

D.C.LAW 2-53**DISTRICT OF COLUMBIA NOISE CONTROL ACT OF 1977**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MARCH 16, 1978

To regulate noise levels in the District of Columbia.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,

That this act may be cited as the "District of Columbia Noise Control Act of 1977".

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Sec. 2. Purpose

The purpose of this act is to provide comprehensive regulations to control noise levels in the District of Columbia so as to preserve, protect and promote the public health, safety and welfare, and the peace and comfort of the inhabitants of the city, and prevent injury to humans, animals and property. It is the intent of the Council of the District of Columbia that this act be liberally construed to effect its general purpose.

Sec. 3. Definitions

As used in this act, the following words or abbreviations shall have the meaning ascribed below unless the context indicates a different meaning. Where technical words are not defined or where questions of interpretation arise regarding acoustical terminology, the American National Standard Institute (ANSI) definitions shall be used as a guide.

(a) ANSI - The American National Standard Institute or its successor bodies.

(b) Construction - Any site preparation, excavation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition, for or of public or private rights-of-way, structures, utilities or similar property.

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(c) Daytime - The hours from 7:00 a.m. to 9:00 p.m.
 (d) Decibel - (1/10 of a bel) - A unit (abbreviated "dB")
for measuring the magnitude of sound equal to twenty (20) times
the logarithm, to the base ten (10), of the ratio of the sound
pressure being measured to a reference sound pressure of twenty
(20) micropascals.

(e) db(A) - (A-weighted sound level) - A measure of sound
pressure level, in decibels, obtained from a sound-level meter
using the A-weighting network or filter as specified in ANSI
S1.4-1971 or the latest approved revision thereof.

(f) Emergency Work - The work necessary to restore property
to a safe condition following a public calamity or act of God, or
the work required to protect the health and safety of persons.

(g) Leg - Equivalent A-Weighted Sound Level - The constant
sound level that, in a given time period, would convey the same
sound energy as the actual, time varying, A-weighted sound. The
number in parenthesis immediately following the term "Leg" shall
denote the time period in hours.

(h) Maximum Sound Level - The highest sound level observed
on a sound level meter.

(i) Mayor - The Mayor of the District of Columbia or his or
her designated agent.

(j) Motorized Bicycle - Any motor vehicle having:

(1) either a tandem arrangement of two (2) wheels
equipped with tires which are sixteen (16) or more inches in
diameter or having a tricyclic arrangement of three (3) wheels
equipped with tires which are sixteen (16) or more inches in
diameter, weighing not more than one hundred and twenty (120)
pounds;

(2) an automatic transmission; and

(3) a motor or engine which produces not more than 1.5
brake horsepower (as rated by the Society of Automatic
Engineers), with a piston displacement of not more than fifty
(50) cubic centimeters and is capable of moving the vehicle at a
speed of not more than twenty-five (25) miles per hour on level
ground when propelled exclusively by such motor or engine.

(k) Motorcycle - Any motor vehicle other than a motorized
bicycle having either a tandem arrangement of two (2) wheels or a
tricyclic arrangement of three (3) wheels and having a seat or
saddle for the use of the operator.

(l) Motor Vehicle - Any vehicle propelled either by an
internal combustion engine or by electricity or by steam, but not
to include motor boats and traction engines used exclusively for
drawing vehicles in fields, road rollers and vehicles propelled
only upon rails and tracks.

(m) Nighttime - The hours from 9:00 p.m. to 7:00 a.m.

(n) Noise Disturbance - Any sound which endangers or
injures the safety or health of humans or animals, or endangers
or injures personal or real property, or is loud and raucous, or
is of such a nature as to unreasonably disturb the peace, quiet
or comfort of any neighborhood.

(o) Noise - Noise shall have the same definition as "sound"
in this act.

(p) Noise Level - Noise level shall have the same
definition as "sound level" in this act.

(q) Noise Zones -

(1) Residential, special Purpose or Waterfront Zone -
As shown, defined and bounded on the zoning map, any district

listed under sections 2101.11, 2101.12, or 2101.15 of the Zoning Regulations of the District of Columbia, effective May 12, 1958, as amended.

(2) Commercial, or Commercial-light Manufacturing Zone - As shown, defined and bounded on the zoning map, any district listed under section 2101.13 of the Zoning Regulations of the District of Columbia, effective May 12, 1958, or classified as a "C-M Commercial-light manufacturing" district under section 2101.14 of the Zoning Regulations.

