City of Alexandria, Virginia

MEMORANDUM

DATE: SEPTEMBER 20, 2016

TO: EARL COOK, CHIEF, ALEXANDRIA POLICE DEPARTMENT

FROM: YON LAMBERT, AICP, DIRECTOR, TRANSPORTATION & ENVIRONMENTAL SERVICES

SUBJECT: COORDINATION OF ENFORCEMENT EFFORTS REGARDING THE NOISE AND NOISE RELATED CODES

The purpose of this memorandum is to provide guidance to the Alexandria City Police Department and, in particular, officers who enforce provisions of the City Code regarding noise.

The sections outlined below are the sections of the Code that staff believes address the violations police commonly encounter. Staff from the Department of Transportation & Environmental Services (T&ES) worked with the City Attorney's office to ensure that these code sections are enforceable as described. If the police officers encounter violations not addressed by the below described code sections, please have them contact T&ES before taking any enforcement action.

The T&ES noise contacts are Mr. Khoa Tran, Environmental Program Manager, cell phone (703)-597-4826, or Ms. Lisa Goldberg, Senior Environmental Specialist, cell phone (703) 254-6842. Mr. Tran and Ms. Goldberg are available weekdays from 8 am to 6 pm.

1. ALL AREAS WITHIN THE CITY

AMPLIFIED/ INSTRUMENT NOISE - Use this provision to prohibit a sound reproduction device located anywhere in the City between 11:00 p.m. and 7:00 a.m. if it is audible more than 50 feet from the noise source.

- **11-5-4(b)(2)** – "The operation of any set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such manner as to be plainly audible across property boundaries at a distance of 50 feet from the building structure or vehicle in which it is located shall be prima facie evidence of a violation of this section, except such operation by a public service company or by the city to restore and maintain services provided by it."

NIGHTTIME CONSTRUCTION NOISE – use this provision to prohibit Construction, Power Equipment and Pile Driving noise during the nighttime hours as indicated below.

A noise variance permit is required to conduct construction activities outside the permitted hours. Note that pile driving has stricter permitted hours.

- **11-5-4(b)(10) Construction or repairing of buildings, streets, walks, railways, sewers, utility lines, etc.** The erection (including excavation), demolition, alteration or repair, and any and all activity necessary or incidental thereto, of any building, except a dwelling house when the activity is being conducted by an owner or occupant or agent thereof and not for profit, any street, walk, railway, sewer, utility line or other **construction other than between the hours listed in Table I** (below) except in case of urgent necessity in the interest of public health and safety or to restore and maintain public service and then only with a permit from the city manager, which permit may be granted for a period not to exceed six days while the necessity continues and which permit may be renewed for periods of six days while the necessity continues. If the city manager should determine that the public health and safety will not be impaired by any erection, demolition, alteration or repair and if he shall further determine that failure to permit erection, demolition, alteration or repair during such hours would result in loss or inconvenience to any party in interest, he may after consultation with the director grant permission for the work to be done within the hours prohibited in Table I, upon application being made at the time the permit for the work is awarded or during the progress of the work.

TABLE I

Day	Prohibited Hours	
	Before	After
Monday through Friday	7:00 a.m.	6:00 p.m.
Saturday	9:00 a.m.	6:00 p.m.
Sunday, Holidays as listed in sec. 11-5-5(a)(5)a.	All Hours	

- **11-5-4(b)(19) - Pile driving.** Notwithstanding any contrary provision of this chapter, no person shall operate, and no person shall permit the operation by any employee, independent contractor or other person of, any pile driving equipment, except between the hours of 9:00 a.m. to 6:00 p.m., Monday through Friday, and 10:00 a.m. to 4:00 p.m., Saturday. The city manager is authorized, in his discretion, to grant relief from the provisions of this section, under the procedures set forth in section 11-5-7.

POWER LAWN AND GARDEN EQUIPMENT - Use this provision to prohibit power lawn and garden equipment during the nighttime hours as indicated below.

- **11-5-4(b)(16)** – Power lawn and garden equipment. The operation or permitting the operation during the times listed in **Table II** (below) of any power lawn or garden equipment is unlawful.

TABLE II

Day	Prohibited Hours	
	Before	After
Monday through Friday	7:00 a.m.	9:00 p.m.
Saturday, Sunday, Holidays as listed in sec. 11-5-5(a)(5)a. which are New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day	9:00 a.m.	9:00 p.m.

TRASH PICK-UP BY COMMERCIAL TRASH HAULERS - Use this provision to prohibit commercial trash hauler from collecting trash too early or too late IF THE COLLECTION AREA IS LESS THAN 500 FEET FROM A RESIDENTIAL AREA

