



Item No. 16 Town of Atherton

CITY COUNCIL STAFF REPORT – PUBLIC HEARING

**TO: HONORABLE MAYOR AND CITY COUNCIL
GEORGE RODERICKS, CITY MANAGER**

**FROM: ANTHONY SUBER, DEPUTY CITY MANAGER / CITY CLERK
DOUGLAS KIM, SUSTAINABILITY COORDINATOR**

DATE: FEBRUARY 16, 2022

**SUBJECT: INTRODUCTION OF AN ORDINANCE AMENDING ATHERTON
MUNICIPAL CODE CHAPTER 8.16 “NOISE”, PERTAINING TO GAS
POWERED GARDEN EQUIPMENT**

RECOMMENDATION

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

BACKGROUND

On January 20, 2021, City Council held a public hearing to consider an ordinance introduction for amendments to Chapter 8.16 “Noise”, pertaining to leaf blowers. This was an item that was carried over from the November 18, 2020, Council meeting. Council has previously received recommendations from the Environmental Programs Committee, accepted public comments on the topic, and provided direction for staff. Council direction in January 2021 was to:

- 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, which was done at the January 20, 2021, Council meeting.
- Provide more information, on the average amount of time a landscaper (residential and others) spends on leaf blowing during landscape maintenance, reported at the January 20, 2021, Council meeting.
- The Council indicated support for bans and/or restrictions on gas-powered leaf blowers, shifting to electric blowers phased in over time, but not immediately. .

Following additional public meetings and feedback on the pilot program in the Park for use of electric leaf blowers, on November 3, 2021, the Council Ad Hoc Subcommittee provided recommendations to Council. The Subcommittee advocated for restrictions that would eliminate the pollutants and noise of two-stroke gardening equipment. They also provided recommendations for limits on hours of use and limited use of 4-stroke equipment on commercial, educational, and Town properties during

certain seasons. The City Council provided feedback for further refinements to the proposed ordinance.

ANALYSIS

Working with the City Council Ad Hoc Subcommittee, staff has prepared a draft Leaf Blower Ordinance (Attachment 1, Strike Version and Attachment 2, Clean Version). Attachment 2 proposes a draft Leaf Blower Ordinance with the following key points in response to the direction collected throughout the process.

- Prohibit the use of gas-powered garden equipment on Spare the Air days.
- Restricted hours for gas powered garden equipment.
 - Gas power garden equipment may be operated –
 - Mon – Fri, 8 a.m. to 5 p.m.
- Authorized hours for electric power garden equipment.
 - Electric power garden equipment may be operated-
 - Mon – Friday 8 a.m. to 5 p.m.
 - Sat, 10 a.m. to 5 p.m.
 - Sun, 10 a.m. to 3 p.m.

- 2-stroke gas powered leaf blowers will not be permitted in Atherton after January 1, 2023.

The restrictions noted above apply to all properties in Atherton – residential, educational, open space, and governmental.

Following preparation of the draft Ordinance, there was also discussion of enforcement concerns. The State is banning the sale of gas-powered small engines beginning January 1, 2024. The Subcommittee was attempting to create a phased in approach to the use of gas-powered garden equipment, eliminating the use of 2-stroke gas powered leaf blowers in 2023 and authorizing the use of electric power garden equipment on the weekends to encourage a transition. However, enforcement of these provisions may get more complicated as the Town and State phase out certain types of equipment.

As a result, it was suggested that perhaps the Town leave the basic small gas-powered engine regulatory framework to the State and focus solely on the use of gas-powered leaf blowers by banning them, in their entirety, from a date certain forward – such as January 1, 2023 – and then begin an education campaign from now until then. This would streamline the enforcement process. If the Council supports this simplified version, staff would make adjustments to the ordinance and then return it for re-introduction in March.

Public Outreach and Education

The Town conducted a public opinion poll to solicit resident input and feedback. The question and results are below:

Leaf Blower Opinion Poll Results February 2022

Do you support or oppose the proposed changes to the regulations around gas powered garden equipment?

	Total Votes	Percentage (%)
Support	108	53.7 %
Oppose	93	46.3 %

Residents have also provided written feedback in conjunction with the opinion poll and are included as Attachment 3. In general, of the 15 additional received comments, 3 do not support the ban on gas powered leaf blowers and the remaining 12 support the ban and/or encourage the Town to go further in one direction or another. There was also a concern expressed in relation to the ability of electric leaf blowers to be functional on certain surfaces and property.

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 GHG emissions from energy sources. Reducing airborne pollutants generated by leaf blowers are supportive of the CAP’s overarching approach to sustainability by promoting more zero-emission and more fuel-efficient gardening equipment.

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

- *Goal OSC-5: Implement the GHG programs in the Atherton Climate Action Plan related to energy efficiency, community waste generation, and reduced water consumption.*
- *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

None.

