

PRINCE GEORGE'S COUNTY COUNCIL
COMMITTEE REPORT
2018 Legislative Session

Reference No.: CB-18-2018

Draft No.: 2

Committee: TRANSPORTATION, HOUSING AND ENVIRONMENT

Date: SEPTEMBER 13, 2018

Action: FAVORABLE (A)

REPORT:

Committee Vote: Favorable with Amendments, 3-0 (In favor: Turner, Lehman, and Taveras)

The Legislative Officer summarized the purpose of CB-18-2018 Draft 2 and explained the proposed amendments.

The sponsor indicated that this is the third committee for consideration of CB-18-2018 Draft 2. The legislation supplements the County's noise policy adding critical elements lacking in the County's current policy; providing provision for enforceability.

Major William Alexander, Prince George's County Police Department, and William Edelen, Department of Permitting, Inspections and Enforcement (DPIE) provided additional information and responses to committee questions.

The DPIE representative indicated that they currently have one (1) noise meter. Several staff are trained on how to utilize the meter and indicated a need to train additional staff. It was further stated that to accommodate the requirements cited in CB-18-2018 Draft 2; the agency will need additional manpower, purchase equipment, address safety concerns, and nuisance abatement – accommodate additional hearings needed.

They currently have several early mornings and late-night properties (to include commercial and residential) that are routinely inspected for noise violations.

If a case must go to the Nuisance Abatement Board, DPIE sometimes utilize the Police Department service call and report.

The Bill sponsor indicated that revenue was added to the budget for purchasing of decibel readers and training.

The Police Department representative wasn't sure how many meters readers they currently have.

The proposed amendments are noted below and include all amendments to the original Draft 1 of the Bill:

1. On page 3, in line 5, after “individual” insert “over a period of time.”
2. On page 3, in line 9, after “comfort,” insert “quality of life”.
3. On page 3, in line 11, after “noise” insert: “or (d) exceeds the objective standards of this Division”.
4. On page 3, strike line 29, and substitute:

(20) Commercial means anything other than a residential zone or industrial zone as set forth in Subtitle 27.

(21) “Industrial Zone means any property that has been zoned industrial.”

5. On page 4, in line 7, revise the table to be consistent with Table 1 of Section 26.02.03.02, Environmental Noise Standards of the Code of Maryland Regulations.

Maximum Allowable Noise Levels (dBA) for Receiving Land Use Categories

Day/Night	Industrial	Commercial	Residential
Day	75	67	65
Night	75	62	55

6. On page 4, in line 11, after “time” insert “Impulsive noise may include, for example, noise from weapons fire, pile drivers, or punch presses.”

7. On page 4, in line 15, after “disturbance.” Insert:

(c) Examples. The following examples illustrate common noise-producing acts that violate this section if they exceed the noise level standards set in subsection (a) or create a noise disturbance. The examples are illustrative only and do not limit or expand the noise level or noise disturbance standards of this section:

- (1) Sounding a horn or other signaling device on any motor vehicle on private property

except:

(A) in an emergency; or

(B) as a danger warning signal during daytime hours if the device complies with noise

level limits.

(2) Operating a sound-producing device on public streets for commercial advertising or to attract public attention.

(3) Selling anything by outcry.

(4) Loading, unloading, opening, closing or otherwise handling containers, building materials, construction equipment, or similar objects.

- (5) Operating a device that produces, reproduces, or amplifies sound.
- (6) Allowing an animal to create a noise disturbance.
8. On page 4, in line 26, after “(d)” insert: “an outdoor event”.
9. On page 5, in line 9, strike “10:00” and substitute “9:00”.
10. On page 5, after line 20, insert “(c) Violations of this Section may be reviewed by the Administrative Court as established in Subtitle 13, Division 15.”
11. On page 5, in line 11, strike “that is more stringent than this Division”.
12. On page 5, in line 31, strike “three” and substitute “two”.
13. On page 6, in line 8, strike “5 p.m.” and substitute “6 p.m.” and in the same line, strike “weekdays”.
14. On page 8, in line 1, insert:
“(b) If the Department adopts regulations based on currently accepted standards of recognized organizations referenced in subsection(s), a prima facie violation may be established by the Department utilizing a commercially available noise meter that complies with the standards in subsection (a).”

July 12, 2018

Committee Report

CB-18-2018 Held in Committee for further consideration.

CB-18-2018 was held in committee on July 12, 2018 for further consideration. CB-18-2018 supplements the County noise policy; defines certain terms; provides generally for noise levels; provides for noise levels for construction; provides for waivers; provides for exception; provides for enforcement and penalties and provides for certain civil citations; and generally regarding noise control.

