

RESOLUTION OF ADOPTION OF A LOCAL LAW AMENDING CHAPTER 78 (NUISANCES) TO IDENTIFY NUISANCES FROM UNNECESSARY NOISE FROM CONSTRUCTION, PROPERTY MAINTENANCE AND LANDSCAPING, AND GAS-POWERED LEAF BLOWERS.

WHEREAS, Board of Trustees of the Village of Southampton have proposed a Local Law amending Chapter 78 (Nuisances) to identify nuisances from unnecessary noise from construction, property maintenance and landscaping, and gas-powered leaf blowers; and

WHEREAS, a public hearing was held on January 22, 2019, March 14, 2019 and March 26, 2019; and

WHEREAS, the adoption of said local law is considered to be a Type II Action under 6 NYCRR §617.5(c), SEQRA and will not have a significant adverse impact upon the environment;

NOW, THEREFORE, BE IT RESOLVED, that Local Law No. 5 of 2019 is hereby adopted as follows:

LOCAL LAW NO. 5 OF 2019

A LOCAL LAW amending Chapter 78 (Nuisances) to identify nuisances from unnecessary noise from construction, property maintenance and landscaping, and gas-powered leaf blowers.

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

Section 1. Conduct, activities and conditions associated with construction, property maintenance and landscaping cause noise and other impacts negatively effecting the atmosphere and peace, comfort, repose and tranquility of the Village particularly during weekends, and throughout the summer season when most residents and tourists are enjoying their homes and properties. Despite the limitations on noise in Chapter 77 and certain public nuisances in Chapter 78, the conduct, activities and conditions involving construction, property maintenance and landscaping have been to date difficult to limit and enforce under the current regulations. It is the intent and purpose of this Local Law to identify certain conduct, activities and conditions associated with construction, property maintenance and landscaping, including deliveries associated with such work, that have become detrimental to the public health safety and welfare and to provide reasonable limitations on when such activities may take place so as to minimize and avoid negative impacts.

Section 2. Amendment. Amend Chapter 78 (Nuisances) of the Village Code by deleting strikethrough words and adding underlined words as follows:

§78-4. Unnecessary noise and activities from Construction, Property Maintenance and Landscaping; Gas-powered Leaf Blowers.

A. The Board of Trustees finds that noise emanating from certain conduct, activity or conditions related to construction, property maintenance and landscaping, and the operation of gas-powered leaf blowers unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the Village of Southampton and such conduct, activity or conditions related to construction, property maintenance and landscaping work, and gas-powered leaf blowers shall be deemed to create a public nuisance as set forth herein.

B. The following acts are declared to create a public nuisance during the times set forth herein:

(1) Construction work.

(a) "Construction work" shall mean any work performed by one or more employees and/or independent contractors pursuant to an oral or written agreement for compensation and involving the construction, reconstruction, erection, alteration, repair, addition to, demolition or removal of buildings or structures, or the excavation, clearing, filling or grading of land, or the placement or removal of earth, stone or building material of any kind, or other improvement of any realty, building or structure, whether or not the work involves the use of machinery or power tools. The term "construction work" shall not mean the performance of necessary emergency repairs.

(b) So that residents may enjoy the quiet use of their property, no person shall engage in construction work, or deliveries in connection with construction work, earlier than 8:00 a.m. or later than 6:00 p.m., prevailing time, on any weekday, and no earlier than 9:00 a.m. or later than 5:00 p.m. on Saturdays. Construction work and deliveries in connection with construction work are prohibited at all times on Sunday and on federal and state holidays.

(2) Property maintenance and/or landscaping.

(a) "Property maintenance and landscaping work" shall mean any work performed by one or more employees and/or independent contractors pursuant to an oral or written agreement for compensation and involving the excavation, clearing, filling or grading of land, or the placement or removal of earth, stone or material of any kind, or the process of tending, planting, installing, maintaining, mowing, or repairing lawns, gardens, hedges, flower beds, shrubbery, trees, or vegetation of any kind, which work involves the use of machinery or power tools, including but not limited to vehicles, tractors, lawn mowers, weed trimmers, leaf blowers and hedge trimmers. The term property maintenance and landscaping work shall not include swimming pool maintenance or snow plowing, snow blowing or other snow removal activities. The term "property maintenance and landscaping work" shall not mean the performance of necessary emergency repairs or clean-ups after major storms when the Mayor has declared a state of emergency.

