



## CITY COUNCIL STAFF REPORT

DATE: May 17, 2017

LEGISLATIVE

SUBJECT: INTRODUCTION OF AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING SUBSECTION (k) TO SECTION 11.74.043 AND SECTION 5.78.050, AND AMENDING SECTION 5.78.010 OF THE PALM SPRINGS MUNICIPAL CODE, REGARDING LOUD, UNUSUAL NOISES AND LANDSCAPE RELATED BUSINESSES, PROHIBITING GASOLINE POWERED LEAF BLOWERS IN THE CITY AS A PER SE NUISANCE COMMENCING ON JANUARY 1, 2019, AND PROVIDING FOR REGULATION OF ELECTRICAL OR BATTERY POWERED LEAF BLOWERS

FROM: David H. Ready, City Manager

BY: Edward Z. Kotkin, City Attorney

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### SUMMARY

This proposed Ordinance adds gasoline-powered leaf blowers to the list of prohibited noises in the City's Municipal Code, and specifies the noise emitted from such leaf blowers as a nuisance. The prohibition on gasoline leaf blower noise and the nuisance provision would both go into effect on January 1, 2019. In recognition of the noise emitted from electrical/battery powered leaf blowers, this Ordinance also provides for regulation of leaf blowers in the City.

### RECOMMENDATION:

Waive the reading of text in its entirety, read by title only, and introduce for first reading Ordinance No. \_\_\_\_\_, " AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING SUBSECTION (k) TO SECTION 11.74.043 AND SECTION 5.78.050, AND AMENDING SECTION 5.78.010 OF THE PALM SPRINGS MUNICIPAL CODE, REGARDING LOUD, UNUSUAL NOISES AND LANDSCAPE RELATED BUSINESSES, PROHIBITING GASOLINE POWERED LEAF BLOWERS IN THE CITY AS A PER SE NUISANCE COMMENCING ON JANUARY 1, 2019, AND PROVIDING FOR REGULATION OF ELECTRICAL OR BATTERY POWERED LEAF BLOWERS."

ITEM NO. 3.A.

STAFF ANALYSIS:

On February 15, 2017, the City Council reviewed a comprehensive staff report regarding the use of gasoline powered leaf blowers in the City. The City Council directed staff to draft an ordinance that would phase out gasoline powered leaf blowers in the City. In order to achieve the "phase-out" direction of the Council, the proposed ordinance prohibiting gas powered leaf blowers in the City would not go into effect until January 1, 2019, with citations for violations not to issue until April 1, 2019.

The status quo is that all leaf blowers are allowed throughout the City every day of the week, between 7:00 a.m. and 8:00 p.m. in commercial/industrial zones. In this proposed Ordinance, the Council makes a factual finding that as of the date of this Ordinance's adoption, there is no technology or practice that will prevent gasoline powered leaf blowers from constituting a "noise disturbance" as that term is defined under the Palm Springs Municipal Code. That said, as the Council knows from its review of the comprehensive report in February, newer electrical/battery powered leaf blowers emit noise at only a slightly lower level than newer gas powered blowers. As the age of a gas powered blower increases, so does the noise differential. To address the challenges presented by the continued use of electrical/battery powered leaf blowers, this Ordinance provides the City with authority to develop and issue regulations applicable to all leaf blowers.

Based upon consideration of the positive environmental impact of electrical/battery powered blowers as a tool to maintain the health, safety and welfare of the community, the Council has the discretion to legislate the exemption specified in this proposed Ordinance as to electrical/battery powered leaf blowers.

The City of Palm Springs currently uses gas powered leaf blowers in its operations within several departments, and has engaged a contractor to assist the City in providing essential landscape maintenance services throughout the City. This Ordinance will impact the City of Palm Springs, just as it will impact all sorts of people and companies in the private sector. Based upon Council's past direction, staff undertook an informal but simple empirical study to help the Council evaluate the fiscal and other impacts of this Ordinance. Data is detailed below in the Fiscal Impact section of this report.

In additional, the City of Palm Springs is now on the test case list for the Air Quality Management District with respect to leaf blowers in the commercial sector. As such, the City receives devices for temporary deployment and data gathering, which devices must be returned to AQMD.

The "phase-out" period, as well as the "grace" period during which this Ordinance will be enforceable but not prompt the issuance of any citations, will provide staff with the time to educate affected users, implement a leaf blower exchange program to the extent that the City determines it can proceed with one, commence water saving landscaping classes as they may relate to diminution of the necessity of leaf blowing in general, and

continue to research the availability of grant funds to help offset costs the City may incur as detailed below.

ALTERNATIVES:

Reject the proposed Ordinance as drafted and provide direction to staff as to Council-desired revisions.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) DETERMINATION:

This Ordinance will actually have a positive impact on the environment. As an example of this impact, since the AQMD's Leaf Blower Exchange Program began in 2006, 12,000 old leaf blowers have been replaced, reducing 138,729 pounds of hydrocarbon and NOx emissions per year. The AQMD exchange program has also reduced smog-forming pollutants by 88,282 pounds per year in Southern California.

Furthermore, this Ordinance is not a "project" for purposes of the California Environmental Quality Act (CEQA), as that term is defined by CEQA guidelines (Guidelines) section 15378. This Ordinance is organizational or administrative activity by the City of Palm Springs in furtherance of its police power, and will not result in a direct or indirect physical change in the environment, per section 15378(b)(5) of the Guidelines.

FISCAL IMPACT:

To the extent that fiscal impacts have been gauged by staff, they may be described as follows.

One estimate that city staff secured from a local vendor indicates that an electrical/battery powered leaf blowing unit that the City of Palm Springs will use pursuant to this Ordinance cost around one thousand four hundred twenty dollars (\$1,420.00) per unit inclusive of a single battery, and a high-speed charger and adapter for that battery. Each battery costs approximately four hundred twenty-five dollars (\$425.00). Each battery adapter, apparently necessary as an accessory to each battery, costs around a hundred dollars (\$100.00). Battery life for these units is approximately forty-five (45) minutes; depending upon the nature and extent of each unit's use, at least one "back-up" battery (and adapter) should be acquired along with each unit purchased. In addition, the batteries do not tolerate heat well, and will need to be stored by the City in a reasonably cool location. Although it is not a direct expenditure, this fact will reduce efficiency in the City's leaf-blowing operations because users will have to periodically return from the field to a battery-storage location to change the battery. More hours will be spent blowing leaves.

Significant cost savings may be realized in the purchase of new electrical/battery powered leaf blowers through an AQMD leaf blower exchange anticipated to open in June or July. The AQMD website indicates that on the model referenced in the estimate procured, the City would save five hundred dollars (\$500.00) on the purchase of the blower with a single battery, with a charger and adapter.

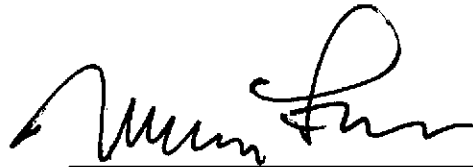
The City's downtown maintenance team engages in three (3) to four (4) hours per day of work involving leaf blowers. That team requires two (2) leaf blowing units, and will require the acquisition of not less than three (3) back-up batteries, and presumably adapters for each unit. That yields a cost of almost three thousand two hundred dollars (\$3,200.00) for the downtown maintenance team.

The City has other teams that use blowers that would need to be replaced – for streets, a single blower, for parks two (2) additional blowers, and for facilities, one (1) more blower. The other teams require fewer replacement batteries than the downtown maintenance team. The City's landscape maintenance contractor also uses leaf blowers. Staff estimates that the contractor employs the use of a dozen blowers in its work.

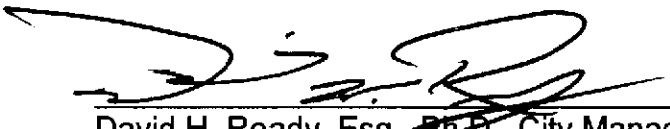
The City staff cannot provide certainty at this time as to precisely how AQMD and/or other program funds available may mitigate the direct financial impacts described above, or the indirect financial impacts that may arise from any City leaf blower exchange program implemented in the private sector.



