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November 12, 2003

By Hand Delivery

Mr. Geoffrey Griffis, Chairman
Board of Zoning Adjustment
441 4th Street, N.W.
Second Floor
Washington, DC 20001

Re: BZA Application No. 16970
National Child Research Center
3209 Highland Place, NW; Square 2072, Lot 30
Information to Be Addressed in Rebuttal Testimony

Dear Chairman Griffis and Members of the Board:

The National Child Research Center ("NCRC"), hereby submits the following information which will be addressed in the rebuttal testimony of its witnesses on November 18, 2003:

- Excerpts from the Traditional Neighborhood Development – Street Design Guidelines (a recommended practice published by the Institute of Transportation Engineers);
- Excerpts from the Uniform Vehicle Code 2000 (published by the National Committee on Uniform Traffic Laws and Ordinances 2000);
- Excerpts from Transportation and Land Development - 2nd Edition (published by the Institute of Transportation Engineers);
- 20 DCMR §§ 2700 et seq. and 2800 et seq. – The District of Columbia Municipal Regulations regarding Noise Control and Maximum Noise Levels;
- 21 DCMR § 500 et seq – The District of Columbia Municipal Regulations regarding Water Quality and Pollution;

BZA
Case No. 16970
Exhibit No. 302

Board of Zoning Adjustment
District of Columbia
CASE NO.16970
EXHIBIT NO.302A1

- A schematic landscape plan depicting the proposed landscaped buffer areas and potential plant species in the areas of the NCRC property adjacent to the Little, Beckner and Badami properties; and

- a photographic montage of the NCRC property and adjacent properties along Ordway Street, N.W.

Respectfully submitted,

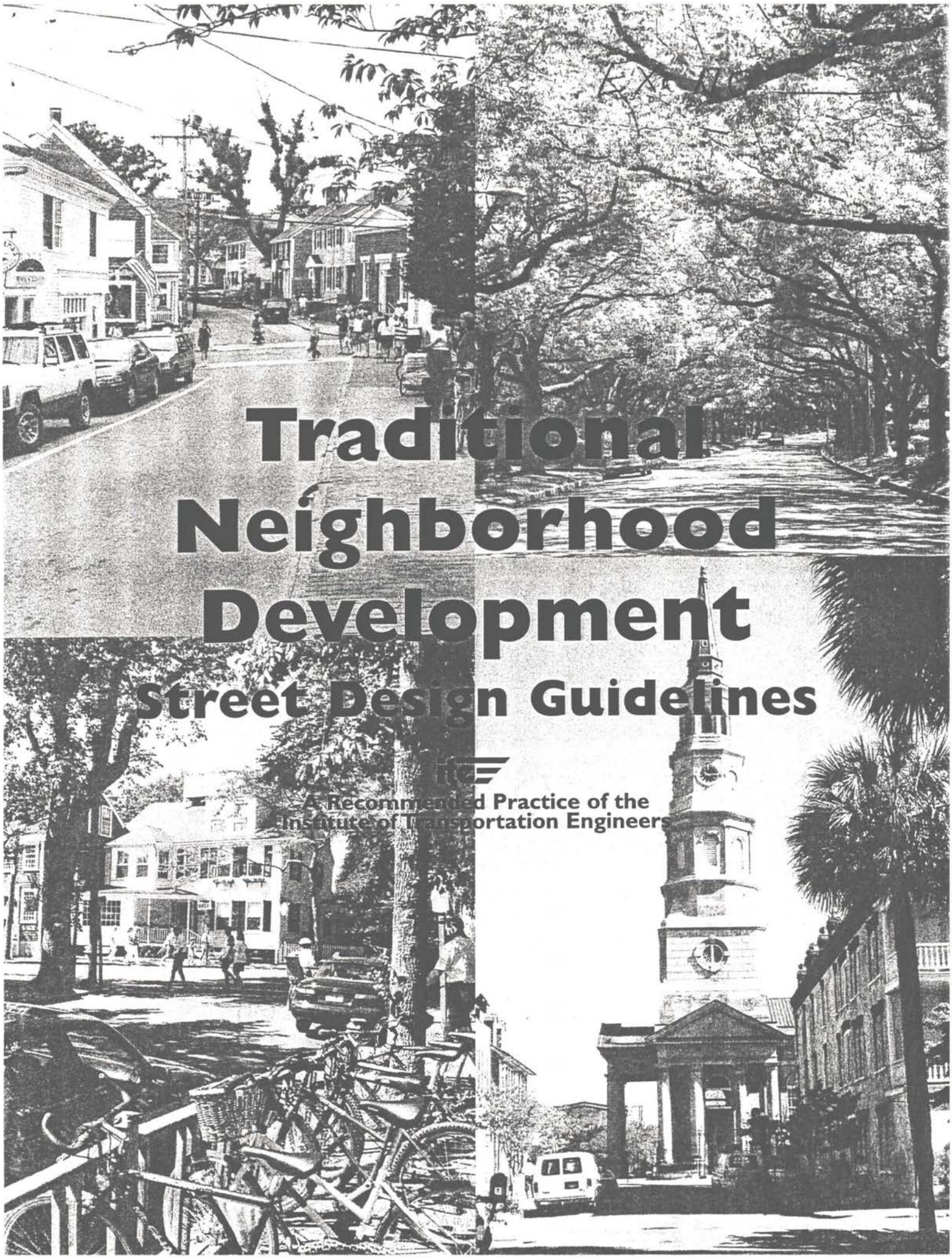
SHAW PITTMAN, LLP

By Maureen Dwyer
Maureen Dwyer

Paul Tummonds
Paul Tummonds

Enclosures

cc: See attached Certificate of Service



Traditional Neighborhood Development

Street Design Guidelines

A Recommended Practice of the
Institute of Transportation Engineers

Users of these guidelines are reminded that the street design recommendations apply to communities and locations that conform to design features cited previously. Applying these guidelines to communities having the features of "conventional" suburban development such as lack of mixed uses, lower densities, and lack of pedestrian facilities can lead to problems as great as those that result from applying conventional street design guidelines to TND neighborhoods. Users are also reminded that streets in a TND are not intended to carry large volumes of through traffic and that an adequate, separate, system of arterial roadways is necessary to serve higher volumes and long distance travel.

D. TND DESIGN PRINCIPLES

D.1. Specificity

One of the most basic and pervasive aspects of TND street design is that this form of design is very specific for the particular street at hand. This principle requires more work on the part of designers who must review each street in a neighborhood and use the best information available to design that particular street, sometimes for separate sections of a street. It is for this reason that all of the design principles must be understood and set forth, to be used in conjunction with engineering judgment. A result of this design specificity is that each street and alley is designed and labeled for its particular purpose(s). (See *Figure* 2.)

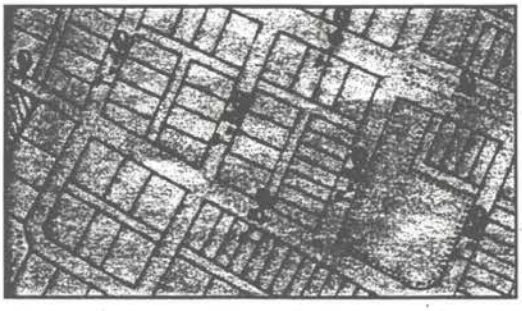


Figure 2. Street mix

D.2. Concept of "Lanes" and Shared Street Space

A principle that is central to the design and sizing of streets in a TND is that where streets are not striped for separate lanes of travel, designers must not automatically think of separate "lanes" of traffic or parking in an additive sense (with respect to lane dimensions). An example of this concept often can be found on relatively narrow residential streets, either at low densities or when rear alley access is provided to the buildings. On these streets, with intermittent on-street parking, the street's width may occasionally require one driver to slow down or pull over to let an oncoming vehicle pass before proceeding, particularly if one of the vehicles is a truck or other large vehicle. The keys here are the words "occasionally" requiring drivers to pull over or stop and "intermittent" on-street parking that allows such pulling over. There are many such streets in the United States, and they are typically well liked by residents.[6] From the designer's perspective, where volumes are low and large vehicles are few, one may actually only need a single, relatively clear or through lane. This same concept applies to all streets in a TND: street width, which primarily defines the vehicular space and which must be crossed by pedestrians, must not be larger than is actually needed.

