CITY COUNCIL ORDINANCE NO. 23-25

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IRVINE, CALIFORNIA, AMENDING CHAPTER 2 OF DIVISION 8 OF TITLE 6 OF THE IRVINE MUNICIPAL CODE RELATING TO POLLUTION AND NOISE

WHEREAS, the State of California has enacted legislation to ban the sale of new small off-road engine-powered garden equipment, such as leaf blowers, lawn mowers, string trimmers, hedge trimmers, and small chainsaws, beginning on January 1, 2024; and

WHEREAS, this state-wide sales ban will result in the eventual phasing out of small off-road engine-powered garden equipment; and

WHEREAS, for the health, safety, and welfare of the City's residents and visitors, the City of Irvine ("City") desires to expedite the phased out approach regarding small off-road engine-powered garden equipment; and

WHEREAS, noise regulations have not been updated by the City since 2005; and

WHEREAS, the City of Irvine desires to provide a phased approach to prohibiting gas-powered leaf blowers, lawn mowers, string trimmers, hedge trimmers, chain saws, or edgers while also updating its noise regulations.

NOW, THEREFORE, the City Council of the City of Irvine does hereby ordain as follows:

SECTION 1. Chapter 2 of Division 8 of Title 6 of the Irvine Municipal Code are deleted and replaced in in its entirety with a new Chapter 2 as shown in Exhibit A attached hereto and incorporated herein.

SECTION 2. All ordinances, resolutions, or parts thereof in conflict with this Ordinance are hereby repealed.

SECTION 3. The City Council finds that this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to 14 California Code of Regulations section 15061(b)(2) and (b)(3), 15308, and 15378.

SECTION 4. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, then such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Irvine hereby declares the Council would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that anyone or more sections, subsections, sub-divisions, sentences, clauses, phrases, or portions thereof be declared unconstitutional, invalid, or ineffective.

SECTION 5. This ordinance shall take effect 30 days from the date of its adoption.

SECTION 6. The Mayor shall sign this Ordinance and the City Clerk shall attest and certify to the passage and adoption of this Ordinance and cause this Ordinance to be published using the alternative summary and posting procedure authorized under Government Code Section 36933.

PASSED AND ADOPTED by the City Council of the City of Irvine at an adjourned regular meeting held on the 12th day of December 2023.

MAYOR OF THE CITY OF IRVINE

ATTEST:

CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF IRVINE)

I, CARL PETERSEN, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing Ordinance was introduced for first reading on the 28th day of November 2023 and duly passed and adopted at an adjourned regular meeting of the City Council of the City of Irvine held on the 12th day of December 2023.

AYES:	4	COUNCILMEMBERS:	Agran, Kim, Treseder, and Khan
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	1	COUNCILMEMBERS:	Carroll
ABSTAIN:	0	COUNCILMEMBERS:	None

CITY CLERK OF THE CITY OF IRVINE

CHAPTER 2. NOISE[1]

Sec. 6-8-202. Definitions.

The following definitions are provided to clarify words, phrases and terms used in this chapter.

Ambient noise level: The all-encompassing noise level associated with a given environment, being a composite of sounds from all sources, excluding the alleged offensive noise, at the location and approximate time at which a comparison with the alleged offensive noise is to be made.

Chain Saw: A portable power saw for cutting and shaping of vegetation by means of teeth set on a rotating chain which moves around the edge of a fixed blade.

Cumulative period: An additive period of time composed of individual time segments which may be continuous or interrupted.

Decibel (dB): A unit of noise measurement indicating the loudness of sound, based on logarithmic (base 10) scale.

Edger. A portable machine for trimming vegetation along a sidewalk, curb, or other hardscape area.

Emergency work: Any mechanical device, apparatus or equipment, which is used, employed or performed in an effort to protect, provide or restore safe conditions in the community or for the citizenry, or work by private or public utilities when restoring utility service.

Grading: Any excavating or filling of earth material or any combination thereof conducted to prepare a site for construction or the placement of the improvements thereon.

Hedge trimmer: A portable machine for cutting and shaping hedges, shrubs, small trees and other vegetation with reciprocating blades.

