

ORDINANCE NO. 2022-4460

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 46 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "ENVIRONMENT," BY CREATING ARTICLE X, ENTITLED "USE OF GAS-POWERED LEAF BLOWERS," TO CREATE DEFINITIONS, ADOPT REGULATIONS ON THE USE OF GAS-POWERED LEAF BLOWERS WITHIN THE CITY OF MIAMI BEACH, PROVIDE FOR A TEMPORARY SUSPENSION FOR STORM AND HURRICANE CLEANUP, ESTABLISH ENFORCEMENT AND PENALTY PROVISIONS, AND PROVIDE FOR A FINANCIAL HARDSHIP WAIVER; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach ("City") declares that it is in the interest of the public health, safety, and welfare of its residents and visitors to reduce litter and pollutants on the land and in the air and waters of the City; and

WHEREAS, a leaf blower is a widely available gardening tool used to manage leaves, clippings, and other debris; and

WHEREAS, most gas-powered leaf blowers use two-stroke engines, which mix gas and oil; and

WHEREAS, about 30 percent of the gas the engine uses fails to undergo complete combustion, and as a result, the engine emits a number of specific air pollutants of concern, such as: hydrocarbons from both burned and unburned fuel, which combine with other gases in the atmosphere to form ozone; carbon monoxide; fine particulate matter; and other toxic air contaminants in the unburned fuel, including benzene, 1,3-butadiene, acetaldehyde, and formaldehyde; and

WHEREAS, a 2011 test by the car experts at Edmunds showed that "a consumer-grade leaf blower emits more pollutants than a 6,200-pound 2011 Ford F-150 SVT Raptor"; and

WHEREAS, during the test, the company subjected a truck, a sedan, a four-stroke leaf blower, and a two-stroke leaf blower to automotive emissions tests and found that under normal usage conditions — alternating the blower between high power and idle, for example — the two-stroke engine emitted nearly 299 times the hydrocarbons of the pickup truck, 93 times the hydrocarbons of the sedan, and many times as much carbon monoxide and nitrogen oxides as well; and

WHEREAS, the four-stroke engine performed significantly better than the two-stroke in most of the categories, but still far worse than the car engines; and

WHEREAS, in 2017, the California Air Resources Board ("CARB") issued a warning that by 2020, gas-powered leaf blowers, lawn mowers, and similar equipment in the state could produce more ozone pollution than all the millions of cars in California combined; and

WHEREAS, according to CARB's determination, running a gas-powered leaf blower for one hour emits the same amount of pollution as driving a light-duty passenger vehicle for approximately 1,100 miles; and

WHEREAS, in addition to environmental impacts, air emissions from gas-powered leaf blowers have adverse health effects on workers; and

WHEREAS, counties, cities and urban areas are in a unique position to combat climate change, because cities and urban areas are responsible for producing 70 percent of climate-changing greenhouse gas ("GHG") emissions worldwide; and

WHEREAS, the City has already taken steps to aggressively address climate change, promote the use of renewable energy, and reduce our community's emissions; and

WHEREAS, on October 14, 2015, the Mayor and City Commission adopted Resolution No. 2015-29156, joining the Global Covenant of Mayors for Climate & Energy and pledging to reduce GHG emissions, track progress towards GHG reduction goals, and enhance the City's resiliency to climate change; and

WHEREAS, on May 17, 2017, the Mayor and City Commission adopted Resolution No. 2017-29867, directing the City Administration to request all City landscape maintenance contractors to voluntarily transition to non-gas-powered leaf blowers for all City landscape maintenance operations, and for the City Administration to require non-gas powered leaf blowers in all future bids for City landscape maintenance work; and

WHEREAS, since the adoption of the Resolution No. 2017-29867, the Public Works - Greenspace Management Division has included language in its landscape maintenance contracts and internal operations to not allow the use of gas-powered leaf blowers, and the Public Works - Sanitation Division is in the process of transitioning to electric/battery powered blowers, and expect to replace their existing gas-powered inventory by Spring of 2022; and

WHEREAS, on February 10, 2021, the Mayor and City Commission adopted Resolution No. 2021-31575, endorsing several pledges (Under2 Coalition, United Nations (UN) Climate Change's Climate Neutral Now, and C40 Race to Zero) to further commit to GHG emissions reductions while planning for the challenges of climate change; and

WHEREAS, the City is also in the process of developing a Climate Action Plan which includes guidelines for actions that should be implemented to reduce GHG emissions, and further sets short-term GHG emissions reduction targets to achieve carbon neutrality by 2050; and

