

**TOWN OF FAIRFAX
STAFF REPORT**

To: Mayor, Members of the Town Council

From: Jim Moore, Director of Planning & Building Services

Date: January 10, 2013

Subject: Adoption of Resolution No. 13-3 directing the Planning Commission to draft an ordinance to restrict leaf blowers in the Town of Fairfax

RECOMMENDATION

Adopt Resolution No. 13-3 (**Exhibit A**): formally referring the matter of restricting the operation of leaf blowers to the Planning Commission for a public hearing and/or preparation of a draft ordinance for Council consideration.

BACKGROUND

At the October 3, 2012 Town Council meeting, during the public comments period, Mr. Douglas Green who resides at the Benet House submitted a petition with background information to ban leaf blowers in the Town of Fairfax (the petition letters received are attached at **Exhibit B**).

At the December 5, 2012 Town Council meeting, after taking public comments and holding a discussion on this matter, staff was directed to prepare a draft Resolution of Intention for Town Council approval directing staff to take this matter before the Planning Commission for a public hearing and/or preparation of a draft ordinance for Council consideration.

ATTACHMENTS

Exhibit A – Draft Resolution No. 13-3

Exhibit B – Petition and Letters

RESOLUTION NO. 13-3

A RESOLUTION OF INTENTION OF THE FAIRFAX TOWN COUNCIL DIRECTING THE PLANNING COMMISSION TO PREPARE A PROPOSED ORDINANCE OF THE FAIRFAX TOWN CODE TO REGULATE THE USE OF GAS LEAF BLOWERS

WHEREAS, the Fairfax Town Council, having conducted a public hearing at its January 10, 2013 regular meeting, has directed staff to initiate an ordinance for consideration that will regulate the use of gasoline engine powered leaf blowers within the Town limits;

WHEREAS, the Fairfax Town Council has determined that it is in the best interests of the citizens of Fairfax to minimize the impacts of these blowers which have the potential to create significant clean-air and health impacts for the community because they disturb ground-borne particulate matter. Ground-borne particulate matter, when airborne, can be ingested by the general public potentially affecting long term health;

WHEREAS, the Fairfax Town Council has determined that the use of leaf blowers in the community negatively impacts the quality of life enjoyed by residents through the creation of excessive noise during times when residents are in their homes and/or on their property;

NOW THEREFORE, BE IT RESOLVED,

We, the Fairfax Town Council, direct staff to initiate a proposed amendment to the Fairfax Town Code, seeking to regulate the use of gas powered leaf blowers to include but not be limited to:

- 1) when the ordinance will take effect (i.e., 6 months after adoption);
- 2) limiting the times and days of the week the blowers can be operated;
- 3) encouraging persons operating leaf blowers to ensure that leaves, dirt and other debris are not blown onto adjoining private or public properties;
- 4) providing for an exception to the ordinance in the case of hardship due to owner infirmity or size of a property;
- 5) whether or not to include other gasoline powered equipment in the regulations;
- 6) inclusion of an exemption during states of declared emergency as determined by the Town Manager;
- 7) whether authorized Town Employees operating leaf blowers on public property during regular business hours should be exempt from the regulations and,
- 8) providing for penalties for violations.

We further direct Staff to send the proposed amendment to the Planning Commission for their review and possible action at the regular March 21, 2013, meeting of the Fairfax Planning Commission. The Planning Commission should also consider whether the amendment should be part of the Zoning Code, Chapter 8.20, Noise, or another section of the Code.

The foregoing resolution was duly presented and adopted at the regular adjourned meeting of the Fairfax Town Council of the Town of Fairfax held in said Town on the 10th day of January 2013 by the following vote to wit:

AYES:

NOES:

ABSENT:

John Reed, Mayor

ATTEST: _____
Judith Anderson, Town Clerk

Jim Moore

From: Pam Hartwell [sustainablepam@gmail.com]
Sent: Tuesday, December 11, 2012 12:08 PM
To: Jim Moore
Subject: Fwd: Leaf Blowers Ordinance

AND then there is this. Since you and the Planning Commission are the first to take a pass at this, I will forward any citizen comments to you.

