

A Local Law, amending the Laws of Westchester County by adding a new Chapter 705, amending Chapter 863, and adding a new Section 863.327 of Chapter 863 in relation to the use of leaf blowers.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. The Laws of Westchester County are hereby amended by adding a new Chapter 705 to read as follows:

CHAPTER 705

USE OF LEAF BLOWERS ON COUNTY OWNED PROPERTY AND PARKLAND

§ 705.100. Definitions.

§ 705.101. General Provisions.

Sec. 705.100. Definitions.

Unless the context otherwise specifically requires, the following terms, when used in this article, shall have the following meanings:

1. "County-owned property" means all real property acquired by or under the jurisdiction and/or control of the County of Westchester or which may hereafter be acquired by or through it or subject to its jurisdiction or control.
2. "Leaf blower" means any portable device powered by a self contained internal combustion engine, which is commonly used in landscaping and property maintenance to blow, disperse or redistribute dust, dirt, leaves, grass clippings,

cuttings, trimmings from trees or shrubs, or other debris on sidewalks, driveways, lawns, or other surfaces.

3. “Person” means any natural person, firm, association, partnership or corporation.

4. The term “park” or “parks” shall have the same meaning as it has in Chapter 249 of the Laws of Westchester County.

Sec. 705.101. General Provisions.

1. Effective January 1, 2009, no person shall operate or cause to be used on county-owned property or a county-owned park, a leaf blower that does not meet EPA Phase 2, 2007 exhaust emission standards or which does not operate in accordance with manufacturer’s instructions or specifications.

2. Nothing in this section shall be deemed to supersede any municipal ordinance or rule regulating the use of leaf blowers.

Section 2. Section 863.312 of Article XVI of Chapter 863 of the Laws of Westchester County is hereby amended to read as follows:

Sec. 863.312. Definitions.

Unless the context otherwise specifically requires, the following terms, when used in this article, shall have the following meanings:

1. “Contractor” means any person who owns, operates, maintains, controls, transacts or conducts a home improvement business or who undertakes or advertises a home improvement service or offers to undertake or agrees to perform any home improvement.

2. “Home improvement” means a repair, replacement, remodeling, installation, construction, alteration, conversion, modernization made to, in or upon a private residence, apartment or dwelling place of not more than three (3) units, including but not limited to the following:

- a. Waterproofing;
- b. Exterior siding, awnings, leaders and gutters;
- c. Decks, patios, garages, carports, and additional rooms;
- d. Storm and/or replacement windows and doors;
- e. Roofs;
- f. Driveways, and walkways;
- g. Kitchen and bathrooms;
- h. Masonry;
- i. Fence installations;
- j. Chimney maintenance;
- k. Exterior painting;
- l. Landscaping and gardening;
- m. Arboriculture;
- n. Tile setters;
- o. Swimming pools; and

p. Other similar improvements.

3. “Home improvement business” means the business of providing for a profit, a home improvement to an owner; provided, however, the term shall not include labor or services performed by an employee for a contractor.

4. “Home improvement contract” means an agreement between a contractor and an owner for the performance of a home improvement, and includes all labor, services and materials to be furnished and performed thereunder, either directly by the contractor or by another person under separate agreement with the contractor.

5. “Leaf blower” means any portable device powered by a self contained internal combustion engine, which is commonly used in landscaping and property maintenance to blow, disperse or redistribute dust, dirt, leaves, grass clippings, cuttings, trimmings from trees or shrubs, or other debris on sidewalks, driveways, lawns, or other surfaces.

[5] 6. “Licensee” means a person licensed to engage in the home improvement business under the provisions of this article.

[6] 7. “Owner” means a homeowner, tenant or any other residential dweller who orders, contracts for or purchases a home improvement.

[7] 8. “Person” means an individual, firm, company, partnership, association, corporation or other business entity.