Impact noises: The noise produced by the collision of one mass in motion with a second mass which may be either in motion or at rest.

Lawn mower: A walk-behind device utilizing one or more revolving blades, or a reel, to cut a grass surface to an even height. The blades may be powered by manual force such that the wheels mechanically connected to the cutting blades so that the blades spin when the mower is pushed forward, a battery-powered motor, a plug-in electric motor, or internal combustion engine. Riding lawn mowers are not included in this definition.

Leaf blower: Portable power equipment used in any landscape maintenance, construction, property repair, or property maintenance for the purpose of blowing, dispersing or redistributing dust, dirt, leaves, grass clippings, cuttings and trimmings from trees and shrubs or other debris.

Noise level: The "A" weighted sound pressure level in decibels obtained by using a sound level meter. The "A" weighted discriminates against the lower and higher frequencies according to a relationship with the sensitivity of the human ear. The unit of measurement is designated as dB(A).

[1]Editor's note(s)—Prior to amendment by Ord. No. 84-18, adopted Sept. 11, 1984, the provisions of this chapter derived from Ord. No. 136, §§ 2—13, adopted March 25, 1975.

Predominant tone noise: A noise characterized by a predominant frequency or frequencies so that other frequencies cannot be readily distinguished.

Stationary noise source: The source which is often referred to as "fixed source" (non-transportation-related) including, but not limited to, mechanical electric equipment, various power tools, construction, commercial, industrial and agricultural activity and animal noise.

String trimmer: A portable machine for cutting vegetation with a rapidly spinning length of monofilament cord or blades.

(Code 1976, § VI.K-302; Ord. No. 84-18, 9-11-84)

Sec. 6-8-203. Noise level measurement criteria.

A. Any noise level measurements made pursuant to the provisions of this chapter shall be performed using a sound level meter.

B. The location selected for measuring exterior noise levels shall be at any exterior part of the receiving property, except for private residential balconies, decks, roof decks, or other exterior areas only accessible through a private residence.

C. The location selected for measuring exterior noise levels in a nonresidential area shall be at any point on a receiving property, 5-feet above finish grade, no closer than 5-feet from any wall.

D. Any noise level measurement made pursuant to the provisions of this chapter shall be based on a reference sound pressure of twenty (20) micropascals as measured with a sound level meter using the A-weighted network (scale) at slow response.

E. Noise measurements shall be taken over a minimum 15-minute period, or until the running average sound level variance is less than 1 dB.

Sec. 6-8-204. General provision.

A. *Exterior noise standards.*

1. The following noise standards, unless otherwise specifically indicated, shall apply to all property within a designated noise zone.

2. It shall be unlawful for any person at any location within the City to create any noise or to allow the creation of any noise on property owned, leased, occupied or otherwise controlled by such person which causes the noise level when measured on any receiving property either within or without the City to exceed the noise standard for the applicable receiving type of land use for any consecutive fifteen-minute period. The noise following noise standards shall be increased by five dB(A) for consecutive sound durations less than 15 minutes, by 10 dB(A) for consecutive sound durations less than 5 minutes, and by 15 dB(A) for consecutive sound duration less than 1 minute.

3. Each of the following noise standards shall be reduced by five dB(A) for impact noise, predominant tone noise, or for noises consisting of speech or music.

4. In the event the existing ambient noise level exceeds the noise standard, the maximum allowable noise level under said category shall be increased to the ambient noise level.

5. In the event that the noise source and the receiving property are within different noise zones, the noise standards of the receiving property shall apply.

EXTERIOR NOISE PERFORMANCE STANDARDS

(Equivalent Noise Level, dBA L_{eq})

TYPE OF LAND USE	7:00 a.m. to 10:00 p.m.	10:00 p.m. to 7:00 a.m.
	Leq	Leq
Residential	60	55
Residential Portions of Properties Zoned for Multi-Use	60	55
Commercial, Industrial, Manufacturing	70	60
Office/Institutional (hospital, school classroom, church, library)	60	55

Sec. 6-8-205. Special provisions.