(3) General Industrial Zone - As shown, defined and bounded on the zoning map, any district classified under section 2101.14 of the Zoning Regulations, effective May 12, 1958, but not classified as a "C-M Commercial-light manufacturing" district.

(r) Person - An individual, partnership, corporation, trust, association, firm, organization, government or other entity.

(s) Police Regulations - The Police Regulations of the District of Columbia, incorporated by reference into Title I, District of Columbia Rules and Regulations.

(t) Pre-existing Source - Any noise source either established and in operation or under construction prior to the effective date of this act.

(u) Real Property Boundary - An imaginary line along the ground surface and its vertical extension, which separates the real property owned by one person from that owned by another.

(v) Sound - An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

(w) Sound Level - The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B or C as specified in the ANSI specifications for sound level meters (ANSI S1.4-1971, or the latest approved revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

(x) Sound-Level Meter - An instrument to measure the sound pressure level meeting at least either the Type II requirements of the ANSI S1.4-1971 standard or the latest approved version thereof.

(y) Street or Highway - Any road, street, alley or way in the District of Columbia, open to the use of the public, as a matter of right, for the purposes of vehicular traffic.

(z) Weekday - Any day except Sunday or a legal holiday.

(aa) Zoning Regulations - The Zoning Regulations of the District of Columbia, effective May 12, 1958, as amended.

Sec. 4. Duties of the Administering Agency.

(a) The Mayor shall designate an agency to administer the noise control program established by this act.

(b) The administering agency shall:

(1) conduct programs of public education regarding:
(A) the causes, effects and general methods of abatement and control of noise and vibration; and

(B) the actions prohibited by this act and the procedures for reporting violations;

(2) encourage the participation of public interest groups in related public information efforts;

(3) request any other department or agency responsible for any proposed or final standard, regulation or similar action to consult with it on the advisability of revising the action, if there is reason to believe that the action is not consistent with this act;

(4) establish and publish within six (6) months of the effective date of this act the test procedures to be used for measuring sound levels in determining compliance with this act and shall, as necessary, periodically revise such procedures (the public shall be provided thirty (30) days to comment on all proposed test procedures before they are finalized);

(5) establish within one (1) year of the effective date of this act, noise assessment guidelines for the evaluation of proposed projects for the capital improvements budget and program (the guidelines may be used in the determination of the relative priority of each project in terms of noise impact); and

(6) evaluate and report to the Council of the District of Columbia every year following the effective date of this act, on the effectiveness of the noise control program, making recommendations for any legislative or budgetary changes necessary to improve the program.

Sec. 5. Maximum Sound Levels.

(a) No person shall cause, suffer or permit any sound which emanates from an operation, activity or noise source under his or her control to exceed the maximum permissible sound level established in Table I of this act 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 of this act.

Table I

<u>Zone</u>	<u>Maximum Noise Level Daytime</u>	<u>Maximum Noise Level Nighttime</u>
Residential, special purpose or water front zone	60dB(A)	55dB(A)
Commercial or light-manufacturing zone	65dB(A)	60dB(A)
Industrial zone	70dB(A)	65dB(A)

(b)(i) If a sound can be measured in a contiguous noise zone which has a more restrictive noise limitation than that from which the noise emanates, the sound level measurement at the zone line shall not exceed that established for the more restrictive zone.

(2) If the sound emanates from a source within an area for which the maximum permissible sound level has not been established, the maximum level shall be sixty (60)dB(A).

(3) Unless restricted by another section of this act, sounds emanating from a street or highway shall not exceed the most restrictive sound level established for the property bordering such street or highway.

(4) Noise emanating from inside a motor vehicle shall be measured at a distance of not less than fifty (50) feet from the vehicle.

(c) Sounds emanating from the following sources shall, to the extent indicated, be exempt from the specific noise limitations contained in sections 5(a) and 5(c): PROVIDED, That such exemption shall not preclude enforcement under any other section of this act.

(1) Pre-existing Sources. Pre-existing sources shall be exempt for one hundred and twenty (120) days after the effective date of this act. Any owner or person in control of a pre-existing source which exceeds the maximum permissible sound levels as prescribed in subsections (a) and (b) shall, within one hundred and twenty (120) days after the effective date of this act, file with the Mayor a written plan for his or her approval for the reduction of those sound levels to the maximum permissible levels. Each plan shall include a time schedule for the accomplishment of the reduction of noise levels and shall provide for periodic increments of progress. The Mayor shall treat the plan as a request for a variance as provided in section 8(c)(1) of this act.