D.3. Scale

Scale is a threshold design parameter that determines the size and amounts of several important design elements and is of paramount importance in a TND. The principle of design scale in a TND neighborhood is that of the pedestrian; in another manner of speaking, human scale predominates.

Describing what is of a "human scale" (see *Figure* 3) is perhaps first best described by noting that which is not. A highway billboard beside a 55 mph highway is a good example of vehicular scale. To attract attention, such a sign must be very large (typically 15′ x 40′ or more), with lettering large enough to be noticed

and read by a motorist passing by at 81 feet per second (55 mph). A pedestrian, on the other hand, typically walks at only 3.5 to 4 feet per second, and small details are more noticed than are large ones. A pedestrian walking next to a billboard likely would not feel comfortable next to that billboard—simply attempting to get the perspective needed to even read it would be very difficult.

What this matter of scale equates to for the designers of streets is a new focus. Instead of being primarily concerned with and designing for vehicles and then "accommodating" pedestrians and others, TND designers must consider the sometimes competing needs and impacts of each design parameter on all of the users of the street. Given successful design in accordance with these principles, there should be a larger than usual number of pedestrians in the makeup of the users of the street. However, the pedestrians must obviously share the street with cyclists, transit vehicles, passenger cars, trucks, and emergency vehicles. All of these users and occupants of the street require many competing design factors to be considered.

D.4. Bicycles

Bicycles are perhaps the most energy efficient means of travel. On average they are five times more efficient than walking and, of course, they do not consume fossil fuels. Bicycle travel should be encouraged in TND projects. Designers must be aware of the features needed to accommodate bicycles. The on-street parking typical in a TND may present conflicts, and bike lanes adjacent to parked cars must be designed with care to avoid conflicts between the bicycles and opening car doors.

It is also important to note that at the speeds associated with TND streets, there is often less need for separate bicycle lanes or facilities. Bicycles are an appropriate and expected element of the street.

D.5. Street Space

The TND street begins at the front of a vertical element, such as a building (or fence) on one side of a street, and runs to the front of a building on the other side of the street. Some planners call this building-to-building space around a street the "streetscape" (see *Figures 3* and *4*). Where the land is not yet developed, a TND street designer must know with some certainty the scale of the buildings; the existing and projected vehicular, bicycle, and pedestrian volumes; and the general form(s) of development that are expected to occur on the undeveloped land. In the same vein, the evolution of improved land in a TND should be known with some specificity. Where the scale and general forms of types of development are known, it is more practical to accurately predict and design for the needs of the vehicular and nonvehicular users of each TND street.



Figure 3. Human scale

D.6. Connectivity

TND streets are interconnected. This principle is central to TND design. Cul-de-sacs and other dead-end streets are not a part of a TND. Except in areas where extreme topographic or wetland conditions preclude connection, streets are connected (where extreme conditions preclude street connections, continuous nonvehicular connections should still be attempted). The need for street connection is twofold:

(1) for vehicles, TND streets function in an interdependent manner that is better served by connected streets; and (2) connected streets provide continuous and more comprehensible routes that serve to enhance the benefits of nonvehicular travel.

Where it is difficult to provide full through streets, there are design alternatives to cul-de-sacs. One option is the "close" (pronounced with a "z"). The close is a simple "U"-shaped street with a natural or landscaped interior of the "U." Keys to making an appropriate close are to have a one-way loop and the middle area generally between 50 and 150 feet in width.



Figure 4. Simple streetscape.

D.7. Through Traffic and TND Street Networks

Most TND streets are designed to minimize through traffic. This concept is often accomplished by using three-leg or "tee" intersections (see *Figure 5*), street widths, occasionally one-way routings, and general street network design. Designers can manipulate the travel characteristics and mitigate the impacts of travel through the design of the elements of the streetscape and in selecting the locations of land uses. As examples, the type and location of on-street parking, the locations of land uses that are attractors of diverted link or other "outside" trips, and the locations of nonvehicular centers and destinations can all be useful tools to minimize or discourage through traffic.

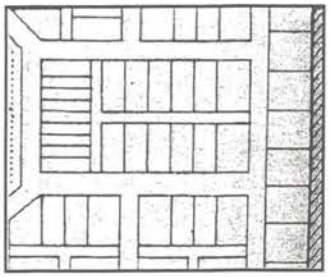


Figure 5. Tee-intersections.

D.8. TND Street Capacity

The concept of minimizing through traffic ties in with another TND principle: more of the capacity of a TND street network is utilized than is typically the case in conventional "dendritic" street networks. In conventional networks, traffic is expected to begin at local (often cul-de-sac) streets, then flow to collector and then to arterial streets, ultimately into the more regional systems. This type of network collects and focuses traffic, often leaving few choices to drivers. Nondrivers are also conventionally excluded from large portions of the network, either by regulation or by the vehicular orientation of the designed and constructed environment itself. In a TND network with no dead-end streets there are always multiple ways to connect any two locations. With multiple routes presented to motorists and nonmotorists, more options are made possible. Vehicular trips can be diffused or reduced by drivers choosing alternative routes, or by choosing to travel by means other than the automobile.[7]

This TND principle should not, however, be taken as a mandate to eliminate larger streets or to eliminate all hierarchy of streets in a TND. Private vehicular travel is still a part of travel today, and at the edges of TND neighborhoods larger vehicular corridors may be found. Indeed, one of the challenges of TND design is to allow the diffusive flow of traffic without creating short-cuts that encourage cut-through traffic.

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EX. NO. ——

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§ 1-146– **Intersection–**

(a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(b) Where a highway includes two roadways (30) feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways (30) feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.

(c) The junction of an alley with a street or highway shall not constitute an intersection.

§ 1-147–**Laned roadway** – A roadway which is divided into two or more clearly marked lanes for vehicular traffic.

§ 1-148–**License or license to operate a motor vehicle** – Any driver's license or any other license or permit to operate a motor vehicle issued under, or granted by, the laws of this State including:

(a) Any temporary license or instruction permit;

(b) The privilege of any person to drive a motor vehicle whether or not such person holds a valid license;

(c) Any nonresident's operating privilege as defined herein.

§ 1-149-**Lienholder** – A person holding a security interest in a vehicle.

§ 1-150–**Local authorities** – Every county, municipal and other local board or body having authority to enact laws relating to traffic under the constitution and laws of this State.

§ 1-151–**Mail** – To deposit in the United States mail properly addressed and with postage prepaid.

§ 1-152-**Manufacturer** – Every person engaged in the business of constructing or assembling vehicles of a type required to be registered hereunder at an established place of business in this State.

§ 1-153–**Metal tire** – Every tire the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material.

§ 1-154–**Moped** – A motor-driven cycle with a motor which produces not to exceed two- brake horsepower and which is not capable of propelling the vehicle at a speed in excess of 30 mph on level ground. If an internal combustion engine is used, the displacement shall not exceed 50 cubic centimeters, and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

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ARTICLE III—DRIVING ON RIGHT SIDE OF ROADWAY—OVERTAKING AND PASSING—USE OF ROADWAY

§ 11-301—Drive on right side of roadway—exceptions

(a) Upon all roadways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:

1. When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;

2. When an obstruction exists making it necessary to drive to the left of the center of the highway; provided any person driving to the left of the center of the highway shall yield the right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;

3. Upon a roadway divided into three marked lanes for traffic under the rules applicable thereon; or

4. Upon a roadway restricted to one-way traffic.

(b) Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road, alley, or driveway. The intent of this subsection is to facilitate the overtaking of slowly moving vehicles by faster moving vehicles.

(c) Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle shall be driven to the left of the center line of the roadway, except when authorized by official traffic-control devices designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as permitted under subsection (a)2. This subsection shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road or driveway.

§ 11-302—Passing vehicles proceeding in opposite directions

Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction each driver shall give to the other at least one-half of the main-traveled portion of the roadway as nearly as possible.

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§ 11-303—Overtaking a vehicle on the left

The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions and special rules hereinafter stated:

(a) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass at a safe distance to the left of the vehicle being overtaken and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(b) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of the vehicle until completely passed by the overtaking vehicle.

