

Staff Report for Proposed Ordinance P-25, Leaf Blower Restriction Ordinance

Executive Summary:

In an effort to help Maricopa County attain the National Ambient Air Quality Guidelines for particulate matter less than 10 microns (PM₁₀), the Arizona Legislature passed Senate Bill 1552 which includes a number of measures designed to reduce PM₁₀ emissions. One of these measures directed Maricopa County to adopt, implement and enforce an ordinance (by March 31, 2008) that restricts the use of leaf blowers (Arizona Revised Statutes (ARS) §11-877(A)(2)). In response to this legislation, the Maricopa County Department of Air Quality (MCAQD) has crafted ordinance P-25, Leaf Blower Restriction Ordinance. MCAQD held two public workshops (August 23, 2007 and September 20, 2007) to inform stakeholders of the pending ordinance and to allow for comment on the ordinance. The result of those workshops produced the ordinance that is pending and awaiting Board approval. The following sections describe the critical aspects and details of the proposed ordinance.

Legal Authority and Structure of Ordinance:

ARS §11-877(A)(B) clearly outlines the applicability and purpose of the ordinance. The ordinance applies to all areas within Area A that fall within Maricopa County borders. The ordinance has two purposes: (1) prohibit the blowing of landscape debris into public roadways; and (2) prohibit the operation of leaf blowers on any surface that is not stabilized. The ordinance applies to any person (public or private) operating a leaf blower, at any time. Sites that have been issued a permit for the control of fugitive dust have been exempted from this ordinance (ARS §11-877(B)), as the issued permit would regulate the proper use of leaf blowers at such sites.

Given the straightforward nature of the legislation as outlined above, MCAQD sought to faithfully replicate these requirements in the proposed ordinance while including a civil penalty structure for violations of the ordinance. As such the ordinance is divided into four sections: (1) purpose and applicability; (2) definitions; (3) restrictions and violations; and (4) exemptions.

Public and Private Impact of Ordinance:

The ordinance is broad in scope as it applies to any person operating a leaf blower within the Maricopa County borders of Area A (most of the County east of 355th Ave). As such, individual private users (i.e., homeowners), landscaping companies, and public employees (i.e., County maintenance workers) are all subject to the provisions of the ordinance. The main impact of this broad provision will be to induce a change in the work practices of leaf blower operators. Operators will no longer be allowed to blow landscape debris into a street or use leaf blowers on an unstabilized surface, such as bare soil.

These ordinance requirements are anticipated to have limited to insignificant economic impacts for the leaf blower operator. Since the leaf blower ordinance is focused on changing work practices, the main cost to firms that utilize leaf blowers will be costs that are incurred through educating employees in the new practices. Similarly, individual users should have no economic impact beyond the increased time required to modify previous work practices. Violators of the ordinance will incur economic impact through the civil penalty structure. The civil penalty structure included in the ordinance is designed to be similar to other existing MCAQD ordinances. A first violation of the ordinance results in a warning notice, while the second incurs a \$50 fine; the third a \$100 fine; and the fourth and subsequent violations result in a \$250 fine.

PM₁₀ Reductions and Health Impacts of the Ordinance:

MCAQD estimates that leaf blowers produce 843 tons of PM₁₀ annually in the PM₁₀ nonattainment area (MCAQD, 2007). This represents approximately one percent of all PM₁₀ emissions in the nonattainment area. The Leaf Blower Restriction Ordinance will reduce emissions in two ways: (1) by prohibiting the blowing of debris into public roadways, there is less material that can become “re-entrained” by vehicles driving over the debris, causing the debris to become airborne PM₁₀ emissions; and (2) by prohibiting the use of leaf blowers on unstabilized surfaces, there is less production of PM₁₀ emissions from these surfaces. Reductions of PM₁₀ emissions will help to improve public health, as recent literature shows that exposure to elevated PM₁₀ levels can cause increased occurrences of asthma and limit circulation functions (Lin et. al., 2002; Gent et. al., 2003).

