

2700 GENERAL PROVISIONS

- 2700.1 It is the declared public policy of the District that every person is entitled to ambient noise levels that are not detrimental to life 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 attraction of the District.
- 2700.2 It is the intent of the Council of the District of Columbia that D.C. Law 2-53 (the "Act") be liberally construed to carry out its general purpose.
- 2700.3 Certain noise-producing activities are subject to limitations other than the general decibel limitations pursuant to § 2701. The activities set forth in §§ 2702 through 2704, and §§ 2800 through 2807 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 §§ 2701 and 2810.
- 2700.4 The agency that administers the noise control program shall conduct programs of public education regarding the following:
- (a) The causes, effects, and general methods of abatement and control of noise and vibration;
 - (b) The actions prohibited by the Act; and
 - (c) The procedures for reporting violations.
- 2700.5 The agency that administers the noise control program shall encourage the participation of public interest groups in related public information efforts.
- 2700.6 The agency that administers the noise control program shall 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 Chapters 27 and 28 of this subtitle.
- 2700.7 The agency that administers the noise control program shall establish and publish on or before November 15, 1978, the test procedures to be used for measuring sound levels to determine compliance with Chapters 27 and 28 of this subtitle.
- 2700.8 The test procedures for measuring sound levels, as required by § 2700.7, shall be revised periodically, as necessary.
- 2700.9 The public shall be given thirty (30) days to comment on all proposed test procedures before they are made final.
- 2700.10 On or before May 15, 1979, the agency that administers the noise control program shall establish noise assessment guidelines for the evaluation of proposed projects for the capital improvements budget and program.

- 2700.11 The guidelines required by § 2700.10 may be used in the determination of the relative priority of each project in terms of noise impact.
- 2700.12 The agency that administers the noise control program shall evaluate and report to the Council of the District of Columbia every year on the effectiveness of the noise control program, and shall make recommendations for any legislative or budgetary changes necessary to improve the program.
- 2700.13 Noise of safety signals, emergency pressure relief valves, and warning or alarm devices shall be exempt (including horns when necessary as a danger warning); Provided, that no person shall knowingly permit the noise to be made or to continue beyond that necessary for the emergency safety purpose, or necessary testing.
- 2700.14 Unless specifically provided otherwise by the Act, a sound that constitutes a noise disturbance shall be considered a violation of the Act.
- 2700.15 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.
- 2700.16 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 §§2700.3 through 2700.12 of this chapter.
- 2700.17 For the purposes of this section, the term "proposed capital projects" includes land acquisition, building construction, highway improvements, and fixed equipment installation.
- 2700.18 All contracts signed by the District for capital projects shall contain provisions requiring compliance with the Act.
- 2700.19 The Mayor shall ensure that any written contract, agreement, purchase order, or other instrument by which the District is committed to the expenditure of monies in return for goods or services shall contain provisions requiring compliance with the Act.
- 2700.20 Noise levels under the 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. The measurements shall be admissible as evidence in any civil, criminal, or administrative proceeding relating to the enforcement of any provision of the Act.
- 2700.21 Nothing in this act shall be construed as repealing or limiting the effectiveness of noise limiting provisions contained in the D.C. Harbor Regulations (DCMR Title 19).
- 2700.22 Each separate provision of Chapters 28 and 29 of this subtitle shall be considered independent of any other provision of those chapters and, if all or part of any provision, sentence, clause, or section is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, the illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of those chapters or their application to other parts or circumstances.
- 2700.23 It is the legislative intent that the Act would have been enacted if an illegal, invalid, or unconstitutional provision, sentence, clause, section, or part had not been included in the Act, and if the person or circumstances to which all or part of the Act is inapplicable had been specifically exempted from the Act.

AUTHORITY: Unless otherwise noted, the authority for this chapter is An Act approved January 26, 1887, 24 *Stat.* 368, ch. 49, as amended; D.C. Code § 1-315 (1992 (Repl. Vol.)); the §§ 422(6) and 422(11) of the District of Columbia Self-Government and Governmental Reorganization Act; the District of Columbia Noise Control Act of 1977, D.C. Law 2-53; as amended; Mayor's Order 79-28 dated February 5, 1979.

