Ordinance #2021-32

AN ORDINANCE BY THE MUNICIPALITY OF PRINCETON CONCERNING LANDSCAPER REGISTRATION, NOISE AND GAS-POWERED LANDSCAPING EQUIPMENT, PARTICUARLY GAS LEAF BLOWERS, AND AMENDING CHAPTER 10C OF THE "CODE OF THE TOWNSHIP OF PRINCETON, NEW JERSEY, 1968" AND CHAPTER 21 OF THE "CODE OF THE BOROUGH OF PRINCETON, NEW JERSEY, 1974."

WHEREAS, over the course of the past nine (9) months, the Sustainable Landscaping Steering Committee, an ad hoc advisory committee comprised of members of the Princeton Environmental Commission and community groups including Quiet Princeton, Unidad Latina en Acción NJ and Sustainable Princeton, has been investigating and studying the subject of sustainable landscaping, protecting the health and well-being of landscaping workers and the use of gas-powered equipment, particularly gas leaf blowers, and their impact on the Princeton community; and

WHEREAS, in response to input from the landscaping community, the Sustainable Landscaping Steering Committee has determined that the protection of landscaping workers requires an amendment to the existing landscaper registration process to protect and promote the health and well-being of such workers; and

WHEREAS, the Sustainable Landscaping Steering Committee has found that gas-powered equipment, particularly gas leaf blowers:

- Expose workers utilizing the equipment and the public to health risks;
- Create high levels of noise when in use;

- Disrupt residents in and around their homes especially, the noise of which penetrates walls and windows;
- Damage the environment; and

WHEREAS, the Sustainable Landscaping Steering Committee has also found that there are alternatives to the use of gas-powered equipment such as electric equipment and changes in landscaping practices, and that reasonable regulation which limits use of gas-powered equipment, and particularly gas leaf blowers, to certain hours, days of the week and seasons of the year can ameliorate some of the negative impacts of gas-powered equipment, particularly gas leaf blowers; and

WHEREAS, as a result of the dangers to the community caused by the continued, unfettered use of gas-powered equipment, particularly gas leaf blowers, the Sustainable Landscaping Steering Committee recommends that Princeton regulate the use of gas-powered equipment, particularly gas leaf blowers, by restricting the hours, days of the week and seasons during which such equipment may be used in Princeton, and further require compliance of these new restrictions by both property owners and landscaping companies alike; and

WHEREAS, Princeton Council seeks to regulate the use of gas-powered landscaping equipment, particularly gas leaf blowers, consistent with the recommendations of the Sustainable Landscaping Steering Committee.

NOW, THEREFORE, BE IT ORDAINED by the Princeton Council as follows:

Section 1. Chapter 10C of the "Code of the Township of Princeton, New Jersey, 1968," entitled "Landscaping – Registration," is hereby amended as follows (additions are underlined; deletions are [bracketed]):

Sec. 10C-1. Registration requirement for landscapers for hire; purpose.

Except as otherwise provided in this chapter, n[N]o person shall landscape or engage in any landscaping on any public or private property within the municipality for hire without first registering with [the department of infrastructure and operations]Princeton, on forms to be supplied by [said department]the enforcement officer (as hereafter defined).

The purpose of this chapter requiring landscaper registration is to ensure that persons defined in section 10C-2 [are cognizant of]are aware of their obligations under Princeton's ordinances and applicable state and federal laws, including but not limited to regulations concerning the leaf, branch and log collection program and loud, continuous or excessive noise, Federal and New Jersey State wage and hour laws and the New Jersey State workers' compensation laws.

Nothing in this chapter shall relieve any owner, lessee or tenant of [his or her]the responsibility to comply with the requirements of Princeton's leaf, branch and log collection program or regulation of loud, continuous or excessive noise set forth elsewhere in this Code.

Sec. 10C-2. Definitions.

As used in this chapter the following words and phrases shall have the following meaning:

Enforcement officer shall mean the municipal official(s) or employee(s) designated by the administrator to enforce the provisions of this chapter.

For hire shall mean to demand and/or accept payment or compensation for completion of services.

Hedges, trees and *shrubs* shall have the same meaning as may be defined in chapter 22 of this Code, "Trees and Shrubs."

