

REVISED LEGISLATIVE DIGEST
(Amended in Committee, 4/27/2022)

[Administrative, Police Codes - Ban on Gas-Powered Landscaping Equipment]

Ordinance amending the Administrative Code and Police Code to 1) prohibit the City from using gas-powered landscaping equipment to perform a City function starting January 1, 2024, with temporary waivers for City departments that document to the satisfaction of the Director of the Department of the Environment (“Department”) the unavailability of needed technology to replace such equipment; 2) prohibit the City from contracting for the use of gas-powered landscaping equipment to perform a City function starting January 1, 2024, with waivers for City departments that document to the satisfaction of the Purchaser the necessity of such waiver; 3) prohibit the use of gas-powered landscaping equipment in the City starting January 1, 2026, except such equipment for which the Department determines replacement technology is unavailable, and penalize property owners and business owners and managers that violate that prohibition; 4) establish a buy-back and/or incentive program (“Buy-Back Program”) to assist owners of such equipment in transitioning away from its use; 5) require that the Department conduct a public education campaign regarding the gas-powered landscaping equipment ban and the Buy-Back Program; 6) establish a fund to receive penalties collected for violation of the ban and other monies, to use for purchases of equipment for City departments to replace gas-powered landscaping equipment, for the Buy-Back Program, for safe disposal of gas-powered landscaping equipment, and/or to fund the Department’s public education campaign; 7) designate the Department to administer and enforce the ordinance; and 8) require the Department to report to the Board of Supervisors by March 31 of each year on progress over the prior calendar year in enforcing the restrictions on gas-powered landscaping equipment, conducting the public education campaign, administering the Buy-Back Program, and using the monies in the fund.

Existing Law

Administrative Code Section 4.14 prohibits City departments from using certain gasoline-powered landscaping equipment on “Spare the Air Days” or other days in which the Bay Area Air Quality Management District notifies the public of unhealthy levels of air pollution and requests that the public refrain from engaging in polluting activities.

Other than Administrative Code Section 4.14, there are currently no City laws that restrict or prohibit City or public use of gas-powered landscaping equipment.

Amendments to Current Law

This ordinance, titled the “Healthier, Cleaner, Quieter Communities Act,” would do the following:

- Define “Gas-Powered Landscaping Equipment” as any equipment that meets the state law definition of Small Off-Road Equipment, set forth in Title 13, Division 3, Chapter 9, Article 1 of the California Code of Regulations, and that is powered by an internal combustion or rotary engine using gasoline, alcohol, or other liquid or gaseous fluid.
- Starting on January 1, 2024, prohibit any City department from using any Gas-Powered Landscaping Equipment, except to the extent that the Director of the Department of the Environment (“Director”) waives the prohibition based on a finding that technology to replace the relevant Gas-Powered Landscaping Equipment (“Replacement Technology”) is unavailable, either because it does not exist or is cost-prohibitive, and that the department seeks to use the equipment to perform a required function of the department.
- Starting on January 1, 2024, prohibit any City department from entering into a contract, the performance of which could involve the use of Gas-Powered Landscaping Equipment, that does not prohibit the use of such equipment, unless the Purchaser, in consultation with the Director, waives this prohibition, based on various considerations.
- Starting on January 1, 2026, 1) prohibit any person from operating Gas-Powered Landscaping Equipment in the City, 2) prohibit any person from operating or allowing operation of such equipment on property in the City owned by that person, and 3) prohibit any person from allowing operation of such equipment in the City by an employee or agent of a gardening, landscape maintenance, or similar service or business owned or managed by that person. The ordinance would impose penalties on persons who violate the second and/or third categories of prohibitions. These prohibitions use of Gas-Powered Landscaping Equipment by members of the public would not apply with respect to Gas-Powered Landscaping Equipment for which the Department of the Environment has determined that Replacement Technology is unavailable, as reflected on the Exempt Gas-Powered Landscaping Equipment List compiled by the department.
- Create the Healthier, Cleaner, Quieter Communities Fund (“Fund”) in the Administrative Code as a category eight fund to receive monies collected from penalties and fees assessed for violations of the ordinance, and other monies appropriated or donated to the Fund.
- Direct that monies in the Fund be used only for one or more of the following four purposes: 1) to purchase Replacement Technology needed by City departments to comply with Section 12E.2 of the Administrative Code while continuing to perform their required City duties, 2) to fund a buy-back program with the purpose of offsetting the cost to San Francisco residents and businesses of transitioning from the use of Gas-Powered Landscaping Equipment to the use of Replacement Technology, 3) to fund the safe disposal of Gas-Powered Landscaping Equipment that is no longer in use by City departments or that is provided by individuals or businesses participating in the buy-back program, and/or 4) to fund the public education campaign described in section 2105 of the Police Code.
- Charge the Director of the Department of the Environment with responsibility for enforcing the prohibitions in the ordinance, granting waivers of the prohibitions in the

