



Takoma Park City Council Meeting – March 6, 2024 Agenda Item 2

Voting Session

First Reading Ordinance of Amending the City Code to Add a Ban on Combustion Engine-Powered Leaf Blowers

Recommended Council Action

Hold a voting session on proposed ordinance amending the City Code to ban the sale and use of combustion engine-powered lawn equipment and provide guidance to staff regarding additional necessary modifications. Specifically, Council should confirm acceptance or provide policy guidance on the following:

- Effective date (Section 14.12.080.B)
- City residents' access to County reimbursement programs (Section 14.12.080.E)
- Conditions for which a notice of violation is not required prior to the issuance of a municipal infraction citation for the use of a combustion leaf blower (Section 14.12.130.C.3)

Additions to the Code are underlined in the attached draft ordinance.

Context with Key Issues

On September 26, 2023, the Montgomery County Council enacted Bill 18-22: Noise Control – Leaf Removal Equipment – Amendments. The bill amended the County's noise control code (Section 31B) to prohibit the sale and use of combustion engine-powered leaf blowers and leaf vacuums.

Since the City of Takoma Park exempts itself from the provisions of Section 31B of the Montgomery County Code, an Ordinance is required to amend Chapter 14.12 (Noise Control) of the Municipal Code if the City Council wishes to require a similar ban on combustion engine-powered lawn equipment in the City.

The proposed Ordinance is substantively similar to County Bill 18-22 and makes the following amendments to the Code:

- Bans the use of combustion engine-powered leaf blowers and leaf vacuums effective July 1, 2025;
- Outlines a process for issuing a notice of violation or municipal infraction based on receipt of a noise complaint and photographic evidence of the use of banned lawn equipment.

The proposed effective dates in the ordinance mirror the effective dates in Montgomery County Bill 18-22. Unlike the County bill, the proposed Ordinance does not include a potential reimbursement program to assist residents and businesses with the cost of replacing combustion engine-powered equipment with electric equipment. However, it does not preclude City residents from taking advantage of any program established by Montgomery County.

During the February 21, 2024 work session introducing the Ordinance, Council requested guidance on the maximum decibel level in Chapter 14.12, currently 70 dBA. After review, staff do not recommend

lowering the existing maximum decibel level. A 70 dBA level remains consistent with Montgomery County and other jurisdictions. The current maximum decibel level will remain sensitive to background noise in an urban environment while eliminating the loudest noise offenders in combustion engine-powered equipment

Council Priority

Environmentally Sustainable Community

Environmental Considerations

Based on a 2015 study from the US Environmental Protection Agency, gasoline-powered lawn equipment is a large source of localized nonroad gasoline emissions that can include hazardous air pollutants and other contributors to climate change.

Fiscal Considerations

In order to effectively implement the Ordinance, the Code Enforcement Division will allocate outreach and education funding to publicize the impending ordinance changes and provide additional technical assistance to impacted property owners and stakeholders.

Racial Equity Considerations

Per the Montgomery County Office of Legislative Oversight's (OLO) Racial Equity and Social Justice Impact Statement on County Bill 18-22, a ban on combustion engine-powered lawn equipment could narrow racial and social disparities due to the benefits of encouraging electric lawn equipment and the County's proposed rebate program, which City residents would be eligible to use. The full OLO Statement is attached to this memo for review.

Attachments and Links

- Draft Ordinance
- County Council Bill 18-22 Noise Control – Leaf Removal Equipment-Amendments
- Montgomery County Office of Legislative Oversight Racial Equity and Social Justice Impact Statement (Bill 18-22)
- <https://www.epa.gov/sites/default/files/2015-09/documents/banks.pdf>
- <https://pirg.org/maryland/foundation/resources/lawn-care-goes-electric/>

1 Introduced by:

First Reading:

2

Second Reading:

3

Effective Date:

4

5

6 **CITY OF TAKOMA PARK, MARYLAND**
7 **ORDINANCE NO. _____**

8

9 **Amending the City’s Code to Ban the Sale and Use of**
10 **Combustion Engine-powered Leaf Blowers; Provide for the**
11 **Implementation of the Ban Over Time; and Modify the**
12 **Enforcement Provisions to be Consistent with the Ban.**

13

14 **WHEREAS,** Maryland Code, Section 5–202 of the Local Government Article authorizes the
15 legislative body of each municipal corporation in the State of Maryland to pass
16 ordinances that such legislative body deems necessary to assure the good
17 government of the municipality, to protect and preserve the municipality’s rights,
18 property and privileges, to preserve peace and good order, to secure persons and
19 property from danger and destruction, and to protect the health, comfort, and
20 convenience of the citizens of the municipality; and

21 **WHEREAS,** Section 401(a) of the City Charter states that the Council has the power to pass
22 all such ordinances not contrary to the Constitution and laws of the State of
23 Maryland as it may deem necessary for the good government of the City, for the
24 protection and preservation of the City’s property, rights, and privileges, for the
25 preservation of peace and good order, for securing persons and property from
26 violence, danger or destruction, and for the protection and promotion of the
27 health, safety, comfort, convenience, welfare, and happiness of the residents of
28 and visitors in the City; and

29 **WHEREAS,** Section 401(b)(33) of the City Charter states that the legislative powers of the
30 City include the authority to regulate or prohibit noise within the limits of the
31 City; and

32 **WHEREAS,** the City’s 2020 climate emergency response framework identifies eliminating the
33 use of fossil fuel-based leaf blowers as a priority strategy for moving toward net
34 zero greenhouse gas emissions by 2035, and toward a fossil fuel-free community;
35 and

36 **WHEREAS,** the City Council of the City of Takoma Park has determined that prohibiting noise
37 from combustion engine-powered handheld, backpack, or walk-behind leaf
38 blower or leaf vacuum protects and promotes the health, safety, comfort,
39 convenience, welfare, and happiness of the residents of and visitors in the
40 residents of the City of Takoma Park.

