

## CHAPTER 5 - Noise Control

### Sec. 11-5-1 - Title.

This chapter shall be known and may be cited as the noise control code of the city. (Code 1963, Sec. 22A-1)

### Sec. 11-5-2 - Definitions.

For the purposes of this chapter only, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (1) *Aircraft*. Any device that is used or intended to be used for flight in the air, engaged in carrying persons or property.
- (2) *Acoustics*. The science of sound including its generation, propagation, measurement, and physiological and psychological effects.
- (3) *Ambient noise*. The all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources, near and far.
- (4) *A-weighted sound level [dB(A)]*. A quantity, in decibels read from a sound level meter, that is switched to the weighting network labeled "A." The A-weighted network shall be as specified under the most recent specifications of the American National Standards Institute, Inc., New York, N.Y. (ANSI).
- (5) *Center frequency*. For acoustic measurement, the center frequency of an octave band which is the geometric mean of the upper and lower frequency limits of the band.
- (6) *Commercial use area*. Any property that is used for commercial purposes.
- (7) *Construction*. Any or all activity necessary or incidental to the erection, demolition, assembling, altering, installing, or equipping of buildings, premises, parks, utility lines including any lines in already constructed tunnels, or other property, including land clearing, grading, excavating, and filling.
- (8) *Construction device*. Any device designed and intended for use in construction including, but not limited to any air compressors, backhoes, concrete vibrators, cranes (derrick), cranes (mobile), dozers (track and wheel), generators, graders, loaders (track and wheel), mixers, pavement breakers, pavers, pile drivers, power hoists, rock drills, rock crushers, rollers, scrapers, and shovels.
- (9) *Continuous noise*. Noise whose level remains essentially constant without interruption or break.
- (10) *Decibel (dB)*. A unit of sound magnitude equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure being measured to a reference sound pressure of 20 micronewtons per square meter or 0.0002 microbars, abbreviated "dB."
- (11) *Director*. The director of the department transportation and environmental services of the City of Alexandria or his duly authorized representative.

- (12) *Emergency signal device.* Any gong, bell, siren, whistle or any horn or any similar device that is used on authorized emergency vehicles or which are mounted on poles, buildings, towers, or other supports and designed to provide safety signals to the public.
- (13) *Emergency work.* Work made necessary to restore property to a safe and working condition following a public calamity, or work required to protect persons or property from imminent danger.
- (14) *Exhaust system.* A system which removes and transports air or gas from a device.
- (15) *Hertz.* A unit of measurement of frequency numerically equal to cycles per second.
- (16) *Impulsive noise.* A short burst of acoustical energy such as, but not limited to, that produced by weapon fire, punch press, or drop hammer. A pressure time history of a single impulse includes a rapid rise to a maximum peak pressure followed by a somewhat slower decay, both occurring within one second.
- (17) *Industrial use area.* Any property that is used for industrial purposes.
- (18) *Institutional use area.* Any property that is operated by a government, nonprofit, or quasi-public use or institution, such as a library, public or private school, religious institution, hospital, or municipally owned or operated building, structure, or land used for public purposes.
- (19) *Internal combustion engine.* A device for the production of energy by means of combustion under pressure.
- (20) *Microbar.* Unit of pressure commonly used in acoustics and equal to one dyne per square centimeter or one-tenth (0.1) Newtons per square meter.
- (21) *Motorcycle.* Every motor vehicle designed to travel on not more than three wheels in contact with the ground and any four-wheeled vehicle weighing less than 500 pounds and equipped with an engine of less than six horsepower.
- (22) *Motorized construction device.* Any construction device that is a motor vehicle.
- (23) *Motor vehicle.* Every device in, upon, or by which any person or thing is or may be transported or drawn upon a highway which is self-propelled or designed for self-propulsion, except devices used exclusively upon stationary rails or tracks.
- (24) *Muffler.* An apparatus generally consisting of but not limited to a series of chambers or baffles for the purpose of transmitting gases while reducing sound level.
- (25) *Newton.* A unit of pressure. The force required to accelerate one kilogram of mass at one meter per second squared.
- (26) *Noise.* The intensity, frequency, duration, or character of sounds from a single source or multiple sources that may degrade the public health, safety, or welfare.
- (27) *Noise level.* See sound pressure level.
- (28) *Octave band.* An interval in the audible range of sound that has an upper frequency numerically exactly twice that of its lower frequency.

