



CITY OF
**PALO
ALTO**

CITY COUNCIL STAFF REPORT

From: City Manager

Report Type: Action

Lead Department: Planning and Development Services

Meeting Date: February 6, 2023

TITLE

Discussion Regarding Gas Powered Leaf Blower Enforcement and Possible Direction to Prepare an Amendment to the Noise Ordinance (PAMC 9.10) and Resolution to Adjust Financial Penalties for Violations in Residential Neighborhoods to Facilitate Compliance. (Environmental review: not a project)

RECOMMENDED MOTION

Staff recommends that Council:

1. Direct staff to prepare an amendment to the Noise Ordinance (PAMC 9.10) to:
 - a. clarify that citations may be issued to the leaf blower operator, the property owner authorizing or employing the use of gas powered leaf blower on their property, or both for violations of the ban; and,
 - b. remove an existing requirement to provide a five-day notice of violation warning the operator of a gas powered leaf blower and/or property owner in advance of issuing a citation for violating the ban;
2. Direct staff to prepare a resolution updating the municipal penalty schedule for violation of the gas-powered leaf blower ban to \$250 for the first offense, \$500 for the second offense and \$1,000 for the third and subsequent offenses within a three-year period; and,
3. Endorse the leaf blower enforcement public engagement strategy presented in this report.

EXECUTIVE SUMMARY

This report summarizes existing gas-powered leaf blower law and current enforcement efforts and recommends strategies to improve compliance with the City's ban. The recommendation in this report advances the City Council's priority related to community health and safety and a key workplan project associated with this priority.

BACKGROUND

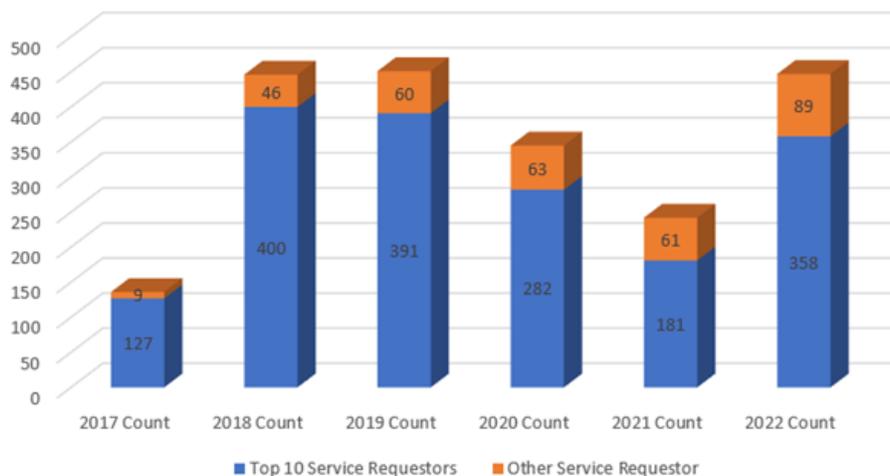
Gas-powered leaf blowers pollute the air, pose health risks to operators and residents, and generate extremely loud noise levels disrupting neighborhood tranquility. The State recently adopted an ordinance to outlaw the sale of new gas-powered leaf blowers (and other gas-powered landscaping equipment) as early as 2024.

Palo Alto banned the use of gas powered leaf blowers in residential districts in May 2000. For 15 years enforcement was managed by the Police department before being transferred to Planning and Development Services. Enforcing the City’s ban has been problematic for a number of reasons, including the high mobility and short duration use of leaf blowers, limited code enforcement resources to follow up on complaints or pursue proactive enforcement, local regulatory challenges that require advanced notice or warning letters prior to citing a violator, and low penalty fees to violators if cited.

Increasingly, residents have grown frustrated by the lack of effective enforcement of gas powered leaf blowers in residential areas. Several years ago, the City Council authorized a new code enforcement officer dedicated to leaf blower enforcement. Unfortunately, this position was only filled for a few months. The vacant position was later eliminated during pandemic-related budget reductions and was recently restored in the FY 2022 budget. The City’s code enforcement staff consists of two officers and one part-time retiree, supported by one administrative associate.

The City receives several hundred leaf blower complaints a year. In any given year between 75% and 90% of the complaints received are from ten individuals as illustrated in the graph below.

Leaf Blower Service Request Counts 2017-2022



Leaf blower complaints may be filed using the City's 311 system which is integrated with the City's land use management software (Accela), or by email or phone.¹

When a complaint is received for a gas powered leaf blower in a residential district, staff:

- a) prepare an initial letter advising the property owner or operator, or both, of an alleged violation of the City's ban.
- b) A code enforcement officer will follow up with a site visit a couple weeks later in an attempt to verify the violation. More often than not, staff is unable to validate a violation and the case is closed.
- c) If a violation is observed, notice is sent documenting the violation and advising the operator of the gas powered leaf blower of corrective action within five days (as required by existing City ordinance).
- d) The code enforcement officer will follow up several weeks later to confirm compliance.

