ENROLLMENT(S)



(5)

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the District of Columbia Noise Control Act of 1977 to amend the definition of "noise disturbance", to make (with certain exceptions) the use, operation, or playing of musical instruments, loud speakers, sound amplifiers, or other similar devices on public or private property subject to the noise disturbance standard, to strengthen the procedures for civil enforcement, and to modify the procedures relating to granting variances and temporary exemptions.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Noise Control Amendment Act of 1996".

Sec. 2. The District of Columbia Noise Control Act of 1977, effective March 16, 1978 (D.C. Law 2-53; 20 DCMR Chapters 30-31), is amended as follows:

DCMR

- (a) Section 2 (20 DCMR 3000.1) is amended to read as follows:
- "Sec. 2. Purpose.

"It is the declared public policy of the District that every person is entitled to ambient noise levels that are not detrimental to life, health, and enjoyment of his or her property. It is hereby declared that excessive or unnecessary noises within the District are a menace to the welfare and prosperity of the residents and businesses of the District. It is the declared public policy of the District to reduce the ambient noise level in the District to promote public health, safety, welfare, and the peace and quiet of the inhabitants of the District, and to facilitate the enjoyment of the natural attractions of the District."

(b) Section 3(n) (20 DCMR 3099.1) is amended to read as follows:

"Noise disturbance - Any sound which is loud and raucous or loud and unseemly and unreasonably disturbs the peace and quiet of a reasonable person of ordinary sensibilities in the vicinity thereof, unless the making and continuing of the noise is necessary for the protection or preservation of the health, safety, life, or limb of some person. In making a determination of a noise disturbance, the Mayor shall consider the location, the time of day when the noise is occurring or will occur, the duration of the noise, its magnitude relative to the maximum

permissible noise levels permitted under this act, the possible obstruction or interference with vehicular or pedestrian traffic, the number of people that are or would be affected, and such other factors as are reasonably related to the impact of the noise on the health, safety, welfare, peace, and quiet of the community. A sound shall not be considered a notice disturbance if during noncommercial public speaking in the Central Employment Area (10 DCMR 1107.2 as shown on Comprehensive Plan Map 2, District of Columbia Generalized Land Use Policies Map) or in an area zoned manufacturing or industrial during the daytime, the sound made by the participants engaging in such activity does not exceed 80 db(A) when measured inside any nearby occupied building or outside 50 feet from the source of the sound.

- (c) A new section 4a is added to read as follows:
- "Sec. 4a. Plan of regulation.

"Certain noise-producing activities are subject to limitations other than the general decibel limitations pursuant to section 5(a). The activities set forth in section 5(c), (d), and (e) are subject to the noise disturbance standard or other specific limitations, and include, among others, the use of musical instruments, loud speakers, amplifiers, or unamplified speech, construction (which is subject to specific decibel limitations), and use of vehicle-mounted loud speakers or amplifiers (which are subject to the noise disturbance standard during permitted hours). All other noise-producing activities are subject to the general decibel limitations set forth in sections 5(a) and 6(a)."

- (d) Section 5(a) (20 DCMR 3001.1) is amended to read as follows:
- "(a) Except for persons engaged in the noise-producing activities that are subject to subsections (c), (d), and (e) of this section, no person shall cause, suffer, or permit any sound that emanates from an operation, activity, or noise source under his or her control to exceed the maximum permissible sound level established in the following table as applicable for the time of day or night and the zoning location where the noise originates. For the purposes of this subsection, the sound level shall be measured at the property line of the property on which the noise source is located or as close as is practicable if there is an obstruction. Sound levels shall be measured according to the test procedures prescribed by the administering agency established under section 4.

"ZONE

MAXIMUM NOISE LEVEL

	<u>Daytime</u>	Nighttime		
"Residential, special purpose, or waterfront zone	60 dB(A)	55dB(A)		
"Commercial or light- manufacturing zone	65 dB(A)	60 dB(A)		

Industrial zone

70 dB(A)

65 dB(A).".

- (e) Section 5(d)(1) (20 DCMR 3100) is amended to read as follows:
- "(1) Musical Instruments, Loud Speakers, Amplifiers, and Unamplified Voices.