GOAL ALIGNMENT

This Report and its contents are in alignment with the following Council Policy Goals:

Goal B – Preserve Small Town Character and Quality of Life

Goal E – Strengthen Community Engagement and Transparency
Goal F – Be Forward-Thinking, Well-Managed, and Well-Planned

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 January 4, 2022, 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 1,400 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)
- X Environmental Programs Committee (meets every other month)
- _____ 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 – STRIKE VERSION
2. Draft Ordinance Amendments, Section 8.16.050 – CLEAN VERSION
3. Leaf Blower Opinion Poll Written Results

ORDINANCE 2022 -

AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON AMENDING CHAPTER 8.16 “NOISE” OF THE ATHERTON MUNICIPAL CODE AS IT PERTAINS TO GAS POWERED GARDEN EQUIPMENT

SECTION 1: The City Council of the Town of Atherton does hereby ordain as follows:

Chapter 8.16 NOISE CONTROL is hereby removed in its entirety and replaced with the following:

“Chapter 8.16 NOISE CONTROL

Sections:

- 8.16.010 Declaration of policy.
- 8.16.020 Definitions.
- 8.16.030 Basic noise regulation.
- 8.16.040 Noise disturbance prohibited.
- 8.16.050 Special provisions and exceptions.
- 8.16.060 Aircraft regulations.
- 8.16.070 Permit to exceed noise levels.
- 8.16.080 Administration.
- 8.16.090 Violations.

8.16.010 Declaration of policy.

In accordance with the Atherton General Plan, which seeks to maintain Atherton as “a rural residential area,” it is the policy of the town to protect the peace, health and safety of its citizens from unnecessary and unreasonable noise produced by any person, machine, animal or device.

In addition, the use of gas-powered garden equipment can contribute to respiratory ailments and increased harmful emissions into the atmosphere. Therefore, the below section seeks to provide guidance on the use of gas-powered garden equipment and restrict the times that it can be used in Town.

8.16.020 Definitions.

As used in this chapter:

- A. “A-weighted sound level” is the sound level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.
- B. “Ambient” is the composite of noise from all sources near and far. In this context, the ambient noise level constitutes the normal or existing level of environmental noise at a given location.
- C. “Construction” means the act or process of demolition or building including but not limited to demolition, site preparation, alteration, repair, remodeling, assembly, erection, or similar action, of buildings, structures, pavement, flat work and other works including the use of power equipment in connection with activities therewith. Construction activities do not include radios or other forms of amplified music on a construction site. *Construction power equipment does not include garden equipment.*
- D. “Delivery” means delivery of building materials or equipment to any construction project.

ATTACHMENT 1

E. "Emergency" means an unforeseen combination of circumstances which require immediate action.

F. "Garden equipment" includes but not is limited to leaf-blowers, outdoor vacuums, power lawn mowers, power washers, hedge trimmers, rototillers, and other similar equipment used in the general maintenance of landscaped areas.

~~G.F.~~ "Noise disturbance" means sound which exceeds the noise limitations permitted in Section [8.16.030](#) of this chapter. For purposes of this section sources of sound shall include but not be limited to the following: amplified music, loudspeakers, radios, televisions, stereos, musical instruments, powered toys or models, swimming pools or spas, pile drivers, air compressors, paint sprayers, motors, pumps, blowers, air conditioners, cooling towers, ventilating fans, fork lifts, loaders, tractors, animals, concerts, mechanical equipment, human voices, electrical appliances, vacuum cleaners, powered equipment, chain saws, motor vehicles and attached equipment not operated on a street or highway.

~~H.G.~~ "Noise level" means the maximum continuous sound level or repetitive peak level measured using the "A" scale set on "slow."

~~I.H.~~ "Precision sound level meter" means a device for measuring sound level in decibel units according to the American National Standards Institute Type 1 or Type 2 measuring instruments.

~~J.I.~~ "Sound level" shall be expressed in decibels (dBA) as defined by the American National Standards Institute using the A-level scale.

~~K.J.~~ "Vehicle" means any device by which any person or property may be propelled, moved or drawn upon a highway or street or private property.

8.16.030 Basic noise regulation.

Except as otherwise permitted under this chapter, no person shall cause and no property owner shall permit on such owners' property, a noise produced by any person, machine, animal or device, or any combination thereof, in excess of the sound level limits set forth in this section to emanate from any property, public or private, beyond the property line. Any sound in excess of the sound level limits set forth in this section shall constitute a noise disturbance. For purposes of determining sound levels, sound level measurements shall be made at any location on the receiving property.

Sound Level Limits

7 a.m. to 10 p.m.	60 dBA
10 p.m. to 7 a.m.	50 dBA

A. In the event the alleged offensive noise contains a steady, audible tone, such as a whine, beating, pulsating, throbbing, or hum, the standards set forth in Section [8.16.030](#) shall be reduced by 5 dB.

B. In the event the ambient sound level equals or exceeds the sound level limit then the limit shall be 5 dBA over the ambient.

8.16.040 Noise disturbance prohibited.

A. Any and all excessively annoying, loud or unusual noises or vibrations such as offend the peace and quiet of persons of ordinary sensibilities and which interfere with the comfortable enjoyment of

ATTACHMENT 1

life or property and affect at the same time an entire neighborhood, or any considerable number of persons shall be considered a noise disturbance.

B. It shall be unlawful to create, permit, allow, or maintain a noise disturbance in the town of Atherton.

8.16.050 Special provisions and exceptions.

The basic noise regulation specified in Section [8.16.030](#) may be exceeded without permit in any instances listed below. At all other times, noise from illicit activities shall not exceed the basic noise regulation established in Section [8.16.030](#):

A. Construction.

1. Construction and delivery are exempt from the basic noise regulation during the times and on the days when construction activities are allowed pursuant to the terms and provisions of Chapter [15.40](#).
2. Residents/property owners when personally operating *construction* equipment are exempt from the basic noise regulation when they are personally undertaking construction activities to maintain or improve their property on:

- *Saturdays, Sundays, or holidays between the hours of 10 a.m. and 5 p.m.*

Such activities are restricted to the use of hand and power tools only.

