



**TO:** Dave Fribush

**FROM:** Sarah Henricks, Management Analyst Fellow

**DATE:** October 16, 2017

**RE:** City of Los Altos gas-powered leaf blower ordinance

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## **EXECUTIVE SUMMARY**

The City of Los Altos has had a ban on gas-powered leaf blowers since 1991. The ban was revisited in early 2011 to determine if restrictions could be lessened to accommodate the landscaping industry or those persons already owning gas-powered blowers. After careful consideration, City Council chose not to amend the ordinance and it remains part of the Municipal Code.

The current regulation falls under Municipal Code 6.16.070 and reads as follows:

15. Portable gasoline powered blowers.
  - a. Definition. Portable gasoline-powered leaf blowers are defined as portable power equipment that is powered by a self-contained fuel engine and used in any landscape, maintenance, construction, property repair, or property maintenance for the purpose of blowing, dispersing or redistributing dust, dirt, leaves, grass clippings, cuttings and trimmings from trees and shrubs or other debris.
  - b. Gasoline-powered blowers prohibited. Use or operation of portable gasoline-powered leaf blowers within the city for any purpose except testing noise levels is unlawful and shall constitute an infraction, punishable as provided by law.

Enforcement of the ban is difficult, as the Police Department must not only rely on residents to report use of gas-powered blowers, but the Code Enforcement Officer must witness the use of the gas blower to issue a citation. Current police efforts include education and outreach when calls are received. The City is considering including a copy of the ordinance with business license applications and renewals as part of an educational campaign.

## **DISCUSSION**

### *History*

Prior to banning gas powered blowers, the City Council adopted an interim ordinance that allowed gas blowers that operate at 75 dBA when measured at 12.5 feet. The 12.5-foot distance was meant to represent the noise heard on the receiving property from the use of a blower on a neighboring property. A permitting system was developed to license acceptable units. The proposed licensing system was time intensive, difficult to administer and ineffective. A fee was collected to recover the cost of staff time involved. During the time the interim ordinance was in place it appeared that relatively few blowers could achieve acceptable noise levels.

The prohibition on gas-powered leaf blowers in Los Altos went into effect in June 1991. Following the adoption of the ordinance prohibiting these devices, a citizen's initiative was placed on the

November 1991 ballot to allow the use of some gas-powered blowers, Attachment A. The initiative was rejected with 58.7% of voters opposed and 41.3% in favor. Attachment B presents the city attorney's impartial analysis of the initiative as well as arguments for and against the measure.

In 2011, the City Council requested a staff report on the City's prohibition on the use of portable gasoline engine powered blowers, commonly referred to as leaf blowers, as codified in Chapter 6.16 of the Municipal Code. This report was received by Council at the January 11, 2011 meeting, Attachment C, at which time, following public comments from three Los Altos residents opposing the elimination of the ban, Council requested that staff research how other cities were regulating these devices. Council also requested background information regarding a related voter initiative that was considered in 1991. City Council considered this information at the February 8, 2011 regular meeting, Attachment D. Following public comments from 13 Los Altos residents opposing the elimination of the ban and further Council discussion, a motion was made by Councilmember Fishpaw, and seconded by Mayor Pro Tem Carpenter, to direct staff to review the use of these devices in non-residential areas and public spaces and bring back ordinance amendments for review. The motion carried unanimously. On March 8, 2011, Attachment E, staff presented the sample ordinance permitting gas-powered blowers in commercial districts and on private property. The draft ordinance would continue to prohibit gas-powered blowers in residential districts and at private schools, religious facilities, and other similar community facilities. Following public comments from ten Los Altos residents opposing the elimination of the ban and Council discussion, a motion was made by Councilmember Satterlee, and seconded by Councilmember Fishpaw to take no further action. The motion passed unanimously.

The ordinance currently reads as follows:

Municipal Code 6.16.070

15. Portable gasoline powered blowers.

- a. Definition. Portable gasoline-powered leaf blowers are defined as portable power equipment that is powered by a self-contained fuel engine and used in any landscape, maintenance, construction, property repair, or property maintenance for the purpose of blowing, dispersing or redistributing dust, dirt, leaves, grass clippings, cuttings and trimmings from trees and shrubs or other debris.
- b. Gasoline-powered blowers prohibited. Use or operation of portable gasoline-powered leaf blowers within the city for any purpose except testing noise levels is unlawful and shall constitute an infraction, punishable as provided by law.

*Enforcement*

In the case of a gasoline powered leaf blower, the onus falls to community members to report violations to the City's non-emergency phone number. The Los Altos municipal code is enforced by the Code Enforcement Officer, who responds to all Municipal Code violations when on-duty and available. If available, the Code Enforcement Officer responds to the reported violation to investigate. Law requires the Code Enforcement Officer to personally witness the Municipal Code violation to enforce the regulation. If she witnesses the violation, she uses her discretion, as with traffic stops for vehicle code violations, to determine the appropriate enforcement action. Enforcement can range from a verbal admonishment with accompany education on the Municipal Code to issuance of a citation.

Oftentimes, when a Code Enforcement Officer arrives at the scene of the violation, the subject is gone or no longer using the device. If the subject is still on-scene but is not using the device, the Code Enforcement Officer can take the opportunity to educate the subject about the ban.

If the Code Enforcement Officer is not available, on-duty patrol officers will be dispatched to the call on a priority basis. Patrol officers' response priorities are: protecting schools, crimes against persons (domestic violence, assault, disturbances, robberies, etc.), property crimes (burglary, theft from automobiles, grand and petty theft, shoplifting, auto theft, etc.), traffic (traffic accidents, speeding around schools, speeding in neighborhoods, downtown and other shopping district complaints, etc.). Municipal Code violations are a lesser priority for patrol officers, as they do not pose an immediate threat to public safety. If officers are available to report to a violation, they do, but often, officers are responding to more serious calls that pose a threat to safety, property, traffic flow, or other more urgent requests.