- (29) *Owner.* Owner shall have no connotations other than that customarily assigned to the term "person," but shall include corporations, associations, partnerships, personal representatives, trustees and committees, as well as individuals.
- (30) *Person.* Any individual, corporation, cooperative, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state or any legal successor, representative, agent, or agency of the foregoing.
- (31) *Plainly Audible.* Sound that can be heard by the unaided human ear.
- (32) *Power equipment.* Motorized or engine driven equipment such as, but not limited to, powered saws or chain saws and powered hand tools including hydraulic and pneumatic hand tools. This definition does not include air or surface transportation vehicles, construction devices, sound signaling devices, or power lawn and garden equipment.
- (33) *Power lawn and garden equipment.* Powered devices for care and maintenance of lawns and gardens, including but not limited to, edgers, garden tractors, hedge clippers, home tractors, lawn mowers, leaf blowers, tillers, and trimmers.
- (33) *Property.* The smallest area owned or leased by the same person or persons.
- (34) *Property Line and Property Boundary.* Such terms refer to (a) the vertical or horizontal boundary that separates one parcel of property from another residential, commercial, institutional, or industrial property; or (b) the vertical and horizontal boundaries of a dwelling unit that is part of a multi-unit residential, commercial, institutional, or industrial building.
- (35) *Railroad.* All the rights-of-way of any common carrier operating a railroad, whether owned or operated under contract, agreement, or lease.
- (36) *Residential use area.* Any property that is used for residential purposes.
- (37) *Slow meter response.* The dynamic response of a sound level meter, as specified under the most recent specification of the American National Standards Institute, Inc., New York, N.Y. (ANSI) for sound level meters.
- (38) *Sound.* An auditory sensation evoked by alternating compression and expansion of air, or other medium, accompanied by changes in pressure, particle velocity or displacement.
- (39) *Sound level.* The weighted sound pressure level in decibels obtained by use of a sound level meter with a metering response (fast or slow) and A, B or C weighting networks as specified by the American National Standards Institute, Inc., New York, N.Y. (ANSI).
- (40) *Sound level meter.* An instrument comprising a microphone, amplifier, and output meter, and frequency weighting networks, that is used for the measurement of sound levels in a manner specified by the American National Standards Institute, Inc., New York, N.Y. (ANSI), in its standards 1.4-1971 or latest revision.
- (41) *Sound pressure.* The difference between the barometric or average pressure and the instantaneous pressure created at a given point by a source of sound: measured in Newtons per square meter.

- (42) *Sound pressure level (in decibels)*. 20 times the logarithm to the base of 10 of the ratio of the pressure of the sound being measured to a reference sound pressure of 20 micronewtons/m<sup>2</sup>(0.0002 microbars).
- (43) *Sound reproduction device*. A device intended primarily for the production or reproduction of sound including, but not limited to, any musical instrument, radio, television, receiver, tape recorder, megaphones, bullhorns, and sound amplifying system.
- (44) *Sound signal device*. A device designed to produce a sound signal when operated, including but not limited to, any klaxon, air horn, whistle, bell, gong, siren, but not an emergency signal device.
- (45) *Warning device*. Sound signal devices used to alert and warn people.

**Sec. 11-5-3 - Reserved.**

**Sec. 11-5-4 - Noises prohibited—enumeration.**

The following acts, among others, are declared to be unlawful, but this enumeration shall not be deemed to be exclusive, namely:

- (1) Sound signaling devices. The sounding of any sound signal device on any automobile, motorcycle or other vehicle on any street or public place of the city, except as a warning of danger. The sounding of any sound signal device attached to a motor vehicle, wagon or manually propelled cart more frequently than once every two minutes in any one city block and with a duration of more than 10 seconds for any single emission.
- (2) Sound reproduction device. The using or operating of any sound reproduction device as defined in 11-5-4(2), including but not limited to any radio, television, musical instrument, loudspeaker, bullhorn, megaphone, drum, sound amplifier, music player, or other machine or device for the producing or reproducing of sound, or permitting the same to be played, used or operated 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, except such operation by a public service company or the city to restore and maintain services provided by it.
- (3) Animals. Permit any animal to bark, howl, bay, meow, squawk, quack, or make such other sound:
  - (a) Between 10 p.m. and 7 a.m. that is plainly audible in any other person's residential dwelling with the doors and windows closed and the source of the sound generation is discernible regardless of whether such doors or windows are closed; or
  - (b) Between 7 a.m. and 10 p.m. when the sound is plainly audible and discernible across real property boundaries or through partitions common to residential dwellings and such sound can be heard for more than five consecutive or non-consecutive minutes in any ten-minute period of time. Sounds that can be heard for less than five consecutive or non-consecutive minutes in any ten-minute period shall not be subject to this Section.
  - (c) The provisions of this Section shall not apply to any dog that at the time of the sound or sound generation (1) was responding to pain or injury or was protecting itself, its kennel, its

