

TOWN OF CARRBORO
CLIMATE ACTION TEAM



AGENDA
Climate Action Team

January 18, 2024; 7:00 pm
Zoom Virtual Meeting*

Time	Item	
	<u>Call to Order, Announcement</u>	
7:00 pm	Reapprove 11/16/23 Minutes	Chair, All
7:05 pm	Approve 12/14/23 Minutes	Chair, All
	<u>Discussion Items</u>	
7:10 pm	2024 Meeting Dates	Staff, Chair, All
7:15 pm	Current and Upcoming Outreach Topics <ul style="list-style-type: none"> • 2024 Green Neighborhoods Grant Program 	Staff, Chair, All
7:40 pm	Landscaping Equipment Presentation	Staff
	<u>Action Items</u>	
8:00 pm	Prepare Landscaping Equipment Comments	Chair, All
8:45 pm	Discuss Upcoming Meeting Topics, Announcements	Staff, Chair, All
9:00 pm	Adjourn	Chair, All

*To attend this virtual meeting, please use the link below:

Join Zoom Meeting

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***TOWN HALL IS ACCESSIBLE FOR PERSONS WITH DISABILITIES. For more information, contact
Laura Janway at (919) 918-7326.***

TOWN OF CARRBORO
CLIMATE ACTION TEAM- SUMMARY



Meeting on November 16, 2023, 7:00 pm

Board Members	Board Members	Town Council Members	Staff
Chrissie Schalkoff	Jane Danielewicz	Sammy Slade	Laura Janway
Greg Randolph	Tilly Pick		
Heidi Paulsen			
Lauren Nyland			
Nick Stover			

Note: Absent/Excused: Meg Molloy, Rob Pinder

Call to Order, Announcements

The meeting was called to order at 7:06 pm by Co-Chair Pick.

Approve 10/04/23 Meeting Minutes

Stover motioned to approve the 11/04/23 meeting minutes, seconded by Paulsen. All voted in favor. **AYES: (6) Schalkoff, Pick, Stover, Nyland, Danielewicz, Paulsen; NAYES: (0).**

Discussion Items

Co-Chair Pick proposed changing the order of agenda items after the outreach topics and others agreed. Agenda items proceeded as follows:

Current and Upcoming Outreach Topics

- **Leave Your Leaves**
Staff member Janway outlined the initiative and members briefly discussed promotion.
- **Dietary Emissions**
Staff member Janway introduced the initiative and discussed an educational campaign related to reducing dietary emissions in January. Members discussed outreach ideas, including presenting a digital version of the climate-friendly cookbook and writing a news blast to share some of the recipes. Danielewicz asked if Janway could provide information about how many residents are receiving the News Flash materials, as it would be helpful to guide outreach moving forward. Nyland mentioned that it would also be useful to start building the network for the Green Neighborhoods initiative as well.

Co-Chair Pick asked if the cookbook could be interactive, where residents could add recipes and vote for their favorites. Members discussed the potential for a prize gift card or recognition for the resident whose recipe received the most votes. Restaurants using local ingredients were discussed. Members asked if staff could check on the potential budget for offering a gift card and Town Council Member Slade stated that it is possible restaurants could donate a gift card to this cause. Danielewicz stated that she could inquire about this potential with local restaurants and members also discussed asking restaurants to donate cookbook recipes. Co-Chair Schalkoff stated that she could help create a 1-page info sheet for the outreach effort.

Town Council Member Slade recommended that the cookbook be organized seasonally. Co-Chair Pick asked if the cookbook could be hosted on a separate website that climate action team members could manage. Staff member Janway stated she would inquire with staff about this question.