SOURCE: Sections 2, 4, 5, 7, 9, 15, 16 of the District of Columbia Noise Control Act of 1977, D.C. Law 2-53, 24 DCR 5293 (December 30, 1977); as amended by § 2 of the Noise Control Amendment Act of 1996, D.C. Law 11-161, 43 DCR 3727, 3728 and 3730 (July 19, 1996).

EDITOR'S NOTE: Chapter 30, Noise Control was renumbered Chapter 27.

2701 MAXIMUM SOUND LEVELS

2701.1 Except for person engaged in the noise-producing activities that are subject §§ 2702 through 2704, and §§ 2800 through 2807 of this subtitle, 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 source 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 § 2700:

ZONE	MAXIMUM NOISE LEVEL	
	Daytime	Nighttime
Commercial or light-manufacturing zone	65 dB(A)	60 dB(A)
Industrial zone	70 dB(A)	65 dB(A)
Residential, special purpose, or waterfront zone	60 db(A)	55 db(A)

- 2701.2 For the purposes of this section, 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.
- 2701.3 Sound levels shall be measured according to the test procedures prescribed by the administering agency established under § 2700.3 of this subtitle.
- 2701.4 If a sound can be measured in a contiguous noise zone that 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.
- 2701.5 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).
- 2701.6 Unless restricted by another section of Chapters 27 and 28 of this subtitle, sounds emanating from a street or highway shall not exceed the most restrictive sound level established for the property bordering the street or highway.
- 2701.7 Noise emanating from inside a motor vehicle shall be measured at a distance of not less than fifty feet (50 ft.) from the vehicle.

SOURCE: Section 5 of the District of Columbia Noise Control Act of 1977, D.C. Law 2-53, 24 DCR 5293 (December 30, 1977); as amended by §2 of the Noise Control Amendment Act of 1996, D.C. Law 11-161, 43 DCR 3727 (July 19, 1996).

2702 EXEMPTIONS: PRE-EXISTING SOURCES

- 2702.1 Sounds emanating from pre-existing sources shall, to the extent indicated, be exempt from the specific noise limitations contained in § 2701 of this chapter; Provided, that the exemption shall not preclude enforcement under any other section of Chapters 27 and 28 of this subtitle.
- 2702.2 Pre-existing sources shall be exempt for one hundred and twenty (120) days after May 15, 1978.
- 2702.3 Any owner or person in control of a pre-existing source that exceeds the maximum permissible sound levels as prescribed in §2701 of this chapter shall, within one hundred and twenty (120) days after May 15, 1978, file with the Mayor a written plan for the Mayor's approval for the reduction of those sound levels to the maximum permissible levels.
- 2702.4 Each plan submitted pursuant to § 2702.3 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 § 2706 of this chapter.

SOURCE: Section 5 of the District of Columbia Noise Control Act of 1977, D.C. Law 2-53, 24, DCR 5293, 5304 (December 30, 1977).

2703 EXEMPTIONS: VEHICLES USING ONLY RAILS AND TRACKS

- 2703.1 Sounds emanating from vehicles using only rails and tracks shall, to the extent indicated, be exempt from the specific noise limitations contained in § 2701 of this chapter; Provided, that the exemption shall not preclude enforcement under any other section of Chapters 27 and 28 of this subtitle.
- 2703.2 Vehicles propelled only upon rails and tracks shall be exempt at all times.
- 2703.3 Railroad cars operated by the Washington Metropolitan Area Transit Authority shall be operated in a manner so as not to emit maximum noise levels in excess of those established in the following table when measured at a distance of one hundred feet (100 ft.) from the center line of the track, or at the nearest property line, whichever is the greater distance from the center line of track.

<u>ZONE</u>	<u>MAXIMUM NOISE LEVEL</u>
Residential, special purpose, or waterfront zone	75 dB(A)
Commercial or light-manufacturing zone	80 dB(A)
Industrial zone	90 dB(A)

- 2703.4 In taking a measurement pursuant to § 2703.3, the slow meter response of the sound level meter shall be used, and the measurement shall be taken approximately five feet (5 ft.) above grade.

