

## ORDINANCE 3292-24

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, PROPOSING AN AMENDMENT TO § 62-97 OF DIVISION 2 OF CHAPTER 62 OF THE CITY CODE OF ORDINANCES REGULATING THE USE AND OPERATION OF LEAF BLOWING OR YARD CLEARING EQUIPMENT POWERED BY AN INTERNAL COMBUSTION ENGINE OR MOTOR; SUBMITTING THE PROPOSED CODE AMENDMENT TO A VOTE BY THE ELECTORS OF WINTER PARK VIA REFERENDUM AT THE GENERAL CITY ELECTION TO BE HELD MARCH 11, 2025; PROVIDING FOR AMENDMENT OF CHAPTER 62 OF THE CITY CODE REGARDING RESTRICTIONS ON THE USE OF INTERNAL COMBUSTION POWERED LEAF BLOWERS IF THE CODE AMENDMENT IS ADOPTED; PROVIDING FOR THE REFERENDUM BALLOT QUESTION FOR THE PROPOSED CODE AMENDMENT; PROVIDING FOR DIRECTION TO THE CITY CLERK; PROVIDING FOR MODIFICATION BY THE CITY COMMISSION; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND EFFECTIVE DATES OF THE ORDINANCE AND CITY CODE AMENDMENT.**

**WHEREAS**, Article VIII, § 2(b) of the Florida Constitution vests the City with all governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise power for municipal purposes except as otherwise provided by law; and

**WHEREAS**, the City Commission, based upon environmental and noise concerns, previously adopted an amendment to its code of ordinances barring the use of internal combustion powered leaf blowers; and

**WHEREAS**, the City has since received complaints regarding the practicality of an ultimate ban of internal combustion powered leaf blowers and the cost to individual citizens and local businesses of acquiring alternative replacement equipment; and

**WHEREAS**, the City Commission believes it to be in the best interest of the City to delay implementation of the ban until June 1, 2025 and to place the question of whether internal combustion powered leaf blowers should be prohibited on the ballot and submit such to a citywide referendum.

**NOW, THEREFORE**, be it enacted by the City Commission of the City of Winter Park, Florida, as follows:

**Section 1. Findings of Fact.** The foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a part of this ordinance.

**Section 2. Amendment to the City Code of Ordinances.** The City Commission of the City of Winter Park hereby sets forth for voter consideration an amendment to § 62-97 of Division 2 of Chapter 62 of the City Code of Ordinances (the

"Code Amendment"), as set forth below (words that are ~~stricken out~~ are deletions; words that are underlined are additions).

**Sec. 62-97. - Specific prohibitions.**

- (a) The following acts, among others (this enumeration shall not be deemed to be exclusive), are declared to be noise disturbances in violation of this division:

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- (10) *Power tools.* Creating a noise disturbance across a residential or commercial real property line by operating or permitting the operation of any mechanically powered saw, drill, grinder, leaf blower, lawn or garden tool or similar tool between 9:00 p.m. and 7:00 a.m. the following day. ~~Regardless of the foregoing, it shall be a violation of this division to operate or permit the operation of a leaf blower that is powered by an internal combustion engine or motor between the hours of 6:00 p.m. and 7:00 a.m. the following day so as to create a noise disturbance across a residential or commercial real property line.~~
- (11) *Construction activities on weekends and holidays.* Operating or permitting the operation of any piledriver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, power saw, construction appliance or machine, or construction materials or equipment delivery between 6:00 p.m. on Saturday and 7:00 a.m. on the following Monday or at any time on New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day or Christmas Day so as to create a noise disturbance across a residential or commercial real property line.
- (12) *Power tools on Sunday.* Creating a noise disturbance across a residential or commercial real property line by operating or permitting the operation of any mechanically powered saw, drill, grinder, leaf blower, lawn or garden tool or similar tool between 9:00 p.m. on Saturday and 9:00 a.m. on Sunday. ~~Regardless of the foregoing, it is a violation of this division to operate or permit the operation of a leaf blower that is powered by an internal combustion engine or motor, between the hours of 6:00 p.m. on Saturday and 12:00 p.m. on Sunday so as to create a noise disturbance across a residential or commercial real property line.~~

- (13) *Illegal open house parties.* Allowing or acquiescing in an illegal open house party, whether directly or indirectly, whether actively or passively, as an owner, lessee, or occupant of a property.
- ~~(14) *Phased elimination of certain leaf blowing or lawn clearing equipment.* Regardless of anything set forth in this section to the contrary, the use of a leaf blower that is powered by an internal combustion engine or motor, will be prohibited from use on any property within the city, with the exception of the Winter Park Municipal Golf Course, 30 months following enactment of this subsection.~~

**Section 3. Referendum.** The City Commission hereby calls a referendum election, to be held concurrently with the City’s general election on March 11, 2025 (the “Referendum”), whereby the electors of the City of Winter Park shall vote on the Code Amendment. The Code Amendment will be adopted if it receives a majority of the votes cast in the Referendum.

**Section 4. Ballot Question.** The ballot title and summary to be placed on the ballot and voted upon in the Referendum shall be in substantially the following form:

Proposed City Code Amendment  
Article IV, Division 2, § 62-97

Shall the City of Winter Park amend Article IV, Division 2, § 62-97 of its Code of Ordinances, as provided in Ordinance 3292-24, to revise the City Code to repeal the City’s ban on the use of internal combustion powered leaf blowers and to regulate noise created by the use of leaf blowers consistent with those regulations regulating noise created by power tools?

Yes \_\_\_ or No \_\_\_

**Section 5. Instructions to City Clerk.** The City Clerk is hereby directed to ensure that all advertising, translation and notice requirements are complied with and to coordinate all activities necessary to conduct the Referendum with the Supervisor of Elections for Orange County, and to place the above-described question on the Referendum ballot. If the Code Amendment is adopted, and after it is incorporated into the City Code, the City Clerk shall record the ordinance in accordance with § 166.041(6), Florida Statutes.

**Section 6. Modification by City Commission.** The City Commission is authorized, to the extent consistent with the City Charter and applicable laws, to modify by resolution the ballot question provided for herein and to modify or provide for by

resolution any procedural or notice requirement for the conduct of the Referendum, all as the City Commission may deem advisable to ensure compliance with applicable laws and to ensure voters are fully informed as to the Referendum and the substance of the Code Amendment.

**Section 7. Conflicts.** In the event of a conflict or conflicts between this Ordinance, including the Code Amendment if adopted, and any other ordinance or provision of law, this Ordinance governs and controls to the extent of any such conflict.

**Section 8. Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance, including the Code Amendment if adopted, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding will not affect the validity of the remaining portion hereof or hereto unless such would defeat the purpose of this Ordinance or the Code Amendment.

**Section 9. Codification.** If the Code Amendment is adopted by the electors of the City of Winter Park at the Referendum, the Code Amendment will be incorporated into the City's Code of Ordinances. Any section, paragraph number, letter and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical and similar or like errors may be corrected, and additions, alterations, and omissions not affecting the construction or meaning of this ordinance and the City Code may be freely made.

**Section 10. Effective Dates.** This Ordinance will become effective take effect immediately upon its final passage and adoption. The Code Amendment will take effect immediately upon adoption by the electors of the City of Winter Park at the Referendum.

**PASSED AND ADOPTED** this 24th day of April, 2024 by the City Commission of the City of Winter Park, Florida.

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Mayor Phillip M. Anderson

Attest:

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City Clerk Rene Cranis