

PRINCE GEORGE'S COUNTY COUNCIL

COMMITTEE REPORT

2024 Legislative Session

Reference No.:	CB-082-2024
Draft No.:	2
Committee:	COMMITTEE OF THE WHOLE
Date:	10/22/2024
Action:	FAVORABLE (A)

REPORT: Committee Vote: Favorable, as amended, 9-0 (In favor: Chair Ivey, Council Members Blegay, Burroughs, Dernoga, Fisher, Harrison, Olson, Oriadha, and Watson)

The County Council convened as the Committee of the Whole on October 1, 2024, to consider CB-082-2024. The Committee of the Whole also convened on October 22, 2024, to discuss CB-082-2024 (Proposed DR-2). The PHED Committee Director summarized the purpose of the legislation and informed the Committee of written comments received on referral. As presented on September 17, 2024, Draft-1 amends the Prince George's County Code to prohibit linear lights in commercial storefronts to reduce the harmful effects of light pollution on Prince George's County residents and neighborhoods.

The Budget and Policy Analysis Division provided a fiscal and policy note stating that the proposed legislation will likely have an adverse fiscal impact. The Department of Permitting, Inspections and Enforcement (DPIE) will incur additional duties, which include responding to, following up on, and spot-checking complaints from staff about commercial properties utilizing linear lighting.

Increased community aesthetic cohesion, improved quality of life for residents, and possibly higher property values in neighborhoods bordering business districts and commercial properties could have a favorable indirect impact on the County. Increased property values can increase total tax revenue for the County to pay for improved services for its residents.

Ms. Dinora Hernandez from the Office of Law discussed that, because of its broadness, there may be issues with enforcing and interpreting the definition of "linear lighting."

Ms. Sakinda Skinner, County Council Liaison with the County Executive's Office, stated she believes the Administration wants to deter businesses that have lights that flash at certain hours of the day. The Administration also had questions regarding the broadness of the definition of "linear lighting." Ms. Skinner explained that enforcing violators if the legislation is enacted as drafted would be difficult.

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Council Member Oriadha, the bill sponsor, spoke about LED lights on commercial properties and how the lighting can be seen in all councilmanic districts. The legislation addresses concerns regarding LED lights framing windows across strip malls. The second goal is to empower county agencies with the ability to issue fines and regulate them to create better aesthetic design standards and eliminate eye pollution in the community.

Chair Ivey, Council Member Watson, and Chair Harrison thanked Council Member Oriadha for proposing the legislation.

Vice Chair Harrison asked if an applicant applies for a use and occupancy permit. Is there a box to check to state that the applicant will not use linear lights for advertisement? Angie Rodgers, Deputy Chief Administrative Officer for Economic Development from the County Executive's Office, explained she would like DPIE to answer that question. Ms. Rodgers explained that linear light has numerous meanings and that perhaps a definition of nuisance lighting would address Council Member Oriadha's concerns. Vice Chair Harrison recommended an amendment requiring applicants to acknowledge that they do not use linear lighting as advertisement as part of the use and occupancy permits or inspection applications.

Council Member Fisher asked if the legislation intends to prohibit linear lights in windows regardless of whether the lights are turned on. Council Member Oriadha agreed that it would not matter. Council Member Fisher wanted the legislation to clarify that possessing linear lights is a violation.

Council Member Dernoga explained that the definition is narrowed as drafted; it explains what types of lighting are covered. He described his concern with the definition as that possibly some hotels, when constructed, were approved to have certain architectural features outlined by illumination. Council Member Dernoga recommended tying the legislation to the detailed site plan process. Ms. Skinner explained that if DPIE is enforcing the prohibition of liner lights when an applicant applies for a business license, is there a need to require them during a detailed site plan review?

On motion of Council Member Oriadha, seconded by Council Member Fisher, the Committee of the Whole voted 9-0 to hold CB-082-2024.

On Tuesday, October 22, 2024, the Committee of the Whole convened to discuss CB-082-2024 (Proposed DR-2).

Mr. Eric Irving, Fiscal and Legislative Specialist, discussed amendments to the bill. He explained that CB-082-2024 (Proposed DR-2) refines the description to define "framing lights" instead of "linear lights," revises the fine fee structure to a tiered approach, and delays enforcement of the bill for ninety days after enactment.

The amendments are as follows:

On Page 1, Line 3, strike "linear lights" and insert "framing lights."

On Page 1, Line 4, after "neighborhoods," insert "; and providing for certain fines for non-compliance."

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On Page 1, Line 7, strike “Sections 12-231,” and insert “Section.”

On Page 1, Line 11, strike “Sections 13-231 and” and insert “Section.”

On Page 1, strike Lines 15-21 in their entirety.

On Page 2, Line 3-4, strike “Linear lighting is prohibited on all buildings and structures used for commercial purposes” and insert: “Framing lights, whether static or flashing, internal or external, fully or partially framing windows or doors, is prohibited for commercial use. Notwithstanding the fines set forth in Section 13-246 of the County Code, any person who fails to comply with the remedial action set forth in a notice of violation of this subsection shall be subject to the following monetary fines:

(1) A minimum of One Thousand Dollars (\$1,000) upon the initial violation, and
(2) An additional One Thousand Dollars (\$1,000) for each subsequent violation, up to a maximum of Five Thousand Dollars (\$5,000) per property.”.

On Page 2, after Line 4, insert:

“SECTION 2. BE IT FURTHER ENACTED that the Director of the Department of Permitting, Inspections and Enforcement or the Director’s designee shall enforce the provisions of this Act no earlier than ninety (90) calendar days after this Act becomes law.”

On Page 2, Line 5, strike “2” and insert “3”.

On Page 2, Line 13, strike “3” and insert “4”.

Council Member Oriadha met with the Administration to narrow the definition to create better aesthetic design standards for businesses in the County and requested a favorable recommendation on the legislation.

Ms. Lori Parris, Senior Advisor to the DPIE Director, explained concerns with CB-082-2024 (Proposed DR-2) regarding the Office of Law's opinion. The legislation could impact interstate commerce because it prohibits certain types of activity in Prince George's County. There are questions about how DPIE will enforce static or flashing framing lights. Where is the impact if the lights are in a window but in an off position or sitting on the floor? There are safety issues and disparity issues in certain types of businesses.

Ms. Dinora Hernandez stated that the Office of Law noted that local governments generally have the authority to impose regulations regarding aesthetics, public safety, and character of the community if the regulations are part of the County's legitimate interest in preserving appearance, reducing pollution, and maintaining safety the County can enforce its rules. The Commerce Clause typically occurs when state or local laws discriminate or unduly burden interstate commerce. A restriction on framing lights in storefronts would be a land use or safety regulation rather than one that directly affects interstate commerce. The framing of lighting applies equally; it does not raise Commerce Clause issues.

Vice Chair Harrison asked DPIE how to effectuate the needed changes. Ms. Parris explained that the bill does not discuss specific types of businesses; the legislation could apply to a bookstore or a nail salon, perhaps with a narrower definition.

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Council Member Burroughs explained that LED lights are seen and lack aesthetic design standards. Ms. Skinner explained that the solution is for the bill to be discussed more with the police department and economic development stakeholders.

Council Member Oriadha stated that the community is asking about enforcing LED Lights.

On a motion of Council Member Oriadha, seconded by Council Member Blegay, the Committee of the Whole voted 9-0 favorably on the amendments to the bill.

On a motion of Council Member Oriadha, seconded by Council Member Blegay, the Prince George's County Council, sitting as the Committee of the Whole, voted 9-0 favorably on CB-082-2024 as amended.