Year-to-date, the Los Altos Police Department has issued six citations for the use of a gas-powered leaf blower. The fine accompanying a citation is \$100 for the first offense, \$200 for the second offense, and \$500 for the third offense. The Police Department also tracks verbal and written warnings, escalating the consequence with each violation. Due to the difficulty in enforcing the gas-powered leaf blower ban, the Police Department has taken an educational approach. When an officer responds to a call, they inform the user and home- or business owner about the ordinance and the associated fines. The Code Enforcement Officer follows up with a written letter relaying the information, with the hope that education will increase compliance. In addition, the City is considering including a copy of the ordinance with all business license applications and renewals as part of an educational campaign.

## **ATTACHMENTS**

Attachment A: Ballot Initiative

Attachment B: Ballot Initiative Arguments

Attachment C: January 11, 2011 Agenda Report Summary

Attachment D: February 8, 2011 Agenda Report Summary

Attachment E: March 8, 2011 Agenda Report Summary

# ATTACHMENT A

## BALLOT TITLE

**AN INITIATIVE ORDINANCE OF THE CITY OF LOS ALTOS AMENDING SECTION 10-5.07(b)(15) OF THE LOS ALTOS MUNICIPAL CODE TO DEFINE GAS POWERED LEAF BLOWERS, SPECIFY OPERATING HOURS AND DAYS, ADOPT POLICIES RESPECTING USE OF LEAF BLOWERS, AND TO PROHIBIT CERTAIN GAS POWERED LEAF BLOWERS AND EXEMPTING CERTAIN PERSONS**

### **Summary of Ordinance**

This initiative ordinance, if adopted by the City Council or by the electorate, would define gas powered leaf blowers, specify operating hours and days thereof, state certain non-binding policies with respect to their use, prohibit gas powered leaf blowers over 75 dba measured 25 feet from the source after July 1, 1992, and exempt therefrom persons who own a gasoline leaf blower on the effective date and use it at their own residence.

By: 

Robert K. Booth, Jr.  
City Attorney  
City of Los Altos

# ATTACHMENT B

## CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE D

Since June 1, 1991, an Ordinance of the City of Los Altos prohibits the use of all gasoline powered leaf blowers in the City, and specifies operating hours and guidelines on the operation of other types of leaf blowers.

This initiative ordinance, if adopted by the electorate, would repeal the existing prohibition on the use of gasoline powered leaf blowers, and would substitute a prohibition on the use of gasoline powered leaf blowers exceeding a noise limit of 75 decibels at a distance of 25 feet from the source, would change the operating hours and days, so that gasoline powered leaf blowers could be operating during different times and days than electric powered leaf blowers, and would establish certain other "guidelines" with respect to their use.

An Ordinance adopted by initiative can only be changed by the voters in another election.

In addition to changing the current prohibition on gasoline powered leaf blowers to a prohibition only on gasoline leaf blowers which exceed certain noise limits, this initiative ordinance would also establish a lifetime exemption for persons who owned gasoline powered leaf blowers on the effective date of the initiative ordinance, regardless of the noise level of such a leaf blower, and provided it is used at that person's residence.

It is not clear whether such an exempt person could have other individuals in the household or persons such as an employed gardener, take advantage of that exemption and use that leaf blower on the property. There is no prohibition on replacing a worn out or broken blower, because the exemption is for the person and not the machine. It is also not specified how it would be determined who owned a gasoline powered leaf blower on the date specified, but it is likely that this determination would be the responsibility of the City staff at considerable cost.


Enforcement of the initiative ordinance would require use of noise measuring equipment and the cooperation of the user in order to ascertain the noise level of each leaf blower. Such measurements are not necessary to enforce the existing ordinance. The police time involved and non-recoverable cost of such enforcement would likely be considerably higher than enforcing the existing ordinance.

The Initiative Ordinance might be subject to challenge because of the exemption for certain individuals although the courts sometimes uphold more favorable treatment for city residents than for non-residents.

There are numerous vague or undefined terms and provisions within the Initiative Ordinance which themselves may become the subject of litigation should an appropriate dispute arise.

Violations of both ordinances are misdemeanors, punishable as provided by law.

The above statement is an impartial analysis of Measure D. If you desire a copy of the Initiative Ordinance, please call the City Clerk at 948-1491 and a copy will be mailed at no cost to you. August 21, 1991



ROBERT K. BOOTH, JR.  
City Attorney  
City of Los Altos

INITIATIVE ARGUMENT IN FAVOR

Leaf blowers have been almost universally used by both public and private service providers for the simple reason that they are the most cost effective way of handling many clean up tasks.

Currently they have been banned in Los Altos, ostensibly due to their noise level. Since, unlike dozens of other noise sources, the currently available models will operate within the noise and vibration limits established in the general plan, the only real effect is to reduce the level of service while raising costs to everyone. Part of our quality of life has been our well kept yards, given national recognition as a "Tree City".

The effect on the City maintenance has been clear and immediate, an increase in City maintenance costs while scheduling service one third as often to compensate for the three to one increase in the time and labor required to use broom and rake rather than blowers. The replacement electric blowers are rarely useable and are essentially in storage while the city has reverted to the tools of the 1890's at the labor costs of the 1990's!

Nearly 4,000 households are facing higher costs and service loss to stop 10 minutes a week of operation of equipment that meets the noise standards violated by more than 30 other noise sources that operate longer and more often throughout the community. Shall we stop the street sweepers, garbage trucks, mowers and almost all construction and repair equipment in the town? A few hundred more are suffering uncompensated loss of property, legally acquired and used for years without problems.

Three council members voted to enforce the ban prior to the election without attending a scheduled special demonstration of compliant blower equipment. So much for the promised review of improved technology, ~~some day~~. What property or service will they try to abrogate next?