Review and Finalize Green Neighborhoods Plan

Members next decided to discuss the CAT's Green Neighborhoods Plan. Randolph joined at approximately 7:30 pm. Town Council Slade suggested reaching out to residents that have signed up for climate action news as a first step to getting connected to neighborhoods. Members discussed getting access to these lists and stated that and that this was one of the items on their list for the Town's legal counsel to evaluate. Motion by Danielewicz, seconded by Paulsen, to approve the CAT's Green Neighborhoods Plan. All voted in favor. **AYES: (7) Schalkoff, Pick, Stover, Randolph, Nyland, Danielewicz, Paulsen; NAYES: (0).**

Review and Finalize Communications Plan

Motion by Schalkoff, seconded by Stover, to move this item to the next meeting to incorporate comments from the Town. All voted in favor. **AYES: (7) Schalkoff, Pick, Stover, Randolph, Nyland, Danielewicz, Paulsen; NAYES: (0).**

Explore CAT Identity Brief

Members discussed the draft material provided by Co-Chair Pick. Randolph stated that he felt they should mention the concept of equity in their purpose statement. Members continued discussion until 8:21 pm, when Nyland mentioned that a smaller group could look at this and provide comments, then have them ready for the full group to discuss at the next meeting. The group chosen consisted of Randolph, Paulsen, and Pick. Motion by Danielewicz, seconded by Stover, for the group to bring their comments back to the entire CAT in December. All voted in favor. **AYES: (7) Schalkoff, Pick, Stover, Randolph, Nyland, Danielewicz, Paulsen; NAYES: (0).**

Communication and Engagement Principles

At 8:34 pm Co-Chair Pick called a time check and asked if they could move away from discussing the CAT's brand and logo to discussing their Communication and Engagement Principles. He stated that these principles define how the CAT promises to interact with each other and the community. Members discussed the draft materials provided by Pick. Motion by Nyland seconded by Paulsen to bring this item back in December to incorporate edits from a smaller group of members. All voted in favor. **AYES: (7) Schalkoff, Pick, Stover, Randolph, Nyland, Danielewicz, Paulsen; NAYES: (0).**

Discuss Upcoming Meeting Topics, Announcements

Members discussed topics for future meetings. The items discussed were as follows:

- Green Neighborhoods Grant Program – CAT members requested a timeline from staff
- Presentation from Fair Oaks Homeowners' Association regarding their 2023 Green Neighborhoods Grant
 - Staff member Janway mentioned that the Town is discussing an opportunity for all grant recipients to present their projects at the same time. She also stated the potential conflict of interest of CAT members scoring future grant proposals if the Fair Oaks group decides to apply for additional funding in 2024.
 - Co-Chair Pick stated that the Town should not be able to tell them whether or not they can have this group present at their meetings. Randolph stated that the conflict of interest question is another reason why CAT members should not be scoring the grants. Danielewicz agreed, and added that two CAT members live in that neighborhood as well.
 - Motion by Danielewicz, seconded by Stover, that CAT members do not want to be involved in scoring proposals for Green Neighborhoods Grants and will instead work to inform the methodology. All voted in favor. **AYES: (7) Schalkoff, Pick, Stover, Randolph, Nyland, Danielewicz, Paulsen; NAYES: (0).**
 - Members also stated that they wanted to extend the invitation to all groups to come present to them.
- CAT Identity Brief (December)

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- CAT Engagement Principles (December)
 - CAT Communications Plan (December)
 - CAT Proposed Scope of Activities Reviewed by Town Legal Counsel (December)

Adjourn

Town Council Member Slade stated that this was his final CAT meeting as a Council Liaison. He expressed his gratitude to the CAT members for their work. Members thanked Town Council Member Slade for everything he has done for the CAT and stated that he would be missed. Motion to adjourn by Paulsen, seconded by Stover. All voted in favor. **AYES: (7) Schalkoff, Pick, Stover, Randolph, Nyland, Danielewicz, Paulsen; NAYES: (0).** The meeting adjourned at 9:05 pm.

DRAFT

**TOWN OF CARRBORO
CLIMATE ACTION TEAM– SUMMARY**



Meeting on December 14, 2023, 7:00 pm

Board Members	Board Members	Staff	Guests
Lauren Nyland	Jane Danielewicz	Laura Janway	Carrie Donley
Greg Randolph	Chrissie Schalkoff		
Meg Molloy			
Tilly Pick			

Note: Absent/Excused: Rob Pinder, Nick Stover, Heidi Paulsen

Call to Order, Announcements

The meeting was called to order at 7:07 pm by Co-Chair Schalkoff.