(2) Handpower Tools. The use or operation of portable power tools, home snow removal equipment, power garden devices and other powered equipment for minor repairs or minor improvements of real or personal residential property shall be exempt on weekdays (excluding Saturdays) during the daytime and from 9:00 a.m. to 9:00 p.m. on Saturdays, Sundays and legal holidays.

(3) The Unamplified Voice. The unamplified voice shall be exempt at all times.

(4) Motor Vehicles and Motorcycles. Motor vehicles and motorcycles shall be exempt at all times. They shall be properly maintained and operated so as to comply with the noise limits established in section 6 of this act.

(5) Vehicles Propelled Only Upon Rails and Tracks. Vehicles propelled only upon rails and tracks shall be exempt at all times. Railroad cars operated by the Washington Metropolitan Area Transit Authority shall be operated in such a manner so as not to emit maximum noise levels in excess of those established in Table II of this act when measured at a distance of one hundred (100) feet from the track centerline or at the nearest property line, whichever is the greater distance from the track centerline. The slow meter response of the sound level meter shall be used and the measurement shall be taken approximately five (5) feet above grade.

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Table II

<u>Zone</u>	<u>Maximum Noise Level</u>
A. Residential, Special purpose or waterfront zone	75dB(A)
B. Commercial or light-manufacturing zone	80dB(A)
C. Industrial zone	90dB(A)

(6) Construction Equipment. Individual pieces of construction equipment shall be exempt at all times. They shall be operated so as to comply with the noise limits established in section 5(d)(2) of this act.

(7) Safety Signals. Noise of safety signals, emergency pressure relief valves, warning or alarm devices shall be exempt (including horns when necessary as a danger warning): PROVIDED, That no person shall knowingly permit such noise to be made or to continue beyond that necessary for the emergency safety purpose, or necessary testing.

(8) Emergency Vehicle. Noise resulting from any authorized emergency vehicle, when responding to an emergency call or acting in time of emergency shall be exempt: PROVIDED, That this subsection shall not be construed to permit law enforcement, ambulance, fire or other emergency or official personnel to make excessive noise in the performance of their duties when such noise is clearly unnecessary.

(9) Emergency Work. Noise resulting from emergency work shall be exempted at all times.

(10) Bull-horn Amplifiers. Noise resulting from the use of bull-horn amplifiers, permanently installed public address systems, whistles or other devices, by personnel of the District of Columbia government, the United States Government or other public agencies acting in their official capacities shall be exempt.

(11) Church Bells. Church bells or music connected with worship or official church ceremonies shall be exempt.

(12) Solid Waste Compactors. Noise emanating from solid waste compactors shall be exempt at all times until standards are developed and promulgated by the administering agency. Using the federal regulations for solid waste compactors as a guideline, the administering agency shall develop and promulgate after a thirty (30) day notice is given, standards for solid waste compactors. This shall be done within six (6) months after the federal regulations are finalized.

(d) Noise resulting from the following sources shall not exceed the maximum noise levels contained in this subsection.

(1) Musical Instruments, Loud Speakers and Amplifiers. The use, operation or playing of, or the permitting to be used, operated or played, any musical instrument or device, loud speaker, sound amplifier or other similar machine or device for the production or reproduction of sound on private property or public space shall be prohibited in excess of seventy-eight (78)dB(A) at a distance of not less than one (1) meter from the source, building or structure from which it emanates: PROVIDED,

That this limitation shall not apply to parades or public gatherings involving more than two hundred (200) people on public space for which a permit has been granted.

(2) Construction.

(A) From 7:00 a.m. to 7:00 p.m. on any weekday, noise levels resulting from construction or demolition (excluding pile driver devices) shall not exceed a Leg (1) of eighty (80) dB(A) unless granted a variance under section 8 of this act.

(B) From 7:00 p.m. to 7:00 a.m. the maximum noise levels prescribed in subsections (a) and (b) of this section shall apply.

(C) In cases involving noise from construction or demolition, measurements shall be made twenty-five (25) feet from the outermost limits of the construction site.

(D) No permit for building construction or demolition shall be issued until the permit applicant has assured in writing that the noise emanating from the planned construction will comply with the limitations established by this section.