The undersigned authors of the argument in favor of the Ballot Measure D at the Special Election for the City of Los Altos to be held on the 5th day of November, 1991 hereby state that such argument is true and correct to the best of their knowledge and belief.

Signed Katherine Zander

Date Aug 12, 1991

Donald H. Filippini

Aug 12, 1991

Kevin Lisa Filippini

Aug 12, 1991

Ann C. O'Conroy

Aug 12, 1991

Tennet M. Zander

Aug 12, 1991

Argument IN OPPOSITION

Measure D is a well-meaning but ineffectual attempt to regulate the use of gas-powered leaf blowers. Whatever your feelings about the use of leaf blowers, this measure is not the answer.

Provisions regarding "grandfathering" will be very difficult to enforce. Whenever a gas blower is being used, Police Officers will have to verify that the blower belongs to the homeowner and the date of purchase. This will divert Police from much more critical activities. Further complicating enforcement, the hours specified for leaf blower operation would be different from those regulating other noisy equipment. Also, the measure's "Appropriate Use" guidelines are too vague to be enforceable.

Measure D is confusing. It is unclear if gardeners would even be permitted to use a resident's blower.

Expensive legal complications may arise from the fact that the noise level permitted by the initiative exceeds the maximum noise level specified in the General Plan.

City Council's main goal in enacting the current restrictions on leaf blowers was to intensify public pressure on manufacturers to design quieter blowers. Manufacturers are responding. Council has already scheduled a review of the leaf blower issue, including a public hearing with public input, for March 1992 and it is likely there will be blowers that meet General Plan requirements by that time.

Don't lock yourself and your community into an unenforceable and confusing ordinance. Remember, if this initiative passes, it can only be changed by another initiative or by legal action.

VOTE NO ON MEASURE D!

The undersigned authors of the argument against Ballot Measure D at the Special Election for the City of Los Altos to be held on the 5th day of November, 1991 hereby state that such argument is true and correct to the best of their knowledge and belief.

Denny Spangler 8/12/91  
Denny Spangler, Mayor

T A Laliotis 8/12/91  
Ted Laliotis, Mayor Pro Tem

Marge Bruno 8/12/91  
Marge Bruno, Councilmember



REBUTTAL TO INITIATIVE ARGUMENT

The Initiative Argument fails to discuss the merits of the initiative. We believe this is because the initiative is not supportable on its own merits.

A good initiative would have provided incentives for an orderly transition to quieter leaf blowers. This initiative does the opposite. It encourages gardeners to continue using their old noisy and highly polluting leaf blowers forever in Los Altos. Since this initiative grandfathers them forever, gardeners are likely to continue using the old klunkers in Los Altos for as long as possible.

This initiative is vague. Section (ii) reads: "Operating or permitting the operation of...". It is not clear who does the "permitting". Is it the City? the homeowner? the next door neighbor? or the gardener's boss?

Litigation can arise from vagueness. Litigation coupled with likely future initiatives (Initiative Ordinances can only be modified by another ballot initiative or by legal action), has the potential of keeping the leaf blower issue alive in Los Altos for a long time.

Paragraph 2 of the initiative argument is vague, misleading, or inaccurate depending on one's interpretation: "...the currently available models will operate within the noise and vibration limits established in the general plan". The fact is that all tested models failed!

The current ban is a clean solution. The City Council is committed to reviewing the ordinance in March 1992 and considering an incentive-based transition that would allow quieter leaf blowers that may be available by that time if they meet the General Plan specifications.

Signed: \_\_\_\_\_

Dated: \_\_\_\_\_

Denny Spangler  
Denny Spangler, Mayor

8-22-91

Ted Laliotis  
Ted Laliotis, Mayor Pro Tem

8-20-91

Marge Bruno  
Marge Bruno, City Council Member

8/20/91

REBUTTAL ARGUMENT FOR MEASURE D

Key to enforcing this noise regulation is a list of acceptable equipments, accepting complaints only from people who live or work near the source property and to warn or cite the responsible owner/manager, not the service provider. The person getting the service is responsible for seeing that it is legally performed.

Any home owner can submit evidence of prior ownership for a use certificate. Legal operators would be as for any other personally owned equipment. Commercial service providers must use their own equipment. The authors of the argument against Measure D just want to ban anything they choose without compensating owners.

The use guidelines are from ordinances in other communities, and are intended to serve as a basis for small claims.

The blower noise levels permitted are consistent with the general plan. How can this create legal problems when dozens of sources don't meet the General Plan and are noisier than blowers? These range from city garbage trucks and chipper/shredders to neighborhood dogs.

Pressuring manufacturers is not credible when documented noise performance and schedules were presented to the council before the ban was passed. The three voted to enforce the ban after a special demonstration of blower equipment meeting General Plan requirements which they did not attend!

The real issue is simple, stop their abrogation of our property rights and services before they hit the next target... mowers, dogs, tillers, motor bikes, RV's?... what's next?!

VOTE YES ON MEASURE D!

The undersigned authors of the rebuttal argument in favor of the Ballot Measure D at the Special Election for the City of Los Altos to be held on the 5th day of November, 1991 hereby state that such argument is true and correct to the best of their knowledge and belief.

Signed <u>Katharine M. Zerkow</u>	Date <u>8/21/91</u>
<u>Donald P. Scipioni</u>	<u>8/21/91</u>
<u>Kevin Lynn Blagov</u>	<u>8/21/91</u>
<u>Matthew J. Lohr</u>	<u>8/21/91</u>
<u>Elayne D. Christensen</u>	<u>8/22/91</u>



## AGENDA REPORT SUMMARY

**MEETING DATE:** January 11, 2011

**SUBJECT:**            **Portable Gasoline Engine Powered Blowers**

**RECOMMENDATION:**

Receive the Agenda Report and direct staff accordingly.

