



Item No. 15 Town of Atherton

CITY COUNCIL STAFF REPORT – PUBLIC HEARING

TO: HONORABLE MAYOR AND CITY COUNCIL

THROUGH: GEORGE RODERICKS, CITY MANAGER

FROM: STEPHANIE B. DAVIS, AICP PRINCIPAL PLANNER

DATE: JANUARY 20, 2021

**SUBJECT: INTRODUCTION OF AMENDMENTS TO ATHERTON MUNICIPAL CODE
CHAPTER 8.16 “NOISE”, PERTAINING TO LEAF BLOWERS**

RECOMMENDATION

Introduce Ordinance and read by Title only, amendments to Chapter 8.16 “Noise” of the Atherton Municipal Code (AMC), pertaining to leaf blowers.

BACKGROUND

On November 18, 2020 the City Council held a public hearing to consider an Ordinance introduction for amendments to Chapter 8.16 “Noise”, pertaining to leaf blowers, received the recommendations of the EPC, took public comment, had discussion and continued the item to the January 20, 2021 City Council meeting with the following direction to staff:

- Prepare an analysis of costs and scope of a Town piloted program to use electric leaf blowers for existing Municipal Operations.
- Provide more specific costs directly from retailers on 2-stroke and 4-stroke gas blowers and electric blowers, including battery costs for electric blowers.
- Provide more info, as feasible, on the average amount of time a landscaper (residential and others) are spent leaf blowing during landscape maintenance.
- The Council was supportive of a possible ban on gas blowers to some capacity and shift to electric blowers over some period of time in the future, but not right now. As such, revisions to the Ordinance to integrate the Council’s “common ground” principles should be made, including:
 - ◆ Prohibition of leaf blower use on Spare the Air days.

- ◆ Further restrict allowable hours for leaf blower use to try and make immediate improvements related to potential issues of noise and pollution, while making sure leaf blower use on weekends is continued to be allowed.
- ◆ Revisions should not include any restrictions immediately prohibiting the use of gas leaf blowers in any Town zoning district.

Prior to the November 18, 2020 City Council public hearing, the following public meetings were conducted:

- On February 20, 2019, the Council received a summary report from staff on the Town's current regulations pertaining to leaf blowers considering recent actions by neighboring jurisdictions which have banned and/or restricted their use. Council directed that the Environmental Programs Committee (EPC) review the topic and explore the issue further.
- On May 16, 2019 the EPC reviewed and discussed the topic and were unanimous in their recommendation to the City Council to support a phased restriction on gas powered leaf blowers and the associated possibility for rebates and/or incentives to support such restrictions.
- On September 4, 2019 the Council received a report and had discussion on the Town's existing leaf blower regulations, a summary of associated issues to consider (listed below), and information on other jurisdictions regulations. The Council directed staff to prepare a draft workplan with estimated efforts and costs that may be involved in studying the issue so that direction to staff could be given as to whether or not to move forward in furthering evaluating possible revisions to the Town regulations regarding leaf blowers.
 - ◆ Municipal Maintenance Operations
 - ◆ Pollutants
 - ◆ Private Property Operations
 - ◆ Cost
 - ◆ Noise
 - ◆ Enforcement
- On November 19, 2019 the Council received a report and had discussion on a potential draft work plan, identifying necessary actions, time and costs associated in the preparation, adoption, and implementation of an amended Leaf Blower Ordinance.
- On February 19, 2020 the Council adopted a Resolution authorizing a Budget Amendment for the FY 2019/2020 Budget, including the allocation of funds to account for a Leaf Blower Ordinance.
- On November 5, 2020 the EPC reviewed and discussed a draft Leaf Blower Ordinance. The EPC recommended the City Council adopt an Ordinance with a list of additional recommendations.

ANALYSIS

Proposed Draft Ordinance

Staff has prepared a draft Leaf Blower Ordinance (Attachment 1, proposed amended text shown in **bold**). Attachment 1 proposes a draft Leaf Blower Ordinance with the following key points in response to the direction received by the Council at the November 18, 2020 public hearing:

- Prohibition of leaf blower use on Spare the Air days.
- Further restrict allowable hours for leaf blower to try and make immediate improvements related to potential issues of noise and pollution, while making sure leaf blower use on weekends is continued to be allowed.
- Revisions should not include any restrictions immediately prohibiting the use of gas leaf blowers in any Town zoning district.