SOURCE: Section 5 of the District of Columbia Noise Control Act of 1977, D.C. Law 2-53, 24 DCR 5293, 5305 (December 30, 1977).

2704 EXEMPTIONS: MISCELLANEOUS

- 2704.1 Sounds emanating from the sources covered in this section shall, to the extent indicated, be exempt from the specific noise limitations contained in § 2701 of this chapter; Provided, that no exemption shall preclude enforcement under any other section of Chapters 27 and 28 of this subtitle.
- 2704.2 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 § 2802 of this subtitle.
- 2704.3 Noise of safety signals, emergency pressure relief valves, and warning or alarm devices shall be exempt (including horns when necessary as a danger warning); Provided, that no person knowingly shall permit a noise to be made or to continue beyond that necessary for the emergency safety purpose, or necessary testing.
- 2704.4 Noise resulting from any authorized emergency vehicle, when responding to an emergency call or acting in a 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 the noise clearly is unnecessary.
- 2704.5 Noise resulting from emergency work shall be exempt at all times.
- 2704.6 The use or operation of portable power tools, home snow removal equipment, power garden excluding leaf blowers 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.
- 2704.7 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 Chapter 28 of this subtitle.
- 2704.8 The unamplified voice shall be exempt at all times.
- 2704.9 Noise resulting from the use of bull-horn amplifiers, permanently installed public address systems, whistles, or other devices, by personnel of the District government, the U.S. government, or other public agencies acting in their official capacities shall be exempt.
- 2704.10 Church bells or music connected with worship or official church ceremonies shall be exempt; provided, that this exemption shall not apply to music which is amplified through electronic sound systems.
- 2704.11 Noise emanating from solid waste compactors shall be exempt at all times until standards are developed and promulgated by the administering agency pursuant to § 2704.13.
- 2704.12 After giving a thirty (30) day notice, and within six (6) months after federal regulations for solid waste compactors are made final, the administering agency shall develop and promulgate standards for solid waste compactors. In developing the standards, the agency shall use the federal regulations for solid waste compactors as a guideline.
- 2704.13 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.

SOURCE: Section 5 of the District of Columbia Noise Control Act of 1977, D.C. Law 2-53, 24 DCR 5293, 5306 (December 30, 1977); as amended by § 2 of the District of Columbia Noise Control Amendment Act of 1977, D.C. Law 9-135, 39 DCR 4079 (June 12, 1992).

2705 VARIANCES AND TEMPORARY EXEMPTIONS

- 2705.1 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 the 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.
- 2705.2 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 following:
- (a) The location;
 - (b) The time of day when the noise will occur;
 - (c) The duration of the noise, its magnitude relative to the maximum permissible noise levels permitted under the Act;
 - (d) The possible obstruction or interference with vehicular or pedestrian traffic;
 - (e) The feasibility of bringing the noise into conformity with this act, including economic factors related to the age and useful life of the equipment;
 - (f) The number of people that would be affected by the granting of a variance or temporary exemption;
 - (g) The degree of hardship involved if the variance of temporary exemption is not granted; and
 - (h) Any other factors as are reasonably related to the impact of the noise on the health, safety, welfare, peace, and quiet of the community.
- 2705.3 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.
- 2705.4 Nothing in this section shall be construed to permit any operation in violation of the Act during the pendency of a request for a variance or a temporary exemption.
- 2705.5 Nothing in this section and no variance or temporary exemption shall be construed to prevent or limit the application of the emergency procedures established under §2711 of this chapter.

SOURCE: Section 7 of the District of Columbia Noise Control Act of 1977, D.C. Law 2-53, 24 DCR 5293, 5319 (December 30, 1977); as amended by § 2 of the Noise Control Amendment Act of 1996, D.C. Law 11-161, 43 DCR 3727, 3729 (July 19, 1996).

