



City Council Staff Report

From: City Manager

Report Type: **CONSENT CALENDAR**

Lead Department: Planning and Development Services

Meeting Date: **June 19, 2023**

Report #:2305-1411

TITLE

Adopt an Ordinance Amending Palo Alto Municipal Code (PAMC) Section 9.10.060 (f) and Adoption of a Resolution to Modify the Administrative Penalty Schedule Related to Enforcement of the City's Gas-Powered Leaf Blower Ban. Environmental Analysis: Not Subject to CEQA Review in Accordance with CEQA Guidelines 15061(b)(3).

RECOMMENDATION

Staff recommends that Council adopt:

- (1) Ordinance (Attachment A) amending PAMC Title 9, Public Peace, Morals, and Safety, Chapter 9.10, Noise, Section 9.10.060 to expand the scope of the gas-powered leaf blower ban in residential neighborhoods; and
- (2) Resolution (Attachment B) increasing the administrative penalty related to gas-powered leaf blower use in residential neighborhoods.

BACKGROUND

On February 6, 2023, the City Council held a public hearing to consider staff recommended changes to the noise ordinance and penalty schedule to improve the efficiency enforcing the City's gas-powered leaf blower ban in residential districts. The recommended amendments remove a five-day citation "waiting period" that impedes the City's ability to cite violators in the act of using prohibited equipment. Another recommended amendment would 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. Staff also recommended adjustments to the City's penalty schedule related to gas-powered leaf blower use to be aligned with other municipal code violations. The staff report and City Council action minutes from

February 6, 2023 is available online and contains additional information in support the City's interest to advance these changes.¹

The City Council approved the staff recommendations, which is the reason this ordinance is being presented to the City Council on the consent calendar. In addition to the recommended actions, the City Council also referred to the Policy and Services Committee a discussion considering a ban on gas-powered leaf blowers citywide and to evaluate the replacement of internal combustion engines for other gardening equipment for residences and commercial properties. This work has been assigned to the planning and development services department and is included on its workplan but is currently un-resourced as staff resources are currently focused on other Council priorities.

The City Council also directed staff to incorporate the concept of 'constructive knowledge' of the property owner or property manager. A property owner or property manager may not know that a gas-powered leaf blower is being used on their property, such as those residents who work outside of the home. Without actual or constructive knowledge that a gas-powered leaf blower is being used, an owner/property manager may not have an opportunity to cure an issue and such citations could be overturned if challenged. The remedy is to provide some form of notice to the property owner or property manager with a timeline or opportunity to cure the violation before being cited. Existing practice already includes a notice provision that the City's code enforcement staff does and would continue to use any time a violation is alleged (reported by a community member or witnessed by City staff) or when seeking compliance from the individual or entity hiring the gardener. Accordingly, no further amendment to the existing municipal code is required as this approach is consistent with existing rules and practices.

Another concern the City Council considered with regard to enforcement was related to equity and a concern that a gardener being cited for violating the ordinance may experience the impact of a fee penalty more acutely than a property owner or property management company. To help mitigate this concern, staff presented a robust public engagement strategy intended to inform gardeners and homeowners of the existing and anticipated rule changes. This strategy has been previously endorsed by the City Council on February 6, 2023 and is summarized below in the community engagement section of this report. Additionally, code enforcement officers have long exercised discretion in the field and generally employ a strategy to gain voluntary compliance over aggressive citation and penalty fee collection. An overriding principle is to first inform and then seek compliance. When needed, follow up with a time to cure and fee penalty thereafter if needed.

Notwithstanding this strategy, leaf blower enforcement consumes a significant amount of city resources and the Council authorized the hiring of a full-time employee to address community concerns regarding noise and air pollution associated with gas-powered leaf blowers. After

¹ February 6, 2023 staff report:

<https://cityofpaloalto.primegov.com/meeting/attachment/585.pdf?name=Item%207%20Staff%20Report> and action minutes: <https://cityofpaloalto.primegov.com/Public/CompiledDocument?meetingTemplateId=1068&compileOutputType=1#page=3>.

several months of implementing its community engagement strategy, code enforcement officers will seek to obtain increased compliance to ameliorate these community concerns, including issuing citations upon observation and citing homeowners and property managers after sending notice in accordance with the Council's interest to ensure 'constructive knowledge'.