§ 11-304—When passing on the right is permitted

(a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under one or more of the following conditions:

1. When the vehicle overtaken is making or about to make a left turn;

2. Upon a roadway with unobstructed pavement of sufficient width for two or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.

(b) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. Such movement shall not be made by driving off the roadway.

§ 11-305—Limitations on overtaking on the left

No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable, and in the event the passing movement involves the use of a lane authorized for vehicles approaching from the opposite direction, before coming within 200 feet of any approaching vehicle.

§ 11-306—Further limitations on driving on left of center of roadway

(a) No vehicle shall be driven on the left side of the roadway under the following conditions:

1. When approaching or upon the crest of a grade or a curve in the highway where the driver's view is obstructed within such

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EX. NO. ———

Transportation and Land Development

2nd Edition

by Vergil G. Stover
and Frank J. Koepke

ite Institute of Transportation Engineers

Sight Distance

A small child or family pet in the street could require a driver to brake to a stop. Thus, drivers need to have full view of the pavement surface for a distance at least as long as stopping-sight distance.

Pavement Width

Popular opinion is that narrow streets have slow speeds. In an analysis of speeds on urban streets that ranges from 20.1 ft. to 36.0 ft. wide, however, Gattis [10] found that street width had little effect on average speed. Speeds of through traffic on streets serving an arterial function (street widths ranging from 20.0 to 36.0 ft.) had average speeds that ranged from 28.4 to 30.5 mph, while the speed on local streets ranged from 19.7 to 23.9 mph (street widths ranged from 20 to 30 ft.). The crash rate on a major street 20.0 ft. wide was more than twice that of a major street 31.4 ft. wide.

Box [11] found that the number of crashes increases as the width decreases below 29 ft. (back-to-back of curb, parking permitted both sides). He also found that widths of 30 ft. or more did not improve safety. Increased width, however, increased construction and maintenance costs.

Local Streets

The paved width of local residential streets depends on assumed conditions such as, 1) parking, 2) movement and 3) clearances. Common practice is to allow parking on both sides of local streets serving single-family detached and duplex residences. In a few cases, parking is limited to only one side of the street. The typical assumption is a 6-ft. wide automobile parked within 1 ft. of the curb face. Where soil conditions are very stable at all times of the year, some jurisdictions use an uncurbed pavement (Figure 13–18).

The concept of traffic lanes is not appropriate on local residential streets. The path used by drivers depends on the location of cars parked at the curb. When parking is permitted on both sides of the street, cars will be parked randomly on one side or the other and at times, on both sides directly across from each other. Drivers will therefore follow a path that is convenient for the situation prevailing at the time. Figure 13–19 shows the clearances between parked cars and a moving vehicle with different paved widths for parking on both sides of the street.



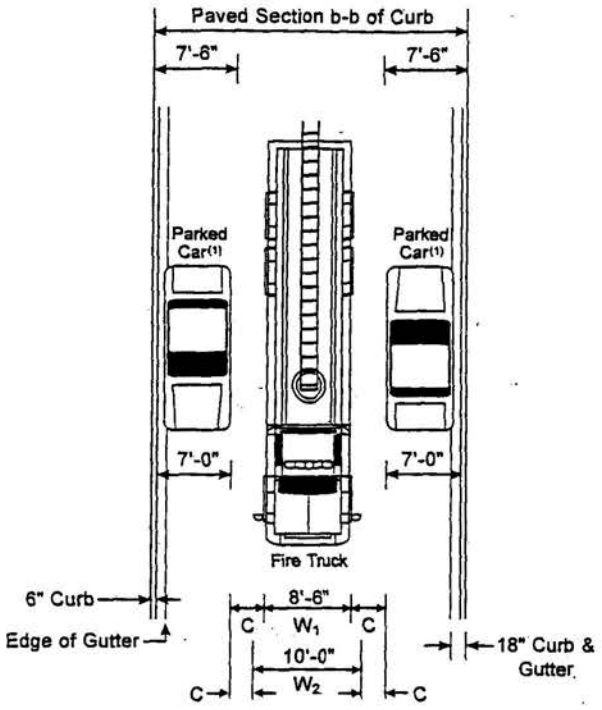
Local residential street. Circa 1992



Minor residential collector. Circa 1992

Storm water is retained within the paved area by a lip at the outside edge. A "curb cut" is not needed at driveways. Visitors park on the grass along the edge of the pavement. The stable soil easily supports the parked cars during and following long periods of intense rainfall. A paved width of 22 ft. to 26 ft., including the "lip," is sufficient for two-way traffic.

Figure 13–18. ***Examples of Uncurbed Residential Streets***



Paved Section, back-to-back of curbs (feet)	Clearance, C (feet)		
		Fire Truck	
	Auto	w_1	w_2
26	2'6"	1'3"	0'6"
27	3'0"	1'9"	1'0"
28	3'6"	2'3"	1'6"
29	4'4"	2'9"	2'0"
30	4'6"	3'3"	2'6"

w_1 = width of fire truck, sides of vehicle
w_2 = outside-to-outside of mirrors

[1]6'0" wide auto parked 1'0" from the face of curb.

Figure 13–19. ***Paved Section and Clearances for a Residential Street with Parking on Both Sides***

while the governmental agency wants to maintain the capacity and operational efficiency of the road system.

The number of access points needed to efficiently serve a development will depend on roadway classification and characteristics (number of traffic lanes and median configuration), site traffic volumes, acceptable levels of traffic service and overall roadway safety. To efficiently determine the number and location of access points, reference should be made to Chapter 6—Access Location for Site Development.

If the driveway is operating under control of a stop sign, a capacity analysis, in conformance with the *Highway Capacity Manual* [1], should be conducted. In some cases, a gap study might be necessary to verify outbound, especially outbound left-turn, capacity.

If traffic signals are proposed at site access locations, the installation should meet the warrants for traffic signals as stipulated in the *Manual on Uniform Traffic Control Devices* [2].

9. Site Traffic Types and Assignment

Pass-by Trips

Pass-by trips are assumed to enter the site and then resume travel in the same direction. They are trips made as intermediate stops on the way from an origin to a primary destination. Pass-by trips are attracted from traffic passing on an adjacent street that contains direct access to the generator. Pass-by trips are not new trips on the road network but are trips turning in and out of the site access intersections. Figure 3–10 illustrates pass-by trips.

Pass-by trips should be accounted for when determining the total future traffic volumes that are anticipated to be on the area roadnet. The pass-by trips can be deducted from the background traffic when assigning site-generated traffic volumes to surrounding roads. These trips should not, however, be deducted when evaluating traffic movements to and from the development at access points. All site-generated trips must be counted in assessing access requirements and needs such as separate turn lanes.

Pass-by or "intercepted" trips are commonly associated with uses such as service stations, fast food restaurants or convenience stores. Table 3–10 lists some typical examples of the percentage of the total site traffic that could be part of the through traffic.

The proportion of pass-by trips decreases with the size of the development—a retail development of 100,000 ft.^{2} gross leasable area (GLA) could have about 50 percent pass-

by trips while a million square foot shopping center might have as little as 19 percent. It should be noted, however, that for each size and type of land use there is a wide range in the proportion of pass-by trips reported. Table 3–10 presents only the average percentage.