2706 VARIANCE PROCEDURES

- 2706.1 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 that may result from granting the variance and the hardship involved if it is not granted.

- 2706.2 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.
- 2706.3 The Mayor may, at any time after an applicant files an original application, and before its expiration, require further statements in order to determine the disposition of the petition.
- 2706.4 Within three (3) months of May 15, 1978, the Mayor shall make available a list of the information to be required under this section.
- 2706.5 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.
- 2706.6 Notice of the variance application shall be given as follows:
- (a) The Mayor shall publish the notice in the *D.C. Register*;
 - (b) The applicant shall mail the notice to the owners of all property abutting the property involved in the application; and
 - (c) The applicant shall mail the notice to the occupants of property situated within two hundred feet (200 ft.) of the property involved in the application.
- 2706.7 The notice of the variance application shall show the nature of the variance requested and the location for filing an appeal.
- 2706.8 Within five (5) days after the notice appears in the *D.C. Register*, the applicant shall file with the Mayor a sworn affidavit demonstrating compliance with this section.
- 2706.9 Any person may submit comments on the application for a variance within twenty-five (25) days of the published notice, or within the time specified in the notice.
- 2706.10 The Mayor shall adopt and publish in the *D.C. Register* any additional procedures with regard to requests for variances.
- 2706.11 The Mayor may, in his or her discretion, hold a hearing; Provided, that a hearing shall be held if any person who may be adversely affected by the grant or denial of a variance, including the applicant, files a written request for a hearing within ten (10) days, of the notice appearing in the *D.C. Register*.
- 2706.12 The hearing held pursuant to § 2706.11 shall be held in accordance with the contested case provisions of the D.C. Administrative Procedure Act, approved October 21, 1968 (82 *Stat.* 1208; D.C. Code § 1-1509 (1991 Repl. Vol.)).
- 2706.13 In granting or denying a variance, the Mayor shall file a written opinion stating the facts and reasons for the final decision.
- 2706.14 The Mayor may condition the variance and the terms of the variance on factors that he or she deems appropriate, including a schedule of compliance specifying a definite time period within which full compliance with Chapters 27 and 28 of this subtitle and the rules and regulations adopted under the Act shall be achieved.
- 2706.15 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 the Mayor considers to be required in the public interest.

- 2706.16 No variance issued pursuant to this section shall be adopted for a period to exceed one (1) year; Provided, that 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 the Act is not impaired.
- 2706.17 No renewal shall be granted except pursuant to the filing of an application.
- 2706.18 An application for the renewal of a variance shall be made at least sixty (60) days prior to the expiration of the variance.
- 2706.19 Notice and hearing requirements for the renewal of variances shall be the same as those applying to initial requests for variances.

SOURCE: Section 8 of the District of Columbia Noise Control Act of 1977, D.C. Law 2-53, 24 DCR 5293, 5320 (December 30, 1977).

2707 TEMPORARY EXEMPTION PROCEDURES

- 2707.1 A person may apply to the Mayor for a temporary exemption from the maximum permissible noise levels or the time limits established by the Act.
- 2707.2 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.
- 2707.3 The decision of the Mayor shall be in writing and shall include a statement of the reasons for the action taken.
- 2707.4 If a temporary exemption is granted, the decision shall include the following information:
- (a) The name of the applicant;
 - (b) The noise level to be permitted;
 - (c) The period of time during which the exemption shall be in effect; and
 - (d) Any other conditions or qualifications necessary for the protection of the public under the standards applicable to the granting of a temporary exemption.
- 2707.5 A temporary exemption shall be granted for as long as is necessary, but shall not exceed forty-five (45) days.
- 2707.6 A notice of the issuance of a temporary exemption shall be published in the *D.C. 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.
- 2707.7 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.
- 2707.8 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.
- 2707.9 The hearing shall be held as soon as practicable.
- 2707.10 A decision by the Mayor after a hearing shall be final, subject to a *de novo* review by a court of competent jurisdiction.

2707.11 Unless the Mayor orders otherwise, the filing of a request for a hearing shall not affect the issuance of a temporary exemption.

