



Southampton Town Board
116 Hampton Road
Southampton, NY 11968

Meeting: 02/08/22 01:00 PM
Department: Town Attorney
Category: Public Hearings
Prepared By: Nicole Gentzel
Initiator: James Burke
Sponsors: Councilman John Bouvier
DOC ID: 39465

ADOPTED

TOWN BOARD RESOLUTION 2022-198

**Notice of Public Hearing to Consider a Local Law Amending
Town Code Chapter 235, Entitled "Noise" to Add Provisions
Implementing a Seasonal Restriction and Otherwise
Regulating the Use/Operation of Gas Powered Leaf Blowers**

RESOLVED, that the Town Board of the Town of Southampton hereby directs that a public hearing shall be held on Tuesday **February 22, 2022, at 6:00 p.m., via video conference**, to hear any and all persons either for or against a local law entitled: "A LOCAL LAW amending Town Code Chapter 235, entitled "Noise" to add provisions implementing a seasonal restriction and otherwise regulating the use/operation of gas powered leaf blowers," which provides as follows:

LOCAL LAW NO. OF 2022

A LOCAL LAW amending Town Code Chapter 235, entitled "Noise" to add provisions implementing a seasonal restriction and otherwise regulating the use/operation of gas powered Leaf Blowers.

BE IT ENACTED by the Town Board of the Town of Southampton as follows:

SECTION 1. Legislative Intent.

Long complained of noise and the deleterious effects on both human health and the environment as the result of sound and fumes attenuate to the use/operation of Gas powered Leaf Blowers, the Town Board of the Town of Southampton herein seeks to implement these amendments for the purpose of improving the quality of life of its residents and visitors alike. While the seasonal restriction will effectively remove noise disturbances at times most impactful to the community, this measure, coupled with other regulations included herein, will materially improve environmental conditions in the Town by reducing carbon emissions significantly, and thereby supports the Town's efforts to realize a goal of zero emissions by 2040.

SECTION 2. Amendment.

Subsection 1 (Definitions.) of Southampton Town Code Chapter 235 (Noise), is hereby amended by deleting the stricken words and adding the underlined words as follows:

§ 235-1 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

AIRBORNE SOUND

Sound that reaches the point of interest by propagation through air.

COMMERCIAL DISTRICT

All zoning districts identified as "business districts" pursuant to Chapter 330 of this Code. [Amended 7-10-1990 by L.L. No. 19-1990]

COMMERCIAL SERVICE EQUIPMENT

All engine or motor-powered equipment intended for infrequent service work in inhabited areas, typically requiring commercial or skilled operators. Examples of commercial service equipment are chain saws, log chipper's, paving rollers, etc.

CONSTRUCTION DEVICE

Any powered device or equipment designed and intended for use in construction. Examples of construction devices are air compressors, bulldozers, back hoes, trucks, shovels, derricks and cranes.

dB The abbreviation for decibel.

dBA The A-weighted sound level in decibels, as measured by a general purpose sound level meter complying with the provisions of the American National Standards Institute Specifications for Sound Level Meters (ANSI S1.4 1971), properly calibrated, and operated on the A-weighting network.

DECIBEL

A unit for measuring the volume of a sound, equal to the logarithm of the ratio of the sound pressure of the sound to the sound pressure of a standard sound (0.0002 microbar); abbreviated "dB."

FREQUENCY

The number of oscillations per second, expressed in hertz (abbreviation "Hz").

HOMEOWNER'S LIGHT RESIDENTIAL OUTDOOR EQUIPMENT

All engine or motor-powered garden or maintenance tools intended for repetitive use in residential areas, typically capable of being used by a homeowner, with the exception of the use/operation of gas powered leaf blowers regulated separately herein. Examples of homeowner's light residential outdoor equipment are lawn mowers, garden tools, riding tractors, snowberry's, snow plows, etc.

Hz The abbreviation for hertz, equivalent to cycles per second.