<p><b>ESTIMATED FISCAL IMPACT</b> Varies based on annual enforcement costs <b>AMOUNT:</b></p> <p><b>BUDGETED:</b> Y <input checked="" type="checkbox"/> X <input type="checkbox"/> N <input type="checkbox"/></p> <p><b>FUNDING SOURCE:</b> General Fund</p> <p><b>Finance Director:</b>  _____ Russell J. Morreale</p>	<p><b>ATTACHMENTS</b></p>	<p><b>PUBLIC HEARING NOTICE</b> <b>Date of Publication</b></p>
		<p><b>PREVIOUS COUNCIL CONSIDERATION</b></p> <p>Not Applicable</p>
		<p><b>CEQA STATUS</b></p> <p>Not Applicable</p>

\_\_\_\_\_  
Department/Director Name

\_\_\_\_\_  
Douglas J. Schmitz, City Manager

\_\_\_\_\_  
Date (Date submitted to CM)

\_\_\_\_\_  
Date (Final Sign off Date)



## AGENDA REPORT

**DATE:** January 11, 2011  
**TO:** City Council  
**FROM:** James Walgren, Assistant City Manager  
**SUBJECT: GAS BLOWER PROHIBITION ORDINANCE**

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### **RECOMMENDATION**

Receive the Agenda Report and direct staff accordingly.

### **BACKGROUND**

The City Council requested a staff report on the City's prohibition on the use of gas powered blowers, commonly referred to as leaf blowers. In addition, Council members wanted to know if there are newer gas powered blowers that operate at noise levels similar to electric blowers.

### **DISCUSSION**

The prohibition on gas powered leaf blowers went into effect on June 1, 1991. The prohibition includes the use of gas leaf blowers by city maintenance staff. However, because most parks, parking lots and other City properties do not have readily available electrical outlets, maintenance personnel have to use portable gas generators to operate the electric leaf blowers. Depending on the model used, the generators can make more noise than a gas leaf blower. Few other nearby cities are attempting to regulate these devices. The ones that do tend to have hours-of-use restrictions on gas leaf blowers but do not ban them altogether.

Prior to banning gas powered blowers, the City Council adopted an interim ordinance that allowed gas blowers that operate at 75 dBA when measured at 12.5 feet. The 12.5-foot distance was meant to represent the noise heard on the receiving property from the use of a blower on a neighboring property. A permitting system was developed to license acceptable units. The proposed licensing system was time intensive, difficult to administer and ineffective. A fee was collected to recover the cost of staff time involved. During the time the interim ordinance was in place it appeared that relatively few blowers could achieve acceptable noise levels.

Since the prohibition was adopted, manufacturers have developed gas leaf blowers that they claim operate at a similar noise level to electric leaf blowers. The newer models can reportedly achieve a noise level of 70 dBA or less, which is similar to an electric leaf blower. At least a few models are reported to operate at 65 dBA at 50 feet. Staff cannot verify these claims without an independent testing of this equipment. In general, however, most retail gas blowers are not as quiet as electric leaf blowers.

The Police Department has indicated that have received the following number and types of complaints over the past several years relating to the use of gas blowers.

2005 108 calls  
2006 101 calls  
2007 82 calls  
2008 85 calls  
2009 71 calls  
2010 140 calls (January - October)

The caller is typically reporting leaf blower noise in a neighborhood, not necessarily a specific address. Approximately 48% of the calls result in a verbal admonishment, since the violation is not occurring in the officer's presence. About 2% of the complaints result in a citation. In the remaining 50% of the calls, either the potential violator is no longer present or the call is unfounded because the equipment being used is a legal electric blower. The Police Department attempts to contact property owners, in person or by mail, to explain the regulations in cases where a violation can be identified.

The Police Department has found enforcement of the ordinance to be a challenge and does not find enforcement to have a significant impact on related complaints. Recognizing that leaf blower complaints are one of the Department's lower priority calls for service in comparison with urgent and emergency calls, staff believes that Council should consider amending the ordinance to eliminate the prohibition on gas powered blowers, particularly since only blowers are prohibited – gas powered lawn mowers, for example, are not. If the City Council agrees with this recommendation, simply repealing the ban is the best approach from an administration and enforcement standpoint. Gas powered blowers could then be subject to the same limited hours of operation as other powered lawn and garden equipment are – 8:00 a.m. to 8:00 p.m. Monday through Friday and 9:00 a.m. to 6:00 p.m. on Saturday and Sunday. This would be a reasonable restriction and would seem to be consistent with how most homeowners use commercial gardening services, which are the primary users of these devices.

### **ALTERNATIVES**

The City Council could leave the ban on gas powered blowers in place.



**AGENDA REPORT SUMMARY**

**MEETING DATE:** February 8, 2011

**SUBJECT:** Portable Gasoline Engine Powered Blowers

**RECOMMENDATION:**

Receive the Agenda Report and direct staff accordingly.

<p><b>ESTIMATED FISCAL IMPACT</b></p> <p><b>AMOUNT:</b> Varies based on Annual Enforcement Costs</p> <p><b>BUDGETED:</b> Yes</p> <p><b>FUNDING SOURCE:</b> General Fund</p>	<p><b>ATTACHMENT</b></p> <p>Walgren Agenda Report</p> <p>Walgren Agenda Report dated January 11, 2011</p> <p>Initiative Measure Materials</p>	<p><b>PUBLIC HEARING NOTICE</b></p> <p>Not Applicable</p>
		<p><b>PREVIOUS COUNCIL CONSIDERATION</b></p> <p>January 11, 2011</p>
		<p><b>CEQA STATUS</b></p> <p>Not Applicable</p>

\_\_\_\_\_  
James Walgren, Assistant City Manager

\_\_\_\_\_  
Douglas J. Schmitz, City Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



## AGENDA REPORT

**DATE:** February 8, 2011  
**TO:** City Council  
**FROM:** James Walgren, Assistant City Manager  
**SUBJECT: PORTABLE GASOLINE ENGINE POWERED BLOWERS**

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### **RECOMMENDATION**

Receive the Agenda Report and direct staff accordingly.