(3) Mechanical Equipment. Noise resulting from the use or operation of any air-conditioning, refrigerator, heat pump, fan, swimming pool equipment or other mechanical equipment regardless of location shall be prohibited in excess of sixty (60) dB(A) when measured at the property line or as close to the property line as practical if there is an obstruction.

(e) Noise emanating from the following sources shall be prohibited during the hours specified irrespective of its compliance with sections 5(a) and 5(b) of this act.

(1) Hawkers and Peddlers. The shouting and crying of peddlers, hawkers and vendors at nighttime shall be prohibited. This provision shall not be construed to prohibit selling by outcry of merchandise, food and beverages at licensed sporting events, parades, fairs, circuses or other similar licensed entertainment events.

(2) Construction in Residential Zones. No noise from construction, excluding minor home repairs, shall be permitted within a residential, special purpose or waterfront zone on any Sunday or legal holiday or after 7:00 p.m. and before 7:00 a.m. on any weekday. This limitation shall not apply to:

(A) portable power tools used for minor improvement of real and personal residential property otherwise allowable under this section; or

(B) work performed by (i) public utilities as defined in Title 43 of the District of Columbia Code, approved March 4, 1913 (37 Stat. 974; D.C. Code, sec. 43-103); (ii) the Washington Metropolitan Area Transit Authority as defined in sections 1-1410 et seq. of the District of Columbia Code; and (iii) their subcontractors.

Noise emanating from these sources exempted above must comply with the maximum noise levels prescribed in subsections (a) and (b) of section 5 of this act.

(3) Explosives. No blasting with explosives shall be performed on any Sunday or legal holiday or at nighttime on weekdays, except by special permit as provided in section 1301 of the Second Amendment to the 1972 Building Code of the District of Columbia (Title 5-A.D.C.R.R., sec. 1301).

(4) Trash Collection in Residential Zones. No person shall operate or permit the operation of any refuse collection

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vehicle in any residential, special purpose or water front zone at nighttime on any day of the week. This prohibition shall not apply to vehicles owned by the District of Columbia government employed for emptying litter receptacles

(5) Vehicle-Mounted Loud Speakers and Amplifiers.

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. and between 4:00 p.m. and 6:30 p.m. During all other hours their use shall be subject to the limitations in subsections (a) and (b) of section 5 of this act and the following conditions:

(A) The vehicles are required, where traffic conditions permit, to move at least five (5) miles per hour;

(B) When the vehicles are stopped for any cause, no sound may be amplified or transmitted for more than one (1) minute, so long as the vehicle remains stationary;

(C) Operators of the vehicles may not hold sound amplifying equipment, instruments or transmitting devices by hand while the vehicles are in operation; and

(D) When vehicles are parked in legal off-street locations, the conditions set forth in sections 5(e)(5)(A), 5(e)(5)(B) and 5(e)(5)(C) of this act shall not apply.

Sec. 6. Motor Vehicle Noise Limits.

(a) New Motor Vehicles.

(1) No person shall either sell or offer for sale a new motor vehicle or motorcycle which is to be registered for use upon the public highway that exceeds the maximum noise limits designated in Table III of this act when measured at a distance of fifty (50) feet from the center line of travel in accordance with test procedures (as may be appropriate for the vehicle being tested) described by the Society of Automotive Engineers, Inc. (SAE), including SAE Standard J986(a) (for vehicles 10,000 GVWR and under), SAE Standard J331 (for motorcycles) SAE Standard J366(b) (for vehicles over 10,000 GVWR), Recommended Practice J184 (for qualifying a sound data acquisition system), and subsequent revisions thereof; or a nationally recognized test procedure such as those promulgated by the United States Environmental Protection Agency, as the administering agency may hereafter prescribe in accordance with section 4(b) (4) of this act.

Table III

Type of Vehicle and Date of Manufacture	Maximum Noise Level
A. Any motorcycle, other than a motorized-bicycle, manufactured after 1976	83dB(A)
B. Any motor vehicle with a gross vehicle weight rating of more than 10,000 pounds manufactured on or after January 1, 1978	83dB(A)

- C. Any motor vehicle with a gross vehicle weight rating of more than 10,000 pounds manufactured on or after January 1, 1982 80dB(A)
- D. Any other motor vehicle weighing 10,000 pounds or less manufactured after January 1, 1976 83dB(A)
- E. Any other motor vehicle weighing 10,000 pounds or less manufactured after January 1, 1978 80dB(A)

(2) The manufacturer, distributor, importer or their designated agent shall certify in writing to the Mayor that all motor vehicles or motorcycles sold by him or her in the District of Columbia comply with the above provisions.