SOURCE: Section 2 of the Noise Control Amendment Act of 1996, D.C. Law 11-161, 43 DCR 3727, 3730 (July 19, 1996).

2708 RESERVED

2709 RESERVED

2710 NOTICE OF VIOLATIONS

2710.1 Whenever the Mayor has reason to believe that a violation of any provision of the Act has occurred, he or she may, in lieu of or in addition to any other enforcement procedure, give notice of the alleged violation to the person or persons responsible, and order the persons to take corrective measures as are deemed necessary.

2710.2 The notice of an alleged violation shall meet the following requirements:

- (a) It shall be in writing;
- (b) It shall indicate the section or subsections of Chapters 27 and 28 of this subtitle that have been violated; and
- (c) It shall state the nature of the violation (including, if applicable, any dB(A) readings, the date, and the approximate time and place of their recording).

2710.3 The notice of an alleged violation may allow reasonable time for the performance of any act required by the notice.

2710.4 The notice of an alleged violation shall be deemed properly served upon the alleged violator when it is served by one (1) of the following methods:

- (a) A copy of the notice is served personally upon the alleged violator, or is left either at the alleged violator's usual place of business or at his or her usual residence with a person over the age of sixteen (16) years who is employed or who resides at that place;
- (b) A copy of the notice is left with any agent of the person to be notified, or is left at the office of the agent or with any person employed at the office, if the alleged violator's residence or place of business cannot be found in the District by reasonable search;
- (c) 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
- (d) The notice is published on three (3) consecutive days in a daily newspaper published in the District, when one (1) of the following circumstances exists:
 - (1) No address of the person to be served is known or can, with reasonable diligence, be ascertained; or
 - (2) Any notice mailed in accordance with § 2710.4(c) is returned undelivered by the Postal Service authorities.

- 2710.5 A notice issued pursuant to this section 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.
- 2710.6 Upon receipt of a request for a hearing, the Mayor shall provide the petitioner with an opportunity for a hearing in accordance with the contested case provisions of the D.C. Administrative Procedure Act, approved October 21, 1968 (82 *Stat.* 1208; D.C. Code § 1-1509 (1981)).
- 2710.7 A decision sustaining, modifying, or vacating a notice shall be final.
- 2710.8 If any person fails to comply with a final notice issued pursuant to this section, the Mayor shall institute action as may be necessary to terminate the violation.
- 2710.9 Any person's failure to comply with a final notice issued pursuant to this section shall constitute a separate violation of the Act.
- 2710.10 Nothing in this section shall be construed to preclude enforcement of the provisions of the Act by recovery of a penalty pursuant to § 2713 of this chapter, injunctive relief, or other appropriate remedy.

SOURCE: Section 10 of the District of Columbia Noise Control Act of 1977, D.C. Law 2-53, 24 DCR 5293, 5326 (December 30, 1977).

2711 EMERGENCY PROCEDURES

- 2711.1 If the Mayor finds that any person is acting in a manner that constitutes a violation of the Act, the Mayor may order the person to cease and desist.
- 2711.2 Failure to comply with the order shall be a violation of the 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.
- 2711.3 Any person aggrieved by an emergency order of the Mayor may, within forty-eight (48) hours of the order, request a hearing by the Mayor.
- 2711.4 Upon receiving a request for a hearing from any person aggrieved by an emergency order, the Mayor shall hold the hearing as soon as is reasonably practical.
- 2711.5 The hearing regarding an emergency order shall be conducted in accordance with the contested case provisions of the D.C. Administrative Procedure Act (D.C. Code § 1-1509 (1991 Repl. Vol.)).
- 2711.6 A request for a hearing on an emergency order shall not be grounds for noncompliance with any order issued pursuant to this section.
- 2711.7 After the conclusion of the hearing held pursuant to §§ 2711.4 and 2711.5, the person shall be notified by the Mayor of the Mayor's decision. This action shall be final; Provided, that an appeal from the action shall not be grounds for noncompliance with any order issued pursuant to this section.
- 2711.8 Nothing contained in this section shall preclude the Mayor from initiating appropriate action for the recovery of a penalty as is provided in Chapters 27 and 28 of this subtitle, nor shall it preclude the Mayor from seeking any other relief or remedy as is provided by law.