### **BACKGROUND**

The City Council requested a staff report on the City's prohibition on the use of portable gasoline engine powered blowers, commonly referred to as leaf blowers, as codified in Chapter 6.16 of the Municipal Code. This report was received by Council at the January 11, 2011 meeting at which time, following public comments, Council requested that staff research how other cities were regulating these devices. Council also requested background information regarding a related voter initiative that was considered in 1991.

The attached January 11, 2011 report recommended that gas-powered leaf blowers be regulated by hours of operation, as are other gas-powered construction and garden tools, versus being prohibited outright. If Council were to pursue this recommendation, staff would then schedule noise ordinance amendments for later public meetings.

### **DISCUSSION**

#### **How Other Cities Regulate Gas-Powered Blowers**

The City Clerk contacted Santa Clara County cities to find out how they were regulating these devices. Of the cities that responded, none of them prohibited gas-powered blowers outright. The following are the responses:

##### Los Altos Hills

Regulates by Hours of Operation                      8:00 a.m. to Sunset

##### Los Gatos

Regulates by Noise Level                                      65 dB Maximum

##### Monte Serene

Regulates by Hours of Operation  
and Noise Level                                                      8:00 a.m. to 5:00 p.m. and 65 dB Maximum

Campbell

Regulates by Hours of Operation 8:00 a.m. to 7:00 p.m.

Saratoga

Regulates by Hours of Operation 8:00 a.m. to 5:00 p.m.

Sunnyvale

Regulates by Hours of Operation  
and Noise Level 8:00 a.m. to 8:00 p.m. and 65 dB Maximum

Palo Alto

Regulates by Hours of Operation  
and Noise Level 9:00 a.m. to 5:00 p.m. and 65 dB Maximum

**Citizens Initiative**

The prohibition on gas-powered leaf blowers in Los Altos went into effect in June 1991. For whatever reasons – perhaps it was the relatively recent emergence of these devices – many cities were grappling with how to regulate gas-powered leaf blowers during this period. Hearings on the matter could draw large audiences of both opponents of these devices and proponents representing the gardening and landscaping professions.

Following the adoption of an ordinance prohibiting these devices, a citizen’s initiative was placed on the November 1991 ballot to allow some use of gas-powered leaf blowers. Voters rejected the initiative by a margin of 41 percent votes in favor and 59 percent opposed. Though, as the attached materials show, part of the opposition vote was likely based on the difficulty to enforce the various exemptions that were included in the initiative. The fact that the initiative was placed on a ballot in 1991 does not limit City Council’s authority to amend the noise ordinance.

**ALTERNATIVES**

The City Council could leave the ban on gas-powered blowers in place.

Attachments

1. Walgren Agenda Report dated January 11, 2011
2. Initiative Measure Materials





## AGENDA REPORT

**DATE:** January 11, 2011  
**TO:** City Council  
**FROM:** James Walgren, Assistant City Manager  
**SUBJECT:** PORTABLE GASOLINE ENGINE POWERED BLOWERS

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### RECOMMENDATION

Receive the Agenda Report and direct staff accordingly.

### BACKGROUND

The City Council requested a staff report on the City's prohibition on the use of portable gasoline engine powered blowers, commonly referred to as leaf blowers, as codified in Chapter 6.16 of the Municipal Code. In addition, Council members wanted to know if there are newer gas powered blowers that operate at noise levels similar to electric blowers.

### DISCUSSION

The prohibition on gas-powered blowers went into effect in June 1991. The prohibition includes the use of gas-powered blowers by city maintenance staff. However, because most parks, parking lots and other City properties do not have readily available electrical outlets, maintenance personnel have to use portable gas generators to operate the electric blowers, which create their own noise. Few other nearby cities are attempting to regulate these devices. The ones that do tend to have hours-of-use restrictions on gas-powered blowers but do not ban them altogether.

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### **ALTERNATIVES**

The City Council could leave the ban on gas-powered blowers in place.

BALLOT TITLE

AN INITIATIVE ORDINANCE OF THE CITY OF LOS ALTOS AMENDING SECTION 10-5.07(b)(15) OF THE LOS ALTOS MUNICIPAL CODE TO DEFINE GAS POWERED LEAF BLOWERS, SPECIFY OPERATING HOURS AND DAYS, ADOPT POLICIES RESPECTING USE OF LEAF BLOWERS, AND TO PROHIBIT CERTAIN GAS POWERED LEAF BLOWERS AND EXEMPTING CERTAIN PERSONS

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By: 

Robert K. Booth, Jr.  
City Attorney  
City of Los Altos

**S T A F F   R E P O R T**

**TO:** Los Altos City Council  
**FROM:** Carol Scharz, City Clerk  
**DATE:** November 12, 1991  
**SUBJECT:** ADOPTION OF A RESOLUTION DECLARING CANVASS OF RETURNS AND RESULTS OF SPECIAL ELECTION - MEASURE D

**RECOMMENDATION:**

It is recommended that the City Council adopt the attached resolution declaring canvass of election returns and the result of the November 5, 1991 Special Election.

**DISCUSSION:**

Adoption of the attached resolution confirms certification of election results by the Registrar of Voters. Exhibit "A" of the resolution provides election results by precinct, showing the total number of votes cast as 7,143, representing a 37.9 percent voter turnout.

Measure D was defeated as follows:

YES VOTES:	2,904	41.3 percent
NO VOTES:	4,124	58.7 percent

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE D

Since June 1, 1991, an Ordinance of the City of Los Altos prohibits the use of all gasoline powered leaf blowers in the City, and specifies operating hours and guidelines on the operation of other types of leaf blowers.

This initiative ordinance, if adopted by the electorate, would repeal the existing prohibition on the use of gasoline powered leaf blowers, and would substitute a prohibition on the use of gasoline powered leaf blowers exceeding a noise limit of 75 decibels at a distance of 25 feet from the source, would change the operating hours and days, so that gasoline powered leaf blowers could be operating during different times and days than electric powered leaf blowers, and would establish certain other "guidelines" with respect to their use.

