

STAFF REPORT

DATE: September 22, 2020

TO: City Council

FROM: Stan Gryczko, Public Works Utilities and Operations Director
Inder Khalsa, City Attorney
Adrienne Heinig, Management Analyst

RE: Urgency Ordinance Prohibiting the Use of Leaf Blowers on a Temporary Basis

Recommendations

Adopt an urgency ordinance enacting a temporary ban on the use of leaf blowers.

Fiscal Impact

The cost to prepare, administer, implement and enforce the urgency ordinance will be paid out of the existing City Manager's Office, Police Department and Public Works Utilities & Operations budgets.

Council Goals

This item is consistent with the Council Goals to Pursue Environmental Sustainability and Ensure a Safe, Healthy, Equitable Community.

Background and Analysis

During an extreme heat event experienced by the State of California in August of this year, lightning storms contributed to the start of hundreds of wildfires, blanketing the valley areas of California in wildfire smoke. For weeks, the air quality index in the City of Davis surpassed levels unhealthy for sensitive groups. In addition to the unhealthy air quality, ash from the wildfires settled in Davis, causing concern in the community about the particulates in the already unhealthy air, and questions about the use of leaf blowers, which could exacerbate the situation by blowing more particulates into the air. Concerns about air quality have also been compounded by the ongoing COVID-19 pandemic, in which the highly contagious respiratory virus can cause significant health impacts. Recent research has suggested that poor air quality can contribute to increased susceptibility to COVID-19.

At their meeting on August 25, 2020, the City Council requested that staff bring forward an item on the use of leaf blowers for their consideration. On September 15, 2020, the item was presented to Council, and included a draft report from the City's Natural Resources Commission (NRC) which discussed the possibility of a temporary ban on the use of leaf blowers due to the air quality concerns, as the Commissions and staff discuss possible future modifications to the City's ordinances on leaf blower use. At the close of

the discussion on the item, the Council directed staff to return with an urgency ordinance to temporarily ban leaf blower activity.

This proposed urgency ordinance to ban the use of leaf blowers until October 31, 2020 is intended to mitigate the negative health effects of airborne particulate matter, and other air pollutants brought by the wildfires, especially during the current COVID-19 pandemic.

Specifically, the urgency ordinance provides that:

- The operation of all leaf blowers (gas-powered and electric) is prohibited within the City of Davis until October 31, 2020.
- The Director of Public Works Utilities and Operations (Director) can suspend the ban if the AQI values for the City of Davis are 100 or below for three consecutive days. The Director may also reinstate the ban if the AQI subsequently returns to values in excess of 100 for one day.
- A notice will be posted on the City's webpage stating if the temporary ban on leaf blowers is in effect.

While the proposed urgency ordinance provides the Director the authority to suspend the ban based on AQI, other factors will be considered. Factors such as volume of ash from wildfires that is present on the ground in the community and future air quality forecasts due to changing weather patterns will be considered before any suspension of the ban would take place.

This ordinance also acknowledges that the wildfire season in Northern California has not reached the peak, as dry conditions across the region, along with more frequent wind events, have contributed to the continuation of significant fire risks. According to the National Significant Wildland Fire Potential Outlook, issued on September 1, 2020 by the National Interagency Fire Center, "Above normal large fire potential is expected across all areas in northern California in September with central and northern California and the Bay Area remaining above average in October." The existing fires across the region also remain active, and (although lessened in recent days) smoke continues to blanket the state, as shown in the map in Figure 1 (showing smoke and fire events from September 17, 2020). Wind patterns continue to shift as well, so recent air quality improvements, although welcome, could also be temporary.