Legislative Officer defined the purpose of the Bill and provided an overview of the amendments described in Draft 2.

The sponsor indicated that CB-18-2018 Draft 2 will put into place strong and enforceable noise regulations in the County.

The Office of the County Executive Liaison, Nathaniel Tutt indicated support of the Bill if the impacted agency’s concerns have been addressed in the proposed amendments.

The Office of Audits and Investigations determined that enactment of CB-18-2018 Draft 2 may have positive impact on the County related to the increase in the fine for a violation, the ability to recover costs when issuing a violation, and the ability of an enforcement officer to issue a civil citation to violators. An amount, if any, cannot be estimated now.

The DPIE representative participated in the committee work session explaining the process when a noise complaint is received and provided responses to the committee members questions. The DPIE representative indicated that between 10 and 12 cases have been referred to Nuisance

Abatement within a year and half. While these complaints may have involved noise; they weren't just noise complaints.

The DPIE representative indicated the need for inspectors and that currently the agency purchased two (2) noise meters. A Council Member suggested that a fiscal note be provided on purchasing meters.

DPIE expressed enforcement concerns with the Section of the Bill pertaining to "Temporary Waiver." This section allows for the Director to waive any part of this Division for a temporary event if the noise the event will create or cause more than the limits established under this Division is offset by the benefits of the event to the public.

The DPIE representative indicated that the Public Hearing/notification should be the responsibility of the developer and not the agency as reflected in the "Temporary Waiver" section of CB-18-2018 Draft 2.

Andre Gingles, Esq., Gingles, LLC provided testimony expressing areas of concern. He shared four (4) major concerns referred by representatives/clients with existing or proposed development in the County. Written correspondence was provided by the speaker.

Marcus Jackson, MBIA, spoke in support of the Bill indicating that he was currently working with DPIE regarding changes.

Roger McClain, (Laurel resident) spoke in support of the Bill explaining that there is constant noise in his community coming from a commercial establishment.

Written correspondence was submitted by Bernadine Karns requesting that language be modified reflecting the distance from the source of noise. The Bill currently reads that "Construction noise levels must be measured at the location, at least 50 feet from the source, on a receiving property where noise from the source is greatest."

Emails were received in support of the intent of the Bill and offered suggestions to further strengthen it: concerns with raising of the sound levels in residential areas to 62 db by day and 55 db by night and also concerns with the time periods of day and night.

June 7, 2018

Committee Report

Held in Committee

CB-18-2018 was held in committee for further consideration.

Chair Glaros, Bill Sponsor, provided a legislative history of the County noise control legislation. The Chair indicated that these regulations were, in part, derived from State regulations and Montgomery County regulations. The Chair provided that the purpose of the bill is to establish a noise control law that consists of objective measures that is enforceable.

The Office of the County Executive Liaison, Nathaniel Tutt, indicated that the Executive Branch was currently receiving information from agencies regarding the bill and that there was no position on the legislation at that time.

The Deputy Director of the Department of Permitting, Inspections and Enforcement, Gary Cunningham and Bill Edelen spoke on behalf of the agency. Gary Cunningham provided that the Bill could more clearly define the operational responsibility shared by the Department of Permitting, Inspections and Enforcement, the Prince George's County Police Department, and Animal Control. They also discussed staffing and equipment needs of the noise control program.

AOBA representative, Ron Wineholt, indicated that he had met with the Chair last week and that he had two concerns. He stated that notice to the landlord or owner should take place after two citations rather than after three citations as indicated in the bill. Further, he indicated that on page four in lines 8-9 of the bill, the terms "discrete tone" and "impulsive noise" should be defined. Speaking on behalf of clients, Andre Gingles, summarized the points made in his written testimony. These points focused on: (1) mixed uses and the potential consequences of nonresidential uses being negatively impacted; (2) construction of residential and nonresidential development in mixed use projects could negatively impact nonresidential construction; (3) use of two land use categories; namely, residential and nonresidential, rather than the use of three land use categories; namely, residential, commercial, and industrial should be avoided; and (4) any change in the noise level requirements for already approved projects should be grandfathered.

Sarah Cavitt, representing IHHAAC, spoke in support of the Bill. Ms. Cavitt spoke about incidents regarding violation of current noise restrictions. She indicated that a group of over 200 motorcyclists rode through adjacent property at 4:00 a.m. and the Prince George's County Police and the Park Police responded. She provided that a neighboring establishment produces excessive noise on weekend nights from 3:00 a.m. to 4:00 a.m., and that it would be helpful to have a noise meter to document the noise level.