



RESOLUTION 2021-394

Item # 4.C.6

ADOPTED

DOC ID: 24020 B

Adopt New Chapter 155 Landscaping & Gardening

WHEREAS, the Town of East Hampton held a public hearing to consider a local law enacting restrictions on the use of leaf blowers based upon complaints from various residents and organizations related to the impacts upon leaf blowers upon the environment as well as the noise impacts to community members; and

WHEREAS, the Town Board, after hearing the comments of the public, believe that the adoption of the regulations as set forth in the local law are appropriate, and the Town Board wishes to proceed with the adoption of the proposed regulations; and

WHEREAS, adoption of the proposed regulations are a Type II action pursuant to the new York State Environmental Quality review Act (SEQRA) Regulations 617.5(c) (6) & (27); now, therefore, be it

RESOLVED, that Chapter 155 "Landscaping and Gardening", is hereby adopted to read as follows:

Introductory No.3 of 2021

Local Law No. 7 of 2021

BE IT ENACTED by the Town Board of the Town of East Hampton as follows:

Section I TOWN CODE AMENDED. Chapter 155 "Landscaping and Gardening" is hereby adopted to read as follows.

Chapter 155 Landscaping and Gardening.

155-1 Findings:

A. This local law establishes Chapter 155 of the Town Code entitled "Landscaping" to advance the interests of Town residents in encouraging green landscaping practices, protecting public health by eliminating emissions from the use of gas and diesel-powered leaf blowers, reducing noise, and deterring unlicensed landscapers.

B. Based on this research and information from various sources, the Town Board finds that certain commercial landscaping and gardening activities do pose a risk of noise, odor, and pollution that may otherwise disturb the public health and welfare of Town residents. Scientific studies have been presented to this Board indicating that emissions from gas-powered leaf blowing equipment can cause deleterious health effects for those in the vicinity of their use. Further, the use of this equipment causes an unreasonable amount of noise that is detrimental to the quiet enjoyment of neighboring residences.

C. The current Town Code, though requiring Home Improvement Contractor's Licenses for commercial landscapers who also do installations of outdoor improvements such as walkways, patios, and similar structures as a part of their services, does not require a license for commercial landscapers who only engage in property maintenance such as cutting lawns and raking and disposing of leaves. However, the Town requires a mechanism to contact commercial landscapers working within the Town to assure that they are aware of the restrictions and limitations placed upon such activities by this local law, and to adequately enforce the provisions of this Chapter.

D. This chapter, adopted pursuant to the authority of the Town Law and the Municipal Home Rule Law of the State of New York, will limit the use of gas-and diesel powered leaf blowers, and all leaf blowers during certain days and times, and create a licensing requirement for commercial landscapers engaged in property maintenance.

155-2. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

COMMERCIAL LANDSCAPING

A form of Home Improvement Contracting involving any landscaping, gardening or groundskeeping services, for a fee, charge, or other compensation, to or for the benefit of any owner, tenant, or occupant of any lot, plot, or parcel of land within the Town.

COMMERCIAL LANDSCAPING LICENSE

An endorsement by the Town of East Hampton to a landscaper's Home Improvement Contractor's License to allow a landscaper to perform Commercial Landscaping activities within the Town of East Hampton.

GARDENING

The tilling, sowing, cultivating, trimming, fertilizing, pruning, cutting, shaping, treating, spraying, or otherwise maintaining and/or providing care for any lawn, sod, trees, flowers, shrubs, bush, plants, or other flora on any lot, plot, or parcel of land.

GAS or DIESEL POWERED LEAF BLOWER

Any device powered by a gasoline, diesel or similar fuel engine which is used, designed, or operated to produce a current of air for the purpose of pushing, propelling or blowing leaves, dirt, gardening and grass clippings and cuttings, refuse or debris, whether portable and carried, or walked behind, or attached to a tractor or similar machine.

ELECTRIC POWERED LEAF BLOWER

Any device powered by electric, by battery or by corded electrical power, which is used, designed, or operated to produce a current of air for the purpose of pushing, propelling or blowing leaves, dirt, gardening and grass clippings and cuttings, refuse or debris, whether portable and carried, or walked behind, or attached to a tractor or similar machine.

GROUNDSKEEPING

The cleaning of any lot, plot, or parcel of land by means of gathering and/or removing weeds or any fallen, diseased, dead, or discarded tree limbs, branches, brush, leaves, grass, or lawn clippings, fruit or flower waste, or other plant waste and any litter, dirt, debris, rubbish, or other refuse or waste present or engendered on or about the premises. Groundskeeping does not include the removal of litter, dirt, debris, rubbish, or other refuse or waste by a commercial refuse carter which is not performing any other commercial landscaping services to or for the benefit of the owner, tenant, or occupant of the lands, grounds, or buildings from which the removal is taking place.