Approve 11/16/23 Meeting Minutes

Pick motioned to approve the 11/16/23 meeting minutes with a clarification, seconded by Nyland. *[Staff note: additional information on the clarification is needed from the group.]* All voted in favor. **AYES: (6) Danielewicz, Schalkoff, Pick, Nyland, Molloy, Randolph; NAYES: (0).**

Discussion Items

Co-Chair Schalkoff proposed changing the order of agenda items to discuss the identity brief and communications principles before the draft webpage. Agenda items proceeded as follows:

Current and Upcoming Outreach Topics

- **2024 Green Neighborhoods Grant Program**

Carrboro resident Carrie Donley provided a presentation on a composting project that the Fair Oaks Neighborhood funded through the most recent round of the Green Neighborhoods Grant Program. Presentation topics included: aligning with local and national priorities, program goals and progress, impact report, financial impact, and next steps.

Molloy asked how this program could be scaled-up townwide. Nyland asked if the Town could use the Green Neighborhoods Grant Program to fund larger-scale projects. Pick stated that he tried to initiate a neighborhood composting program in Lake Hogan Farms but residents were concerned with the smell. He asked how to handle that issue and how the CAT could raise funding for a larger-scale program. Donley mentioned an issue that the funding for the Fair Oaks program would run out before they could apply for the next round of Green Neighborhoods Grant Program funding. She stated that she has identified additional grant opportunities but they're mainly for towns and counties.

Randolph discussed how composting helps people feel that they are able to do something about the climate. He stated that there is so much hunger at the local level to be doing something that you feel is making a difference. He discussed strategies to avoid some of the reasons residents might hesitate to compost.

Danielewicz asked if the Town spent all of last year's funding and whether there would be gap funding available for projects. Janway said she would report back to the group. Molloy said she could help look for some grants and maybe the Town and County could be partners. She also offered to call potential funders to

see if that would be an interest and Guest Donley said she would be happy to work with someone to pursue this topic further. Member thanked Donley for her presentation.

- **Dietary Emissions**

Staff member Janway provided an update on the planned outreach. Danielewicz asked for clarification about her task related to restaurant outreach. Janway mentioned that any outreach from the Town would need to go to all restaurants within Carrboro. Danielewicz offered to draft an email for the Town to use.

Communication and Engagement Principles

CAT members finalized the Communication and Engagement Principles as follows:

As Climate Action Team members, when communicating and engaging with each other and the community, we:

- Align ourselves with the Carrboro Climate Action Plan
- Are clear that we are volunteers
- Will not make any promises on behalf of the town of Carrboro
- Support civic participation and community involvement
- Focus on actions and outcomes
- Promote equity by engaging those who are underrepresented, most vulnerable, and have the least resources
- Treat everyone with equal and mutual respect

Motion by Danielewicz, seconded by Pick that the CAT approves these principles. All voted in favor. **AYES: (6)**
Danielewicz, Schalkoff, Pick, Nyland, Molloy, Randolph; NAYES: (0).

CAT Identity Brief

CAT members finalized the Identity Brief as follows:

Identify Brief

Purpose

- Respond collectively as a team to the climate emergency
- Enact and update the climate action plan according to changing information and needs
- Encourage equitable stewardship for the environment within the Town of Carrboro

Objectives

- Achieve Carrboro's CAP goal to reduce carbon emissions by 80% by 2030

Strategies

- Design and deliver local climate change solutions with substantive, immediate impact
- Increase Town resources for the climate action plan by identifying and/or applying to appropriate grants from governmental and private funding sources
- Engage all areas and people of the Town of Carrboro in climate action plan implementation, with a particular focus on those who are underrepresented, most vulnerable, and have the least resources

Values

- Meeting people where they are (by listening to understand, not listening to respond and by not judging or preaching)
- Be encouraging and empowering
- Instigating action based on science
- Building connections (to each other, nature, life) as a community
- Acting with a sense of urgency, also having patience and compassion
- Committed to continuous learning

Motion by Molloy, seconded by Randolph, to accept the identity brief. All voted in favor. **AYES: (6) Danielewicz, Schalkoff, Pick, Nyland, Molloy, Randolph; NAYES: (0).**

Brand Elements / Expression

Molloy stated that the next step for this topic would be for CAT members to meet with the Town's Communications and Engagement Director, Catherine Lazorko. Janway stated she could look into how this meeting could proceed. Randolph asked about the application for the CAT's high school seat and stated it would be great to have that member on the team. Janway provided an update about the Clerk's plans to bring CAT applications forward.