41 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**
42 **TAKOMA PARK, MARYLAND THAT:**

1
2 SECTION 1. Title 14, Chapter 12 is amended as follows:

3
4 **Chapter 14.12**
5 **NOISE CONTROL**

6 Sections:

- 7 14.12.010 Declaration of policy.
- 8 14.12.020 Exemption from County Noise Control Ordinance.
- 9 14.12.030 Definitions.
- 10 14.12.040 Regulations.
- 11 14.12.050 Noise level and noise disturbance violations.
- 12 14.12.060 Noise level and noise disturbance standards for construction.
- 13 14.12.070 Measurement of sound.
- 14 14.12.080 Leaf Blowers and other power lawn tools.
- 15 14.12.090 Animals.
- 16 14.12.100 Burglar and vehicle alarms.
- 17 14.12.110 Exemptions.
- 18 14.12.120 Waivers.
- 19 14.12.130 Enforcement and penalties.
- 20 14.12.140 Noise Control Board.

21 **14.12.010 Declaration of policy.**

22 The Council of the City finds that excessive noise harms public health and welfare and impairs
23 enjoyment of property. The intent of this chapter is to control noise sources to protect public health
24 and to allow the peaceful enjoyment of property. This chapter shall be liberally construed to carry
25 out this intent. (Ord. 2016-4 § 1, 2016/Ord. 2002-35 § 1(1), 2002/Ord. 2000-22 § 1(1), 2000)

26 **14.12.020 Exemption from County Noise Control Ordinance.**

27 Pursuant to the authority conferred by Section 4-111(b) of the local government article of the
28 Annotated Code of Maryland and by Section 1-203 of the Montgomery County Code, the City
29 exempts itself from the provisions of Chapter 31B, Noise Control, of the Montgomery County
30 Code, except as expressly set forth in this chapter. (Ord. 2016-4 § 1, 2016/Ord. 2002-35 § 1(2),
31 2002/Ord. 2000-22 § 1(2), 2000)

32 **14.12.030 Definitions.**

33 * * *
34 “Leaf blower” means any portable, handheld or backpack device with a nozzle that creates a
35 directable airstream which is capable of and intended for moving leaves or any other type of
36 unattached debris or materials. “Leaf blower” includes devices or machines that accept vacuum
37 attachments.

38 * * *

1 “Noise” means sound created or controlled by human activity, from one or more sources, or sound
2 from an animal source, heard by an individual.

3 “Noise disturbance” means any steady-state or impulsive noise occurring on either a continuous
4 or intermittent basis that is:

- 5 1. Unpleasant, annoying, offensive, loud, or obnoxious; or
- 6 2. Detrimental to the health, comfort, or safety of any individual or to the reasonable
7 enjoyment of property or the lawful conduct of business because of the loudness, duration, or
8 character of the noise.
- 9 3. A sound level meter measurement is not required to establish a noise disturbance.

10 * * *

11 **14.12.080 Leaf blowers and other power lawn tools.**

12
13 A. Except as provided in this section, a person must not sell, buy, offer for sale, or use a leaf
14 blower at any time that has an average sound level exceeding 70 dBA at a distance of 50 feet. This
15 requirement is in addition to any other noise level or noise disturbance standard that applies under
16 this chapter.

17 B. Effective July 1, 2024, no person shall sell or offer for sale a combustion engine-powered
18 handheld, backpack, or walk-behind leaf blower or leaf vacuum. Upon this ordinance becoming
19 effective, any City of Takoma Park business selling combustion engine-powered handheld,
20 backpack, or walk-behind leaf blower or leaf vacuum, shall warn customers of the future ban on
21 use by posting notice of the ban in a conspicuous location.

22 C. Effective July 1, 2025, no person shall use a combustion engine-powered handheld,
23 backpack, or walk-behind leaf blower or leaf vacuum.

24 CB. The City may inspect, and upon request, a person must produce, any leaf blower that is sold,
25 offered for sale, or used in the City, in order to determine whether the leaf blower complies with
26 this section. A person who relies in good faith on a manufacturer’s written representation of the
27 sound level of a leaf blower that has not been modified is not subject to a penalty for violating this
28 section.

29 DC. No person shall use a leaf blower or other power lawn tool outdoors during the daytime
30 for more than two hours of accumulated time during any 24-hour period on any individual lot or
31 parcel of property and no leaf blower or other power lawn tool shall be used outdoors during the
32 nighttime. (Ord. 2016-4 § 1, 2016/Ord. 2002-35 § 1(8), 2002/Ord. 2000-22 § 1(8), 2000).