INDUSTRIAL DISTRICT

All zoning districts identified as "industrial districts" pursuant to Chapter 330 of this Code. [Amended 7-10-1990 by L.L. No. 19-1990]

NOISE POLLUTION

[Amended 5-22-1984 by L.L. No. 10-1984]

The presence of that amount of acoustic energy for that amount of time necessary to:

- A.** Cause temporary or permanent hearing loss in persons exposed;

- B.** Otherwise be injurious, or tend to be, on the basis of current information, injurious to the public health or welfare;

- C.** Cause a nuisance;

D. Exceed standards or restrictions established herein; or

E. Interfere with the comfortable enjoyment of life and property or the conduct of business. The following are deemed to interfere with the comfortable enjoyment of life and property or the conduct of business:

(1) Yelling, shouting, hooting, whistling or singing on the public streets or from private property at any time that annoys or disturbs the quiet, comfort or repose of person or persons in the vicinity and that such noise is plainly audible at a distance of 50 feet from the area, building, structure or vehicle from which such noise emanates.

(2) The using of, operating of or permitting to be played, used or operated, any radio, receiving set, musical instrument, phonograph, television set or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants and in such a manner as to be plainly audible at a distance of 50 feet from the area, building, structure or vehicle in which it is located.

OCTAVE BAND SOUND PRESSURE LEVEL

Sound pressure level measured in standard octave bands with sound level meter and octave band analyzer that meet ANSI S1.4 and S1.11, or the latest revision thereof.

PERSON

An individual, association, firm, syndicate, company, trust, corporation, department, bureau or agency or any other entity recognized by law as the subject of rights and duties.

RESIDENTIAL DISTRICT

All zoning districts identified as "residential districts" pursuant to Chapter 330 of this Code. [Amended 7-10-1990 by L.L. No. 19-1990]

SECTION 3. Amendment.

Subsection 2 (General Prohibition.) of Southampton Town Code Chapter 235 (Noise), is hereby amended by deleting the stricken words and adding the underlined words as follows:

§235-2. General Prohibitions.

[Amended 6-14-1988 by L.L. No. 7-1988; 7-12-1988 by L.L. No. 15-1988]

A. General Prohibition.

No person or persons owning, leasing or controlling the operation of any source of noise shall permit the establishment of a condition of noise pollution. Except as provided in § 235-4, the use of amplifiers, speakers or other machines or devices capable of reproducing amplified sound on the exterior of any premises, dwelling or building within the Town shall be considered noise pollution and shall be prohibited at all times.

B. Gas Powered Leaf Blowers.

Notwithstanding any provision herein to the contrary, the following restrictions shall apply to the use of gas powered Leaf Blowers:

1. Gas powered Leaf Blowers shall not be used/operated within the unincorporated portions of the Town of Southampton from May 20th through and including September 20th.
2. Gas powered Leaf Blowers may be used/operated within the unincorporated portions of the Town of Southampton from September 21st through and including May 19th are subject to the following restrictions, and shall otherwise be in conformance with all restrictions regulating Homeowners Light Residential Outdoor Equipment as set forth in Section 235-3 (Noise Standards) herein:
 - a. Operation and use shall only be between 8:00 a.m. through 6:00 p.m. Monday through Friday, 8:00 a.m. through 5 :00 p.m. Saturdays and there will be no use permitted on Sundays or Federal Holidays. All to be in addition to the following:
 - b. Walk-behind gas powered leaf blowers may not be used unless the property that is being cleaned is greater than ½ acre.
 - c. No more than a total of two gas powered handheld or backpack leaf blowers may be used at a time, unless the property that is being cleaned is greater than ½ acre.

SECTION 4. Amendment.

Subsection 4 (Exceptions.) of Southampton Town Code Chapter 235 (Noise), is hereby amended by deleting the stricken words and adding the underlined words as follows:

§235-4. Exceptions.

- A. The provisions of §235-3 shall apply to the use or occupancy of any lot or structure thereon and to noise produced thereby except the following:
 - (1) The intermittent or occasional use between 7:00 a.m. through 7:00 p.m. of homeowner's light residential outdoor equipment, exclusive of the use/operation of gas powered Leaf Blowers regulated separately herein pursuant to Subsection 235-2 herein, or commercial service equipment, provided that said equipment and its use comply with the other provisions hereof.
 - (2) Construction activities between 7:00 a.m. through 7:00 p.m. Monday through Friday and the associated use of construction devices or the noise produced thereby, provided that such activities and such equipment and their use comply with the other provisions herein.
 - (3) Construction activities between 8:00 a.m. through 6:00 p.m. Saturday and/or ©Sunday and the associated use of construction devices or the noise

produced thereby, provided that such activities and such equipment and their use comply with the other provisions herein.

- (4) Agriculture.
- (5) Noise from church bells or chimes used in conjunction with religious services.
- (6) Public celebrations.
- (7) Noise of aircraft flight operations.
- (8) The lawful operation of properly equipped motor vehicles on any public way.
- (9) Noise from snow blowers, snow thrower's and snow plows when operated with a muffler for the purpose of snow removal.
- (10) Noise generated from lawful athletic or recreational events held on the property of the Town of Southampton so suited for such activities.
- (11) Organized activities sponsored by any school district, private school or fire district or department within the Town of Southampton.
- (12) Noise from municipally sponsored celebrations or events.
- (13) Noise from lawful fireworks displays, parades, carnivals and the like held in accordance with all pertinent provisions of the Southampton Town Code.
- (14) Noncommercial public speaking and public assembly activities conducted on any public space or public right-of-way.
- (15) Emergency construction or repair work performed by or authorized by the State of New York, the County of Suffolk, the Town of Southampton, Long Island Lighting Company, New York Telephone or any other recognized utility serving the area.
- (16) The activities of any fire department, ambulance squad or similar emergency or rescue organization.
- (17) Noncommercial amplified sound that does not exceed the noise standard established in §235-3 of this chapter.

SECTION 5. Authority.

The proposed local law is enacted pursuant to Municipal Home Rule Law §§10(1)(i), 10(1)(ii)(a)(11), and 10(1)(ii)(a)(12), as well as in furtherance of Town Law §130(11).

SECTION 6. Severability.

If any section or subsection, paragraph, clause, phrase or provision of this law shall be adjudged invalid or held unconstitutional by any court of competent jurisdiction, any

judgment made thereby shall not affect the validity of this law as a whole or any part thereof other than the part or provisions so adjudged to be invalid or unconstitutional.

SECTION 7. Effective Date.

This local law shall take effect upon filing with the Secretary of State pursuant to Municipal Home Rule Law.

AND BE IT FURTHER RESOLVED, that the Town Clerk is hereby authorized and directed to publish the following Notice of Public Hearing:

NOTICE OF PUBLIC HEARING

TAKE NOTICE that a public hearing will be held by the Town Board of the Town of Southampton on Tuesday, **February 22, 2022, at 6:00 p.m. via video conference**, to hear any and all persons either for or against a local law entitled: "A LOCAL LAW amending Town Code Chapter 235, entitled "Noise" to add provisions implementing a seasonal restriction and otherwise regulating the use/operation of gas powered leaf blowers,"

FURTHER NOTICE, that due to public health and safety concerns related to COVID-19, the Southampton Town Board will not be meeting in-person. In accordance with Chapter 1 of the Laws of 2022, the Town Board meeting will be held via video conferencing, and a transcript will be provided at a later date. The public will have an opportunity to see and hear the meeting live, and to provide comments.

The public can watch the live meeting online from the Town of Southampton website on the Town Clerk's Meeting Portal, via You tube, or through the Zoom App. Comments can also be emailed up until one hour before the start of the meeting to the Town Clerk at townclerk@southamptontownny.gov <<mailto:townclerk@southamptontownny.gov>> <<mailto:townclerk@southamptontownny.gov>> In addition, the record will remain open after the public hearing for the submission of written comments.

Please continue to check the Town Clerk's website and meeting Portal as the hearing date approaches for further instructions on how to access the virtual meeting, and for any updated information.

SUMMARY OF PROPOSED LAW

The purpose of this local law is to amend the Town Code to enact a seasonal restriction on the operation/use of gas powered leaf Blowers from May 20th through and including September 20th. It further provides for additional regulations during the time when the operation/use of gas powered Leaf Blowers is allowed.

Copies of the proposed local law, sponsored by Councilman Bouvier, are on file in the Town Clerk's Office, Monday through Friday, from 8:30 a.m. to 4:00 p.m.

BY ORDER OF THE TOWN BOARD
TOWN OF SOUTHAMPTON, NEW YORK
SUNDY A. SCHERMEYER, TOWN CLERK

Financial Impact

None.

RESULT:	ADOPTED [4 TO 1]
MOVER:	John Bouvier, Councilman
SECONDER:	Tommy John Schiavoni, Councilman
AYES:	Jay Schneiderman, Rick Martel, John Bouvier, Tommy John Schiavoni
NAYS:	Cynthia McNamara