[8] 9. “Affiliate” shall mean any person controlling, controlled by, or under common control with a licensee or contractor. The terms "control", "controlled" or "controlling" shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such controlled person. The

ownership, directly or indirectly, of at least fifty-one percent (51%) of the voting securities of, or the possession of the right to vote, in the ordinary direction of its affairs, of at least fifty-one percent (51%) of the voting interest in, any person shall be presumed to constitute such control.

Section 3. Section 863.314 of Article XVI of Chapter 863 of the Laws of Westchester County is hereby amended to read as follows:

Sec. 863.314. Application for license or renewal; affirmation regarding leaf blowers.

1. An application for a license under this article, or a renewal thereof, shall be made in writing to the Sealer in accordance with such procedures, providing such information and on such forms as the Sealer may from time to time require. The application shall be signed by the applicant and shall be accompanied by a check, cash or money order in the amount of the fee required under section 863.315 of this article.

2. (a). Effective January 1, 2008, through December 31, 2008, a contractor, engaged in the business of landscaping, gardening, arboriculture, or any similar outdoor vocation, seeking to obtain or renew a license under this section, shall verify in writing that such contractor, its agent, affiliate or employee is aware of the requirements of Subsection 1 of Section 863.327 of this Chapter, and shall comply with such subsection when effective; and

(b). Effective January 1, 2009, a contractor, engaged in the business of landscaping, gardening, arboriculture, or any similar outdoor vocation, seeking to obtain or renew a license under this section, shall verify in writing that such

contractor, its agent, affiliate or employee is in compliance with Subsection 1 of Section 863.327 of this Chapter.

Section 4. Section 863.319 of Article XVI of Chapter 863 of the Laws of Westchester County is hereby amended to read as follows:

Section 863.319. Violations.

1. It shall be a violation to:
 - a. Abandon or fail to perform, or furnish, without justification, any labor, services or materials included under a home improvement contract, or willfully deviate from the plans or specifications of a home improvement contract in any material respect without the consent of the owner;
 - b. Conduct a home improvement business in any name other than the one in which the person is licensed;
 - c. Fail to agree that the owner may cancel the home improvement contract without penalty at any time prior to midnight on the third business day after the date such contract is made;
 - d. Make a false statement or provide false information in making application for a license, including a renewal or duplicate license;
 - e. Fail to notify the Sealer, in writing, of any change of control in the ownership, management or business name or location of a home improvement business within ten days thereof;

f. Fail to disclose on all advertising for a home improvement business and in all contracts with an owner for a home improvement the number of the license issued under this article.

g. Fail to comply with the provisions of section 863.325 of this article.

h. Fail to comply with the provisions of sections 863.326 and 863.327 of this article.

2. The foregoing acts are unlawful when committed by a person engaged in the home improvement business within the County of Westchester and violations of the provisions of this section proscribing certain acts shall be enforced in accordance with and shall be subject to the penalties provided in the Laws of Westchester County, including but not limited to Chapter 182, Article VIII of Chapter 277 and Article I of Chapter 863 thereof.

Section 5. The Laws of Westchester County are hereby amended by adding a new Section 863.327 of Article XVI of Chapter 863, to read as follows:

Section 863.327. Leaf Blowers; Licensee Requirements.

1. Effective January 1, 2009, no licensee engaged in the business of landscaping, gardening, arboriculture, or any similar outdoor vocation, nor its agent, affiliate or employee, shall operate a leaf blower that does not meet EPA Phase 2, 2007 exhaust emission standards or that does not operate in accordance with manufacturer's instructions or specifications.

2. Ninety days from the effective date of this local law, and to the extent practicable, the Sealer shall notify all licensees and applicants and provide:

(a) a copy of this local law regarding the operation of leaf blowers by a contractor or licensee under this section; and

(b) a copy of EPA Phase 2, 2007 exhaust emission standards.

3. Nothing in this section shall be deemed to supersede any municipal ordinance or rule regulating the use of leaf blowers or any similar device.

Section 6. Severability. If any clause, sentence, paragraph or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy and in which such judgment shall have been rendered.

Section 7. This Local Law shall take effect immediately.