Landscape and *landscaping* shall mean to be in the business, occupation or trade of adorning or improving any property or portion of property by trimming or cutting grass or shrubs; by planting, installing or removing leaves, branches, logs, grass, flowers, mulch, hedges or shrubs; or by planting or installing trees. As used in this chapter, *landscape* and *landscaping* shall also refer to solicitation of the above-referenced services.

Person shall mean any individual or entity whose existence is recognized by law, including, but not limited to, any partnership, corporation (for-profit, nonprofit, or municipal and its agencies), firm, association, or any combination of the foregoing.

Wage theft shall mean having been found guilty, liable or responsible in any judicial or administrative proceeding of committing a violation of the Federal Fair Labor Standards Act of 1938, 29 U.S.C.A. § 201 *et seq.*, the New Jersey Wage and Hour Law, N.J.S.A. 34:11-56a. *et seq.*, the New Jersey State Wage Payment Law, N.J.S.A. 34:11-4.1 *et seq.* or N.J.S.A. 2C:40A-2 (violation of contract to pay employees).

Sec. 10C-3. Applications for registration; registration fee; suspension or revocation of registration; disclaimer.

(a) An application for registration shall be made upon forms provided by Princeton and shall be filed with [the director of infrastructure and operations or

said official's designee]the enforcement officer. Approved applications for registration shall be public records.

(b) At the time of registration, applicants shall acknowledge that they have received (or been offered, at no cost) a copy of the provisions of the municipality's ordinances regulating its leaf, branch and log collection program and loud, continuous or excessive noise in English and in Spanish. In addition, applicants shall acknowledge that they have received (or been offered, at no cost) a copy of the Federal and New Jersey State wage and hour laws and New Jersey State workers' compensation insurance laws in English and in Spanish. Any applicant required by law to obtain workers' compensation shall also submit a copy of a Certificate of Insurance showing that said applicant has purchased and maintains workers' compensation insurance from an insurance company licensed in the State of New Jersey.

(c) Every registration shall be issued and renewed on an annual basis, effective March 1 of each year[, upon payment of an annual fee to the municipality in the amount of ten dollars].

(d) No registration shall be required of any owner, lessee or tenant of real property who shall personally perform activities otherwise requiring a registration; except that all such work must otherwise comply with the municipality's ordinances.

(e) The mayor and council may, upon recommendation of the [director of infrastructure and operations, or his designee] enforcement officer, after notice and an opportunity for a hearing, suspend or revoke any registration for violation of

law, including but not limited to wage theft laws, or related Princeton ordinances, or for good cause, which is shown to be prejudicial to the public health, safety or welfare. In addition, the [director of infrastructure and operations or his designee] enforcement officer may temporarily suspend any registration for a period not to exceed one week or until the mayor and council can be convened to consider said suspension, when:

(1) The [director of infrastructure and operations, or his designee,]enforcement officer has reasonable cause or belief that an emergency affecting the public health, safety or welfare so requires; or

(2) The [director of infrastructure and operations, or his designee,]enforcement officer receives sufficient information to establish that the registrant has committed wage theft which has not been cured by the registrant by compliance with the order or decision of the governmental entity determining the same.

(f) Princeton makes no guarantee or representation regarding the fitness, knowledge or qualification of any person that is registered by Princeton to engage in landscaping for hire.

Sec. 10C-4. [Off-site disposal and c]Composting encouraged; off-site disposal.

Owners, lessees and tenants, and their registered landscapers, are encouraged, but not required, to either compost leaves, branches and logs themselves on their own property, such as in wooded areas if practicable, or bring leaves, branches and logs to the Lawrence Township Ecological Facility

("Facility"), or such other ecological facility that may be designated by the municipality for disposal. At the time of taking branches and logs to the Facility for disposal, such persons shall provide their name and registration number, along with the property owner, lessee or tenant's name, address and signature, to the Facility on forms for such purpose available in the office of the [director of infrastructure and operations, or from his designee]enforcement officer.

Sec. 10C-5. Exemption of home improvement and tree care services contractors; additional exemptions.

(a) Home improvement contractors registered pursuant to N.J.A.C. 13:45A-17.1 *et seq*. on or after December 31, 2005 shall not be required to register with the municipality as set forth in this chapter.

