



TOWN OF FAIRFAX

STAFF REPORT

July 6, 2022

TO: Mayor and Town Council

FROM: Sean Youra, Climate Action Coordinator
Janet Coleson, Town Attorney

SUBJECT: Second reading by title only and adoption of “An Ordinance of the Town Council of the Town of Fairfax Amending Section 1.08.020(A), ‘Violations Designated Infractions’, of Title 1 of the Fairfax Municipal Code and Adding Chapter 8.74, ‘Gasoline Powered Landscape Equipment,’ to Title 8 of the Fairfax Municipal Code”

RECOMMENDATION

Waive second reading, read by title only, and adopt “An Ordinance of the Town Council of the Town of Fairfax Amending Section 1.08.020(A), ‘Violations Designated Infractions’, of Title 1 of the Fairfax Municipal Code and Adding Chapter 8.74, ‘Gasoline Powered Landscape Equipment,’ to Title 8 of the Fairfax Municipal Code”.

BACKGROUND

At its June 1, 2022 meeting, the Council introduced the attached ordinance, after making the following revisions:

- Changed the effective date in § 8.74.030 for landscape maintenance businesses to January 1, 2024.
- Added part D to § 8.74.050 to provide a one-time, six-month financial hardship waiver for residents who apply for an extension.

These revisions have been incorporated into the attached ordinance for second reading and adoption.

DISCUSSION

The proposed ordinance applies to residents, commercial landscapers that do work within Town limits, and Town staff. The ordinance prohibits the use of gas-powered landscape equipment starting January 1, 2023 for residents and Town staff, and January 1, 2024 for commercial landscapers.

Further details regarding the ordinance including the scope, exemptions, and enforcement can be found in the June 1, 2022 staff report, when the ordinance was introduced. The proposed trade-in and rebate program is also detailed in that staff report.

FISCAL IMPACT

The \$10,000 for the rebate program and \$27,000 for replacement of Town-owned gas-powered landscape equipment have been budgeted for FY 2022-23. Staff time will also be required to develop and administer the rebate application, as well as for enforcement activities.

ATTACHMENT

Ordinance

ORDINANCE NO. _____

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
AMENDING SECTION 1.08.020(A), “VIOLATIONS DESIGNATED INFRACTIONS,” OF
TITLE 1 OF THE FAIRFAX MUNICIPAL CODE AND ADDING CHAPTER 8.74, “GASOLINE
POWERED LANDSCAPE EQUIPMENT,” TO TITLE 8 OF THE FAIRFAX MUNICIPAL CODE**

WHEREAS, the Town Council for the Town of Fairfax (“Town”) has established a Climate Action Committee, which is charged with creating and implementing the Town’s Climate Action Plan; and

WHEREAS, the Climate Action Plan includes Program R-6, related to Electric Landscape Equipment, and provides that the Town will “Adopt an ordinance to phase out use of all fossil-fuel landscape equipment;” and

WHEREAS, the Town Council seeks to reduce Town greenhouse gas emissions by regulating the use of gasoline-powered landscape equipment; and

WHEREAS, the Town’s Climate Action Committee participated in the development and supports the adoption of this Ordinance to encourage the use of electric landscape equipment to further the Climate Action Plan goals; and

WHEREAS, in addition to the climate based electrification goals, the Town Council is aware that professional landscapers using gas-powered landscape equipment are forced to endure sustained exposure to high amounts of noise and hazardous exhaust; and

WHEREAS, on October 9, 2021, the Governor signed AB 1346 into law, which bans the sale of new gasoline-powered leaf blowers, lawnmowers, chain saws, and generators (among other small off-road engines) beginning January 1, 2024; and

WHEREAS, to support transitions away from gasoline-powered equipment, the State has provided \$30,000,000 of incentives to help small businesses purchase zero-emission replacement equipment in accordance with AB 1346; and

WHEREAS, a number of other localities in Marin County have passed similar ordinances banning gasoline-powered landscape equipment; and

WHEREAS, the Town Council finds that the provisions of this Ordinance are consistent with the goals and policies of the Town’s General Plan, Climate Action Plan, and other adopted ordinances and regulations of the Town; and

WHEREAS, The Town Council now seeks to reduce Town greenhouse gas emissions, ensure compliance with AB 1346, and reduce exposure to high levels of noise and hazardous exhaust by regulating the use of gasoline-powered landscape equipment.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF FAIRFAX DOES ORDAIN AS FOLLOWS:

SECTION 1. Subdivision (A) of Section 1.08.020 of Title 1 of the Fairfax Municipal Code, entitled “Violations designated infractions,” is hereby amended in part to add subsection 10 to read as follows:

“ 1.08.020 INFRACTIONS.

(A) *Violations designated infractions.* Any person, firm, partnership, corporation or any other organization or group of persons acting in concert, whether as principal, agent, employee or otherwise, violating or causing the violation of the following chapters and ordinances or any other ordinance so providing, is guilty of an infraction:

...

(10) Chapter 8.74, Gasoline Powered Landscape Equipment.”

SECTION 2. Chapter 8.74, entitled “Gasoline Powered Landscape Equipment,” is hereby added to Title 8 of the Fairfax Municipal Code to read in full as follows:

“CHAPTER 8.74: GASOLINE POWERED LANDSCAPE EQUIPMENT

Section

- 8.74.010 Purpose and Intent.
- 8.74.020 Definitions.
- 8.74.030 Prohibition Against Use of Gasoline Powered Landscape Equipment.
- 8.74.040 Use of Landscape Equipment Generally.
- 8.74.050 Scope and Limitations of Chapter.
- 8.74.060 Enforcement and Penalties.

§ 8.74.010 PURPOSE AND INTENT.

The purpose of this Chapter is to establish standards to protect the natural environment, increase sustainability efforts, reduce greenhouse gas emissions, and improve the overall quality of life within the Town of Fairfax.

§ 8.74.020 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

GASOLINE-POWERED. Any item or equipment that is powered by an internal combustion engine that runs on gasoline, diesel, or other volatile fuel.

LANDSCAPE EQUIPMENT. Equipment such as, but not limited to, a lawn mower, leaf blower and/or edger-trimmer used to maintain lawns, gardens, sidewalks and driveways.

LANDSCAPE MAINTENANCE BUSINESS. A business, as that term is defined by Section 5.04.010 of this Code, that performs lawn and yard maintenance such as, but not limited to, cutting grass and removing leaves.

§ 8.74.030 PROHIBITION AGAINST USE OF GASOLINE POWERED LANDSCAPE EQUIPMENT.

- (A) Effective January 1, 2023, the use or operation of any gasoline-powered landscape equipment for personal, non-commercial purposes by any resident of the Town, or the use of gasoline-powered landscape equipment by Town staff or contractors on Town property, is expressly prohibited, except as provided in Section 8.74.040.
- (B) Effective January 1, 2024, the use or operation of any gasoline-powered landscape equipment for commercial purposes by any landscape maintenance business is expressly prohibited, except as provided in Section 8.74.040.

§ 8.74.040 USE OF LANDSCAPE EQUIPMENT GENERALLY.

- (A) Subject to the restrictions of Section 8.74.030, the use of landscape equipment is otherwise permitted within Town limits as follows:
 - (1) No landscape equipment shall be operated except between the hours of eight o'clock (8:00) a.m. and six o'clock (6:00) p.m. on weekdays, and between the hours of nine o'clock (9:00) a.m. and four o'clock (4:00) p.m. on weekends and holidays.
 - (2) Except for emergency use by the Town or its employees, agents, or contractors, the use of landscape equipment within Town limits shall not extend into the public right-of-way, including streets, sidewalks, and planting strips, in order to maintain safe and healthy thoroughfares for pedestrians and cyclists and to promote active transportation in the Town.
 - (3) Persons operating landscape equipment shall not deposit dirt, dust, leaves, grass clippings, trimmings, solid waste, or debris onto a neighboring property or into streets, gutters, or storm drains.

