



Item No. {{item.number}} Town of Atherton

CITY COUNCIL STAFF REPORT – STUDY SESSION

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: GEORGE RODERICKS, CITY MANAGER

DATE: MARCH 1, 2023

SUBJECT: DISCUSSION OF AN AMENDMENT TO THE TOWN’S NOISE ORDINANCE RELATED TO THE USE OF GAS-POWERED LEAF BLOWERS

RECOMMENDATION

It is recommended that the Council review, discuss and provide direction on next steps.

BACKGROUND

On January 20, 2021, the City Council held a public hearing to consider an ordinance introduction for amendments to Chapter 8.16 “Noise”, pertaining to leaf blowers. This item was carried over from the November 18, 2020, Council meeting. Council previously received recommendations from the Environmental Programs Committee, accepted public comments on the topic, and provided direction for staff. Council direction in January 2021 was to:

- Prepare an analysis of costs and scope of a Town piloted program to use electric leaf blowers for existing Municipal Operations.
- Provide more specific costs directly from retailers on 2-stroke and 4-stroke gas blowers and electric blowers, including battery costs for electric blowers, which was done at the January 20, 2021, Council meeting.
- Provide more information, on the average amount of time a landscaper (residential and others) spends on leaf blowing during landscape maintenance, reported at the January 20, 2021, Council meeting.
- The Council indicated support for bans and/or restrictions on gas-powered leaf blowers, shifting to electric blowers phased in over time, but not immediately.

Following additional public meetings and feedback on the pilot program in the Park for use of electric leaf blowers, on November 3, 2021, the Council Ad Hoc Subcommittee provided recommendations to Council. The Subcommittee advocated for restrictions that would eliminate the pollutants and noise of two-stroke gardening equipment. The Subcommittee also provided recommendations for limits on hours of use and limited use of 4-stroke equipment on commercial, educational, and Town properties during certain seasons. The City Council provided feedback for

further refinements to the proposed ordinance and directed that staff meet further with the Council Ad Hoc Subcommittee.

In February 2022, after working with the Council Ad Hoc Subcommittee, staff prepared a draft Leaf Blower Ordinance with the following key revisions in response to the direction collected throughout the process and recommendations from the Ad Hoc Subcommittee.

- Prohibit the use of gas-powered garden equipment on Spare the Air days.
- Restrict hours for gas powered garden equipment.
- Gas power garden equipment may be operated –
 - Mon – Fri, 8 a.m. to 5 p.m.
- Authorize hours for electric power garden equipment.
- Electric power garden equipment may be operated-
 - Mon – Friday 8 a.m. to 5 p.m.
 - Sat, 10 a.m. to 5 p.m.
 - Sun, 10 a.m. to 3 p.m.
- 2-stroke gas powered leaf blowers were banned in Atherton after January 1, 2023.

The restrictions noted above applied to all properties in Atherton – residential, educational, open space, and governmental. After preparation of the draft Ordinance there was discussion of enforcement concerns.

The State is banning the sale of gas-powered small engines beginning January 1, 2024. When crafting the draft Ordinance reviewed by the Council in February 2022, the Ad Hoc Subcommittee attempted to create a phased in approach to the use of gas-powered garden equipment, eliminating the use of 2-stroke gas powered leaf blowers in 2023 and authorizing the use of electric power garden equipment on the weekends to encourage a transition. However, it was noted that enforcement of these provisions may get more complicated as the Town and State phase out certain types of equipment. It was suggested that perhaps the Town leave the basic small gas-powered engine regulatory framework to the State and focus solely on the use of gas-powered leaf blowers by banning them, in their entirety, from a date certain forward – such as January 1, 2023 – and then begin an education campaign from now until then. This would streamline the enforcement process.

ANALYSIS

In February 2022, the Council did not reach consensus on a solution; however, the Council directed the Ad Hoc Subcommittee further refine the draft Ordinance to return to the Council in late 2022 and directed that staff work with the Environmental Programs Committee to educate the public about gas powered leaf blowers. The outreach work was done; however, the Subcommittee has been unable to reconcile changes to the Ordinance and recommended that the Council discuss potential revisions early 2023.

Suggestions include:

- Banning the use of gas-powered leaf blowers by commercial vendors but allowing the use to continue by residents/property owners when they are personally operating the equipment to maintain or improve their own property.
- Make it unlawful to operate a leaf blower (gas-powered or electric) on a Spare the Air Day when so declared by the Bay Area Air Quality Management District. The Bay Area Air Quality Management District uses the U.S. EPA's Air Quality Index (AQI) to measure the health impact of air based on air quality and particulate level.

When discussing changes to an Ordinance, it is also important to consider the enforceability. For example, if there were a complaint regarding the use of a gas-powered leaf blower, who gets the citation? The property owner? The gardener? How does staff know who was using the leaf blower at the time of the complaint unless they are caught in the act of using it? If the gardener hands the leaf blower to the property owner as staff arrives and the property owner claims they were using it, then what? Neighbors will likely not be able to distinguish between property owners and vendors from afar when filing a complaint.

With the State's ban on the sale of gas-powered small equipment coming into force in 2024, the Council may also postpone adoption of any Ordinance and allow the State law to take effect. It is anticipated that homeowners and commercial landscapers will eventually transition to electric.

FISCAL IMPACT

None.

GOAL ALIGNMENT

This Report and its contents are in alignment with the following Council Policy Goals:

- Goal Area F – Be Forward-Thinking, Well-Managed, and Well-Planned

POLICY FOCUS

The Town's adopted Climate Action Plan (CAP) includes a series of identified Greenhouse (GHG) reduction measures to reduce the Town's emission levels in accordance with state mandates. While restrictions and/or a ban on the use of leaf blowers are not specifically identified in the CAP, leaf blowers are considered as part of the Town's transportation generating GHG emissions. Reducing air-borne pollutants generated by leaf blowers could be considered supportive of the CAPs overarching approach to sustainability.

PUBLIC NOTICE

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Information about the project is also disseminated via the Town's electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town's electronic News Flash publications. Subscribers include residents

as well as stakeholders –to include, but be not limited to, media outlets, school districts, Menlo Park Fire Protection District, service providers (water, power, and sewer), and regional elected officials.

COMMISSION/COMMITTEE FEEDBACK/REFERRAL

Environmental Programs Committee (meets every other month)

ATTACHMENTS

None.