offspring, or a person from an actual threat, (2) is a police dog that is engaged in the performance of its duties, or (3) is part of a bona fide agricultural operation.

Noise and conduct of animals is regulated in article C of chapter 7 of title 5 of the city code.

- (4) Exhausts. The discharge into the open air of the exhaust of any motor vehicle except through a muffler or other device pursuant to Virginia Code § 46.2-1049.
- (5) Loading, unloading, opening boxes. The creation of noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers that is plainly audible by persons in any office, or in any dwelling, hotel, or other type of residence with the doors and windows closed, across property boundaries at a distance of 50 feet from the source of the noise, except as provided by section 11-5-7 of this chapter. The outdoor loading or unloading of trucks within 200 feet of a residential dwelling between 11:00 p.m. and 7:00 a.m. is prohibited.
- (6) Construction, construction devices, and power equipment. Construction and the operation or permitting the operation during the hours prohibited in Table I of any construction device or power equipment as defined in section 11-5-2 or ancillary activity associated with the operation of the equipment, unless permitted in accordance with section 11-5-7 of this chapter.

<b>TABLE I</b>		
<b>Day</b>	<b>Prohibited Hours</b>	
	<b>Before</b>	<b>After</b>
Monday through Friday	7:00 a.m.	6:00 p.m.
Saturday	9:00 a.m.	6:00 p.m.
Sunday	All Hours	
Holidays in Sec. 11-5-5(5).		

- (7) Construction or repairing of a dwelling when the activity is being conducted by an owner or occupant and the homeowner is not acting as the general contractor or working for commercial

purpose. Construction or the operation or permitting the operation of construction devices and power equipment in or around any dwelling house when the activity is being conducted by an owner or occupant and the homeowner is not acting as the general contractor or working for commercial purpose shall be prohibited during the hours listed in Table II.

- (8) Power lawn and garden equipment. The operation or permitting the operation during the times listed in Table II of any power lawn or garden equipment

<b>TABLE II</b>		
<b>Day</b>	<b>Prohibited Hours</b>	
	<b>Before</b>	<b>After</b>
Monday through Friday	7:00 a.m.	9:00 p.m.
Saturday, Sunday, Holidays as listed in Sec. 11-5-5 (5).	9:00 a.m.	9:00 p.m.

- (9) Ventilation and air conditioning. The operation or permitting the operation of ventilation systems and air conditioning systems whose components, air ducts, and vent opening may be installed on the roof or ground, in windows or walls the use of which exceeds the noise levels in Table III.
- (10) Trash collection. No person shall engage in any refuse, recycling, or solid waste collection except as permitted by title 5, chapter 1 of the city code.
- (11) 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 between the hours of 6:00 p.m. and 9:00 a.m., Monday through Friday, 4:00 p.m. and 10:00 a.m., Saturday, or any time on Sunday. 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. In deciding whether to grant such relief, the city manager shall consider (i) the location at which pile driving is proposed to be conducted, (ii) its proximity to residential areas, business districts, public parks, recreation facilities, historic areas, and tourist destinations, (iii) the availability and cost of alternative methods of construction, (iv) the mitigation measures available or proposed, (v) the impact upon the construction project and upon the public; and (vi) such additional factors as the manager

determines may be relevant to avoid undue injury or danger to the welfare of residents, business employees and patrons, park patrons, students, tourists, and other visitors to the city. For purposes of this subsection, pile driving shall mean the driving of piles into the earth through the use of a gravity- or pneumatic-driven hammer or similar device or mechanism.

