



**COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION**

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CITY COUNCIL STAFF REPORT

Meeting: October 20, 2020

SUBJECT

Consider Municipal Code Amendments to CMC Chapter 10.48 Community Noise Control to regulate leaf blowers to implement the Fiscal Year 2020/21 City Council Work Program items related to ordinance updates on gas-powered leaf blowers. (Application No. MCA-2020-002; Applicant: City of Cupertino; Location: Citywide)

RECOMMENDED ACTION

That the City Council:

1. Find that the proposed actions are exempt from CEQA; and,
2. Conduct the first reading of Ordinance No. 20-XXXX "An Ordinance to Amend Chapter 10.48 Community Noise Control to Adopt Leaf Blower Regulations" (Attachment A).

DISCUSSION

Background

The FY 2020/21 City Council Work Program directed the City to study and incorporate leaf blower regulations into the Municipal Code to address noise concerns from leaf blowers. Several jurisdictions in Santa Clara County have adopted restrictions on the use of leaf blowers, including bans on gas-powered leaf blowers, which are typically louder than their electric counterparts.

The City of Cupertino does not currently have a ban or noise standards specific to leaf blowers, gas-powered or otherwise. These devices are generally regulated under Cupertino Municipal Code (CMC) Chapter 10.48 Community Noise Control, which limits hours of operations for "landscape maintenance activities." Although undefined, landscape maintenance activities have been interpreted by City staff to include the use of all motorized gardening equipment, including leaf blowers.

The use of motorized landscape equipment is 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, except for such

activities at public schools, public and private golf courses, and public facilities, which are allowed to begin at 7:00 a.m. (CMC Chapter 10.48.051). Generally, daytime and nighttime maximum noise levels in residential zones are limited to 60 decibels (dBA) and 50 dBA, respectively, measured at the shared property line of the receiving property (CMC Chapter 10.48.040), with some exceptions. Landscape maintenance activities are exempt from these daytime and nighttime noise limits provided that reasonable efforts are made by the user to minimize disturbances to nearby residents through the use of appropriate noise mufflers, running equipment only the minimal period necessary, and locating equipment so as to provide the least impact to adjoining properties.

Planning Commission Review

The proposed amendments were presented to the Planning Commission at its Regular meeting on September 22, 2020. The Commission received public comments, reviewed the ordinance, and concluded that the proposed amendments to Municipal Code 10.48, Community Noise Control are unnecessary 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.

The Planning Commission voted against recommending that the City Council adopt the proposed Ordinance with a 0-4-1 vote (absent – Saxena) (Attachment B).

Analysis

Leaf Blower Regulations:

Noise violations are reported to the Code Enforcement Division. Staff compiled and analyzed data for landscape maintenance related cases in the City over a five-year period (from January 2015 to July 2020). Table 1 on the following page presents this data by the type of complaint and the land use of the respondent property.

A review of the data indicates a total of 27 complaints - 15 of which were specific to leaf blower noise and hours of operation. The remaining 12 cases are non-specific and could possibly include other motorized landscaping equipment such as lawn mowers, edgers, and chainsaws. In aggregate, ten complaints were related to the use of loud equipment, while 22 were related to the use of landscape equipment too early in the day.

Leaf Blower				
	Commercial/ Office	Single-Family Residential	Multi- family	Total
Too Loud	2	1	0	3
Too Early	4	2	1	7
Loud and Early	2	3	0	5
Total	8	6	1	15
Miscellaneous Landscape Complaints				
	Commercial/ Office	Single-Family Residential	Multi- family	Total
Too Loud	1	1	0	2
Too Early	0	9	1	10
Loud and Early	0	0	0	0
Total	1	10	1	12

Table 1. Cupertino Code Enforcement Cases (Jan. 2015 – July 2020)

Comparison of Surrounding Jurisdictions

Five neighboring communities with adopted standards specific to leaf blowers were surveyed to compare their regulations with the City of Cupertino's Community Noise Regulations (Attachment C). The jurisdictions researched were: Palo Alto, Sunnyvale, Saratoga, Los Gatos, and Los Altos. Staff researched the current restrictions for leaf blowers by type (electric or gas), allowable hours of operation, enforcement body, outreach conducted, and their respective definitions of "leaf blower".

Applicability and Standards

Palo Alto, Sunnyvale, Saratoga, and Los Gatos set decibel limits for leaf blowers at 65 dBA (when measured 50 feet from the blower), while Los Altos does not have a noise level specified in their ordinance. Staff is recommending that the noise levels for leaf blowers in Cupertino be set to 65 dBA for leaf blowers.

The American National Standards Institute (ANSI) B175.2 details methodology for sound testing, safety, and performance for internal combustion engine-powered handheld and backpack leaf blowers. Leaf blowers that are ANSI-certified display a label for ease of identification, allowing for easier enforcement. However, electric leaf blowers are not tested according to ANSI standards and while these blowers are not labeled, the noise levels of these units can be found readily in the manufacturer's specifications, if the make and model of the unit is known.

While the cities of Sunnyvale and Saratoga do not prohibit the use of gas-powered leaf blowers in any zoning district, Los Altos limits their use to only non-residential zoning districts. Additionally, Palo Alto and Los Gatos, which has a similar topography as

Cupertino, with both smaller valley floor and larger foothill residential properties, does not allow the use of gas-powered leaf blowers in any residential zoning district.