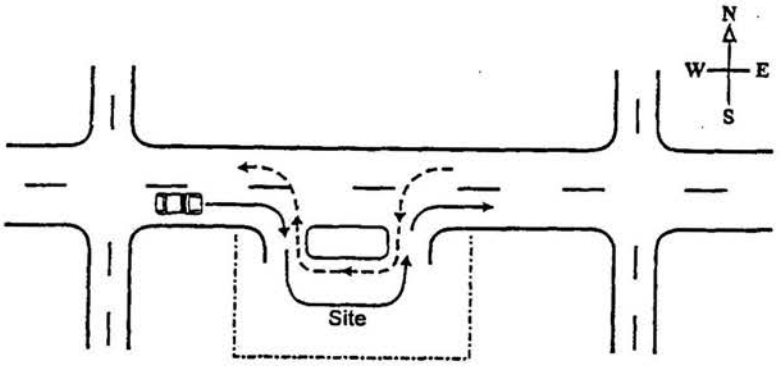


Figure 3–10. *Pass-By Trips*

Table 3–10. *Trips Attracted from Passing Traffic*

Generator	Percent of Site Traffic
Banks with drive-thru windows	14 %
Supermarkets	28 %
Hardware Stores	8 %
Convenience Stores	16 %
Fast-food Restaurants	45 %
Service Stations	58 %
Shopping Center, sq feet GLA:	
> 1 million, 2 centers, range 12%-25%	19 %
800,000 to 1 million, 3 centers, range 9%-25%	15 %
600,000 to 799,999, 2 centers, range 14%-23%	19 %
400,000 to 599,999, 6 centers, range 15%-48%	32 %
200,000 to 399,999, 4 centers, range 17%-56%	41 %
100,000 to 199,999	50 %
< 100,000, 4 centers, range 51%-72%	60 %

Source: Traffic Institute, Northwestern University [3].

Chapter 13

Residential Neighborhood Streets

Recent literature is often critical of a hierarchical street pattern and advocates a return to a system of streets wherein most, if not all, streets provide connectivity by short blocks (e.g., 300 or 330 ft.) and numerous four-way intersections. This suggests that streets are to have similar characteristics in terms of volume, speed and abutting land uses. Such arguments overlook the adverse problems resulting from excessive continuity in the typical gridiron street pattern. Or, they propose that extensive "traffic calming" techniques such as street narrowing, traffic circles, speed humps, chokers, etc. be incorporated into new subdivision streets laid out in a gridiron pattern. Also, it does not recognize problems with the typical gridiron pattern that began to emerge in the 1920s [4], or that neighborhood circulation systems can be developed with convenient pedestrian circulation separate from auto circulation (Radburn, UK and Orinda, CA, for example).

In reality, the following desirable features associated with neotraditional neighborhood development (TND) can be incorporated into a hierarchical street system:

- Transit,
- Sidewalks on all streets,
- An interconnected pedestrian system,
- Street landscaping,
- Mixed residential densities,
- Mixed land uses,
- No dead-end streets,
- Slow speeds,
- Narrow streets, and
- Alleys.

Moreover, the following undesirable features are design issues that are not inherently part of modern subdivision street design:

- Wide local streets,
- Undesirable high speeds,
- An absence of connectivity in the pedestrian circulation system,
- Low residential densities,
- Segregated land uses, and
- Large building setbacks.

The last two items (segregated land uses and large building setbacks) are a matter of land use policies and zoning—not the street pattern. For example, a mixture of uses within single-family areas is common in the municipalities in the Lower Rio Grande Valley of Texas.

Design Considerations

A livable residential neighborhood provides an environment that satisfies the desires of the residents. This environment will differ according to the residents' desired lifestyle and housing preferences. This involves a wide variety of housing types, lot sizes, building orientation and proximity to nonresidential uses.

The following guidelines are suggested for the planning and design of residential neighborhoods:

- A street system that discourages through traffic improves the environmental quality of the neighborhood;
- Low speeds and low traffic volumes are essential to the creation and preservation of a high-quality neighborhood;
- Extensive connectivity can provide for pedestrians and bicyclists with less connectivity for automobiles;
- Traffic generators, such as parks, commercial development, schools and churches, located within or at the edge of a neighborhood are considerations in the layout of the neighborhood streets;
- Minimizing conflicts between pedestrians and vehicles improves "walkability" of the neighborhood;
- Minimizing the number of intersections—especially four-way intersections—improves safety;
- A street layout that is responsive to topography, soil conditions and other natural features improves the visual quality of the neighborhood;

- Lot size and arrangement need to provide economical and attractive building sites;
- The location of utilities must be given careful consideration in the selection of right-of-way width; and
- Street pattern and design can enhance the visual quality of the neighborhood and encourage neighborhood identity and cohesion.

Street Types

The subject of street classification and characteristics was presented in Chapter 4. The following elaborates on that discussion, especially in regard to residential neighborhoods. Streets that serve nonresidential uses are very different in their operational requirements and their design.

The service provided by residential streets should be defined by slow speed and low volume characteristics which are compatible with a livable environment. The level-of-service (LOS) concept, based on speed freedom to maneuver within the traffic stream, is not appropriate. The design of the street itself is intended to actively discourage the driver from selecting a speed based on the freedom to maneuver within the traffic stream. The LOS measures such as speed, volume to capacity rate and density (passenger cars per mile per lane) simply do not apply.

Major Residential Collector

A major residential collector should be located at the edge of small residential neighborhoods (less than 60 acres) and might penetrate a large neighborhood (more than 120 acres). Individual residential lots should not front on or have direct access to a major residential collector. Lots at the corner of a major collector and a street of lower classification should front on and have their access to the lower class street or, in some cases, an alley. Major collector streets should be designed to accommodate public transit—the bus should be the design vehicle. Relatively high pedestrian and bicycle volumes should be expected.

Minor Residential Collector

Minor residential collectors, often called subcollectors, interconnect local (access) streets with major collectors. They also provide frontage and direct access for individual residences. Because houses front on and have access to such streets, great care must be taken to ensure that volumes and speeds are limited to acceptable levels.

Local Residential Street

A local street, also called an access street, or in some cases a lane, provides frontage and direct access to individual residences. The cul-de-sac is the limiting design for this type of street.

Local residential streets serve a variety of functions other than access and limited auto movement, including the following: 1) pedestrian and bicycle movement, 2) the location for utilities, 3) delivery and service, 4) stormwater drainage, 5) solid waste collection and 6) social space—even a place where children play (Figure 13–1). Environmental quality of a neighborhood is enhanced when all, or at least the vast majority of, auto trips on a local street have an origin or a destination on the street.

Alley

An alley is a narrow roadway located at the rear or side of the lots and provides access to the garage and rear of the residences. Where an alley is provided, lots typically do not have vehicular access to the street on which the house fronts. Thus, the view from the street (on which the houses front) is very different than where garages open onto the street. Access via an alley also eliminates vehicular movements across the sidewalk.

The use of alleys, however, increases the percentage of the developed land area devoted to streets and alleys. Therefore, the percentage of impervious surface and stormwater runoff is increased in comparison to residential subdivisions having the same density of dwelling units per acre but without alleys. Alleys also require maintenance but do not measurably reduce the maintenance cost of other streets. Nevertheless, alleys can be developed to be aesthetically attractive, as illustrated by the example shown in Figure 13–2.

Speed and Volume

Residential streets are community space where people should be able to walk, children play and neighbors visit in safety and comfort. Auto movement and parking should be subservient to the pedestrian and social functions. Limiting the volume and speed of vehicular traffic is fundamental to the development and preservation of highly livable residential neighborhoods.

Slow speeds are achieved by limiting the length of the local streets and thus restricting the distance one can travel before reaching the intersection of a collector street. The driver needs to come to a stop or make a very slow-speed 90° turn. Factors influencing speed in residential areas are identified in Table 13–1.



Circa 2000



Children are to be expected to be playing in the street, especially where lots are small. • Basketball is a common activity throughout this neighborhood even though municipal ordinances have attempted to restrict this activity. Circa 2000

Figure 13–1. ***Local Residential Streets Need to Accommodate Pedestrians, Bicyclists and Social Activities—Movement is a Secondary Function***

CHAPTER 27 NOISE CONTROL

Secs.

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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.

ZONE	MAXIMUM NOISE LEVEL
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.

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.

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 one (1) year 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 sport at the location involved for a period of our (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 - 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 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 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 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 of 1996, 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 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.

Leaf blowers - 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 or some person. In making a determination of a noise disturbance, the Mayor shall consider the location, the time of day when the noise is occurring or will occur, the duration of the noise, its magnitude relative to the maximum permissible noise levels permitted under the Act, the possible obstruction or interference with vehicular or pedestrian traffic, the number of people that are or would be affected, and such other factors as are reasonably related to the impact of the noise on the health, safety, welfare, peace, and quiet of the community. A sound shall not be considered a noise disturbance if during noncommercial public speaking in the Central Employment Area (10 DCMR §1107.2 as shown on Comprehensive Plan Map 2, District of Columbia Generalized Land Use Policies Map) or in an area zoned manufacturing or industrial during the daytime, the sound made by the participants engaging in such activity does not exceed eighty (80) dB(A) when measured inside any nearby occupied building or outside fifty feet (50 ft.) from the source of the sound. (D.C. Law 11-161)

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); and by §2 of the Noise Amendment Act of 1996, D.C. Law 11-161, 43 DCR 3727 (July 19, 1996).