Public Comment and Participation:

As mentioned earlier, MCAQD held two workshops (August 23, 2007 and September 20, 2007) to solicit stakeholder comments on the proposed ordinance. There were two main categories in which public comment and discussion were focused: (1) definitions; and (2) enforcement. In regards to definitions, MCAQD received the most comments regarding the definitions of “landscape debris” and “public roadway”. MCAQD strove to define landscape debris in a clear and comprehensive way, so that all debris associated with landscapes is captured by the definition. MCAQD believes the current definition (“Debris generated or accumulated as a result of, or moved in the course of, landscape operations. Landscape debris includes, but is not limited to, grass clippings, leaves, branches, vegetative matter, rubbish, soil and rock.”) accomplishes that purpose. MCAQD also received comments focused on the definition of a public roadway. In response, MCAQD adopted an established definition of a public roadway as

used in ARS §28-5201(11) to avoid as much confusion as possible as to whether a roadway is private or public.

With regards to enforcement MCAQD received two main comments. The first focused on who can legally enforce the ordinance. MCAQD has the authority to allow all types of County officers to enforce the ordinance; as such, MCAQD framed the wording about enforcement to read, “When the **Enforcement Officer** [instead of Control Officer, which just applies to MCAQD personnel] has reasonable cause to believe that any person has violated...” This makes it clear that both MCAQD inspection personnel and any other Maricopa County officer (i.e., sheriff deputy) can enforce the ordinance. Secondly, MCAQD received comments from industry and landscaping firms about who is classified as a “person” under the ordinance. MCAQD maintains the right to interpret “person” broadly (as is done in other MCAQD rules and ordinances) to mean both the individual operating the leaf blower and as well as the company for which that individual may be working. Thus, a violation of this ordinance can be issued to both an individual and the company that individual is working for or contracting services for.

After addressing these comments, MCAQD believes the ordinance is ready for approval and adoption by the Board of Supervisors.

References:

- Gent, J. F., Triche, E. W., Holford, T. R., Belanger, K., Bracken, M. B., et.al. (2003) Association of low-level ozone and fine particles with respiratory symptoms in children with asthma. *JAMA*, 290(14), 1859-1867.
- Lin, M., Chen, Y., Burnett, R. T., Villeneuve, P. J., & Krewski, D. (2002). The influence of ambient coarse particulate matter on asthma hospitalization in children: Case-crossover and time-series analyses. *Environmental health perspectives*, 110(6), 575-581.
- Maricopa County Air Quality Department (MCAQD). (2007). *2005 Periodic Emissions Inventory for PM₁₀ for the Maricopa County, Arizona, Nonattainment Area*

**MARICOPA COUNTY
P-25 LEAF BLOWER RESTRICTION ORDINANCE**

SECTION 1 - GENERAL

- A. PURPOSE
- B. APPLICABILITY

SECTION 2 - DEFINITIONS

- A. AREA A
- B. ENFORCEMENT OFFICER
- C. LANDSCAPE DEBRIS
- D. LEAF BLOWER
- E. PERMITS FOR THE CONTROL OF FUGITIVE DUST FROM DUST GENERATING OPERATIONS
- F. PERSON
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SECTION 3 - REQUIREMENTS

- A. RESTRICTED OPERATION OF A LEAF BLOWER
- B. VIOLATIONS, NOTICES AND PENALTIES

SECTION 4 - EXEMPTIONS

- A. SITES WITH PERMITS FOR THE CONTROL OF FUGITIVE DUST FROM DUST GENERATING OPERATIONS

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Adopted xx/xx/08

**MARICOPA COUNTY
P-25 LEAF BLOWER RESTRICTION ORDINANCE**

SECTION 1 - GENERAL

- A. PURPOSE:** The Leaf Blower Restriction Ordinance prohibits the use of leaf blowers for the following activities:
1. Blowing of landscape debris into public roadways; and
 2. Operating leaf blowers on surfaces that have not been stabilized.
- B. APPLICABILITY:** The Leaf Blower Restriction Ordinance applies to the operation of leaf blowers in sections of Area A that are within Maricopa County, including those areas within incorporated cities and towns in such sections.