33 E. Nothing herein shall be construed as prohibiting City of Takoma Park residents and
34 businesses from participating in a Montgomery County reimbursement program which reimburses,
35 in whole or in part, residents and businesses that purchase non-combustion engine-powered leaf
36 blowers to replace combustion engine-powered leaf blowers.

37 * * *

1 **14.12.130 Enforcement and penalties.**

2 A. Unless a different penalty is stated (see, e.g., subsection (G) of this section and Section
3 14.12.140(F)), a violation of this chapter is a Class C municipal infraction. A second violation of
4 this chapter is a repeat offense. A third and subsequent violations of this chapter, within six months
5 of a previous violation, is a Class A municipal infraction.

6 B. If an enforcement officer finds that a person has violated this chapter, the enforcement officer
7 may issue a notice of violation and correction order to the person. The notice shall include the
8 following information:

- 9 1. The section of this chapter that the person violated;
- 10 2. The date, nature, and extent of the violation; and
- 11 3. The action required to correct the violation.

12 C. A notice of violation and correction order under subsection (B) of this section is not required
13 before a municipal infraction citation for violation of this chapter may be issued. An enforcement
14 officer may issue a municipal infraction citation for a violation of this chapter if the enforcement
15 officer:

- 16 1. Determines that the noise level being generated exceeds the maximum allowable noise
17 level set forth in Section 14.12.050; ~~or~~
- 18 2. Determines that a person has caused or permitted a noise disturbance; or
- 19 3. Receives a noise disturbance complaint outlined in subsection (E) of this section and a
20 photograph of the alleged combustion engine-powered handheld, backpack, or walk-behind
21 leaf blower or leaf vacuum allegedly being used.

22 D. In the event of a noise disturbance or other violation of this chapter created by the use or
23 rental of premises for a music, entertainment, celebration or performance event (whether or not
24 admission is charged), by construction work, or by commercial activity, the enforcement officer
25 may issue a municipal infraction citation to the person who violates the noise control ordinance
26 and/or to the property owner or person responsible for the management, occupancy or supervision
27 of the premises, building, construction site, property or activity from which the noise source
28 originates.

29 E. Noise Disturbance Complaints—Referral to Noise Control Board.

- 30 1. Signed, written complaints of a noise disturbance may be submitted by two or more City
31 residents who reside at separate addresses (see definition of “noise disturbance” in Section
32 14.12.030).
- 33 2. Noise disturbance complaints shall be filed with the City Clerk, on the City’s two-party
34 noise disturbance complaint form, within 10 days of the occurrence of the alleged noise
35 disturbance. Any complaint which is received by the City Clerk more than 10 days after the
36 date of the alleged noise disturbance shall be rejected. The City Clerk shall record the date the
37 noise disturbance complaint is received, assign the complaint a number, and forward the

1 complaint, along with any supporting documentation, to the Noise Control Board (see Section
2 14.12.140).

3 F. The City may seek injunctive or other appropriate judicial relief to stop or prevent continuing
4 violations of this chapter.

5 G. In addition to any other penalty or enforcement action under this chapter, an enforcement
6 officer may shut down an event or activity that is causing a noise disturbance or creating noise that
7 exceeds the maximum allowable noise levels (“event shut down order”) or issue a stop work order
8 or an order to cease the violation to any person who violates any provision of this noise control
9 order. In determining whether to issue an event shut down order, an enforcement officer shall
10 consider such factors as (1) the loudness and duration of the sound from the event or activity, (2)
11 previous complaints of noise at the same venue and/or the particular event or activity, (3) whether
12 the violator cooperates with requests to keep the noise level down and takes action to prevent or
13 mitigate the noise from the event or activity, and (4) the extent to which the noise being made or
14 generated on the premises causes unreasonable annoyance or disturbance to others living or located
15 nearby. Neither the nature of any communicative content of the noise nor the purpose of the event
16 or gathering shall be considered in the issuance of an event shut down order.

17 1. If an event or activity is shut down, the enforcement officer may order any or all persons,
18 except the property owner or tenant-occupant of the premises, to leave the premises where the
19 event or activity is occurring.

20 2. Any person who receives such an event shut down order, stop work order or order to cease
21 the violation shall immediately cease the activity which constitutes the violation. The person
22 shall comply with all terms and conditions imposed by the enforcement officer before the
23 activity may resume.

24 3. Violation of an event shut down order, a stop work order or order to cease the violation is
25 a Class B misdemeanor offense.

26 H. In the event of a rental of premises for a music, entertainment, celebration or performance
27 event (whether or not admission is charged), construction work, commercial activity, or other work
28 for hire, the person who violates this chapter and/or the property owner or person responsible for
29 the management or supervision of the premises, building, construction site, area, property or
30 activity from which the noise source originates are jointly and severally responsible for violations
31 of this chapter and shall abide by any event shut down order, stop work order or order to cease the
32 violation. (Ord. 2016-4 § 1, 2016/Ord. 2002-35 § 1(13), 2002/Ord. 2000-22 § 1(13), 2000)

33 **14.12.140 Noise Control Board.**

34 A. Establishment and Membership.

35 1. A City Noise Control Board is established to assist and advise the City on noise control
36 issues, including administration and enforcement of this chapter, and to adjudicate noise
37 disturbance complaints.

