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2 Chairman Phil Mendelson


Councilmember Charles Allen

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6 Councilmember Christina Henderson


Councilmember Brianne K. Nadeau

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10 Councilmember Janeese Lewis George


Councilmember Robert C. White, Jr.

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14 A BILL
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19 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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24 To amend the Construction Codes Approval and Amendments Act of 1986 to require
25 that an applicant for a permit required by the Construction Codes must enter into a
26 construction management agreement with neighboring property owners in certain
27 circumstances, to reduce from 5 to 3, within one year, the number of stop work
28 orders that trigger a denial of future permits for a one year period, and to make
29 conforming amendments.

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

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32 That this act may be cited as the “Construction Management Agreement Amendment Act
33 of 2021”.

34 Sec. 2. The Construction Codes Approval and Amendments Act of 1986, effective
35 March 21, 1987 (D.C. Law 6-216; D.C. Official Code § 6-1401 *et seq.*) is amended as
36 follows:

37 (a) A new section 6f is added to read as follows:

38 “Sec. 6f. Construction management agreements.

39 “(a) The Building Code Official shall not issue to a covered applicant a permit
40 required by the Construction Codes unless the covered applicant has:

41 “(1) Provided, 30 days before applying for a permit required by the
42 Construction Codes and in a form determined by the Building Code Official, any
43 impacted property owner notice of:

44 “(A) The work for which the covered applicant intends to apply for a
45 permit; and

46 “(B) The impacted property owner’s ability to enter into:

47 “(i) A standard construction management agreement,
48 which shall include a list of the elements of a standard construction management
49 agreement, pursuant to subsection (b) of this section; or

50 “(ii) A voluntary construction management agreement; and

51 “(2) Entered into a standard construction management agreement,
52 pursuant to subsection (b) of this subsection, or a voluntary construction management
53 agreement, pursuant to subsection (c) of this section.

54 “(b) A standard construction management agreement between a covered applicant
55 and the Building Code Official shall require that:

56 “(1) The covered applicant provide vibration monitoring services for a
57 property abutting the covered project if a third-party engineering report demonstrates,
58 pursuant to rules adopted by the Mayor, that the covered project is likely to cause
59 vibrations that will exceed an amount determined by rules adopted by the Mayor;

60 “(2) If an impacted property owner incurs engineering expenses authorized
61 by the Building Code Official, pursuant to rules adopted by the Mayor, the covered

62 applicant, within 30 days after the impacted property owner notify the covered applicant
63 that the impacted property owner has incurred the expenses, reimburse the impacted
64 property owner for the engineering expenses, pursuant to rules adopted by the Mayor;

65 “(3)(A) The covered applicant notify an impacted property owner, by
66 certified mail, 7 days before the covered applicant plans to perform work that the
67 Building Code Official determines:

68 “(i) Is likely to exceed maximum sound levels, pursuant to 20
69 DCMR § 2701.1; and

70 “(ii) Will be performed outside of the hours allowed pursuant
71 to 12A DCMR § 105.1.2;

72 “(B) If the covered applicant does not provide notice required
73 pursuant to subparagraph (A) of this paragraph, the covered applicant, within 7 days after
74 receiving proof of payment pursuant to this subparagraph, reimburse an impacted
75 property owner for a night in a hotel, at a rate allowed pursuant to rules adopted by the
76 Mayor, when the covered applicant performs work outside of the hours allowed pursuant
77 to 12A DCMR § 105.1.2; provided, that, the impacted property owner, within 7 days of
78 the hotel stay, provides the covered applicant with proof of payment for a hotel stay that
79 is eligible for reimbursement pursuant to rules adopted by the Mayor;

80 “(4) The covered applicant provide proof of liability insurance, in an amount
81 determined pursuant to rules adopted by the Mayor, for the project for which the covered
82 applicant is seeking a permit;

83 “(5) The covered applicant not seek a public space permit, pursuant to
84 section 603 of the Fiscal Year 1997 Budget Support Act of 1996, effective April 9, 1997

85 (D.C. Law 11-198; D.C. Official Code § 10-1141.03), that will impact parking in public
86 space for a period of more than 4 weeks, unless the covered applicant has received
87 approval by resolution from the Advisory Neighborhood Commission for the area in
88 which the impact on public parking will occur; and

89 “(6) The covered applicant and an impacted property owner refer all disputes
90 to and abide by the decision of:

91 “(A) The Community Dispute Resolution Program operated by the
92 Office of the Attorney General; or

93 “(B) The Multi-Door Dispute Resolution Division of the D.C.
94 Superior Court.

95 “(c) A voluntary construction management agreement shall:

96 “(1) Be in writing and include notarized signatures of the covered
97 applicant and the impacted property owner;

98 “(2) Include a description of any consideration the covered applicant
99 provided to the impacted property owner in exchange for declining to enter into a
100 standard construction management agreement;

101 “(3) Include a method for resolving disputes; and

102 “(4) Be filed with the Agency under the approved permit associated with
103 the project.

104 “(d) The Mayor, pursuant to Title I of the District of Columbia Administrative
105 Procedures Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et*
106 *seq.*), shall issue rules to implement the provisions of this section.

107 “(e) For the purposes of this section, the term:

108 “(1) “Covered applicant” means an applicant for a permit required by the
109 Construction Codes for a project that:

110 “(A)(i) Contains at least 4 residential units; or

111 “(ii) Is a commercial development of more than 1000 square feet;

112 and

113 “(B) Abuts at least one residential property of 2 or fewer residential

114 units.

115 “(2) “Covered project” means a project for which a covered applicant has
116 applied for a permit required by the Construction Codes;

117 “(3) “Impacted property owner” means the owner of a residential property
118 with 2 or fewer units that abuts a covered project.

119 (b) Section 8 (D.C. Official Code § 6-1407) is amended as follows:

120 (1) Subsection (a) is amended by striking the phrase “orders issued under
121 the Construction Codes, the Office of the Attorney General” and inserting the phrase
122 “orders issued under the Construction Codes or a Construction Management Agreement
123 made pursuant to section 6f, the Office of the Attorney General” in its place.

124 (2) Subsection (b) is amended as follows:

125 (A) Paragraph (1) is amended by striking the phrase “in violation of
126 the Construction Codes” and inserting the phrase “in violation of the Construction Codes
127 or a Construction Management Agreement made pursuant to section 6f” in its place.

128 (B) Paragraph (2) is amended by striking the phrase “in violation of the
129 Construction Codes” and inserting the phrase “in violation of the Construction Codes or a
130 Construction Management Agreement made pursuant to section 6f” in its place.

131 (c) Section 8a(2) (D.C. Official Code § 6-1407.01(2)) is amended by striking the
132 phrase “after receipt of 5 or more stop work orders” and inserting the phrase “after
133 receipt of 3 or more stop work orders” in its place.

134 Sec. 3. Fiscal impact statement.

135 The Council adopts the fiscal impact statement in the committee report as the fiscal
136 impact statement required by section 4a of the General Legislative Procedures Act of
137 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

138 Sec. 4. Effective date.

139 This act shall take effect following approval by the Mayor (or in the event of veto
140 by the Mayor, action by the Council to override the veto), a 30-day period of
141 congressional review as provided in section 602(c)(1) of the District of Columbia Home
142 Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-
143 206.02(c)(1)), and publication in the District of Columbia Register.