CHAPTER 28 MAXIMUM NOISE LEVELS

Secs.

2800 Musical Instruments, Loudspeakers, Amplifers, and Unamplified Voices
2801 Mechanical Equipment
2802 Construction
2803 Construction in Residential Zones
2804 Explosives
2805 Hawkers, Peddlers, and Vendors
2806 Trash Collection in and Adjacent to Residential Zones
2807 Vehicle-Mounted Loud Speakers
2808 Leaf Blowers
2809 [Reserved]
2810 New Motor Vehicles
2811 Operational Limits for Motor Vehicles
2812 Alteration of Motor Vehicle Exhaust System
2813 Motor Vehicle Inspection
2899 Definitions

2800 MUSICAL INSTRUMENTS, LOUDSPEAKERS, AMPLIFIERS, AND UNAMPLIFIED VOICES

2800.1 Noise resulting from the musical instruments, loudspeakers, amplifiers, and unamplified voices shall not exceed the maximum noise levels contained in this section.

2800 .2 It shall be unlawful for any person to make, continue, or cause to be made or continued any noise disturbance by the operation, use, or playing of any musical instrument or device, loud speaker, sound amplifier, or other similar device, unamplified voice, for the production or reproduction of sound on private property or public space.

2800.32 Parades and public gatherings conducted pursuant to a permit issued by the Metropolitan Police Department (as provided for in 24 DCMR, Chapter 7) shall be exempt from the noise disturbance limitation.

2800.4 Sounds shall not project outside a place of business at a level that exceeds sixty (60) dB(A) at a distance of not less than one (1) meter from outside the business establishment. Nothing in the Act shall be construed to prohibit the use of musical instruments, amplifiers, or stereo equipment for the sole enjoyment of the listener; Provided, that the sound does not exceed sixty (60) dB(A) or the applicable noise level for the zone from which the sound emanates at a distance of one (1) meter from the source.

2800.5 It shall be unlawful for any person to make, continue or cause to be made or continued any noise disturbance as that term is defined in 20 DCMR §2799 created by the operation or use of a loud speaker, sound amplifier, radio, or

musical instrument on public streets, alleys, or thoroughfares in the District of Columbia. Public assembly activities provided for in 20 DCMR §2800.3 and non-commercial public speaking are exempt from the limitations set forth in this section.

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: Section 5 of the District of Columbia Noise Control Act of 1977, D.C. Law 2-53, 24 DCR 5293, 5308 (December 30, 1977); as amended by §4 of the D.C. Noise Control Act of 1977 Amendment Act of 1986, D.C. Law 6-180, 33 DCR 7660, 7661 (December 21, 1986); and by §2 of the Noise Control Amendment Act of 1996, D.C. Law 11-161 (43 DCR 3727, 3729 (July 19, 1996).

EDITOR'S NOTE: Chapter 31 *Maximum* Noise Levels was renumbered Chapter 28.

2801 MECHANICAL EQUIPMENT

2801.1 Noise resulting from mechanical equipment shall not exceed the maximum noise levels contained in this section.

2801.2 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.

SOURCE: Section 5 of the District of Columbia Noise Control Act of 1977, D.C. Law 2-53, 24 DCR 5293, 5309 (December 30, 1977).

2802 CONSTRUCTION

2802.1 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 $L_{eq}(1)$ of eighty (80) dB(A) unless granted a variance under §2705 of Chapter 27 of this subtitle.

2802.2 From 7:00 p.m. to 7:00 a.m. the maximum noise levels prescribed in §2701 of Chapter 27 of this title shall apply.

2802.3 In cases involving noise from construction or demolition, measurements shall be made twenty-five feet (25 ft.) from the outermost limits of the construction site.

2802.4 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.

SOURCE: Section 5 of the District of Columbia Noise Control Act of 1977, D.C. Law 2-53, 24 DCR 5293, 5308 (December 30, 1977).

2803 CONSTRUCTION IN RESIDENTIAL ZONES

2803.1 Noise emanating from construction in residential zones shall be prohibited during the hours specified in this section irrespective of its compliance with §2701 of Chapter 27 of this subtitle.

2803.2 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.

2803.3 The limitation of §2803.2 shall not apply to the following:

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

(b) Work performed by public utilities as defined in the Act approved March 4, 1913 (37 *Stat.* 974; D.C. Code §43-103 (1990 Repl. Vol.));

(c) Work performed by the Washington Metropolitan Area Transit Authority as defined in D.C. Code §§1-1410 *et seq.* (1992 Repl. Vol.); or

(d) Work performed by the subcontractors of public utilities and the Washington Metropolitan Area Transit Authority as provided in §§2803.3(b) and 2803.3(c).

2803.4 Noise emanating from the sources exempted in §2803.3 shall comply with the maximum noise levels prescribed in §2701 of Chapter 27 of this subtitle.

SOURCE: Section 5 of the District of Columbia Noise Control Act of 1977, D.C. Law 2-53, 24 DCR 5293, 5209 (December 30, 1977).

2804 EXPLOSIVES

2804.1 Noise emanating from explosives shall be prohibited during the hours specified in this section irrespective of its compliance with §2701 of Chapter 27 of this subtitle.

2804.2 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 §1301 of the Second Amendment to the 1972 Building Code of the District of Columbia (Title 12 DCMR).

SOURCE: Section 5 of the District of Columbia Noise Control Act of 1977, D.C. Law 2-53, 24 DCR 5293, 5310 (December 30, 1977).

EDITOR'S NOTE: The Building Code referred to in this title has been superseded by D.C. Law 6-216, Construction Codes Approval and Amendments Act of 1986, effective March 21, 1987. The construction regulations existing prior to March 21, 1987, remain in effect for projects having reached specified stages of completion. D.C. Law 6-216 adopted the 1984 National BOCA Codes, and the 1985 D.C. Supplement to the National BOCA Codes. Effective November 27, 1992 (39 DCR 8665), the 1984 BOCA Codes, and the 1985 D.C. Supplement to the National BOCA Codes were superseded by the adoption of the 1990 BOCA Codes, and the 1992 D.C. Supplement to the BOCA Codes.

2805 HAWKERS, PEDDLERS, AND VENDORS

2805.1 The shouting and crying of hawkers, peddlers, and vendors shall be prohibited at nighttime on any day of the week, irrespective of its compliance with §2701 of Chapter 27 of this subtitle.

2805.2 The limitation of §2805.1 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.

SOURCE: Section 5 of the District of Columbia Noise Control Act of 1977, D.C. Law 2-53, 24 DCR 5293, 5309 (December 30, 1977).

2806 TRASH COLLECTION IN AND ADJACENT TO RESIDENTIAL ZONES

2806.1 Noise emanating from trash collection in any residential, special purpose, or waterfront zone shall be prohibited during the hours specified in this section irrespective of its compliance with §2701 of this subtitle.

2806.2 No person shall operate or permit the operation of any refuse collection vehicle in or within three hundred feet (300 ft.) of any residential, special purpose, or waterfront zone at nighttime on any day of the week. This prohibition shall not apply to vehicles owned by the District government employed for emptying litter receptacles.

SOURCE: Section 5 of the District of Columbia Noise Control Act of 1977, D.C. Law 2-53, 24 DCR 5293, 5311 (December 30, 1977); as amended by §2 of the Noise Control Amendment Regulation Act of 185, D.C. Law 6-93, 33 DCR 314 (January 17, 1986).

2807 VEHICLE-MOUNTED LOUD SPEAKERS

2807.1 Noise emanating from vehicle-mounted sound amplifying equipment, instruments, and transmitting devices shall be prohibited during the hours specified in this section irrespective of its compliance with §2701 of Chapter 27 of this subtitle.

2807.2 Vehicle-mounted sound amplifying equipment, instruments, and transmitting devices shall be prohibited in streets or on highways after 9:00 a.m., and between 4:00 p.m. and 6:30 p.m.

2807.3 Vehicle-mounted sound amplifying equipment, instruments, and transmitting devices shall be prohibited in streets or on highways after 9:00 p.m. and before 9:30 a.m. During all other hours their use shall be subject to the limitations of the noise disturbance standards, and the following conditions:

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

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

(c) Operators of the vehicles shall 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 §2807 of this chapter shall not apply.

SOURCE: Section 5 of the District of Columbia Noise Control Act of 1977, D.C. Law 2-53, 24 DCR 5293, 5311 (December 30, 1977); as amended by §2 of the Noise Control Amendment Act of 1996, D.C. Law 11-161, 42 DCR 3727, 3729 (July 19, 1996).

2808 LEAF BLOWERS

2808.1 Except as provided under §2808.2, no person shall sell, offer for sale, or use, at any time, a leaf blower in the District of Columbia that has an average sound level exceeding seventy (70) dB(A) at a distance of fifty feet (50 ft.) from the leaf blower as measured in accordance with §2808.5 of this section. A leaf blower shall not be used at nighttime; between the hours of 8:30 p.m. and 8:00 a.m. in the District of Columbia.

2808.2 Upon the effective date of the District of Columbia Noise Control Amendment Act of 1992 ("1992 Act"), a person who sells, at retail, a leaf blower in the District of Columbia that exceeds the maximum sound level established in §2808.1 of this section must provide conspicuous notice to the consumer that the leaf blower may not be used in the District.

2808.3 A person who purchased a leaf blower prior to the effective date of the 1992 act, or who can demonstrate that the leaf blower was manufactured prior to the effective date of the 1992 Act, may use that leaf blower for the next five (5) years, even though its average sound level exceeds the standard established in §2808.1 of this section, if its use is otherwise permitted by the Act.

2808.4 In addition to any other enforcement measure authorized under this act, the Mayor may inspect and, upon request, require a person to produce any leaf blower that is sold, offered for sale, or used, in order to determine compliance with this act. The Mayor shall use, to the extent possible, a manufacturer's written sound level representations, design and use specifications, and approximate manufacture date, as appropriate, as aids to determine compliance. A person who in good faith relies on a manufacturer's written sound level representation is not subject to penalties under §13 for violation of the Act.

2808.5 Compliance with sound level requirements of this act shall be determined in accordance with a sound measurement testing standard for leaf blowers that has been deemed by the Mayor to be acceptable and adopted by regulation.

SOURCE: Section 2 of the District of Columbia Noise Control Amendment Act of 1992, D.C. Law 9-135, 39 DCR 4079 (June 12, 1992).

2809 [RESERVED]

2810 NEW MOTOR VEHICLES

2810.1 No person shall either sell or offer for sale a new motor vehicle or motorcycle that is to be registered for use upon the public highway that exceeds the maximum noise limits designated in the table of §2810.2 when measured at a distance of fifty feet (50 ft.) from the center line of travel in accordance with test procedures (as may be appropriate for the vehicle being tested) as prescribed in this subsection:

(a) Those described by the Society of Automotive Engineers, Inc. (SAE), including SAE Standard J986(a) (for vehicles ten thousand (10,000) GVWR and under), SAE Standard J3 (for motorcycles), and SAE Standard J184 (for vehicles over ten thousand (10,000) GVWR);

(b) Those recommended by Practice J184 (for qualifying a sound data acquisition system), and subsequent revisions of the standard; or

(c) A nationally recognized test procedure, such as those promulgated by the EPA, as the administering agency may prescribe in accordance with §§2700.7 through 2700.9 of Chapter 27 of this subtitle.

2810 .2 Each manufacturer, distributor, or importer, or his or her designated agent, shall certify in writing to the Mayor that all motor vehicles or motorcycles sold by him or her in the District comply with the provisions of the following table:

TYPE OF VEHICLE AND DATE OF MANUFACTURE	MAXIMUM NOISE LEVEL
Any motorcycle, other than a motorized bicycle, manufactured after 1976	83 dB(A)
Any motor vehicle with a gross vehicle rating of more than ten thousand pounds (10,000 lbs.) manufactured on or after January 1, 1978	83 dB(A)
Any motor vehicle with a gross vehicle weight rating of more than ten thousand pounds (10,000 lbs.) manufactured on or after January 1, 1982	80 dB(A)
Any other motor vehicle weighing ten thousand pounds (10,000 lbs.) or less manufactured on or after January 1, 1976	83 dB(A)
Any other motor vehicle weighing ten thousand pounds (10,000 lbs.) or less manufactured after January 1, 1978	80 dB(A)

SOURCE: Section 6 of the District of Columbia Noise Control Act of 1977, D.C. Law 2-53, 24 DCR 5293, 5312 (December 30, 1977).

2811 OPERATIONAL LIMITS FOR MOTOR VEHICLES

2811.1 No person shall operate a motorcycle, motor vehicle, or combination of motor vehicles of a type subject to registration under D.C. Code §40-103 (1990 Repl. Vol.) at any time, or under any condition of grade, load, acceleration, or deceleration in a manner that exceeds the maximum noise limits designated in the table of this subsection for the specified speed limits, measured at a distance of fifty feet (50 ft.) from the center line 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 §§2700.7 through 2700.9 of Chapter 27 of this subtitle.

TYPE OF VEHICLE	NOISE LIMIT		
	35 MPH or less	Over 35 MPH	Stationary Run-up
Any motor vehicle with a manufacturer's gross vehicle weight rating of ten thousand pounds (10,000 lbs.) or more, and any combination of vehicles towed by that motor vehicle	86 dB(A)	90 dB(A)	88 dB(a)
Any motorcycle	82 dB(A)	86 dB(A)	
Any other motor vehicle and any combination of vehicles towed by a motor vehicle with a manufacture's gross weight rating of ten thousand pounds (10,000 lbs.) or more	76 dB(A)	82 d(B)(A)	

2811.2 Where a test procedure is used for which the noise levels prescribed in the table in §2811.1 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 that table.

2811.3 The public shall be provided with at least thirty (30) days to comment on all new standards and procedures before the standards are made final.

2811.4 For the purposes of this section, a motor truck, truck tractor, or bus that is not equipped with an identification plate or marking that bears the manufacturer's gross vehicle weight shall be considered as having a rating of ten thousand pounds (10,000 lbs.) or more if the unladen weight is more than nine thousand pounds (9,000 lbs.).

2811.5 No person shall operate a motor vehicle equipped with an engine speed governor that generates a sound level in excess of eighty-eight (88) dB(A) measured on an open site with a fast meter response at fifty feet (50 ft.) from the longitudinal center line of the vehicle when its engine is accelerated from idle to a wide-open throttle governed speed with the vehicle stationary, transmission in neutral, and clutch engaged.

2811.6 The administering agency may by regulation prescribe correctional factors to the limits prescribed in the table of §2811.1 of this section when measurements are made at a site that contains large reflecting surfaces in close proximity to the vehicle or noise measuring microphone.

2811.7 A violation of the adjusted levels as provided in §2811.6 shall constitute a violation of this section.

2811.8 In the event that it is impractical to obtain a measurement fifty feet (50 ft.) from the center line of travel, the actual distance shall be measured and one (1) of the correctional factors in the following table shall be applied to the maximum permissible sound levels prescribed in the table of §2811.1 of this section.

DISTANCE	CORRECTION	
	Soft site	Hard site
35 - less than 39 ft.	+3 dB(A)	+5 dB(A)
39 - less than 43 ft.	+2 dB(A)	+4 dB(A)
43 - less than 48 ft.	+1 dB(A)	+3 dB(A)
48 - less than 58 ft.	0 dB(A)	+2 dB(A)
58 - less than 70 ft.	-1 dB(A)	-1 dB(A)
70 - less than 83 ft.	-2 dB(A)	0 dB(A)

2811.9 For the purposes of this section, "soft test site" shall mean any test site having the ground surface covered with grass, another 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.