38 2. The Board shall consist of up to seven active members appointed by the Council.

1 B. Hearings on Noise Disturbance Complaints.

2 1. When a noise disturbance complaint under Section 14.12.130(E) is received, the Board
3 shall schedule a hearing on the complaint and give reasonable advance notice of the date, time,
4 and place of the hearing before the Board to the persons who filed the noise disturbance
5 complaint (“the complainant”) and the alleged violator. The alleged violator also shall be
6 served with a copy of the noise disturbance complaint.

7 2. The hearing notice and noise disturbance complaint shall be deemed to be properly served
8 on the alleged violator if the notice and complaint is:

9 a. Delivered to the alleged violator personally;

10 b. Sent by certified mail and the return receipt is returned indicating that the certified
11 mail was received by the alleged violator;

12 c. Left at the alleged violator’s residence or place of business with a person of suitable
13 age and discretion; or

14 d. Mailed by first-class mail to the last-known address of the alleged violator or emailed
15 to the alleged violator and posted in a conspicuous location on the property where the
16 noise disturbance violation is alleged to have occurred.

17 C. Hearing Process.

18 1. The Chairperson of the Board is authorized to designate three active members of the Board
19 to sit as a panel to conduct a hearing on any noise disturbance complaint. The Chairperson of
20 the Board shall endeavor to rotate panel membership from time to time among the active
21 members of the Board. If the parties agree, a hearing may proceed before two members of the
22 Board.

23 2. The hearing shall be open to the public. At the hearing, the complainant and the alleged
24 violator may present testimony and evidence to substantiate any material point. All testimony
25 shall be given under oath or affirmation. Each party shall have the right to cross-examine
26 opposing witnesses, to submit rebuttal evidence, and to present summation and argument. The
27 Board panel also may ask questions of witnesses and enter its own evidence.

28 3. The Board panel may admit and consider evidence which would be commonly accepted
29 by reasonable and prudent people as having a causal relationship to the matter before the Board
30 panel. The Board panel may exclude from evidence irrelevant and repetitious testimony and
31 documents.

32 4. The burden of proof of establishing a violation of the noise control ordinance shall be on
33 the party who filed the noise disturbance complaint and shall be met by a preponderance of
34 the evidence.

35 5. An audio or video record of the hearing shall be made. The record of the case shall consist
36 of the recording and any written documentation accepted into the case file. The record of the

1 case shall be open to inspection by any person. Upon request, the Board shall furnish a copy
2 of the record of the case to any person at the cost of supplying the same.

3 D. Decision of the Board on a Noise Disturbance Complaint.

4 1. After due consideration of the evidence and testimony presented at the hearing, the Board
5 shall issue its decision on the noise disturbance complaint and give notice of its decision to all
6 parties to the case. The Board's decision may be announced orally, following the hearing, or
7 the Board may take the case under advisement and issue a written decision on the noise
8 disturbance complaint within a reasonable time following the hearing.

9 2. In the event that the Board finds in favor of the complainant on the noise disturbance
10 complaint, the Board may order the violator to cease and desist from the conduct or activity
11 which created the noise disturbance and/or to take other corrective action in order to abate or
12 correct the violation of this chapter.

13 E. Appeals from a Board Decision on a Noise Disturbance Complaint. Within 30 days of the
14 issuance of a decision on a noise disturbance complaint, a person who was a party to the
15 proceedings before the Board and who is aggrieved by the decision may file a petition for judicial
16 review in accordance with Title 7, Chapter 200, Judicial Review of Administrative Agency
17 Decisions, of the Maryland Rules of Procedure, as amended.

18 F. Enforcement of Board Decision on a Noise Disturbance Complaint.

19 1. A violator who fails to comply with a Board decision on a noise disturbance complaint
20 may be issued a municipal infraction citation for a Class A offense.

21 2. In addition to any penalty provided herein, compliance with a Board decision may be
22 enforced by any appropriate action, at law or equity, in any court of competent jurisdiction.
23 (Ord. 2021-39 § 8, 2021/Ord. 2016-4 § 1, 2016/Ord. 2007-4, 2007/Ord. 2002-35 § 1(14),
24 2002/Ord. 2000-22 § 1(14), 2000).

25 SECTION 2. If any part of this ordinance is deemed to be invalid, the remaining portions of the
26 ordinance shall continue to be operative.

27 SECTION 3. This ordinance shall become effective immediately upon adoption.

28
29 This Ordinance was adopted this ____ day of March, 2024 by roll-call vote as follows:

30
31 AYE:

32 NAY

33 ABSTAIN:

34 ABSENT

35

Bill No. 18-22
Concerning: Noise Control – Leaf
Removal Equipment - Amendments
Revised: 09/27/2023 Draft No. 5
Introduced: June 28, 2022
Enacted: September 26, 2023
Executive: _____
Effective: _____
Sunset Date: None
Ch. , Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN ACT to:

- (1) prohibit the sale and use of combustion engine-powered leaf blowers and leaf vacuums by a certain date;
- (2) authorize a grant program to partially offset the cost of replacing a combustion engine-powered leaf blower or leaf vacuum with an electric leaf blower or leaf vacuum;
- (3) exempt from the prohibition against use of gas leaf removal equipment for agricultural producers;
- (4) require an annual report by the Department of Environment; and
- (5) generally~~ly~~, ~~revise~~ amend the law regarding noise control.