(12) Use of mechanical devices to clean outdoor areas. Unless otherwise excepted by this chapter, the operation of mechanical devices, including, but not limited to, pressure washers, within 200 feet of a residential dwelling for the cleaning of outdoor parking, pedestrian, or loading areas between 9:00 p.m. and 7:00 a.m. is prohibited. Such prohibition shall not apply to snow removal activity, street sweepers, or other equipment owned, managed, or contracted by the city of Alexandria for the cleaning of outdoor parking, pedestrian, sidewalks, or loading areas.

(13) Noise in residential dwellings. Unless otherwise exempted or excepted by this Chapter, any person that permits, operates, or causes any source of sound or sound generation to create a sound in his or her residential dwelling that is plainly audible in any other person's residential dwelling with the doors and windows closed between the hours of 11:00 p.m. and 7:00 a.m.. This provision shall not apply to noise governed by the animal provisions in Section 11-5-4(3).(14) Mechanical loudspeakers on moving vehicles. The use of mechanical loudspeakers or amplifiers on trucks or other moving vehicles shall be unlawful unless a permit for such use is first obtained as provided in this section. All permits shall be subject to the following provisions:

(A) The only sounds permitted are music or human speech.

(B) Operations are permitted between the hours of 7:00 a.m. to 9:00 p.m. on Monday to Friday, and 9:00 a.m. to 9:00 p.m. Saturday and Sunday.

(C) Sound-amplifying equipment shall not be operated unless the sound truck upon which the equipment is mounted is operated at a speed of at least 10 miles per hour, except when the truck is stopped or impeded by traffic. Where stopped by traffic the sound-amplifying equipment shall not be operated for longer than one minute at each stop.

(D) The volume of sound shall be controlled so that it will not be audible for a distance in excess of 50 feet from the sound truck.

(E)–Sound-amplifying equipment in operation on a sound truck shall be subject to inspection by a member of the police department and the director or designee at reasonable times.

#### **Sec. 11-5-4.1 Noises Prohibited – Noise on public property**

(a) It shall be unlawful for any person to engage in, or to suffer or permit with property under such person's control, any sound generation, as defined in this section, in or on any public or private street, sidewalk or alley or any public park, marina or open space except as is permitted by this section or as exempted in this chapter.

(b) "Sound generation" shall mean any conduct, activity, or operation, whether human, mechanical, electronic or other, and whether continuous, intermittent, or sporadic, and whether stationary, ambulatory, or from a vehicle, which produces or generates sound in excess of the volume levels, and for a duration of time greater than the duration, specified in this section.

(c) Between the hours of 7:00 a.m. and 11:00 p.m., Monday through Sunday, no sound generation shall result in sound (1) exceeding a volume of 75 db(A), at a distance greater than 10 feet from the place at which the sound is being generated or produced, or (2) being plainly audible above the background noise level at a distance greater than 50 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.

(d) Between the hours of 11:00 p.m. and 7:00 a.m., no sound generation shall result in sound (1) exceeding 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, or (2) being plainly audible above the background noise level at a distance greater than 50 feet from the place at which the sound is being generated or produced, for an aggregate duration of 60 seconds between such hours.

(e) This section shall not apply to any sound generation which occurs:

- (1) as part of a city-sponsored festival or event;
- (2) at a designated performance area within a public park, marina, or open space in conformity with regulations promulgated by the city manager or the director of recreation, parks, ~~recreation~~ and cultural activities;
- (3) in conformity with regulations promulgated by the city manager for the use of market square;
- (4) under a permit for temporary relief from noise regulation, displayed at the place of sound generation, issued by the city manager pursuant to section 11-5-7; or
- (5) that is regulated by section 11-5-4 or exempted by section 11-5-6.

**Sec. 11-5-5 – Noises Prohibited—decibel provisions.**

Classification of use areas: residential, commercial, industrial, and institutional.

(1) Except as otherwise provided by this chapter, it shall be unlawful to project a sound or noise beyond the boundaries of the property from which such noise emanates that exceeds any of the limiting noise spectra set forth in Table III of this subsection.

a. For the purpose of this section, the applicable limiting noise spectra is that applicable to the property where the noise is generated.

b. For the purposes of this section, the limiting noise spectra set forth in Table III of this subsection for industrial use areas shall be deemed to be the limiting noise spectra



applicable to any property that is not located in a residential, commercial, industrial, or institutional use area.