WHEREAS, at the September 17, 2021 City Commission meeting the Mayor and City Commission referred a discussion to the Land Use and Sustainability Committee on the status of the City's transition from gas leaf blowers and any potential opportunities to reduce usage; and

WHEREAS, on September 30, 2021, the resident Sustainability Committee held a discussion with City staff and representatives from Miami Beach United on gas leaf blowers, and subsequently passed a motion in support of further reducing the use of gas operated leaf blowers citywide to support the City's goal of reducing GHGs while improving quality of life (see LTC #423-2021); and

WHEREAS, on October 19, 2021, the Land Use and Sustainability Committee passed a motion recommending drafting an ordinance to regulate the use of gas-powered leaf blowers throughout the City; and

WHEREAS, the City Commission finds that the use of gas-powered leaf blowers to clear leaves, clippings, and other debris on public and private property affects air quality, water quality, contributes to GHG emissions, and impacts environmental health and noise levels throughout the City; and

WHEREAS, the City Commission also finds that a number of alternatives exist, such as portable or plug-in electric leaf blowers and non-motorized tools such as rakes; and

WHEREAS, the City Commission wishes to provide a reasonable phase-in period during which City staff can conduct outreach to inform and educate residents and landscape maintenance companies of the provisions of this Ordinance, and the availability of alternatives to gas-powered leaf blowers; and

WHEREAS, this Ordinance will preserve and enhance the environment of the City of Miami Beach.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. Article X of Chapter 46 of the Code of the City Miami Beach is hereby created as follows:

**CHAPTER 46
ENVIRONMENT**

* * *

ARTICLE X. USE OF GAS-POWERED LEAF BLOWERS

Sec. 46-231. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Leaf blower means any air blowing device that uses a concentrated stream of air to push, propel or blow dirt, dust, leaves, grass clippings, trimmings, cuttings, refuse or debris.

Sec. 46-232. Regulations on the use of leaf blowers.

The use of gas-powered leaf blowers is prohibited within the city. Battery- and electric-powered leaf blowers may be used within the city, consistent with the regulations set forth in section 46-152 of the City Code. Private property owners and landscape maintenance companies are encouraged to operate leaf blowers in a manner that reduces noise generated by the equipment, including, without limitation, by not continuously running equipment and by using equipment that operates at a low decibel range (i.e. 65 dB or less).

Sec. 46-233. Temporary suspension for storm and hurricane cleanup.

In the event of a hurricane, tropical storm, or similar extreme weather event, the City Manager, in the City Manager's sole discretion, may temporarily suspend provisions of this article to permit the use of gas-powered leaf blowers for debris cleanup.

Sec. 46-234. Enforcement; penalties.

- (a) Beginning on February 1, 2022, and extending through October 31, 2022, the city shall engage in public education efforts to inform residents and landscape maintenance companies of the provisions of this article and to provide assistance with identifying alternatives to gas-powered leaf blowers.
- (b) Beginning on November 1, 2022, the city shall provide for a nine-month warning period through and including July 31, 2023, during which the code compliance department shall issue written warnings for violations of this article.
- (c) Beginning on August 1, 2023, the code compliance department shall fully enforce the provisions of this article.
- (d) If a code compliance officer finds a violation of this article, the code compliance officer shall issue a notice of violation to the property owner or the landscape maintenance company. The notice shall inform the violator of the nature of the violation, amount of fine for which the violator is liable, instructions and due date for paying the fine, that the violation may be appealed by requesting an administrative hearing before a special master within ten days after service of the notice of violation, and that the failure to appeal the violation within ten days of service shall constitute an admission of the violation and a waiver of the right to a hearing.
- (e) A violator who has been served with a notice of violation must elect to either:

 - (1) Pay the following civil fine:

 - a. First violation within a 12-month period\$250.00;
 - b. Second violation within a 12-month period \$500.00;
 - c. Third or subsequent violation within a 12-month period \$1,000.00;
 - or
 - (2) Request an administrative hearing before a special master to appeal the notice of violation, which must be requested within ten days of the service of the notice of violation. The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 30-72 and 30-73 of this Code. Applications for hearings must be accompanied by a fee as approved by a resolution of the city commission, which shall be refunded if the named violator prevails in the appeal.
- (f) Failure to pay the civil fine, or to timely request an administrative hearing before a special master, shall constitute a waiver of the violator's right to an administrative hearing before the special master, and shall be treated as an admission of the violation, for which fines and penalties shall be assessed accordingly.
- (g) A certified copy of an order imposing a fine may be recorded in the public records, and thereafter shall constitute a lien upon any real or personal property owned by the violator, which may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's real or personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After three months following the recording of any such lien that remains unpaid, the city may foreclose or otherwise execute upon the lien for the amount of the lien plus accrued interest.