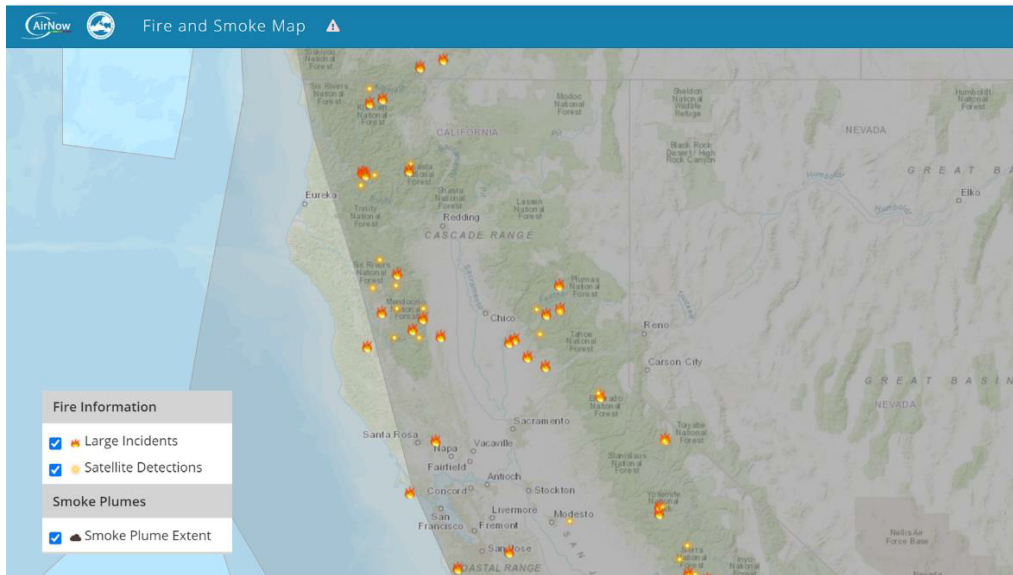


Figure 1 – Northern California Fire and Smoke Map, Source: fire.airnow.gov

As proposed, the urgency ordinance and the temporary ban on the use of leaf blowers will expire on Saturday, October 31. If unhealthy air quality and particulate matter from wildfires are still present through the end of October and into November, the City Council could extend the urgency ordinance and the temporary ban. To avoid a lapse in the ban, however, Council action would need to be taken earlier in October. The last City Council meeting in October is scheduled for Tuesday, October 20. Alternatively, the Council could approve the proposed ordinance with a revised expiration date of November 10, 2020, which would correspond to the first City Council meeting in November. This would provide the Council with the option to extend the urgency ordinance on the same day the temporary ban is set to expire, taking into consideration the existing conditions in early November.

Comments received by the City Council and staff on the use of leaf blowers have made it clear that the issue is of interest to the community and would benefit from a more in-depth analysis. In addition to providing direction to return with the urgency ordinance, staff were directed to work with the Natural Resources Commission, other applicable City commissions and stakeholders to undertake a review of the City’s leaf blower ordinance and consider any necessary modifications to the ordinance.

Should Council adopt this urgency ordinance, staff will include a notice in the Utility Bill mailed to utility customers at the beginning of October, will send a mailing noticing the ban to all licensed landscape companies in Davis and Woodland (in English and Spanish) and will issue a press release, in addition to posting messages about the ban on social media.

Attachments

1. An Urgency Ordinance of the City of Davis Prohibiting the Use of Leaf Blowers on a Temporary Basis to Mitigate the Adverse Health Impacts of Airborne Particulate Matter and Other Air Pollutants During the Ongoing COVID-19 Pandemic and Wildfires Burning Across the State, and Declaring the Urgency Thereof.

ORDINANCE NO. ____

**AN URGENCY ORDINANCE OF THE CITY OF DAVIS
PROHIBITING THE USE OF LEAF BLOWERS ON A TEMPORARY
BASIS TO MITIGATE THE ADVERSE HEALTH IMPACTS OF
AIRBORNE PARTICULATE MATTER AND OTHER AIR
POLLUTANTS DURING THE ONGOING COVID-19 PANDEMIC
AND WILDFIRES BURNING ACROSS THE STATE, AND
DECLARING THE URGENCY THEREOF**

WHEREAS, international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named “SARS-CoV-2,” and the disease it causes has been named “coronavirus disease 2019,” abbreviated COVID-19, (“COVID-19”); and

WHEREAS, on March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19; and

WHEREAS, on March 6, 2020, the first case of COVID-19 in Yolo County was confirmed, with the second case confirmed on March 13, 2020; and

WHEREAS, on March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19; and

WHEREAS, on March 17, 2020, the City Council proclaimed the existence of a local emergency in response to the COVID-19 pandemic; and

WHEREAS, the Centers for Disease Control and Prevention, the California Department of Health, and the Yolo County Health Officer have all issued recommendations including but not limited to social distancing, staying home if sick, canceling or postponing large group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus; and

WHEREAS, on August 14, 2020, California began experiencing an “Extreme Heat Event” that caused record-breaking temperatures and Red Flag warnings throughout the state; and

WHEREAS, on August 16, 2020, the Governor of the State of California proclaimed a state of emergency to exist due to the Extreme Heat Event; and

WHEREAS, in addition to the fire conditions being exacerbated by extreme temperatures, the Extreme Heat Event resulted in widespread lightning strikes, sparking hundreds of wildfires throughout the State; and

WHEREAS, on August 18, 2020, the Governor of the State of California proclaimed a state of emergency to exist due to the fires burning statewide; and