3. At all times loud and raucous noise emanating from any construction or delivery site, whether in the form of broadcast or amplified music or any other form, which is audible on any property other than the property from which it emanates, is prohibited.

B. Power Garden Equipment.

1. Gas power garden equipment may be operated on property:

- *Monday through Friday, 8 a.m. to 5 p.m.*

2. Electric power garden equipment may be operated on property:

- *Monday through Friday, 8 a.m. to 5 p.m.*
- *Saturday, 10 a.m. to 5 p.m.*
- *Sunday, 10 a.m. to 3 p.m.*

3. 2-stroke gas powered leaf blowers shall not be permitted to be used in Atherton after January 1, 2023.

4. Use of powered garden equipment shall be prohibited on any Spare the Air Day, when so declared by the Bay Area Air Quality Management District. The Bay Area Air Quality Management District uses the U.S. EPA's Air Quality Index (AQI) to measure the health impact of air based on air quality and particulate level.

ATTACHMENT 1

5. 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 8 a.m. and 5 p.m. Monday through Friday only.

6. 3. All garden, maintenance and construction equipment used in the town must be equipped with a muffler where applicable, be in good repair and be operated pursuant to all applicable Occupational Safety and Health Guidance for hearing safety.

C. *Motor Vehicles.* Motor vehicles may be operated on public streets and highways within the town in accordance with the noise emission standards prescribed by the state Vehicle Code. It is the town's policy that all sworn personnel be trained in the enforcement of this section of the Vehicle Code.

D. *Social Gatherings.* The noise from social gatherings may exceed the basic noise regulation between the hours of 10 a.m. and 12 a.m., Fridays and Saturdays, and 10 a.m. and 10 p.m. Sundays and holidays. The noise levels produced by such gatherings shall not exceed 75 dBA when measured from any adjacent residential property.

E. *Animals.* Sounds from animals are exempt unless such animal howls, barks, meows, squawks, or makes other noises continuously and/or incessantly for a period of 5 minutes or intermittently for one-half hour.

F. *Emergency and Safety Devices.* The provisions of this chapter shall not apply to:

1. The emission of sound for the purpose of alerting persons to the existence of an emergency;
2. The emission of sound in the performance of emergency response; or
3. The emission of sound in connection with the protection of the health and safety of Atherton residents or their property during emergency conditions. Warning devices necessary for the protection of public safety, as for example, police, fire and ambulance sirens, and train horns, shall be exempted from the provisions of this chapter.

G. *Little League Field at Holbrook-Palmer Park.* The noise from practice and games at the Little League Field at Holbrook-Palmer Park may exceed the basic noise regulations during the Little League season between the hours of 4:30 p.m. to 7:30 p.m. weekdays and 8:45 a.m. to 4:30 p.m. Saturdays only. The noise levels produced by such games shall not exceed 75 dBA when measured at any adjacent residential property.

8.16.060 Aircraft regulations.

It shall be the policy of the town to work with nearby communities and other interested agencies to bring about a reduction of noise levels by private, military, public and commercial airplanes and helicopters.

8.16.070 Permit to exceed noise levels.

A. The police chief may grant a permit to waive time and noise level limitations on equipment when it is required to protect lives or property.

ATTACHMENT 1

B. Special events or circumstances may warrant temporary exception to noise levels established in this section. In such cases application for a permit may be made to the chief of police, stating in writing:

1. The name, address and telephone number of the property owner responsible for the activity; and
2. The purpose for which such permit is applied, the date and beginning and ending time thereof, and a description of the sound-producing or sound-amplifying device to be used, together with a full statement of reasons justifying noncompliance. Such permits shall be issued or maybe denied at the time of application based upon a balancing of the interests of the applicant against those of surrounding residents, to include consideration of duration of the permit, frequency of occurrence, number of persons benefited by the activity and other similar factors.

C. An appeal from the decision by the chief of police on a permit to exceed noise levels shall be in writing and state the facts upon which an error, omission or abuse of discretion is alleged. All appeals shall be made within ten calendar days from the date of the decision. The appeal shall be made to the city clerk who shall place the item on the agenda for next available city council meeting which shall be at least fifteen calendar days from the date of appeal. All interested parties shall have the opportunity to speak on the item at the city council meeting. The city council shall act on the appeal within sixty days of the hearing and may affirm, reverse or modify the decision of the chief of police, based upon appropriate findings.

D. All permits issued under this chapter shall be issued for a limited time period.

8.16.080 Administration.

The provisions of this chapter shall be administered by the chief of police and his or her authorized representatives, except where expressly provided otherwise. All other officers and employees of the town shall assist and cooperate in the administration and enforcement of this chapter.

8.16.090 Violations.

First time violators will be warned and subsequent violations of the provisions of this chapter shall be guilty of an infraction and shall be punished as provided in Section [1.20.050](#).”

SECTION 2: 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 3: 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

ATTACHMENT 1

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.

Introduced on the 16th day of February 2022.