 "(A) It shall be unlawful for any person to make, continue, or cause to be made or continued any noise disturbance by the operation, use, or playing of any musical instrument or device, loud speaker, sound amplifier, or other similar device, or unamplified voice, for the production or reproduction of sound on private property or public space.
- "(B) Parades and public gatherings conducted pursuant to a permit issued by the Metropolitan Police Department (as provided for in 24 DCMR Chapter 7 are exempt from the noise disturbance limitation.".
- (f) Section 5(e)(5) (20 DCMR 3107.3) is amended by amending the introductory paragraph to read as follows:
- "Vehicle-mounted sound amplifying equipment, instruments, and transmitting devices shall be prohibited in streets or on highways after 9:00 p.m. and before 9:30 a.m. During all other hours their use shall be subject to the limitations of the noise disturbance standard."
 - (g) Section 7 is amended to read as follows:
 - "Sec.7. Noise disturbance violation.
- "Unless specifically provided otherwise by this act, a sound that constitutes a noise disturbance shall be considered a violation of this act.".
 - (h) Section 8(a) (20 DCMR 3005.1) is amended to read as follows:
- "(a) The Mayor, upon application by a person, may grant a variance or a temporary exemption from the maximum permissible noise levels or time limitations established in this act when strict compliance with these provisions would impose an undue hardship on the applicant, on the community, or on other persons. The decision of the Mayor shall be in writing and shall include a statement of the reasons for the action taken."
 - (i) Section 8(b) (20 DCMR 3005.2 and 3005.3) is amended to read as follows:
- "(b) In determining whether or not strict compliance with these provisions would impose an undue hardship, the Mayor shall balance the degree of hardship against the harm that would be caused by the granting of a variance or a temporary exemption. In making this determination, the Mayor shall consider the location, the time of day when the noise will occur, the duration of the noise, its magnitude relative to the maximum permissible noise levels permitted under this act, the possible obstruction or interference with vehicular or pedestrian traffic, the feasibility of bringing the noise into conformity with this act, including economic factors related to the age and useful life of the equipment, the number of people that would be affected by the granting of a variance or temporary exemption, such other factors as are reasonably related to the impact of the noise on the health, safety, welfare, peace, and quiet of the community, and the degree of hardship involved if the variance or temporary exemption is not granted. A variance or temporary exemption shall be granted only to the extent necessary to

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ameliorate the undue hardship, consistent with the purpose and intent of this act.".

- (j) Section 8(c) (20 DCMR 3005.4) is amended by inserting the phrase "or a temporary exemption" at the end of the first sentence.
 - (k) Section 8(c)(2) (20 DCMR 3007) is amended to read as follows:
 - "(2) Temporary exemptions.

"A person may apply to the Mayor for temporary exemption from the maximum permissible noise levels or the time limits established by this act. If the applicant is required to obtain a building permit from the District government, he or she may include the request for a temporary exemption with the application for that permit. The decision of the Mayor shall be in writing and shall include a statement of the reasons for the action taken. If a temporary exemption is granted, the decision shall include the name of the applicant, the noise level to be permitted, the period of time during which the exemption shall be in effect, and any other conditions or qualifications necessary for the protection of the public under the standards applicable to the granting of a temporary exemption. A temporary exemption shall be granted for such period as is necessary, but shall not exceed forty-five (45) days. A notice of the issuance of a temporary exemption shall be published in the District of Columbia Register and shall be posted by the applicant in a conspicuous spot at the location involved for a period of four (4) consecutive days following the date of issuance. Any person adversely affected by the issuance or denial of a temporary exemption may, within ten (10) days of the decision, request a hearing on the matter. If the Mayor finds that a sufficient bona fide controversy exists regarding the issuance or denial of a temporary exemption, the Mayor may, in his or her discretion, hold a hearing on the matter. The hearing shall be held as soon as practicable. A decision by the Mayor after a hearing shall be final, subject to a de novo review by a court of competent jurisdiction. Unless the Mayor orders otherwise, the filing of a request for a hearing shall not affect the issuance of a temporary exemption.".

- (1) Section 9 (20 DCMR 3000) is amended by adding at the end a new subsection (d) to read as follows:
 - "(d) Noise level measurement.

"Noise levels under this act may be measured by any official designated by the Mayor or by any person who is an a qualified acoustical engineer who holds a certificate of registration as a professional engineer issued by the District of Columbia. Such measurements shall be admissible as evidence in any civil, criminal, or administrative proceeding relating to the enforcement of any provision of this act.".