A. Construction activities and agricultural operations may occur Monday through Friday from 7:00 a.m. to 7:00 p.m. and Saturday from 9:00 a.m. to 6:00 p.m. No construction activities shall be permitted outside of these hours or on Sundays and federal holidays, except Columbus Day, unless a temporary waiver is granted by the Chief Building Official or his or her authorized representative. Trucks, vehicles, and equipment that are making or are involved with material deliveries, loading, or transfer of materials, equipment service, maintenance of any devices or appurtenances for or within any construction project in the City shall not be operated or driven on City streets outside of these hours or on Sundays and federal holidays unless a temporary waiver is granted by the City. Any waiver granted shall take impact upon the community into consideration. No construction activity and agricultural operations will be permitted outside of these hours except in emergencies including maintenance work on the City rights-of-way that might be required.

   Deliveries to or pickups from any commercial property sharing a property line with any residential property may occur daily from 7:00 a.m. to 10:00 p.m. No deliveries to or pickups from any such properties shall occur outside of these hours.

B. Maintenance of real property operations may exceed the noise standards Monday through Saturday from 7:00 a.m. to 7:00 p.m. and Sundays or federal holidays from 9:00 a.m. to 6:00 p.m.

C. Noise from air conditioning, refrigeration, or heating equipment for residences or other structures, and pumps, filters or heating equipment for pools or reservoirs shall not exceed the higher of the noise standards prescribed in the section above or the five decibels above the ambient noise level.

D. The use of leaf blowers, lawn mowers, string trimmers, hedge trimmers, chain saws, and edgers shall be regulated as follows:

   1. *Limitations on use.*

      a. All leaf blowers shall be equipped with a permanently installed limiter that restricts the individual equipment motor performance to half throttle speed or less, and will produce not more than 70 decibels dB(A) measured at the midpoint of a wall area 20 feet long and 10 feet high and at a horizontal distance 50 feet away from the midpoint of the wall, or not more than 76 dB(A) at a horizontal distance of 25 feet using a sound level meter set at level A.

b. Each individual leaf blower shall be tested and certified for use by the City of Irvine or its designated representative. Each individual leaf blower shall bear the label of required approval in a visible location on the equipment prior to use and at all times during use. A fee for the City to recover all costs connected with equipment approvals shall be charged in an amount set by City resolution.

c. The use of leaf blowers is prohibited except between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday and between 9:00 a.m. and 5:00 p.m. on Saturday.

d. Leaf blower operations shall not cause dirt, dust, debris, leaves, grass clippings, cuttings or trimmings from trees or shrubs to be blown or deposited on any adjacent or other parcel of land, lot, or public right-of-way/property other than the parcel, land, or lot upon which the leaf blower is being operated. Deposits of dirt, dust, leaves, grass clippings, debris, cuttings or trimmings from trees or shrubs shall be removed and disposed of in a sanitary manner which will prevent dispersement by wind, vandalism or similar means within six hours of deposit by the user or property occupant.

e. Leaf blowers shall not be operated within a horizontal distance of 10 feet of any operable window, door, or mechanical air intake opening or duct.

f. No person using leaf blowers shall exceed noise limitations set by Section 6-8-204 of the City Code of Ordinances.

g. Commencing July 1, 2024, it is unlawful for businesses that employ more than 50 people, and commencing January 1, 2025, it is unlawful for all other businesses and any person to operate or authorize the operation of a gas-powered leaf blower or lawn mower at any time for any purpose. Notwithstanding the preceding sentence, the person responsible for any violation of this section shall be limited to the landscape business owner, or homeowner if using their private gas-powered leaf blower or lawn mower.

h. Commencing January 1, 2025, it is unlawful for businesses that employ more than 50 people and commencing July 1, 2026, it is unlawful for all other businesses and any person to operate or authorize the operation of a gas-powered string trimmer, hedge trimmer, chain saw, or edger at any time for any purpose.

i. Use of gas-powered leaf blowers, lawn mowers, string trimmers, hedge trimmers, chain saws, or edgers is exempt from sections g. and h. above as follows:

1. When utilized by or at the direction of emergency responders for the purposes of responding to an emergency, or necessary to restore, preserve, protect or save lives or property from imminent danger of loss or harm.