- (2) The measurement of sound or noise pursuant to this subsection shall be as follows:
- a. The measurement of sound or noise shall be made with sound level meters type 1 or type 2 and meeting the standards prescribed by the American National Standards Institute, Inc., New York, New York. The instrument shall be maintained in calibration and good working order. Octave band corrections may be employed in meeting the response specification. A calibration shall be made of the system before and after the noise measurements. Measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used when required. Other than for instantaneous sound levels or for stated lengths of time, such as eight-hour or 24-hour averages, the following procedure will be used. With a continuous noise source in operation, a minimum of nine sound level readings will be taken at least 20 seconds apart excluding any readings taken if there is significant noise from extraneous sources. If the noise source is periodic or cyclical in nature, nine readings at least 20 seconds apart will be made only during those parts of the cycle when the source is operating. No readings will be made during the parts of the cycle when the source is not operating. The median of the valid readings will be used as the average sound level.
  - b. The slow meter response of the sound level meter shall be used to determine that the maximum permissible dB(A) readings or the octave band levels set forth in Table III below have not been exceeded.
  - c. Unless otherwise specified the measurement shall be made at the boundary of the property on which such noise is generated, or perceived, as appropriate not less than four feet above ground.
  - d. Measurements in multi-family dwellings or mixed-use structures. In a structure used as a multi-family dwelling or a mixed-use structure, measurements to determine sound levels shall be taken from indoor common areas within or outside the structure or from other units within the structure, when requested to do so by the occupant in possession and control thereof. Such measurement shall be taken at a point at least four feet from the wall, ceiling or floor nearest the noise source, with doors and windows to the receiving area closed.
  - e. Compliance with the noise limits is to be maintained at any elevation at the boundary.

(3) The limits hereinabove referred to shall be in accordance with the following table:

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<b>TABLE III</b>		
<b>MAXIMUM PERMISSIBLE SOUND LEVELS</b>		
		<b>Octave Band</b>

Use Areas	Maximum dB(A)	Center Frequency Hertz-(HZ)	Levels dB
	55	31.5	70
		63	69
		125	64
		250	59
		500	53
		1,000	47
		2,000	42
		4,000	38
		8,000	35
Commercial Between the hours of 11:00 p.m. and 7:00 a.m.	60	31.5	75
		63	74
		125	69
		250	64
		500	58
		1,000	52
		2,000	47
		4,000	43

		8,000	40
Commercial Between the hours of 7:00 a.m. to 11:00 p.m.	65	31.5	80
		63	79
		125	74
		250	69
		500	63
		1,000	57
		2,000	52
		4,000	48
		8,000	45
Industrial	70	31.5	85
		63	84
		125	79
		250	74
		500	68
		1,000	62
		2,000	57
		4,000	53
		8,000	50

Institutional Between the hours of 11:00 p.m. and 7:00 a.m.	60	31.5	75
		63	74
		125	69
		250	64
		500	58
		1,000	52
		2,000	47
		4,000	43
		8,000	40
Institutional Between the hours of 7:00 a.m. to 11:00 p.m.	65	31.5	80
		63	79
		125	74
		250	69
		500	63
		1,000	57
		2,000	52
		4,000	48
		8,000	45

- (4) The maximum permissible sound levels established in Table III for application to the boundaries of a property shall not apply to construction sites. Construction site noise shall be regulated by section 11-5-4(6)-(7) and other appropriate sections of this chapter.
- (5) Days which shall have the same restrictions as Sundays are New Year's Day (the first day of January), Memorial Day (the last Monday in May), Independence Day (July 4), Labor Day (the first Monday in September), Thanksgiving Day (the fourth Thursday in November), and Christmas Day (December 25).
- (6) The provisions of section 11-5-5(5) of this chapter shall not be applicable to any noise which is emitted without interruption for 24 hours every day for at least seven consecutive days, when the noise varies in intensity by less than three decibels in a 24-hour period; provided, that a permit for the emission of such noise has been issued by the city manager. Any permit shall be issued pursuant to section 11-5-7 of this chapter. Any permit issued by the city manager pursuant to this section, shall be valid until such time as the city manager, after giving notice in writing, to the applicants for the permit at least 30 days in advance, shall modify, or revoke the permit.

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**Sec. 11-5-6 - Exemptions.**

The following uses and activities shall be exempt from the provisions of this chapter:

- (1) Noises of safety signals, warning devices, emergency pressure relief valves, and emergency signal devices as defined by section 11-5-2.
- (2) Noises resulting from any authorized police, fire, or emergency vehicle, when responding to an emergency call or acting in time of emergency.
- (3) Noises resulting from emergency work as defined in section 11-5-2.
- (4) Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefor has been granted by the city in accordance with section 11-5-7.
- (5) Any aircraft operated in conformity with, or pursuant to federal law, federal air regulations, and air traffic control instruction used pursuant to and within the duly adopted federal air regulations. Any aircraft operating under technical difficulties, in any kind of distress, under emergency orders of air traffic control or being operated pursuant to and subsequent to the declaration of an emergency under federal air regulations.
- (6) Any railroad operated in conformity with, or pursuant to, federal law or regulations.
- (7) Work necessary to restore and maintain services or utilities provided by public service companies, and the city.

- (8) The operation of a stand-by power generator to provide electricity during utility power outages is exempt from the provisions of this chapter. The regular testing of such units must be conducted between 10:00 a.m. and 4:00 p.m. on weekdays.
- (9) Interstate motor carriers, and medium and heavy trucks manufactured and operated in accordance with federal noise standards and motor vehicles on road right-of-way.
- (10) Activities associated with removal of snow or ice from roads, sidewalks, walkways, parking areas, and travel lanes.
- (11) Noise generated by a landlord when such complaint is received by that landlord's tenants.
- (12) Noise generated at law enforcement firing range facilities.

**Sec. 11-5-7 - Application for permit for temporary relief from noise regulations**

- (a) Applications for a permit for temporary relief on the basis of undue hardship from a noise level or time limits designated in this chapter may be made to the city manager or his duly authorized representative. Any permit granted by the city manager hereunder shall contain all conditions upon which the permit has been granted and shall specify a reasonable time that the permit shall be effective. The city manager, or his duly authorized representative, shall grant the relief as applied for if he finds:
  - (1) that additional time is necessary for the applicant to alter or modify his activity or operation to comply with this chapter; or
  - (2) the activity, operation or noise source will be of temporary duration, or cannot be done in a manner that would comply with other subsections of this section, and that no other reasonable alternative is available to the applicant.
- (b) The city manager, or his duly authorized representative, may prescribe any conditions or requirements he deems necessary to minimize adverse effects upon the community or the surrounding neighborhood.
- (c) Upon the expiration of any such permit, a new permit or renewal of such permit may be issued in compliance with all the provisions of this section. Any permit issued pursuant to this section shall be valid no longer than three years from the date it is issued, including any subsequent renewals.

**Sec. 11-5-8 - Administration.**

- (a) The city manager or his designee shall be charged with administering and enforcing the provisions of this chapter and appointing authorized officers and employees to enforce the provision of this chapter.
- (b) The city manager shall allocate such resources as the city manager shall deem necessary to assist in the administration and enforcement of the provisions of this chapter.
- (c) In addition to any other powers vested in him, the director may, subject to the availability of funds:

- (1) conduct studies, investigations and research relating to noise pollution and its prevention, abatement and control;
  - (2) issue such orders as may be necessary to effectuate the purposes of this chapter and enforce the same by all appropriate administrative and judicial proceedings;
  - (3) hold hearings relating to any aspect of or matter in the administration of this chapter;
  - (4) secure necessary scientific, technical, administrative and operational services, including laboratory facilities, by contract or otherwise;
  - (5) prepare and develop a comprehensive plan or plans for the prevention, abatement and control of noise pollution;
  - (6) advise, consult and cooperate with other local governmental units, agencies of the state, industries, interstate or interlocal agencies and the federal government, and with interested persons and groups;
  - (7) review those matters having a bearing upon noise pollution referred by other agencies (such as planning, zoning, building and fire departments) and make reports, including recommendations, to the referring agencies with respect thereto;
  - (8) collect and disseminate information and conduct educational and training programs relating to noise pollution;
  - (9) encourage voluntary cooperation by persons or affected groups to achieve the purposes of this chapter;
  - (10) do any and all acts which may be necessary for the successful prosecution of the policy of this chapter and such other acts as may be specifically enumerated herein;
  - (11) prepare annually a report to the city council on progress in implementation and enforcement of the provisions of the noise control code and make recommendations to the council of any changes in the noise control code he deems desirable;
  - (12) may coordinate the noise control activities of all agencies and departments of the city government and advise, consult, cooperate and coordinate noise control activities with other local governmental units, state agencies, interstate and interlocal agencies, the federal government, and with interested persons and groups with respect to the provisions of this chapter;
  - (13) may make recommendations to the city council for changes to this chapter to make it consistent with all preemptive state and federal legislation.
- (d) The city manager may submit recommended noise design limits to the city council to be incorporated in city planning and zoning and the design and construction of buildings, streets and highways and in the routing and rerouting of motor vehicle and pedestrian traffic.