2811.10 For the purposes of this section, "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.

SOURCE: Section 6 of the District of Columbia Noise Control Act of 1977, D.C. Law 2-53, 24 DCR 5293, 5313 (December 30, 1977).

2812 ALTERATION OF MOTOR VEHICLE EXHAUST SYSTEM

2812 .1 No person shall modify or alter the exhaust system of a motor vehicle or motorcycle in a manner that will amplify or increase the noise emitted by the vehicle above the level permitted under §2811 of this chapter.

2812 .2 No person shall use or operate a motor vehicle or a motorcycle having an exhaust system that has been modified or altered in a manner that will amplify or increase the noise emitted by the vehicle above the level permitted under §2811 of this chapter.

SOURCE: Section 6 of the District of Columbia. Noise Control Act of 1977, D.C. Law 2-53, 24 DCR 5293, 5317 (December 30, 1977).

2813 MOTOR VEHICLE INSPECTION

2813.1 The Mayor shall conduct a study to determine the advantages and feasibility of requiring a noise inspection as a part of the annual motor vehicle inspection program.

2813 .2 The study required by §2813.1 shall be submitted to the Council of the District of Columbia not later than six months (6 mos.) after May 15, 1978, and shall include the following:

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

(b) An estimate of the length of time that would be required per vehicle for the test, and the impact this would have on the total inspection program;

(c) The test procedures that would be used;

(d) An estimate of the number of cars that would fail the test, and the appropriate cost to each registrant to bring a car into compliance;

(e) The impact of the program on the repair stations in the District; and

(f) The impact of the program on noise levels in the District.

SOURCE: Section 6 of the District of Columbia Noise Control Act of 1977, D.C. Law 2-53, 24 DCR 5293, 5318 (December 30, 1977).

2899 DEFINITIONS

2899 .1 The meanings ascribed to the definitions appearing in §2799.1 of Chapter 27 of this subtitle shall apply to the terms in this chapter.

CHAPTER 5 WATER QUALITY AND POLLUTION

Secs.

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503	Sedimentation Control Plans
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505	Monitoring, Reports, and Inspections
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511	Authorization of Further Mayoral Action
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526	Storm Water Management: Applicability
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539	Erosion Control Principles: Design
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542	Erosion Control Principles: Building, Demolition, and Site Development Projects
543	Classification of Projects
544	Erosion and Sediment Control Plan
545	Inspection and Enforcement
599	Definitions

500 GENERAL PROVISIONS

500.1 The provisions of this chapter shall be applicable to all sources of pollution affecting the Potomac River and its tributaries within the District of Columbia (the "District") including, but not limited to, pollution carried by storm water runoff, sources of sediment wastes from vessels or other floating construction, and domestic and industrial waste.

500.2 The purposes of this chapter shall be as follows:

(a) To prevent and control the pollution of the Potomac River and its tributaries;

(b) To regulate land disturbing activities;

(c) To prevent accelerated soil erosion and sedimentation;

(d) To prevent sediment deposit in the Potomac River and its tributaries, including the District sewer system; and

(e) To control health hazards due to pollution of the Potomac River and its tributaries.

500.3 The Department of Consumer and Regulatory Affairs (also referred to in this chapter as the "Department") shall establish minimum standards and specifications for the effective control of soil erosion, sediment deposition, and non-agricultural runoff in the District.

500.4 The adoption and publication of the minimum standards under §500.3 shall be preceded by a public hearing held in accordance with the provisions of the Administrative Procedure Act (D.C. Code §1-1509 (1992 Repl. Vol.)).

500.5 The standards and specifications established under §500.3 may be revised from time to time as may be necessary by using the same notice and hearing requirements set forth in §500.4.

AUTHORITY: Unless otherwise noted, the authority for this chapter is An Act dated March 3, 1909, 35 *Stat.* 689, ch. 250 (D.C. Code §5-433 (1994 Repl. Vol.)); §§401 and 402 of the Reorganization Plan No.3 of 1967, (81 *Stat.* 948), 32 FR 11669, D.C. Code §1-226; §412 of the District of Columbia Self-Government and Governmental Reorganization Act, 87 *Stat.* 790. Pub.L. 93-198 D.C. Code §1-227(a) (1992 Repl. Vol.); the Soil Erosion and Sedimentation Control Act of 1977, effective September 28, 1977; the Water Pollution Control Act of 1984, D.C. Law 5-188, effective March 16, 1985.

SOURCE: Section 2 of the Soil Erosion and Sedimentation Control Act of 1977, D.C. Law 2-23, 24 DCR 792 (July 22, 1977); 8 DCRR §§8-2:801 and 8-2:803, Health Regulations (1965 Edition),

HISTORICAL NOTE: Prior to July 22, 1977, the District of Columbia Council published Regulation No. 69-54, approved December 26, 1969; and Regulation No. 71-28 at 18 DCR 5 (September 6, 1971), 8 DCRR §8-2:801.

501 STANDARDS AND SPECIFICATIONS

501.1 The standards and specifications established under §500 shall be based upon relevant physical and developmental information concerning the watersheds and drainage basins of the District, including, but not limited to, data relating to land use, soils, hydrology, geology, size of land area being disturbed, proximate water bodies and their characteristics, transportation, and public facilities and services.

501.2 The standards and specifications shall include survey of lands and waters as the Department may deem appropriate or as may be required by applicable law to identify areas with critical erosion and sediment problems.

501.3 The standards and specifications shall contain conservation standards for various types of soil and land use, and shall include criteria, techniques, and methods for control of erosion and sediment resulting from land disturbing activities. These

standards shall be intended to protect adjoining properties from damage from soil erosion.

501.4 The District of Columbia Department of Consumer and Regulatory Affairs 1987 Standards and Specifications for Soil Erosion and Sediment Control are incorporated in this section by reference in accordance with the District of Columbia Documents Act (D.C. Code §1-1532(b)(3) (1992 Repl. Vol.)), and shall be available for public inspection in the Department of Consumer and Regulatory Affairs and each branch of the District of Columbia Public Library.

501.5 All District of Columbia agencies engaged in land disturbing activities shall develop soil erosion and sedimentation control standards and specifications consistent with those approved by the Department of Consumer and Regulatory Affairs.

501.6 Agency standards and specifications to prevent accelerated soil erosion and sedimentation from the agency's soil disturbing activities in the District shall be submitted to the Department of Consumer and Regulatory Affairs, if adequate.

501.7 Once the standards and specifications are approved, all land disturbing activities carried out by the agency shall conform to its standards and specifications.

501.8 All contracts signed by an agency involving a land disturbing activity shall require that the work be done in conformance with the agency's standards and specifications.

501.9 Each agency shall monitor all such work to insure compliance with its standards. In addition, the Department of Consumer and Regulatory Affairs is authorized to inspect the sites where such land disturbing work is being conducted to insure compliance with the applicable standards.

SOURCE: Section 2 of the Soil Erosion and Sedimentation Control Act of 1977, D.C. Law 2-23, 24 DCR 792 (July 22, 1977), 8 DCRR §8-2:803 and 8-2:804 Health Regulations (1965 Edition); as amended by Final Rulemaking published at 36 DCR 3858 (June 2, 1989).

502 LAND DISTURBING ACTIVITIES

502.1 No person may engage in any land disturbing activity on any property within the District until that person has secured a building permit from the District. Approval of a building permit shall be conditioned upon submission by the permit applicant of an erosion and sedimentation plan which has been reviewed and approved by the Department.

502.2 The Department shall establish and publish in the *D.C. Register* guidelines for the information and supporting documents to be included in the erosion and sedimentation plan required under this section. These guidelines should require or specify the following:

(a) Provisions in each plan for controlling erosion while land disturbing activity is under way and after its completion; and

(b) General qualifications necessary for persons preparing erosion and sedimentation plans.

502.3 The guidelines for preparation of erosion and sedimentation plans are incorporated in this section by reference in accordance with the District of Columbia Documents Act (D.C. Code §1-1532(b)(3) (1992 Repl. Vol.)), and shall be available for public inspection as set forth in §501.4.

