

1 Introduced by: Councilmember Dyballa

First Reading: March 6, 2024

2 Second Reading: March 13, 2024

3 Effective Date: March 13, 2024

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5  
6 **CITY OF TAKOMA PARK, MARYLAND**  
7 **ORDINANCE NO. 2024-03**

8  
9 **Amending the City’s Code to Ban the Sale and Use of**  
10 **Combustion Engine-powered Leaf Blowers; Provide for the**  
11 **Implementation of the Ban Over Time; and Modify the**  
12 **Enforcement Provisions to be Consistent with the Ban.**

13  
14 **WHEREAS,** Maryland Code, Section 5–202 of the Local Government Article authorizes the  
15 legislative body of each municipal corporation in the State of Maryland to pass  
16 ordinances that such legislative body deems necessary to assure the good  
17 government of the municipality, to protect and preserve the municipality’s rights,  
18 property and privileges, to preserve peace and good order, to secure persons and  
19 property from danger and destruction, and to protect the health, comfort, and  
20 convenience of the citizens of the municipality; and

21 **WHEREAS,** Section 401(a) of the City Charter states that the Council has the power to pass  
22 all such ordinances not contrary to the Constitution and laws of the State of  
23 Maryland as it may deem necessary for the good government of the City, for the  
24 protection and preservation of the City’s property, rights, and privileges, for the  
25 preservation of peace and good order, for securing persons and property from  
26 violence, danger or destruction, and for the protection and promotion of the  
27 health, safety, comfort, convenience, welfare, and happiness of the residents of  
28 and visitors in the City; and

29 **WHEREAS,** Section 401(b)(33) of the City Charter states that the legislative powers of the  
30 City include the authority to regulate or prohibit noise within the limits of the  
31 City; and

32 **WHEREAS,** the City’s 2020 climate emergency response framework identifies eliminating the  
33 use of fossil fuel-based leaf blowers as a priority strategy for moving toward net  
34 zero greenhouse gas emissions by 2035, and toward a fossil fuel-free community;  
35 and

36 **WHEREAS,** the City Council of the City of Takoma Park has determined that prohibiting noise  
37 from combustion engine-powered handheld, backpack, or walk-behind leaf  
38 blower or leaf vacuum protects and promotes the health, safety, comfort,  
39 convenience, welfare, and happiness of the residents of and visitors in the  
40 residents of the City of Takoma Park.

41 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**  
42 **TAKOMA PARK, MARYLAND THAT:**

1 SECTION 1. Title 14, Chapter 12 is amended as follows:

2

3

**Chapter 14.12**

4

**NOISE CONTROL**

5 Sections:

6 14.12.010 Declaration of policy.

7 14.12.020 Exemption from County Noise Control Ordinance.

8 14.12.030 Definitions.

9 14.12.040 Regulations.

10 14.12.050 Noise level and noise disturbance violations.

11 14.12.060 Noise level and noise disturbance standards for construction.

12 14.12.070 Measurement of sound.

13 14.12.080 Leaf Blowers and other power lawn tools.

14 14.12.090 Animals.

15 14.12.100 Burglar and vehicle alarms.

16 14.12.110 Exemptions.

17 14.12.120 Waivers.

18 14.12.130 Enforcement and penalties.

19 14.12.140 Noise Control Board.

20 **14.12.010 Declaration of policy.**

21 The Council of the City finds that excessive noise harms public health and welfare and impairs  
22 enjoyment of property. The intent of this chapter is to control noise sources to protect public health  
23 and to allow the peaceful enjoyment of property. This chapter shall be liberally construed to carry  
24 out this intent. (Ord. 2016-4 § 1, 2016/Ord. 2002-35 § 1(1), 2002/Ord. 2000-22 § 1(1), 2000)

25 **14.12.020 Exemption from County Noise Control Ordinance.**

26 Pursuant to the authority conferred by Section 4-111(b) of the local government article of the  
27 Annotated Code of Maryland and by Section 1-203 of the Montgomery County Code, the City  
28 exempts itself from the provisions of Chapter 31B, Noise Control, of the Montgomery County  
29 Code, except as expressly set forth in this chapter. (Ord. 2016-4 § 1, 2016/Ord. 2002-35 § 1(2),  
30 2002/Ord. 2000-22 § 1(2), 2000)

31 **14.12.030 Definitions.**

32 \* \* \*

33 “Leaf blower” means any portable, handheld or backpack device with a nozzle that creates a  
34 directable airstream which is capable of and intended for moving leaves or any other type of  
35 unattached debris or materials. “Leaf blower” includes devices or machines that accept vacuum  
36 attachments.