By amending

Montgomery County Code
Chapter 31B, Noise Control
Sections 31B-9, 31B-10, and 31B-12

| | |
|------------------------------|--|
| Boldface | <i>Heading or defined term.</i> |
| <u>Underlining</u> | <i>Added to existing law by original bill.</i> |
| [Single boldface brackets] | <i>Deleted from existing law by original bill.</i> |
| <u>Double underlining</u> | <i>Added by amendment.</i> |
| [[Double boldface brackets]] | <i>Deleted from existing law or the bill by amendment.</i> |
| * * * | <i>Existing law unaffected by bill.</i> |

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Sections 31B-9, 31B-10, and 31B-12 are amended as follows:**

2 **31B-9. [Leafblowers] Leaf removal equipment.**

3 * * *

4 (e) Sale of combustion leaf removal equipment – prohibited. A person must
5 not sell or offer for sale a combustion engine-powered handheld,
6 backpack, or walk-behind leaf blower or leaf vacuum.

7 (f) Use of combustion leaf removal equipment – prohibited. A person must
8 not use a combustion engine-powered handheld, backpack, or walk-
9 behind leaf blower or leaf vacuum.

10 (g) Reimbursement. Subject to an appropriation by the County
11 Council,[[The]] the Director [[may]] must establish a time-limited
12 program based on criteria set by regulation to partially reimburse County
13 residents and businesses that purchase electric leaf blowers or leaf
14 vacuums [[to replace combustion engine-powered leaf blowers or leaf
15 vacuums]].

16 [[~~(1)~~] (h) Application for reimbursement. To receive reimbursement under
17 subsection (g), [[an owner of a combustion engine-powered leaf blower
18 or leaf vacuum]] an applicant must apply to the Director in a form
19 prescribed by the Director [[and deliver the combustion engine-powered
20 leaf blower or leaf vacuum to the County]].

21 (i) Regulations. Not later than March 30, 2024, the County Executive must
22 transmit to the Council Method (1) regulations to establish the
23 reimbursement program under subsection (g).

24 [[~~(h)~~] (j) An enforcement officer may issue a civil citation under this Section if the
25 Director receives a complaint of a noise disturbance supported by
26 photographic evidence of a violation of subsection (f).

27 (k) Annual reporting. By February 1 of each year, the Director must submit
28 to the Council an annual report for the preceding year on the successes or
29 challenges of the reimbursement program, outreach activities, statistical
30 data related to enforcement, new technology trends for electrification of
31 lawn care equipment, and any recommended changes to the law or
32 operating budget. The Council may request the Director to provide
33 additional information, as needed.

34 **31B-10. Exemptions.**

35 * * *
36 (c) Section 31B-9 of this Chapter does not apply to agricultural producers
37 located on agriculturally assessed properties where farming or
38 agricultural use and activities are permitted under Article 59, Section
39 3.2.6 of the Zoning Ordinance.

40 **31B-12. Enforcement and penalties.**

41 * * *
42 (f) Except as provided in Section ~~[[31B-9(h)]]~~ 31B-9(j), [An] an
43 enforcement officer may issue a civil citation for any violation of this
44 Chapter if the enforcement officer:
45 (1) witnesses the violation; or
46 (2) receives complaints from at least 2 witnesses of a noise
47 disturbance.
48 Complaints by 2 witnesses are required to issue a citation under
49 paragraph (2), but are not required to prove that a person violated this
50 Chapter.

51 * * *
52 **Sec. 2. Effective date; staggered implementation.** The prohibition against
53 sales under subsection (e) of Section 31B-9, added under Section 1 of this Act, must

54 take effect ~~[[6 months after the Act becomes law]]~~ on July 1, 2024. The prohibition
55 against use under subsection (f) of Section 31B-9, added under Section 1 of this Act,
56 must take effect ~~[[1 year after the Act becomes law]]~~ on July 1, 2025. ~~[[Subsection (g)~~
57 ~~of Section 31B-9, under Section 1 of this Act, must apply reimbursement only for~~
58 ~~purchases of combustion engine-held leaf blowers or leaf vacuums made before this~~
59 ~~Act becomes law.]]~~

60 **Sec. 3. Required notices.** On or after the effective date of this Act and before
61 the effective date of the prohibition against sales under this Act, a person who sells, at
62 retail, a combustion engine-powered handheld, backpack, or walk-behind leaf blower
63 or leaf vacuum in the County must provide conspicuous notice to the consumer that
64 the leaf blower usage will be prohibited in the County.

Approved:


Evan Glass, President, County Council

September 26, 2023

Date

Approved:

Marc Elrich, County Executive

Date

This is a correct copy of Council action.

Sara R. Tenenbaum, Clerk of the Council

Date

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

BILL 18-22: NOISE CONTROL – LEAF REMOVAL EQUIPMENT – AMENDMENTS

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that Bill 18-22 could narrow racial and social disparities as its benefits to Latinx employees in the local landscaping sector and County residents exceed its costs to local landscape business owners, who are disproportionately Latinx. The anticipated impact magnitude of the Bill on racial equity and social justice (RESJ) in the County is small.