An Ordinance adopted by initiative can only be changed by the voters in another election.

In addition to changing the current prohibition on gasoline powered leaf blowers to a prohibition only on gasoline leaf blowers which exceed certain noise limits, this initiative ordinance would also establish a lifetime exemption for persons who owned gasoline powered leaf blowers on the effective date of the initiative ordinance, regardless of the noise level of such a leaf blower, and provided it is used at that person's residence.

It is not clear whether such an exempt person could have other individuals in the household or persons such as an employed gardener, take advantage of that exemption and use that leaf blower on the property. There is no prohibition on replacing a worn out or broken blower, because the exemption is for the person and not the machine. It is also not specified how it would be determined who owned a gasoline powered leaf blower on the date specified, but it is likely that this determination would be the responsibility of the City staff at considerable cost.

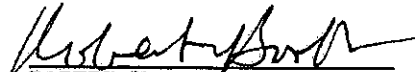
Enforcement of the initiative ordinance would require use of noise measuring equipment and the cooperation of the user in order to ascertain the noise level of each leaf blower. Such measurements are not necessary to enforce the existing ordinance. The police time involved and non-recoverable cost of such enforcement would likely be considerably higher than enforcing the existing ordinance.

The Initiative Ordinance might be subject to challenge because of the exemption for certain individuals although the courts sometimes uphold more favorable treatment for city residents than for non-residents.

There are numerous vague or undefined terms and provisions within the Initiative Ordinance which themselves may become the subject of litigation should an appropriate dispute arise.

Violations of both ordinances are misdemeanors, punishable as provided by law.

The above statement is an impartial analysis of Measure D. If you desire a copy of the Initiative Ordinance, please call the City Clerk at 948-1491 and a copy will be mailed at no cost to you. August 21, 1991



ROBERT K. BOOTH, JR.  
City Attorney  
City of Los Altos

INITIATIVE ARGUMENT IN FAVOR

Leaf blowers have been almost universally used by both public and private service providers for the simple reason that they are the most cost effective way of handling many clean up tasks.

Currently they have been banned in Los Altos, ostensibly due to their noise level. Since, unlike dozens of other noise sources, the currently available models will operate within the noise and vibration limits established in the general plan, the only real effect is to reduce the level of service while raising costs to everyone. Part of our quality of life has been our well kept yards, given national recognition as a "Tree City".

The effect on the City maintenance has been clear and immediate, an increase in City maintenance costs while scheduling service one third as often to compensate for the three to one increase in the time and labor required to use broom and rake rather than blowers. The replacement electric blowers are rarely useable and are essentially in storage while the city has reverted to the tools of the 1890's at the labor costs of the 1990's!

Nearly 4,000 households are facing higher costs and service loss to stop 10 minutes a week of operation of equipment that meets the noise standards violated by more than 30 other noise sources that operate longer and more often throughout the community. Shall we stop the street sweepers, garbage trucks, mowers and almost all construction and repair equipment in the town? A few hundred more are suffering uncompensated loss of property, legally acquired and used for years without problems.

*Handwritten initials: JAB, JAB*

Three council members voted to enforce the ban prior to the election without attending a scheduled special demonstration of compliant blower equipment. So much for the promised review of improved technology, ~~some day~~. What property or service will they try to abrogate next?

The undersigned authors of the argument in favor of the Ballot Measure D at the Special Election for the City of Los Altos to be held on the 5th day of November, 1991 hereby state that such argument is true and correct to the best of their knowledge and belief.

Signed Katherine J. Reuber  
Donald W. Filippini  
Nancy Lisa Filippini  
Ann C. O'Conroy  
Tennet M. Zink

Date Aug 12, 1991  
Aug 12, 1991  
Aug 12, 1991  
Aug 12, 1991  
Aug 12, 1991

Argument IN OPPOSITION

Measure D is a well-meaning but ineffectual attempt to regulate the use of gas-powered leaf blowers. Whatever your feelings about the use of leaf blowers, this measure is not the answer.

Provisions regarding "grandfathering" will be very difficult to enforce. Whenever a gas blower is being used, Police Officers will have to verify that the blower belongs to the homeowner and the date of purchase. This will divert Police from much more critical activities. Further complicating enforcement, the hours specified for leaf blower operation would be different from those regulating other noisy equipment. Also, the measure's "Appropriate Use" guidelines are too vague to be enforceable.

Measure D is confusing. It is unclear if gardeners would even be permitted to use a resident's blower.

Expensive legal complications may arise from the fact that the noise level permitted by the initiative exceeds the maximum noise level specified in the General Plan.

City Council's main goal in enacting the current restrictions on leaf blowers was to intensify public pressure on manufacturers to design quieter blowers. Manufacturers are responding. Council has already scheduled a review of the leaf blower issue, including a public hearing with public input, for March 1992 and it is likely there will be blowers that meet General Plan requirements by that time.

Don't lock yourself and your community into an unenforceable and confusing ordinance. Remember, if this initiative passes, it can only be changed by another initiative or by legal action.

VOTE NO ON MEASURE D!

The undersigned authors of the argument against Ballot Measure D at the Special Election for the City of Los Altos to be held on the 5th day of November, 1991 hereby state that such argument is true and correct to the best of their knowledge and belief.

Denny Spangler 8/12/91  
Denny Spangler, Mayor

T A Laliotis 8/12/91  
Ted Laliotis, Mayor Pro Tem

Marge Bruno 8/12/91  
Marge Bruno, Councilmember



REBUTTAL TO INITIATIVE ARGUMENT

The Initiative Argument fails to discuss the merits of the initiative. We believe this is because the initiative is not supportable on its own merits.