37 \* \* \*

38 “Noise” means sound created or controlled by human activity, from one or more sources, or sound  
39 from an animal source, heard by an individual.

1 “Noise disturbance” means any steady-state or impulsive noise occurring on either a continuous  
2 or intermittent basis that is:

- 3 1. Unpleasant, annoying, offensive, loud, or obnoxious; or
- 4 2. Detrimental to the health, comfort, or safety of any individual or to the reasonable  
5 enjoyment of property or the lawful conduct of business because of the loudness, duration, or  
6 character of the noise.
- 7 3. A sound level meter measurement is not required to establish a noise disturbance.

8 \* \* \*

9 **14.12.080 Leaf blowers and other power lawn tools.**

10  
11 A. Except as provided in this section, a person must not sell, buy, offer for sale, or use a leaf  
12 blower at any time that has an average sound level exceeding 70 dBA at a distance of 50 feet. This  
13 requirement is in addition to any other noise level or noise disturbance standard that applies under  
14 this chapter.

15 B. Effective July 1, 2024, no person shall sell or offer for sale a combustion engine-powered  
16 handheld, backpack, or walk-behind leaf blower or leaf vacuum. Upon this ordinance becoming  
17 effective, any City of Takoma Park business selling combustion engine-powered handheld,  
18 backpack, or walk-behind leaf blower or leaf vacuum, shall warn customers of the future ban on  
19 use by posting notice of the ban in a conspicuous location.

20 C. Effective July 1, 2025, no person shall use a combustion engine-powered handheld,  
21 backpack, or walk-behind leaf blower or leaf vacuum.

22 ~~CB.~~ The City may inspect, and upon request, a person must produce, any leaf blower that is sold,  
23 offered for sale, or used in the City, in order to determine whether the leaf blower complies with  
24 this section. A person who relies in good faith on a manufacturer’s written representation of the  
25 sound level of a leaf blower that has not been modified is not subject to a penalty for violating this  
26 section.

27 ~~DC.~~ No person shall use a leaf blower or other power lawn tool outdoors during the daytime  
28 for more than two hours of accumulated time during any 24-hour period on any individual lot or  
29 parcel of property and no leaf blower or other power lawn tool shall be used outdoors during the  
30 nighttime. (Ord. 2016-4 § 1, 2016/Ord. 2002-35 § 1(8), 2002/Ord. 2000-22 § 1(8), 2000).

31 E. Nothing herein shall be construed as prohibiting City of Takoma Park residents and  
32 businesses from participating in a Montgomery County reimbursement program which reimburses,  
33 in whole or in part, residents and businesses that purchase non-combustion engine-powered leaf  
34 blowers to replace combustion engine-powered leaf blowers.

35 \* \* \*

36 **14.12.130 Enforcement and penalties.**

37 A. Unless a different penalty is stated (see, e.g., subsection (G) of this section and Section  
38 14.12.140(F)), a violation of this chapter is a Class C municipal infraction. A second violation of

1 this chapter is a repeat offense. A third and subsequent violations of this chapter, within six months  
2 of a previous violation, is a Class A municipal infraction.

3 B. If an enforcement officer finds that a person has violated this chapter, the enforcement officer  
4 may issue a notice of violation and correction order to the person. The notice shall include the  
5 following information:

- 6 1. The section of this chapter that the person violated;
- 7 2. The date, nature, and extent of the violation; and
- 8 3. The action required to correct the violation.

9 C. A notice of violation and correction order under subsection (B) of this section is not required  
10 before a municipal infraction citation for violation of this chapter may be issued. An enforcement  
11 officer may issue a municipal infraction citation for a violation of this chapter if the enforcement  
12 officer:

- 13 1. Determines that the noise level being generated exceeds the maximum allowable noise  
14 level set forth in Section 14.12.050; ~~or~~
- 15 2. Determines that a person has caused or permitted a noise disturbance; or
- 16 3. Receives a noise disturbance complaint outlined in subsection (E) of this section and a  
17 photograph of the alleged combustion engine-powered handheld, backpack, or walk-behind  
18 leaf blower or leaf vacuum allegedly being used.