Pam Hartwell

----- Forwarded message -----

From: Lance Haag <lance@stellaco-inc.com>
Date: Tue, Dec 11, 2012 at 11:36 AM
Subject: Leaf Blowers Ordinance
To: phartwell-herrero@townoffairfax.org, jreed@townoffairfax.org, lbragman@townoffairfax.org, dweinsoff@townoffairfax.org, roneil@townoffairfax.org

Dear Town Council members;

I am a resident of Fairfax: 155 Canyon Road

I read that you are contemplating a possible ban on the use of leaf blowers in the town. I am vehemently opposed to such an action for the following reasons:

- 1) This is the USA, a free country and I believe I should have the same rights as other Americans to use a legal labor saving tool. I don't have much spare time. Unlike some residents I moved here in 2006 and paid a very high price for my home, and pay very high property taxes. Earning the money to pay these bills takes a lot of my time.
- 2) I invested in a leaf blower and such an ordinance could be viewed as a taking of my property. I also own a gas powered chain saw and a weed eater which I use to clear defensible space each spring.
- 3) The driveway to my home is very steep and dangerous if wet leaves are allowed to accumulate upon it. It would be very time consuming to clear the leaves by other means. Who will be responsible if an accident occurs due to wet leaves that could have been blow away by a leaf blower in time to leave for work? My wife and I both have very demanding jobs and we have 2 kids with full schedules. We have had several bicycle

crashes just going up and down the driveway when there are wet leaves on it. It is a struggle to make ends meet and we do not pay a gardener to take care of our property, we do it ourselves.

4) This issue and the principle behind it (I.e., freedom) gets my vote. Believe me, this topic will be discussed with other neighbors who are also busy. What is next—a ban on cars with more than 4 cylinders? A ban on lawn mowers? Chain saws? Weed eaters? How about noisy electric power tools? Will the town pay the impacted citizens for the taking of their property as required by the US constitution?

5) This issue rates civil disobedience in my opinion and I will ignore it if you pass it. If I get a citation for use of the device I will explore my options to contest the legality of the ordinance with an attorney and the town can expect to face some legal costs.

Please don't let the vocal minority influence you to attempt to take away the rights of the majority

Sincerely;

Lance Haag

DEC 17 2012

RECEIVED

To the Town of Fairfax.

Let me join my voice to the chorus of our town's people asking you to completely prohibit the use of gas-powered leaf blowers.

The use of gas powered blowers is ^{almost} exclusively by commercial landscaping companies who have been hired by the few wealthy homeowners who can afford such services, while the majority of our neighbors either rake or use electric blowers.

For 15 years, I have truly suffered every single week because of 3 neighbors whose hired gardeners each blast their extremely high pitched loud gas blowers every week for one solid hour to almost two hours! I suffer from a central nervous system disease, and if I cannot leave my home, the effects of this noise bomb wrecks me for hours afterwards.

I have begged these neighbors to switch to electric blowers or to just reduce the amount of time, but compassion did not prevail.

Please, give us as a people, the right to live in health and peace. I cannot imagine the inconvenience of a paid employee to deal with a few extension cords could possibly be an argument against the quality of life for all residents of our beloved valley.

Thank you, Marsha Wildvine 415-306-7160

TOWN OF FAIRFAX

DEC 31 2012

RECEIVED

Jessica Green
154 Ridgeway Avenue
Fairfax, California
94930

December 12, 2012

To The Town of Fairfax regarding passing an ordinance to abolish the citizens right to use
Blowers to clean property of debris and leaves.

This would be a hardship for some of us who cant afford to hire help to sweep. I have a bad back but am able to use a blower. I am the only person who cleans and maintains at least part of our street which is not a town maintained street. I also use it to clear my driveway and front deck and hill below which otherwise would have a lot of dry leaves which are a fire hazard. Perhaps it should be put on a ballot, but really the people who use blowers themselves quite often cannot afford help to do it and as for the others who pay for help, this help will suddenly be a lot more expensive to get because it will increase the time and energy to do this cleaning by about eight times.

Please consider not passing a resolution or ordinance to outlaw this tool to clean our streets and private property.