(b) Operational Limits.

(1) No person shall operate a motorcycle, motor vehicle or combination of motor vehicles of a type subject to registration under section 40-103 of the District of Columbia Code at any time or under any condition of grade, load, acceleration or deceleration in such a manner as to exceed the maximum noise limits designated in Table IV of this act for the specified motor vehicle category within the specified speed limits, measured at a distance of fifty (50) feet from the centerline of travel by a sound level meter switched to the A-weighting network, in accordance with such nationally recognized test procedures as the administering agency may prescribe in accordance with section 4(b)(4) of this act. Where a test procedure is used for which the noise levels in Table IV would not be appropriate, the administering agency may establish and publish a table with the appropriate levels which are substantially equivalent to those established in Table IV. The public shall be provided with at least thirty (30) days to comment on all new standards and procedures before they are finalized.

Table IV

Type of Vehicle	Noise Limit 35 MPH <u>or less</u>	Noise Limit Over <u>35 MPH</u>	Noise Limit Stationary <u>Run-up</u>
A. Any motor vehicle manufacturer's gross vehicle weight rating of 10,000 pounds or more and any combination of vehicles towed by such motor vehicle	86dB(A)	90dB(A)	88dB(A)
B. Any motorcycle	82dB(A)	86dB(A)	-

80dB(A)

C. Any other motor vehicle and any combination of vehicles towed by such motor vehicle

76dB(A)

82dB(A)

83dB(A)

(2) For the purpose of this section, a motor truck, truck tractor or bus that is not equipped with an identification plate or marking which bears the manufacturer's gross vehicle weight shall be considered as having a rating of ten thousand (10,000) pounds or more if the unladen weight is more than nine thousand (9,000) pounds.

80dB(A)

(3) No person shall operate a motor vehicle equipped with an engine speed governor which generates a sound level in excess of 88dB(A) measured on an open site with fast meter response at fifty (50) feet from the longitudinal centerline of the vehicle when its engine is accelerated from idle to wide-open throttle governed speed with the vehicle stationary, transmission in neutral, and clutch engaged.

(4) The administering agency may by regulation prescribe correctional factors to the limits prescribed in Table IV of this act when measurements are made at a site which contains large reflecting surfaces in close proximity to the vehicle or noise measuring microphone. A violation of such adjusted levels shall constitute a violation of this section.

(5) In the event that it is impractical to obtain a measurement as provided in this section fifty (50) feet from the centerline of travel, the actual distance is measured and one of the correctional factors in Table V of this act shall be applied to the maximum permissible sound levels in Table IV of this act.

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Table V

<u>Distance</u>	<u>Correction</u>	
	Soft site**	Hard site***
35 - < 39 feet*	+3 dB(A)	+5 dB(A)
39 - < 43 feet	+2 dB(A)	+4 dB(A)
43 - < 48 feet	+1 dB(A)	+3 dB(A)
48 - < 58 feet	0	+2 dB(A)
58 - < 70 feet	-1 dB(A)	+1 dB(A)
70 - < 83 feet	-2 dB(A)	0 dB(A)

*The symbol "<" means "less than".

** "soft test site" means any test site having the ground surface covered with grass, other ground cover or a similar absorption material for one-half (1/2) or more of the distance between the microphone target point and the microphone location point.

*** "hard test site" means any test site having the ground surface covered with concrete, asphalt, packed dirt, gravel or similar reflective material for more than one half (1/2) the distance between the microphone target point and the microphone location point.

(c) Alteration of Exhaust System.

No person shall modify or alter the exhaust system of a motor vehicle or motorcycle in a manner which will amplify or increase the noise emitted by the vehicle above that permitted

under section 6(b) of this act, nor shall any person use or operate a vehicle which has been so modified or altered.

(d) Study of Requiring a Yearly Motor Vehicle Inspection Program for Noise.

