

Agenda Report

TO: CITY COUNCIL

DATE: February 9, 2009

FROM: CITY MANAGER

THROUGH: PUBLIC SAFETY COMMITTEE (February 2, 2009)

SUBJECT: APPROVAL OF PLAN AND INCENTIVES TO REDUCE NOISE AND ENVIRONMENTAL IMPACTS OF LEAF BLOWERS IN PASADENA

RECOMMENDATION:

It is recommended that the City Council:

1. Approve the Public Health Department plan to reduce noise and environmental impacts of leaf blowers in Pasadena through enhanced training, community outreach and increased enforcement of the existing leaf blower ordinance; and
2. Authorize incentive payments not to exceed the amount of the business license tax paid for any gardener evidencing use of a low-emission, low-noise leaf blower.

BACKGROUND:

Over twenty years ago, Southern California faced extreme drought conditions and the City of Pasadena was confronted with the issue of conserving water. One of the many areas of concern was the use of water by professional and home gardeners to clean off their properties after conducting yard work. Leaf blowers, if used properly, are a reasonable alternative to help clean up a property quickly and save water. In response, the City Council pioneered a set of ordinances to establish parameters regarding the use of motorized leaf blowers. The current Pasadena Municipal Codes relating to leaf blower use are included as Attachment A.

Over the years, the use of leaf blowers has increased dramatically in the city as well as the number of residents' complaints related to excessive noise, time use violations and over blowing of debris and machine emissions into the air and adjacent properties. The Public Safety Committee reviewed the leaf blower regulations and directed staff to assess means to reduce the number of leaf blower related complaints from the community.

Current Certification Process

The Public Health Department's Environmental Health Division conducts the certification of leaf blowers. The current annual Public Health Department certification fee charged to professional gardeners is \$61 and gardeners must certify their leaf blowers on an annual basis. Approximately \$6,000 in annual certification fees is generated from nearly 100 licensed professional gardeners operating in the City of Pasadena. The certification process consists of a trained Environmental Health Technician conducting a sound test of the leaf blower machine to evaluate noise levels, a demonstration of the acceptable maximum noise levels for the particular leaf blower(s) being used, a review of the current regulations related to leaf blower operation and brief instruction on the preferred technique for using a leaf blower. Upon certification, the gardener can proceed to the Business License Division for an annual business license. The cost of the business license for gardeners in Pasadena is \$191.20 per vehicle.

Current Enforcement Process

Enforcement of the leaf blower ordinance is complaint driven. Noise complaints regarding leaf blowers received by the Environmental Health Division are computer logged and a City of Pasadena Health Inspector, trained in noise monitoring, is dispatched to investigate the complaint. The Health Inspector is usually successful in locating the offending gardener if the times of operation reported on the complaint are accurate.

Upon locating the gardener identified in the complaint, the Health Inspector requests proof of current business license and leaf blower certification. In these situations, the gardeners are usually unlicensed and operate uncertified leaf blowing equipment. If a violation is observed, a written notice is issued to the gardener to certify the leaf blower and to secure a business license within a specified number of days. A sound test is conducted at the complaint site and is noted on the written notice as a noise and/or business license violation. Health Department staff then follow up with the Business Services Section to verify compliance. Other common violations are operating before or after the allowed times or the high speed blowing of debris into the air affecting the air quality of the surrounding area. Currently, there are no monetary citations being issued by Health Department staff to gardeners using leaf blowers in violation of the Pasadena Municipal Code. The City's Business Services Section also separately enforces business licensing requirements for gardeners using their own inspection staff.

In most of these cases, follow-up compliance has been successful. Once non-licensed gardeners are identified and leaf blowers are certified, repeat noise complaints at the same location are rare. Many of these gardeners are not aware of the time restrictions and must be advised. Rarely, a second inspection is conducted for non-compliance and/or a hearing notice issued for second violations. One of the main challenges of enforcement and compliance is the fluidity of the gardening industry: turnover is high and new gardeners and gardening crews continually enter the Pasadena area.

Plan to Reduce Noise and Environmental Impacts of Leaf Blowers in Pasadena

Staff has evaluated the components of the current leaf blower ordinance and no modifications are recommended to the ordinance. Several cities in California have instituted bans on the use of gas powered leaf blowers with success. Attachment B lists the cities that have banned leaf blowers and describes issues of enforceability of leaf blower bans. Although there is increasing availability of low noise and low emission leaf blowers, along with incentives for their purchase, an outright ban on standard gas powered leaf blowers could potentially have an impact on the cost of both public and private landscaping maintenance. In addition, a ban could lead to increases in water usage as an alternative to using leaf blowers. As an alternative to a complete ban on leaf blowers, the Pasadena Public Health Department proposes the following measures to reduce noise and environmental impacts of leaf blowers:

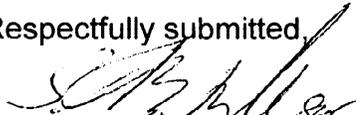
1. Enhance training and community outreach. The certification process has been successful in showing gardeners how to properly operate their leaf blowing equipment and experience has shown that repeat complaints are reduced dramatically when the gardeners are appropriately trained. The Environmental Health Division will provide enhanced individual or group training to the professional gardeners in coordination with the Stilh Company, which has offered their assistance. The Southern Coast Air Quality Management District (AQMD) currently works with leaf blower manufacturers that produce low noise and low emission gas engine leaf blowers and offers discount incentives to professional gardeners willing to switch out old equipment. The AQMD also provides discount incentives to municipal Public Works Departments that purchase the new equipment. The Public Health Department will increase awareness of these programs amongst the public and professional gardeners through community outreach and during training sessions.
2. Formalize enforcement through citations and fines. The Environmental Health Inspectors are being trained in enforcement of health ordinances and regulations and staff will be ready to issue citations upon approval of this plan. If a professional gardener is caught operating without a valid business license, using an uncertified leaf blower or violating the noise ordinance, a \$100 infraction citation will be issued to the violator. Within one calendar year, subsequent citations to the same violator will result in a \$200 fine on the second offense and a \$500 fine for each offense thereafter. The monetary citation process will spread the news within the professional gardening community that the Public Health Department is actively penalizing operators who violate the Pasadena Municipal Code. Based on past experience and discussions with other jurisdictions, stricter enforcement should result in a noticeable reduction in the amount of leaf blower complaints and increase compliance with the certification and business licensing process. Implementation of a complaint driven system of enforcement can be incorporated into the existing scope of work of the Environmental Health Inspectors. Additionally, the Public Health Department plans to conduct periodic sweeps throughout the community similar to the process currently used for street vendor monitoring.

3. Authorize incentive payments not to exceed the amount of the annual business license tax paid for any gardener evidencing use of a low-emission, low-noise leaf blower. As an incentive to improve the air quality and reduce leaf blower noise levels in the City of Pasadena, staff recommends that an incentive payment equivalent to the cost of an annual business license fee be issued to gardeners who use low-emission, low-noise leaf blowers. A list of leaf blower models that meet industry criteria for low-emission and low-noise standards will be maintained by the Public Health Department. Machines will be inspected and qualified for the incentive program during the annual certification process.

FISCAL IMPACT:

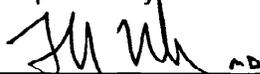
The enhanced training, outreach and enforcement of the leaf blower ordinance can be accomplished utilizing existing Health Department staff capacity, but will have a nominal cost that will be absorbed by the Health Department budget. Increases in compliance with the certification and business licensing process will generate additional revenue for the city and help to offset the costs of enforcement. There is a potential loss of revenue to the general fund as a result of the incentive program. This impact to the City general fund would be dependent upon the number of gardeners who take advantage of the new incentive program by switching to low-emission, low-noise leaf blowers. The proposed incentive payment is equivalent to the cost of an annual business license for gardeners, currently \$191.20. There would be a nominal cost related to developing and marketing the incentive program.

Respectfully submitted,



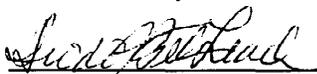
Michael J. Beck
City Manager

Prepared by:



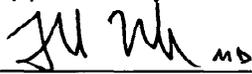
for William Kimura, MA REHS
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Reviewed by:



Heidi E. Petersen Leach, MPA
Deputy Director of Public Health

Approved by:



Takashi M. Wada, MD MPH
Director of Public Health/Health Officer

ATTACHMENT A

Pasadena Municipal Code

Title 9 PUBLIC PEACE, MORALS AND WELFARE*

Chapter 9.37 LEAF-BLOWING MACHINES

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9.37.010 Declaration of policy.

9.37.020 Definitions.

9.37.030 Prohibition.

9.37.040 Certificate of compliance to be filed with department of finance.

9.37.050 Public health department certification.

9.37.060 Responsibility for enforcement.

9.37.010 Declaration of policy.

It is declared to be the policy of the city to prohibit unnecessary, excessive and annoying noise, airborne dust and noxious fumes caused by the use of leaf blowers, pursuant to the city's police powers. (Ord. 6845 § 1, 2000; Ord. 6227 § 1 (part), 1987)

9.37.030 Prohibition.

A. It is unlawful for any person to use or to operate, or cause to be operated any type of *leaf*-blowing machine or device within a residential area before 8:00 a.m. and after 6:00 p.m., Monday through Friday; before 9:00 a.m. and after 5:00 p.m. on Saturday; or at any time on Sunday.