Thank You,

Sincerely,

A handwritten signature in black ink, appearing to be 'Jessica Green', with a long, sweeping horizontal line extending to the right.

Jessica Green

Date: 12-6-12

Invoice #: _____

Client: Fairfax Town Council TOWN OF FAIRFAX

Bolinas Rd. JAN 03 2013

FX. RECEIVED

Christopher H. Lang
 MARIN SERVICES, LTD.
 State Contractor's License # 573794
 P.O. Box 287
 Fairfax, CA 94978
 (415) 457-8687

Info. re: Gas powered leafblower regulation

~~* New blowers are much quieter than older ones~~

Date	Hours	Rate	Description of Services	Materials	Amount
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- #1 Leafblowers ^{can be} ~~are~~ already regulated under FX. noise ordinance re: hours of operation - see attached. ^{P.31} (Remove D. from Exemptions)
- #2 All commercial use is already regulated, i.e. anyone who earns more than \$500/year from one homeowner must be a licensed contractor (State Bus. & Prof. code) or be that homeowner's employee (1099 vs. W-2). Ask P.P. to ^{enforce} ~~existing~~ reg.
- #3 Commercial users must also have a FX. Bus. Lic.
- #4 Advise Town to setup an actual noise test, i.e. decibel-meter @ 50 feet from: woodsplitter, chipper, backpack blower, handheld blower, string trimmer and chain saws. This would enable us to have an actual measurement of these tools.
- #5 Fact-based analysis of situation reveals noise problem is caused by improperly trained users running ^{older} ~~generation~~ backpack gas blowers at full throttle, when it is not necessary, in my expert opinion. Operators need to be compliant w. ^{existing} ~~reg.~~
- #6 Electric leafblowers are dangerous to users when working on rooftops or wet conditions. Gas powered units are more powerful, w. lower

Please make checks payable to Chris Lang. Thank you. Total Due
 frequently noise, and far more mobile, used to clean roofs, gutters, decks, patios, staircases, walkways, driveways and street frontages.

Raking is not cost effective or good enough for commercial applications and dust control is not ^{limited to use on residential}

Rain Water Harvesting

Gov. Jerry Brown has signed legislation strongly supported by the California Landscape Contractors Association that gives landscape contractors the ability to install a system that captures rain water for exclusive use in landscape irrigation or a water feature.

Assembly Bill 1750, authored by Assemblymember Jose Solorio (D-Santa Ana), enacts the Rainwater Capture Act of 2012, which clarifies that the use of rainwater collected from rooftops does not require a water right permit from the State Water Resources Control Board.

More importantly from CLCA's standpoint, the bill adds a provision to Contractors' License Law that allows landscape contractors to sign contracts for the construction of those systems when they are used exclusively for landscape irrigation or as a water supply for a fountain, pond, or similar decorative water feature in a landscaping project.

In addition, AB 1750 permits landscape contractors to use their own employees to design and install those exterior components of a rainwater capture system that are not part of, or attached to, a structure.

CLCA made a strong case as the measure worked its way through the Legislature that AB 1750 offered property owners a "one-stop solution," as it saves them from having to sign separate contracts for different system components. By signing the prime contract for a rainwater capture system, the landscape contractor takes full responsibility for scheduling the work and completing the project on time.

The California Building Standards Commission is currently working on updates to the California Plumbing Code that will include building standards for rainwater catchment systems for the first time. CLCA Assistant Executive Director Larry Rohlfs has been working with CLCA's Resource Management Committee and Graywater/Rainwater Capture Task Force to review the proposed standards, which are scheduled to debut in the 2013 edition of the California Plumbing Code. "Hopefully the combination of the Rainwater Capture Act of 2012, which goes into effect on January 1, 2013, and the 2013 building standards will stimulate demand for this water conservation technology," he says. "Landscape contractors are now in an excellent position to address it."

Unlicensed Contractors Stung

CLCA's San Luis Obispo Chapter participated in a Contractors State License Board sting operation by providing a residence for an October 17 and 18 operation and submitting leads prior to it on local unlicensed landscapers and tree trimmers.

Taking advantage of an incentive program that CLCA put in place last year, the chapter requested an honorarium from the association for the owner of the Arroyo Grande residence. CLCA Headquarters immediately wrote a \$500 check to the owner.