WHEREAS, August 22, 2020, the President of the United States of America declared that a major disaster exists in the State of California and ordered federal aid to supplement State, tribal, and local recovery efforts in areas affected by wildfires; and

WHEREAS, the City of Davis, like communities across the western United States, has experienced severely deteriorated air quality due to the wildfires currently burning in California, with air quality on many days rating “unhealthy for sensitive groups,” “unhealthy,” and “very unhealthy” according to the U.S. EPA’s Air Quality Index, with nearby areas experiencing “hazardous” air quality; and

WHEREAS, wildfire smoke contains a mixture of harmful air pollutants, including particulate matter that can irritate the eyes and lungs, cause pulmonary inflammation, alter immune function, increase susceptibility to respiratory illness, and exacerbate existing health conditions such as asthma, respiratory and cardiac distress, chronic obstructive pulmonary disorder, and other lung diseases; and

WHEREAS, PM10 particles can migrate up to 30 miles and stay in the air for hours, while PM2.5 particles can migrate hundreds of miles and stay in the air for days or weeks; and

WHEREAS, gas-powered leaf blowers with two-stroke engines contribute to air pollution by emitting particulate matter and ozone-forming chemicals, and both gas-powered and electric leaf blowers contribute to air pollution by blasting air at high velocities to move leaves and other target debris, which also has the effect of making airborne particulate matter (including wildfire ash) that had settled on the ground or other surfaces; and

WHEREAS, although there have yet to be studies that specifically examine the effect of wildfire smoke on COVID-19, recent scientific research suggests that air pollutant exposure worsens COVID-19 susceptibility, symptoms and outcomes.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DAVIS HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Findings; Urgency. The City Council finds that the above recitals are true and correct, and hereby adopts them as urgency findings in support of this Ordinance. Pursuant to Government Code section 36936(b), the City Council hereby declares that this Ordinance is necessary for the immediate preservation of the public peace, health, or safety. As set forth in more detail in the recitals, the COVID-19 pandemic and wildfires burning across the State create an immediate need to address the adverse health impacts of airborne particulate matter and other air pollutants by imposing a temporary ban on the use of leaf blowers, which stir up particulate matter that has settled on the ground and other surfaces. As such, this Ordinance shall be deemed an urgency measure to take effect immediately upon a minimum four-fifths vote of the City Council.

SECTION 2. Temporary Ban on Leaf Blowers. Notwithstanding Section 24.02.040(b) of the Davis Municipal Code, the operation of all gas-powered and electric leaf blowers (powered blowers) shall be prohibited within the City of Davis until October 31, 2020, subject to the following:

- A. The Director of Public Works Utilities & Operations is hereby authorized, but not required, to suspend the temporary ban on the operation of leaf blowers if the Air Quality Index (AQI) values for the City of Davis are 100 or below for three consecutive days. The Director of Public Works Utilities & Operations may subsequently reinstate the temporary ban if the AQI value exceeds 100 for one day.
- B. The Director of Public Works Utilities & Operations may authorize City staff to operate a leaf blower for a limited period of time while the temporary ban is in effect, if such use is necessary to clear obstructions from the public right-of-way that pose an immediate threat to public health or safety.

SECTION 3. Notice. While this Ordinance is in effect, notice shall be prominently posted to the homepage of the City of Davis website stating whether the temporary ban on the operation of leaf blowers is in effect.

SECTION 4. Violations. Violations of this Ordinance shall be punishable as set forth in Chapter 1 of the Davis Municipal Code.

SECTION 5. Duration. This Ordinance shall remain in effect until October 31, 2020, unless extended by the City Council.

SECTION 6. Uncodified. This Ordinance shall not be codified.

SECTION 7. CEQA. The City Council hereby finds that that the temporary ban on the use of leaf blowers imposed by this Ordinance is exempt from review under the California Environmental Quality Act (CEQA), pursuant to Section 15269(c) of the CEQA Guidelines, as a specific action taken to mitigate an emergency, and pursuant to Section 15308 of the CEQA Guidelines, as an action taken by a regulatory agency to assure the maintenance and protection of the environment.

SECTION 8. Effective Date. As an urgency measure adopted pursuant to Government Code section 36937(b), this Ordinance shall take effect immediately upon adoption by a minimum four-fifths vote of the City Council.

SECTION 9. Certification. The City Clerk shall certify to the adoption of this Ordinance, and the City Clerk shall cause this Ordinance or a summary thereof to be published as required by law.

PASSED AND ADOPTED by the City Council of the City of Davis on this ___ day of September, 2020, by the following vote:

AYES:

NOES:

Gloria Partida
Mayor

ATTEST:

Zoe S. Mirabile, CMC
City Clerk