

ORDINANCE NO. 2011-12

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF NEWPORT BEACH
PERTAINING TO GAS-POWERED LEAF BLOWERS
IN RESIDENTIAL DISTRICTS**

WHEREAS, residents, business owners and landscape maintenance operators in the City of Newport Beach have participated in surveys about the effects of gas powered leaf blowers and other mechanical landscape maintenance devices in districts zoned for residential use; and

WHEREAS, the results of the surveys indicated that gas powered leaf blowers are more disruptive or intrusive in some residential districts than other types of mechanical landscape maintenance devices, and that many residents want a prohibition on gas powered leaf blower use in residential neighborhoods but do not want a prohibition on electric leaf blowers or leaf vacuums; and

WHEREAS, the City Council finds that frequent use of gas powered leaf blowers in residential districts creates excessive noise, dust and debris, and creates annoyance for persons of normal sensitivity; and

WHEREAS, the City Council finds that common interest developments of five or more dwelling units, that have an association responsible for establishing regulations or operating rules controlling the management and maintenance of the exterior residential environment, have adopted, or have the ability to adopt self-imposed regulations that establish a regulatory framework addressing the exterior residential environment, and such regulatory frameworks can be used by common interest developments of five or more dwelling units to more closely address neighborhood impacts of leaf blowers within such developments; and

WHEREAS, the City Council wishes to prohibit the use of gas powered leaf blowers in all residential districts except by certain public employees or contractors acting in the scope of their employment, and in residential common interest developments of five or more dwelling units that have an association responsible for establishing rules and regulations for the management and maintenance of exterior common areas; and

WHEREAS, the City Council wishes to provide a six-month phase-in period after adoption of this ordinance, during which (1) City staff can conduct outreach to inform residents and landscape maintenance companies of the restrictions created by this ordinance, and (2) common interest developments of five or more dwelling units that have an association responsible for establishing regulations or operating rules

controlling the management and maintenance of the exterior residential environment may take action to opt out of the ordinance's prohibition on operating gas powered leaf blowers in residential zones if they choose to do so, as provided by the ordinance.

NOW, THEREFORE, the City Council of the City of Newport Beach ordains as follows:

SECTION 1: Section 6.04.055 of the Newport Beach Municipal Code is hereby revised and amended as follows:

6.04.055 Leaf Blowers.

A. Definitions.

1. "Leaf blowers" shall mean any air blowing machine that uses a concentrated stream of air to push, propel or blow dirt, dust, leaves, grass clippings, trimmings, cuttings, refuse or debris. This definition shall include "mechanical blowers" as that term is used in Chapter 10.28 of this Code. "Leaf blowers" shall not include any leaf or refuse vacuum.

2. "Common interest development" and "association" shall be defined as those terms are defined in California Civil Code section 1351.

B. Use of Leaf Blowers.

1. Leaf blowers may be used and operated to sweep or clean any surface of dirt, dust, leaves, grass clippings, trimmings, cuttings, refuse or debris only if the cuttings, refuse or debris so swept or blown are not left in or upon any adjacent or other parcel, any street, public place or right-of-way, public beach, or on the shore, or in the waters of Newport Bay.

2. The hours of operation and maximum noise levels shall be subject to the provisions of Chapter 10.28.

3. Operation of Gas Powered Leaf Blowers in Residential Districts Prohibited. After November 10, 2011, gas powered leaf blowers shall not be operated in any district identified in Title 20 of this Code as a district zoned for residential use, with the exception of operations or locations described in a. through e. below

a. Residential common interest developments of five or more dwelling units with an association responsible for establishing regulations or operating rules

controlling the management and maintenance of their exterior residential environment may, by the method set out in their association's rules and regulations, choose to be exempt from the restrictions contained in this section. The Office of the City Manager shall establish procedures through which such residential common interest developments may demonstrate their decision to be exempt from this section.

b. The maintenance, repair or improvement of any public work or facility by public employees, by any person or persons acting pursuant to a public works contract, or by any person or persons performing such work or pursuant to the direction of, or on behalf of, any public agency.

c. Maintenance of golf courses and golf practice facilities conducted between the hours of six a.m. and eight p.m., and maintenance of other non-residential uses appurtenant to golf course uses between the hours of seven a.m. and eight p.m.

d. Non-residential uses located within the boundaries of Planned Community (PC) districts.

e. Operation on parcels zoned for non-residential use that may be adjacent to or surrounded by a district otherwise zoned for residential use (including but not limited to parcels zoned for public or private institutional uses, park and recreation uses, open space uses, or other similar non-residential uses.

C. Violations. Any person who uses a gas powered leaf blower in a residential zone, and/or causes or permits cuttings, refuse or debris swept or blown by any leaf blower to be left in places contrary to the provisions of subsection (B) of this section is guilty of an infraction. (Ord. 95-38 § 2, 1995; Ord. 87-15 § 1, 1987; Ord. 83-23 § 1, 1983; Ord. 1828 § 1, 1979)

SECTION 2: If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

SECTION 3: The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. The City Clerk shall cause the same to be published once in the official newspaper of the City, and it shall be effective thirty (30) days after its adoption.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach, held on the 26th day of April, 2011, and adopted on the 10th day of May, 2011, by the following vote, to wit:

AYES, COUNCILMEMBERS Hill, Gardner, Curry,
Mayor Henn

NOES, COUNCILMEMBERS Rosansky, Selich,
Daigle

ABSENT COUNCILMEMBERS None

MAYOR 

Michael Henn

ATTEST:


CITY CLERK



APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY


David R. Hunt, City Attorney

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.
CITY OF NEWPORT BEACH }

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing ordinance, being Ordinance No. 2011-12 was duly and regularly introduced on the 26th day of April, 2011, and adopted by the City Council of said City at a regular meeting of said Council, duly and regularly held on the 10th day of May, 2011, and that the same was so passed and adopted by the following vote, to wit:

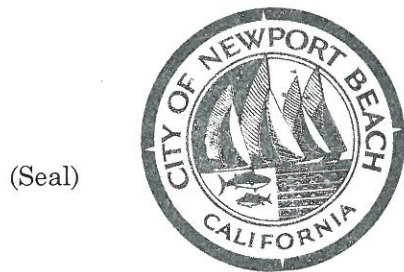
Ayes: Hill, Gardner, Curry, Mayor Henn

Noes: Rosansky, Selich, Daigle

Absent: None

Abstain: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 11th day of May, 2011.



City Clerk
City of Newport Beach, California

CERTIFICATE OF PUBLICATION

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.
CITY OF NEWPORT BEACH }

I, LEILANI I. BROWN, City Clerk of the City of Newport Beach, California, do hereby certify that Ordinance No. 2011-12 has been duly and regularly published according to law and the order of the City Council of said City and that same was so published in *The Daily Pilot*, a daily newspaper of general circulation on the following dates:

Introduced Ordinance: April 30, 2011
Adopted Ordinance: May 14, 2011

In witness whereof, I have hereunto subscribed my name this 27th day of May 2011.



City Clerk
City of Newport Beach, California