

Gas Leaf Blower Ordinance Enforcement

A Solved Problem

November 7, 2025

Recognizing that requiring code enforcement to witness gas leaf blower violations is both unnecessary and ineffective, it only makes sense to update San Mateo's enforcement procedures to include using citizen affidavits for gas leaf blower prohibition enforcement. The same solution to gas leaf blower enforcement is in use in Washington DC, Montgomery County, Maryland, and Burlingame, California.

In California, a city's ability to issue a citation for an ordinance breach isn't limited to any single type of evidence. What matters most is whether the issuing authority has probable cause—a reasonable basis to believe that the violation actually occurred.

For some kinds of violations - such as a building code issue - evaluation by a qualified expert is the only option. But anyone can identify a gas leaf blower, so an expert's inspection isn't necessary.

Many significant code violations would also go unseen and uncorrected, if not for resident complaints. That is why the City of San Mateo provides an online form for that purpose. Notably, one of the options on that form is a "noise issue."

Gas leaf blower violations are fleeting, making it especially difficult for code enforcement to witness one. Gas leaf blowers are also straightforward to identify. They announce their presence for blocks in every direction. San Mateo residents are very familiar with them, which is a key reason we're prohibiting them in the first place.

The City of San Mateo can even improve on those cities' procedures with automation and tailored messaging. But we are stuck on objections to using them that are more about perception than substance.

This is not merely "tattle telling." The City of San Mateo has decided to prohibit gas leaf blower use within the city limits because they are dangerous, especially to the workers who use them every day. Gas leaf blower emissions contain huge volumes of toxic substances that can remain suspended in the air for hours or even days, spreading through entire neighborhoods. Reporting a gas leaf blower violation is not about some aesthetic nuisance, such as the laundry rules in the

San Mateo Municipal Code, but about eliminating a serious safety hazard that affects the worker, the property owner and bystanders. Privacy concerns should be weighed against evidence requirements. Photos of the violation are not necessary. A witness statement alone can be enough to establish probable cause- if the City of San Mateo decides it does.¹

Would the San Mateo City Council trust some to obey the gas leaf blower prohibition, but not others to judiciously report violations? What would cause more pain and conflict, a dangerous, prohibited activity that harms potentially dozens of people at a time, or reporting that dangerous, prohibited activity so it can be stopped?

A knock-on effect of using citizen affidavits is to encourage voluntary compliance. If it is very difficult to get away with using a gas leaf blower, it is much less likely someone will try. The violation never occurs in the first place, tempers never flare, and no code enforcement is necessary. Win win win.

The drawback to citizen affidavits is the possibility of a witness mistaking an electric leaf blower for a gas leaf blower. Electric leaf blowers can be quite loud, so it is understandable that someone might forget to check for a gas tank. No process is perfect, so, of course, every respondent will be given dispute options.

The respondent can provide video of the electric leaf blower in use at the place and time indicated in the complaint. People are commonly and legally recorded without their consent in San Mateo, often with doorbell and other surveillance cameras. There's a fair chance the property owner could dispute the gas leaf blower citation using that video evidence.

Alternatively, the respondent can schedule an on-site inspection with City of San Mateo code enforcement to show the electric leaf blower that was mistaken for a gas leaf blower. If the code enforcement officer is satisfied, the complaint is closed, perhaps with a warning that repeated complaints could result in a fine.

Now, perhaps the respondent really did use a gas leaf blower, but now has purchased an electric leaf blower they will use from now on, for the sake of avoiding a fine. It would be hard for the code enforcement officer to know the difference. But perhaps we aren't concerned about that loophole. After all, the goal of gas leaf blower enforcement is not punishment but change. We want

¹ The California state statutes (e.g., Cal. Civ. Code §§ 1714-1725) require that the officer or authorized official have **reasonable grounds** to believe the violation took place before a citation can be issued. Reasonable grounds can be established through direct observation, sworn statements, photographs, or video recordings.

every worker to end their work day less tired, smelling less of exhaust, and more able to engage with friends and family. If the gas leaf blower is gone, we have achieved our enforcement goal.

Much depends on the implementation details, but these can be worked out publicly, legally, and fairly.

Citizen affidavits are a modest change that helps us use code enforcement resources wisely. If we meet the gas leaf blower enforcement challenge with courage and imagination, we will be successful.

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