DISCUSSION

The attached ordinance and resolution implement the Council's direction to improve the effectiveness of the City's enforcement of gas-powered leaf blowers in residential districts. This is accomplished in several ways. First, it removes a 5-day waiting period enabling a code enforcement officer to cite when a violation of the ban is witnessed. Second, the ordinance clarifies the code enforcement officer can cite the operator, the property owner or other entity responsible for hiring the gardener using a gas-powered leaf blower in violation of the ban. At the officer's discretion one or all parties could be cited. Third, the penalty fee would be increased with the expectation that a higher penalty may encourage a transition to electric or battery-powered leaf blowers. Fourth, staff will continue its outreach and engagement strategy to communicate local requirements, highlight actions gardeners and property owners can take to support compliance and potential implications for non-compliance. Lastly, staff will ensure proper notice is given to provide constructive knowledge and continue an effort that promotes voluntary compliance over aggressive citation and penalty fee issuance.

STAKEHOLDER ENGAGEMENT

Council endorsed the outreach strategy outlined in the February 6, 2023 report; actions taken to date include:

- Created a website² that provides information on the City's rules, information on converting to electric or battery-powered equipment, flyers to download and share with neighbors, and links to other resources;
- Communicated via the City's social media platforms information about the City's ban;
- Attended Palo Alto neighborhood meetings to share information about the City's ordinance and enforcement efforts;
- Hosted a community meeting in April 2022 at the Mitchell Park Library; and,
- Informed gardeners and property owners of local requirements when a violation is observed with the goal to encourage voluntary compliance.

Additional efforts underway or to be implemented in the next several months:

- Continue with efforts and strategies listed above;
- Enhance the City's gas-powered leaf blower ban website with additional information, including links where gardeners and homeowners can access available financial assistance to convert to electric or battery blowers;

² City of Palo Alto Gas-Powered Leaf Blower Ban Website: <https://www.cityofpaloalto.org/Departments/Planning-Development-Services/Code-Enforcement/Leaf-Blower-Ordinance>

- Prepare door hangers for placement when violations are observed or alleged;
- Explore options for including information in utility meter billing (paper and online); and,
- Reach out to gardener organizations and individual businesses as able to inform them of new changes and compliance expectations.

The subject ordinance, if approved by Council would have a second reading in August and would become effective in September. Adoption of the ordinance provides an opportunity for staff to reinforce public awareness of the new provisions through various City Communications channels including social media, printed flyers, and other initiatives described in this report. Staff anticipates using public engagement and education for the balance of the year to encourage voluntary compliance; notices of violation may be issued to establish constructive knowledge. Beginning in 2024, staff anticipates issuing citations, when warranted.

FISCAL/RESOURCE IMPACT

Enforcement and outreach related to the gas-powered leaf blower ban can be accomplished with existing department resources and staffing. The City may collect slightly more penalty fee collection in 2024.

ENVIRONMENTAL REVIEW

In accordance with the California Environmental Quality Act (CEQA) Guidelines, Section 15061(b)(3), the recommendation in this report does not qualify as a project because it can be seen with certainty that the proposed ordinance and amendment to the penalty fee schedule would not have an adverse impact on the environment.

ATTACHMENTS

Attachment A: Ordinance Amending PAMC Section 9.10.060(f) Related to Leaf Blowers

Attachment B: Resolution Amending the Administrative Penalty Schedule Increasing Penalties Related to PAMC 9.10.060(f), Leaf Blower Violations

APPROVED BY:

Jonathan Lait, Planning and Development Services Director