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 _____, 2022 by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

Rick DeGolia, Mayor Town of Atherton

ATTEST:

APPROVED AS TO FORM:

Anthony Suber, City Clerk

Mona Ebrahimi, City Attorney

ORDINANCE 2022 -

AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON AMENDING CHAPTER 8.16 “NOISE” OF THE ATHERTON MUNICIPAL CODE AS IT PERTAINS TO GAS POWERED GARDEN EQUIPMENT

SECTION 1: The City Council of the Town of Atherton does hereby ordain as follows:

Chapter 8.16 NOISE CONTROL is hereby removed in its entirety and replaced with the following:

“Chapter 8.16 NOISE CONTROL

Sections:

- 8.16.010 Declaration of policy.
- 8.16.020 Definitions.
- 8.16.030 Basic noise regulation.
- 8.16.040 Noise disturbance prohibited.
- 8.16.050 Special provisions and exceptions.
- 8.16.060 Aircraft regulations.
- 8.16.070 Permit to exceed noise levels.
- 8.16.080 Administration.
- 8.16.090 Violations.

8.16.010 Declaration of policy.

In accordance with the Atherton General Plan, which seeks to maintain Atherton as “a rural residential area,” it is the policy of the town to protect the peace, health and safety of its citizens from unnecessary and unreasonable noise produced by any person, machine, animal or device.

In addition, the use of gas-powered garden equipment can contribute to respiratory ailments and increased harmful emissions into the atmosphere. Therefore, the below section seeks to provide guidance on the use of gas-powered garden equipment and restrict the times that it can be used in Town.

8.16.020 Definitions.

As used in this chapter:

- A. “A-weighted sound level” is the sound level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.
- B. “Ambient” is the composite of noise from all sources near and far. In this context, the ambient noise level constitutes the normal or existing level of environmental noise at a given location.
- C. “Construction” means the act or process of demolition or building including but not limited to demolition, site preparation, alteration, repair, remodeling, assembly, erection, or similar action, of buildings, structures, pavement, flat work and other works including the use of power equipment in connection with activities therewith. Construction activities do not include radios or other forms of amplified music on a construction site. Construction power equipment does not include garden equipment.
- D. “Delivery” means delivery of building materials or equipment to any construction project.

ATTACHMENT 2

E. “Emergency” means an unforeseen combination of circumstances which require immediate action.

F. “Garden equipment” includes but not is limited to leaf-blowers, outdoor vacuums, power lawn mowers, power washers, hedge trimmers, rototillers, and other similar equipment used in the general maintenance of landscaped areas.

G. “Noise disturbance” means sound which exceeds the noise limitations permitted in Section [8.16.030](#) of this chapter. For purposes of this section sources of sound shall include but not be limited to the following: amplified music, loudspeakers, radios, televisions, stereos, musical instruments, powered toys or models, swimming pools or spas, pile drivers, air compressors, paint sprayers, motors, pumps, blowers, air conditioners, cooling towers, ventilating fans, fork lifts, loaders, tractors, animals, concerts, mechanical equipment, human voices, electrical appliances, vacuum cleaners, powered equipment, chain saws, motor vehicles and attached equipment not operated on a street or highway.

H. “Noise level” means the maximum continuous sound level or repetitive peak level measured using the “A” scale set on “slow.”

I. “Precision sound level meter” means a device for measuring sound level in decibel units according to the American National Standards Institute Type 1 or Type 2 measuring instruments.

J. “Sound level” shall be expressed in decibels (dBA) as defined by the American National Standards Institute using the A-level scale.

K. “Vehicle” means any device by which any person or property may be propelled, moved or drawn upon a highway or street or private property.

8.16.030 Basic noise regulation.

Except as otherwise permitted under this chapter, no person shall cause and no property owner shall permit on such owners’ property, a noise produced by any person, machine, animal or device, or any combination thereof, in excess of the sound level limits set forth in this section to emanate from any property, public or private, beyond the property line. Any sound in excess of the sound level limits set forth in this section shall constitute a noise disturbance. For purposes of determining sound levels, sound level measurements shall be made at any location on the receiving property.

Sound Level Limits

7 a.m. to 10 p.m.	60 dBA
10 p.m. to 7 a.m.	50 dBA

A. In the event the alleged offensive noise contains a steady, audible tone, such as a whine, beating, pulsating, throbbing, or hum, the standards set forth in Section [8.16.030](#) shall be reduced by 5 dB.

B. In the event the ambient sound level equals or exceeds the sound level limit then the limit shall be 5 dBA over the ambient.

8.16.040 Noise disturbance prohibited.

ATTACHMENT 2

A. Any and all excessively annoying, loud or unusual noises or vibrations such as offend the peace and quiet of persons of ordinary sensibilities and which interfere with the comfortable enjoyment of life or property and affect at the same time an entire neighborhood, or any considerable number of persons shall be considered a noise disturbance.

B. It shall be unlawful to create, permit, allow, or maintain a noise disturbance in the town of Atherton.

8.16.050 Special provisions and exceptions.

The basic noise regulation specified in Section [8.16.030](#) may be exceeded without permit in any instances listed below. At all other times, noise from illicit activities shall not exceed the basic noise regulation established in Section [8.16.030](#):

A. Construction.

1. Construction and delivery are exempt from the basic noise regulation during the times and on the days when construction activities are allowed pursuant to the terms and provisions of Chapter [15.40](#).
2. Residents/property owners when personally operating construction equipment are exempt from the basic noise regulation when they are personally undertaking construction activities to maintain or improve their property on:
 - Saturdays, Sundays, or holidays between the hours of 10 a.m. and 5 p.m.