Again, validating compliance or a violation for three consecutive site visits, which is essentially required with current regulations, is not common due to the uncertainty of when the activity will next take place and availability of City resources. If, however, a citation is issued, the penalty for the violation is \$100. Second and third violations are \$150 and \$300, respectively. Except for three citations issued within the past six weeks, staff is not aware of any other gas powered leaf blower citations being issued.

Code enforcement officers require evidence to be able to cite and defend a challenge to any citation. They are required to document the violation with evidence and demonstrate procedural compliance with the law. When notices of violation or issuance of a citation is served, it is delivered in-person or via certified mail. Staff has not relied on information or evidence provided by the public because the City could not attest to the conditions and circumstances of any alleged violation. More specifically, code enforcement officers do not rely solely on information provided by the public to issue a citation; however, such information could potentially be used supplement an officer observed violation.

ANALYSIS

The use of gas powered leaf blowers within residential zones is a violation of Palo Alto Municipal Code (PAMC) Chapter 9.10, Noise Ordinance. This provision states that persons cannot 'operate' gas powered leaf blowers in residential zones. Attachment A provides the current ordinance section that enables enforcement of gas powered leaf blower use.

Battery or electric powered leaf blowers may be used in residential zones Monday through Friday 9 am to 5 pm, and Saturdays 10 am – 4 pm. No leaf blowers may be used on Sundays in Palo Alto.

¹ Options for filing a code enforcement complaint:

PaloAlto311: <https://www.cityofpaloalto.org/Residents/Services/Report-an-Issue/Palo-Alto-311>

Email: planning.enforcement@cityofpaloalto.org or Phone: (650) 329-2605

The ban does not apply to non-residential zones, such as commercial and industrial zones. The ban also does not apply to the City's parks and parking lots or clean up related work for city projects, though efforts are underway to minimize its use as detailed later in this report.

The regulatory framework in the City's municipal code makes it difficult to observe and cite the gas powered leaf blower operator – the code does not allow issuance of an immediate citation with the first observed violation. The statutory language is also focused on the operator and limits the City's ability to influence compliance by citing the property owner who is employing the gas powered leaf blower operator. Moreover, if a citation is issued, the penalty schedule does not impose fees that are likely to deter continued use of gas powered leaf blowers.

Accordingly, staff recommends the following amendments to strengthen enforcement tools and improve compliance with the City's ban.

Municipal Code Amendment: Property Owner Liability

Staff recommends an amendment to PAMC Section 9.10.060 item (f) to clarify and assert the City's ability to assign property owner liability for knowingly hiring or allowing a person to use a gas-powered leaf blower on their residentially zoned property. This amendment will specifically allow staff to hold property owners responsible for knowingly permitting the use of gas powered leaf blowers by an 'operator' on their residential property.

With this change, upon a code enforcement officer observed violation, a warning would be issued to the property owner that puts them on notice that they are permitting an operator to use a gas powered leaf blower on their property. If an officer observes this a second time, the property owner could be cited.

Municipal Code Amendment: Allow Citation Issuance at First Observed Violation

Staff recommends eliminating the need to issue a notice of violation warning five days in advance of issuing a citation to a gas powered leaf blower operator. This requirement sets up an impracticality to document consecutive violations for an activity that is typically a short duration use and variable as to when such violations occur. This existing requirement creates a significant inefficiency preventing effective code compliance enforcement and detracts the department's officers from other work.

With this change, upon a code enforcement officer observed violation, a citation would be issued on site or mailed to the operator of a gas powered leaf blower in a residential district. This amendment will improve the City's ability to proactively enforce the ban and repeated violations may spur the operator of a gas powered leaf blower to transition toward compliant equipment.

Amend the City's Penalty Schedule

The financial penalty for violating the gas powered leaf blower ban is not aligned with other municipal code violations such as littering and smoking in restricted areas. Staff recommends the

current fees, which are \$100, \$150 and \$300 for the first, second and third (and subsequent) violations, respectively, be increased to \$250, \$500, and \$1000.

Coupled with the recommended changes above, proactive enforcement and changes to the penalty schedule may encourage a landscape professional to implement the following actions:

1. Invest and transition to cleaner battery or electric equipment;
2. Use a rake or other hand tools; or
3. Arrange with the property owner for the use or provision of compliant equipment at the job site.

The first two actions may reasonably result in increased costs to the landscape professional, either financially or in the time it takes to complete the work. While there are options to avoid the penalties, this industry typically has tight profit margins and the City Council may want to consider deferring or phasing in a new penalty schedule.

Public Outreach / Awareness

Prior to proactively enforcing the gas powered leaf blower ban with citations, staff proposes a public engagement strategy to inform property owners of the local gas powered leaf blower ban and penalties for violation.