SECTION 2 - DEFINITIONS: For the purpose of this ordinance, the following definitions shall apply:

- A. AREA A –** As defined in Arizona Revised Statutes (ARS) §49-541(1), the area in Maricopa County delineated as follows:
- Township 8 North, Range 2 East and Range 3 East
Township 7 North, Range 2 West through Range 5 East
Township 6 North, Range 5 West through Range 6 East
Township 5 North, Range 5 West through Range 7 East
Township 4 North, Range 5 West through Range 8 East
Township 3 North, Range 5 West through Range 8 East
Township 2 North, Range 5 West through Range 8 East
Township 1 North, Range 5 West through Range 7 East
Township 1 South, Range 5 West through Range 7 East
Township 2 South, Range 5 West through Range 7 East
Township 3 South, Range 5 West through Range 1 East
Township 4 South, Range 5 West through Range 1 East
- B. ENFORCEMENT OFFICER –** Any officer of Maricopa County that has authority to enforce County rules, regulations and ordinances.
- C. LANDSCAPE DEBRIS –** Debris generated or accumulated as a result of, or moved in the course of, landscape operations. Landscape debris includes, but is not limited to, grass clippings, leaves, branches, vegetative matter, rubbish, soil and rock.
- D. LEAF BLOWER –** Any device that generates a stream of air that is designed, or used, to move landscape debris.

- E. PERMITS FOR THE CONTROL OF FUGITIVE DUST FROM DUST GENERATING OPERATIONS** – Any site that has been issued a permit by the Control Officer as required by Rule 200§305 of the Maricopa County Air Pollution Control Rules and Regulations.
- F. PERSON** – Any individual, public or private corporation, company, partnership, firm, association or society of persons, the Federal Government and any of its departments or agencies, or the State and any of its agencies, departments, or political subdivisions.
- G. PUBLIC ROADWAY** – Any street, alley, road, highway or thoroughfare of any kind that is used by the public or that is open to the public as a matter of right, including those roadways within gated communities, for the purpose of vehicular travel.
- H. STABILIZED SURFACE** – As defined in ARS §11-877(A)(3), stabilized surfaces are surfaces that have been treated with asphaltic concrete, cement concrete, hardscape, penetration treatment of bituminous material and seal coat of bituminous binder and a mineral aggregate, decomposed granite cover, crushed granite cover, aggregate cover, gravel cover, grass or other continuous vegetative cover, or any combination of these stabilizers.

SECTION 3 - REQUIREMENTS

A. RESTRICTED OPERATION OF A LEAF BLOWER:

1. A person shall not operate a leaf blower in a manner that causes landscape debris to be blown into a public roadway.
2. A person shall only operate leaf blowers on a stabilized surface.

B. VIOLATIONS, NOTICES, AND PENALTIES:

1. When the Enforcement Officer has reasonable cause to believe that any person has violated or is in violation of any provision of this ordinance, the Enforcement Officer shall issue, for the first violation of this ordinance, a warning notice stating which requirement of the ordinance was violated.
2. The Enforcement Officer may impose a civil penalty of \$50 for the second violation of this ordinance. Upon a third violation of this ordinance, the Enforcement Officer may impose a civil penalty of \$100. After the fourth and subsequent violations of this ordinance, the Enforcement Officer may impose a civil penalty of \$250.

SECTION 4 - EXEMPTIONS

- A. SITES WITH PERMITS FOR THE CONTROL OF FUGITIVE DUST FROM DUST GENERATING OPERATIONS:** Any site that has been issued a permit by the Control Officer for the control of fugitive dust from dust generating operations is exempt from all sections of this ordinance.