ordinance to qualifying City departments, compiling and updating the Exempt Gas-Powered Landscaping Equipment List, administering the Fund, and conducting a public education campaign to inform impacted businesses and individuals about the prohibitions in the ordinance and about the buy-back program, in partnership with one or more community organizations.

Background Information

A number of California municipalities have enacted laws that limit or ban the use of gas-powered landscaping equipment. And in late 2021, California Governor Newsom signed into law AB 1346, which authorized the phasing out of the manufacture and sale of new gas-powered landscaping equipment in California, recognizing the harmful health and environmental impacts of this gas-powered equipment. Also in late 2021, the California Air Resources Board approved implementation measures for AB 1346 that will require most newly manufactured gas-powered landscaping equipment be zero emission starting in 2024. But these state measures do not regulate the use of gas-powered technologies even after the trigger dates, and they do not provide financial support for businesses or individuals seeking to transition to clean technologies.

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The original ordinance was introduced on March 1, 2022. The Budget and Finance Committee amendments, introduced in committee on April 27, 2022, make the following changes:

- *Amend the definition of Gas-Powered Landscaping Equipment from “any equipment used for landscaping maintenance that is powered by an internal combustion or rotary engine using gasoline, alcohol, or other liquid or gaseous fluid, including but not limited to leaf blowers, string trimmers, hedge trimmers, lawn edgers, push and riding lawn mowers, tractors, and chainsaws” to “ any Small Off-Road Equipment [as defined in Title 13, Division 3, Chapter 9, Article 1 of the California Code of Regulations] that is powered by an internal combustion or rotary engine using gasoline, alcohol, or other liquid or gaseous fluid.” The amended definition excludes certain equipment included in the prior definition, such as riding lawn mowers and tractors, and includes certain equipment that was excluded from the prior definition, including certain generators and pumps.*
- *Add a process for the Department of the Environment to waive the prohibition on use of Gas-Powered Landscaping Equipments by City departments that can demonstrate that Replacement Technology is unavailable for the relevant equipment, and that the equipment is needed to perform a required department function.*
- *Change the meaning of “unavailable” with respect to Replacement Technology to mean that either such technology does not exist, or is not available for purchase for an amount less than or equal to 300% of the costs of equivalent Gas-Powered Landscaping Equipment, taking into account up-front costs, including electrical infrastructure supporting Replacement Technology, and operating costs over a one-year period for the Gas-Powered Landscaping Equipment and equivalent Replacement*

Technology. The prior version of the ordinance defined “unavailable” as with respect to Replacement Technology to mean that either such technology does not exist, or is not available for purchase for an amount less than or equal to 120% of the costs of equivalent Gas-Powered Landscaping Equipment. The prior version did not specify that the costs could include up-front costs, including infrastructure supporting Replacement Technology, and operating costs over a one-year period.

- *Add a process for the Purchaser to waive the requirement that City contractors be prohibited from using Gas-Powered Landscaping Equipment if Replacement Technology is unavailable, or if the Purchaser determines that certain other criteria are met.*
- *Add a requirement that the Department of the Environment to compile and update an Exempt Gas-Powered Landscaping Equipment List that will include Gas-Powered Landscaping Equipment for which the Department of the Environment has determined Replacement Technology is unavailable.*
- *Add an exemption from the prohibition on members of the public using Gas-Powered Landscaping Equipment starting January 1, 2026, for uses of equipment included on the Exempt Gas-Powered Landscaping Equipment List.*

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