

**DRAFT ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO  
AMENDING CHAPTER 10.48 COMMUNITY NOISE CONTROL FOR  
LEAF BLOWER REGULATIONS**

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The City Council of the City of Cupertino finds that:

WHEREAS, the City has certain General Plan Goals, Policies and Strategies that support minimizing noise impacts on the community and maintaining a compatible noise environment, it does not have regulations that specifically address leaf blower impacts to promote effective noise reduction policies, and that the amendments to Chapter 10.48 will provide effective standards to promote noise management operations;

WHEREAS, a two-year grace period (starting when the ordinance is adopted) is proposed before the new regulations go into effect to allow time for public outreach and education for residents and landscapers to familiarize themselves with the new regulations and acquire permitted equipment; and

WHEREAS, following public notices given as required by the procedural ordinances of the City of Cupertino and the Government Code, the Planning Commission held a public hearing on September 22, 2020 to consider the Municipal Code Amendments; and

WHEREAS, with Resolution No. 6910 the Planning Commission voted against recommending that the City Council adopt the proposed Ordinance amending the Municipal Code with a 0-4-1 vote (absent – Saxena) for the following reasons: 1) The lack of necessity for specific leaf blower regulations based on the low number of complaints filed against leaf blowers (approximately three per year since 2015), 2) Difficulties for Code Enforcement to regulate, 3) The proposed regulations inequitably harm small business owners, 4) The proposal does not merit passage and is not worthy of advancing, and 5) The proposed ordinance is considered overregulation; and

WHEREAS, on October 20, 2020 upon due notice, the City Council has held at least one public hearing to consider the Planning Commission's recommendation and the Ordinance; and

WHEREAS, the City Council is the decision-making body for this Ordinance; and

WHEREAS, the City Council does find as follows:

- a. That the proposed zoning is in accord with this title of the Municipal Code and the City's Comprehensive General Plan.

*The Ordinance does not change any zoning designations or regulations, but rather it modifies Title 10: Public Peace, Safety and Morals by adding amendments based on*

*zoning designations for the implementation of leaf blower regulations. The proposed amendments do not render existing provisions of the Municipal Code inconsistent with those proposed.*

*The proposed amendments will also support the following General Plan Goals, Policies, and Strategies:*

- *Goal HS-8: Minimize noise impacts on the community and maintain a compatible noise environment for existing and future land use.*
  - *Policy HS-8.1: Land Use Decision Evaluation – Use the Land Use Compatibility for Community Noise Environments chart, the Future Noise Contour Map (see Figure D-1 in Appendix D) and the City Municipal Code to evaluate land use decisions.*
  - *Policy HS-8.2: Building and Site Design – Minimize noise impacts through appropriate building and site design.*
  - *Policy HS-8.3: Construction and Maintenance Activities – Regulate construction and maintenance activities. Establish and enforce reasonable allowable periods of the day, during weekdays, weekends and holidays for construction activities. Require construction contractors to use the best available technology to minimize excessive noise and vibration from construction equipment such as pile drivers, jack hammers, and vibratory rollers.*
- b. The proposed zoning is in compliance with the provisions of the California Environmental Quality Act (CEQA).  
*The proposed Ordinance is exempt from environmental review under California Environmental Quality Act (“CEQA”) Guidelines section 15308 because these regulations are being adopted to assure the maintenance, restoration, enhancement, or protection of the environment; and CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that these regulations related to leaf blower regulations will have no possibility of a significant effect on the environment.*
- c. The site is physically suitable (including, but not limited to, access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints) for the requested zoning designation(s) and anticipated land use development(s).  
*Not applicable. The proposed ordinance amendments do not change the zoning designation for any properties, nor does it change any land uses allowed. The amendments also do not propose any physical changes in the environment or increased development.*
- d. The proposed zoning will promote orderly development of the City.

*Not applicable. The proposed ordinance amendments do not affect the development of the City.*

- e. That the proposed zoning is not detrimental to the health, safety, peace, morals and general welfare of persons residing or working in the neighborhood of subject parcels.

*The proposed ordinance provides regulation to maintain the health, safety, peace, morals and general welfare of persons residing or working in the neighborhood of subject parcels by providing regulations on the types and usage leaf blowers within these neighborhoods to minimize excessive noise.*

- f. The proposed amendments are internally consistent with this title.

*All the necessary chapters and sections of Title 10: Public Peace, Safety and Morals have been amended to ensure internal consistency with the proposed regulations.*

**NOW, THEREFORE, THE CITY COUNCIL OF THE OF CITY OF CUPERTINO DOES ORDAIN AS FOLLOWS:**

**SECTION 1. Adoption.**

The Cupertino Municipal Code is hereby amended as follows:

- I. The following definitions are added to Section 10.48.010 (Definitions) of the Cupertino Municipal Code:

“Leaf blower” means any portable motorized landscape equipment used to blow leaves, dirt and other debris off sidewalks, driveways, lawns or other surfaces.