- (m) Section 11(a) (20 DCMR 3011.1 and 3011.2) is amended to read as follows:
- "(a) If the Mayor finds that any person is acting in a manner that constitutes a violation of this act, the Mayor may order such person to cease and desist. Failure to comply with this order shall be a violation of this act, provided that failure to comply with a cease and desist order shall not be an independent violation if a court of competent jurisdiction finds that no violation of the act had occurred."

- (n) Section 13 (20 DCMR 3013) is amended to read as follows:
- "Sec. 13. Enforcement; penalties.
- "(a) Any person aggrieved by violation of any provision of this act may complain to the Metropolitan Police Department which shall enforce the provisions of this act.
- "(b) Prior to issuing a citation or notice of infraction, the Metropolitan Police officer or other District government official may give a verbal warning to the violator and allow the violator a reasonable time to cease violating the act.
- "(c) Any person who violates any provision of this act shall be punished by a fine not to exceed three hundred dollars (\$300) or imprisonment not to exceed ten (10) days, or both. In the event of any violation of or failure to comply with this act or any section thereof, each and every day of such violation or failure shall constitute a separate offense, and the penalties described in this act shall be applicable to each such separate offense. Officers of the Metropolitan Police Department are authorized to enforce the provisions of this act by issuing a notice of civil infraction for a violation of this act that constitutes a noise disturbance, pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Code §6-2701 et seq.)."
 - (o) Section 14(b) (20 DCMR 3014) is amended as follows:
- (1) Paragraph (1) is amended by striking the phrase "sixty (60)" and inserting the phrase "ten (10)" in its place.
 - (2) Paragraph (2) is amended to read as follows:
- "(2) if the Mayor has commenced and is diligently prosecuting a civil action in a court of competent jurisdiction in the District of Columbia to require compliance with the act.".
 - Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)).

Sec. 4. This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Authority Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), and a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Self-

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Government and Governmental Reorganization Act, approved December 24, 1973 (8	37 Stat.	813;
D.C. Code § 1-233(c)(1)), and publication in the District of Columbia Register.		

the District of Columbia

Mayor District of Columbia



COUNCIL OF THE DISTRICT OF COLUMBIA

COUNCIL PERIOD ELEVEN

RECORD OF OFFICIAL COUNCIL VOTE

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AN ACT

D.C. ACT 11-297

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 26, 1996

To amend the District of Columbia Noise Control Act of 1977 to amend the definition of "noise disturbance", to make (with certain exceptions) the use, operation, or playing of musical instruments, loud speakers, sound amplifiers, or other similar devices on public or private property subject to the noise disturbance standard, to strengthen the procedures for civil enforcement, and to modify the procedures relating to granting variances and temporary exemptions.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Noise Control Amendment Act of 1996".

Sec. 2. The District of Columbia Noise Control Act of 1977, effective March 16, 1978 (D.C. Law 2-53; 20 DCMR Chapters 30-31), is amended as follows:

DCMR

- (a) Section 2 (20 DCMR 3000.1) is amended to read as follows:
- "Sec. 2. Purpose.

"It is the declared public policy of the District that every person is entitled to ambient noise levels that are not detrimental to life, health, and enjoyment of his or her property. It is hereby declared that excessive or unnecessary noises within the District are a menace to the welfare and prosperity of the residents and businesses of the District. It is the declared public policy of the District to reduce the ambient noise level in the District to promote public health, safety, welfare, and the peace and quiet of the inhabitants of the District, and to facilitate the enjoyment of the natural attractions of the District.".

(b) Section 3(n) (20 DCMR 3099.1) is amended to read as follows:

"Noise disturbance - Any sound which is loud and raucous or loud and unseemly and unreasonably disturbs the peace and quiet of a reasonable person of ordinary sensibilities in the vicinity thereof, unless the making and continuing of the noise is necessary for the protection or preservation of the health, safety, life, or limb of some person. In making a determination of a noise disturbance, the Mayor shall consider the location, the time of day when the noise is occurring or will occur, the duration of the noise, its magnitude relative to the maximum

permissible noise levels permitted under this act, the possible obstruction or interference with vehicular or pedestrian traffic, the number of people that are or would be affected, and such other factors as are reasonably related to the impact of the noise on the health, safety, welfare, peace, and quiet of the community. A sound shall not be considered a noise disturbance if during noncommercial public speaking in the Central Employment Area (10 DCMR 1107.2 as shown on Comprehensive Plan Map 2, District of Columbia Generalized Land Use Policies Map) or in an area zoned manufacturing or industrial during the daytime, the sound made by the participants engaging in such activity does not exceed 80 db(A) when measured inside any nearby occupied building or outside 50 feet from the source of the sound.