Working with the Arroyo Grande Police Department, the San Luis County Sheriff's Office, and the San Luis Obispo County District Attorney's Office, CSLB Statewide Investigative Fraud Team (SWIFT) investigators posed as homeowners seeking bids for various construction jobs. By the time the sting was over, eight individuals without contractors' licenses had received notices to appear in criminal court.

The Arroyo Grande operation was one of eight simultaneous sting operations on October 17 and 18 — SWIFT's autumn "California Blitz." A total of 92 individuals were arrested and face misdemeanor charges for contracting without a license. The penalty for a conviction is up to six months in jail and/or a fine of up to \$5,000. At least two are repeat offenders and now face a mandatory 90-day jail sentence if convicted a second time.

Seventy-seven of the individuals also may be charged with illegal advertising. The penalty is a fine of \$700 to \$1,000. Twelve others may be charged with requesting an excessive down payment. This misdemeanor charge carries a maximum penalty of six months in jail and/or up to a \$5,000 fine.

Fourteen of the phony contractors also were issued stop orders. CSLB investigators can halt job site activity when any person with or without a license does not have workers' compensation insurance coverage for employees. Failure to comply with a stop order can result in misdemeanor charges and penalties, including 60 days in jail and/or up to \$10,000 in fines. One of the 14 contractors was licensed.

CALIF. LANDSCAPE CONTRACTOR ASSOCIATION
12/12 Submitted by Christopher H. Lang

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CHAPTER 8.20: NOISE CONTROL

Section

- 8.20.010 Policy declaration; nuisance declared
- 8.20.020 Definitions
- 8.20.030 Compliance by town departments
- 8.20.040 Complaint investigation; noise measurement procedure
- 8.20.050 Exterior noise limits
- 8.20.060 Prohibited acts
- 8.20.070 Exemptions
- 8.20.080 Prima facie violation
- 8.20.090 Notice of violation
- 8.20.100 Violation; penalty
- 8.20.110 Additional remedies
- 8.20.120 Exception procedure

§ 8.20.020 DEFINITIONS.

All terminology used in this chapter, not defined in this section, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

A WEIGHTED SOUND LEVEL. The sound level in decibels as measured on a sound level meter using the A weighted network. The level so read is designated *dB(A)* or *dBA*.

AMBIENT NOISE LEVEL. 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.

COMMERCIAL AREA. Any part of the areas designated as commercial zones by the zoning ordinance of the town.

CONSTRUCTION. Any site preparation, assembly, erection, substantial repair, alteration or similar action, for or of public or private rights-of-way, structures, utilities or similar property.

DECIBEL. A unit for measuring the amplitude of a sound, equal to 20 times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals.

DEMOLITION. Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

§ 8.20.010 POLICY DECLARATION; NUISANCE DECLARED.

(A) In order to control unnecessary, excessive and annoying noise in the town, it is declared to be the policy of the town to prohibit the noise generated from or by all sources as specified in this chapter. It is the policy of the town to maintain quiet in those areas which exhibit low noise levels and to implement programs aimed at reducing noise in those areas within the town where noise levels are above acceptable values.

(B) It is determined that certain noise levels are detrimental to the public health, welfare and safety, and are contrary to public interest. Therefore, the town does ordain and declare that creating, maintaining, causing or allowing to be created, caused or maintained, any noise in a manner prohibited by or not in conformity with the provisions of this chapter, is a public nuisance.

(Prior Code, § 8.16.010) (Ord. 481, passed - -1981)

EMERGENCY WORK. Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

FIXED NOISE SOURCE. A stationary device which creates sounds while fixed or motionless, including, but not limited to residential, agricultural, industrial and commercial machinery and equipment, pumps, fans, compressors, air conditioners and refrigeration equipment.

IMPULSIVE SOUND. Sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts and the discharge of firearms.

NOISE DISTURBANCE. Any sound which, as judged by the Chief of Police or his or her designated representative, violates the limits set forth in the table of § 8.20.050 of this chapter. Compliance with this chapter shall constitute elimination of a noise disturbance.