(b) Persons who are specifically exempt from the registration requirements of N.J.A.C. 13:45A-17.1 *et seq*. under N.J.A.C. 13:45A-17.4 on or after December 31, 2005 shall not be required to register with the municipality as set forth in this chapter.

(c) Any person registered with the New Jersey State Board of Tree Experts to provide "Tree Care Services" in New Jersey and under the applicable regulations, N.J.A.C. 7:3A et seq., shall not be required to register with the municipality as set forth in this chapter.

Sec. 10C-6. Violations; penalties.

For each violation of this chapter, the violator shall be subject to such fines and other penalties as provided in section 1-6 of this Code, entitled "General penalty; continuing violations; repeat violations; other penalties." Repeat offenders

shall be subject to additional fines and other penalties as provided in section 1-6 of this Code.

Section 2. Subsections 21-2(p) through (s), inclusive, of Chapter 21 of the "Code of the Borough of Princeton, New Jersey, 1974" ("Borough Code"), entitled "Loud, Continuous or Excessive Noise," are hereby amended as follows (additions are underlined; deletions are [bracketed]):

Sec. 21-2. Noises expressly prohibited or restricted - Acts enumerated.

The following acts, among others, are declared to be loud, disturbing, excessive or continuous noises, and a danger to the health, safety and welfare of the community, in violation of section 21-1, but the enumeration shall not be deemed to be exclusive:

[(p) Blowers, Fans or Engines. The operation of any noise-creating blower (including but not limited to leaf blowers) or power fan, or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower, fan or combustion engine is adequately muffled and such engine is equipped with a muffler device sufficient to deaden such noises. In addition, the operation or use of any of such equipment between the hours of 10:00 p.m. and 8:00 a.m., Mondays through Saturdays, and 10:00 p.m. and 10:00 a.m., on Sundays, shall not be permitted; except that the use of any snowblower shall not be prohibited during these times when used to clear sidewalks, walkways or driveways following a snow storm, nor shall the use of any portable generator be prohibited during these times when used during a power outage caused by a storm or other natural disaster.]

[(q) Lawnmowers or Chain Saws. The operation or use of any power lawnmower or chain saw between the hours of 10:00 p.m. and 8:00 a.m., Mondays through Saturdays, and 10:00 p.m. and 10:00 a.m., on Sundays; except that the use of any chain saw shall not be prohibited during these times when used in response to an emergency, such as to clear a walkway or street from fallen branches or trees following a storm or other natural disaster.]

(p) Gas-powered leaf blowers.

(1) From March 15 to May 15 each calendar year and October 1 to December 15 each calendar year, no person shall operate, or cause or permit the operation of, any gas-powered leaf blower at any time on Sundays or Thanksgiving, or other than between the hours of 8:00 a.m. and 8:00 p.m., Mondays through Fridays, and 8:00 a.m. and 5:00 p.m. on Saturdays.

(2) From May 16 to September 30 each calendar year, and from December 16 to March 14 the following calendar year, no person shall operate, or cause or permit the operation of, any gas-powered leaf blower at any time.

(3) The operation or use of gas-powered leaf blowers shall not be prohibited during the days and times set forth in subsection (p)(1) and (2) when used in response to a bona fide emergency, such as to clear a walkway, driveway or street from debris following a storm or other natural disaster.

(q) Electric-powered leaf blowers. No person shall operate, or cause or permit the operation of, any electric-powered leaf blower other than between the hours of 8:00 a.m. and 8:00 p.m., Mondays through Fridays, 8:00 a.m. and 5:00 p.m. on Saturdays and 1:00 p.m. and 6:00 p.m. on Sundays, New Year's Day,

Memorial Day, Fourth of July, Labor Day, Thanksgiving or Christmas. The use of any electric-powered leaf blower shall not be prohibited during the days and times set forth in this subsection (q) when used in response to a bona fide emergency, such as to clear a walkway, driveway or street from debris following a storm or other natural disaster.