- (c) A new section 4a is added to read as follows:
- "Sec. 4a. Plan of regulation.

"Certain noise-producing activities are subject to limitations other than the general decibel limitations pursuant to section 5(a). The activities set forth in section 5(c), (d), and (e) are subject to the noise disturbance standard or other specific limitations, and include, among others, the use of musical instruments, loud speakers, amplifiers, or unamplified speech, construction (which is subject to specific decibel limitations), and use of vehicle-mounted loud speakers or amplifiers (which are subject to the noise disturbance standard during permitted hours). All other noise-producing activities are subject to the general decibel limitations set forth in sections 5(a) and 6(a)."

- (d) Section 5(a) (20 DCMR 3001.1) is amended to read as follows:
- "(a) Except for persons engaged in the noise-producing activities that are subject to subsections (c), (d), and (e) of this section, no person shall cause, suffer, or permit any sound that emanates from an operation, activity, or noise source under his or her control to exceed the maximum permissible sound level established in the following table as applicable for the time of day or night and the zoning location where the noise originates. For the purposes of this subsection, the sound level shall be measured at the property line of the property on which the noise source is located or as close as is practicable if there is an obstruction. Sound levels shall be measured according to the test procedures prescribed by the administering agency established under section 4.

"ZONE

MAXIMUM NOISE LEVEL

	<u>Daytime</u>	<u>Nighttime</u>
"Residential, special purpose, or waterfront zone	60 dB(A)	55dB(A)
"Commercial or light- manufacturing zone	65 dB(A)	60 dB(A)

Industrial zone $70 \, dB(A)$ $65 \, dB(A)$."

- (e) Section 5(d)(1) (20 DCMR 3100) is amended to read as follows:
- "(1) Musical Instruments, Loud Speakers, Amplifiers, and Unamplified Voices.

 "(A) It shall be unlawful for any person to make, continue, or cause to be made or continued any noise disturbance by the operation, use, or playing of any musical instrument or device, loud speaker, sound amplifier, or other similar device, or unamplified voice, for the production or reproduction of sound on private property or public space.
- "(B) Parades and public gatherings conducted pursuant to a permit issued by the Metropolitan Police Department (as provided for in 24 DCMR Chapter 7) are exempt from the noise disturbance limitation.".
- (f) Section 5(e)(5) (20 DCMR 3107.3) is amended by amending the introductory paragraph to read as follows:

"Vehicle-mounted sound amplifying equipment, instruments, and transmitting devices shall be prohibited in streets or on highways after 9:00 p.m. and before 9:30 a.m. During all other hours their use shall be subject to the limitations of the noise disturbance standard."

- (g) Section 7 is amended to read as follows:
- "Sec.7. Noise disturbance violation.

"Unless specifically provided otherwise by this act, a sound that constitutes a noise disturbance shall be considered a violation of this act.".

- (h) Section 8(a) (20 DCMR 3005.1) is amended to read as follows:
- "(a) The Mayor, upon application by a person, may grant a variance or a temporary exemption from the maximum permissible noise levels or time limitations established in this act when strict compliance with these provisions would impose an undue hardship on the applicant, on the community, or on other persons. The decision of the Mayor shall be in writing and shall include a statement of the reasons for the action taken."
 - (i) Section 8(b) (20 DCMR 3005.2 and 3005.3) is amended to read as follows:
- "(b) In determining whether or not strict compliance with these provisions would impose an undue hardship, the Mayor shall balance the degree of hardship against the harm that would be caused by the granting of a variance or a temporary exemption. In making this determination, the Mayor shall consider the location, the time of day when the noise will occur, the duration of the noise, its magnitude relative to the maximum permissible noise levels permitted under this act, the possible obstruction or interference with vehicular or pedestrian traffic, the feasibility of bringing the noise into conformity with this act, including economic factors related to the age and useful life of the equipment, the number of people that would be affected by the granting of a variance or temporary exemption, such other factors as are reasonably related to the impact of the noise on the health, safety, welfare, peace, and quiet of the community, and the degree of hardship involved if the variance or temporary exemption is not granted. A variance or temporary exemption shall be granted only to the extent necessary to



ameliorate the undue hardship, consistent with the purpose and intent of this act.".