Such activities are restricted to the use of hand and power tools only.

3. At all times loud and raucous noise emanating from any construction or delivery site, whether in the form of broadcast or amplified music or any other form, which is audible on any property other than the property from which it emanates, is prohibited.

B. Power Garden Equipment.

1. Gas power garden equipment may be operated on property:
 - Monday through Friday, 8 a.m. to 5 p.m.
2. Electric power garden equipment may be operated on property:
 - Monday through Friday, 8 a.m. to 5 p.m.
 - Saturday, 10 a.m. to 5 p.m.
 - Sunday, 10 a.m. to 3 p.m.
3. 2-stroke gas powered leaf blowers shall not be permitted to be used in Atherton after January 1, 2023.
4. Use of powered garden equipment shall be prohibited on any Spare the Air Day, when so declared by the Bay Area Air Quality Management District. The Bay Area Air Quality

ATTACHMENT 2

Management District uses the U.S. EPA's Air Quality Index (AQI) to measure the health impact of air based on air quality and particulate level.

5. Heavy duty equipment including but not limited to wood-chippers, chainsaws, stump-removers and other similar equipment are exempt from the basic noise regulation between the hours of 8 a.m. and 5 p.m. Monday through Friday only.

6. All garden, maintenance and construction equipment used in the town must be equipped with a muffler where applicable, be in good repair and be operated pursuant to all applicable Occupational Safety and Health Guidance for hearing safety.

C. *Motor Vehicles.* Motor vehicles may be operated on public streets and highways within the town in accordance with the noise emission standards prescribed by the state Vehicle Code. It is the town's policy that all sworn personnel be trained in the enforcement of this section of the Vehicle Code.

D. *Social Gatherings.* The noise from social gatherings may exceed the basic noise regulation between the hours of 10 a.m. and 12 a.m., Fridays and Saturdays, and 10 a.m. and 10 p.m. Sundays and holidays. The noise levels produced by such gatherings shall not exceed 75 dBA when measured from any adjacent residential property.

E. *Animals.* Sounds from animals are exempt unless such animal howls, barks, meows, squawks, or makes other noises continuously and/or incessantly for a period of 5 minutes or intermittently for one-half hour.

F. *Emergency and Safety Devices.* The provisions of this chapter shall not apply to:

1. The emission of sound for the purpose of alerting persons to the existence of an emergency;
2. The emission of sound in the performance of emergency response; or
3. The emission of sound in connection with the protection of the health and safety of Atherton residents or their property during emergency conditions. Warning devices necessary for the protection of public safety, as for example, police, fire and ambulance sirens, and train horns, shall be exempted from the provisions of this chapter.

G. *Little League Field at Holbrook-Palmer Park.* The noise from practice and games at the Little League Field at Holbrook-Palmer Park may exceed the basic noise regulations during the Little League season between the hours of 4:30 p.m. to 7:30 p.m. weekdays and 8:45 a.m. to 4:30 p.m. Saturdays only. The noise levels produced by such games shall not exceed 75 dBA when measured at any adjacent residential property.

8.16.060 Aircraft regulations.

It shall be the policy of the town to work with nearby communities and other interested agencies to bring about a reduction of noise levels by private, military, public and commercial airplanes and helicopters.

8.16.070 Permit to exceed noise levels.

ATTACHMENT 2

A. The police chief may grant a permit to waive time and noise level limitations on equipment when it is required to protect lives or property.

B. Special events or circumstances may warrant temporary exception to noise levels established in this section. In such cases application for a permit may be made to the chief of police, stating in writing:

1. The name, address and telephone number of the property owner responsible for the activity; and
2. The purpose for which such permit is applied, the date and beginning and ending time thereof, and a description of the sound-producing or sound-amplifying device to be used, together with a full statement of reasons justifying noncompliance. Such permits shall be issued or maybe denied at the time of application based upon a balancing of the interests of the applicant against those of surrounding residents, to include consideration of duration of the permit, frequency of occurrence, number of persons benefited by the activity and other similar factors.

C. An appeal from the decision by the chief of police on a permit to exceed noise levels shall be in writing and state the facts upon which an error, omission or abuse of discretion is alleged. All appeals shall be made within ten calendar days from the date of the decision. The appeal shall be made to the city clerk who shall place the item on the agenda for next available city council meeting which shall be at least fifteen calendar days from the date of appeal. All interested parties shall have the opportunity to speak on the item at the city council meeting. The city council shall act on the appeal within sixty days of the hearing and may affirm, reverse or modify the decision of the chief of police, based upon appropriate findings.

D. All permits issued under this chapter shall be issued for a limited time period.

8.16.080 Administration.

The provisions of this chapter shall be administered by the chief of police and his or her authorized representatives, except where expressly provided otherwise. All other officers and employees of the town shall assist and cooperate in the administration and enforcement of this chapter.

8.16.090 Violations.

First time violators will be warned and subsequent violations of the provisions of this chapter shall be guilty of an infraction and shall be punished as provided in Section [1.20.050](#).”