§ 8.74.050 SCOPE AND LIMITATIONS OF CHAPTER.

- (A) This chapter shall be construed and applied in a manner consistent with all federal and state laws applicable to the Town and shall not apply to any of the following:

- (1) A department, agency or contractor of the federal government;
 - (2) A department, agency or contractor of the State of California;
 - (3) A local public entity or its contractor; and/or
 - (4) The Town or its employees, agents, or contractors in emergency situations.
- (B) This chapter does not apply to the use of chainsaws with blades or blade attachments longer than eighteen (18) inches.
- (C) In the event that there is a lack of commercially available or cost-comparable electric landscape equipment, the Town Manager or designee may approve a temporary exemption until such electric landscape equipment can be obtained. To claim this exemption, a person seeking to continue to use gasoline-powered landscape equipment that would otherwise be in violation of this chapter must, before using gasoline-powered landscape equipment, submit documentation to the Town Manager or designee that includes a list of equipment suppliers contacted, a price comparison, and a statement of financial hardship rendering that person unable to comply with this chapter, in addition to such other information as the Town Manager or designee may request at their discretion. In no event shall a temporary exemption be granted for a period exceeding two (2) years.
- (D) The Town Manager is authorized to grant a one-time, six month extension to any resident who requests such extension based upon a self-reported financial hardship.

§ 8.74.060 ENFORCEMENT AND PENALTIES.

- (A) The Town Manager or his or her designee has primary responsibility for enforcement of this chapter.
- (B) Any person violating any provisions of this chapter shall be guilty of an infraction for the first, second, and third instances of such violation, which infractions are punishable pursuant to sections 1.08.020, 1.08.040, and 1.08.050 of this Code.
- (C) Any person having been cited for three violations of any provision of this chapter who, within one year thereafter, commits a fourth or any subsequent violation of the same provisions of this chapter may, in the discretion of the Town Attorney, be charged as a misdemeanor punishable pursuant to section 1.08.030 of this Code.
- (D) In addition to those remedies set forth above, the Town Manager or his or her designee may punish any violation of this chapter as a public nuisance, subject to abatement as set forth in chapter 2 of Title 1 of this Code.

- (E) The remedies and penalties provided in this section are cumulative and not exclusive. The Town Attorney may seek legal, injunctive, or any other relief to enforce the provisions of this chapter and any regulations or administrative procedures developed pursuant hereto.”

SECTION 3. Compliance with CEQA. This Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the Town. The Town Council finds and determines that the adoption of this Ordinance, which is intended to prohibit the use of gasoline-powered landscape equipment and to encourage the use of electric equipment, is exempt from CEQA pursuant to section 15061 of the Guidelines because it can be seen with certainty that there is no possibility that adoption of the Ordinance may have a significant effect on the environment. (14 Cal. Code Regs. § 15061(3)). The Town Council hereby directs the Town Manager or designee to prepare and file a Notice of Exemption within five business days following adoption of this Ordinance.

SECTION 4. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance. The Town Council hereby declares that it would have adopted this Ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 5. Effective Date and Posting. This Ordinance shall take effect thirty (30) days after its adoption. Copies of this Ordinance shall, within fifteen days after its passage and adoption, be posted in three public places in the Town of Fairfax, to wit: 1. Bulletin Board, Town Hall Offices; 2. Bulletin Board, Fairfax Post Office; and 3. Bulletin Board, Fairfax Women’s Club Building, located at 46 Park Road.

The foregoing Ordinance was introduced at a regular meeting of the Town Council on the 1st day of June 2022, and duly adopted at the next regular meeting of the Town Council on the 6th day of July 2022, by the following vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

Stephanie Hellman, Mayor

Attest:

Michele Gardner, Town Clerk

Date