PURPOSE OF RESJ IMPACT STATEMENT

The purpose of RESJ impact statements is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.¹ Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.²

PURPOSE OF BILL 18-22

Current law requires noise levels for leaf blowers to not exceed 70 decibels at a distance of 50 feet.³ The Montgomery County Department of Environmental Protection (DEP), however, finds it is difficult to regulate the noise emanating particularly from gas-powered leaf blowers and vacuums when they no longer have the original manufacturer labels.⁴ They also find that gas-powered leaf blowers have “specific low and high-frequency noise qualities and tones that are highly penetrative and result in noise being two to four times louder than electric plug in or battery-operated options” and these noises can be heard up to 400 feet away.⁵ They further note the adverse health effects of leaf blowers on hearing loss, reduced mental performance and health, and hypertension.⁶ In 2021, there were 62 formal complaints to DEP on leaf blower noise.⁷

Bill 18-22 would change current law by prohibiting the sale of gas-powered handheld, backpack, or walk-behind leaf blowers or vacuums six months after legislation is enacted.⁸ It would also prohibit the use of the same varieties of leaf blowers and vacuums a year after legislation is enacted.⁹ Further, the Bill would authorize DEP to establish a reimbursement program for residents and businesses who purchase electric leaf blowers in exchange for gas-powered leaf blowers and vacuums.¹⁰ Finally, Bill 18-22 would require DEP to have one witness with photographic evidence of a leaf blower violation to issue a noise citation rather than the minimum of two witnesses required under current County statute.¹¹

At the request of the County Executive, Bill 18-22 was introduced to the Council on June 28, 2022.¹²

RESJ Impact Statement

Bill 18-22

ENTREPRENEURSHIP, LANDSCAPE CONTRACTING, LEAF BLOWERS, AND RACIAL EQUITY

Landscape contracting has provided a pathway to opportunity for many Latinx entrepreneurs and employees. While Latinx people, like other people of color, are under-represented among business owners and earn revenue far below their White peers, they are overrepresented in the landscape contracting industry. As such, Latinx people are especially impacted by gas-powered leaf blower laws and regulations. This section describes inequities in business ownership by race and ethnicity, the demographics of the landscaping industry, and the benefits and costs associated with gas-powered leaf blowers to begin to unpack the potential RESJ implications of Bill 18-22.

Business Ownership Inequities. Prior research shows that a variety of factors adversely impact people of color as they consider starting and growing businesses, including disparities in educational attainment, personal wealth, access to mainstream capital, and exposure to entrepreneurship in family and social networks.¹³ For example, a study by the Small Business Administration found that Black- and Latinx-owned businesses are more likely to have been denied credit, to receive only a portion of the funding requested, or to refrain from applying for needed funding out of fear their applications will be rejected.¹⁴ Other factors that explain the disparity in capital include discriminatory lending practices, less wealth to leverage, recent financial challenges, and lower credit scores.¹⁵

Nationally, Black and Latinx residents represent 28 percent of the population, but only 8 percent of the nation's business owners with employees.¹⁶ Available local data also show evidence of disparities in entrepreneurship by race and ethnicity, particularly with respect to revenue. For example, while the 2012 Survey of Business Owners indicated that Black and Latinx firms each accounted for 15 percent of local firms in Montgomery County and Asian firms accounted for 14 percent of County firms, Asian firms accounted for 4 percent of local business revenue, Black firms accounted for 1.7 percent of local business revenue, and Latinx firms accounted for 1.5 percent of local business revenue.¹⁷

More recent local data on self-employed residents also demonstrate disparities in entrepreneurship by race and ethnicity. The 2018 Census data on self-employed residents includes information on residents self-employed in their own incorporated and unincorporated business, professional practice, or farm. As noted in Table 1, White residents were overrepresented among the self-employed compared to their share of the population, while Black, Latinx, and Other residents were underrepresented among the self-employed.¹⁸

Table 1. Representation of Self-Employed Montgomery County Residents by Race and Hispanic Origin, 2018

| Demographic Group | Population | Incorporated | Unincorporated |
|-------------------|------------|--------------|----------------|
| White | 52% | 67% | 59% |
| Black | 19% | 11% | 13% |
| Asian | 15% | 16% | 13% |
| Multiracial | 10% | 5% | 12% |
| Other | 5% | 1% | 3% |
| Non Latinx | 80% | 85% | 84% |
| Latinx | 20% | 15% | 16% |

Source: COVID-19 Recovery Outlook: Minority-Owned Businesses, Office of Legislative Oversight, September 21, 2020

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Demographics of Landscape Contractors. While Latinx-owned businesses are underrepresented in the economy as a whole relative to their share of the population, available data suggests that Latinx-owned businesses are overrepresented in the landscaping industry. For example, a 2011 study by the U.S. Hispanic Chamber of Commerce examining the impact of landscaping and lawn care industry upon the Latinx community found that:¹⁹

- The landscape industry in the U.S. employs almost 1.6 million workers and generates almost 959,000 jobs in other industries. In total, Latinx people accounted for more than 830,000 workers in both categories.
- Latinx workers accounted for 35.2 percent of the landscaping and lawn care services workforce compared to 13.4 percent of all U.S. workers.
- Latinx households earned 25 percent of earnings attributable to the landscape and lawn care industry compared to 8.3 percent of earnings among all households in the U.S. economy.
- Latinx-owned businesses account for 16 percent of businesses in the landscaping industry compared to 8.2 percent of businesses nationwide.
- Latinx-owned businesses in the landscaping and lawn care industry account for 9 percent of total industry receipts compared to 1.2 percent of total receipts across all industries.