Town Piloted Gas Leaf Blower Use Program in the Park and Public Streets

Staff has prepared an analysis of scope and costs to implement a temporary Town sponsored pilot program which would include the purchase, and use of, battery-operated electric leaf blowers for existing Municipal Operations at both Holbrook Palmer Park and public streets. The purpose of this pilot program would be to evaluate the effectiveness of battery-operated leaf blowers for general municipal use.

It has been noted that batteries drain quicker when operated above the lowest settings. It is recommended that the initial pilot include the purchase of a battery-operated backpack blower with two spare batteries and two rapid chargers. The unit would be used in Holbrook-Palmer Park and in the street right-of-way's and compared to the conventional gas-powered units currently used by the Town. Items to be noted include ease of use, noise, effectiveness, comparative time per task, battery operating and charge times. The estimate below is purchase cost only. Staff time to complete the work tasks required with battery-operated leaf blowers versus the existing gas-powered leaf blowers has not been determined as staff does not have data to provide that analysis until the pilot comparison is complete.

Item	Quantity	Unit Cost	Total
EGO Power+ 145-MPH POWER+ 56-Volt Lithium-Ion Brushless Backpack Cordless Electric Leaf Blower (7.5Ah Battery Included) Model #LB6003	1	\$400 (Lowes)	\$400
EGO Power+ 54-Volt 5Ah Battery Model #BA2800T	2	\$250 (Amazon)	\$500
EGO Power+ Rapid Charger	2	\$100	\$200

Model #CD5500		(Amazon)	
Tax		<10%	\$110
Total			\$1,210

*Note (per MFG): Standard charger charges 5.0 Ah Battery in 100-minutes and 7.5 Ah Battery: 145-minutes
 Rapid charger charges 5.0 Ah Battery in 40-minutes and 7.5 Ah Battery: 60-minutes

- **Staff requests Council direction as to whether or not to move forward with a Town piloted gas leaf blower program.**

Public Outreach and Education

In advance of any stricter restrictions on the type of allowable leaf blowers in Town, and/or other operational restrictions, the Town could work on a community education and outreach program. The purpose and intent of such community program would be to inform residents on the differences of gas versus electrical blowers, provide educational resources and other information. Development of such draft education and outreach program could be developed by the Town’s Environmental Programs Committee (EPC).

- **Staff requests Council direction as to whether or not to move forward in developing a public education and outreach program to the community on the use and impacts of leaf blowers, with or without the support of the EPC.**

Costs on Electric and Gas Leaf Blowers

The direct retail purchase costs on 2-stroke and 4-stroke gas blowers and electric blowers (including battery costs) for other units beyond the unit identified in the Town piloted program referenced above, was researched (See Attachment 2). In summary, it was found that gas blowers varied in price from \$339 - \$648 per unit, and electric blowers (including one replacement battery for each unit) varied in price from \$318 - \$1780.

Average Time For Use of Leaf Blowers

Staff researched the average amount of time a landscaper in Town utilized a leaf blower during landscape maintenance by contacting every professional residential landscaping company with a registered business registration in Town. From the responses received, it was found that the amount of time a landscaper utilized a leaf blower on a residential property is between 30-60 minutes. Additionally, the majority of companies contacted also stated that during the fall and winter months this amount of time increases when there is a lot of more landscaping debris.

For Municipal Operations it was noted that in the month of November, leaf blowers were used for a total of approximately 125 hours, which was an increase from the preceding months of August through October which averaged closer to 60 hours a month.

The Circus Club indicated they use both gas and electric blowers every day and length of time varies. Menlo School mostly uses gas blowers daily in the mornings and length of time varies. Sacred Hearts Schools indicated they use both gas and electric blowers every day and length of time varies. Menlo

College indicated they use gas powered leaf blowers 3 – 4 days a week and/or as needed, for approximately 24 hours a week.

POLICY FOCUS

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

The Town’s General Plan identifies the following goal and policy related to noise, in which restrictions to the use of leaf blowers could be found to support.

- *Goal N-1: To maintain the serene atmosphere of the Town by minimizing the intrusion of noise generating activities.*
- *Policy N-1.1: To protect the peace, health and safety of Atherton citizens from unnecessary and unreasonable noise produced by any person, machine, animal or device.*

FISCAL IMPACT

As part of the Fiscal Year 2019/2020 mid-year budget in February 2020, an adjustment in the amount of \$38,000 was allocated for development and implementation of a Leaf Blower Ordinance. Such funds would account for staff time developing the Ordinance and post Ordinance adoption in the creation and implementation of any future public education and outreach program. Costs to the Town would be associated with both staffing resources and purchase of equipment, should the Council direct implementation of the Town pilot program, as discussed in greater detail in the ANALYSIS section above.

PUBLIC NOTICE

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Notice was published in the Almanac on November 6 and November 13, 2020, as well as posted online, through Atherton Online, and through the Town’s Twitter, Facebook and Nextdoor apps. Interested parties were notified directly. Information about the project is also disseminated via the Town’s electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town’s electronic News Flash publications. Subscribers include residents as well as stakeholders – to include, but be not limited to, media outlets, school districts, Menlo Park Fire District, service providers (water, power, and sewer), and regional elected officials.

COMMISSION/COMMITTEE FEEDBACK/REFERRAL

This item X has or _____ has not been before a Town Committee or Commission.

- Audit/Finance Committee (meets every other month)
- Bicycle/Pedestrian Committee (meets as needed)
- Civic Center Advisory Committee (meets as needed)
- Environmental Programs Committee (meets every other month) -November 5, 2020
- Park and Recreation Committee (meets each month)
- Planning Commission (meets each month) -
- Rail Committee (meets every other month)
- Transportation Committee (meets every other month)
- Tree Committee (meets each month)

ATTACHMENT

1. Draft Ordinance Amendments, Section 8.16.050 “Special Provisions and Exceptions” – (proposed amendments shown in **bold**, deleted language ~~struck through~~)
2. Costs on Electric and Gas Leaf Blowers

ORDINANCE __

AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON ADOPTING AMENDMENTS TO CHAPTER 8.16 "NOISE" OF THE ATHERTON MUNICIPAL CODE AS IT PERTAINS TO LEAF BLOWERS

The City Council of the Town of Atherton does hereby ordain as follows:

Section 1. TITLE

This Ordinance shall be known as the Town of Atherton ("Town") Leaf Blower Ordinance. This Ordinance shall be applicable in the incorporated territory of the Town.

Section 2. PURPOSE & AUTHORITY

The purpose of this Ordinance is to adopt regulations governing the use of leaf blowers within the Town to minimize air pollution and noise, reduce greenhouse gas emissions, and improve the overall quality of life within the Town.

Section 3. AMENDMENTS TO ATHERTON MUNICIPAL CODE CHAPTER 8.16.050-B

Subsections B and H of Section 8.16.050 are hereby amended to read as follows with additions shown in **bold** and deletions in ~~strike through~~:

B. Power Garden Equipment.

1. Power garden equipment including but not limited to, vacuums, power mowers, rototillers, and other similar equipment, **with the exception of leaf blowers which are governed by Section 8.16.050 H of this Section**, are exempt from the basic noise regulation between the hours of eight a.m. and six p.m. Monday through Friday, ten a.m. and five p.m. on Saturday and ten a.m. and three p.m. on Sunday.
2. Heavy duty equipment including but not limited to wood-chippers, chain-saws, stump-removers and other similar equipment are exempt from the basic noise regulation between the hours of eight a.m. and five p.m. Monday through Friday only.
3. All **power** garden, maintenance and construction equipment used in the town must be equipped with a muffler where applicable and be in good repair.

H. Leaf Blowers

1. **Purpose and Intent. This Section is intended to regulate the use of Leaf Blowers to minimize air pollution and noise, reduce greenhouse gas emissions, and improve the overall quality of life within the Town.**
2. **Responsibility. Property owners are responsible for ensuring compliance with this Section, regardless of who is using the Leaf Blower.**
3. **Definitions.**
 - a. **Leaf Blower. Shall mean portable equipment powered by an internal fuel combustion engine, including but not limited to gasoline, methane and propane and/or portable equipment with no, internal fuel combustion engine that is powered by line current (electricity) or by battery, either of which that is used for the purpose of blowing, dispersing, or redistributing dust, dirt, leaves, grass**

clippings, cuttings and trimmings from trees, shrubs or other debris off sidewalks, driveways, lawns or other surfaces.