Upon research, staff has found that electric leaf blowers are generally quieter than gas leaf blowers. According to a research article in the Journal of Environmental and Toxicological Studies titled “Lawn and Garden Equipment Sound: A Comparison of Gas and Battery Electric Equipment”, gas-powered leaf blowers have a markedly greater low frequency component compared with the battery electric leaf blower sound spectrum, “allowing it to transmit and remain audible over longer distances and have greater adverse impact on the surrounding community” (Pollock, Sparks, & Banks, 2018). The lower frequency of gas leaf blowers allows the emitted sounds to travel more readily through windows and glass doors of homes. The study also concludes that, based on an analysis of perceived loudness by the human ear, gas leaf blowers can be heard up to several times louder than battery electric counterparts in both outdoor and indoor settings.

Landscape maintenance activities for larger commercial properties, mixed use developments, and public parks can be negatively impacted if limited to the use of electric leaf blowers alone. The Cupertino Public Works Department’s Maintenance Service Division expressed concerns with switching to electric leaf blowers due to the lack of power needed for larger sites (such as the public parks and schools) and consequently increased maintenance times. Additional concerns include inadequate run times for battery-operated blowers and restricted mobility for corded electric leaf blowers.

Taking into consideration the regulations from neighboring jurisdictions and the concerns regarding larger properties, the draft ordinance permits the use of only certified electric leaf blowers in residential single-family, duplex, and triplex developments, while allowing the use of both ANSI-certified gas leaf blowers and certified electric leaf blowers for landscape maintenance on non-residential and multi-family, mixed use developments, and city properties (i.e. parks, streets, medians, public facilities, etc.).

All the jurisdictions researched limit hours of operation by weekday, weekend and holidays. Most cities allow the use of leaf blowers beginning at 8:00 a.m. citywide on weekdays. Only the City of Palo Alto further limits the hours of operation for use of leaf blowers in residential areas on weekdays while Los Altos has shorter hours on weekdays for both residential and non-residential areas. All cities allow the use of leaf blowers, some for shorter hours, on Saturdays. The cities of Saratoga, Palo Alto and Los Gatos prohibit the use of leaf blowers on Sundays and Holidays. However, two cities, Sunnyvale and Los Altos, do not have special weekend or Holiday hours of operation.

Table 2 below summarizes the hours of operation for each of the cities.

	Weekdays	Saturday	Sunday	Holidays
Saratoga	8:00 a.m. to 5:00 p.m.	10:00 a.m. to 5:00 p.m.	Prohibited	No mention
Palo Alto	Res: 9:00 a.m. to 5:00 p.m. Non-res: 8:00 a.m. to 6:00 p.m.	10:00 a.m. to 4:00 p.m.	Prohibited	Prohibited
Los Gatos	8:00 a.m. to 5:00 p.m.	9:00 a.m. to 4:00 p.m.	Prohibited	Prohibited
Los Altos	9:00 a.m. to 5:00 p.m.	9:00 a.m. to 5:00 p.m.	9:00 a.m. to 5:00 p.m.	9:00 a.m. to 5:00 p.m.
Sunnyvale	8:00 a.m. to 8:00 p.m.	8:00 a.m. to 8:00 p.m.	8:00 a.m. to 8:00 p.m.	8:00 a.m. to 8:00 p.m.
Cupertino (current – for all landscape equipment)	8:00 a.m. to 8:00 p.m.	9:00 a.m. to 6:00 p.m.	9:00 a.m. to 6:00 p.m.	9:00 a.m. to 6:00 p.m.

Table 2. Leaf Blower Operational Hours Comparison Table

Cupertino has hours of operation similar to Sunnyvale’s for weekdays but has reduced hours of operation on Saturdays/Sundays and Holidays. No changes are proposed with the draft ordinance on the hours of operation, as it pertains to the use of leaf blowers.

Effective date of Leaf Blower Regulations

The most recent jurisdiction to adopt leaf blower regulations was the City of Saratoga, whose leaf blower ordinance went into effect on October 1, 2019. However, the ordinance, approved on October 4, 2017, included a two-year grace period leading up to the effective date of the new noise standards related to leaf blowers. This was to allow time for outreach and inform stakeholders about the changes and encourage the transition to the use of certified leaf blowers.

The outreach plan included:

- Citywide postcard mailers after adoption of the ordinance
- Notifications to all landscape and gardening businesses located within Saratoga city limits
- Informational median signs throughout the City
- A dedicated leaf blower FAQ page on the City’s website

Staff recommends a two-year grace period (starting when the ordinance is effective) with an outreach plan similar to Saratoga’s, to allow time for residents and landscapers to familiarize themselves with the new regulations and acquire permitted equipment. Should City Council adopt the leaf blower regulations in a Second Reading on November 3, 2020, the new regulations would become effective on November 5, 2022. The City will continue to enforce the existing regulations for landscape maintenance activities until the effective date.

Environmental Review

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

Public Noticing & Outreach

The following noticing has been conducted for this project:

Notice of Public Hearing, Site Notice & Legal Ad	Agenda
<ul style="list-style-type: none">▪ Legal ad placed in newspaper (<i>at least 10 days prior to hearing</i>)▪ Display ad placed in newspaper (<i>at least 10 days prior to hearing</i>)	<ul style="list-style-type: none">▪ Posted on the City's official notice bulletin board (<i>four days prior to hearing</i>)▪ Posted on the City of Cupertino’s Web site (<i>four days prior to hearing</i>)

NEXT STEPS

Second Reading by City Council tentatively scheduled for November 3, 2020. If adopted, the ordinance will be effective two years after the second reading/adoption.

Prepared by: Jeffrey Tsumura, Associate Planner

Reviewed by: Piu Ghosh, Planning Manager

Reviewed and Approved for Submission by: Benjamin Fu, Director of Community Development; Dianne Thompson, Assistant City Manager

Attachments:

A - Draft Ordinance for MCA-2020-002

B – Planning Commission Resolution No. 6910

C - Comparison of Neighboring Jurisdictions

D – Redlined Ordinance