SECTION 2: 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.

ATTACHMENT 2

SECTION 3: 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.

Introduced on the 16th day of February 2022.

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 _____, 2022 by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

Rick DeGolia, Mayor Town of Atherton

ATTEST:

APPROVED AS TO FORM:

Anthony Suber, City Clerk

Mona Ebrahimi, City Attorney

Anthony Suber

From: David Axelrod MD [REDACTED]
Sent: Thursday, January 13, 2022 10:48 AM
To: Anthony Suber; George Rodericks
Subject: Gas Powered garden equipment poll
Attachments: Axelrod_N1_Nov16_MP.pdf; PastedGraphic-2.tiff

[The e-mail below is from an external source. Please do not open attachments or click links from an unknown or suspicious origin.]

Hello,

I saw your online poll and prompt to contact you with additional comments. I am a Menlo Park resident — I live on Atherton border (at 955 Valparaiso Ave), and your town’s actions will affect my home and family.

Menlo Park recently heard public input about this topic, and I offered the enclosed statement (which I also read at the November city council meeting).

I do not support the proposed changes because they still allow gas-powered devices to be used during regular business hours. It is my medical opinion — and my opinion as a concerned citizen — that our communities need to think creatively to create an equitable and healthy alternative to gas powered devices. These devices should be banned immediately.

Please find the enclosed document and do not hesitate to contact me with any questions. Thank you for your attention.

David Axelrod MD

David M. Axelrod, M.D.
He/him



www.stanfordchildrens.org

Discover Stanford Children's on [Facebook](#), [Twitter](#), [LinkedIn](#), and [YouTube](#)

Please note emails will be read once per day, will be brief (no intro or sign off), and will be right to the point. Please don't mistake brevity for rudeness!

+-----
|| CONFIDENTIALITY NOTICE: This e-mail message, including any
| attachments, is for the sole use of the intended recipient(s) and
| may contain confidential, proprietary, and/or privileged information
| protected by law. Remember to 📧 more and 📧 less. If you are not
the intended recipient, you may not use, copy, or distribute this e-mail
message or its attachments.

| If you believe you have received this e-mail message in error,
| please contact the sender by reply e-mail and destroy all copies
| of the original message.
+-----

Anthony Suber

From: David Jones <[REDACTED]>
Sent: Friday, January 28, 2022 7:23 PM
To: Anthony Suber
Cc: Walker, Ann Yvonne
Subject: Gas Powered Garden Equipment

[The e-mail below is from an external source. Please do not open attachments or click links from an unknown or suspicious origin.]

Hi Anthony,

I'm in favor of almost all the proposed restrictions. I am concerned, though, that there may well be instances where there isn't a good electric option, or at least I can picture a situation where the electric option might not be up to the task at hand, like with rototillers. I don't know if an electric would have to "grunt" to get through my adobe soil. I'm retired now so weekday/weekend isn't an issue for me, but the last time I used a rototiller was on a weekend, back when I was working, so I see a potential problem.

Also, it's unclear in the online description of the proposed restrictions whether commercial use of electric blowers would be allowed on the weekend. I have both a corded electric blower and a battery powered blower and they are both pretty loud - they spare the air, but not the ear. Having gardening contractors coming in on weekends, even with electric blowers, would be sonically intrusive.

I'm relatively certain that's not in the proposal, but it's always best to be clear - plus there's no way to know whether that's the core objection of those voting "no" in the poll, unless they've emailed you.

-David

Stay smart, stay safe & stay sane... *unless it doesn't help.*

Anthony Suber

From: Andrea Luskin <[REDACTED]>
Sent: Monday, January 17, 2022 7:21 PM
To: Anthony Suber; George Rodericks
Subject: Gas-Powered Leaf Blowers

[The e-mail below is from an external source. Please do not open attachments or click links from an unknown or suspicious origin.]

Dear Mr. Suber and Mr. Rodericks,

I'm really disappointed to see we're not phasing out gas-powered blowers all together.

Over the past few years we've learned how awful these blowers are for the environment from an air quality standpoint and anyone who has spent anytime at home from 8 to 5 has known for years the incredible noise pollution they create.

Additionally, all blowers have a detrimental effect on soil quality in areas where there is just soil and no mulch. The leaves serve as natural mulch. Blowing these areas dries out the soil which then causes more environmental distress, increasing the need to use more water to keep plants in these areas alive.

We are surrounded by towns who have banned gas-powered blowers. We should do the same.

The argument that our properties are too large is a poor one. Portola Valley has plenty of large properties as do other nearby towns. Likewise, the argument that our gardeners can't afford this is a poor one. The overwhelming majority of Atherton residents can afford to purchase a leaf-blower and/or extra battery for their gardeners.

The town should make this easy for residents. Test out a few options at Holbrook Palmer or around the Town Center, make some recommendation based on noise, weight, and effectiveness, partner with a couple different manufacturers to secure a volume discount offer, provide a rebate code, and have residents place their orders.

Please have the town reconsider this decision.

Regards,

Andrea Luskin

Anthony Suber

From: [REDACTED]
Sent: Friday, January 28, 2022 6:39 PM
To: Anthony Suber
Subject: I would support a near-term ban on very loud leaf blowers.