CAT Proposed Scope of Activities

Staff member Janway provided an update that the Town Manager will be arranging a meeting in January with the CAT Chairs, liaison, and the Town Attorney to discuss the CAT's requests. Pick stated that the best time would be first thing in the morning and asked if it would be possible to record the meeting for the rest of CAT.

Communications Plan

Members did not discuss this item.

Draft Webpage Materials

Co-Chair Schalkoff shared her draft webpage with the group. Members shared their approval for the webpage. Danielewicz mentioned that the webpage could contain information about current CAT projects and how to join the team. Molloy mentioned that there could also be a link to the monthly topic that the Town wants to push out. Staff member Janway mentioned that she would send everyone a shared version of the calendar and Danielewicz mentioned that it would be helpful to put that calendar on the webpage as well.

Discuss Upcoming Meeting Topics, Announcements

Members discussed topics for future meetings. The items discussed were as follows:

- Gas-powered landscaping equipment
- CAT resources and calendar
- Green Neighborhoods Grant Program outreach

Adjourn

Motion to adjourn by Molloy, seconded by Nyland. All voted in favor. **AYES: (6) Danielewicz, Schalkoff, Pick, Nyland, Molloy, Randolph; NAYES: (0).** The meeting adjourned at 8:58 pm.

Climate Action Team

AGENDA ITEM ABSTRACT

MEETING DATE: January 18, 2024

SUBJECT: Gas-Powered Landscaping Equipment

DEPARTMENT: PLANNING DEPARTMENT	PUBLIC HEARING: Yes No X
ATTACHMENTS: A. Legal Opinion B. Racial Equity Pocket Questions C. 9/19/23 Staff Presentation	FOR INFORMATION CONTACT: Jon Hartman-Brown, JHartman-Brown@CarrboroNC.gov ; Zack Kier, ZKier@CarrboroNC.gov

PURPOSE

The Town Council has requested that staff explore opportunities to ban gas-powered landscape equipment in Carrboro to reduce environmental and noise pollution.

INFORMATION

At the 9/19/23 Town Council Meeting, staff provided the following materials to the Town Council:

- Legal Opinion
- Racial Equity Pocket Questions
- Staff Presentation

Staff presented the Council with the following recommended options: (1) expand and utilize existing noise ordinance to specifically include landscaping equipment; (2) create a new ordinance that will limit the decibel level of landscaping equipment; or (3) make no changes at this time.

The Town Council asked the Climate Action Team to discuss how to help accelerate the transition of private gas-powered landscaping equipment to electric.

STAFF RECOMMENDATION

Town staff recommends that the Climate Action Team review the attached materials and offer comments.

MEMORANDUM

TO: The Carrboro Town Council

FROM: Nick Herman

SUBJECT: The Legality of Banning Gas-powered Leaf Blowers, and
General Options and Considerations for Regulating Such
Leaf Blowers and Other Landscaping Equipment

DATE: May 19 2023

I. SUMMARY

The Council has expressed interest in regulating gas-powered leaf blowers, particularly with two-stroke engines. Members of the public have expressed concern about the noise and pollution caused by this type of landscape-maintenance machinery. Some localities in other States (or at least one State itself, California) have sought to ban, at least partially, gas-powered leaf blowers, but the legality of such a ban by the Town must be considered under North Carolina law and not under the law of so-called “home rule” jurisdictions that have broader local regulatory authority than exists in our State. No North Carolina case, or analogous case, has addressed this issue.

This Memorandum concludes that, notwithstanding the salient policy considerations for banning gas-powered leaf blowers, a ban is not likely to be upheld by our courts. Nevertheless, the Town does have the power to enact reasonable time, manner, and place restrictions upon the use of such leaf blowers and other landscaping equipment.

II. GOVERNING LEGAL PRINCIPLES

A. The General Police Power

The Town’s ordinance-making power is limited to that conferred upon municipalities by the General Assembly pursuant to Article VII, Section 1 of the N.C. Constitution. Under G.S. 160A-174(a), the

Legislature has given the Town the general power to “define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens.” Under G.S. 160A-4, this power is to be broadly construed, so long as it is not exercised contrary to State or federal law or to the public policy of the State. Notably, the Legislature has specifically empowered municipalities to regulate noise (see G.S. 160A-184) and the emission of pollutants (see G.S. 160A-185).

B. Limitations on the General Police Power

The general police power, even as it is to be broadly construed, is constrained by other constitutional and statutory limitations. Under the “law of the land” clause of the N.C. Constitution, Article I, Section 1, the exercise of the police power is limited to “actions which have a *real or substantial relation* to the public health, morals, order, safety or general welfare.” This means that a regulation cannot impose an unreasonable interference with or burden upon private activity in relation to the public good. This limitation of reasonableness “is a matter resting in human judgment, ordinarily to be determined in light of all the relevant facts, circumstances, and conditions in each particular case.” *City of Winston-Salem v. Southern Ry. Co.*, 105 S.E.2d 37 (N.C. 1958).

Also, the constitutional guarantee of “equal protection” prescribes that police power regulations should apply equally to persons “similarly situated” unless there is a reasonable basis to make a regulatory distinction between persons similarly situated.

In addition to these constitutional limitations, under G.S. 160A-174(b) (2) and (5), the General Assembly has expressly said that an ordinance cannot be inconsistent with State or federal law, as where an “ordinance makes unlawful an act...or condition which is expressly made lawful by State or federal law,” or where an “ordinance purports to regulate a field for which a State or federal statute clearly shows a legislative intent to provide a complete and integrated regulatory scheme to the exclusion of local regulation.” The latter limitation codifies the doctrine of “pre-emption,” which prescribes that an ordinance cannot regulate a matter that is expressly or impliedly intended to be regulated

by State or federal law to the exclusion of local regulation. *See Craig v. County of Chatham*, 565 S.E.2d 172 (N.C. 2002).

III. THE LEGALITY OF BANNING GAS-POWERED LEAF BLOWERS UNDER THE FOREGOING LEGAL PRINCIPLES.

As noted previously, G.S. 160A-184 specifically authorizes municipalities to “regulate, restrict, or prohibit the production or emission of noises...that tend to annoy, disturb, or frighten its citizens.” Under G.S. 160A-185, municipalities also have the power to “regulate, restrict, or prohibit the emission...of substances or effluents that tend to pollute or contaminate land...or air, rendering or tending to render it injurious to human health or welfare, to animal or plant life or to property, or interfering or tending to interfere with the enjoyment of life or property,” provided, however, that “*any such ordinance shall be consistent with and supplementary to State and federal laws and regulations.*” Notwithstanding these grants of regulatory authority, they are still subject to the constitutional limitations on the police power discussed above.

Banning gas-powered leaf blowers based on noise is unlikely to be upheld under the foregoing legal principles when other commonly used gas-powered landscaping equipment, such as mowers, saws, and weed eaters, may generate a similar level of noise. This raises not only a potential “equal protection” problem, but also the contention that such a ban would be “unreasonable.”

Banning gas-powered leaf blowers based on air pollution is unlikely to be upheld on “pre-emption” grounds. The air emissions of landscape machinery, like gas-powered leaf blowers and other two-stroke engine machinery, are regulated by the EPA under the Clean Air Act. See 40 CFR Part 1054. As mentioned above, a municipal ordinance regulating emissions under G.S. 160A-185 cannot be inconsistent with federal regulations. Thus, a ban of such leaf blowers would arguably make unlawful an activity made lawful by federal law and be pre-empted by federal law. Moreover, such a ban is likely to lack a reasonable basis or pose equal protection problems, considering the air pollution occasioned by gas-powered mowers, chain saws, and string trimmers.