NOISE ZONE. Any defined areas or regions of a generally consistent land use as shown on Exhibit A, Noise Zones of the Town of Fairfax, attached to the ordinance codified in this chapter and available for inspection in the office of the Town Clerk.

PERSON. Any individual, association, partnership or corporation, and includes, any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.

PUBLIC RIGHT-OF-WAY. Any real property or structures thereon which are owned or controlled by a governmental entity.

PUBLIC SPACE. Any real property or structures thereon which are owned or controlled by a governmental entity.

PURE TONE. Any sound which can be judged as audible as a single pitch or a set of single pitches by the Chief of Police or his or her designated representative. In case of dispute, a **PURE TONE** shall exist if the one-third-octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third-octave bands by five decibels for center frequencies of 500 Hertz and above and by eight decibels for center frequencies between 160 and 40 Hertz and by 15 decibels for center frequencies less than or equal to 125 Hertz.

REAL PROPERTY BOUNDARY. An imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

RESIDENTIAL AREA. Any part of the areas designated as residential zones by the zoning ordinance of the town.

SOUND-AMPLIFYING EQUIPMENT. Any device for the amplification of the human voice, music or any other sound, excluding standard automobile radios when used and heard only by the occupants of the vehicle in which the radio is installed, and, as used in this chapter, warning devices on authorized emergency vehicles or horns or other warning devices on any vehicle used only for traffic safety purposes.

SOUND LEVEL METER. An instrument, including a microphone, an amplifier, an output meter and frequency weighting networks for the measurement of sound levels, which meets or exceeds the requirements pertinent for type S2A meters in American National Standards Institute (ANSI) specifications for sound level meters, S1.4-1971, or the most recent revision thereof.

SOUND TRUCK. Any motor vehicle, or any other vehicle, regardless of motive power, whether in motion or stationary, having mounted thereon or attached thereto, any sound-amplifying equipment.

WEEKDAY. Any day, Monday through Friday, which is not a legal holiday.
(Prior Code, § 8.16.020) (Ord. 481, passed - -1981)

§ 8.20.030 COMPLIANCE BY TOWN DEPARTMENTS.

(A) All departments of the town shall carry out their activities in accordance with the provisions of this chapter.

(B) Each department whose duty it is to review and approve new projects, or changes to existing projects, which result or may result in the emission of noise shall make the finding that the project complies with the provisions of this chapter prior to project approval.
(Prior Code, § 8.16.030) (Ord. 481, passed - -1981)

§ 8.20.040 COMPLAINT INVESTIGATION; NOISE MEASUREMENT PROCEDURE.

Upon receipt of a complaint from a citizen, the Chief of Police or his or her designated representative, equipped with a sound level meter, shall investigate the complaint. The investigation shall consist of a measurement and the gathering of data to define adequately the noise problem and shall include the following.

(A) *Non-acoustic data.*

- (1) Type of noise source;
- (2) Location of noise source relative to complainant's property;
- (3) Time period during which noise source is considered by complainant to be intrusive;

(4) Total duration of noise produced by noise source; and

(5) Date and time of noise measurement survey.

(B) *Noise measurement procedure:*

(1) Utilizing the A weighting scale of the sound level meter and the "slow" meter response (use "fast" response for impulsive type sounds), the noise level shall be measured at a position or positions at any point on the complainant's property line.

(2) In general, the microphone shall be located four to five feet above the ground, ten feet or more from the nearest reflective surface, where possible; however, in those cases where another elevation is deemed appropriate, the latter shall be utilized. Calibration of the measurement equipment, utilizing an acoustic calibrator, shall be performed immediately prior to recording any noise data.
(Prior Code, § 8.16.040) (Ord. 481, passed - -1981; Am. Ord. 529, passed - -1984)

§ 8.20.050 EXTERIOR NOISE LIMITS.

(A) *Maximum permissible sound levels by receiving land use.*

(1) The noise standards for the various noise zones as presented in the following table shall, unless otherwise specifically indicated, apply to all such property within a designated zone.

(2) No person shall operate or cause to be operated any source of sound at any location within the incorporated town, or allow the creation of any noise on property owned, leased, occupied or otherwise controlled by the person, which causes the noise level when measured at the complainant's property line to exceed the limits in the table below for more than seven and one-half minutes in a 15-minute period. Those seven and one-half minutes need not be continuous.

