

AN ACT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend the District of Columbia Noise Control Act of 1977 to exempt the Georgetown underground utility infrastructure upgrade project, known as the Georgetown Project, from the maximum noise level restrictions; to exempt the operators of emergency generator equipment from maximum noise level restrictions as necessary; to clarify the definition of noise disturbance to provide that the measurement of the noise decibel level is not required evidence of violations that occur outside the Central Employment Area, outside an area zoned manufacturing or industrial, or at night; to limit the exemption for music from religious services to exclude amplified sounds; to prohibit noise disturbances from motor vehicle stereo systems; to limit the duration of noise from motor vehicle alarm systems; to allow measurement of noise from 25 feet from the construction or demolition noise when the construction work is performed inside an occupied multi-unit apartment building, hospital, nursing home, community-based residential facility, or other similar facility which serves as a temporary or permanent dwelling for its residents; to expand the exemption for District-owned vehicles to allow residential refuse collection to begin at 6 a.m. during the months of June, July, and August and to clarify the meaning of the operation of a trash collection vehicle; to raise the maximum fine for the violation of any provision of the act from \$300 to \$1000; to amend Title 12A of the District of Columbia Municipal Regulations to exempt the Georgetown Project from the limitations on after-hours work; to amend the Housing Regulations of the District of Columbia to require property owners and landlords to provide tenants with written notice and to comply with the District of Columbia Noise Control Act of 1977 when construction or maintenance work will occur in an occupied unit within an apartment building for over 48 hours and the noise from the work will exceed 60 decibels; and to amend the District of Columbia Noise Control Act of 1977 Amendment Act of 1986 to make technical amendments to correct amendatory numbering designations.

**ENROLLED ORIGINAL**

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Georgetown Project and Noise Control Amendment Act of 2004”.

Sec. 2. The District of Columbia Noise Control Act of 1977, effective March 16, 1978 (D.C. Law 2-53; 20 DCMR Chapters 27 and 28), is amended as follows:

(a) Section 3 (20 DCMR § 2799) is amended as follows:

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(1) New subsections (f-2) and (f-3) are added to read as follows:

“(f-2) Emergency Generator Equipment- Generators that supply back-up power to buildings such as hospitals, hotels, and office buildings.

“(f-3)(1) Georgetown Project – The project being undertaken by the District government, the Potomac Electric Power Company, Washington Gas Light Company, the District of Columbia Water and Sewer Authority, and Verizon of Washington, D.C., to rehabilitate, upgrade, and improve utility infrastructure, roadways, sidewalks, and landscaping adjacent to the Georgetown Business District, which is geographically defined as the commercial properties along M Street, N.W., between 28<sup>th</sup> Street, N.W., and Key Bridge and along Wisconsin Avenue, N.W., between K Street, N.W., and S Street, N.W., which project commenced in September 2001 and is scheduled to be completed no later than December 31, 2006.

“(2) This subsection shall expire 4 years after the effective date of the Georgetown Project and Noise Control Amendment Act of 2004, passed on 2<sup>nd</sup> reading on July 13, 2004 (Enrolled version of Bill 15-280).”.

(2) Subsection (n) is amended to read as follows:

“(n) 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, and the duration of the noise. In addition, the Mayor may consider the magnitude of the noise relative to the maximum sound 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. If the noise is outside the Central Employment Area or an area zoned manufacturing or industrial, or if the noise occurs at night, the Mayor shall not be required to measure the decibel level of the noise in order to find a noise disturbance. A sound shall not be considered a noise disturbance if made during noncommercial public speaking during the daytime.”.

(b) Section 5 (20 DCMR § 2701 *et seq.*) is amended as follows:

(1) Subsection (c) is amended as follows:

(A) Paragraph (11) is amended by striking the period and inserting the

phrase “; provided, that this exemption shall not apply to music which is amplified through electronic sound systems.” in its place.

(B) A new paragraph (13) is added to read as follows:

“(13) Emergency Generator Equipment – Noise resulting from the operation of emergency generator equipment, when its use is required to protect the health and safety of persons, shall be exempt. Noise resulting from necessary testing of emergency generator equipment shall be exempt on weekdays (excluding holidays) between the hours of 4:00 p.m. and 6:30 p.m.”.

(2) Subsection (d) is amended as follows:

(A) Paragraph (1)(A) is amended by striking the phrase “sound amplifier,” and inserting the phrase “sound amplifier, radio, tape recorder, television, compact disc player, stereo system, including those installed in motor vehicles,” in its place.

(B) Paragraph (2)(C) is amended striking the period and inserting the phrase “; provided, that when construction work is performed inside an occupied multi-unit apartment building, hospital, nursing home, community-based residential facility, or other similar facility which serves as a temporary or permanent dwelling for its residents, measurement of noise from the construction or demolition shall be made twenty-five (25) feet from the source of the noise. This provision shall be subject to the exemption for emergency work.” in its place.

(C) Paragraph (5) is amended by striking the phrase “radio,” and inserting the phrase “radio, tape recorder, television, compact disc player, stereo system, including those installed in motor vehicles,” in its place.

(D) A new paragraph (7) is added to read as follows:

“(7) It shall be unlawful for any person to install, operate, or use any vehicle theft alarm system that emits or causes the emission of an audible sound that is not, or does not become, automatically and completely silenced within five (5) minutes. The time period shall be calculated based upon the emission of the first audible sound and shall end five (5) minutes thereafter, notwithstanding any variation or stoppage in the emissions of audible sound.”.