Finally, a ban on gas-powered leaf blowers raises important questions about regulatory “reasonableness” under the Town’s prevailing “racial equity” lens. To the extent commercial landscaping companies in the Town employ or are owned by minorities, those businesses could suffer a serious economic impact from the elimination of gas-powered leaf blowers. This is a relevant consideration not only in terms of a potential unreasonable interference with or burden upon landscaping businesses in general, but also upon minority landscaping businesses in particular.

IV. REGULATORY OPTIONS OTHER THAN A BAN ON GAS-POWERED LEAF BLOWERS AND FOR OTHER GAS-POWERED LANDSCAPING EQUIPMENT.

A. Regulation of Noise Under the Current Town Code

Section 5-12 of Article II of the current Town Code prohibits:

(4) The operation or use of any of the following tools, machinery, or equipment, when such operation or use takes place (i) outside of a fully enclosed structure; and (ii) within 300 feet of a residentially occupied structure that is not in the possession of the party responsible for the noise at issue; and (iii) after sunset on any day or before 7:00 a.m. on any day except Sunday and before 12:00 noon on Sunday. However, this prohibition shall not apply when work must take place on an emergency basis for health or safety reasons, or when work is undertaken within a public street right-of-way by (i) a utility pursuant to an encroachment agreement, (ii) the Town, or (iii) the North Carolina Department of Transportation.

- a. Earth moving or clearing power equipment.
- b. Chain saws, brush cutters, woodchippers, or similar equipment.
- c. Power saws.
- d. Power driven hammers or jackhammers.

B. Considerations for Potential Amendments to the Town Code to Regulate Gas-powered Leaf Blowers and Other Gas-powered Landscaping Equipment.

The following is a list of non-exclusive general considerations for amendments to the Town Code. The Council is encouraged, even as it is not required, to hold one or more public hearings and perhaps a work session when considering any amendments. The Council might consider extending non-ban regulations to other gas-powered landscaping equipment in addition to gas-powered leaf blowers because the impacts of both may be similar. However, the regulations can be different for different types of gas-powered landscaping equipment so long as there is a factually supported rational basis for making regulatory distinctions.

(1) A maximum decibel level could be established, measured off the property where the equipment is used at a prescribed number of feet from the location of use. (The City of Burlingame, California required, in a 2012 ordinance, that every leaf blower display a label that certifies that it operates at a noise level within the prescribed decibel limit, which presumptively establishes compliance with the ordinance, but the ordinance is silent about how this certification process was to be implemented).

(2) Permissible days of the week and hours could be established for the use of equipment in residential zoning districts and on non-residential properties that are contiguous to residentially zoned properties. These time limitations might vary between commercially-operated equipment and equipment used by residents.

(3) Equipment could be required to be operated with manufacturer emission and noise control features in proper working order.

(4) Under G.S. 160A-296, which empowers cities to have general authority and control over their streets, sidewalks, and public rights-of-way, a regulation could be established to prohibit the use of equipment in a way that causes debris to encroach upon or impair the use of public rights-of-way or public stormwater drainage facilities.

(5) If the factual record can clearly demonstrate that the use of gas-powered leaf blowers is only seasonable, a regulation might possibly establish more stringent limitations on the times such blowers could be used than the limitations placed on other gas-powered landscaping equipment that is commonly used year-round. The legality of such a regulation is, however, tenuous. It is mentioned here because, in *People v. Trolio*, 653 N.Y.S.2d 486 (1996), a local court of limited judicial precedent, the Justice Court of New York, Village of Scarsdale, upheld the Village's ordinance that prohibited the use of gas-powered blowers from June through September of each year on the ground that the objecting defendant failed to adequately show financial hardship upon landscapers, failed to show unreasonableness, and failed to show that alternatives to gas blowers were not viable. In essence, the defendant failed, from an evidentiary standpoint, to overcome the presumption of constitutionality ordinarily accorded to a local government's exercise of its police power. As previously mentioned, no North Carolina Court has addressed this type of regulation or decided a case that may be drawn upon as persuasive precedent on this issue. Thus, the *Trolio* decision will have little, if any, impact upon how a North Carolina appellate court would rule on the same issue.

(6) Regulations might provide for sensible exceptions, such as the use of equipment on golf courses or on public parks, or for equipment operated by the Town, among other examples.