[The e-mail below is from an external source. Please do not open attachments or click links from an unknown or suspicious origin.]

The proposed rules seem fine, but I would prefer a stronger (and nearer-term) ban on really loud leaf blowers. I don't know what db level to propose, but there are some that are extremely annoying. I bought my gardeners electric leaf blowers and they say they work just fine.

Mike Farmwald

[REDACTED]

Anthony Suber

From: Carolyn Adams < [REDACTED] >
Sent: Saturday, January 22, 2022 3:39 PM
To: Anthony Suber
Subject: Leaf Blower Restrictions

[The e-mail below is from an external source. Please do not open attachments or click links from an unknown or suspicious origin.]

Dear Mr. Suber,

I was reading about the Atherton proposed leaf blower restrictions and suggest that such restriction be limited to Sunday. Often gardeners work Monday through Friday and are only able to do extra property maintenance work on Saturday. Also, a social event at home on a Saturday often requires a quick clean up with a blower.

Thank you.

Best regards,

Carolyn Adams

[REDACTED]

Anthony Suber

From: Sara Richter <[REDACTED]>
Sent: Wednesday, January 12, 2022 12:38 PM
To: Anthony Suber
Subject: Leaf blower survey

[The e-mail below is from an external source. Please do not open attachments or click links from an unknown or suspicious origin.]

Hi,

I do have a question - I am not familiar with electric leaf blowers...do they emit noise?

Thank you,
Sara Richter

Anthony Suber

From: Betsy Dixon <[REDACTED]>
Sent: Tuesday, January 18, 2022 7:48 PM
To: Council
Subject: Leaf blowers

[The e-mail below is from an external source. Please do not open attachments or click links from an unknown or suspicious origin.]

Dear Town Council Members,

Would you please let me know what the decision of the Council was with respect to initiating an investigation into a town ban of leaf blowers?

If nothing is being pursued on this matter, what is the best way to advocate and identify to you the degree to which there is community support for such a ban.

Please let me know if there is a staff person to whom I should direct these inquiries.

Many thanks for your service to the Town's residents.

Very truly yours,
Betsy Dixon

[REDACTED]

Sent from my iPhone

Anthony Suber

From: mqmadding (null) <[REDACTED]>
Sent: Thursday, January 13, 2022 9:15 AM
To: Anthony Suber
Subject: Leaf Blowers

[The e-mail below is from an external source. Please do not open attachments or click links from an unknown or suspicious origin.]

Dear Mr Suber,

I rarely if ever comment on most things happening in the town but I will now. I am all for limiting gas leaf blowers to weekdays and don't want to see them banned out right like other cities have. Thank you for allowing landscape maintenance people to continue doing their jobs.

However, enacting such a measure will only be as good as the Town's enforcement measures. Many homeowners have their maintenance people doing the yard work on Saturdays which is hugely annoying and noisy. So unless the town is going to enforce the regs, there will be no meat behind the measure.

Sincerely,

Margie Madding

Sent from my iPad

Anthony Suber

From: Don & Gerry Nelson <[REDACTED]>
Sent: Saturday, February 5, 2022 11:54 AM
To: Anthony Suber
Subject: LEAF BLOWERS

[The e-mail below is from an external source. Please do not open attachments or click links from an unknown or suspicious origin.]

Hello Anthony.....

I recently read "The Future of Leaf Blowers" in your Winter publication and wanted to contact you to request any updated information that might be available.

The Town's plan to end the use of gasoline powered garden equipment has me more than a little concerned. Let me explain why:

I am told that a gardener might need to carry up to 6 or 8 charged batteries to complete a day's work. And that the electric versions have considerably less power than gas powered.

Most gardeners do not limit their customer base to Atherton only. A result of requiring electric for Atherton, would cause gardeners to double the amount of equipment they must carry; electric for Atherton and gas for their customers in neighboring communities. More than likely, this would discourage gardeners from retaining their Atherton customer base or accepting any new customers within our Town.

Also, it is important for us to realize that the amount of pollution from gasoline powered garden equipment is infinitesimal when compared to the total of all gas powered equipment in use throughout our area.

Mandating electric garden equipment is not a reasonable idea and can cause and far more problems than it solves. Please don't allow us to become the victims of unintended consequences.

Don Nelson
[REDACTED]

Anthony Suber

From: Jon Windham < [REDACTED] >
Sent: Monday, January 17, 2022 11:19 AM
To: Anthony Suber; George Rodericks; Council
Subject: Opinion poll on gas powered garden tools

[The e-mail below is from an external source. Please do not open attachments or click links from an unknown or suspicious origin.]

Anthony and George,

The question posed in the online poll ("Do you support or oppose the proposed changes to the regulations around gas powered garden equipment?") is troublesome because it will not give you an accurate understanding of how Atherton residents feel about gas powered garden equipment.

I strongly endorse efforts to eliminate gas powered garden equipment completely. Given this, how should I answer this question?

- The proposal is woefully short of what is needed in my view, so I could easily vote "no".
- But on the other hand, half a loaf is better than none. Moreover, a "no" vote might be interpreted as me wanting no new restrictions at all. So perhaps I should vote yes.

Either way, you would not have an understanding of my perspective based on my vote.

A better survey would ask: "Do you feel the proposed changes go too far, not far enough, or are about right with regard to regulating gas powered garden equipment?"

