

## Ordinance No.

Phase out the use of gasoline leaf blowers to reduce public health impacts (Ordinance; add Code Chapter 8.80)

The City of Portland ordains:

### Section 1. The Council finds:

1. The City has authority to adopt policies to protect and promote public health.
2. Since 2001, the City has regulated the operational hours and noise decibels of all leaf blowers (Ordinance No. 177767).
3. In 2017, Council established a goal to meet 100 percent of community-wide energy needs, including gasoline consumption in equipment, with renewable energy by 2050 to help reduce the public health impacts of climate change, which disproportionately affect vulnerable communities already facing existing socioeconomic and health inequities (Resolution No. 37289).
4. Studies from the Environmental Protection Agency indicate gasoline leaf blowers produce toxic and carcinogenic exhaust emissions that include volatile organic compounds, carbon monoxide, nitrogen oxides, and fine particulate matter, and can pose health risks to the operators and the public, including cardiovascular disease, stroke, respiratory disease, cancer, neurological conditions, premature death, and effects on prenatal development.
5. Gasoline leaf blowers most commonly have two-stroke engines that incompletely combust their fuel, resulting in the emission of benzene and additional carcinogenic substances.
6. The use of gasoline leaf blowers can cause direct harm to people within the vicinity by contributing to localized air pollution, creating excessive noise, and causing other negative health impacts to their operators who disproportionately identify as Latinx or Hispanic.
7. Electric leaf blowers do not emit toxic emissions, reducing harm to operators and other people nearby. Electric leaf blower battery technology is improving but may present technical limitations during the wet leaf season.
8. In response to the considerable negative impacts from gas-powered leaf blowers, over 100 cities across the nation have instituted policies limiting or banning them from use.
9. In 2019, Council directed all bureaus to transition from gasoline to electric leaf blowers and committed to convening a work group to explore an equitable community-wide phase out of gas-powered leaf blowers (Resolution No. 37463).
10. From March to October 2022, Commissioner Carmen Rubio and Multnomah County Commissioner Jessica Vega Pederson convened a Leaf Blower Policy Work Group (Work Group) including representatives of Quiet Clean PDX, Micro Enterprise Services of Oregon, Portland Clean Energy Community Benefits Fund, Oregon Landscape Contractors Association, Oregon League of Conservation Voters, plus two landscape contractors, and staff from the Portland

Parks Bureau, Portland Bureau of Development Services, Portland Bureau of Planning and Sustainability and the Multnomah County Office of Sustainability.

11. The Work Group recommended a ban on the use of gasoline leaf blowers because the health impacts resulting from dangerous emissions fall disproportionately on hired landscape maintenance workers from communities of color, low-income communities, and other historically marginalized populations.

NOW, THEREFORE, the Council directs:

1. Title 8 of the City Code is amended by adding Chapter 8.80 Leaf Blowers as shown in Exhibit A.
2. The Bureau of Planning and Sustainability will coordinate administration and enforcement of this ordinance with the Bureau of Development Services and the Multnomah County Health Department and Office of Sustainability.
3. The Bureau of Planning and Sustainability will evaluate the technological feasibility of replacing gasoline leaf blowers with electric leaf blowers year-round and recommend any code amendments to Council no later than September 30, 2028.

# Impact Statement

## Purpose of Proposed Legislation and Background Information

This project proposes an amendment to add Chapter 8.80 to Title 8 of the Portland City Code to improve public health by transitioning away from using handheld or backpack gasoline leaf blowers to electric leaf blowers on public and private property. Switching from gasoline to electric equipment will benefit our local environment and improve quality of life for workers and neighbors.

Beginning January 1, 2026, the proposed ordinance would prohibit property owners from using, or hiring contractors that use, GLBs between January 1 and September 30 each year. Although electric lawn equipment technology is rapidly advancing, the City recognizes that electric leaf blowers are not yet powerful enough to practically move wet leaves during the winter season. Therefore, from October 1 to December 31, the use of gasoline leaf blowers would still be allowed until 2028. Effective January 1, 2028, gasoline leaf blowers would be prohibited all year.

## Financial and Budgetary Impacts

This proposal does not include a budget request for implementation at this time. BPS has existing staff positions to support rulemaking in 2024 and program development with Multnomah County through an Intergovernmental Agreement to cover the costs of implementation. The Parks and Recreation Bureau has a preliminary cost estimate from \$942,532 to \$1,578,352 to electrify backpack gasoline leaf blowers and upgrade electrical infrastructure in compliance with the proposal. The Portland Clean Energy and Community Benefits Fund recommended \$1.6 million to the Parks and Recreation Bureau to make the transition from gasoline backpack leaf blowers to battery powered.