A good initiative would have provided incentives for an orderly transition to quieter leaf blowers. This initiative does the opposite. It encourages gardeners to continue using their old noisy and highly polluting leaf blowers forever in Los Altos. Since this initiative grandfathers them forever, gardeners are likely to continue using the old klunkers in Los Altos for as long as possible.

This initiative is vague. Section (ii) reads: "Operating or permitting the operation of...". It is not clear who does the "permitting". Is it the City? the homeowner? the next door neighbor? or the gardener's boss?

Litigation can arise from vagueness. Litigation coupled with likely future initiatives (Initiative Ordinances can only be modified by another ballot initiative or by legal action), has the potential of keeping the leaf blower issue alive in Los Altos for a long time.

Paragraph 2 of the initiative argument is vague, misleading, or inaccurate depending on one's interpretation: "...the currently available models will operate within the noise and vibration limits established in the general plan". The fact is that all tested models failed!

The current ban is a clean solution. The City Council is committed to reviewing the ordinance in March 1992 and considering an incentive-based transition that would allow quieter leaf blowers that may be available by that time if they meet the General Plan specifications.

Signed: \_\_\_\_\_

Dated: \_\_\_\_\_

Denny Spangler  
Denny Spangler, Mayor

8-22-91

Ted Laliotis  
Ted Laliotis, Mayor Pro Tem

8-20-91

Marge Bruno  
Marge Bruno, City Council Member

8/20/91

REBUTTAL ARGUMENT FOR MEASURE D

Key to enforcing this noise regulation is a list of acceptable equipments, accepting complaints only from people who live or work near the source property and to warn or cite the responsible owner/manager, not the service provider. The person getting the service is responsible for seeing that it is legally performed.

Any home owner can submit evidence of prior ownership for a use certificate. Legal operators would be as for any other personally owned equipment. Commercial service providers must use their own equipment. The authors of the argument against Measure D just want to ban anything they choose without compensating owners.

The use guidelines are from ordinances in other communities, and are intended to serve as a basis for small claims.

The blower noise levels permitted are consistent with the general plan. How can this create legal problems when dozens of sources don't meet the General Plan and are noisier than blowers? These range from city garbage trucks and chipper/shredders to neighborhood dogs.

Pressuring manufacturers is not credible when documented noise performance and schedules were presented to the council before the ban was passed. The three voted to enforce the ban after a special demonstration of blower equipment meeting General Plan requirements which they did not attend!

The real issue is simple, stop their abrogation of our property rights and services before they hit the next target... mowers, dogs, tillers, motor bikes, RV's?... what's next?!

VOTE YES ON MEASURE D!

The undersigned authors of the rebuttal argument in favor of the Ballot Measure D at the Special Election for the City of Los Altos to be held on the 5th day of November, 1991 hereby state that such argument is true and correct to the best of their knowledge and belief.

Signed

Jackson W. Zorbone  
Donald P. Filippini

Date 8/21/91

8/21/91

Marie Lisa Filippini  
Matthew J. Zorbone

8/21/91

8/21/91

Elayne A. Christensen

8/22/91



## AGENDA REPORT SUMMARY

**MEETING DATE:** March 8, 2011

**SUBJECT:**            **Portable Gasoline Engine Powered Blowers**

**RECOMMENDATION:**

Introduce and waive further reading of an ordinance amending Chapter 6.16 of the Los Altos Municipal Code entitled "Noise Control" related to the use of gasoline powered blowers.

<p><b>ESTIMATED FISCAL IMPACT</b></p> <p><b>AMOUNT:</b> Varies Based on Annual Enforcement Costs</p> <p><b>BUDGETED:</b> Yes</p> <p><b>FUNDING SOURCE:</b> General Fund</p>	<p style="text-align: center;"><b>ATTACHMENT</b></p> <p style="text-align: center;">McCarthy Agenda Report</p> <p style="text-align: center;">Draft Ordinance</p>	<p style="text-align: center;"><b>PUBLIC HEARING NOTICE</b></p> <p style="text-align: center;">Not Applicable</p> <hr/> <p style="text-align: center;"><b>PREVIOUS COUNCIL CONSIDERATION</b></p> <p style="text-align: center;">January 11, 2011 and February 8, 2011</p> <hr/> <p style="text-align: center;"><b>CEQA STATUS</b></p> <p style="text-align: center;">Exempt</p>
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## AGENDA REPORT

**TO:** City Council

**FROM:** Brian J. McCarthy, Maintenance Services Manager

**DATE:** March 8, 2011

**SUBJECT: PORTABLE GASOLINE ENGINE POWERED BLOWERS**

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### **RECOMMENDATION**

Introduce and waive further reading of an ordinance amending Chapter 6.16 of the Los Altos Municipal Code entitled "Noise Control" related to the use of gasoline powered blowers.

### **DISCUSSION**

The City Council requested a staff report on the City's prohibition on the use of portable gasoline engine powered blowers, commonly referred to as leaf blowers, as codified in Chapter 6.16 of the Municipal Code. This report was received by Council at the January 11, 2011 meeting at which time, following public comments, Council requested that staff research how other cities were regulating these devices. Council also requested background information regarding a related voter initiative that was considered in 1991. This additional information was considered by Council at the February 8, 2011 regular meeting. Following further discussion, a motion was made by Councilmember Fishpaw, and seconded by Mayor Pro Tem Carpenter, to direct staff to review the use of these devices in non-residential areas and public spaces and bring back ordinance amendments for review. The motion carried unanimously.

### **Use of Powered Blowers in Public Spaces**

When the ban on gas powered leaf blowers went into effect in 1991, all Public Works gas-powered blowers were auctioned off and electric blowers were purchased. Over the years, electrical outlets have been installed in many of the City's parks, typically on the pathway light poles and tennis courts. An electrical cord is plugged into an outlet and the electric blower is operated off the outlet. The City also purchased gas-powered generators with low decibel ratings since there are still areas where a generator, mounted on a vehicle, is needed to clean off parking lots and pathways where no electrical outlet is available. Although staff does not record time spent operating a blower, it is estimated the park crews use the blowers for a total of eight hours per week at a fully allocated rate of approximately \$77 an hour. There is a minimal increase in time when operating an electric blower versus a portable gas blower. The City's diesel powered street sweeper also cleans park parking lots on a regular basis.