Jon Windham
[REDACTED]

Anthony Suber

From: JULIE CRONIN <[REDACTED]>
Sent: Tuesday, February 8, 2022 7:37 AM
To: Anthony Suber; George Rodericks
Subject: Opposition to change in gas powered garden equipment

[The e-mail below is from an external source. Please do not open attachments or click links from an unknown or suspicious origin.]

Good Morning,

I live in Lindenwood and rarely have been able to enjoy my yard in the last six years due to constant noise from construction. There is often construction on Saturdays too. To add powered garden equipment noise in the middle of the day when most residents want to enjoy their yards detracts from the ambiance of our Town.

I understand the need to have some equipment noise on weekends, but I really hope the hours are minimized. I also hope you remove the allowance on Sundays.

Thank you ,
Julie Cronin

[REDACTED]

Anthony Suber

From: Betsy Holak < [REDACTED] >
Sent: Wednesday, January 12, 2022 1:02 PM
To: Anthony Suber; George Rodericks
Subject: Power garden equipment

[The e-mail below is from an external source. Please do not open attachments or click links from an unknown or suspicious origin.]

Hi,
I have entered my opposition to the gas powered garden equipment restrictions. As a home owner that does much of my own garden maintenance AND works a full time job, I frequently must do maintenance on weekends. This includes the use of electric and gas powered equipment.

Please include a homeowner exemption to this restrictive regulation.

Thank you,
Betsy Holak

[REDACTED]

Anthony Suber

From: Carole Grace < [REDACTED] >
Sent: Saturday, January 22, 2022 5:38 PM
To: George Rodericks; Anthony Suber
Subject: proposed leaf blower regulations

[The e-mail below is from an external source. Please do not open attachments or click links from an unknown or suspicious origin.]

Mr. Rodericks and Mr. Suber,

I support your proposed restrictions on gas powered yard maintenance equipment and hope you will consider coordinating with neighboring Menlo Park. Many yard maintenance crews work in both communities and it would be very helpful if the rules were consistent in both towns.

Menlo Park currently bans the use of gas blowers on weekends, holidays and Spare the Air days, however since the rules are not enforced, yard crews largely ignore- or perhaps are ignorant- of the rules. The same is true in Palo Alto, where the long standing gas blower ban became largely ignored after crews realized the rules were rarely if ever enforced. To have success, your town will need to be very proactive in notifying both property owners and yard maintenance crews of the new rules and then be diligent in enforcing the rules. Again, it would be very helpful if the rules were consistent across neighboring communities including Atherton, Woodside, Portola Valley, Menlo Park, and Palo Alto. All have tried gas blower bans, to varying degrees of success. A common, consistent approach would be helpful for all.

One aspect of your proposed new rules I disagree with is that of allowing the use of electric equipment on Sundays. Please don't do this! We all need a break from truck traffic, noise and dust at least one day a week, especially considering how much construction work is ongoing in the mid peninsula.

Carole Grace
[REDACTED]

Anthony Suber

From: George Rodericks
Sent: Tuesday, January 25, 2022 7:29 AM
To: Margaret Winters
Cc: Anthony Suber
Subject: Re: rules for blowers

Margaret,

Thank you for the comments. These will be shared with the Council as part of the item's review in February.

George Rodericks
City Manager
Town of Atherton
80 Fair Oaks Lane (New Buildings)
Atherton, CA 94027
(650) 752-0504 - Office
grodericks@ci.atherton.ca.us

PUBLIC DISCLOSURE NOTICE:

This email and any attached files were sent from an email account assigned to a public official for the Town of Atherton. This email, replies to this email, or emails sent directly to this email account may constitute a public record and, if retained during the normal course of business, may be subject to disclosure to any person upon request.

On Jan 24, 2022, at 8:38 PM, Margaret Winters <[REDACTED]> wrote:

[The e-mail below is from an external source. Please do not open attachments or click links from an unknown or suspicious origin.]

Dear Mr. Rodericks,

We are fully in support of elimination of all gas powered leaf blowers being used in Atherton. As you may know, Los Altos, Palo Alto, and Menlo Park all have a ban on these things, and I cannot believe that Atherton is so far behind. It's disturbing to see, as we take walks, how many "gardeners" use these air-polluting machines to do what a hand rake would take care of in a few minutes, and with no air pollution. Many times over the 30 years we've lived here I've observed first hand the excessive and unnecessary way these machines are used, oftentimes just blowing a few leaves around and not accomplishing anything.

Please step up your timeline to get rid of all gas powered blowers and encourage homeowners to use hand rakes or low decibel electric blowers instead.

Thank you,

Dr. and Mrs. Philip Winters

Anthony Suber

From: Old Acct < [REDACTED] >
Sent: Wednesday, January 12, 2022 6:54 PM
To: Anthony Suber
Subject: Gas leaf blowers

[The e-mail below is from an external source. Please do not open attachments or click links from an unknown or suspicious origin.]

The Saturday gardening service at [REDACTED] is BEYOND loud. I installed an app on my phone to register the decibels and they are way off the chart. I've told them twice that their gas blower is illegal because it's too loud but the gardeners don't care. And it's on a Saturday too which really disturbs our outdoor peace and quiet. I don't know what the next step should be. The owners are from China and are never there.
Sincerely,
Tricia Young

Sent from my iPhone