The Mayor is directed to conduct a study to determine the advantages and feasibility of requiring a noise inspection as a part of the annual motor vehicle inspection program. This study shall be submitted to the Council of the District of Columbia not later than six (6) months after the effective date of this act and shall include:

(1) an estimate of the cost to the government of the District of Columbia of requiring a motor vehicle inspection program for noise (computing separately the cost for District of Columbia government owned motor vehicles in contrast to the cost for all vehicles);

(2) an estimate of the length of time which would be required per vehicle for the test and the impact this would have on the total inspection program;

(3) the test procedures which would be used;

(4) an estimate of the number of cars which would fail the test and the approximate cost to each registrant to bring them into compliance;

(5) the impact of such a program on the repair stations in the city; and

(6) the impact of such a program on noise levels in the city.

Sec. 7. Nuisance Provision.

Notwithstanding any specific noise limitation established by this act, upon a determination by the Mayor that a given sound constitutes a noise disturbance, that sound shall be considered a violation of this act.

Sec. 8. Variances and Temporary Exemptions.

(a) The Mayor, upon application by a person responsible for any noise source, may grant a variance or a temporary exemption from the maximum permissible noise levels or time limitations established in this act when the Mayor determines that compliance with these provisions would impose an arbitrary, unreasonable, or undue hardship or inconvenience, or when the social value clearly outweighs the need for the limitations contained in this act.

(b) In determining whether to grant a variance or temporary exemption, the Mayor may 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 and interference with traffic, the technical feasibility of bringing the noise into conformity with this act, including the economic factors related to age and useful life of the equipment, the number of people affected by the variance or temporary exemption, such other matters as can be reasonably related to the impact of 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. The Mayor shall grant a variance or temporary exemption only to the extent necessary to ameliorate the arbitrary, unreasonable, or undue hardship or inconvenience with due regard for the adequate

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(c) Nothing in section 8 of this act shall be construed to permit any operation in violation of this act during the pendency of a request for a variance. Nothing in section 8 of this act and no variance or temporary exemption shall be construed to prevent or limit the application of the emergency procedures established under section 11 of this act.

(1) Variances.

(A) Any person seeking a variance shall do so by filing with the Mayor a petition for a variance which shall be accompanied by plans, specifications and other pertinent data as the Mayor may require, sufficient in scope to allow determination of the noise pollution impact which may result from granting the variance and the hardship involved if it is not granted. If the applicant is required to obtain a building permit (or some other type of permit) from the District government, he or she may include the request for a variance with the application for that permit. The Mayor may at any time after filing the original application, and before its expiration, require further statements in order to determine the disposition of the petition. Within three (3) months of the effective date of this act, the Mayor shall make available a list of the information to be required under this section.

(B) Notice of the variance application shall be given at least thirty (30) days before the Mayor rules on the request, unless a lesser time is justified for good cause. Notice shall be given as follows:

(i) in the District of Columbia Register by the Mayor;

(ii) by the applicant mailing the notice to the owners of all property abutting the property involved in the application; and

(iii) by the applicant mailing the notice to the occupants of property situated within two hundred (200) feet of the property involved in the application.

The notice shall show the nature of the variance requested and the location for filing an appeal. Within five (5) days after the notice appears in the District of Columbia Register, the applicant shall file with the Mayor a sworn affidavit demonstrating compliance with this section. Any person may submit comments on the application within twenty-five (25) days of the published notice, or within such other time as specified in the notice. The Mayor shall also adopt and publish in the District of Columbia Register any additional procedures with regard to requests for variances.

(C) The Mayor may in his or her discretion hold a hearing, though a hearing must be held if any person who may be adversely affected by the grant or denial of the variance, including the applicant, files a written request for a hearing within ten (10) days of the notice appearing in the District of Columbia Register. The hearing shall be held in accordance with the contested case provisions of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1208; D.C. Code, sec. 1-1509).

(D) In granting or denying a variance, the Mayor shall file a written opinion stating the facts and reasons for

the final decision. The Mayor may condition the variance and the terms thereof on such factors as he or she deems appropriate, including a schedule of compliance specifying a definite time period within which full compliance with this act and the rules and regulations adopted hereunder shall be achieved.

(E) In issuing a variance for construction work, the Mayor may prescribe the conditions, working times, types of construction equipment to be used, and permissible noise emissions as he or she deems to be required in the public interest.

(F) No variance issued pursuant to this section shall be adopted for a period to exceed one (1) year; however, a renewal may be obtained for additional periods not to exceed two (2) years if the Mayor finds that the variance is justifiable and that the intent and purpose of this act is not impaired. No renewal shall be granted except pursuant to the filing of an application. An application shall be made at least sixty (60) days prior to the expiration of the variance. Notice and hearing requirements for renewals shall be the same as those applying to initial requests for variances.