SOURCE: Section 11 of the District of Columbia Noise Control Act of 1977, D.C. Law 2-53, 24 DCR 5293, 5328 (December 30, 1977); as amended by § 2 of the Noise Control Amendment Act of 1996, D.C. Law 11-161, 43 DCR 3727, 3730 (July 19, 1996).

2712 INTERFERENCE WITH MEASUREMENT

2712.1 It shall be unlawful for any person to refuse, prevent, or interfere with any lawful physical determination or measurement authorized by the Act; Provided, that the provisions of § 2712.2 are complied with.

2712.2 No District government officer or employee shall enter any privately owned premise for the purpose of making a lawful, physical determination or measurement authorized by the Act without permission of the resident or a person in the premise, or without a valid search warrant.

SOURCE: Section 12 of the District of Columbia Noise Control Act of 1977, D.C. Law 2-53, 24 DCR 5293, 5330 (December 30, 1977).

2713 ENFORCEMENT: PENALTIES

2713.1 Any person who is aggrieved by a violation of any provision of the Act may complain to the Metropolitan Police Department which shall enforce the provisions of this Act.

2713.2 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.

2713.3 Any person who violates any provision of the Act shall be punished by a fine not to exceed one thousand dollars (\$1000) or imprisonment not to exceed ten (10) days, or both. In the event of any violation of or failure to comply with the Act or any section of the Act, each and every day of such violation or failure shall constitute a separate offense, and the penalties described in the Act shall be applicable to each such separate offense.

2713.4 Officers of the Metropolitan Police Department are authorized to enforce the provisions of the Act by issuing a notice of civil infraction for a violation of the Act that constitutes a noise disturbance, or a noise-producing activity, during days or hours when prohibited, or beyond its authorized duration 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.*).

2713.5 Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of Chapter 27 or 28, pursuant to titles I-III of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985. Adjudication of any infraction of Chapter 27 or 28 shall be pursuant to titles I-III of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985.

SOURCE: Section 485 of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985 Technical and Clarifying Amendments Act of 1990, D.C. Law 8-237, 38 DCR 314,318 (January 11, 1991); Section 2 of the Noise Control Amendment Act of 1996, D.C. Law 11-161, 43 DCR 3727, 3731 (July 19, 1996).

2714 CIVIL ENFORCEMENT

2714.1 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 government to the extent permitted by the Eleventh Amendment of the U.S. Constitution) who is alleged to be the following:

- (a) In violation of any requirement of the Act;
- (b) In violation of any order issued by the Mayor with respect to any requirement of the Act; or
- (c) Engaged in any act prohibited by the Act.

2714.2 No action shall be taken under the provisions of this section prior to ten (10) days after the plaintiff has given notice of the violation to the Mayor, and to any alleged violator of the requirements.

2714.3 No action shall be taken under the provisions of this section 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.

SOURCE: Section 14 of the District of Columbia Noise Control Act of 1977, D.C. law 2-53, 24 DCR 5293, 5330 (December 30, 1977); as amended by § 2 of the Noise Control Amendment Act 011996, D.C. Law 11-161, 43 DCR 3727, 3731 (July 19, 1996).

2799 DEFINITIONS

2799.1 When used in Chapters 27 through 29 of this subtitle, the following words or abbreviations shall have the meaning ascribed 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.

ANSI - the American National Standard Institute or its successor bodies.

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

Daytime - the hours from 7:00 a.m. to 9:00 p.m.

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 of that standard.

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.

Emergency Generator Equipment – Generators that supply back-up power to buildings such as hospitals, hotels, and office buildings.

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.

Leafblowers - any portable device or machine that is gasoline or electric powered and which is designed or intended, by generating a concentrated stream of air to blow, dispel, or make airborne, leaves, grass cuttings, paper, trash, or any other type of unattached debris or material. The term includes those devices or machines that accept vacuum attachments. (D.C. Law 9-135)

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.