The street maintenance division uses electric blowers and a portable generator to clean the City's neighborhood pathways and pedestrian bridges. In the downtown triangle, crews use electric blowers utilizing both electrical outlets attached to the trees and gas-powered generators to clean off the sidewalks and plazas. On Main and State Street sidewalks, crews tried using one worker operating the blower while another worker followed behind pulling the generator. This was done on a trial basis to see if the cleanup could be expedited since the work had to be completed between the hours of 7:30 am to 9:00 am. This practice was discontinued. Street crews are spending approximately five hours a week blowing the downtown area during the leaf drop season.

The downtown sidewalk maintenance is the responsibility of the business owners and they usually sweep the sidewalks with brooms. The past two years, City crews have been doing the sidewalk maintenance to ensure the downtown was cleaned for the shopping season. The City's contract street sweeper cleans the downtown on a weekly basis. In checking with the local school districts: Mountain View-Los Altos High School District is in compliance with the ordinance at the Los Altos High School; Cupertino Elementary School District is in compliance at the Montclair School; and Los Altos Elementary School District is in compliance for those schools in Los Altos jurisdiction.

The leaf blower, whether gas or electric, is a valuable tool in maintaining our City parks, pathways and commercial areas. Staff have been able to comply with the municipal code ban on gas-powered blowers and still keep City properties clean from leaves and debris by using the electric blowers. Staff have received no noise complaints utilizing the electric blowers or generators. On occasion, the City has received complaints of dust on cars when cleaning the plazas.

As far as labor savings, there would be only a minimal increase in efficiency in getting areas clean when operating an electric blower versus a portable gas-powered blower. Therefore, maintenance staff does not recommend amending the current ban on gas-powered blowers on public property.

### **Use of Powered Blowers in Non-Residential Districts**

In terms of allowing gas-powered leaf blowers in non-residential districts – i.e., commercial and office districts and private schools, religious facilities, and public utility sites – staff believes it is reasonable to continue to prohibit these devices in these areas as well since these properties typically have electricity readily available. However, since Council did request an ordinance be brought back for consideration, staff has drafted the attached document that would permit gas-powered blowers in commercial districts and on public property. The ordinance would continue to prohibit these devices in residential districts and at private schools, religious facilities and other similar community facilities.

Attachment  
Draft Ordinance

## ORDINANCE NO. 2011- \_\_\_\_\_

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS AMENDING CHAPTER 6.16 OF THE LOS ALTOS MUNICIPAL CODE RELATED TO THE USE OF GASOLINE POWERED BLOWERS

The City Council of the City of Los Altos does hereby ordain as follows:

**SECTION 1. AMENDMENT OF CODE:** Chapter 6.16 of the Los Altos Municipal Code entitled "Noise Control" is hereby amended per the following:

#### 6.16.070 – Prohibited Acts

##### 6.16.070(B)

##### 11. Lawn or garden tools.

- a. Operating or permitting the operation of any lawn or garden tool (~~except portable gasoline engine powered blowers~~), or similar tool between 8:00 p.m. and 8:00 a.m. of the following day Monday through Friday or between 6:00 p.m. and 9:00 a.m. of the following Saturday and Sunday; and portable electric powered blowers used to blow leaves, dirt and other debris off sidewalks, driveways, lawns, landscape areas or other surfaces between 5:00 p.m. and 9:00 a.m. seven days a week, so as to create a noise disturbance across a residential or commercial real property line. This section shall apply to operations on residentially zoned property only;
- b. Where technically and economically feasible, any motor, machinery, or pump shall be sufficiently enclosed or muffled and maintained so as not to create a noise disturbance in accordance with Section 6.16.050 of this chapter;

##### 6.16.070(B)(15)

Portable gasoline powered blowers.

- a. Definition. Portable gasoline-powered leaf blowers are defined as portable power equipment that is powered by a self contained fuel engine and used in any landscape, maintenance, construction, property repair, or property maintenance for the purpose of blowing, dispersing or redistributing dust, dirt, leaves, grass clippings, cuttings and trimmings from trees and shrubs or other debris.
- b. Gasoline-powered blowers prohibited. Use or operation of portable gasoline-powered leaf blowers within the city in any residential or community facilities district for any purpose except testing noise levels is unlawful and shall constitute an infraction, punishable as provided by law. This prohibition does not apply to city properties or facilities.

**SECTION 2. ENVIRONMENTAL ANALYSIS.** The amended noise ordinance regulations set forth herein have been reviewed and considered by the City Council in accordance with the provisions of the California Environmental Quality Act of 1970, as amended, and the guidelines promulgated thereunder, and Council finds that it can be seen with certainty that there is no possibility that these amendments may have a significant effect on the environment and said amendments are therefore exempt from the requirements of the CEQA pursuant to the provisions of Section 15061(b)(3) of Division 6 of Title 14 of the California Code of Regulations.

**SECTION 3. CONSTITUTIONALITY.** If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

**SECTION 4. PUBLICATION.** This ordinance shall be published as provided in Government Code section 36933.

**SECTION 5. EFFECTIVE DATE.** This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing ordinance was duly and regularly introduced at a meeting of the City Council of the City of Los Altos on March 8, 2011 and was thereafter, at a regular meeting held on March 22, 2011 passed and adopted by the following vote:

Ayes:  
Noes:  
Abstain:

\_\_\_\_\_  
Ronald D. Packard, MAYOR

Attest:

\_\_\_\_\_  
Jon Maginot, DEPUTY CITY CLERK

Date: \_\_\_\_\_