## Community Impacts and Community Involvement

Electrification of lawn equipment provides health benefits to leaf blower operators and residents by significantly reducing noise and air pollution. Gasoline leaf blowers produce low frequency noise that can lead to negative health outcomes such as stroke, high blood pressure, heart attack, tinnitus and hearing impairment. The exhaust from gasoline leaf blowers emits air pollutants that pose health risks including stroke, cardiovascular and respiratory disease, cancer, neurological conditions and prenatal development issues.

The negative health consequences resulting from the use of gasoline leaf blowers disproportionately impact operators and landscape maintenance workers from communities of color. With 46% of landscape workers nationally identifying as Latino, the proposal addresses the health, equity and environmental justice impacts experienced by landscape workers of color.

Electric leaf blower technology is improving but some uncertainty about potential cost impacts exists. Electric leaf blower models are cheaper to operate over time as they require less maintenance and remove the need to purchase fuels. However, the upfront costs of electric leaf blowers are currently higher than gasoline leaf blowers. To address the potential economic impacts on small landscaping

businesses, the city will work with Multnomah County to develop incentives to offset costs for small landscaping businesses that would experience a disproportionate hardship.

The proposed complaint system for enforcement can disproportionately impact members of historically marginalized communities. Communities with a history of positive government experiences may be more willing to report – and may disproportionately report members of historically marginalized communities. Outreach and education in the community will be prioritized and the City would design an enforcement system with Multnomah County that considers potential impacts to all communities.

From March to October 2022, the City and Multnomah County convened a leaf blower work group (Work Group) that presented a recommendation to phase out the use and sale of gasoline leaf blowers within Portland. Work Group members included representatives from:

- Electrify Now
- Micro Enterprise Services of Oregon
- Multnomah County Office of Sustainability
- Oregon League of Conservation Voters
- Oregon Landscape Contractors Association
- Portland Clean Energy and Community Benefits Fund
- Portland Noise Control Officer
- Portland Parks and Recreation Bureau
- Precision Landscape
- Storm Landscape
- Quiet Clean PDX

In 2023, the City and Multnomah County reengaged Work Group members, as well as additional stakeholders, including representatives from community-based organizations, businesses, golf courses, and campus institutions. These stakeholders informed key decisions to equitably phase out the use of gasoline leaf blowers.

The Bureau of Planning and Sustainability (BPS) released draft City Code for public comment in January 2024 and received 786 comments. Of the comments submitted, 86 percent were in support of the ordinance, 11 percent were opposed, and 3 percent were unclear. Comments centered around the following issues:

- Move forward the effective date for partial-year prohibition of gasoline leaf blowers (42% of comments)
- Move forward the effective date for full prohibition of gasoline leaf blowers (32%)
- Shorten or eliminate the wet leaf season exception (26%)
- Strengthen enforcement (24%)
- Concerns about cost to businesses (8%)
- Concerns that timeline is too short (4%)
- Environmental concerns related to battery mining, disposal, and added electricity use (2%)

BPS addressed concerns around gasoline leaf blower phase-out schedule, timing and duration of wet leaf season, inclement weather exceptions, and compliance enforcement. Some of the concerns raised are valid but outside of the scope of the City's Title 8 health code. This proposal is based on input from the public, private and non-profit stakeholders, and the original workgroup recommendations.

## 100% Renewable Goal

This action does not change the City's total energy use. It does increase the City's use of renewable energy by replacing fossil fuels with increasingly cleaner electricity. Gasoline leaf blowers contribute to our community's emission of greenhouse gases by consuming and combusting fossil fuels. Eliminating greenhouse gas emissions from gasoline-powered lawn equipment would support the City's 100 percent community-wide renewable energy by 2050 goal.

Does this action change appropriations?

No

## Other required information filing information

### Ordinance Short Title

Gasoline Leaf Blower Phase Out

### Requested Council Date

March 6, 2024

### Requested Council Type (choose 1)

Time Certain

### Documents and Exhibits

Exhibit A

### Zoom invite requests

City of Portland: Donnie Oliveira, Vivian Satterfield, Sonrisa Cooper, Vinh Mason

Multnomah County: Chair Jessica Vega Pederson, John Wasiutynski

Panel members: to be determined

## EXHIBIT A

### Chapter 8.80 Leaf Blowers

#### 8.80.010 Purpose.

The purpose of this Chapter is to reduce the health impacts of using gasoline leaf blowers.

