

Ordinance No.: 19-08
Introduced: June 12, 2019
Adopted: July 16, 2019
Effective: September 1, 2019

TOWN OF CHEVY CHASE

SUBJECT: AN ORDINANCE TO AMEND SECTION 15-40 OF THE TOWN CODE TO LIMIT THE PERMISSIBLE OPERATION HOURS FOR GASOLINE-POWERED LEAF BLOWERS AND TO EXTEND THE PERMISSIBLE OPERATION HOURS FOR ELECTRICAL EQUIPMENT

WHEREAS, Section 5-202 of the Local Government Article of the Maryland Code grants to the legislative body of every incorporated municipality in Maryland, including the Town of Chevy Chase, general power to pass such ordinances not contrary to the Constitution of Maryland or public general law as deemed necessary in order to assure the good government of the municipality, to protect and preserve the municipality's rights, property, and privileges, to preserve peace and good order, to secure persons and property from danger and destruction, and to protect the health, comfort, and convenience of the citizens of the municipality; and

WHEREAS, the Town Climate and Environment Committee has recommended that the Town Council expand the quiet hours for gasoline-powered leaf blowers; and

WHEREAS, Section 301(a) of the Charter of the Town of Chevy Chase authorizes the Town Council to pass ordinances not contrary to the Constitution and laws of the State of Maryland or the Charter as it may deem necessary for the good government of the Town; for the protection and preservation of the Town's property, rights, and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger or destruction; for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of the Town and for such other police or health matters as it may deem necessary; and

WHEREAS, the Town Council introduced the following ordinance in public session assembled on the 12th day of June, 2019; and

WHEREAS, the Town Council held a public hearing on the following ordinance in public session assembled on the 16th day of July, 2019; and

WHEREAS, upon consideration of the recommendation of the Climate and Environment Committee, and the testimony and evidence presented at the public hearing, the Town Council finds that the permissible operation hours for gasoline-powered leaf blowers should be restricted and the hours for more environmentally-friendly electrical equipment should be expanded; and

WHEREAS, the Town Council finds that the following ordinance is necessary for the good government of the Town; for the protection and preservation of the Town's property,

rights, and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of the Town.

NOW, THEREFORE, the Town Council of the Town of Chevy Chase does hereby adopt the following ordinance:

SECTION 1. BE IT ORDAINED AND ORDERED, this 16th day of July, 2019, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the authority granted to it by the Maryland Code and the Town Charter, that the Town Code is amended to read as follows:

Sec. 16-1 - Noise restrictions.

The following provisions shall apply in the Town of Chevy Chase in addition to the provisions of chapter 31B of the Montgomery County Code:

(1) **Construction.** ~~No~~ **It shall be unlawful to engage in** construction activities ~~shall commence prior to~~ **before** 7:00 a.m. on weekdays, ~~and~~ **or** 9:00 a.m. on weekends and all federal holidays. ~~Construction activities shall end no later than,~~ **and after** 7:00 p.m. on all days. As used herein, "construction activities" means temporary activities directly associated with site preparation, assembly, erection, repair, alteration, renovation, construction, or demolition of improvements, or other similar activities including, but not limited to, moving heavy equipment, delivering materials, loading or unloading, operating equipment with audible "back-up" warning devices, and allowing engines to idle.

(2) **Landscaping.** ~~Special noise limits. It shall be unlawful for any person to engage in, or permit another to engage in, the following conduct:~~

a. ~~Except in an emergency, operate more than one (1) piece of outdoor landscaping power equipment on a property between the hours of 7:00 p.m. and 8:00 p.m. on weekdays;~~

b. ~~Except in an emergency, operate outdoor landscaping power equipment after 8:00 p.m. or before 8:00 a.m. on weekdays or after 7:00 p.m. or before 9:00 a.m. on weekends and all federal holidays;~~

a. Gasoline-powered.

(i) **It shall be unlawful to operate a gasoline-powered leaf blower before 9:00 a.m. and after 7:00 p.m., on all days.**

(ii) It shall be unlawful to operate other gasoline-powered landscaping equipment before 8:00 a.m. on weekdays, before 9:00 a.m. on weekends and all federal holidays, after 8:00 p.m. on weekdays, and after 7:00 p.m. on weekends and all federal holidays.

b. Electric or Battery-powered. It shall be unlawful to operate electric or battery-powered landscaping equipment before 8:00 a.m. on weekdays, before 9:00 a.m. on weekends and all federal holidays, and after 8:00 p.m. on all days.

c. As used herein, "~~outdoor~~-landscaping ~~power~~ equipment" means motorized equipment such as a lawn mower, chainsaw, leaf blower, **weed trimmer**, or other similar equipment **operated outdoors**. "~~Outdoor~~-~~landscaping~~ ~~power~~ equipment" does not include motor vehicles or fixtures such as air conditioners, heat pumps, back-up generators and similar equipment attached to a building.

(3) **Penalties.** Violation of any provision of this chapter shall be a municipal infraction. Any person or persons guilty of a municipal infraction shall be subject to a fine in the amount specified below:

- a. First violation \$200.00
- b. Second violation **\$400.00**
- c. Third violation **\$1,000.00**

d. Any person who violates this chapter or directs or allows another to commit an act that violates this chapter, the person's employer if the person acted in the course of his or her employment, and any property owner who allows a violation of this chapter on his or her property shall be guilty of a violation and shall be jointly and severally subject to the penalties provided in subsections a. through c. If a violation occurs, there shall be a rebuttable presumption that all owners of the property allowed the violation.

(4) **Enforcement.** An enforcement officer may issue a municipal infraction citation for any violation of this chapter if the enforcement officer:

- a. Witnesses the violations; or
- b. Receives written complaints from at least two (2) witnesses, who are not residents at the same address, of a noise disturbance. Complaints by two (2) witnesses are required to issue a citation under this paragraph, but are not required to prove that a person violated this chapter. The complainants must be willing to testify in court, if required.

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SECTION 2. AND BE IT FURTHER ORDAINED AND ORDERED, this 16th day of July, 2019, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the

authority granted to it by the Maryland Code and the Town Charter that, that:

- (1) To assist the public in understanding the permissible hours of operation for landscaping equipment, the following table may be published by the Town Manager:

	Permissible Hours	
Construction activities	<i>Weekdays</i>	<i>Weekends and Holidays</i>
	From 7:00 am to 7:00 pm	From 9:00 am to 7:00 pm
Landscaping equipment		
Gas-powered leaf blower	<i>Weekdays</i>	<i>Weekends and Holidays</i>
	From 9:00 am to 7:00 pm	From 9:00 am to 7:00 pm
All other gas-powered equipment	<i>Weekdays</i>	<i>Weekends and Holidays</i>
	From 8:00 am to 8:00 pm	From 9:00 am to 7:00 pm
All electric or battery-powered equipment	<i>Weekdays</i>	<i>Weekends and Holidays</i>
	From 8:00 am to 8:00 pm	From 9:00 am to 8:00 pm

Effective September 1, 2019

- (2) If any part or provision of this ordinance is declared by a court of competent jurisdiction to be invalid, the part or provision held to be invalid shall not affect the validity of the ordinance as a whole or any remaining part thereof; and
- (3) This ordinance shall take effect on the 1st day of September, 2019.

ATTEST:

TOWN OF CHEVY CHASE

Wicca Davidson, Secretary

Barney Rush, Mayor
Town of Chevy Chase

Bold and Underline indicates new material
~~Strike through~~ indicates material deleted
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