(7) Enforcement of any new regulations could be governed by the civil penalties set forth in Section 5-21 of Chapter 5 of the Town Code.

As previously mentioned, the foregoing considerations are only intended to be illustrative and not exhaustive. The Town Staff may be able to provide the Council with other pertinent considerations.

In the end, the touchstone for the legality of regulating gas-powered leaf blowers and other similar landscaping equipment is "reasonableness"—where the regulations enacted do not, based on the totality of the facts and circumstances, unreasonably interfere with or burden private activity in relation to the public good to be accomplished

and do not apply unequally to persons similarly situated in the absence of a factually-supported reasonable basis for a difference in treatment. This “reasonableness” is best supported by a robust public record, through one or more public hearings and/or work sessions, that provides a credible factual rationale for the regulations enacted.

RE Pocket Questions

Landscaping Equipment Presentation Council Item

Title and Purpose of this initiative: Landscaping Equipment Noise
Department: Town Manager's Office

What are the racial and equity impacts?

In general, due to availability of resources households of color are more likely to have jobs which require shift work or it may be necessary to work multiple shifts resulting in limited times in which households of color Can perform home and yard maintenance.

Also, because of the low barrier of entry, lawn maintenance and landscaping businesses are easier for entrepreneurs of color to start with limited resources. Therefore, such a regulation could place a disproportionate financial burden on businesses of color as they modify their existing equipment or replace their equipment.

Who is or will experience community burden?

Populations most likely to experience burden from these regulations would be those who work various shifts in which their lawn maintenance work can only be accomplished outside of the regulated time periods. Additionally, small landscaping businesses and independent landscape contractors would receive significant financial expenditures in order to bring their equipment into compliance with the regulations. Similarly, businesses may also layoff or reduce some workers if they choose to stop doing businesses in Carrboro or if they have a higher financial burden resulting in lost household incomes.

Who is or will experience community benefit?

Populations most likely to experience benefit from these regulations would be households who are able to have available time in the afternoon, early evenings, or weekends to dedicate to lawn maintenance. This would also include households who have the financial ability to pay a contractor to perform lawn maintenance on their property.

Other populations to experience benefit would be those who live in more dense neighborhoods, as they would benefit from the reduced noise and odd times at which loud noises would be produced from this equipment.

What are the root causes of inequity?

The primary inequity with these regulations would be financial and placed on small landscaping businesses and households living in dense neighborhoods. Combined with racial impacts, the requirements to modify or purchase new equipment would fall hardest on BIPOC landscaping businesses who may already have limited resources.

It would also be more likely to fall on households of color who may be more likely to live in dense neighborhoods due to a lack of financial resources to afford larger lots. While there may be some benefit to more densely populated neighborhoods, there also remains the burden of having to replace their personal lawn care equipment which may be more costly than the louder, gas-run equivalent equipment.

What might be the unintended consequences of this action or strategy?

An unintended consequence of this action could be to drive away local landscaping businesses as they will not be able to meet our new qualifications for quieter equipment. This action may also make it more difficult for new businesses to start or want to expand their businesses in town. It may also result in an increase in non-emergency police calls as residents attempt to report one another for violating the ordinance. Another unintended consequence could be that less landscaping will occur because people will not want to violate the ordinance. This could result in less maintained lawns. These less maintained lawns could appear different but may be better for pollinators and other wildlife.

How is your department planning to mitigate any burdens, inequities, and unintended consequences?

Should this ordinance be adopted, the Town has several options to mitigate burdens. The Town can launch an educational series on the effects of the new ordinance and work closely with businesses through the Chamber of Commerce to get the word out about these laws. The Town can see if there are grant opportunities that can be used to cover the costs of equipment replacement or muffler devices. The Town can also take a phased approach to implementing the ordinance to allow for businesses to have more time to come into compliance. The Town can conduct follow-up surveys to determine the effect that the ordinance is having on residents and businesses to determine if the ordinance should remain in effect, be amended, or be repealed.

Unintended consequences of implementation may result in refusal of compliance of households who do not or will not replaced their existing lawn care equipment. This could also result in smaller (and more likely to be businesses of color) landscaping businesses removing themselves from doing business in Carrboro, because they cannot afford to come into compliance. Along the same lines, this could result in making it harder for new landscaping businesses or independent contractors to start in Carrboro due to higher start-up costs.