Staff will provide notification through the City's various social media outlets, the website and through the City's utility payment billing service.

Staff prepared a flyer (Attachment B) and is distributing these flyers to operators identified with gas powered leaf blowers in residential neighborhoods and on the door to residences that are alleged to have hired or used gas powered leaf blowers on their residential property.

The flyers contain information about the local ban as well as ways a property owner can help support a landscaper to comply with the law including purchasing an electric or battery-powered leaf blower for use on their property or to give to the landscaper, and/or keeping back up batteries handy to swap out when needed.

Additionally, a code enforcement officer will extend an invitation to attend neighborhood group meetings and present the City's approach toward enforcement and answer related questions.

Based on Council's guidance and through adoption of the second reading of a future ordinance, if directed to prepare, there will be at least four months of concerted engagement to inform the community and landscape professionals of the anticipated changes.

Incentives for Zero-Emission Landscaping Equipment

California CORE² has an incentive program to help offset the cost of replacing gas powered landscaping equipment. California will ban the sale of all new gas-powered landscaping equipment beginning in 2024 and has allocated \$30 million to facilitate this transition. The

² California CORE website: <https://californiacore.org/>

program provides incentives to zero-emission professional landscape equipment. Ten million was set aside for micro businesses and \$17 million was set aside for small businesses. The incentives are for handheld leaf blowers (up to \$300), and up to \$400 for backpack leaf blowers, up to 70% of the MSRP. Most landscaping equipment is eligible for these incentives. The California Air Resources Board website has additional information about the program, which is administered by CALSTART a national non-profit that implements the California CORE program.³

City-Owned Equipment and Increase in Staffing

In the FY 2022 budget, the City Council authorized budget for a full-time officer, and the City hired a new code enforcement officer who began April 2022, to resume handling gas powered leaf blower violations and complaints.

The FY 2022 budget also included funding to purchase electric or battery leaf blowers to explore shifting the use of gas powered leaf blowers for city facilities, such as parks, and parking lots, to electric or battery use. Community Services staff plans on using battery powered backpack blowers instead of gas powered leaf blowers the vast majority of the time. Gas powered leaf blowers may still be used when there is a safety concern and the battery powered equipment is not strong enough to remove plant material or heavy debris from a trail, road or play area. Public Works has a mix of gas powered and electric leaf blowers but is poised to replace all handheld gas powered leaf blowers this year.

Greenhouse Gas Emissions

Gas-powered two-stroke leaf blowers and other two-stroke engines create significant air pollution (such as hydrocarbons, oxides of nitrogen, carbon monoxide, and fine particulate matter). The California Air Resources Board reported that using a gas-powered two-stroke leaf blower for one hour emits as much smog-forming pollution (and not GHG emissions) as a 2016 Toyota Camry does driving for 1100 miles. This has a negative impact on air pollution.

The numbers vary widely, but a leaf blower uses significantly less gasoline per hour than a car, and they spend far less time in use. As a carbon reduction measure, eliminating two-stroke engines does not provide a large return on investment, but it could provide other significant benefits if electrified. In Palo Alto, Portable Equipment, which includes gas-powered two-stroke leaf blowers, accounts for approximately 3,050 MT CO₂e or 0.6% of Palo Alto's overall GHG emissions.

Commercial/Industrial Districts

When the City has collected information about the use, function and practicality of using electric or battery powered leaf blowers on its own facilities, if proven successful, the City Council may

³ California Air Resources Board website: <https://ww2.arb.ca.gov/news/point-sale-vouchers-now-available-small-business-landscape-professionals-purchase-discounted>

want to consider extending the gas-powered leaf blower ban citywide to commercial and industrial districts.

This would make enforcement easier and establish clearer expectations for the community if the City has one set of regulations that applied equally across the City boundary instead of just specific areas (residential districts).

Timeline

With Council direction, staff will return with an ordinance and resolution before June 2023.

FISCAL/RESOURCE IMPACT

Increased fees may generate some revenue to the City but is not anticipated to off-set additional administrative costs associated proactive enforcement or processing appeals that will likely be filed. Code enforcement generally is not a cost recoverable program.

STAKEHOLDER ENGAGEMENT

The City's code enforcement officer assigned to enforce the leaf blower ban has provided handouts to inform landscape professionals and property owners of the ban. The City's website also provides information regarding the prohibition of gas powered leaf blowers in residential neighborhoods.

ENVIRONMENTAL REVIEW

The recommendation in this report does not qualify as a project in accordance with the California Environmental Quality Act and is therefore not subject to environmental review.

ATTACHMENTS

Attachment A: Current Ordinance Section in PAMC Chapter 9.10

Attachment B: Leaf Blower Flyer

APPROVED BY:

Jonathan Lait, Planning and Development Services Director

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