

ORDINANCE NO. 23-006

Ordinance Of The City Council Of The City Of Emeryville Adding Article 6, Chapter 15, "Restrictions On Gas-Powered Leaf Blower Use" To The City Of Emeryville Municipal Code; And Authorizing The City Manager To Take Actions Related To Implementation And Enforcement; CEQA Determination: Exempt Pursuant To Guidelines Sections 15378(a), 15308, And 15061(b)(3)

WHEREAS, gas-powered leaf blowers are among the highest-polluting gas-powered devices, pose potential hazards to landscape workers, and are a nuisance due to their noise; and

WHEREAS, these engines emit high levels of liquid and solid particulate matter (PM), ozone, carbon monoxide (CO), nitrogen oxides (NOx) and ozone (O₃), and hydrocarbons (HC), with a single gas-powered leaf blower producing 23 times the CO and 299 times the HC emitted by a pickup truck;

WHEREAS, the Bay Area along with the rest of the United States is undergoing an epidemic of chronic, non-communicable, and mostly preventable diseases including asthma, heart disease, and cancers caused or exacerbated by air pollution; and

WHEREAS, in addition to air pollution, gas-powered leaf blowers emit noise pollution that impact quality of life at levels known to cause negative health effects, including stress, cardiovascular problems, gastrointestinal distress, depressed immunity, and interrupted sleep; and

WHEREAS, the State of California has enacted a prohibition on the sale of small off-road engines (Health & Safety Code Section 43018.11), including gas-powered leaf blowers, beginning on January 1, 2024; and

WHEREAS, more than 55 California municipalities have already banned or restricted the use of gas-powered lawn equipment, including Berkeley and Oakland; and

WHEREAS, viable alternative technologies exist to replace gas-powered leaf blowers, including electric leaf blowers which are widely available, less polluting, quieter, and perform well,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EMERYVILLE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION ONE. PURPOSE AND FINDINGS.

The above recitals being true and correct and incorporated by reference, the purpose of this Ordinance is to improve public health, safety, and quality of life by prohibiting the use of gas-powered leaf blowers within Emeryville.

SECTION TWO. ADDING TITLE 6, CHAPTER 15, "RESTRICTIONS ON GAS-POWERED LEAF BLOWER USE" TO THE EMERYVILLE MUNICIPAL CODE

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Title 6, Chapter 15 "Restrictions on Gas-Powered Leaf Blower Use" of the Emeryville Municipal Code is hereby added as follows:

6-15.01 - Definitions

"Gas-Powered Leaf Blower" means any leaf, dirt, or debris-blowing device powered by an internal combustion or rotary engine using gasoline, alcohol or other liquid or gaseous fluid. Lawn mowers and electric leaf blowers are not included in this definition.

6-15.02- Gas-Powered Leaf Blower Use Prohibition.

No person shall operate or allow the operation of a Gas-Powered Leaf Blower within the City on either public or private property.

6-15.03 – Penalties and Remedies.

A. It shall be a violation of the Emeryville Municipal Code, subject to administrative citation under Chapter 7 of Title 1 of this Code, for a Responsible Party to violate Section 6-15.02.

B. The term "Responsible Party" includes, but is not limited to, a property owner, including a homeowners' or tenants' association; tenant; occupant; person with a legal interest in real property or person in possession of real property; a business owner; or manager of a business. An employee or contractor of any of the foregoing persons or entities shall not be held responsible for a violation of this Chapter if the employee or contractor was provided a Gas-Powered Leaf Blower by a Responsible Party or directed to use a Gas-Powered Leaf Blower by a Responsible Party.

SECTION THREE. SEVERABILITY

The City Council of the City of Emeryville declares that each section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance is severable and independent of every other section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance. If any section, sub-section, paragraph, sub-paragraph, sentence, clause or phrase of this ordinance is held invalid, the City declares that it would have adopted the remaining provisions of this ordinance irrespective of the portion held invalid, and further declares its express intent that the remaining portions of this ordinance should remain in effect after the invalid portion has been eliminated.

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SECTION FOUR. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION

This ordinance is exempt from the California Environmental Quality Act because it is not a “project” as defined by CEQA Guidelines Section 15378(b) because it is an organizational or administrative activity that will not result in direct or indirect physical changes to the environment. Further, even if it is considered a project, it is exempt from environmental review pursuant to CEQA Guidelines Section 15308 because it involves actions to protect the environment, and pursuant to Section 15061(b)(3) because it can be seen with certainty that there is no possibility that prohibiting the use of gas leaf blowers will have a significant effect on the environment. The prohibition is intended to, and will, *reduce* air quality, greenhouse gas, and noise impacts.

SECTION FIVE. EFFECTIVE DATE

This Ordinance shall take effect on July 1, 2024. The City Clerk is directed to cause copies of this Ordinance to be posted or published as required by Government Code section 36933.

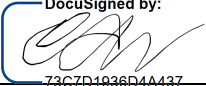
SECTION SIX. CODIFICATION

Section Two of this Ordinance shall be codified in the Emeryville Municipal Code. Sections One, Three, Four, Five, and Six shall NOT be so codified.

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This Ordinance was **INTRODUCED AND FIRST READ** by the City Council of the City of Emeryville at a regular meeting held Tuesday, December 5, 2023, and **PASSED AND ADOPTED** by the City Council of the City of Emeryville at a regular meeting held Tuesday, December 19, 2023, by the following vote:

AYES:	<u>5</u>	Mayor Welch, Vice Mayor Mourra and Council Members Bauters, Kaur and Priforce
NOES:	<u>0</u>	_____
ABSTAIN:	<u>0</u>	_____
ABSENT:	<u>0</u>	_____

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 MAYOR

ATTEST:

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 CITY CLERK

APPROVED AS TO FORM:

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 CITY ATTORNEY