(2) Temporary Exemptions.

A person may apply to the Mayor for a 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 or some other type of permit from the District government, he or she may include the request for a temporary exemption with the application for that permit. The Mayor may grant the application for a temporary exemption if the Mayor deems it to be in the public interest. The approval of the temporary exemption must be both in writing and signed by the Mayor, setting forth the name of the party to whom the exemption is granted, the noise level to be permitted, the period of time during which the exemption shall be effective and any other conditions or qualifications deemed necessary for the protection of the public. A temporary exemption shall be granted for such period as is necessary, but shall not exceed five (5) days. Two (2) extensions may be granted where necessary. Notice of the Mayor's approval shall be published in the District of Columbia Register and shall be posted in a conspicuous spot at the location involved for a period of four (4) consecutive days next following the date of application. Any person adversely affected by the Mayor's decision 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 an application, the Mayor may, in his or her discretion, hold a hearing on the matter. The hearing shall be held as soon as practical. A decision by the Mayor shall be final, subject to a de novo review by a court of competent jurisdiction.

Sec. 9. Miscellaneous.

(a) Airport and Aircraft Operations.

The Mayor shall consult with the Administrator of the Federal Aviation Administration to recommend changes in airport operations to minimize noise disturbances resulting from the landing and the taking off of planes at the Washington National Airport.

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(b) Capital Improvement Program.

The Mayor shall require all departments responsible for a capital improvements budget and program to prepare an analysis of the noise impact of any proposed capital projects in accordance with noise assessment guidelines established by the administering agency pursuant to section 4 of this act. Proposed capital projects include land acquisition, building construction, highway improvements and fixed equipment installation. All contracts signed by the District for such work shall contain provisions requiring compliance with this act.

(c) Contracts.

The Mayor shall assure that any written contract, agreement, purchase order or other instrument whereby the city is committed to the expenditure of monies in return for goods or services shall contain provisions requiring compliance with this act.

Sec. 20. Notice of Violation.

(a) Whenever the Mayor has reason to believe that a violation of any provision of this act has occurred, he or she may, in lieu of, or in addition to, any other enforcement procedure, give notice of such alleged violation to the person or persons responsible, and order such persons to take such corrective measures as are deemed necessary. This notice;

(1) shall be in writing;

(2) shall indicate the section or subsections of this act which have been violated;

(3) shall state the nature of the violation (including, if applicable, any dB(A) readings, the date and the approximate time and place of their recordation); and

(4) may allow reasonable time for the performance of any act the notice requires.

(b) The notice shall be deemed properly served upon the alleged violator when:

(1) a copy of the notice is served upon him or her personally; or is left either at his or her usual place of business or at his or her usual residence with a person over the age of sixteen (16) years then employed or resident therein;

(2) a copy is left with any agent of the person to be notified or is left at the office of such agent or with any person employed therein, if the alleged violator's residence or place of business can not be found in the District of Columbia by reasonable search;

(3) a copy is mailed postage prepaid to the last known address of the person to be notified and is not returned by the Postal Service authorities; or

(4) notice is published on three (3) consecutive days in a daily newspaper published in the District of Columbia, if either (A) no address of the person to be served is known or can with reasonable diligence be ascertained or (B) any notice mailed as authorized in the preceding clause of this subsection is returned undelivered by the Postal Service authorities.

(c) A notice issued pursuant to subsections (a) and (b) of section 10 of this act shall be final unless the person adversely affected requests a hearing within the period specified in the notice of violation or within fifteen (15) days after the date of service of the notice, whichever is less. The Mayor, upon receipt of a request for a hearing, shall provide the petitioner

with an opportunity for a hearing in accordance with the contested case provisions of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1208; D.C. Code, sec. 1-1509). A decision sustaining, modifying or vacating a notice shall be final.

(d) If any person fails to comply with a final notice issued pursuant to this section, The Mayor shall institute such action as may be necessary to terminate the violation. The person's failure to comply shall constitute a separate violation of this act.

(e) Nothing in this section shall be construed to preclude enforcement of the provisions of this act by recovery of a penalty pursuant to section 13 of this act, injunctive relief or other appropriate remedy.

Sec. 11. Emergency Procedure.