#### 8.80.020 Definitions.

- A. **Code Enforcement Officer** means any individual authorized to enforce this Chapter.
- B. **Director** means the Director of the Bureau of Planning and Sustainability, or any successor bureau, or the Director's designee.
- C. **Electric leaf blower** means any leaf blower powered by only electric means, including but not limited to battery-powered leaf blowers, cordless rechargeable leaf blowers and corded leaf blowers.
- D. **Gasoline leaf blower** means any leaf blower powered by an internal combustion engine using gasoline, alcohol or other liquid or gaseous fluid.
- E. **Inclement weather** means extreme weather conditions resulting from rain, snow, ice, flood, or other storm that pose a significant risk of injury to persons or property.
- F. **Leaf blower** means any hand-held or backpack device designed or intended to blow, vacuum, or move leaves or any other type of debris or material by generating a concentrated stream of air. Leaf blower includes any device or machine that accepts vacuum attachments.
- G. **Owner** means any of the following:
  - 1. One or more individuals or entities, jointly or severally, in whom is vested: all or part of the legal title to real property; or all or part of the beneficial ownership and right to present use and enjoyment of real property.
  - 2. A mortgagee of real property who is in possession of that property.
  - 3. In the case of a condominium, the board of the association of condominium unit owners responsible for overall management.

#### 8.80.030 Authority of Director.

- A. The Director is authorized to administer the provisions of this Chapter.
- B. The Director may, upon request, issue written interpretations of how this Chapter applies in general or to specific circumstances.
- C. The Director is authorized to adopt, amend, and repeal rules, procedures, and forms to implement the provisions of this Chapter.
  - 1. Before adopting, amending, or repealing a rule, the Director will notify interested parties and hold a public comment period. Such notice, which may be provided by mail or electronic means, such as posting on the Bureau of Planning and Sustainability's website, will be published at least four weeks before the close of the public comment period. The notice will include instructions on how an interested party may comment on the proposed rule, a brief description of the subjects covered by the proposed rule and how to access the full text of the proposed rule.

2. During the public comment period, the Director will receive written comments concerning the proposed rule. At the conclusion of the public comment period, the Director will either adopt the proposed rule, modify it, or reject it, taking into consideration the comments received. If a substantial modification is made, an additional public comment period will be held, as determined in the Director's sole discretion. Unless otherwise stated, all rules are effective upon adoption by the Director. Copies of all current rules will be posted on the Bureau of Planning and Sustainability's website.
3. Notwithstanding Subsections 1. and 2., the Director may adopt an interim rule to temporarily suspend or modify the requirements of this Chapter based on the determination that such requirements are temporarily infeasible due to economic or technical circumstances. An interim rule may be adopted without prior public notice upon the Director finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, stating the specific reasons for such prejudice. An interim rule adopted pursuant to this Subsection is effective for a period of not longer than 365 calendar days. The Director may extend the interim rule past the 365 calendar days for good cause, as determined in the Director's sole discretion.

#### **8.80.040 Requirements.**

- A. Effective January 1, 2026, no owner will allow the operation of a gasoline leaf blower on the owner's property from January 1 to September 30, except in cases of inclement weather as determined:
  1. on a citywide basis, by the Director;
  2. for park facilities managed by the City, by the Director of the Bureau of Parks or any successor bureau; or
  3. for an individual property, by the Code Enforcement Officer.
- B. Effective January 1, 2028, no owner will allow the operation of a gasoline leaf blower on the owner's property.
- C. No leaf blower will be operated in a manner that deposits dust and debris onto any neighboring parcel, storm drain, public property, or public street except for the purpose of scheduled debris collection by the City.

#### **8.80.050 Extensions.**

The Director may grant an extension of time to comply with Section 8.80.040 to an owner who submits documentation that compliance will require the owner to upgrade electric infrastructure. The owner must provide the Director any documentation requested to substantiate the extension or otherwise assist the Director in the extension determination. If the Director learns that an extension was granted based on materially inaccurate submissions, the Director may revoke or modify the extension.

#### **8.80.060 Penalties for Violations.**

It is a violation for any owner to fail to comply with this Chapter or to misrepresent any material fact.

- A. Violations may result in a written notice of violation. The notice will state the date, address and violation and specify any corrective action required to comply with this Chapter.

- B. A first violation will result in a warning. A second violation may result in a civil penalty of \$250. A third violation may result in a civil penalty of \$500. A fourth or subsequent violation may result in a civil penalty of \$1,000. Each day an owner is in violation is deemed a separate violation.
- C. Education and outreach on the requirements of Section 8.80.040 will begin in July 2024.

**8.80.070 Right of Appeal.**

An owner who receives a civil penalty may, within ten business days of the date of the decision or determination, either pay the penalty amount or request an appeal hearing before the Code Hearings Officer in accordance with procedures set forth in Chapter 22.10 of the Portland City Code. The filing of an appeal request will stay the effective date of the penalty until the appeal is determined by the Code Hearings Officer. If payment of the penalty is ordered, such payment must be received by the Director or postmarked within 15 calendar days after the order becomes final.