“Leaf blower, Certified” means a leaf blower with a noise level reading of 65 dBA or less measured at a distance of 50 feet by an independent laboratory per American National Standards Institute (ANSI) standard B175.2, as certified by the manufacturer, or an electric leaf blower with a noise level measured at 65 dBA or less at a distance of 50 feet, as certified by the manufacturer.

“Motorized landscape equipment” means a motorized device powered by electricity or fuel used for landscape maintenance. Motorized landscape equipment includes but is not limited to: lawn mowers, leaf blowers, edgers, and chainsaws.

- II. Section 10.48.051 (Landscape Maintenance Activities) of the Cupertino Municipal Code is amended as follows:

10.48.051 Landscape Maintenance Activities.

~~—The use of motorized equipment for landscape maintenance activities shall be limited to the hours of 8:00 a.m. to 8:00 p.m. on weekdays, and 9:00 a.m. to 6:00 p.m. on weekends and holidays, with the exception of landscape~~

maintenance activities for public schools, public and private golf courses, and public facilities, which are allowed to begin at 7:00 a.m. The use of motorized equipment for landscape maintenance activities during these hours is exempted from the limits of Section 10.48.040; provided, that reasonable efforts are made by the user to minimize the disturbances to nearby residents by, for example, installation of appropriate mufflers or noise baffles, running equipment only the minimal period necessary, and locating equipment so as to generate minimum noise levels on adjoining properties.

**A. The use of motorized landscape equipment for landscape maintenance activities shall be limited as follows:**

	<u>Weekdays</u>	<u>Weekends and Holidays</u>
<u>At public schools, public and private golf courses and public facilities</u>	<u>7:00 a.m. – 8:00 p.m.</u>	<u>7:00 a.m. – 6:00 p.m.</u>
<u>All others</u>	<u>8:00 a.m. – 8:00 p.m.</u>	<u>9:00 a.m. – 6:00 p.m.</u>

**B.** The use of motorized **landscape** equipment for landscape maintenance activities during **the hours indicated in subsection A** is exempted from the limits of Section 10.48.040; provided that reasonable efforts are made by the user to minimize the disturbances to nearby residents by, for example, installation of appropriate mufflers, ~~or~~ noise baffles, **or extension tubes supplied by the manufacturer,** running equipment only the minimal period necessary, and locating equipment so as to generate minimum noise levels on adjoining properties.

**C. After November 5, 2022, the following regulations shall apply to leaf blowers:**

- 1. The use of any leaf blower other than a certified leaf blower is prohibited.**
- 2. Certified leaf blowers shall only be used in a manner consistent with Section 10.48.080(A) and (B) and as provided in the table below:**

	<u>Certified Gas-powered Leaf Blowers</u>	<u>Certified Electric Leaf Blowers</u>
<u>Residential (single family homes, duplexes and triplexes)</u>	<u>Prohibited</u>	<u>Permitted</u>
<u>Non-Residential and Multi-family or mixed-use developments</u>	<u>Permitted</u>	<u>Permitted</u>
<u>City Property (Parks, streets, medians, public facilities, etc.)</u>	<u>Permitted</u>	<u>Permitted</u>

**SECTION 2: Severability and Continuity.**

The City Council declares that each section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance is severable and independent of every other section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance. If any section, sub-section, paragraph, sub-paragraph, sentence, clause or phrase of this ordinance is held invalid, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, the City Council declares that it would have adopted the remaining provisions of this ordinance irrespective of such portion, and further declares its express intent that the remaining portions of this ordinance should remain in effect after the invalid portion has been eliminated. To the extent the provisions of this Ordinance are substantially the same as previous provisions of the Cupertino Municipal Code, these provisions shall be construed as continuations of those provisions and not as an amendment to or readoption of the earlier provisions.

**SECTION 3: California Environmental Quality Act.**

The proposed ordinance is exempt from environmental review under the California Environmental Quality Act ("CEQA") Guidelines Section 15308 since these regulations are being adopted to assure the maintenance, restoration, enhancement, or protection of the environment. Further, the proposed ordinance is exempt from CEQA under CEQA Guidelines section 15061(b)(3) because it can be seen with certainty the Ordinance's regulation related to leaf blower regulations will have no possible significant effect on the environment.

**SECTION 4: Effective Date.**

This Ordinance shall take effect two years after adoption as provided by Government Code Section 36937.

**SECTION 5: Publication.**

The City Clerk shall give notice of adoption of this Ordinance as required by law. Pursuant to Government Code Section 36933, a summary of this Ordinance may be prepared by the City Clerk and published in lieu of publication of the entire text. The City Clerk shall post in the office of the City Clerk a certified copy of the full text of the Ordinance listing the names of the City Council members voting for and against the ordinance.

**INTRODUCED** at a regular meeting of the Cupertino City Council on October 20, 2020 and **ENACTED** at a regular meeting of the Cupertino City Council on November 3, 2020 by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

SIGNED:  _____ Steven Scharf, Mayor City of Cupertino	  _____ Date
ATTEST:  _____  Kirsten Squarcia, City Clerk	  _____ Date
APPROVED AS TO FORM:  _____ Heather Minner, City Attorney	  _____ Date