(3) If the measured ambient level differs from that permissible, the allowable noise exposure standard shall be adjusted in five-decibel increments in each category as appropriate to encompass or reflect the ambient noise level.

(4) If the measurement location is on a boundary between two different zones, the noise level limit applicable to the lower noise zone shall apply.

(B) *Correction for character of sound.*

(1) In the event the alleged offensive noise, as judged by the Chief of Police or his or her designated representative, contains a steady, audible tone such as a whine, screech or hum, or is a repetitive noise such as hammering or riveting, or contains music or speech, the standard limits set forth in the table below shall be reduced by five decibels.

§ 8.20.060 PROHIBITED ACTS.

(A) *Street sales.*

(1) Offering for sale, selling anything or advertising by shouting or outcry within any residential or commercial area or noise-sensitive zone of the town is prohibited, except by permit issued by the town.

(2) The provisions of this division (A) shall not be construed to prohibit the selling, by outcry, of merchandise, food and beverages at licensed sporting events, parades, fairs, circuses or other similar licensed public entertainment events.

(B) *Animals and birds.*

(1) Owning, possessing or harboring any animal which makes noise which is detectable on the complainant's property, and which is repeated intermittently for a duration of 15 minutes or more, is prohibited.

(2) In addition to being subject to the penalties of this chapter, animal noise disturbance cases will also be referred to the Humane Society.

(C) *Construction/demolition domestic power tools.*

(1) The operation of any tools or equipment used in construction or demolition work between weekday hours of 8:00 p.m. and 8:00 a.m. or on weekends or holidays between the hours of 8:00 p.m. and 9:00 a.m., such that the sound therefrom creates a noise disturbance across a residential or commercial real property line, is prohibited.

(2) Operating or permitting the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool or similar tool between 8:00 p.m.

<i>Exterior Noise Limits (Levels not be exceeded more than 7.5 minutes in any 15-minute period)</i>			
<i>Noise Zone</i>	<i>Time Period</i>		<i>Noise Level (dBA)</i>
A (Residential)	Night	10:00 p.m. - 7:00 a.m.	40
	Day	7:00 a.m. - 10:00 p.m.	50
B (Multiple Dwelling, Residential)	Night	10:00 p.m. - 7:00 a.m.	50
	Day	7:00 a.m. - 10:00 p.m.	55
C (Commercial)	Night	10:00 p.m. - 7:00 a.m.	55
	Day	7:00 a.m. - 10:00 p.m.	60

(2) These zones are illustrated on Exhibit A, "Noise Zones, Town of Fairfax," attached to the ordinance codified in this chapter. Areas that are not covered on the map are included in Zone A. (Prior Code, § 8.16.050) (Ord. 481, passed - -1981; Am. Ord. 529, passed - -1984)

and 8:00 a.m. or on weekends or holidays between the hours of 8:00 p.m. and 9:00 a.m., so as to create a noise disturbance across a residential or commercial real property line, is prohibited.

(D) *Machinery.* Any motor, machinery or pump, such as swimming pool equipment and the like, shall be sufficiently enclosed or muffled and maintained so as not to create a noise or disturbance.

(E) *Motor vehicle horns.* It is unlawful for any person to sound a vehicular horn, except as a warning signal, pursuant to Cal. Motor Vehicle Code § 27001.

(F) *Motorized recreational vehicles operating off public right-of-way.*

(1) No person shall operate or cause to be operated any motorized recreational vehicle off a public right-of-way in a manner that the sound levels emitted therefrom violate the provisions of § 8.20.050.

(2) This division (F) applies to all motorized recreational vehicles, whether or not duly licensed and registered, including, but not limited to commercial or noncommercial racing vehicles, motorcycles, go-carts, campers and dune buggies. (Prior Code, § 8.16.060) (Ord. 481, passed - -1981)

Editor's Note:

Nighttime limits shall apply to these time periods.

★ § 8.20.070 EXEMPTIONS.

(A) The provisions of this chapter do not apply to:

(1) The emission of sound for the purpose of alerting persons to the existence of an emergency; or

(2) The emission of sound in the performance of emergency work.