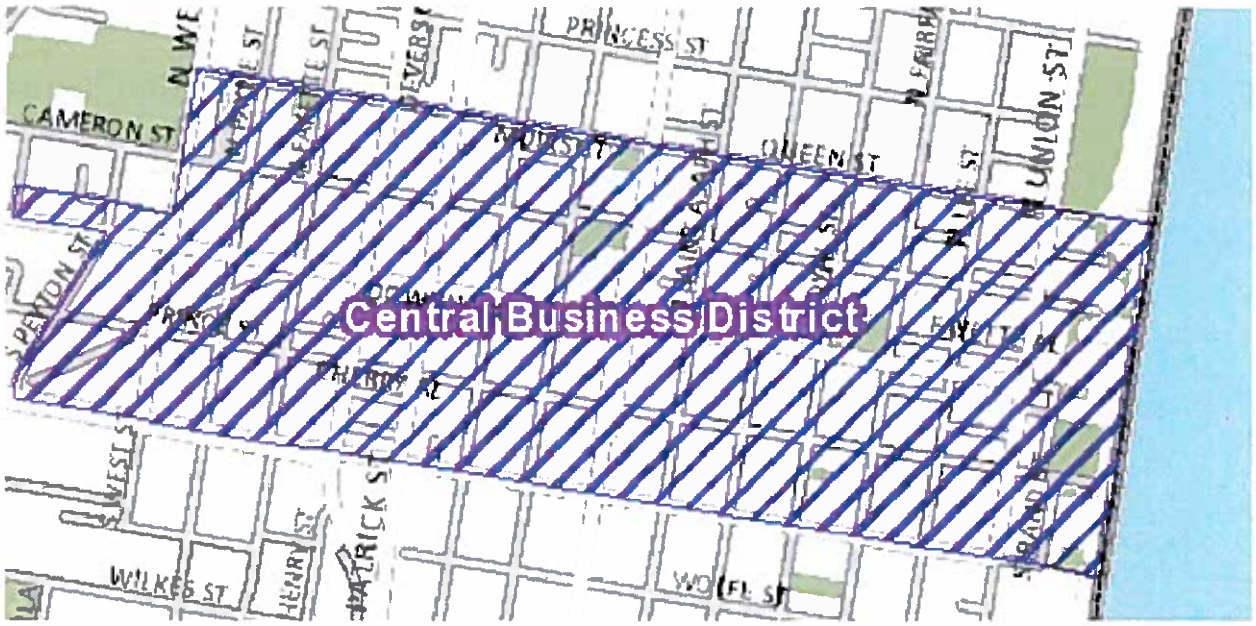
- **5-1-42(c)** - Trash pickup hours. Solid waste shall be collected from all premises not serviced by the city at least once each week. No collections may be made between the hours of 11:00 p.m. and 7:00 a.m. (6:00 a.m. from May 1, through September 30) if the collection area is less than 500 feet from a residential area.

MECHANICAL LOUD SPEAKERS ON A VEHICLE OR AN COMMERCIAL ESTABLISHMENT - Use this provision to prohibit the use of loudspeakers or amplifiers on trucks or other moving vehicles or in mercantile establishments AT ALL TIMES UNLESS A PERMIT FOR SUCH USE IS FIRST OBTAINED

- **13-1-26** – Mechanical Loud Speakers. The use of mechanical loudspeakers or amplifiers on trucks or other moving vehicles or in mercantile establishments for advertising or other purposes shall be unlawful; provided however, that the use of mechanical loudspeakers or amplifiers shall not be unlawful if a permit for such use is first obtained as provided in this section.

2. CENTRAL BUSINESS DISTRICT

The City's Central Business District was established by section 8-300(A) of the City Zoning Ordinance and the map below depicts the District area The CBD is approximately bounded the Potomac River on the east, South Peyton Street on the west, Queen Street on the north and Duke Street on the south.



BUSKERS, STREET PERFORMERS AND OTHER NOISE SOURCES IN CENTRAL BUSINESS DISTRICT –use these sections to prohibit the use of sound reproducing equipment if it is plainly audible to the Police Officer above the background noise at a distance 50 feet from the noise source.

Use this section if it is between 7 am – 11 pm

- **11-5-4.1(c)** - Between the hours of 7:00 a.m. and 11:00 p.m., Monday through Sunday, no sound generation shall result in sound having a volume of 75 dB(A) or more, at a distance greater than 10 feet from the place at which the sound is being generated or produced, for an aggregate duration of time greater than 60 seconds in any one hour period. **Any sound that is plainly audible above the background noise level to a person of normal hearing acuity at a distance greater than 50 feet from the place at which the sound is being generated** or produced shall be presumed to exceed 75 dB(A) at 10 feet of distance and thus violate this subsection, and the burden shall be on the person responsible for such sound generation to prove otherwise.

Use this section if it is between 11 pm – 7 am

- **11-5-4.1(d)** - Between the hours of 11:00 p.m. and 7:00 a.m., no sound generation shall exceed a volume of 65 dB(A) at a distance greater than 10 feet from the place at which the sound is being generated or produced, for an aggregate duration of 60 seconds between such hours. **Any sound that is plainly audible above the background noise level to a person of normal hearing acuity at a distance greater than 50 feet from the place at which the sound is being generated** or produced shall be presumed to exceed 65 dB(A) at 10 feet of distance and thus violate this subsection, and the burden shall be on the person responsible for such sound generation to prove otherwise.

3. **CITY PARKS (ONLY ENFORCEABLE IF THERE IS AN OFFICIAL SIGN)**

Use this provision to prohibit any use of radio, television, CD, DVD or tape player, or other sound producing device without the use of headsets or earphones IF THERE EXISTS AN OFFICIAL SIGN AT THE PARK PROHIBITING SUCH USE

- **6-1-8(a)(10)** - Within the boundary of any public park in the city, it shall be unlawful for any person, contrary to an official sign, to operate any radio, television, CD, DVD or tape player, or other sound producing device, without the use of headsets or earphones.

4. **REGULATING NOISE FROM SPECIAL EVENTS THAT HAVE A NOISE VARIANCE PERMIT**

- Must have a copy of the noise variance permit onsite that includes standard conditions on the front page of the permit. Also, please check for any special conditions included in the permit.

ENFORCEMENT:

- **Warning**: An effort should be made to first obtain voluntary compliance with the code section being violated;
- **Civil Notice of Violation**: If the violator will not comply with the warning and request to comply, then a Civil Notice of Violation with a penalty of $50 should be issued pursuant to Section 11-5-12(a).
- **Additional Action**: If the violator "knowingly refuses or neglects to comply" with the Notice of Violation, then it could rise to the level of a class 2 misdemeanor, however this should be used in very limited circumstances.

cc: James L. Banks, City Attorney