and that such judgment may issue without further notice.

(4) Any warning, notice of violation or citation issued hereunder shall be sent to the property owner by certified mail, return receipt requested and simultaneously by regular United States Postal Service mail.

(5) Once a written demand for a hearing has been received by the Conservation Department, no additional citations shall be issued for subsequent violations until after the conclusion of the hearing procedure as set forth in subsection (f) below.

(e) *Civil infractions amount; continuing violations.*

(1) The fine for the first occurrence of a violation after two warnings to the property owner shall be \$100 and shall be payable to the Town. The fine for each subsequent violation shall be \$249.

(f) *Hearing procedure for citations.*

(1) The First Selectman shall appoint one or more hearing officers, other than any employee of the Town, to conduct the hearings resulting from violations of this Article. Any assessment by a hearing officer shall be entered as a judgment against the violator.

(2) A person who chooses to appeal a citation and requests a hearing to this effect shall be given written notice of the date, time, and place for the hearing, sent as provided in subsection (d)(4) hereof. Such hearing shall be held not less than 15 days nor more than 30 days from the date of the hearing notice, provided the hearing officer shall grant upon good cause shown any reasonable request by an interested party for postponement or continuance. Written notice of the hearing shall simultaneously be sent as provided in subsection (d)(4) hereof to the person(s) who reported the violation, and such person(s) shall have the right to attend the hearing and present evidence. An original or certified copy of the citation issued by the Conservation Department shall be filed and retained by the Town and shall be deemed to be a business record and evidence of the facts contained therein. Upon request of the person appealing the citation, the presence of the Conservation Department employee who issued the citation shall be required at the hearing. A designated town employee other than the hearing officer may present evidence on behalf of the town. A person wishing to contest liability shall appear at the hearing and may present evidence. If the person who received the citation fails to appear, the hearing officer may enter an assessment by default

upon a finding of proper notice and liability under this Article.

(3) The hearing officer shall conduct the hearing in the order and form and with such methods of proof as he/she deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The hearing officer shall announce his/her decision at the end of the hearing. If the hearing officer determines that the person is not liable, he/she shall dismiss the matter and enter his/her determination, in writing, accordingly. If the hearing officer determines that the person who received the citation is liable for the violation, the hearing officer shall then enter and assess the fines, penalties, costs, or fees against the person as provided by this Article.

(4) If such assessment is not paid on the date of its entry, the hearing officer shall send by first class mail a notice of the assessment to the person found liable and shall file, not less than 30 days nor more than 12 months after such mailing, a certified copy of the notice of assessment with the clerk of the superior court for the geographical area in which the town is located, together with the applicable entry or filing fee. The certified copy of the notice of assessment shall constitute a record of assessment. Within such 12-month period, all assessments against the same person may be accrued and filed as one record of assessment. The clerk shall enter judgment, in the amount of the hearing officer's record of assessment, as well as court costs, against such person in favor of the town. The hearing officer's assessment, when so entered as a judgment, shall have the effect of a civil money judgment and a levy of execution on such judgment may be issued without further notice to such person.

(5) A person against whom an assessment has been entered pursuant to this Article is entitled to judicial review by way of appeal in accordance with C.G.S. § 7-152c(g).

__-5 Severability. If any section, paragraph, subparagraph, clause, or provision of this Article __ shall be adjudged invalid, such adjudication shall apply only to the specific section, paragraph, subparagraph, clause, or provision so adjudged and the remainder of this Article __ shall be deemed valid and effective.

__-6. Effective Date.

The provisions of this Article __ shall become effective on March 15, 2023.