(B) Warning devices necessary for the protection of public safety, as, for example, burglar alarms, police, fire and ambulance sirens and the fire horn, are exempted from the provisions of this chapter.

(C) The provisions of this chapter do not apply to occasional outdoor gatherings, public dances, shows and sporting and entertainment events, provided the events are conducted pursuant to a permit or license issued by the town relative to the staging of the events.

(D) The operation of any tools or equipment used in construction, drilling, repair, alteration or demolition work, mechanically powered saw, sander, drill, grinder, lawn or garden tool, leaf blower, or similar tool between 8:00 a.m. and 8:00 p.m. on weekdays and 9:00 a.m. and 8:00 p.m. on weekends are exempt.

(Prior Code, § 8.16.070) (Ord. 481, passed - -1981; Am. Ord. 731, passed 2-6-2008)

§ 8.20.080 PRIMA FACIE VIOLATION.

Any noise exceeding the noise level limits specified in § 8.20.050 shall be deemed to be prima facie evidence of a violation of the provisions of this chapter.

(Prior Code, § 8.16.080) (Ord. 481, passed - -1981)

§ 8.20.090 NOTICE OF VIOLATION.

At the discretion of a police officer, the owner or operator of a noise source, which, upon investigation, has been found to exceed permitted limits, shall be informed of the violation and asked to take corrective action to eliminate the violation. If the owner or operator fails to eliminate the violation, he or she may be cited for a misdemeanor violation.

(Prior Code, § 8.16.090) (Ord. 481, passed - -1981)

§ 8.20.100 VIOLATION; PENALTY.

Any person violating any of the provisions of this chapter is deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed \$500, or be imprisoned in the county jail for a period not to exceed six months, or by both the fine and imprisonment. Each day the violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

(Prior Code, § 8.16.100) (Ord. 481, passed - -1981)

§ 8.20.110 ADDITIONAL REMEDIES.

(A) As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision of this chapter, which operation or maintenance causes or creates sound levels exceeding the allowable limits as specified in this chapter, shall be subject to abatement as provided by law or by a restraining order or injunction, issued by a court of competent jurisdiction.

(B) By resolution, the Town Council may declare the expense of the abatement to be a lien against the property on which the nuisance is maintained, and the lien shall be made a personal obligation of the property owner.
(Prior Code, § 8.16.110) (Ord. 481, passed - -1981)

§ 8.20.120 EXCEPTION PROCEDURE.

The owner or operator of a noise source which exceeds any of the provisions of this chapter may apply for an exception from the regulations designated in this chapter, on the basis of undue hardship.

(A) Administration.

(1) The Town Manager shall process and act on exceptions to this chapter.

(2) The Town Manager shall:

(a) Review and act upon all applications for exceptions;

(b) Review and act upon appeals from staff interpretation of this chapter;

(c) Approve a set of rules of procedure for processing exceptions;

(d) Establish the dates, times and place of meetings for official action under his or her authority;

(e) Prescribe any reasonable requirements deemed necessary to minimize adverse effects on the community or the surrounding neighborhood as a condition to the exception; and

(f) Prescribe a time limitation for the exception.

(3) (a) Decisions of the Town Manager may be appealed to the Town Council by any interested party, within ten working days of the action, on a form prescribed by the Town Clerk.

(b) The appeal shall be filed with a fee adopted by resolution of the Town Council.

(4) (a) The application shall be filed on a form prescribed by the Town Manager and accompanied by a fee set by resolution of the Town Council.

(b) A separate application shall be filed for each noise source; provided, however, that, several mobile sources under common ownership or several fixed sources on a single property may be combined into one application.

(B) Reports of meetings. Within ten days of any action taken, the Town Manager shall submit a written report to the Town Council, setting forth the nature of the application acted on, the action taken, the basis of the action taken and a reasonable time period for which the exception shall be effective.

(C) Exception criteria. The Town Manager may grant the exception as applied for only if it is found that:

(1) Additional time is reasonable and necessary for the applicant to alter or modify the activity; or

(2) The activity, operation or noise source will be of temporary duration and cannot be done in a manner that would comply with this chapter.