Available data suggests that Latinx residents are also overrepresented in the landscaping workforce. For example, 6 percent of all County residents worked in natural resources, construction, and maintenance occupations that include landscaping positions, compared to 21 percent of Latinx residents in 2019.²⁰ Anecdotal evidence also suggests landscape contractor businesses and employment play major roles in providing income and small business ownership opportunities to Latinx residents in the County. Many of these companies are family-owned and operated by recent immigrant or first- and second-generation members of Latinx communities.

Benefits and Costs of Gas-Powered Leaf Blowers. The benefits of gas-powered leaf blowers and vacuums include time and convenience in landscaping. They allow homeowners and professionals to clean landscapes and gutters, to remove debris from and around buildings and to maintain lawns in a shorter time frame than using a rake or broom. Compared to electric-powered leaf blowers, gas-powered leaf blowers can also be time and cost effective. Landscapers and homeowners already have gas-powered leaf blowers and can use them for longer time frames than electric-powered leaf blowers, which require charging and frequent battery changes to cover the same amount of square footage in the same amount of time. In short, gas-powered leaf blowers minimize the short-term costs of maintaining landscapes.

The longer-term costs of gas-powered leaf blowers, however, are significant. In addition to creating noises that can damage hearing, gas-powered leaf blowers also foster air pollution. According to the California Air Resources Board, gas-powered leaf blowers contribute to exhaust emissions that create ozone, carbon monoxide, and fine particulate matter.²¹ Health effects associated with air pollution include “adverse respiratory and cardiovascular effects, including premature death, hospital and emergency room visits, aggravated asthma, and shortness of breath.”²² Population groups at risk to the adverse effects of air pollution include “the elderly, children, and those with chronic illnesses.”²³

Data on mortality and emergency room visits for heart, cerebrovascular, and chronic respiratory diseases suggest that White and Black residents in Montgomery County are at greatest risk for the negative health effects of air pollution. As noted in Table 2, White residents experienced the highest rates of age-adjusted disease mortality for all three chronic diseases between 2017 and 2019. During this same time frame, Black residents experienced the highest rates of emergency room visits for these three chronic diseases. Nevertheless, since the operators of gas-powered leaf blowers are most at risk for their associated adverse health impacts,²⁴ Latinx residents likely experience the most direct health costs associated with gas-powered leaf blowers in the County.

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Table 2. Chronic Disease Mortality, Age-Adjusted per 100,000 Montgomery County Residents by Race and Ethnicity, 2017-19

| Demographic Group | Heart Disease | Cerebrovascular Disease | Lower Respiratory Disease |
|------------------------|---------------|-------------------------|---------------------------|
| White, Non-Hispanic | 198.7 | 41.5 | 33.2 |
| Black, Non-Hispanic | 110.9 | 29.5 | 11.0 |
| Asian/Pacific Islander | 78.1 | 21.5 | 8.0 |
| Latinx/Hispanic Origin | 36.5 | 10.5 | 4.0 |

Source: Healthy Montgomery in Montgomery County, 2010 - 2019

Table 3. Chronic Disease Emergency Room Visits, Age-Adjusted per 100,000 Montgomery County Residents by Race and Ethnicity, 2017-19

| Demographic Group | Heart Disease | Cerebrovascular Disease | Lower Respiratory Disease |
|------------------------|---------------|-------------------------|---------------------------|
| White, Non-Hispanic | 1,846.3 | 20.3 | 525.5 |
| Black, Non-Hispanic | 3,330.1 | 44.8 | 1594.1 |
| Asian/Pacific Islander | 814.6 | 17.2 | 211.2 |
| Latinx/Hispanic Origin | 1,335.3 | 28.2 | 922.7 |

Source: Healthy Montgomery in Montgomery County, 2010 - 2019

ANTICIPATED RESJ IMPACTS

Within the context of racial inequity in entrepreneurship and health outcomes, it is important to consider two questions when considering the anticipated impact of Bill 18-22 on RESJ in the County:

- Who are the primary beneficiaries of this bill?
- What racial and social inequities could passage of this bill weaken or strengthen?

For the first question, OLO considered the demographics of landscape business owners and employees. Landscape employees, who are disproportionately Latinx, are one of the primary beneficiaries of Bill 18-22, followed by the public at large. A ban on gas-powered leaf blowers and vacuums will reduce the health risks to landscape workers associated with loud noises and air pollution from gas-powered leaf blowers. The ban will also reduce the health risks for residents in the County, including BIPOC residents that experience health disparities in cardiovascular and respiratory health.

Available data on business ownership suggests that Latinx business owners could be harmed by the passage of Bill 18-22 as they are likely over-represented among landscape contractors in the County. Their business costs, at least in the short-term, will likely increase as they replace gas-powered leaf blowers with electric ones and allocate additional staff to cover the same amount of landscape currently maintained with gas-powered blowers. The landscape contractors increased costs would in turn primarily impact home- and business-owners in the County, who are disproportionately White. Bill 18-22's authorization of a grant program to partially offset the cost of replacing gas-powered blowers with electric ones, however, will help offset the costs of the gas blower ban on landscaping businesses and their customers.