19 D. In the event of a noise disturbance or other violation of this chapter created by the use or  
20 rental of premises for a music, entertainment, celebration or performance event (whether or not  
21 admission is charged), by construction work, or by commercial activity, the enforcement officer  
22 may issue a municipal infraction citation to the person who violates the noise control ordinance  
23 and/or to the property owner or person responsible for the management, occupancy or supervision  
24 of the premises, building, construction site, property or activity from which the noise source  
25 originates.

26 E. Noise Disturbance Complaints—Referral to Noise Control Board.

27 1. Signed, written complaints of a noise disturbance may be submitted by two or more City  
28 residents who reside at separate addresses (see definition of “noise disturbance” in Section  
29 14.12.030).

30 2. Noise disturbance complaints shall be filed with the City Clerk, on the City’s two-party  
31 noise disturbance complaint form, within 10 days of the occurrence of the alleged noise  
32 disturbance. Any complaint which is received by the City Clerk more than 10 days after the  
33 date of the alleged noise disturbance shall be rejected. The City Clerk shall record the date the  
34 noise disturbance complaint is received, assign the complaint a number, and forward the  
35 complaint, along with any supporting documentation, to the Noise Control Board (see Section  
36 14.12.140).

1 F. The City may seek injunctive or other appropriate judicial relief to stop or prevent continuing  
2 violations of this chapter.

3 G. In addition to any other penalty or enforcement action under this chapter, an enforcement  
4 officer may shut down an event or activity that is causing a noise disturbance or creating noise that  
5 exceeds the maximum allowable noise levels (“event shut down order”) or issue a stop work order  
6 or an order to cease the violation to any person who violates any provision of this noise control  
7 order. In determining whether to issue an event shut down order, an enforcement officer shall  
8 consider such factors as (1) the loudness and duration of the sound from the event or activity, (2)  
9 previous complaints of noise at the same venue and/or the particular event or activity, (3) whether  
10 the violator cooperates with requests to keep the noise level down and takes action to prevent or  
11 mitigate the noise from the event or activity, and (4) the extent to which the noise being made or  
12 generated on the premises causes unreasonable annoyance or disturbance to others living or located  
13 nearby. Neither the nature of any communicative content of the noise nor the purpose of the event  
14 or gathering shall be considered in the issuance of an event shut down order.

15 1. If an event or activity is shut down, the enforcement officer may order any or all persons,  
16 except the property owner or tenant-occupant of the premises, to leave the premises where the  
17 event or activity is occurring.

18 2. Any person who receives such an event shut down order, stop work order or order to cease  
19 the violation shall immediately cease the activity which constitutes the violation. The person  
20 shall comply with all terms and conditions imposed by the enforcement officer before the  
21 activity may resume.

22 3. Violation of an event shut down order, a stop work order or order to cease the violation is  
23 a Class B misdemeanor offense.

24 H. In the event of a rental of premises for a music, entertainment, celebration or performance  
25 event (whether or not admission is charged), construction work, commercial activity, or other work  
26 for hire, the person who violates this chapter and/or the property owner or person responsible for  
27 the management or supervision of the premises, building, construction site, area, property or  
28 activity from which the noise source originates are jointly and severally responsible for violations  
29 of this chapter and shall abide by any event shut down order, stop work order or order to cease the  
30 violation. (Ord. 2016-4 § 1, 2016/Ord. 2002-35 § 1(13), 2002/Ord. 2000-22 § 1(13), 2000)

31 **14.12.140 Noise Control Board.**

32 A. Establishment and Membership.

33 1. A City Noise Control Board is established to assist and advise the City on noise control  
34 issues, including administration and enforcement of this chapter, and to adjudicate noise  
35 disturbance complaints.

36 2. The Board shall consist of up to seven active members appointed by the Council.

37 B. Hearings on Noise Disturbance Complaints.

38 1. When a noise disturbance complaint under Section 14.12.130(E) is received, the Board  
39 shall schedule a hearing on the complaint and give reasonable advance notice of the date, time,

1 and place of the hearing before the Board to the persons who filed the noise disturbance  
2 complaint (“the complainant”) and the alleged violator. The alleged violator also shall be  
3 served with a copy of the noise disturbance complaint.