(h) The special master shall be prohibited from hearing the merits of the notice of violation or considering the timeliness of a request for an administrative hearing if the violator has failed to request an administrative hearing within ten days of the service of the notice of violation. The special master shall not have discretion to alter the penalties prescribed in this article. Any party aggrieved by a decision of a special master may appeal that decision to a court of competent jurisdiction.

Sec. 46-235. Financial hardship waiver.

Any property owner or principal of a landscape maintenance company that reported a household annual gross income of 80% of the area median income, or less, on its income tax filing for the most recent tax year, may submit a written request to the city manager, on a form prepared by the city manager, for a financial hardship waiver of the requirements of this article. The city manager may grant a waiver if the property owner or landscape maintenance company provides evidence of the following:

- (a) There is no comparable alternative product that does not use gas to power up leaf blowers; or
- (b) The purchase or use of an alternative product would create an undue financial hardship.

Such financial hardship waiver shall be valid for 12 months and may be renewable upon application to the city manager. If an administrative hearing is requested pursuant to subsection 46-234(e)(2), a pending financial hardship waiver request shall be grounds for a continuance of the administrative hearing, but only if the notice of violation was issued after the submittal of the financial hardship waiver request.

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 3. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 4. CODIFICATION.

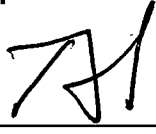
It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Miami Beach City Code. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect on the 30 day of January, 2022.

PASSED AND ADOPTED this 20 day of January, 2022.

ATTEST:

 2/2/22

Rafael E. Granado, City Clerk



Dan Gelber, Mayor

Underline denotes additions

~~Strikethrough~~ denotes deletions

Double underline denotes additions on second reading

(Sponsored by Commissioner Mark Samuelian)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney CA

1-27-22

Date

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Alina T. Hudak, City Manager
DATE: January 20, 2022

10:10 a.m. Second Reading Public Hearing

SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 46 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "ENVIRONMENT," BY CREATING ARTICLE X, ENTITLED "USE OF GAS-POWERED LEAF BLOWERS," TO CREATE DEFINITIONS, ADOPT REGULATIONS ON THE USE OF GAS-POWERED LEAF BLOWERS WITHIN THE CITY OF MIAMI BEACH, PROVIDE FOR A TEMPORARY SUSPENSION FOR STORM AND HURRICANE CLEANUP, ESTABLISH ENFORCEMENT AND PENALTY PROVISIONS, AND PROVIDE FOR A FINANCIAL HARDSHIP WAIVER; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

RECOMMENDATION

The Administration recommends the Mayor and City Commission adopt the Ordinance on First Reading.

BACKGROUND/HISTORY

As a city leader in addressing the impacts and causes of climate change, it is vital to take positive steps to reduce community wide greenhouse gas emissions. On April 21, 2021, Resolution 2021-34664 was adopted declaring climate change to be caused by human activity and pledging to achieve net-zero emissions by 2050. Achieving net-zero emissions will require policy changes and investments such as regulating the use of gas-powered leaf blowers.

In line with efforts to reduce emissions, municipal operations have begun transitioning away from gas-powered leaf blowers. Following the adoption of Resolution 2017-29867, the Public Works Department's Greenspace Management Division has prohibited the use of gas-powered leaf blowers by its landscape maintenance vendors and internal operations. The Public Works Department's Sanitation Division is in the process of transitioning to electric/battery-powered blowers and expect to replace its existing gas-powered inventory by Spring of 2022.

At the City Commission meeting on September 17, 2021, the Mayor and City Commission referred a discussion to the Land Use and Sustainability Committee on the status of the City's transition from gas leaf blowers and any potential opportunities to reduce usage. On September

30, 2021, the resident Sustainability Committee held a discussion with City staff and representatives from Miami Beach United on gas leaf blowers. The Committee passed a motion in support of further reducing the use of gas-operated leaf blowers citywide to support the City's goal of reducing greenhouse gas emissions while improving quality of life. The motion was transmitted via Letter to Commission (Attachment A).

On October 19, 2021, the Land Use and Sustainability Committee passed a motion recommending that the City Administration and City Attorney's Office draft an ordinance to regulate the use of gas-powered leaf blowers citywide.

On December 8, 2021, the Mayor and City Commission passed the draft ordinance on first reading with recommendations on offering financial incentives to residents and businesses.

ANALYSIS

Transitioning away from gas-powered leaf blowers is a positive step for communities from multiple perspectives including reducing air pollution and greenhouse gas emissions, improving water quality, mitigating noise pollution, and promoting operational effectiveness.

Air Pollution and Greenhouse Gas Emissions:

Reducing air pollution and greenhouse gas emissions is in the best interests of our community. 2 which combine with other gases in the atmosphere to form ozone; carbon monoxide; fine particulate matter; and other toxic air contaminants in the unburned fuel, including benzene, 1,3-butadiene, acetaldehyde, and formaldehyde. For example, the California Air Resources Board has determined that running a gas-powered leaf blower for one hour emits the same amount of pollution as driving a light-duty passenger vehicle for approximately 1,100 miles.

Water Quality:

The filling of small engines with fuel is very prone to spillage, which is another major cause of hydrocarbon emission. The U.S. Environmental Protection Agency estimates that 17 million gallons of fuel are spilled each year just in refueling small engines—more fuel than the Exxon Valdez spilled in the Gulf of Alaska accident in 1989. It is estimated that every time a gas-powered leaf blower is filled, approximately 2 ounces of gasoline is spilled. Moreover, the city prohibits individuals from utilizing leaf blowers to discard debris into the storm drain system and sewers to avoid contaminants from reaching waterways. Although vacuums used for landscaping can help with mitigating the impacts of debris in the natural environment, substitutes that are quiet and battery/electric-powered are not as widely available as leaf blowers. Moreover, public settings, vacuums not only pick up landscape debris but have also been found to pick up other types of litter that could potentially damage equipment and reduce the efficiency of landscape operations.

Noise Pollution:

Leaf blowers are the subject of repeated noise complaints, particularly from gas-powered motors. On average, electric leaf blowers can be up to 28% quieter when compared to 4-stroke gas-powered blowers and 13-18% quieter when compared to 2-stroke gas-powered blowers. Several local, state, and federal agencies across the U.S. have published reports concluding that there are potential health and environmental impacts associated with noise from leaf blowers and have taken measures to prohibit equipment over a certain noise level. In order to control the harmful effects of noise, the World Health Organization recommends a general outdoor noise level of 55 decibels or less, and 45 or less for sleeping restfully. Both gas and

electric leaf blowers will generate noise, however the decibels range considerably for different types of models. Operationally, electric leaf blowers can be quieter based on the way they are used.

Operational Effectiveness:

Electric leaf blowers can be simpler for users, who do not need to purchase and have oil and gas on-hand to repeatedly fill the equipment. Maintenance associated with combustion engines is no longer needed. Technology for leaf blowers has significantly changed over years, these advancements have allowed alternatives to gas leaf blowers to provide the similar results when compared to battery or electric powered equipment. Leaf blowers come in a wide variety of styles such as handheld, backpack and walk behind. They also come in wide range of air speeds and noise ratings. Below are average characteristics comparing gas and electric/battery leaf blowers:

	Gas	Electric/Battery
Equipment cost*	\$99-\$780	\$20-\$400 (with extra battery)
Co2 Emissions production for 1 hour of operation**	2,885 lbs.	117 lbs.
Run time**	47-68 min	53-174 min (depending on battery configuration)
Noise	70-75 dB at 50 feet	56-65 dB at 50 feet

**Based on data collected by QuietCleanPDX.org

Recognizing the need to protect maintain the health and quality of life of their communities, more and more municipalities are limiting and/or phasing out gas-powered leaf blowers in the US, including Naples and Key West, FL; Greenwich, Connecticut; Westchester, New York; Burlington, Vermont; Cambridge, Massachusetts; and Washington D.C.

In October 2021, the State of California adopted Assembly Bill 1346 to ban the sale of gas-powered small off-road engines, many of which are used in lawn and garden equipment, such as leaf blowers, commercial utility equipment and specialty vehicles. The law will require newly sold small-motor equipment primarily used for landscaping to be strictly zero-emission by 2024.

The following amendments are proposed to Chapter 46 of the City of Miami Beach Code:

- **Sec. 46-232. - Regulations on the use of leaf blowers.**
 - The use of gas-powered leaf blowers is prohibited within the city. Battery- and electric-powered leaf blowers may be used within the city, consistent with the regulations set forth in section 46-152 of the City Code.
 - Encourages operational use of leaf blowers in a way that results in less of a noise disturbance including not continuously running equipment and using equipment with a low decibel range (65 dB or less).
- **Sec. 46-233. - Temporary suspension for storm and hurricane cleanup.**
 - In the event of a hurricane, tropical storm, or similar extreme weather event, the City Manager, in their sole discretion, may temporarily suspend the provisions of this article to allow the use of leaf blowers for debris cleanup.
- **Sec. 46-234. - Establishment of enforcement and penalties.**

Similar to City's regulation on polystyrene (Styrofoam), plastic straws and stirrers, the Ordinance proposes a phased implementation including education and outreach:

- Beginning on February 1, 2022, and extending through October 31, 2022, the city shall engage in public education efforts to inform residents and landscape maintenance companies of the provisions of this article and to provide assistance with identifying alternatives to gas-powered leaf blowers.
- Beginning on November 1, 2022, the city shall provide for a nine-month warning period through and including July 31, 2023, during which the code compliance department shall issue written warnings for violations of this article.
- Beginning on August 1, 2023, the code compliance department shall fully enforce the provisions of this article.

The City's Environment and Sustainability Department will collaborate with the Marketing and Communications Department on public outreach during the public education phase. Outreach could include targeted communications with property owners and landscaping companies; collaboration with local hardware stores to offer discounts to the community; partnering with a company to create/ sponsor a rebate program; and creating an informational webpage with resources.

In order to help offset the financial burden that residents and businesses may experience during the transition, the administration recommends the creation of a first come, first serve rebate program. The program could be set up temporarily to service a limited number of participants that provide proof of purchase of their electric/battery-powered equipment. This could be funded from the Sustainability Initiatives fund.

SUPPORTING SURVEY DATA

44% of residents are either very satisfied or satisfied with the city's efforts to be a "green" or sustainable city.

CONCLUSION

The Administration recommends the Mayor and City Commission adopt the Ordinance on Second Reading.

Applicable Area

Citywide

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?

Yes

Does this item utilize G.O. Bond Funds?

No

Strategic Connection

Environment & Infrastructure - Reduce greenhouse gas emissions and heat.

Legislative Tracking

Environment and Sustainability

Sponsor

Commissioner Mark Samuelian and Co-sponsored by Commissioners Fernandez, Richardson and Meiner

ATTACHMENTS:

Description

- Attachment A: Sustainability Committee Motions
- Ordinance

MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

Alina T. Hudak, City Manager

Tel: 305-673-7010, Fax: 305-673-7782

NO. LTC # **423-2021**

LETTER TO COMMISSION

TO: Mayor Dan Gelber and Members of the City Commission

FROM: Alina T. Hudak 

DATE: October 4, 2021

SUBJECT: Sustainability Committee Motions

The purpose of this Letter to Commission is to provide you the motions made at the Sustainability Committee meeting held on September 30, 2021.

Attachment: Sustainability Committee Motions


ATH/AK/ESW/YP

City of Miami Beach Sustainability Committee

Members

Margarita Kruyff • Mike Gibaldi • Sarah Kott • Jason Koslowe • Santiago Tarditi • Jeremy Waks • Daniel Robles

TO: Mayor Dan Gelber and Members of the City Commission
FROM: Margarita Kruyff, Sustainability Committee Chair
DATE: October 4, 2021
SUBJECT: Sustainability Committee Motion

Dear Mayor and Honorable City Commission,

The Sustainability Committee met on September 30, 2021 and passed the motions below:

- In accordance with the City of Miami Beach's commitment to being a plastic free city, the Sustainability Committee recommends that the Miami Beach Commission require the awarded vendor(s) of the new beverage sponsor contract to be completely plastic free.

An overwhelming majority of items found in our beaches, waterways and coasts are plastics. During the most recent International Coastal Cleanup Day, 83% of all litter items collected in Miami-Dade County were single-use plastics. In addition to its low rate of recyclability and effects on wildlife, plastic is made of fossil fuels and negatively impacts the environment through the creation of greenhouse gases emissions in the form of carbon dioxide (CO²).


For these reasons, among others, Miami Beach is asking businesses to take action toward reducing plastics from their establishments and should lead by example.

- The Sustainability Committee recommends that the Miami Beach Commission, consistent with actions taken by hundreds of cities and counties nationwide and consistent with City's goal to reduce greenhouse gas emissions, pass an ordinance banning the use of gas-powered leaf blowers throughout the City of Miami Beach.

Gas powered leaf blowers have been shown to be highly detrimental to the environment. In addition, there are adverse health effects associated with the exhaust gas and noise. Electric leaf blowers would still be allowed as long as the device produces no more than 65 db.

A grace period of one year before imposing penalties on businesses or residents is suggested.

Sincerely,



Margarita Kruyff
Chair, Sustainability Committee