Edward Z. Kotkin, City Attorney



Marcus L. Fuller, Assistant City Manager



David H. Ready, Esq., Ph.D., City Manager

Attachments: Draft Ordinance

ORDINANCE No. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING SUBSECTION (k) TO SECTION 11.74.043 AND SECTION 5.78.050, AND AMENDING SECTION 5.78.010 OF THE PALM SPRINGS MUNICIPAL CODE, REGARDING LOUD, UNUSUAL NOISES AND LANDSCAPE RELATED BUSINESSES, PROHIBITING GASOLINE POWERED LEAF BLOWERS IN THE CITY AS A PER SE NUISANCE COMMENCING ON JANUARY 1, 2019, AND PROVIDING FOR REGULATION OF ELECTRICAL OR BATTERY POWERED LEAF BLOWERS.**

*City Attorney Summary*

*This Ordinance prohibits the use of gasoline powered leaf blowers in the City commencing on January 1, 2019, and provides for the regulation of electrical or battery powered leaf blowers.*

**The City Council of the City of Palm Springs Ordains:**

**SECTION 1.** The City Council hereby makes the following factual findings: *(i)* as of the date of this Ordinance's adoption, there is no technology or practice that will prevent gasoline powered leaf blowers from constituting a "noise disturbance" as that term is defined under the Palm Springs Municipal Code, and *(ii)* to mitigate potentially undesirable logistic impacts of this Ordinance, and accomplish the gradual acceptance of the requirements of this Ordinance by all parties as desired by the Council, the City should issue warnings as to violations after this Ordinance's effective date, but should issue no citation for any violation hereof until 12:01 am on April 1, 2019.

**SECTION 2.** Add Subdivision (k) to Section 11.74.043 to Chapter 11.74 of the Palm Springs Municipal Code, re "Loud, Unusual Noises," to read:

(k) Gasoline Powered Leaf Blowers.

The use of gasoline powered leaf blowers, to produce a current of air and thereby push, propel or blow cuttings, refuse or debris, or otherwise shall be prohibited within the corporate limits of the City.

**SECTION 3.** Add Section 5.78.050 to Chapter 5.78 of the Palm Springs Municipal Code, re "Landscape Related Businesses," to read:

The City Manager, or his/her designee is hereby authorized and directed to adopt guidelines for the proper use of electrical or battery powered leaf blowers, which guidelines shall promote the safe and efficient use of leaf blowers while also mitigating,

to the extent possible, the noise and nuisance effects of Leaf blowers. The Finance Department is hereby directed to provide a copy of this Ordinance and the leaf blower guidelines to each person obtaining a City business license for the operating of a gardening or landscape maintenance service or business within the City.

**SECTION 4.** Amend Section 5.78.010 in Chapter 5.78 of the Palm Springs Municipal Code, re "Landscape Related Businesses," to read:

The purpose and intent of this chapter is to promote the public health, safety, and general welfare by insuring that landscape related businesses operating within the city understand and appreciate *(i)* the grass over-seeding alternative promoted by CVAG, AQMD, and local stakeholders, which alternative eliminates the need for turf scalping, serves as an important air quality control measure, and thereby enhances the local air quality, and *(ii)* the City's determination that electrical or battery powered leaf blowers authorized for use in the City of Palm Springs is an activity that must be regulated.

**SECTION 5.** Neither introduction nor adoption of this Ordinance represents a "project" for purposes of the California Environmental Quality Act (CEQA), as that term is defined by CEQA guidelines (Guidelines) section 15378, because this Ordinance is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per section 15378(b)(5) of the Guidelines.

**SECTION 6.** The Mayor shall sign, and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of applicable law; this Ordinance shall take effect at 12:01 am on January 1, 2019.

**PASSED, APPROVED AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL  
THIS \_\_\_ DAY OF \_\_\_\_\_, 2017.**

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**ROBERT MOON, MAYOR**

**ATTEST:**

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**KATHIE HART, INTERIM CITY CLERK**