- b. **Emergency Operations.** Shall mean clearing up or preventing traffic obstructions, storm debris, or other emergency circumstance as defined by the Director of Public Works during periods of emergency as defined by the Town.
4. **Operation.** The use of Leaf Blowers are exempt from the basic noise regulation between the hours of eight a.m. and five p.m. Monday through Friday, ten a.m. and three p.m. on Saturdays prohibited on Sundays, legal holidays as defined by Section 15.40.110 of the AMC, and on “Spare the Air” days as declared by the Bay Area Quality Management District, unless otherwise specified as Emergency Operations as defined by this Section.
 5. **Proximity.** No Leaf Blower shall be operated within a one hundred feet radius of another leaf blower simultaneously.
 6. **Procedure.** Operation of any Leaf Blower as defined in Section 8.16.050 H 3 (a) shall not deposit dirt, dust, leaves, grass clippings, trimmings, green waste, solid waste or debris onto a neighboring property or into a street, sidewalk, gutter, or storm drain.
 7. The provisions of this Section shall not apply to Emergency Operations as defined in Section 8.160.050 H 3 (b).
 8. **Violations.** Violations of this Section shall be subject to enforcement and penalties described in Chapters 1.20 and 1.21 of the Atherton Municipal Code.

SECTION 5: California Environmental Quality Act (CEQA) Finding.

This Ordinance is exempt from the environmental review requirements of CEQA pursuant to Section 15061 (b)(3) of Title 14 of the California Code of Regulations because it can be seen with certainty that there is no possibility that the provisions contained herein may have a significant effect on the environment. Further, the Ordinance is also exempt from the requirements of CEQA pursuant to CEQA Guidelines Sections 15307 and 15308 of Title 14 of the California Code of Regulations as actions taken by regulatory agencies to assure the maintenance, restoration, enhancement of natural resources, or protection of the environment.

SECTION 6: Severability.

If any provision, section, subsection, sentence, clause, phrase, or word of this Chapter 8.16, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the Chapter. The City Council hereby declares that it would have passed this Chapter, and each provision, section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any portion of this Chapter or application thereof would be subsequently declared invalid or unconstitutional.

SECTION 7: Effective Date.

This Ordinance shall be posted in at least three public places according to law and shall take effect and be in force from and after 30 days after its passage and adoption.

Passed and adopted as an ordinance of the City Council of the Town of Atherton at a regular meeting thereof held on the ____ day of _____, 2021 by the following vote:

Ayes:

Noes:

Abstentions:

Elizabeth Lewis, Mayor Town of Atherton

ATTEST:

APPROVED AS TO FORM:

Anthony Suber, City Clerk

Mona Ebrahimi, City Attorney

**COST SUMMARY
GAS AND ELECTRIC LEAF BLOWERS**

Gas Powered Leaf Blowers	Electric Powered Leaf Blowers
<p><u>Husqvarna 350 BT</u></p> <ul style="list-style-type: none"> • Machine Cost: \$ 339.95 • MPH: 180 MPH • Fuel Tank: 42.27 fl oz • Noise: 104 dB • Weight: 22.5 lbs <p>Machine: https://www.lowes.com/pd/Husqvarna-350BT-50-cc-2-cycle-180-MPH-692-CFM-Gas-Backpack-Leaf-Blower/1000737408</p>	<p><u>Greenworks BPB80L2510</u></p> <ul style="list-style-type: none"> • Machine Cost: \$ 497.96 • Battery Cost: \$ 216 • MPH: 145 MPH • CFM: 580 CFM • Battery: 80 volts Lithium Ion • Run Time: 40-60 minutes • Charge Time: 60 minutes • Noise: 60 dB • Weight: 14 lbs <p>Machine: https://www.greenworkstools.com/pro-80v-580-cfm-brushless-backpack-blower-tool-only</p> <p>Battery Replacement: https://www.amazon.com/Greenworks-PRO-Lithium-Battery-GBA80400/dp/B00SSBL07U</p>