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For the second question, OLO considered data on entrepreneurship and health disparities. With the concentration of Latinx-owned businesses among landscape contractors and the likely smaller size of these businesses relative to White-owned businesses, Bill 18-22 could widen the revenue gap between Latinx- and White-owned businesses. The reimbursement program, however, could help offset this negative impact on RESJ. The concentration of Latinx employees in landscaping also suggests that Latinx residents could benefit from reduced emissions associated with electric leaf blowers. White and Black residents across the County that experience three chronic conditions most associated with air pollution - heart disease, cerebrovascular disease, and lower respiratory disease – would also benefit from the decline in emissions resulting from the ban on gas-powered leaf blowers.

Taken together, OLO anticipates Bill 18-22 could narrow racial and social disparities in the County as its overall benefits to Latinx employees in the local landscaping sector and to County residents exceed its costs to local landscape business owners, who are disproportionately Latinx. To the extent Latinx business owners are disproportionately harmed, the grant reimbursement program authorized under Bill 18-22 to help defray the cost of replacing gas-powered blowers for electric ones will dampen this harm. Further, OLO anticipates a small impact of Bill 18-22 on RESJ in the County.

RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.²⁵ OLO anticipates that Bill 18-22 could narrow racial and social disparities as the benefits of banning gas-powered leaf blowers, particularly for Latinx landscape employees, exceeds the costs of replacing gas-powered leaf blowers for electric ones among Latinx-owned businesses and other landscape contractors, particularly with the Bill's authorization of a grant reimbursement program. As such, OLO does not offer recommended amendments for Bill 18-22.

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

Elaine Bonner-Tompkins, Senior Legislative Analyst drafted this RESJ impact statement with assistance from Janmarie Peña, Performance Management and Data Analyst.

¹ Definition of racial equity and social justice adopted from "Applying a Racial Equity Lens into Federal Nutrition Programs" by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools. <https://www.racialequitytools.org/glossary>

² Ibid.

³ Ludeen McCartney-Green, Memorandum to County Council on Bill 18-22, June 23, 2022

⁴ Jason Mathias, Legislative Request Report for Bill 18-22, Montgomery County Department of Environmental Protection

⁵ Marc Elrich, Memorandum to Gabe Albornoz, Introduction of Bill 18-22, March 15, 2022

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⁶ Mathias

⁷ Ibid

⁸ McCartney-Green

⁹ Ibid

¹⁰ Ibid

¹¹ Ibid

¹² Bill 18-22

¹³ Joyce Klein, “Bridging the Divide: How Business Ownership Can Help Close the Racial Wealth Gap” Washington: The Aspen Institute 2017; Robert Fairlie and Alicia Robb, “Why Are Black-Owned Businesses Less Successful than White-Owned Businesses? The Role of Families, Inheritance, and Business Human Capital,” Journal of Labor Economics 25(2) 2017; “Kaufmann Compilation: Research on Race and Entrepreneurship,” Kaufmann Foundation, December 2016

¹⁴ Stephen Roblin, “COVID-19 Recovery Outlook: Minority-Owned Businesses,” Office of Legislative Oversight, September 21, 2020. <https://www.montgomerycountymd.gov/OLO/Resources/Files/2020%20Reports/COVID-19RecoveryOutlook-MinorityOwnedBusinesses.pdf>

¹⁵ Robert Fairlie and Alicia Robb, “Disparities in Capital Access between Minority and Non-Minority-Owned Businesses: A Troubling Reality of Capital Limitations Faced by MBE’s,” U.S. Department of Commerce, January 2010. <https://www.mbda.gov/sites/default/files/migrated/files-attachments/DisparitiesinCapitalAccessReport.pdf>

¹⁶ Joseph Parilla and Darin Redus, “How a New Minority Business Accelerator Grant Program Can Close the Racial Entrepreneurship Gap.” Brookings December 9, 2020 <https://www.brookings.edu/research/how-a-new-minority-business-accelerator-grant-program-can-close-the-racial-entrepreneurship-gap/>

¹⁷ Jupiter Independent Research Group, Racial Equity Profile Montgomery County, OLO Report 2019-7, Office of Legislative Oversight, July 15, 2019 https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2019/20190611/20190611_3.pdf

¹⁸ Roblin

¹⁹ Inter-University Program for Latino Research: A report to the U.S. Hispanic Chamber of Commerce on “The Economic Impact of the Landscaping and Lawn Care Services Industry on US Latinos.” November 2011. https://latinostudies.nd.edu/assets/95362/original/ushccnational_report_november_21_2011_final.pdf

²⁰ S0201: Selected Population Profile in the United States, 2019 American Community Survey, Census Bureau.

²¹ <https://ww2.arb.ca.gov/sites/default/files/2018-11/Health%20and%20Environmental%20Impacts%20of%20Leaf%20Blowers.pdf>

²² <https://nca2018.globalchange.gov/chapter/13/>

²³ Ibid

²⁴ QC/PDX <https://www.quietcleanpdx.org/leaf-blowers-dangers-pollution/>

²⁵ Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council