(b) So that residents may enjoy the quiet use of their property, no person shall engage in property maintenance or landscaping, or deliveries in connection with property maintenance and landscaping, earlier than 8:00 a.m. or later than 6:00 p.m., prevailing time, on any weekday, and no earlier than 9:00 a.m. or later than 5:00 p.m. on Saturdays. Property maintenance and landscaping, and deliveries in connection with property maintenance and landscaping work, are prohibited at all times on Sunday and on federal and state holidays. Notwithstanding anything to the contrary herein, beach and tennis clubs, and municipal employees may engage in property maintenance and landscaping work in the performance of their regular and customary duties commencing no earlier than 6:00 a.m.

(3) Use of gas-powered leaf blowers. Notwithstanding any provision of this Chapter to the contrary, the following restrictions shall apply to the use of gas-powered leaf blowers:

(a) Gas-powered leaf blowers shall not be used from May 20 until September 20.

(b) Gas-powered leaf blowers may be used from September 21 until May 19 no earlier than 8:00 a.m. or later than 6:00 p.m., prevailing time, on any weekday, and no earlier than 9:00 a.m. or later

than 5:00 p.m. on Saturdays. The use of gas-powered leaf blowers are prohibited at all times on Sunday and on federal and state holidays.

(c) The restrictions governing the use of a gas-powered leaf blower shall also apply to beach and tennis clubs, and municipal employees.

(d) Gas-powered leaf blowers may be used when responding to an emergency or clean-up after a major storm when the Mayor has declared a state of emergency.

(e) In addition to the time limitations above, walk-behind leaf blowers may not be used unless the property that is being cleaned is greater than 1/2 acre.

(f) No more than a total of two handheld or backpack leaf blowers may be used at a time, unless the property that is being cleaned is greater than 1/2 acre.

C. Both the owner of any instrumentality undertaking, using or causing the conduct, activity or conditions related to construction, property maintenance and landscaping work, or the operation of gas-powered leaf blowers, as herein provided and its operator shall be deemed to be in violation of this chapter. Property owners who cause, permit, suffer or allow a person to engage in such conduct, activity or conditions related to construction, property maintenance and landscaping, or the operation of gas-powered leaf blowers to occur on his/her/its property, with or without direct knowledge, shall also be deemed to be in violation of this chapter.

~~§78-4.~~ §78-5. Penalties for offenses. Any person committing an offense against any provision of this chapter shall, upon conviction thereof, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding \$1,000 or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

Section 3. Authority. The proposed local law is enacted pursuant to §4-412 of the New York State Village Law, as well as Municipal Home Rule Law §§10(1)(i), and 10(1)(ii)(a)(12).

Section 4. 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 provision so adjudged to be invalid or unconstitutional.

Section 5. 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 Village Administrator is hereby directed to file said Local Law with the Secretary of State; and

AND, BE IT FURTHER RESOLVED, that the Village Administrator is hereby directed to publish the following Notice of Adoption:

NOTICE OF ADOPTION

PLEASE TAKE NOTICE that after public hearings were held on January 22, 2019, March 14, 2019 and March 26, 2019, the Board of Trustees of the Village of Southampton at their meeting of April 11, 2019 adopted LOCAL LAW NO. 5 OF 2019 as follows: “A LOCAL LAW amending Chapter 78 (Nuisances) to identify nuisances from unnecessary noise from construction, property maintenance and landscaping, and gas-powered leaf blowers.”

Copies of the adopted Local Law are on file in the Village Administrator’s office, Monday through Friday, from 9:00 a.m. to 4:00 p.m.

BY ORDER OF THE BOARD OF TRUSTEES
VILLAGE OF SOUTHAMPTON, NEW YORK
RUSSELL KRATOVILLE, VILLAGE ADMINSTRATOR