(a) Notwithstanding any other provision of this act, if the Mayor finds that any person is acting in such a manner as to cause or contribute to a sound level of such characteristics and duration as is likely to be injurious to the public welfare, the health of human or animal life, or property, or which interferes with the reasonable enjoyment of life or property, he or she may order such person or persons immediately to reduce or discontinue the act; and failure to comply with this order shall be a violation of this act.

(b) Any person aggrieved by an emergency order of the Mayor may within forty-eight (48) hours of such order request a hearing by the Mayor, who shall hold such hearing as soon as reasonably practical in accordance with the contested case provisions of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1208; D.C. Code, sec. 1-1509). A request for a hearing shall not be grounds for noncompliance with any order issued pursuant to this section. After the conclusion of such hearing, the person shall be notified by the Mayor of the Mayor's decision and such action shall be final: PROVIDED, That an appeal therefrom shall not be grounds for noncompliance with any order issued pursuant to this section.

(c) Nothing contained in this section shall preclude the Mayor from initiating appropriate action for the recovery of a penalty as is provided in this act, nor shall it preclude the Mayor from seeking such other relief or remedy as is provided by law.

Sec. 12. Interference with Measurement.

It shall be unlawful for any person to refuse, prevent or interfere with any lawful physical determination or measurement authorized by this act: PROVIDED, That no District of Columbia government officer or employee shall enter any privately owned premise for such purpose without permission of the resident or a person therein or a valid search warrant.

Sec. 13. Penalties.

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.

Sec. 14. Provision for Legal Action.

(a) Any person may commence a civil action in a court of competent jurisdiction on his or her own behalf for injunctive relief to enforce a requirement or to order the Mayor to perform a non-discretionary act, against any person (including the District of Columbia to the extent permitted by the Eleventh Amendment of the United States Constitution) who is alleged to be (1) in violation of any requirement of this act, or (2) in violation of any order issued by the Mayor with respect to any such requirement or (3) engaged in any act prohibited by this act.

(b) No action may be commenced under this section:

(1) prior to sixty (60) days after the plaintiff has given notice of the violation (A) to the Mayor, and (B) to any alleged violator of the requirements; or

(2) if the Mayor has commenced and is diligently prosecuting a civil or criminal action in the court of competent jurisdiction in the District of Columbia to require compliance with the act or to have the appropriate penalty assessed.

Sec. 15. Amendments to Existing Regulations.

(a) Article 6 of the Police Regulations of the District of Columbia is amended as follows:

(1) amend the title to read "Special Performance Permits and Emergency Zones"; and

(2) delete everything therein except sections 8 and 9 (formerly designated as sections 4 and 5) which are renumbered sections 1 and 2, respectively.

(b) Sections 1 and 7 of Article 18 of the Police Regulations of the District of Columbia (as amended by Reg. 72-20) are hereby repealed.

(c) Section 14 of Article 25 of the Police Regulations of the District of Columbia is hereby repealed.

(d) Subsection (a) of section 6.402 of Title 32, District of Columbia Rules and Regulations, is amended to read as follows:

"(a) Noise control regulations for motor vehicles are contained in the District of Columbia Noise Control Act of 1977."

(e) Nothing in this act shall be construed as repealing or limiting the effectiveness of noise limiting provisions contained in the District of Columbia Harbor Regulations (Article 29, sec. 14 of the Police Regulations).

Sec. 16. Severability.

Each separate provision of this act shall be deemed independent of any other provision of this act, and if any provision, sentence, clause, section or part thereof is held illegal, invalid, unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this act or their application to other parts or circumstances. It is hereby declared to be the legislative intent that this act would have been enacted if such illegal or invalid or

unconstitutional provision, sentence, clause, section or part had not been included therein, and if the person or circumstances to which this act or any part thereof is inapplicable had been specifically exempted therefrom.

Sec. 17. Effective Date.

This act shall take effect sixty (60) days following the thirty (30) day period provided for Congressional review of acts of the Council of the District of Columbia in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 817; D.C. Code, sec. 1-147(c)(1)).

Source

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act (PL 93-198), the Act, the Council of the District of Columbia adopted Bill No. 2-134 on first and second readings July 26, 1977, and September 13, 1977, respectively. Following the signature of the Mayor on December 9, 1977, this legislation was assigned Act No. 2-117, published in the December 30, 1977, edition of the D.C. Register, and transmitted to both Houses of Congress for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired and, therefore, cites the following legislation as D. C. Law 2-53, effective March 16, 1978.