HOLIDAY

New Year's Day, Memorial Day, the Fourth of July, Labor Day, Veterans Day, Thanksgiving Day and Christmas Day.

LANDSCAPER

Any person, over the age of eighteen (18) firm, corporation, or other entity performing commercial landscaping services.

LANDSCAPING

The planting, transplanting, arranging, placing, and/or removal of any lawns, sod, trees, flowers, shrubs, bushes, plants, or other flora on any lot, plot, or parcel of land for a planned design or purpose or to achieve some aesthetic effect. Such activities shall not include the installation of any outdoor improvements requiring a Home Improvement Contractors License unless such commercial landscaper also holds a Home Improvement Contractor's License.

155-3. License required; exceptions.

A. It shall be unlawful for any person to engage in, or practice the trade or business of, commercial landscaping within the Town without obtained and having in force a commercial landscaper's endorsement to their Home Improvement Contractor's license pursuant to the requirements of this chapter.

B. Commercial landscaping work may be performed without a license by the owner, lessee or occupant of the property upon which the work is being performed, or an employee of the owner, lessee, or occupant, provided that such employee does not provide commercial landscaping for other properties within the Town and does not receive compensation for such commercial landscaping work.

C. The limitations contained herein as they apply to the use of gas or diesel powered leaf blowers applies to all use of such equipment whether performed by a licensed person or legally unlicensed person under this Chapter.

155- 4. Application procedure; fee; expiration; decals.

A. Any commercial landscaper applying for a Home Improvement Contractor's license or any renewal thereof shall file with the Town Clerk a written acknowledgement, as a part of their application or renewal, upon forms to be furnished by the Town Clerk, confirming their receipt of a copy of this Chapter and the requirement that such commercial landscaper shall be bound by the regulations contained herein.

B. In addition, if the commercial landscaper uses or intends to use regulated chemicals or pesticides, proof of applicable New York State Department of Environmental Conservation certificate must be submitted at the time of application and/or renewal.

C. In addition, if the commercial landscaper uses or intends to apply fertilizer product(s), proof of a certificate of completion of a Suffolk County Nitrogen Fertilizer Turf Management Course must be submitted at the time of application and/or renewal

155-5. Regulations.

A. No homeowner or tenant performing groundskeeping, or landscaper or other person in control of performing or providing commercial landscaping services shall engage in the following or permit any person who is within their employ or control to:

(1) Blow, rake, place, spill, dump, or otherwise deposit any leaves, grass, garbage, refuse, cuttings, wood, oil, pesticides or other materials or debris from one property onto any public property, including, but not limited to, streets, sidewalks and rights-of-way, or upon the private property of another person without such other person's permission.

(2) Remove leaves, clippings or other yard waste in a truck, dump truck, van, or other motor vehicle, trailer, container, or other towable device without securing a tarpaulin or other cover to prevent spillage.

(3) Spill or dump any oil, gasoline or other petroleum products within the Town.

(4) Fill or refill any machinery or equipment with any fuel or lubricant except over a drop cloth or other device designed to catch and retain any accidental spillage.

(5) Dispose of grass, leaves, branches and other groundskeeping waste by burning in violation of Chapter 141 of the Town Code.

B. All commercial landscaping shall be performed in accordance with the laws, ordinances, rules, and regulations of the United States, the State of New York, the County of Suffolk, and this Chapter of the East Hampton Town Code.

C. In reviewing any complaint filed with the Town Contractors Licensing Review Board with regard to a licensed Home Improvement Contractor performing commercial landscaping services, the Contractor's compliance with the requirements of this Chapter shall be considered by the Review Board in determining such Complaint, and determining an appropriate resolution to the Complaint.

D. No walk behind leaf blowers powered by gas or diesel shall be utilized upon any property within the Town of East Hampton, exclusive of any property in any incorporated village, unless such property is greater than one acre in area,

E. No more than two leaf blowers of any power source (handheld, backpack, walk-behind or any combination thereof) shall be used at any one time on any property, exclusive of property in any incorporated village, unless such property is greater than one acre in area.

F. No gas or diesel generators may be utilized to power any electric leaf blowers at any time.

155-6. Operation of Leaf Blowers within the Town.

A. No landscaper, homeowner, business owner or municipal employee shall operate any gas or diesel powered leaf blower:

(1) during the period from May 20th to September 20th of any year;

(2) from September 21 to May 19th of any year, before 8:00 a.m. or after 6:00 p.m. on any weekday;

(3) from September 21 to May 19th of any year, before 9:00 a.m. or after 5:00 p.m. on Saturdays;

(4) from September 21 to May 19th of any year, on Sunday or on federal or New York State holidays, unless such leaf blower is operated by the homeowner or tenant, and only between the hours of 9:00 a.m. and 3 p.m.;

B. For purposes of reducing noise, from May 20th to September 20th of any year, no leaf blowers, regardless of the source of power (gas, diesel or electric) shall be operated on a Sunday.

C. The restrictions and limitations set forth in Section A hereof shall apply to all properties located within the boundaries of the Town of East Hampton, including but not limited to beach clubs, golf clubs, tennis clubs, restaurants, and shopping centers.

D. Exceptions:

The restrictions and limitations set forth in this Section shall not apply:

(1) During times of emergency as determined by executive order of the Town Supervisor, provided the use of such equipment which is non-compliant with this Chapter is deemed necessary by the Supervisor or other emergency response official to adequately and expeditiously address the emergency.

(2) The Supervisor or his or her designee, may, in his or her discretion and upon application, grant a temporary permit to allow the operation of one or more gas-powered leaf blowers to accommodate a special circumstance. By way of illustration, a "special circumstance" includes, among other things, the remediation of an abandoned or neglected property, the cleanup of streets and roadways following a severe storm or any emergency situation which presents an immediate danger to public health and safety.

155-7. Suspension or revocation of license.

A violation of any provision of this Chapter shall be deemed a violation of the Licensee's Home Improvement Contractor's License and in addition to the penalties set forth in this chapter, the License Review Board which shall have authority to conduct investigations into any complaints and such violations shall be a basis for the limitation, suspension and/or revocation of the Contractors Home Improvement Contractors License.

155-8. Penalties for offenses.

A. Any person or persons who shall violate any of the provisions of this chapter, shall be subject to the following penalties:

(1) For conviction of a first offense, by a fine of not more than \$1,000.

(2) For conviction of the second of two offenses, both of which were committed within a period of five years, by a fine of not less than \$1,500 and not more than \$2,500.

(3) For conviction of a third or subsequent offense, all of which were committed within a period of five years, by a fine of not more than \$5,000.00.

155-9. Severability.

If any clause, sentence, paragraph, section, word or part of this chapter is adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder of this chapter but shall be confined in its operation to the clause, sentence, paragraph, section, word or part of this chapter directly involved in the controversy in which judgment is rendered.

Section II - Effective Date:

This local law shall take effect immediately upon filing with the Secretary of State as required by law.

Dated: March 18, 2021

BY ORDER OF THE TOWN BOARD
TOWN OF EAST HAMPTON

Carole A. Brennan

Town Clerk

RESULT: ADOPTED [4 TO 1]

MOVER: Sylvia Overby, Councilwoman

SECONDER: Jeffrey Bragman, Councilman

AYES: Kathee Burke-Gonzalez, Sylvia Overby, Jeffrey Bragman, Peter Van Scoyoc

NAYS: David Lys



RESOLUTION 2021-395

Item # 4.C.7

ADOPTED

DOC ID: 24021 B

Adopt Local Law to Amend Chapter 185 (Noise)

WHEREAS, the Town of East Hampton held a public hearing to consider a local law enacting restrictions on the use of leaf blowers based upon complaints from various residents and organizations related to the impacts upon leaf blowers upon the environment as well as the noise impacts to community members, and in connection with such regulations, proposed a revision to Chapter 185 (Noise) to reference that leaf blowers would be regulated under Chapter 155 (Landscaping & Gardening); and to amend Section 185-4 "Exceptions", Paragraph "A" to remove from the listed exceptions, gas, diesel and electric powered leaf blowers, which shall be regulated pursuant to Chapter 155 of the Town Code.

WHEREAS, the Town Board, after hearing the comments of the public, believe that the adoption of the regulations as set forth in the local law are appropriate, and the Town Board wishes to proceed with the adoption of the proposed regulations; and

WHEREAS, adoption of the proposed regulations are a Type II action pursuant to the new York State Environmental Quality review Act (SEQRA) Regulations 617.5(c) (20); now, therefore, be it

RESOLVED, that said local law is hereby adopted, to read as follows:

Introductory No. 4 of 2021

Local Law No. 8 of 2021

BE IT ENACTED by the Town Board of the Town of East Hampton as follows:

Section I TOWN CODE AMENDED.

Chapter 185 "Noise", Section 185-04 "Exceptions" , paragraph "A" is hereby amended to read in its entirety as follows.

The intermittent or occasional use between 7:00 a.m. and 8:30 p.m. of homeowners' light residential outdoor equipment or commercial service equipment except gas, diesel and electric powered leaf blowers, which shall be regulated pursuant to Chapter 155 of the Town Code, provided that said equipment and its use comply with the other provisions hereof.

Section II - Effective Date:

This local law shall take effect immediately upon filing with the Secretary of State as required by law.

Dated: March 18, 2021

BY ORDER OF THE TOWN BOARD
TOWN OF EAST HAMPTON

Carole A. Brennan
Town Clerk

RESULT: ADOPTED [UNANIMOUS]

MOVER: Sylvia Overby, Councilwoman

SECONDER: Jeffrey Bragman, Councilman

AYES: Burke-Gonzalez, Lys, Overby, Bragman, Van Scoyoc