If gas leafblowers are outlawed - I expect the Town Streetsweeper to maintain my homes: 177 Canyon Rd & 77 Ridge at least once per week! Christy Fay

Opinion

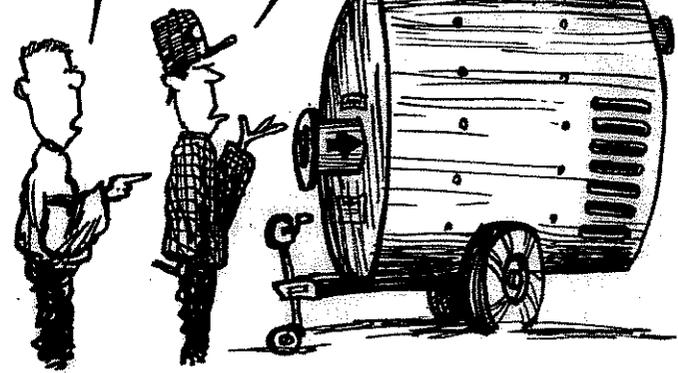
LEAF BLOWERS

GAS POWERED, COMPLETELY SILENT



WHAT'S THAT PIECE?

THE MUFFLER



Leaf blowers a health issue

Leaf blowers aren't an issue for just one city; they are an issue for everyone's health and well being everywhere.

My husband and I have lived in many states and we've seen the patchwork of laws or lack thereof and what it means for quality of life.

It's not just gas vs. electric blowers. Many studies show that fine particulate matter is disturbed and blown around and then redistributed in people's lungs, causing asthmatics great distress as well as breathing problems and illness for the average adult or child. Who wants to breathe old dried powdered feces and urine, pesticides and fertilizers, dirt and dust, cleaning agents and cigarette or barbecue ashes? All blowers send this dust and dirt swirling into the air and then it resettles.

I've lost count of how many times we or a friend or neighbor has spent the day sweeping and gardening, cushions placed out on the deck to enjoy an afternoon, only to come home after a hike and find all our hard work was covered in dirt and leaves from some one else's property blown on to ours. If we are home when some neighbor's blower starts, we frantically run around closing windows and doors so the

READERS' FORUM

dirt doesn't fly in, snatching cushions and plates of food away to no avail. A fine dirt on all our freshly watered plants and swept patios, fumes still creeping through sealed tight windows. Are you really telling me this is the way we have to live and before blowers were invented some gardeners didn't know how to garden? Nonsense. Many gardeners despise blowers as well and understand how they disrupt nature. The quiet sound of a bamboo rake or a pushbroom is not invasive and doesn't cause all these awful experiences.

Marian Taylor, SAUSALITO

Delicious article in IJ

What a refreshing column by Christina Mueller in the Dec. 26 IJ. I so enjoyed reading about her most memorable meals from the last year that I felt compelled to write to the IJ.

Amid all of the political infighting, news of traumatic events and the ever present push to go do more shopping, it was lovely to read that the IJ is able to support a food writer's quest to eat at and review local restaurants in our local paper. Thank you for doing so.

How nice it is to read about small, diverse local restaurants that serve memorable food. I appreciate that Ms. Muel-

ler included restaurants from Southern Marin up to Northern Marin (and many places in between) that are not necessarily "hot spots" but simply places that serve good food.

I certainly will be going to some of those restaurants because of this story. I'm even inspired to try the frog's legs in San Rafael and the mujadarra in Novato! So, thank you to the Marin IJ for supporting a food writer, and thank you Ms. Mueller for shining a light on our little gems in our community. You have brightened my day, and inspired me to go support some of our off the beaten path restaurants.

Lynn Murphy, GREENBRAE

Solomon thanks voters

Looking back on 2012, I want to express my heartfelt appreciation to the hundreds of volunteers and thousands of voters in Marin County who supported our progressive campaign for Congress. I felt very moved every day by the idealism, generosity and hard work that propelled our campaign. Though I came up short when all the votes were finally counted, I continue to feel deeply gratified. Together, in 2013 and beyond, we can help to create a better world.

Norman Solomon, POINT REYES STATION