<p><u>Makita EB7650TH 4-stroke</u></p> <ul style="list-style-type: none"> • Machine Cost: \$ 648 • MPH: 206 MPH • Fuel Tank: 64 fl oz • Noise: 76 dB • Weight: 24.1 lbs <p>Machine: https://www.amazon.com/Makita-EB7650TH-75-6-Backpack-Blower/dp/B00R6AW5S2</p>	<p><u>EGO Power + LB6003</u></p> <ul style="list-style-type: none"> • Machine Cost: \$ 399 • Battery Cost: \$ 249 • MPH: 145 MPH • CFM: 260- 600 CFM • Noise: 64 dB • Battery: 56 volts Lithium Ion • Run Time: 45-180 minutes • Charge Time: 45 minutes • Weight: 28.9 lbs <p>Machine: https://www.lowes.com/pd/EGO-Power-Plus-56-Volt-Lithium-Ion-Brushless-Cordless-Electric-Leaf-Blower-Battery-Included/1003130710</p> <p>Battery Replacement: https://www.lowes.com/pd/EGO-56-Volt-5-Amp-Hour-5-Amp-Hour-Lithium-Power-Tool-Battery/1003166924</p>
<p><u>**STIHL BR550</u></p> <ul style="list-style-type: none"> • Machine Cost: \$499.99 • MPH: 199 MPH • Fuel Tank: 47.3 fl oz • Noise: 73 db • Weight: 21.8 lbs <p>Machine: https://www.qcsupply.com/stihl-br550-backpack-blower.html</p>	<p><u>RYOBI- RY40440</u></p> <ul style="list-style-type: none"> • Machine Cost: \$239 • Battery Cost: \$179 • MPH: 145 MPH • CFM: 625 CFM • Noise: 59 dB • Battery: 40 volts • Run Time: 30 minutes (2active battery ports which could increase run time) • Charge Time: 60 minutes • Weight: 21.2 lbs <p>Machine: https://www.homedepot.com/p/RYOBI-145-MPH-625-CFM-40-Volt-Lithium-Ion-Cordless-Backpack-Blower-5-Ah-Battery-and-Charger-Included-RY40440/306706763#product-overview</p> <p>Replacement Battery: https://www.homedepot.com/p/RYOBI-40-Volt-Lithium-Ion-6-Ah-High-Capacity-Battery-OP4060A/311472031</p>

****Echo PB-755 ST**

- **Machine Cost: \$399**
- MPH: 233 MPH
- Fuel Tank: 67.7 fl oz
- Noise: 74 dB
- Weight: 24.7 lbs

Machine:

<https://www.homedepot.com/p/ECHO-233-MPH-651-CFM-63-3cc-Gas-2-Stroke-Cycle-Backpack-Leaf-Blower-with-Tube-Throttle-PB-755ST/100666160#product-overview>

Makita XBU02PTI Cordless

- **Machine Cost: \$219**
- **Battery Cost: \$99**
- MPH: 120 MPH
- CFM: 473 CFM
- Noise: 61 dB
- Battery: 36 volts
- Run Time: 28 minutes
- Charge Time: 45 minutes
- Weight: 9.9 lbs

Machine:

https://www.amazon.com/dp/B00YCKAWAM/ref=twister_B07PSMY85G?encoding=UTF8&pvc=1

Battery Replacement:

<https://www.homedepot.com/p/Makita-18-Volt-LXT-Lithium-Ion-High-Capacity-Battery-Pack-3-0Ah-with-Fuel-Gauge-2-Pack-BL1830B-2/300350754?source=shoppingads&locale=en-US>

	<p><u>EGO Power + Commercial Backpack</u></p> <p>Battery pack that is compatible with any EGO Power+ Commercial tool.</p> <ul style="list-style-type: none"> • Battery backpack Cost: \$1,300 • Attachable Handle Cost: \$400 • Replacement Battery: \$79.99 • MPH: 146 MPH • CFM: 600 CFM • Noise: 61 dB • Battery: 56 Volts 28 Ah • Run Time: 5-6 Hours • Charge Time: 3.5 Hours • Weight: 19.2 lbs <p>Battery pack: https://www.lowes.com/pd/EGO-POWER-Commercial-Backpack-Battery/5000528371?cm_mmc=aff- -c- -prd- -mdv- -gdy- -all- -8961804- -1634220- -11554726&AID=11554726&PID=8961804&SID=266603864459498122%3AwXydwi.xA3tR&cjevent=825b16423bdb11eb83d801a50a1c0e10</p> <p>Attachable handle: https://www.lowes.com/pd/EGO-POWER-Commercial-Blower/5000212073</p> <p>Battery Replacement: https://www.amazon.com/dp/B07TTHFZ25</p>
	<p><u>EGO Power + CH5500 56 Volt Lithium-Ion Rapid Charger</u></p> <ul style="list-style-type: none"> • Cost: \$99.99 • Charge Time: 30-60 minutes depending on battery type • Compatible with all EGO batteries <p>Charger: https://www.amazon.com/EGO-Power-56-Volt-Lithium-ion-Equipment/dp/B0102QGE4C?ref=ast_s_to_dp</p>