502.4 Fees for land disturbing activities are set forth as follows:

EXCAVATION, GRADING AND LANDFILL PLAN REVIEW:	FEE
For sites measuring up to 595 ft.^{2} or 66 yds^3 of disturbed earth	$38.00
For sites measuring more than 595 ft.^{2} or 66 yds^3 of disturbed earth	$38.00 plus 2.5 cents per additional 100 ft.^{2} or 0.333 cubic yards of disturbed earth
STORM WATER MANAGEMENT PLAN REVIEW:	
For land disturbing activities for sites measuring more than 5,000 ft.^{2}	$55.00 plus 2.5 cents per additional 100 ft.^{2} over 5,000 ft.^{2}

502.5 Upon notice from the Director that the work involving a land distrubing activity is being conducted contrary to the provision of the Health Regulations of the District of Columbia, effective December 26, 1969 (21 DCMR §§500 *et seq.*), or in an unsafe and dangerous manner such work shall be immediately stopped. The stop work order shall be in writing, state the conditions under which work may be resumed, and be given to the owner of the property involved, the owner's agent, or the person doing the work.

502.6 Any person who shall continue any work related to the particular land distrubing activity for which a stop work order has been served, except such work as that person is directed to perform to correct a violation or unsafe condition, shall be liable to a fine pursuant to §104 of the Department of Consumer and Regulatory Affairs Civil Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Code §6-2704).

SOURCE: Section 2 of the Soil Erosion and Sedimentation Control Act of 1977, D.C. Law 2-23, 24 DCR 792 (July 22, 1977), 8 DCRR §8-2:804, Health Regulations (1965 Edition); as amended by Final Rulemaking published at 35 DCR 7692 (October 21, 1988); by Final Rulemaking published at 35 DCR 8552 (December 9, 1988); and by §4(b) of the Soil Erosion and Sedimentation Control Amendment Act of 1994, D.C. Law 10-166, 41 DCR 4892, 4893 (July 22, 1994).

503 SEDIMENTATION CONTROL PLANS

503.1 The Department shall approve in writing any erosion and sedimentation control plan submitted by an applicant for a building permit if the Department determines the following:

(a) The plan meets the erosion and sedimentation control standards and specifications; and

(b) The applicant has certified in writing that he or she will implement the control measures specified in the plan.

503.2 If a plan submitted for approval under this section is found, after review by the Department, to be inadequate to control soil erosion and sedimentation, the Department shall disapprove the plan.

503.3 If a plan is disapproved under §503.2, the Department shall notify the permit applicant in writing, providing the specific reasons for the disapproval of the plan.

503.4 The Department, in addition to notice of the reasons for disapproval of the plan under §503.2, may also suggest modifications, terms, and conditions which would permit the approval of the plan if the permit applicant were to resubmit the plan to the Department.

503.5 If a plan is disapproved by the Department under §503.2, the permit applicant shall have the right to appeal that decision in accordance with the provisions of §507.

503.6 Changes to an approved plan may be granted by the Department of Consumer and Regulatory Affairs in the following circumstances:

(a) If an inspection during construction has revealed the inadequacy of the plan to accomplish the erosion and sedimentation control, and changes to correct deficiencies in the plan are agreed to by the Department and the permittee; or

(b) If the permittee finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out and the proposed amendments to the plan are consistent with the requirements of this regulation and are agreed to by the Department and the permittee.

SOURCE: Section 2 of the Soil Erosion and Sedimentation Control Act of 1977, D.C. Law 2-23, 24 DCR 792 (July 22, 1977); 8 DCRR §8-2:804, Health Regulations (1965 Edition).

504 CORRECTION OF CURRENT EROSION PROBLEMS

504.1 In instances where erosion is occurring as the result of natural forces or past land disturbing activities, but in the absence of current land disturbing activities, the Department shall have the authority to inspect the site and to order the property owner to correct the erosion problem.

(a) The Potomac River;

(b) The Anacostia River;

(c) The Washington Ship Channel;

(d) Rock Creek; and

(e) Oxon Run.

509.2 The Mayor shall conspicuously post notice to the public in at least one (1) place on each of the waters designated in §509.1 of the pollution levels in that particular water and an explanation of the public health hazards encountered due to those pollutants.

SOURCE: Section 2 of the Water Quality Standard Act of 1977, D.C. Law 2-68, 24 DCR 6809 (February 17, 1978); 8 DCRR §8-2:809, Health Regulations (1965 Edition).

HISTORICAL NOTE: *Prior to* February 17, 1978, the District of Columbia Council published Final Rulemaking under Regulation No. 71-28, dated August 27, 1971, 18 DCR 5 (September 6, 1971); 8 DCRR §8-2:809, Health Regulations (1965).

510 [RESERVED]

511 AUTHORIZATION OF FURTHER MAYORAL ACTION

511.1 Upon determination that any indirect contact with the waters of the District, such as fishing or boating, pose a hazard to the public health, the Mayor may take such actions as deemed necessary to protect the public health until the hazard has ended, including but not limited to, a prohibition of all recreational activities on the affected waters of the District.

511.2 The Mayor shall notify the Council of the District of Columbia immediately of all actions taken pursuant to this section.

511.3 Actions taken under §511.1 shall remain in effect until rescinded by the Mayor or for a period of two (2) weeks, whichever is shorter. The Mayor may extend the life of actions taken under §511.1 beyond a two (2) week period only if the Council of the District of Columbia by resolution so approves.

511.4 The Mayor shall notify at least two (2) newspapers of general circulation in the District of Columbia and four (4) radio stations in the District of Columbia of the actions taken pursuant to this section.

SOURCE: Section 2 of Water Quality Standard Approval Act of 1977, D.C. Law 2-68, 24 DCR 6809 (February 17, 1978); 8 DCRR §8-2:811, Health Regulations (1965 Edition).

HISTORICAL NOTE: Prior to February 17, 1978, the District of Columbia Council published Final Rulemaking under Regulation No. 71-28, approved August 27, 1971, 18 DCR 5 (September 6, 1971), 8 DCRR §8-2:806, Health Regulations (1965 Edition).

EDITOR'S NOTE: D.C. Law 2-68 renumbered 8 DCRR §8-2:806 as 8 DCRR §8-2:811.

512 PREVENTION OF POLLUTION BY WATERCRAFT

512.1 The discharge into the Potomac River or its tributaries of any wastes, whether liquid or solid, treated or untreated, from any vessel berthed at a marina, dock, or basin is prohibited.

512.2 Each marina, dock, or basin where vessels or other watercraft are berthed shall be provided with water closets, urinals, and lavatories which are separate for each sex, readily available, and in sufficient numbers to meet the needs of persons using the marina facilities.

512.3 Each marina, dock, or basin where vessels or other watercraft suitable for overnight accommodations are berthed shall, in addition to the requirements of §512.2, be equipped with suitable bathing facilities.

512.4 The facilities required under §§512.2 and 512.3 shall be approved by the Mayor to be acceptable for the purposes set forth.

SOURCE: Section 2 of the Water Quality Standards Approval Act of 1977, D.C. Law 2-68, 24 DCR 6809, 6812 (February 17, 1978); 8 DCRR §8-2:812, Health Regulations (1965 Edition).

HISTORICAL NOTE: Prior to February 17, 1978, the District of Columbia Council published Final Rulemakings published under Regulation No. 69-54, approved December 26, 1969, effective August 1, 1971, §8-2:803; and under Regulation No. 71-28, approved August 27, 1971, 18 DCR 5 (September 6, 1971), 8 DCRR §8-2:807.

EDITOR'S NOTE: D.C. Law 2-68 renumbered 8 DCRR §8-2:807 as 8 DCRR §8-2:812.

513 COUNCIL APPROVAL OF WATER QUALITY STANDARDS

513.1 [Repealed] D.C. Law 5-188, §8-2:813, 32 DCR 919 (February 15, 1985).

514 VARIANCES

514.1 Any person engaged in an operation, or operations, which may result in providing a source of pollution affecting the Potomac River or one of its tributaries, shall be excused by the Director from the performance of any act required by the provisions of this chapter, either in whole or in part, upon a finding that the full performance of the act would result in exceptional or undue hardship by reason of excessive structural or mechanical difficulty, or impracticality of bringing the operation into full compliance with the requirements of this chapter, in accordance with the provisions of this section.