GAS-POWERED LANDSCAPING EQUIPMENT PRESENTATION

Background

- Councilmembers directed staff to examine the possibility of banning gas-powered landscape equipment in Carrboro to reduce environmental and noise pollution
- A workgroup was formed to examine this possibility, including:
 - Economic Development
 - Police Department
 - Planning, Zoning, & Inspections
 - Public Works
 - Town Attorney
 - Town Manager's Office

Current Regulations

Attachment C - Page 3 of 10

Chapter 5 (General Offences), Section 5-12(4) - prohibits the use of certain equipment after sunset or before 7:00am (except Sunday when the start time is Noon)

This specifically includes chain saws, brush cutters, wood-chippers, or similar power equipment.



Comparison to other Municipalities

- Chapel Hill is the only municipality in NC that specifically limits landscape equipment based on decibels
- Uses dB to restrict noises and may or may not exempt actions/items
 - Elkin
 - White Lake
- Features “unreasonably loud, disturbing, or unnecessary noise” clauses
 - High Point
 - Mocksville
 - Mount Airy
 - Beaufort County
 - Buncombe County



Chapel Hill Statute

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- Chapter 11, Article III- Noise, Section 11-40.1 Regulations applicable to leaf blowers and other motorized agricultural and landscape maintenance equipment
- “Shall be operated only with all manufactured-supplied emission control devices and noise muffling equipment in proper working order”
- Lists certain zoning classifications and time zones
- “Equipment does not exceed 65 dBa when measured, off of the premises where the equipment is being used, at a distance of 50 feet from the location of use”
- Exceptions for golf courses



Enforcement Perspective

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- Spoke with Chapel Hill Police Department - very few complaints and zero enforcement actions
- CHPD has one decibel measuring instrument that is calibrated by an external service provider each year
- Steady state noise (such as generators and landscaping equipment) is usually measured by the decibel meter
- Most of their enforcement does not get to the noise measuring stage and, instead, is handled by voluntary compliance



Legal Opinion

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- A ban on gas-powered leaf blowers is not likely to be upheld by North Carolina courts
- A maximum decibel level could be established
- Permissible days of the week and hours could be established for the use of equipment in residential zoning districts and on non-residential properties contiguous to residentially zoned properties
- Equipment could be required to be operated with manufacturer emission and noise control features in proper working order
- Regulations might provide for sensible exceptions such as for equipment operated by the Town (upcoming Fleet Study will also include a plan to transition all landscaping equipment to alternative fuel options)



Carrboro Landscaping Business Survey

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- Surveyed local lawn care companies (4)
- One stated that they would no longer do business in Carrboro
- All (4) stated that they do business in Chapel Hill even with the restrictions
- Half (2) stated that it would cost \$25,000 or more to upgrade their equipment to be in compliance
- Feedback from El Centro also expressed concerns:
 - restricting the times landscapers are able to work,
 - incurred costs of investing in new landscaping equipment,
 - encouraged education on compliance, and
 - that too restrictive regulations that may cause small companies and independent landscapers to no longer work in Carrboro.



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Findings Summary

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- Banning gas-powered landscaping equipment is not likely possible (legally).
- Placing limits on decibel levels and operational times may result in a similar outcome to banning gas-powered equipment (electric-powered is on average 10 decibels lower than gas-powered).
- Enforcement of decibel levels may prove to be difficult and would likely be complaint driven with limited enforceability.
 - Chapel Hill is the only city in NC to place a decibel ban on landscaping equipment.
 - \$200-\$500 per meter plus annual calibration.
- There may be negative impacts to landscaping businesses and low-income homeowners in order to come into compliance with time and decibel restrictions.



Options and Recommendations

- Expand and utilize existing noise ordinance to specifically include landscaping equipment.
 - Would require a simple Town Code amendment
- Create a new ordinance that will limit the decibel level of landscaping equipment.
 - Would require staff time to draft, and equipment purchases and training for enforcement
- Make no changes at this time.