Maximum sound level - the highest level observed on a sound level meter.

Mayor - the Mayor of the District of Columbia or his or her designated agent.

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

Motor vehicle - any vehicle propelled either by an internal combustion engine or by electricity or steam. This term does not include motor boats and traction engines used exclusively for drawing vehicles in fields, road rollers, and vehicles propelled only upon rails and tracks.

Motorized bicycle - any motor vehicle having the following:

- (a) Either a tandem arrangement of two (2) wheels equipped with tires that are sixteen inches (16 in.) or more in diameter, or having a tricycle arrangement of three (3) wheels equipped with tires that are sixteen inches (16 in.) or more in diameter, weighing not more than one hundred and twenty (120) pounds;
- (b) An automatic transmission; and
- (c) A motor or engine that produces not more than one and five-tenths (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 that is capable of moving the vehicle at a speed of no more than twenty-five miles per hour (25 mph) on level ground when propelled exclusively by the motor or engine.

Nighttime - the hours from 9:00 p.m. to 7:00 a.m.

Noise - this term shall have the same definition as "sound," in the Act.

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. 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. A noise shall not be considered a noise disturbance if it is made during noncommercial public speaking during the daytime and does not exceed 80 decibels inside the nearest occupied residence in districts zoned R-1A, R-1B, R-2, R-3, or R-4. Except as it may otherwise conflict with provisions of this act, all measurements of noise levels shall be performed and verified by qualified inspectors of the Department of Consumer and Regulatory Affairs in accordance with the requirements specified in Chapter 29 of Title 20 of the District of Columbia Municipal Regulations. If the noise is made at night or does not involve noncommercial public speaking, the Mayor shall not be required to measure the decibel level of the noise to find a noise disturbance.

Noise level - this term shall have the same definition as "sound level."

Noise zones - shall be defined according to the following three (3) categories, as shown, defined, and bounded on the zoning map:

- (a) Residential, special purpose, or waterfront zone - any district listed under chapters 4, 5, and 9 of the D.C. Zoning Regulations, effective May 12, 1958, as amended;
- (b) Commercial or commercial-light manufacturing zone - any district listed under chapter 7 of the D.C. Zoning Regulations, effective May 12, 1958, or classified as a "C-M Commercial-light manufacturing" district under Chapter 8 of the Zoning Regulations; and
- (c) General industrial zone - any district classified under Chapter 8 of the Zoning Regulations, effective May 12, 1958, but not classified as a "C-M Commercial-light manufacturing" district.

Person - an individual, partnership, corporation, trust, association, firm, organization, government, or other entity.

Pre-existing source - any noise source either established and in operation or under construction prior to May 15, 1978.

Real property boundary - an imaginary line along the ground surface and its vertical extension, which separates the real property owned by one (1) person from that owned by another.

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 the sound, including duration, intensity, and frequency.

Sound level - the weighted sound pressure level obtained by the use of a sound level meter and frequency weighing 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 of ANSI S1.4 standard). If the frequency weighing employed is not indicated, the A-weighing shall apply.

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 of the ANSI S1.4 standard.

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.

Weekday - any day except Sunday or a legal holiday.

Zoning regulations - the D.C. Zoning Regulations, effective May 12, 1958, as amended (DCMR Title 11).

SOURCE: Section 2 of the District of Columbia Noise Control Act of 1977, D.C. Law 2-53, 24 DCR 5293, 5295 (December 30, 1977); as amended by § 2 of the District of Columbia Noise Control Amendment Act of 1977, D.C. Law 9-135, 39 DCR 4079 (June 12, 1992); by § 2 of the Noise Amendment Act of 1996, D.C. Law 11-161, 43 DCR 3727 (July 19, 1996); by § 2 of the Georgetown Project and Noise Control Amendment Act of 2004, D.C. Law 15-214, 51 DCR

8825 (September 10, 2004); and by § 2 of the Noise Control Protection Amendment Act of 2008, D.C. Law 17-208, 55 DCR 6977 (June 27, 2008).