- (j) Section 8(c) (20 DCMR 3005.4) is amended by inserting the phrase "or a temporary exemption" at the end of the first sentence.
 - (k) Section 8(c)(2) (20 DCMR 3007) is amended to read as follows:
 - "(2) Temporary exemptions.

"A person may apply to the Mayor for temporary exemption from the maximum permissible noise levels or the time limits established by this act. If the applicant is required to obtain a building permit from the District government, he or she may include the request for a temporary exemption with the application for that permit. The decision of the Mayor shall be in writing and shall include a statement of the reasons for the action taken. If a temporary exemption is granted, the decision shall include the name of the applicant, the noise level to be permitted, the period of time during which the exemption shall be in effect, and any other conditions or qualifications necessary for the protection of the public under the standards applicable to the granting of a temporary exemption. A temporary exemption shall be granted for such period as is necessary, but shall not exceed forty-five (45) days. A notice of the issuance of a temporary exemption shall be published in the District of Columbia Register and shall be posted by the applicant in a conspicuous spot at the location involved for a period of four (4) consecutive days following the date of issuance. Any person adversely affected by the issuance or denial of a temporary exemption may, within ten (10) days of the decision, request a hearing on the matter. If the Mayor finds that a sufficient bona fide controversy exists regarding the issuance or denial of a temporary exemption, the Mayor may, in his or her discretion, hold a hearing on the matter. The hearing shall be held as soon as practicable. A decision by the Mayor after a hearing shall be final, subject to a de novo review by a court of competent jurisdiction. Unless the Mayor orders otherwise, the filing of a request for a hearing shall not affect the issuance of a temporary exemption.".

- (1) Section 9 (20 DCMR 3000) is amended by adding at the end a new subsection (d) to read as follows:
 - "(d) Noise level measurement.

"Noise levels under this act may be measured by any official designated by the Mayor or by any person who is a qualified acoustical engineer who holds a certificate of registration as a professional engineer issued by the District of Columbia. Such measurements shall be admissible as evidence in any civil, criminal, or administrative proceeding relating to the enforcement of any provision of this act.".

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- "(a) If the Mayor finds that any person is acting in a manner that constitutes a violation of this act, the Mayor may order such person to cease and desist. Failure to comply with this order shall be a violation of this act, provided that failure to comply with a cease and desist order shall not be an independent violation if a court of competent jurisdiction finds that no violation of the act had occurred."

- (n) Section 13 (20 DCMR 3013) is amended to read as follows:
 - "Sec. 13. Enforcement; penalties.
- "(a) Any person aggrieved by a violation of any provision of this act may complain to the Metropolitan Police Department which shall enforce the provisions of this act.
- "(b) Prior to issuing a citation or notice of infraction, the Metropolitan Police officer or other District government official may give a verbal warning to the violator and allow the violator a reasonable time to cease violating the act.
- "(c) Any person who violates any provision of this act shall be punished by a fine not to exceed three hundred dollars (\$300) or imprisonment not to exceed ten (10) days, or both. In the event of any violation of or failure to comply with this act or any section thereof, each and every day of such violation or failure shall constitute a separate offense, and the penalties described in this act shall be applicable to each such separate offense. Officers of the Metropolitan Police Department are authorized to enforce the provisions of this act by issuing a notice of civil infraction for a violation of this act that constitutes a noise disturbance, pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Code §6-2701 et seq.)."
 - (o) Section 14(b) (20 DCMR 3014) is amended as follows:
- (1) Paragraph (1) is amended by striking the phrase "sixty (60)" and inserting the phrase "ten (10)" in its place.
 - (2) Paragraph (2) is amended to read as follows:
- "(2) if the Mayor has commenced and is diligently prosecuting a civil action in a court of competent jurisdiction in the District of Columbia to require compliance with the act.".

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)).

Sec. 4. This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Authority Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), and a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Self-

Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in the District of Columbia Register.

Chairman

Couper of the District of Columbia

DEEMED APPROVED WITHOUT SIGNATURE UPON EXPIRATION OF THE 10-DAY MAYORAL REVIEW PERIOD.

NOT SIGNED

Mayor
District of Columbia

June 26, 1996



COUNCIL OF THE DISTRICT OF COLUMBIA

COUNCIL PERIOD ELEVEN

RECORD OF OFFICIAL COUNCIL VOTE

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Brazil					Lightfoot					Thomas, Sr.														
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