4 2. The hearing notice and noise disturbance complaint shall be deemed to be properly served  
5 on the alleged violator if the notice and complaint is:

6 a. Delivered to the alleged violator personally;

7 b. Sent by certified mail and the return receipt is returned indicating that the certified  
8 mail was received by the alleged violator;

9 c. Left at the alleged violator’s residence or place of business with a person of suitable  
10 age and discretion; or

11 d. Mailed by first-class mail to the last-known address of the alleged violator or emailed  
12 to the alleged violator and posted in a conspicuous location on the property where the  
13 noise disturbance violation is alleged to have occurred.

14 C. Hearing Process.

15 1. The Chairperson of the Board is authorized to designate three active members of the Board  
16 to sit as a panel to conduct a hearing on any noise disturbance complaint. The Chairperson of  
17 the Board shall endeavor to rotate panel membership from time to time among the active  
18 members of the Board. If the parties agree, a hearing may proceed before two members of the  
19 Board.

20 2. The hearing shall be open to the public. At the hearing, the complainant and the alleged  
21 violator may present testimony and evidence to substantiate any material point. All testimony  
22 shall be given under oath or affirmation. Each party shall have the right to cross-examine  
23 opposing witnesses, to submit rebuttal evidence, and to present summation and argument. The  
24 Board panel also may ask questions of witnesses and enter its own evidence.

25 3. The Board panel may admit and consider evidence which would be commonly accepted  
26 by reasonable and prudent people as having a causal relationship to the matter before the Board  
27 panel. The Board panel may exclude from evidence irrelevant and repetitious testimony and  
28 documents.

29 4. The burden of proof of establishing a violation of the noise control ordinance shall be on  
30 the party who filed the noise disturbance complaint and shall be met by a preponderance of  
31 the evidence.

32 5. An audio or video record of the hearing shall be made. The record of the case shall consist  
33 of the recording and any written documentation accepted into the case file. The record of the  
34 case shall be open to inspection by any person. Upon request, the Board shall furnish a copy  
35 of the record of the case to any person at the cost of supplying the same.

36 D. Decision of the Board on a Noise Disturbance Complaint.

1 1. After due consideration of the evidence and testimony presented at the hearing, the Board  
2 shall issue its decision on the noise disturbance complaint and give notice of its decision to all  
3 parties to the case. The Board’s decision may be announced orally, following the hearing, or  
4 the Board may take the case under advisement and issue a written decision on the noise  
5 disturbance complaint within a reasonable time following the hearing.

6 2. In the event that the Board finds in favor of the complainant on the noise disturbance  
7 complaint, the Board may order the violator to cease and desist from the conduct or activity  
8 which created the noise disturbance and/or to take other corrective action in order to abate or  
9 correct the violation of this chapter.

10 E. Appeals from a Board Decision on a Noise Disturbance Complaint. Within 30 days of the  
11 issuance of a decision on a noise disturbance complaint, a person who was a party to the  
12 proceedings before the Board and who is aggrieved by the decision may file a petition for judicial  
13 review in accordance with Title 7, Chapter 200, Judicial Review of Administrative Agency  
14 Decisions, of the Maryland Rules of Procedure, as amended.

15 F. Enforcement of Board Decision on a Noise Disturbance Complaint.

16 1. A violator who fails to comply with a Board decision on a noise disturbance complaint  
17 may be issued a municipal infraction citation for a Class A offense.

18 2. In addition to any penalty provided herein, compliance with a Board decision may be  
19 enforced by any appropriate action, at law or equity, in any court of competent jurisdiction.  
20 (Ord. 2021-39 § 8, 2021/Ord. 2016-4 § 1, 2016/Ord. 2007-4, 2007/Ord. 2002-35 § 1(14),  
21 2002/Ord. 2000-22 § 1(14), 2000).

22 SECTION 2. If any part of this ordinance is deemed to be invalid, the remaining portions of the  
23 ordinance shall continue to be operative.

24 SECTION 3. This ordinance shall become effective immediately upon adoption.

25  
26 This Ordinance was adopted this 13th day of March, 2024 by roll-call vote as follows:

- 27  
28 AYE: Searcy, Fulcher, Dyballa, Gibson, Seamens, Honzak  
29 NAY: None  
30 ABSTAIN: None  
31 ABSENT: Small  
32