



ROSEMONT CITIZENS ASSOCIATION

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Dear Mayor Wilson:

On behalf of the Board of the Rosemont Citizens Association (RCA), I would like to provide some comments on the City's proposed revisions to the City's Noise Control Code (as posted at https://www.alexandriava.gov/uploadedFiles/tes/oeq/info/CHAPTER_5_Noise_Control%20-9-30-19%20clean.pdf). The RCA appreciates the City's efforts to update its requirements, but also has numerous concerns about the proposal.

(1) Power Lawn and Garden Equipment. I understand that the proposal deliberately deletes the existing 75 decibel maximum for power lawn and garden equipment (but retains restrictions on the hours of operation), given the unavailability of equipment that meets the current maximum, the difficulty of enforcement, and other factors. But the summary ([https://www.alexandriava.gov/uploadedFiles/tes/oeq/info/Noise%20Ordinance%20Revision%20Outreach%20Long%20Form%20web-site\(1\).pdf](https://www.alexandriava.gov/uploadedFiles/tes/oeq/info/Noise%20Ordinance%20Revision%20Outreach%20Long%20Form%20web-site(1).pdf)) and FAQ (<https://www.alexandriava.gov/uploadedFiles/tes/oeq/info/Noise%20Ordinance%20FAQs.pdf>) that the City have posted do not even mention this change, despite it likely being of significant public interest. Respectfully, this revision needs to be clearly highlighted to the public, so that meaningful input can be obtained.

(2) Residential Maximum Noise Level. I understand that the City intends to retain a 55 decibel general noise limit for residential areas. But the noise of a normal conversation is typically said to be 60 decibels or higher (including in the City's summary). Thus, the City should clarify if its past and current intent is to effectively prohibit ordinary human activities - and identify what, if any, enforcement there previously has been of this specific requirement.

(3) Commercial Maximum Noise Level. In addition to proposing to increase the daytime maximum from 60 decibels to 65 decibels, the City has proposed to change the definition of a commercial area to a property used for commercial purposes, in contrast to the current predominant use/200 foot standard in Section 11-5-2. But this change - not discussed in the City's summary or FAQ - has significant implications that should be addressed. For example, if a property is located in an industrial area but is used for commercial purposes, what maximum applies? The City's summary suggests the actual use prevails, but that is not stated in the proposal itself. (Similar questions also follow from the unpublicized changes to the definitions of residential and industrial areas, and the new definition of an institutional area.) Moreover, the revised definition appears to mean that commercial activities (as well as the newly-defined institutional activities) located in predominantly residential areas would be able to emit more noise than is currently allowed - a change that the staff summary does not mention, despite it likely being of significant general interest. It also should be highlighted to the public.

(4) DIY Construction. In Section 11-5-4(7), the City has proposed to for the first time specify the hours that homeowners may engage in construction work (in contrast to the existing restrictions only applicable to contractors). The underlying concept of this proposal may have merit, but again the devil is in the details. In particular, "construction" is broadly defined by Section 11-5-2(7), and could

be read to prohibit homeowners from performing minor repairs, including repairs located entirely inside their home, outside of the specified hours. That presumably is not the City's intent, but the language should be clarified.

(5) Animals. Section 11-5-4(3) would update the requirements for noise made by animals - but the terms "animals" is undefined, and as revised the ordinance no longer requires that an animal be in the "keeping" of a person. In other words, as proposed, the ordinance is not limited to pets but also can be read to require City residents to silence wild animals. Presumably that was not the City's intent - but this is another example of a drafting error that should have been identified and corrected long before public comments were solicited. (I also note that as proposed, the ordinance inexplicably carves out certain noise exemptions for dogs - e.g., if injured, engaged in protective activities, or engaged in agriculture - but not for any other animals. Not only is it unclear why other animals are excluded, there are no agricultural operations in the City.)

(6) Unpublicized Revisions. As discussed above, various proposed changes are not discussed in the City's summary or FAQ; nor does a redline comparing the existing and new text appear to have been provided. The City should publicly identify all changes, and their rationale. Some changes may be simply intended to remove obsolete requirements, as noted in the staff summary - the restrictions on steam whistles and "the shouting and crying of peddlers" seem to fall in that category, for example. But others merit explanation on the public record. For example, the existing restriction on model aircraft noise presumably has been removed because federal law preempts local regulation, as briefly mentioned in the staff summary. But if preemption is the rationale, why does Section 11-5-6(5) remain and only exempt certain aircraft operations from City regulation, and why have the noise standards for aircraft which separately appear in Section 9-2-10 of the City's ordinances (and, indeed, all of Chapter 2 of Title 9) not also been identified for repeal at this time?

(7) Noise Restrictions in Other Ordinances. In addition to the restriction on aircraft noise in Section 9-2-10 discussed above, various other noise restrictions are scattered throughout the City's ordinances, separate from the Noise Control Code. See, for example, Section 7-2000(E) (noise from day labor agencies) and Section 7-202(C)(3) (noise from yard obstructions). Additionally, the proposed Section 11-5-4(14) appears to be intended to replace the existing restrictions on truck-mounted loudspeakers that currently appear in Section 13-1-26, but there is no proposal to repeal Section 13-1-26. Presumably all City ordinances related to noise should be reviewed and updated as needed at this time.

(8) Drafting Errors. Finally, there unfortunately appear to be not just typographical errors but incomprehensible language in the proposal. Notably, Section 11-5-6(11) would exempt from the ordinance "[n]oise generated by a landlord when such complaint is received by that landlord's tenants." That is simply not a comprehensible sentence, nor does it appear to cross-reference any other exemption which might provide context.

In light of the above (and other comments which we expect will be submitted) the RCA Board respectfully suggests that significant further work by staff - and a second round of public comment on a corrected and clarified proposal - is required before this matter is considered by City Council.

Thank you for the opportunity to submit these comments.

Jol Silversmith
President, RCA