**Sec. 11-5-9 - Inspections.**

Any duly authorized officer, authorized employee, or authorized representative of the director may, when granted permission by the owner, or some person with reasonably apparent authority to act for the owner, enter and inspect any property, premises or place at any reasonable time for

the purpose of investigating or testing either an actual or suspected source of noise pollution, or of ascertaining the state of compliance with the chapter and regulations enforced pursuant thereto.

**Sec. 11-5-10 - Written warning .**

- (a) Whenever the director has reason to believe that a violation of any provision of this chapter or a rule or regulation issued pursuant thereto has occurred, he may give a written warning to the owner or other persons failing to comply with this chapter, ordering him to take such corrective measures as are necessary within a reasonable time thereafter. If such warning is given, the warning shall be in writing and shall be served personally upon the person to whom directed, or if he be not found, by mailing a copy thereof by certified mail to his usual place of abode and conspicuously posting, a copy at the premises affected by warning, if any.
- (b) Nothing in this chapter shall prevent the director from making efforts to obtain voluntary compliance through conference or any other appropriate means.
- (c) Nothing in this chapter shall prevent issuance of a notice of violation assessing civil penalties or a summons assessing criminal penalties pursuant to Section 11-5-12 without provision of this written warning.

**Sec. 11-5-11 - Emergency procedure.**

Notwithstanding the provisions of this chapter or any other provision of law, if the director finds that any owner or other person is causing or contributing to noise pollution and that the causing or contributing to noise pollution creates an emergency that requires immediate action to protect the public health or safety, the director shall order the owner or other person to reduce or discontinue immediately the causing or contributing to noise pollution and such order shall be complied with immediately. The order shall be deemed properly served if a copy thereof is delivered personally, or if the owner involved is not found, by mailing a copy thereof by certified mail to the owner or other person involved at the premises involved or his business or residence address, if known, and by posting a copy thereof in a conspicuous place in or about the premises affected.

**Sec. 11-5-12 - Penalties.**

- (a) Civil violation. Any person who commits, permits, or assists in any violation of this chapter, whether by act or omission, shall be liable for a civil violation as follows:
  - (1) The first violation of this chapter by such person shall be punished by a civil penalty in the amount of \$100 .
  - (2) The second violation of this chapter committed by such person within seven days of the first violation shall be punished by a civil penalty in the amount of \$250 .
  - (3) The third violation of this chapter committed by such person within 14 days of the first violation shall be punished by a civil penalty in the amount of \$500 .
- (b) *Criminal violation.* Any person who commits, permits, or assists in more than three violations of this chapter within 12 months, whether by act or omission, shall be guilty of a class 2 misdemeanor.
- (c) Each hour of a continued violation shall constitute a separate offense under this chapter.



- (d) Procedures.
  - (1) Civil Violations.
    - (i) If an authorized enforcement officer determines that a violation of this chapter has occurred, the officer may cause a notice of the civil violation to be served on any or all persons committing, permitting, or assisting in such violation.
    - (ii) The notice shall provide that the person charged with a civil violation may elect to make an appearance in person, or in writing by mail, to the treasurer of the city, and admit liability for or plead no contest to the violation, abate the violation, and pay the civil penalty established for the violation, all within the time period fixed in the notice.
    - (iii) If a person charged with a civil violation does not elect to admit liability or plead no contest, and abate the violation, the violation shall be tried in the Alexandria General District Court upon a warrant in debt or motion for judgment, with the same right of appeal as provided for civil actions at law.
    - (iv) In the event the violation exceeds the jurisdictional limits of the General District Court, the violation shall be tried in the Alexandria Circuit Court.
  - (2) Criminal Violations.
    - (i) If an officer of the police department determines that a violation of section 11-5-12(b) has occurred, a summons or arrest for a criminal violation may be issued or had.
    - (ii) If an officer of the police department issues a summons or arrest for a criminal violation, such must be on a Virginia Uniform summons unless an exception in Virginia Code § 19.2-74(A) is applicable.
    - (e) A finding of admission of liability or a plea of no contest to a civil violation shall not be deemed a criminal violation.
    - (f) A notice of civil violation, or a summons or arrest for a criminal violation, as provided in this section, may be issued or had, notwithstanding that no prior written warning as provided in section 11-5-10 has been given.
    - (g) The provisions for judicial review contained in section 11-5-16 shall have no application to notices of violation, or summons or arrests, issued or made under the provisions of this section.
    - (h) The person operating or controlling a noise source shall be liable for or guilty of any violation caused by that source. If that cannot be determined, any owner, tenant, resident, or manager physically present on the property where the violation is occurring is rebuttably presumed to be operating or controlling the noise source.