2. When used to clear downed trees or vegetation in areas needing expedient clearance when necessary to protect public safety, as authorized by the City.

2. *Education.*

a. Each person operating an individual leaf blower is required to complete not less than one training session of content and time approved by the City of Irvine Administrative Authority prior to operation of leaf blower equipment. Training and qualification shall be required for certification at least every two years for each individual equipment user.

b. The equipment operator shall carry certification of the training and qualification at all times during equipment use and make it available upon demand. Failure to abide by the use requirements contained in this Code and/or the certification training provided will be cause for the City of Irvine to revoke such certification.

c. *Exception:* An individual residential property occupant operating a single leaf blower himself or herself in a manner confined to his or her own property shall be excepted from the education requirements set forth by this subsection.

3. *Fees.* A fee for the City to recover all costs connected with training, testing, certification and enforcement shall be charged in an amount established by resolution of the City Council, which may be amended from time-to-time.

E. The following activities shall be exempted from the provision of this chapter:

1. School bands, school athletic and school entertainment events, provided said events are conducted on school property or authorized by special permit from the City.

2. Activities otherwise lawfully conducted on public parks, public playgrounds and public or private school grounds.

3. Any mechanical device, apparatus or equipment which is utilized for emergency work, pest control, and protection or harvest of agricultural crops during periods of potential or actual frost damage or other adverse weather conditions.

4. Any activity or equipment to the extent that design regulation thereby has been preempted by State or federal law. NOTE: Preemption may include motor vehicle, aircraft in flight, and railroad noise regulations.

(Code 1976, § VI.K-305; Ord. No. 84-18, 9-11-84; Ord. No. 88-11, §§ 1, 2, 5-24-88; Ord. No. 90-2, § 1, 2-13-90; Ord. No. 90-7, § 1, 4-10-90; Ord. No. 05-16, § 2, 7-12-05)

Sec. 6-8-206. Reserved.

Sec. 6-8-207. Enforcement.

The Chief Building Official or his or her duly authorized representative shall enforce the provisions of this chapter. No person shall interfere with, oppose or resist any authorized person charged with the enforcement of this chapter while such person is engaged in the performance of his or her duty.

(Code 1976, § VI.K-306; Ord. No. 84-18, 9-11-84)

Sec. 6-8-208. Waiver procedure.

A. The owner or operator of a noise source which violates any of the provisions of this chapter may apply for temporary waiver with the Chief Building Official. Any waiver granted shall take impact upon the community into consideration and state why immediate compliance cannot be achieved, a proposed method of achieving compliance, and a proposed time schedule for its accomplishment. Said application shall be accompanied by a fee as listed in the City Council resolution for variances where deemed appropriate and necessary by the City administrative authority.

B. A separate application shall be filed for each noise source; provided, however, that several sources under common ownership or several sources on a single property may be combined into one application.

C. An applicant for a waiver shall remain subject to prosecution under the terms of this chapter until a waiver is granted.

D. Within 60 days of receipt of an appeal, the City Council shall either affirm, modify or reverse the decision of the Chief Building Official at a duly notified public hearing.

(Code 1976, § VI.K-307; Ord. No. 84-18, 9-11-84; Ord. No. 90-7, § 2, 4-10-90)

Sec. 6-8-209. Appeals.

A. The decision of the Chief Building Official on waiver applications may be appealed to the City Council. Appeals shall be filed with the City Clerk and shall be accompanied by a letter stating the reason for the appeal.

B. An appeal shall be accompanied by a deposit/fee as established by resolution, which shall be on an annual basis by City Council resolution.

C. An appeal shall be filed within 15 days of the decision of the Chief Building Official.

D. Within 60 days of receipt of an appeal, the City Council shall either affirm, modify or reverse the decision of the Chief Building Official at a duly notified public hearing.

(Code 1976, § VI.K-308; Ord. No. 84-18, 9-11-84)