(r) Electric- or battery-powered chainsaws, hedge trimmers, string trimmers and pole trimmers. No person shall operate, or cause or permit the operation of, any electric- or battery-powered chainsaws, hedge trimmers, string trimmers or pole trimmers other than between the hours of 8:00 a.m. and 8:00 p.m., Mondays through Fridays, 8:00 a.m. and 5:00 p.m. on Saturdays and 1:00 p.m. and 6:00 p.m. on Sundays, New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving or Christmas. The use of any electric- or battery-powered chainsaws, hedge trimmers, string trimmers or pole trimmers shall not be prohibited during the days and times set forth in this subsection (r) when used in response to a bona fide emergency, such as to clear a walkway, driveway or street from debris following a storm or other natural disaster.

(s) Lawnmowers. No person shall operate, or cause or permit the operation of, any power lawnmower other than between the hours of 8:00 a.m. and 8:00 p.m., Mondays through Fridays, 8:00 a.m. and 5:00 p.m. on Saturdays and 1:00 p.m. and 6:00 p.m. on Sundays, New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving or Christmas.

(t) Other noise-creating gas-powered equipment, blowers, power fans or internal combustion engines, including chain saws, snow blowers and portable

generators. No person shall operate, or cause or permit the operation of, any other noise-creating gas-powered equipment, blowers, power fans or internal combustion engines on Sundays, New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving or Christmas, or other than between the hours of 8:00 a.m. and 8:00 p.m., Mondays through Fridays, and 8:00 a.m. and 5:00 p.m. on Saturdays. The use of any such equipment shall not be prohibited during the days and times set forth in this subsection (s) when used in response to a bona fide emergency, such as a power outage, snow storm or other natural disaster.

(u)[(r)] Idling, Starting, Etc., of Vehicles at Night. Any of the following activities, when occurring in close proximity to residences between 11:00 p.m. and 7:00 a.m.: The warming up or idling of buses, trucks or tractors; and the unnecessary and repeated idling, acceleration and deceleration, or starting and stopping of automobiles and motorcycles.

(v)[(s)] Outdoor Concerts. Outdoor concerts, except in accordance with permits first obtained therefor from the administrator, pursuant to section 21-3.

Section 3. Subsection 21-7 of Chapter 21 of the Borough Code is hereby amended follows (additions are underlined; deletions are [bracketed]):

Sec. 21-7. Violations; Penalties.

Except as otherwise provided in this section, f[F]or each violation of this chapter, the violator shall be subject to such fines and other penalties as provided in section 1-6 of this Code, entitled "General penalty; continuing violations; repeat violations; other penalties." Repeat offenders shall be subject to additional fines and other penalties as provided in section 1-6 of this Code.

For the first violation of any provision of subsections 21-2(p), (q), (r), (s) or (t) above, a violator shall only be given a written warning of the violation; for the second and any subsequent violations, said violator shall be subject to such fines and other penalties as provided above.

Section 4. All ordinances and resolutions or parts thereof inconsistent with this ordinance are repealed.

Section 5. If any section, subsection, sentence, clause, phrase or portion of this ordinance 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 shall not affect the validity of the remaining portion thereof.

Section 6. The provisions of this ordinance shall be applicable within Princeton upon final adoption and shall become a part of the new Princeton Code once completed and adopted, except as follows:

a. Grace period. Upon the effective date of this ordinance, the provisions set forth in section 2 of this ordinance shall be in full force and effect except that any violators of the amended or new requirements in section 2 (governing gas- and electric- powered leaf blowers, lawnmowers, and other noise-creating gas-powered equipment, blowers, power fans or internal combustion engines, including chain saws, snow blowers and portable generators) shall be given only written warnings for their first two (2) violations of said amended or new requirements which take place during the first 90 calendar days following the effective date of this ordinance. After the 90-day grace period expires, all violations of section 2 of this ordinance shall be subject to the fines and penalties in section 21-7, as amended by this ordinance.

Delores A. Williams, Clerk

Mark Freda, Mayor

Ordinance Introduced: October 11, 2021
Ordinance Adopted: October 26, 2021

NEWSPAPER PUBLICATIONS:

First Insertion: October 15, 2021
Final Insertion: October 29, 2021

This ordinance (1) updates Princeton's existing requirements for landscaper registration to further protect landscaping workers; and (2) amends Princeton's noise regulations to limit the public's use of gas-powered equipment, including gas-powered leaf blowers and other landscaping equipment, to certain hours, days of the week and seasons of the year.