**Sec. 11-5-13 - Additional remedy; injunction.**

The operation or maintenance of any device, instrument, vehicle, or machinery in violation of any provision hereof and which endangers the health, comfort, safety, welfare and environment of residents in the area shall be deemed, and is declared to be, a public nuisance and may be subject to abatement by a restraining order or injunction issued by a court of competent jurisdiction.

**Sec. 11-5-14 - Confidentiality of records.**

Subject to the provisions of state law, any records or other information which relate to processes or production unique to the owner or operator or which would tend to affect adversely the competitive position of the owner or operator shall be only for the confidential use of the director, other departments, agencies and officers of the city, and appropriate federal and Commonwealth of Virginia noise pollution control officials, unless the owner or operator shall expressly agree to their publication or availability to the general public. Nothing herein shall be construed to prevent the use of such records or information by any department, agency or officer of the city in compiling or publishing analyses or summaries relating the general condition of the outside area; provided, that such analyses or summaries do not reveal any information otherwise confidential under this section.

#### **Sec. 11-5-15 - Conflict of Ordinance and Severability**

(1) In any case where a provision of this chapter is found to be preempted by Federal or State Law regulations, the State or Federal Law shall prevail.

(2) The provisions of this Chapter are applicable to any special use permit granted by the City pursuant to Section 11-500 of the Zoning Ordinance, except for noise generating activities that are specifically permitted in the special use permit and addressed in conditions of the special use permit and that noise levels from such noise generating activities do not exceed the applicable limits established in the special use permit. In any case where a provision of this Chapter is in conflict with certain condition(s) of a special use permit, the special use permit condition shall prevail.

(3) Should any section, subsection, sentence, clause or phrase of this chapter be declared invalid or unconstitutional by a court of competent jurisdiction, such declaration shall not affect the validity of the chapter in its entirety or of any part thereof other than that part declared to be invalid.

(4) Nothing contained in this chapter shall be construed to supplant or take the place of other provisions of the city code, as amended, or any other applicable provisions of law.

#### **Sec. 11-5-16 - Judicial review.**

(a) Any person directly and either jointly or severally aggrieved by a final order or a final decision of the director is entitled to judicial review thereof under this chapter in the Circuit Court of the City of Alexandria.

(b) Proceedings for review shall be instituted by filing a notice of appeal and a petition for review with the court within 30 days after the date of the final order or final decision and delivering, a copy of the notice and the petition to the director. The filing of an appeal shall not act to stay the order or the effect of the decision from which the appeal is taken. Within fifteen calendar days after receipt of the notice, the director shall file in the record of the suit a statement of the reason, including any finding of fact and/or conclusion of law, upon which the order or decision appealed from was based. Further proceedings shall be in accordance

with equity jurisprudence and procedure. The court may render its judgment upon the record or it may hear such additional evidence as it deems proper.

- (c) The court may affirm the final order or final decision from which an appeal has been taken or it may remand the matter for further proceedings; or it may reverse or modify the order or decision on appeal if the substantial rights of the appellant have been prejudiced because the order or decision of the director is:
  - (1) in violation of any constitutional provision;
  - (2) in excess of lawful authority or jurisdiction;
  - (3) made upon unlawful procedure;
  - (4) affected by other error of law;
  - (5) unsupported by the evidence on the record considered as a whole; or
  - (6) arbitrary, capricious or an abuse of discretion.
- (d) The provisions of this section shall have no application to notices of violation, or summons or arrests, issued or made under the provisions of section 11-5-12.

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