B. It is unlawful for any person to use or allow to be used, or to operate or cause to be used or operated any type of *leaf*-blowing machine or device in the city within a radius of 500 feet of a residential area before 8:00 a.m. and after 6:00 p.m., Monday through

Friday; before 9:00 a.m. and after 5:00 p.m. on Saturday; or at any time on Sunday.

C. It is unlawful for any person to use or operate, or cause to be used or operated, a *leaf blower* in such a manner as to blow, dispel or make airborne, leaves, grass cuttings, paper, trash or any other type of unattached debris or material, which, by use of the *leaf blower*, will intentionally cause such leaves, grass cuttings, paper, trash or any other type of unattached debris or material to become airborne or travel beyond the property boundaries of the parcel on which it is being used, to adjoining properties or public rights-of-way within the city, and to remain therefore more than 15 minutes.

D. It is unlawful to operate more than one *leaf blower* per parcel.

E. It is unlawful to operate a *leaf blower* for more than 15 minutes per hour on a parcel less than 1/2 acre, and for more than 30 minutes per hour on a parcel greater than 1/2 acre.

F. It is unlawful to operate a *leaf blower* with a maximum noise level of 65 decibels when measured from a distance of 50 feet. (Ord. 6845 § 3, 2000; Ord. 6227 § 1 (part), 1987)

9.37.020 Definitions.

As used in this chapter, unless the context otherwise indicates, the words and phrases used in this chapter are defined as follows:

A. "*Leaf-blowing machine*" means any device or air-blowing machine, gas or electric, which is designed or intended, by generating a concentrated stream of air, to blow, dispel, or make airborne, leaves, grass cuttings, paper, trash or any other type of unattached debris or material.

B. "Parcel" as used in this chapter, means that area of real property as defined by the county recorder. Contiguous parcels owned by the same individual or entity shall be considered one parcel for the purposes of this chapter.

C. "Residential area" as used in this chapter, means any property used in a manner defined as a residential use in Section 17.16.030 of this code.

Sidewalks and streets adjacent to residential property shall be considered a "residential area" for purposes of this chapter.

D. "Person" as used in this chapter means one who uses, controls, employs or hires an individual to use a *leaf blower*, including but not limited to, the real property owner, a tenant, an individual holding a legal interest in the real property, or a person employed in the landscape gardening or property maintenance business. (Ord. 6845 § 2, 2000; Ord. 6227 § 1 (part), 1987)

9.37.040 Certificate of compliance to be filed with department of finance.

It is unlawful for any person to utilize a *leaf blower* without having on file a certificate of compliance with the health department attesting to their knowledge of *leaf blower* operation and that they will operate a *leaf blower* in a manner so as to minimize dust and noise, and that they will utilize and keep in good working condition the noise reduction equipment installed on their *leaf blowers*. (Ord. 6227 § 1 (part), 1987)

9.37.050 Public health department certification.

It is unlawful to use or operate a leaf blower within the city unless it is certified annually by the public health department. Upon certification, a department approved sticker shall be affixed on the leaf blower so as to be visible at all times the leaf blower is in use. (Ord. 6845 § 4, 2000; Ord. 6227 § 1 (part), 1987)

9.37.060 Responsibility for enforcement.

The public health department shall have responsibility for enforcement of this chapter. (Ord. 6845 § 5, 2000)

ATTACHMENT B

Cities with Leaf Blower Bans
(population in parentheses)

Belvedere (2,500)	Berkeley (105,000)	Beverly Hills (32,000)
Carmel (4,200)	Claremont (50,000)	Del Mar (5,000)
Indian Wells (3,300)	Laguna Beach (24,000)	Lawndale (29,000)
Los Altos (28,000)	Malibu (12,000)	Mill Valley (13,000)
Piedmont (10,000)	Santa Monica (90,000)	Hermosa Beach (18,600)
West Hollywood (36,700)	Palo Alto (60,000)	Sunnyvale (132,000)

This list is from <http://www.nonoise.org/quietnet/cqs/other.htm#calbans>

Success in Enforcement of Leaf Blower Bans

Pasadena Public Health Department staff spoke with staff from three cities to better understand the successful components of leaf blower bans:

- Leaf blower bans are reported as 90% to 95% percent effective.
- Enforcement is responsive to citizen complaints rather than proactive.
- New or new to the area commercial gardeners who are unaware of the leaf blower ban are the most likely offenders.
- Of cities with leaf blower bans, most are relatively small in population (50,000 or fewer residents).
- The number of complaints diminishes over time.
- Leaf blower bans have been controversial in some jurisdictions.
- A few cities have rescinded the more restrictive components of their ordinances.