(3) Subsection (e)(4) is amended to read as follows:

“(4) Nighttime Trash Collection. (A) No person shall operate or permit the operation of any refuse collection vehicle in, or within three hundred (300) feet of, any residential, special purpose, or waterfront zone, at nighttime on any day of the week. The terms “operate” and “operation” in this section shall mean the stopping of the vehicle and the collection of trash by the refuse vehicle. This prohibition shall not apply to vehicles owned by the District government employed for emptying litter receptacles. Violation of this paragraph on more than one occasion within a 6-month period may be deemed a nuisance under subsection 709.7 of Title 21 of the District of Columbia Municipal Regulations (21 DCMR § 709.7) and shall constitute grounds for suspension or revocation of the endorsement issued for solid waste collectors or solid waste vehicles pursuant to D.C. Official Code § 47-2851.03a(d).

“(B) Notwithstanding the prohibitions in subparagraph (A) of this

paragraph, the collection of residential refuse by District government-owned vehicles may commence at 6 a.m. during the months of June, July, and August or when the daily high temperature is forecast to be above 90 degrees Fahrenheit.”.

(4) A new subsection (f) is added to read as follows:

“(f)(1) Notwithstanding any other provision of this act, noise emanating from construction equipment and any activities related to the Georgetown Project shall be exempt at all times from any noise limitations contained in this act, including sections 5(a), (b), (d)(2), and (e)(2), and shall not be subject to enforcement under any provision of this act.

“(2) This subsection shall expire 4 years after the effective date of the Georgetown Project and Noise Control Amendment Act of 2004, passed on 2<sup>nd</sup> reading on July 13, 2004 (Enrolled version of Bill 15-280).”

(c) Section 13(c) is amended as follows:

(1) Strike the phrase “three hundred dollars (\$300)” and insert the phrase “one thousand dollars (\$1000)” in its place.

(2) Strike the phrase “noise disturbance,” and insert the phrase “noise disturbance, or a noise-producing activity, during days or hours when prohibited, or beyond its authorized duration,” in its place.

Sec. 3. Section 107 of Title 12A of the District of Columbia Municipal Regulations (12A DCMR § 107), is amended by adding a new subsection 107.2.8.2 to read as follows:

“107.2.8.2 Georgetown Project. The limitations on the issuance of after-hours permits set forth in § 107.2.8.1 shall not apply to after-hours work related to the Georgetown Project. For the purposes of this section, the “Georgetown Project” means the project being undertaken by the District government, the Potomac Electric Power Company, Washington Gas Light Company, the District of Columbia Water and Sewer Authority, and Verizon of Washington, D.C. to rehabilitate, upgrade, and improve utility infrastructure, roadways, sidewalks, and landscaping adjacent to the Georgetown Business District, which is geographically defined as the commercial properties along M Street, N.W., between 28<sup>th</sup> Street, N.W., and Key Bridge and along Wisconsin Avenue, N.W., from K Street, N.W., to S Street, N.W., which project commenced in September 2001 and is scheduled to be completed no later than December 31, 2006. This subsection shall expire 4 years after the effective date of the Georgetown Project and Noise Control Amendment Act of 2004, passed on 2<sup>nd</sup> reading on July 13, 2004 (Enrolled version of Bill 15-280).”

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Sec. 4. Article 250 of the Housing Regulations of the District of Columbia, issued August 11, 1955 (C.O. 15-1503; 14 DCMR Chapter 7), is amended by adding a new section 2515 to read as follows:

“2515 CONSTRUCTION WORK IN OCCUPIED BUILDINGS OR DWELLINGS

“2515.1 Where construction work is conducted in an occupied rental unit within an

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apartment building, the owner shall comply with the District of Columbia Noise Control Act of 1977.

“2515.2 Except as provided in subsection 2515.3, in any case where noise from construction, repair, or maintenance work will continue over a period of more than forty-eight (48) hours from the time the work is first initiated until the conclusion of the job (including periods of time when no work is being done) and the noise from the work will exceed sixty (60) decibels, the landlord shall provide the tenant with not less than five (5) days written notice of the construction, repair, or maintenance work, including the dates and times that the work will occur and a description of the work to be done.

“2515.3 Subsection 2515.2 shall not apply to emergency work which is necessary to restore property to a safe condition following a public calamity or act of God, or work required to protect the health and safety of persons; provided, that the work shall be undertaken promptly and it is not feasible to provide advance notice.”.

Sec. 5. Section 4 of the District of Columbia Noise Control Act of 1977 Amendment Act of 1986, effective February 24, 1987 (D.C. Law 6-180; 27 DCMR §§ 2800.4 and 2880.5), is amended as follows:

(a) The statutory citation is amended by striking the phrase “Section 5(e)(1)” and inserting the phrase “Section 5” in its place.

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(b) Subsection (a) is amended by striking the phrase “Section 3100.2” and inserting the phrase “Subsection (d)(1)” in its place.

(c) Subsection (b) is amended as follows:

(1) Strike the phrase “By adding 2 new subsections 3100.4 and 3100.5” and insert the phrase “New paragraphs (4) and (5) are added” in its place.

(2) Strike the phrase “3100.4 Sounds” and insert the phrase “(4) Sounds” in its place.

(3) Strike the phrase “3100.5 It” and insert the phrase “(5) It” in its place.

Sec. 6. 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 Home Rule Act, approved December 24, 1973 (87 Stat.813; D.C. Official Code § 1-206.02 (c)(3)).

Sec. 7. 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), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved

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December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia