

City of Alexandria
Saturday, May 15, 2021 9:30 AM
Virtual Meeting
City Council Public Hearing Meeting
Meeting Minutes

Present: Mayor Justin M. Wilson, Vice Mayor Elizabeth Bennett-Parker; Members of Council Canek Aguirre, John Taylor Chapman, Amy B. Jackson, Redella S. Pepper, and Mohamed E. Seifeldein.

Absent: None.

Also Present: Mr. Jinks, City Manager; Ms. Anderson, City Attorney; Ms. Triggs, Deputy City Manager; Ms. Collins, Deputy City Manager; Ms. Baker, Deputy City Manager; Ms. S. Taylor, Assistant City Manager/Legislative Director; Mr. Moritz, Director, Planning and Zoning (P&Z); Ms. Horowitz, Principal Planner, P&Z; Ms. Turner, Registrar, Voter Registration; Ms. Oleynik, Planner, Transportation and Environmental Services (T&ES); Ms. Hellman, Urban Planner, P&Z; Mr. LaColla, Division Chief, P&Z; Mr. Sharma, Deputy Director, T&ES; Ms. Randall, Urban Planner, P&Z; Mr. Swidrak, Urban Planner, P&Z; Ms. Fine, Assistant City Attorney; Mr. Lambert, Director, T&ES; Mr. Skrabak, Deputy Director, T&ES; Police Chief Brown; Ms. Cooper, Urban Planner, P&Z; Mr. Barre, Information Technology Services (ITS), Mr. Smith, ITS; and Ms. Demeke, ITS.

Recorded by: Gloria Sitton, City Clerk and Clerk of Council.

OPENING

1. Calling the Roll.

Mayor Wilson called the meeting to order and the City Clerk called the roll. All members of City Council were present via Zoom webinar, with Councilwoman Pepper and Councilman Chapman arriving follow roll-call.

2. Resolution Finding the Need to Conduct City Council Meetings Electronically.
[ROLL-CALL VOTE]

WHEREUPON, upon motion by Councilwoman Jackson, seconded by Vice Mayor Bennett-Parker and carried unanimously by roll-call vote, City Council adopted the resolution finding the need to conduct City Council meeting electronically. The vote was as follows: In favor, Mayor Wilson, Vice Mayor Bennett-Parker, Councilman Aguirre, Councilman Chapman, Councilwoman Jackson, Councilwoman Pepper, and Councilman Seifeldein; Opposed, none.

The resolution reads as follows:

RESOLUTION NO. 2993

Resolution Finding Need to Conduct City Council Meeting Electronically

WHEREAS, on March 12, 2020, Governor Ralph S. Northam issued Executive Order Fifty-One declaring a state of emergency for the Commonwealth of Virginia arising from the novel Coronavirus (COVID-19) pandemic; and

WHEREAS, Executive Order Fifty-One acknowledged the existence of a public health emergency which constitutes a disaster as defined by Virginia Code § 44-146.16 arising from the public health threat presented by a communicable disease anticipated to spread; and

WHEREAS, on March 13, 2020, the President of the United States declared a national emergency, beginning March 1, 2020, in response to the spread of COVID-19; and

WHEREAS, on March 11, 2020, the World Health Organization declared the COVID-19 outbreak a pandemic; and

WHEREAS, on March 14, 2020, effective at 5:00 p.m. and extending through June 10, 2020, at 5:00 p.m., or as may be amended by the City Council, the City Manager, in his capacity as Director of Emergency Management, issued a Declaration of Local Emergency applicable throughout the entire City of Alexandria, Virginia (the “City”), pursuant to authority granted pursuant to City Code Section 4-3-5, Virginia Code Sections 44-146.21 and 15.2-1413, which City Declaration was unanimously consented to by the City Council on March 14, 2020, pursuant to City Resolution No. 2928, as required by applicable law; on June 9, 2020, the City Manager extended such Declaration of Local Emergency through September 30, 2020 which extension was unanimously consented to by the City Council on June 9, 2020; on September 22, 2020, the City Manager extended such Declaration of Local Emergency through March 31, 2021 which extension was unanimously consented to by the City Council on September 22, 2020; on March 23, 2021, the City Manager extended such Declaration of Local Emergency through September 30, 2021 which extension was unanimously consented to by the City Council on March 23, 2021; (the “City Declaration”); and

WHEREAS, the City Council finds that COVID-19 constitutes a real and substantial threat to public health and safety and constitutes a “disaster” as defined by Virginia Code § 44-146.16 being a “communicable disease of public health threat;” and

WHEREAS, on April 22, 2020, the Virginia General Assembly adopted, and the Governor signed, budget bill amendments to HB29 and HB30 (Virginia Acts of Assembly Chapters 1283 and 1289), Section 4-0.01(g), that expressly authorize “any public body, including any state, local, [or] regional body” to “meet by electronic means

without a quorum of the public body . . . physically assembled at one location when the Governor has declared a state of emergency . . . , provided that (i) the nature of the declared emergency makes it impracticable or unsafe for the public body . . . to assemble in a single location; (ii) the purpose of the meeting is to discuss or transact the business statutorily required or necessary to continue operations of the public body . . . and the discharge of its lawful purposes, duties, and responsibilities” among other provisions; and

THEREFORE, BE IT RESOLVED, that the City Council of the City of Alexandria, Virginia, hereby finds that the nature of the declared emergency makes it both impracticable and unsafe for the Council to assemble in a single location for its meeting on this date to discuss and transact the business of the City listed on the docket; and

BE IT FINALLY RESOLVED, that the City Council hereby finds that the items on the docket for this date are statutorily required or necessary to continue operations of the public body and the discharge of its lawful purposes, duties, and responsibilities.

3. Public Discussion Period

The following person participated in the public discussion period:

1. Janice Grenadier, Alexandria, spoke about issues with the court system and law enforcement.

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilman Chapman and carried unanimously, City Council closed the public discussion period. The vote was as follows: In favor, Mayor Wilson, Vice Mayor Bennett-Parker, Councilman Aguirre, Councilman Chapman, Councilwoman Jackson, Councilwoman Pepper, and Councilman Seifeldin; Opposed, none.

**REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES
ACTION CONSENT CALENDAR (4-8)**

Planning Commission

4. Special Use Permit #2020-00107
5101 Seminary Road
Public Hearing and consideration of a request for a Special Use Permit for the operation of a temporary trailer; zoned: CDD #21/Coordinated Development District #21. Applicants: Bashar Mehiar and Ramzi Haifawi
Planning Commission Action: Recommended Approval 7-0

(A copy of the Planning Commission report is on file in the Office of the City Clerk and Clerk of Council, marked Item no. 4; 05/15/21, and is incorporated as part of this record by reference.)

5. Special Use Permit #2021-00011

3649 Wheeler Avenue - Heritage Montessori Day & Preschool

Public Hearing and consideration of a request for a Special Use Permit to operate a private academic school with over 20 students; zoned: CSL/Commercial Service Low. Applicant: Heritage Montessori Day & Preschool, LLC.

Planning Commission Action: Recommended Approval 6-0-1

(A copy of the Planning Commission report is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 5; 05/15/21, and is incorporated as part of this record by reference.)

6. Special Use Permit #2021-00013
1737 King Street

Public Hearing and consideration of a request for a Special Use Permit for additional square footage for projecting signs; zoned: KR/ King Street Urban Retail. Applicant: DREF King Street Metroplace, LLC, represented by Clay Bryan
Planning Commission Action: Recommended Approval 6-0

(A copy of the Planning Commission report is on file in the Office of City Clerk and Clerk of Council, marked Item No. 6; 05/15/21, and is incorporated as part of this record by reference.)

7. Encroachment #2021-00001

2800 Hope Way - The Spire & Episcopal Church of the Resurrection

Public Hearing and consideration of a request for an Encroachment into the public right-of-way on North Beauregard Street for steps; zoned: CDD #23/Coordinated Development District #23.Applicants: AHC, Inc., a Virginia Nonstock Corporation and Episcopal Church of the Resurrection, represented by Haley Norris, agent

Planning Commission Action: Recommended Approval 7-0

(A copy of the Planning Commission report is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 7; 05/15/21, and is incorporated as part of this record by reference.)

8. Special Use Permit #2021-00017

1503 and 1505 Mount Vernon Avenue - Del Ray Gardens Restaurant

Public Hearing and consideration of a request for a Special Use Permit for a restaurant and an increase in outdoor seats; an increase in outdoor hours of operation; and a parking reduction (amending SUP2019-00004); zoned: CL/Commercial Low Applicant: Del Ray Gardens LLC., represented by M. Catharine Puskar, attorney

Planning Commission Action: Recommended Approval 6-0

(A copy of the Planning Commission report is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 8; 05/15/21, and is incorporated as part of this

record by reference.)

END OF ACTION CONSENT CALENDAR

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilman Chapman and carried unanimously, City Council approved the Consent Calendar, with the exception on docket item no. 8, which was considered under separate motion. The approval was as follows:

4. City Council approved the Planning Commission recommendation.
5. City Council approved the Planning Commission recommendation.
6. City Council approved the Planning Commission recommendation.
7. City Council approved the Planning Commission recommendation.

The vote was as follows: In favor, Mayor Wilson, Vice Mayor Bennett-Parker, Councilman Aguirre, Councilman Chapman, Councilwoman Jackson, Councilwoman Pepper, and Councilman Seifeldein; Opposed, none.

8. Special Use Permit #2021-00017
1503 and 1505 Mount Vernon Avenue - Del Ray Gardens Restaurant
Public Hearing and consideration of a request for a Special Use Permit for a restaurant and an increase in outdoor seats; an increase in outdoor hours of operation; and a parking reduction (amending SUP2019-00004); zoned: CL/Commercial Low Applicant: Del Ray Gardens LLC., represented by M. Catharine Puskar, attorney
Planning Commission Action: Recommended Approval 6-0

(A copy of the Planning Commission report is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 8; 05/15/21, and is incorporated as part of this record by reference.)

The following persons participated in the public hearing for this item:

1. Sarah Haut, Alexandria, requested amendments to the conditions to address the noise and trash issues from the restaurant.
2. Cathy Puskar, attorney for the applicant, spoke in support of the proposal and responded to questions from Council.

WHEREUPON, upon motion by Councilman Chapman, seconded by Councilwoman Jackson and carried unanimously, City Council closed the public hearing approved the Planning Commission recommendation, subject to the representation for the applicant's attorney regarding signage about noise that may affect neighbors and

the adjustments to trash collection for the business. The vote was follows: In favor, Mayor Wilson, Vice Mayor Bennett-Parker, Councilman Aguirre, Councilman Chapman, Councilwoman Jackson, Councilwoman Pepper, and Councilman Seifeldein; Opposed, none,

ROLL-CALL CONSENT CALENDAR (9-13)

9. Public Hearing, Second Reading and Final Passage of an Ordinance to Amend Chapter 2, Section 2-2-10 (F) and (J) to Rename the Maury School Election District and Voting Location to the Naomi L. Brooks School Election District And Voting Location and to Rename the Cora Kelly Center Election District and Voting Location to the Cora Kelly-“Chick” Armstrong Center Election District and Voting Location. [ROLL-CALL VOTE]

(A copy of the City Manager’s memorandum dated May 5, 2021, is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 9; 05/15/21, and is incorporated as part of this record by reference.

A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 9; 05/15/21, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 9; 05/15/21 and is incorporated as part of this record by reference.)

10. Public Hearing, Second Reading and Final Passage of an Ordinance to increase the Ambulance Service Charges by amending Article J (SERVICE CHARGES FOR CITY AMBULANCE AND HAZARDOUS MATERIALS INCIDENT RESPONSE SERVICES) to Chapter 2 (TAXATION) of Title 3 (FINANCE, TAXATION AND PROCUREMENT).

(A copy of the City Manager’s memorandum dated May 10, 2021, is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 10; 05/15/21, and is incorporated as part of this record by reference.

A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 10; 05/15/21, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 10; 05/15/21 and is incorporated as part of this record by reference.)

11. Public Hearing, Second Reading and Final Passage of an Ordinance to amend

and reordain Article D (CONTRACT FORMATION AND METHODS OF SOURCE SELECTION): Section 3-3-69 (CONTRACTING FOR PROFESSIONAL SERVICES BY COMPETITIVE NEGOTIATION); and Division 1 (COMPETITIVE SEALED BIDDING), Section 3-3-53 (ACTIONS ON PERFORMANCE BOND), all of Chapter 3 (PURCHASES AND CONTRACTUAL SERVICES) of Title 3 (FINANCE, TAXATION, AND PROCUREMENT), of The Code of the City of Alexandria, Virginia, 1981, as amended. [ROLL-CALL VOTE]

(A copy of the City Manager's memorandum dated May 5, 2021, is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 11; 05/15/21, and is incorporated as part of this record by reference.

A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 11; 05/15/21, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 11; 05/15/21 and is incorporated as part of this record by reference.)

12. Public Hearing, Second Reading and Final Passage of an amended ordinance to prevent the spread of the Novel Coronavirus, SARS-CoV-2, and the disease it causes, commonly referred to as COVID-19 by requiring face coverings in certain indoor and outdoor locations. [ROLL-CALL VOTE]

(A copy of the City Manager's memorandum dated May 5, 2021, is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 12; 05/15/21, and is incorporated as part of this record by reference.

A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 12; 05/15/21, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 12; 05/15/21 and is incorporated as part of this record by reference.)

13. Public Hearing, Second Reading and Final Passage of an ordinance to amend Article A (GENERAL PROVISIONS) of Chapter 4 (COMMITTEES, BOARDS, AND COMMISSIONS) of Title 2 (GENERAL GOVERNMENT) of the Code of the City of Alexandria, Virginia, 1981, as amended. [ROLL-CALL VOTE]

(A copy of the City Clerk's memorandum dated May 6, 2021, is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 13; 05/15/21, and is

incorporated as part of this record by reference.

A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 13; 05/15/21, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 13; 05/15/21 and is incorporated as part of this record by reference.)

END OF ROLL-CALL CONSENT CALENDAR

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilman Chapman and carried unanimously by roll-call vote, City Council approved the roll-call consent calendar, with the exception of docket items 9 and 12, which were considered under separate motions. The approval was as follows:

10. City Council adopted an ordinance to increase the ambulance service charges by amending Article J (SERVICE CHARGES FOR CITY AMBULANCE AND HAZARDOUS MATERIALS INCIDENT RESPONSE SERVICES) to Chapter 2 (TAXATION) of Title 3 (FINANCE, TAXATION AND PROCUREMENT).

The ordinance reads as follows:

ORDINANCE NO. 5343

AN ORDINANCE to amend and reordain Section 3-2-131 (IMPOSITION; EXCEPTIONS) of Article J (SERVICE CHARGES FOR CITY AMBULANCE AND HAZARDOUS MATERIALS INCIDENT RESPONSE SERVICES), Chapter 2 (TAXATION), Title 3 (FINANCE, TAXATION AND PROCUREMENT) of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 3-2-131 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 3-2-131 - Imposition; exceptions.

(a) The following words and phrases, when used in this section, shall have the meanings set out below:

(1) Basic Life Support (BLS): Medical treatment rendered to, or procedures performed upon, a patient as defined by the "National Emergency Medicine

Services Education and Practice Blueprint" for the medic B basic (EMT-Basic).

(2) Advanced Life Support, Level 1 (ALS-1): Medical treatment rendered to, or procedures performed upon, a patient beyond the scope of an EMT-Basic level, as defined by the National Emergency Medicine Services Education and Practice Blueprint.

(3) Advanced Life Support, Level 2 (ALS-2): Advanced life support treatment rendered to a patient that includes one or more of the following medical procedures:

- (A) defibrillation/cardioversion,
- (B) endotracheal intubation,
- (C) cardiac pacing,
- (D) chest decompression,
- (E) intraosseous line, or
- (F) the administration of three or more medications.

(4) Ground Transport Mileage (GTM): Distance traveled, measured in statute miles, from the location of the incident to a hospital or other facility to which a patient is transported.

(b) Except as hereinafter provided, there is hereby imposed a service charge of ~~\$500~~\$600 per BLS transport, ~~\$650~~\$780 per ALS-1 transport, ~~\$800~~\$900 per ALS-2 transport, plus a GTM charge of ~~\$10~~ \$12 per mile, on each person who is transported by ambulance service by the emergency medical services division of the City of Alexandria Fire Department. The funds received shall be paid into the general fund of the city to aid in defraying the cost of providing such service.

(c) No charge shall be imposed on persons in the following instances:

- (1) Persons in the custody of the police department or the office of the sheriff of the city;
- (2) Persons determined to be medically indigent according to (i) the eligibility determination made by the hospital to which the person is transported, or (ii) Level A of the income level scales established by the health department of the city for the purpose of determining eligibility for health services;
- (3) Victims of violent crime, as identified by the commonwealth's attorney for the city;
- (4) Persons affected by fire, flood, storm, natural or man-made calamity or disaster, or by widespread public disturbance or disorder when an emergency rescue vehicle of the city responds as a matter of policy without call; (5) City of Alexandria employees who become ill or are injured during working hours while carrying out work-related duties; or
- (6) Children 18 years of age or younger who require emergency medical service and transport while attending school or a school-related activity.

Section 2. That this ordinance shall become effective on July 1, 2021.

11. City Council adopted an ordinance to amend and reordain Article D (CONTRACT FORMATION AND METHODS OF SOURCE SELECTION): Section

3-3-69 (CONTRACTING FOR PROFESSIONAL SERVICES BY COMPETITIVE NEGOTIATION); and Division 1 (COMPETITIVE SEALED BIDDING), Section 3-3-53 (ACTIONS ON PERFORMANCE BOND), all of Chapter 3 (PURCHASES AND CONTRACTUAL SERVICES) of Title 3 (FINANCE, TAXATION, AND PROCUREMENT), of the Code of the City of Alexandria, Virginia, 1981, as amended.

The ordinance reads as follows:

ORDINANCE NO. 5344

AN ORDINANCE to amend and reordain Article D (CONTRACT FORMATION AND METHODS OF SOURCE SELECTION): Division 2 (COMPETITIVE NEGOTIATION), Section 3-3-69 (CONTRACTING FOR PROFESSIONAL SERVICES BY COMPETITIVE NEGOTIATION); and Division 1 (COMPETITIVE SEALED BIDDING), Section 3-3-53 (ACTIONS ON PERFORMANCE BOND), all of Chapter 3 (PURCHASES AND CONTRACTUAL SERVICES) of Title 3 (FINANCE, TAXATION, AND PROCUREMENT), of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 3-3-69 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by deleting the text shown in strikethrough and adding the text shown in underline as follows:

Sec. 3-3-69 - Contracting for professional services by competitive negotiation.

- (a) Professional services shall be procured by competitive negotiation. The purchasing agent may establish purchase procedures, if adopted in writing, not requiring competitive negotiation for single or term contracts for professional services if the aggregate or the sum of all phases is not expected to exceed the amounts set by the city manager [and] not to exceed the stated thresholds of the VPPA; however, such small purchase procedures shall provide for competition wherever practicable.
- (b) The purchasing agent shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence to provide the required services. Repetitive informal interviews shall be permissible. Such offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project and to explore alternative concepts of performance of the contract. In addition, offerors shall be informed of any ranking criteria that will be used by the purchasing agent in addition to the review of professional competence of the offeror. The request for proposals shall not seek estimates of person hours or costs for services. However, these discussions may encompass nonbinding estimates of total project costs, including, but not limited to, where appropriate design, construction, life cycle costs and nonbinding estimates of

price for services. Proprietary information from competitive offerors shall not be disclosed to the public or to competitors. At the conclusion of the discussions and on the basis of evaluation factors published in the request for proposals and all information developed in the selection process to this point, the purchasing agent shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the city can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations shall be conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Notwithstanding the foregoing, if the terms and conditions for multiple awards are included in the request for proposal, the city may award contracts to more than one offeror. If, at the conclusion of the discussions, the purchasing agent determines in writing and in his sole discretion that only one offeror is fully qualified or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror. Once formally terminated, negotiations may not be reopened with any offeror.

- (c) A contract for architectural or professional engineering services relating to multiple construction projects may be awarded by the purchasing agent, provided (i) the projects require similar experience and expertise, (ii) the nature of the projects is clearly identified in the request for proposal, and (iii) the contract is limited to a term of one year or when the cumulative total project fees reach the maximum cost authorized in this subsection, whichever occurs first.
 - (1) Such contracts may be renewable for four additional one-year terms at the option of the purchasing agent. The fair and reasonable prices as negotiated shall be used in determining the cost of each project performed.
 - (2) The sum of all projects performed in a one-year contract term shall not exceed **~~\$6~~ \$8 million.**
 - (3) Competitive negotiations for such contracts may result in awards to more than one offeror provided (i) the request for proposal so states and (ii) the purchasing agent has established procedures for distributing multiple projects among the selected contractors during the contract term.
 - (4) The fee for any single project shall not exceed \$2.5 million.
 - (5) Any unused amounts from one contract term shall not be carried forward to any additional term.
- (d) Multiphase professional services contracts satisfactory and advantageous to the completion of large, phased, or long-term projects may be negotiated and awarded based on a fair and reasonable price for the first phase only, when completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases. Prior to the entering into of any such contract, the purchasing agent shall state the anticipated intended total scope of the

project and determine in writing that the nature of the work is such that the best interests of the city require awarding the contract. (Ord. No. 2757, 1/22/83, Sec. 1; Ord. No. 2817, 6/28/83, Sec. 1; Ord. No. 3225, 6/13/87, Sec. 9; Ord. No. 4004, 6/13/98, Sec. 14; Ord. No. 4208, 6/16/01, Sec. 3; Ord. No. 4470, 12/16/06, Sec. 3; Ord. No. 4567, 12/13/08, Sec. 2; Ord. No. 4750, 2/25/12, Sec. 8; Ord. No. 4953, 6/13/15, Sec. 5; Ord. No. 5260, 12/14/19, Sec. 5)

Section 2. That Section 3-3-53 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by deleting the text shown in strikethrough and adding the text shown in underline as follows:

Sec. 3-3-53 – Action on performance bond.

No action against the surety on a performance bond shall be brought unless within ~~one year~~ five years after:

(1) Completion of the contract, including the expiration of all warranties and guarantees, or

(2) Discovery of the defect or breach of warranty, if the action be for such.
(Ord. No. 2757, 1/22/83, Sec. 1)

Section 3. That Article D as amended pursuant to Sections 1 and 2 of this ordinance, be, and the same hereby is, reordained as part of the City of Alexandria City Code.

Section 4. That this ordinance shall become effective upon the date and at the time of its final passage.

13. City Council adopted an ordinance to amend Article A (GENERAL PROVISIONS) of Chapter 4 (COMMITTEES, BOARDS, AND COMMISSIONS) of Title 2 (GENERAL GOVERNMENT) of the Code of the City of Alexandria, Virginia, 1981, as amended.

The ordinance reads as follows:

ORDINANCE NO. 5346

AN ORDINANCE to amend Article A (General Provisions) of Chapter 4 (Committees, Boards and Commissions) of Title 2 (General Government) of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Article A of Chapter 4 of Title 2 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended as follows, by deleting the language shown in strikethrough and adding the language shown as underlined:

Sec. 2-4-1 - Purpose.

The city council recognizes that the several citizen boards, committees and commissions provide useful and meaningful citizen participation in and assistance to the government of the city and that such participation should be enhanced and strengthened. To improve the existing committee system and to enhance its role in the discussion and resolution of important matters of public policy, the council finds that it is desirable and necessary to establish certain basic procedures for the conduct of the committees' work, to provide a mechanism for the provision of adequate staffing and funding and to consolidate and reorganize the relationships between the city council, the city manager and the several committees. The purpose of this article is to accomplish the foregoing and nothing in this article is intended as or shall be deemed to be a derogation of any substantive right, function or power enjoyed by any committee under any provision of law.

Sec. 2-4-2 - Definitions.

As used in this article, unless otherwise stated or the context otherwise requires:

- (1) City council means the Alexandria City Council.
- (2) Committee means any board, committee, commission, authority or similar body established by the city council or established pursuant to, or required by, any provision of the laws or regulations of the Commonwealth of Virginia or the United States, which has one or more members appointed or designated by the city council, and which has (i) a fixed membership, including at least one person who is not a city employee, (ii) a defined purpose and (iii) regular or periodic meetings.
- (3) Head of a committee means the chairman, chairperson or other person designated or elected as the presiding officer of any committee.
- (4) Action means any decision, recommendation, ruling or advice of a substantive nature made by a committee in accordance with section 2-4-5, which a committee is, by the terms of its enabling legislation, authorized to make.
- (5) Enabling legislation means any constitutional provision, statute, city charter provision, resolution, ordinance or regulation or other provision of law enacted by the city council, the Commonwealth of Virginia or the United States which establishes the committee and determines its composition, functions and powers.
- (6) Standing committee means any committee established pursuant to law whose functions are established on a permanent, ongoing basis for an indefinite period of time.
- (7) Temporary committee means any committee established for a fixed and definite purpose and for a limited and fixed period of time, include any ad hoc committee, task force or group created by ordinance or resolution.
- (8) Designated member means a person appointed to a committee, pursuant to the terms of its enabling legislation, on behalf of, or as the representative of, another committee, organization or group.

(9) Executive secretary means the person and the functions described in section 2-4-9 of this article.

(10) Regional committee means a committee, the majority of whose members are appointed by one or more states or political subdivisions other than the city.

Sec. 2-4-3 - Application.

(a) Except as provided in subsection (b) of this section, the provisions of this article shall apply to all committees having one or more members appointed by the city council, notwithstanding other provisions of law to the contrary.

(b) Except for the provisions of section 2-4-7, relating to the making of appointments, the provisions of this article do not apply to:

- (1) any regional committee.
- (2) the Alexandria School Board.
- (3) the Alexandria Redevelopment and Housing Authority.
- (4) the Alexandria Sanitation Authority.
- (5) the Alexandria Industrial Development Authority.

Sec. 2-4-4 - Composition, terms and duties of committees.

(a) The composition, term of office, mission and function and other substantive duties relating to the work of any committee are those set forth by the terms of a committee's enabling legislation together with any additional functions or duties that may be assigned to a committee from time to time by the city council or other appropriate local authority.

(b) Whenever the city council has heretofore made or hereafter makes an appointment or reappointment of any person to any committee, and neither the law governing the appointment nor the council specifies any term of office for the person appointed then the appointment shall be deemed to be made for a term of two years beginning on the date of appointment.

(b.1) Unless otherwise specified in city code, state law or in a document creating the committee, no person shall be eligible for reappointment to any committee after having served 10 consecutive years as a member thereof. ~~This provision may be waived by city council by resolution.~~ Individuals may be eligible for appointment to the committee one calendar year after their term ends.

(c) In addition to any other function or duty that may be vested in a committee by its enabling legislation or otherwise, each committee shall:

- (1) designate one of its members as head of the committee and one member to act as the secretary of the committee for the purpose of keeping and preparing minutes or reports of all meetings or actions taken at any meeting and designate such other

officers as required by its enabling legislation. Where an officer or employee of the city has been assigned to assist a committee, such officer or employee may be designated as secretary unless the assignment is inconsistent with other tasks being performed by such officer or employee. The committee may also appoint any additional officers as it may deem proper.

(2) prepare minutes or reports not more than 30 days after the conclusion of any meeting of the committee. A notation shall appear on the minutes indicating whether they have been officially approved by the committee.

(d) In addition to any other function or duty that may be vested in a committee by its enabling legislation or otherwise, each standing committee shall:

(1) hold at least one regular meeting each year and as many additional meetings as may be required by its enabling legislation or as the business of the committee may require.

(2) prepare minutes or reports not more than 30 days after the conclusion of any meeting of the committee. A notation shall appear on the minutes indicating whether they have been officially approved by the committee.

(3) in addition to its annual report, any committee is authorized to make additional or special reports, oral or written, to the city manager of the city council at any other time that the committee determines that such reports may be needed, except that, no report requesting additional city funds or staff shall be submitted to the city council until it shall first have been submitted to the city manager for his comments and recommendations.

(4) prepare, in consultation with the city manager an annual budget, showing both the funding and staff directly assigned to the committee and estimated sums and staff time that may be used by the committee but are not directly assigned to it.

(5) prepare by-laws consistent with this code regulating procedures regarding the committee mission, membership, meetings, officers, committees, and amendments. Such by-laws should be filed with the office of the city clerk and reviewed by the committee annually.

Sec. 2-4-5 - Procedure for committee meetings.

(a) Except as otherwise provided in this section, each committee may hold and conduct its meetings in the form and manner set forth in its enabling legislation and by-laws. ~~establish procedures as may be most conducive to the conduct of its business.~~ Unless otherwise required by this article or other provision of law, all questions of procedure at any meeting shall be governed by Robert's Rules of Order.

(b) No action shall be taken nor business conducted by a committee without the presence of a quorum and such quorum shall consist of a majority of the voting members of the committee. A member present but not voting shall be considered in counting a quorum.

(c) No action which:

(1) is administratively final at the committee level without further appeal;

(2) may be appealed to either the city council or a court of competent jurisdiction; or

(3) constitutes a recommendation or proposal for action by the city council or any other city board or commission, shall be taken by a committee without the affirmative votes of a majority of the committee present unless a larger majority is required by the committee's enabling legislation. All votes shall be taken in public session and no proxy votes will be permitted.

(d) Any committee desiring to submit written or oral testimony to any federal or state legislative body or regulatory agency, other than the city council, in an official capacity shall first receive the approval of the city council. If time does not permit such submission, the committee shall state in its testimony to the legislative body or regulatory agency that its testimony reflects the position of the committee and does not necessarily represent the position of the city council. In such case a summary of testimony shall then be provided by the committee to the council for its information.

Sec. 2-4-6 - Public participation in committee meetings.

(a) All committee meetings shall be open to the public except as to matters which, by law, may be the subject of an executive session or a closed meeting. In determining to hold an executive session or a closed meeting, the head of a committee shall first consult with the city attorney as to the appropriateness of such a meeting and the procedure to be followed.

(b) Except as may be permitted by law, all books, papers and reports or other documents produced by or under the control of a committee shall be open for public inspection and copying. A reasonable charge may be made for the cost of copying, printing or distribution of any such books, papers, reports or other documents.

(c) In consultation with the executive secretary, each committee shall provide for reasonable public notice of the time and place of its meeting together with an agenda of the matters to be discussed and which, if any, items will be the subject of public testimony or comment. No recommendation by a committee for action by the city council shall be made without first affording an opportunity for public comment.

Sec. 2-4-7 - Appointments to committees.

(a) Unless an appointment or reappointment to a committee is expressly vested by law in the courts or in some other body, all appointments shall be made by the city council. No person shall be appointed to any committee without the affirmative votes of at least four members of the council.

(b) Before appointing or reappointing any person to a committee, the executive secretary shall give public notice of the impending appointment and cause the same to be advertised in the form and manner prescribed by law for public notices at least 21 days prior to consideration by the city council of the appointment or reappointment.

Insofar as practicable, the notice shall indicate the name of the committee, the number of positions to be filled, any special occupational, professional or other qualifications that may be required for a particular position and the time within which the application required by subsection (c) of this section must be filed. Where a position can be filled only by a designated member, the notice shall also include the name of the organization, group or committee from which such member must be designated.

(c) No person shall be appointed or reappointed by the city council to any committee until there is first submitted and filed with the executive secretary an application form. No person shall submit an application for membership for more than one committee position at any city council meeting at which appointments to committees are considered. Such application shall include personal data with respect to the applicant's name, address, age, educational background, practical experience, length of residency, employment of the applicant or any relative by the city and any special qualifications that the applicant possesses for a particular position. Applications must be filed with the executive secretary not less than seven days prior to the date that the appointment will be considered by the city council.

(d) Unless its enabling legislation expressly so provides, or unless waived by a majority of the city council when it deems such waiver in the best interest of the city and such waiver is not prohibited by any provision of law, no person shall be appointed to a committee unless at the time of the appointment the person is a resident of and residing in the city, and the person shall cease to be a member of a committee upon becoming a resident of any other jurisdiction.

(e) No person who holds any office or position in the city for compensation shall be appointed to any committee which is involved in, responsible for, oversees or regulates the subject matter, policy or rules of the city department or agency by which the person is employed. The executive secretary shall review all applications for appointments to committees. The executive secretary shall advise the council whether, in his or her opinion, the appointment of the person to the committee for which application has been made would result in such a situation.

(f) No person shall be appointed by the city council to more than one standing committee, or to more than one standing committee and one temporary committee, at the same time except as a designated member; provided, that, for the purposes of this subsection, a regional committee shall not be considered a standing or a temporary committee.

(g) Any person appointed to a committee shall, upon appointment, agree to comply with the provisions of chapter 5 of this title, concerning ethics, conflicts of interest and ownership of real property and, where applicable, the provisions of section 2-5-11 of this code.

(h) Every person appointed by the city council to any committee shall, on or before undertaking a position on such committee, qualify by taking the following oath or affirmation either: i) verbally before the city clerk, or other officer authorized to

administer oaths or affirmations, or ii) in writing on a form provided by the office of the city clerk and clerk of council:

I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the Commonwealth of Virginia, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as (insert title of office) according to the best of my ability (so help me God).

Any person who fails to take the oath or affirmation within 60 days of appointment may be subject to removal from the committee.

(i)(1) The head of each committee shall keep or cause to be kept a record of each appointee's attendance at meetings of the committee, and shall, on or before July 1 of each year, forward to the executive secretary in writing, a copy of each attendance record for the immediately preceding 12 months. Appointees to committees shall attend at least 75 percent of the meetings of the bodies on which they serve each year. If the attendance record reflects that any appointee does not attend at least 75 percent of the meetings, the executive secretary shall advertise a vacancy so that city council can proceed to fill the vacancy at the first regular council meeting held in September, following any year during which an appointee has not attended at least 75 percent of the meetings. The executive secretary shall also forthwith notify the appointee of this action. The office of any appointee who has not attended the required number of meetings shall be automatically deemed vacant on the date of the abovementioned council meeting in September. If at any time during a year, a majority of the committee concludes that an appointee will be, based upon the appointee's attendance record, unable to meet the 75 percent attendance requirement, it may immediately direct the committee head to request the city council to declare the position vacant. If council determines that sufficient meetings have already been missed such that the 75 percent attendance requirement will not be met, it may declare the position vacant and may make an appointment to fill the vacancy for the remainder of the existing term of office of the appointee whose position was declared vacant.

(2) The committee head may excuse the absence of an appointee from a meeting or meetings if informed by the appointee of the absence within a reasonable period of time in advance of the meeting. Such excused absences shall not be considered by the committee head when preparing the appointee's attendance record but shall be noted as "excused absences" on the record.

(j) Any person appointed to a committee by the city council may be removed by the city council for neglect of duty or violations of this article or any other provision of law.

(k) Notwithstanding any contrary provision of this chapter, a member of city council, who serves a member of a committee established pursuant to this code, may appoint another person to represent the council member as an alternate member of such committee. Any such alternate member shall be appointed in writing, filed with the executive secretary and city clerk. Any such alternate member shall serve at the pleasure of the council member making the appointment, and, in the absence of the

council member, may exercise any or all of the rights, privileges and duties of the council member on such committee.

Sec. 2-4-8 - Creation of new committees; term of temporary committees.

(a) Any new standing committee shall be established by ordinance.

(b) Any new temporary committee shall be established by ordinance or resolution which shall specify the term during which the committee shall remain in existence. No temporary committee shall be established for a term of more than 365 days, the period to run from the date the committee holds its initial meeting. The term of a temporary committee may be extended by council by ordinance or resolution for additional periods of up to 365 days each. A temporary committee shall cease to exist upon (i) the completion of its designated task or assignment, (ii) the date it submits its final oral or written report to council, (iii) the expiration of the term specified in the ordinance or resolution creating the committee or of any extension of its original term, or (iv) three years from the date of its initial meeting, whichever occurs first.

(c) No new committee shall be established until the city manager has issued a report with comments and recommendations regarding the creation of the committee. The manager may delegate responsibility for preparing this report to any department head. The report required by this subsection shall include comments and recommendations concerning:

(1) the need for the committee and possible duplications or conflicts with other committees;

(2) the appropriateness of a committee format to deal with the issues involved; and

(3) the impact that creation of the committee will have on city staff resources, including:

(i) the estimated total amount of city staff time that will be required on an annual or other basis to staff the committee;

(ii) whether the committee can accomplish its assigned work with existing staff; and

(iii) if new staff will be required, the total amount of additional staffing that will be required and the projected annual cost of such additional staff.

Sec. 2-4-9 - Executive secretary.

(a) The city clerk appointed pursuant to Charter Section 3.06, or a person designated by him/her, shall be the executive secretary to all committees subject to this article. Where a person other than the city manager is designated, the person shall report to the city clerk. The executive secretary may attend and participate in all meetings of a committee but is not a member of any committee.

(b) The duties of the executive secretary shall include:

- (1) subject to the availability of funds and staff, the provisions of appropriate staff and other resources necessary for a committee's effective performance;
- (2) the review and establishment, insofar as possible, of uniform procedures and formats for the preparation of the attendance records, annual and other reports and minutes of committees;
- (3) the monitoring of the effectiveness and efficiency of particular committees and the committee system as a whole on an annual basis and the making of appropriate recommendations to the city council for action;
- (4) assisting, as requested, a committee in the preparation of its budgeted and other matters relating to the conduct of its work;
- (5) the maintenance and publishing, annually, in cooperation with the city clerk, of a roster of the members of each committee and other pertinent information relating to the committee system;
- (6) the preparation of a summary of the terms of this article and upon approval by the city attorney, make the summary available to all members of any committee or applicants for appointment; and
- (7) any other matters as may be assigned by the city manager or the city council.

Sec. 2-4-10 - Staff assistance.

No committee may request the assistance of city staff or make an assignment to city staff except pursuant to committee action, as defined in section 2-4-2(4). Unless acting pursuant to committee action, no member of a committee may request staff assistance, or make an assignment to staff, relating to committee business.

Secs. 2-4-11 through 2-4-20 - reserved.

Section 2. That Article A (General Provisions) of Chapter 4 (Committees, Boards and Commissions) of Title 2 (General Government), as amended pursuant to Section 1 of this ordinance, be, and the same hereby is, reordained as part of the Code of the City of Alexandria.

Section 3. That this ordinance shall become effective upon the date and at the time of its final passage.

The vote was as follows: In favor, Mayor Wilson, Vice Mayor Bennett-Parker, Councilman Aguirre, Councilman Chapman, Councilwoman Jackson, Councilwoman Pepper, and Councilman Seifeldein; Opposed, none.

9. Public Hearing, Second Reading and Final Passage of an Ordinance to Amend Chapter 2, Section 2-2-10 (F) and (J) to Rename the Maury School Election District and Voting Location to the Naomi L. Brooks School Election District And Voting Location and to Rename the Cora Kelly Center Election District and Voting Location to the Cora Kelly-"Chick" Armstrong Center Election District and Voting Location. [ROLL-CALL VOTE]

(A copy of the City Manager's memorandum dated May 5, 2021, is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 9; 05/15/21, and is incorporated as part of this record by reference.

A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 9; 05/15/21, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 9; 05/15/21 and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Chapman, seconded by Councilwoman Pepper and carried unanimously by roll-call vote, City Council adopted an ordinance to amend Chapter 2, Section 2-2-10 (F) and (J) to rename the Maury School Election District and Voting Location to the Naomi L. Brooks School Election District and Voting Location and to rename the Cora Kelly Center Election District and Voting Location to the Cora Kelly-"Chick" Armstrong Center Election District and Voting Location. The vote was as follows: In favor, Mayor Wilson, Vice Mayor Bennett-Parker, Councilman Aguirre, Councilman Chapman, Councilwoman Jackson, Councilwoman

Pepper, and Councilman Seifeldein; Opposed, none.

The ordinance reads as follows:

ORDINANCE NO. 5342

AN ORDINANCE to amend and reordain Section 2-2-10 (ESTABLISHMENT OF ELECTION DISTRICTS AND VOTING PLACES) Subsections (f) and (j), all of Chapter 2 (ELECTIONS), Title 2 (GENERAL GOVERNMENT) of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 2-2-10 (f) of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to delete the text shown in strikethrough and add the text shown in underline as follows:

(f) The Cora Kelly – “Chick” Armstrong Center Election District shall be bounded and described by the census blocks shown on the map adopted by section 2-2-13 of this code as comprising the said district.

The voting place within the Cora Kelly – “Chick” Armstrong Center Election District shall be the Cora Kelly – “Chick” Armstrong Center, located at 25 West Reed Avenue.

Section 2. That Section 2-2-10 (j) of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to delete the text shown in strikethrough and add the text shown in underline as follows:

(j) The Naomi L. Brooks School Election District shall be bounded and described by the census blocks shown on the map adopted by section 2-2-13 of this code as comprising the said district.

The voting place within the Naomi L. Brooks School Election District shall be the Naomi L. Brooks School, located at 600 Russell Road.

Section 3. That this ordinance shall become effective upon the date and at the time of its final passage and the adjustments contained herein will be utilized for the elections after June 8, 2021 and thereafter until or unless further modified and amended.

12. Public Hearing, Second Reading and Final Passage of an amended ordinance to prevent the spread of the Novel Coronavirus, SARS-CoV-2, and the disease it causes, commonly referred to as COVID-19 by requiring face coverings in certain indoor and outdoor locations. [ROLL-CALL VOTE]

(A copy of the City Manager's memorandum dated May 5, 2021, is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 12; 05/15/21, and is incorporated as part of this record by reference.

A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 12; 05/15/21, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 12; 05/15/21 and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilwoman Jackson, seconded by Councilwoman Pepper and carried unanimously by roll-call vote, City Council adopted an amended ordinance to prevent the spread of the Novel Coronavirus, SARS-CoV-2, and the disease it causes, commonly referred to as COVID-19 by requiring face coverings in certain indoor and outdoor locations, with the following amendments:

- p. 2, Line 11 - change the reference from EO72 to generally EO
- p. 2, Lines 35-37 - delete the language
- p. 4 - age reference update
- p. 4, Line 31 - delete section with waiver of state law

The vote was as follows: In favor, Mayor Wilson, Vice Mayor Bennett-Parker, Councilman Aguirre, Councilman Chapman, Councilwoman Jackson, Councilwoman Pepper, and Councilman Seifeldein; Opposed, none.

The ordinance reads as follows:

ORDINANCE NO. 5345

AMENDED ORDINANCE NO. 5293

AN ORDINANCE TO PREVENT THE SPREAD OF THE NOVEL CORONAVIRUS, SARS-CoV-2, AND THE DISEASE IT CAUSES, COMMONLY REFERRED TO AS COVID-19 BY REQUIRING FACE COVERINGS IN CERTAIN INDOOR AND OUTDOOR LOCATIONS.

WHEREAS, on March 11, 2020, the World Health Organization declared the outbreak of the novel coronavirus, SARS-CoV-2, and the disease it causes, commonly referred to as COVID-19, a pandemic (for reference in this ordinance, this virus and the disease that it causes are referred to as "COVID-19"); and

WHEREAS, on March 12, 2020, Governor Ralph S. Northam issued Executive Order Number Fifty-One ("EO 51") declaring a state of emergency for the

Commonwealth of Virginia because of the COVID-19 pandemic; EO 51 acknowledged the existence of a public health emergency arising from the COVID-19 pandemic and that it constitutes a “disaster” as defined by Virginia Code § 44-146.16 because of the public health threat presented by a communicable disease anticipated to spread; and

WHEREAS, on March 14, 2020, effective at 5:00 p.m. and extending through June 10, 2020, at 5:00 p.m., or as may be amended by the City Council, the City Manager, in his capacity as Director of Emergency Management, issued a Declaration of Local Emergency applicable throughout the entire City of Alexandria, Virginia, pursuant to authority granted pursuant to City Code Section 4-3-5, Virginia Code Sections 44-146.21 and 15.2-1413, which City Declaration was unanimously consented to the by the City Council on March 14, 2020, pursuant to City Resolution No. 2928, as required by applicable law; on June 9, 2020, such Declaration of Local Emergency was extended by the City Manager and confirmed by the City Council through September 30, 2020; on September 22, 2020 such Declaration of Local Emergency was extended by the City Manager and confirmed by the City Council through March 31, 2021; on March 23, 2021 such Declaration of Local Emergency was extended by the City Manager and confirmed by the City Council through September 30, 2021.

WHEREAS, since Governor Northam issued EO 51 on March 13, 2020, he has issued several more Executive Orders jointly with Orders of Public Health Emergency issued by M. Norman Oliver, MD, MA, State Health Commissioner, pertaining to COVID-19; and specifically issued Executive Order Seventy Two addressing requirements for face coverings in certain indoor and outdoor locations (EO 72); and

WHEREAS, on September 12, 2020 City Council adopted Ordinance No. 5293 requiring face coverings in certain indoor and outdoor locations which was effective by its terms on October 20, 2020. The reasons and justifications for taking such action are described in detail in that adopted ordinance; and

WHEREAS, the City of Alexandria is an urban jurisdiction situated in the metropolitan Washington, DC region with a compact downtown area that attracts visitors from around the region, and across the country and world, and includes workers who live outside the City and residents who regularly visit other jurisdictions, making it particularly susceptible to the spread of COVID-19; and

WHEREAS, on April 27, 2021 the Centers for Disease Control (CDC) issued new guidance for face coverings in indoor and outdoor locations given the number of people in the country who have been vaccinated against COVID-19 and the decrease in the number of new COVID-19 cases. On April 29, 2021, Governor Northam issued amendments to Executive Order Seventy-Two which revise the face covering requirements to be consistent with the CDC’s most recent guidance. Since the CDC will continue to issue guidance as the pandemic response evolves, the City Council would now like to also amend Ordinance 5293 to allow it to evolve with the Governor’s continued executive orders dealing with face coverings.

NOW THEREFORE, THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Sec. 1. Purpose

For the reasons stated in the recitals, the purpose of this ordinance is to prevent the spread of COVID-19.

Sec. 2. Authority

This ordinance is authorized by Charter Section 2.04(h) “to make and enforce all regulations necessary to preserve and promote public health and sanitation and protect the inhabitants of the city from contagious, infectious or other diseases.” Section 15.2-1102 of the State Code generally and Section 2.01 of the City Charter grants the authority for a City to exercise all powers, not expressly prohibited by the state code or the constitution, that are necessary “to promote the general welfare of the city and the safety, health, peace, good order, comfort, convenience and morals of its inhabitants.”

Sec. 3. Definitions

The following definitions apply to this ordinance:

- A. “Face covering” means an item normally made of cloth or various other materials, often with elastic bands or cloth ties, that is secured over the wearer’s nose and mouth in an effort to contain or reduce the spread of potentially infectious respiratory secretions at the source (i.e., the person’s nose and mouth).
- B. “Physical Distancing” means maintaining the physical distance of separation, which may change depending on the activity an individual is engaged in, as required by any applicable Executive Order of the Governor or Order of Public Health Emergency of the State Health Commissioner.
- C. “Public place” means any place
 - 1. That is:
 - i. indoors, other than a person’s residence or personal vehicle, or
 - ii. outdoors; and
 - 2. generally open to the public including, but not limited to, public parks and open spaces, sidewalks, trails, retail stores, food establishments, theaters, personal care and personal grooming services, common areas of condo or apartment buildings, and transportation other than a personal vehicle.

Sec. 4. Face Coverings

A. *Face coverings required.* Face coverings must be worn by all persons in public places as described and required by any executive order issued by the Governor, except as provided in Sections 4(B).

B. *Exemptions.* The requirements of this ordinance do not apply to the following persons:

1. *Children and Students.*

- i. Children under 5 years of age;
- ii. students in daycare centers or participating in-person classes in K-12 education or institutions of higher education shall be governed by the plans submitted to the Commonwealth for such institutions, if one exists, and not by this ordinance.

2. *Medical Condition or Disability.* Persons for whom:

- i. wearing a face covering poses a substantial mental or physical health risk, such as persons who have trouble breathing while wearing a face covering or are unconscious, incapacitated, or otherwise unable to remove the face covering without assistance;
- ii. persons with a health condition preventing the use of a face covering;
- iii. persons with a disability preventing the use of a face covering, or
- iv. persons seeking to communicate with the hearing impaired and for which the mouth needs to be visible.

Any person who declines to wear a face covering pursuant to this exception shall not be required to produce or carry medical documentation verifying the stated condition nor shall the person be required to identify the precise underlying medical condition.

3. *Physical Activity.* While persons are swimming, biking, jogging, or engaged in other physical activity where wearing a face covering has been determined to pose a health risk. Additionally, any outdoor activity considered “Recreational Sports” under the Governor’s Executive Order 67 shall be governed by that Executive Order as the same may be amended, and not by this ordinance.

4. *Eating or drinking.* While a person is actively eating food or drinking a beverage. Face coverings are still required to be worn while waiting to receive food or beverages, or during substantial breaks between periods of eating and drinking.

5. *Work Conditions.* If wearing a face covering would subject the person to an unsafe work condition, as determined by federal, state, or local occupational safety regulators or workplace safety guidelines.

6. *Government or medical services.* When temporary removal of the face covering is necessary to secure government or medical (including dental) services.

7. *Religious rituals.* Face coverings may be removed to participate in a religious ritual.

D. Responsibility of adults accompanying minors. Adults accompanying minors between the ages of 5 years old and 17 years old must attempt to prompt the minors to wear face coverings while in public places.

Sec. 7. Effect of More Restrictive Executive Order or Order of Public Health Emergency.

This ordinance, or any part thereof, shall not be effective if there is a more restrictive requirement in an Executive Order or an Order of Public Health Emergency in effect.

Sec. 8. Compliance

If the City Manager or his designee determines that a person subject to this ordinance is not in compliance, he will request compliance and work with the person to obtain voluntary compliance including the provision of a covering with no cost to the person.

D. Injunctive relief.

The City, the City Council, and any City officer authorized by law, may seek to enjoin the continuing violation of any provision of this ordinance by bringing a proceeding for an injunction in any court of competent jurisdiction.

Sec 9. Duration

This amended ordinance is effective upon its adoption by City Council, and expires at 12:00 am on September 30, 2021; at the time the Local Declaration of Emergency expires, unless amended by the City Council; or when the waiver of Virginia Code § 18.2- 422, currently established in EO 67, or as it may be further amended or superseded, ends, whichever occurs first.

Sec. 10. Effect of this Ordinance on the Powers of the Director of Emergency Management.

This ordinance does not affect the powers of the City Manager, acting as the Director of Emergency Management, pursuant to Virginia Code § 44-146.21 during the COVID-19 disaster.

Sec. 11. Severability.

It is the intention of the City Council that any part of this ordinance is severable. If any part is declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, the unconstitutionality or invalidity does not affect any other part of this ordinance.

REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER

14. Public Hearing on the City's Draft FY 2022 to FY 2026 Five-Year Consolidated Plan for Housing and Community Development and Draft One Year Action Plan to Enable HUD FY 2022 Funding.

(A copy of the City Manager's memorandum dated May 5, 2021, is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 14; 05/15/21, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Vice Mayor Bennett-Parker and carried unanimously, City Council: (1) closed the public hearing and (2) docketed the City's Draft FY 2022 to FY 2026 Five-Year Consolidated Plan for Housing and Community Development Draft FY 2022 Action Plan for Housing and Community Development for final Council approval on May 25, 2021. The vote was as follows: In favor, Mayor Wilson, Vice Mayor Bennett-Parker, Councilman Aguirre, Councilman Chapman, Councilwoman Jackson, Councilwoman Pepper, and Councilman Seifeldein; Opposed, none.

15. Public Hearing and Consideration of a License Amendment between the City of Alexandria and Hornblower Cruises & Events (Potomac Riverboat Co.) for a License Fee Repayment Plan in response to the COVID-19 Pandemic.

(A copy of the City Manager's memorandum dated May 7, 2021, is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 15; 05/15/21, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilman Seifeldein and carried unanimously, City Council closed the public hearing and authorized the City Manager to execute the attached License Amendment Two with Hornblower Cruises and Events. The vote was as follows: In favor, Mayor Wilson, Vice Mayor Bennett-Parker, Councilman Aguirre, Councilman Chapman, Councilwoman Jackson, Councilwoman Pepper, and Councilman Seifeldein; Opposed, none.

16. Public Hearing and Consideration of a License Amendment with ARP Waterfront, LLC for the Use of a Portion of the City Marina Plaza for Outdoor Dining to Allow for the Removal of Three Light Poles Consistent with the Terms in the Current License Agreement.

(A copy of the City Manager's memorandum dated May 11, 2021, is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 16; 05/15/21, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilwoman Jackson and carried unanimously, City Council closed the public hearing and authorized the City manager to execute the License Amendment with ARP Waterfront, LLC. The vote was as follows: In favor, Mayor Wilson, Vice Mayor Bennett-Parker, Councilman Aguirre, Councilman Chapman, Councilwoman Jackson, Councilwoman Pepper, and Councilman Seifeldein; Opposed, none.

17. Public Hearing and Consideration of an Amendment of the Lease Between the

City and Seminary Road Owner, LLC for Rooftop Space at 4900 Seminary Road for a Public Safety Radio Antenna Site.

(A copy of the City Manager's memorandum dated May 5, 2021, is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 17; 05/15/21, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilman Seifeldein and carried unanimously, City Council closed the public hearing and authorized the City manager to execute the proposed tenth amendment to the lease with Seminary Road Owner, LLC. The vote was as follows: In favor, Mayor Wilson, Vice Mayor Bennett-Parker, Councilman Aguirre, Councilman Chapman, Councilwoman Jackson, Councilwoman Pepper, and Councilman Seifeldein; Opposed, none.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)
Planning Commission (continued)

18. Master Plan Amendment #2020-00008

Rezoning #2020-00004

Development Special Use Permit #2020-10027

Transportation Management Plan Special Use Permit #2020-00076

Vacation #2020-00004

1352, 1356, 1360, and 1362 Madison Street; 711, 715, 719, and 727 North West Street; 1319, 1321, 1323, 1325, 1327, and 1329 Wythe Street - Braddock West

Public Hearing and consideration of a request for: (A) Amendments to the Braddock Road Metro Station Small Area Plan Chapter of the Master Plan through updates to the Development Site Map, Development and Land Use tables in the Braddock Metro Neighborhood Plan Overlay, and the Development Framework Map and Land Use and Development tables in the Braddock East Master Plan Overlay; (B) amendment to the official zoning map to change the zone for the site from RB to OCH; (C) a Development Special Use Permit and site plan with modifications to construct a 180-unit multifamily building with ground-floor commercial uses, including special use permits to increase the floor area ratio to 3.0 in the OCH zone, the utilization of Section 7-700 for bonus density and height for the provision of affordable housing, for a parking reduction for residential and commercial uses, to allow a restaurant, retail shopping or personal service establishments on a lot which does not include office buildings, provided such use supports and serves office uses in the immediate zoned area, and a fraternal or private club; (D) a Special Use Permit for a Transportation Management Plan (tier two); and (E) the Vacation of two public alleys serving the site; zoned RB/Townhouse. Applicant: West Street Acquisitions, LLC, represented by Jonathan P. Rak, attorney; City of Alexandria (portions of the Master Plan Amendment only)

Planning Commission Action: Recommended Approval 6-1

(A copy of the Planning Commission report is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 18; 05/15/21, and is incorporated as part of this record by reference.)

The following persons participated in the public hearing for this item:

1. Salena Zellers, representing the ARHA Board of Commissioners, spoke in support of the proposal.
2. Kenyon Wilker, Alexandria, spoke in support of the proposal.
3. Lorenzo Nichols, Florida, spoke in support of the proposal.
4. Judy Noritake, Alexandria, representing the Braddock Metro Civic Association, spoke in support of the proposal.
5. Eli Goodman, engineer for the applicant, spoke about flooding in the area and responded to questions about the project.
6. John Craig, Alexandria, spoke in opposition to the proposal.
7. Frank Capone, Alexandria, spoke in support of the proposal.
8. Ann Shack, Alexandria, spoke about stormwater and sewer issues and spoke in opposition to the proposal.
9. Jonathan Rak, attorney for the applicant, spoke in support of the project and responded to questions from Council.

WHEREUPON, upon motion by Councilman Aguirre, seconded by Councilman Chapman and carried unanimously, City Council closed the public hearing. The vote was as follows: In favor, Mayor Wilson, Vice Mayor Bennett-Parker, Councilman Aguirre, Councilman Chapman, Councilwoman Jackson, Councilwoman Pepper, and Councilman Seifeldein; Opposed, none.

WHEREUPON, upon motion by Councilman Aguirre, seconded by Councilman Chapman and carried 6-1, City Council approved the Planning Commission recommendation with amendments to conditions 69, 2, 77, and 78. Mayor Wilson appointed the following persons as viewers for the vacation portion of the item: Jeanette Ankoma-Sey, Dr. C. E. Palmer Johnson, and Charles Sumpter. The vote was as follows: In favor, Mayor Wilson, Vice Mayor Bennett-Parker, Councilman Aguirre, Councilman Chapman, Councilwoman Jackson, and Councilwoman Pepper; Opposed, Councilman Seifeldein.

19. Public Hearing and Consideration of an appeal of the Planning Commission's

April 8, 2021 decision to approve a Preliminary Plat of a Subdivision (SUB #2020-00009) at 506 North Overlook Drive to re-subdivide two existing lots. Applicant: Brian Thomas, represented by Zachary Williams, attorney
Appellant: Various Appellants
Tax Assessment Map Number: 006.04-04-14

(A copy of the Planning Commission report is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 19; 05/15/21, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilman Chapman and carried unanimously, City Council closed the public hearing. The vote was as follows: In favor, Mayor Wilson, Vice Mayor Bennett-Parker, Councilman Aguirre, Councilman Chapman, Councilwoman Jackson, Councilwoman Pepper, and Councilman Seifeldein; Opposed, none.

The following persons participated in the public hearing for this item:

1. David Brown, Alexandria, representing the Planning Commission, explained the Planning Commission's decision and responded to questions from Council.
2. Jeanne Snapp, Alexandria, appellant, spoke in support of the appeal and responded to questions from Council.
3. Charles Kent, Alexandria, spoke in support of the appeal.
4. Zachary Williams, attorney for the applicant, spoke in support of the proposal and responded to questions from Council.

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilman Chapman and carried unanimously, City Council closed the public hearing. The vote was as follows: In favor, Mayor Wilson, Vice Mayor Bennett-Parker, Councilman Aguirre, Councilman Chapman, Councilwoman Jackson, Councilwoman Pepper, and Councilman Seifeldein; Opposed, none.

A motion was made by Councilman Aguirre, seconded by Councilman Chapman, to uphold the Planning Commission recommendation (to allow the subdivision).

Councilman Chapman offered an amendment to remove condition #2. It was accepted by the maker of the motion.

WHEREUPON, upon motion by Councilman Aguirre, seconded by Councilman Chapman and carried 6-0-1, City Council upheld the Planning Commission action on the subdivision action with following amendments:

-Delete condition #2.

The vote was as follows: In favor, Mayor Wilson, Vice Mayor Bennett-Parker, Councilman Aguirre, Councilman Chapman, Councilwoman Jackson, and Councilwoman Pepper; Opposed, none; Abstain, Councilman Seifeldein.

****City Council took a recess for lunch at 1:10 pm. The meeting reconvened at 1:40 p.m.****

WHEREUPON, upon motion by Councilman Aguirre, seconded Councilwoman Jackson and carried unanimously, City Council moved to reconsider docket item #19. The vote was as follows: In favor, Mayor Wilson, Vice Mayor Bennett-Parker, Councilman Aguirre, Councilman Chapman, Councilwoman Jackson, Councilwoman Pepper, and Councilman Seifeldein; Opposed, none.

WHEREUPON, upon motion by Councilman Aguirre, seconded by Councilwoman Jackson and carried 6-0-1, City Council upheld the Planning Commission action on the subdivision action with following amendments:

-delete condition #2

3. Limit the limits of disturbance on the grading plan for construction to the greatest extent possible to provide for the construction of the primary dwelling units and/or accessory buildings in order to maximize the tree protection are. Where the critical root zone of trees outside of the limit of disturbance overlap with proposed construction, tree preservation measures shall be employed to ensure the survival of the roots within the critical root zone where possible.

4. A tree protection plan developed by an arborist shall be submitted with the grading plan submission to ensure preservation and protection of the following trees in the public right-of-way: numbers 101, and 163-167.

5. A tree protection plan developed by an arborist shall be submitted with the grading plan submission to ensure preservation and protection of tree number 139 or in May 2022, the applicant's arborist and the City arborist shall make a determination regarding the survivability and health of tree number 139.

The vote was as follows: In favor, Mayor Wilson, Vice Mayor Bennett-Parker, Councilman Aguirre, Councilman Chapman, Councilwoman Jackson, and Councilwoman Pepper; Opposed, none; Abstain, Councilman Seifeldein

20. BAR #2020-00553 PG

Public Hearing and consideration of an appeal of the Board of Architectural Review's (BAR) February 17, 2021 decision to deny a request to install a small cell facility on a utility pole on public property adjacent to 215 North Patrick Street.

APPLICANT: Cellco Partnership dba Verizon Wireless, represented by Joshua Schakola

APPELLANT: Cellco Partnership dba Verizon Wireless, represented by Joshua Schakola

(A copy of the Board of Architectural Review report is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 20; 05/15/21, and is incorporated as part of this record by reference.)

The following persons participated in the public hearing for this item:

1. Robert Adams, representing the Board of Architectural Review, explained the decision of the BAR for this proposal and responded to questions from Council.

2. Richard Hagerty, attorney for the applicant, spoke in support of the proposal and responded to questions from Council.

3. Joshua Shakola, applicant, spoke in support of the proposal and responded to questions from Council.

4. Craig Miller, Alexandria, spoke against the proposal.

5. Robert Meyers, Alexandria, spoke against the proposal.

6. Roy Shannon, Alexandria, spoke against the proposal.

7. Jamahl Brace, Alexandria, spoke against the proposal.

8. Chris Kuhman, Alexandria, spoke against the proposal.

9. Steven Burke, Alexandria, spoke against the proposal.

10. Lisa Brock, Alexandria, spoke against the proposal.

WHEREUPON, upon motion by Councilman Aguirre, seconded by Councilwoman Pepper and carried unanimously, City Council overturned the Board of Architectural Review's decision and approved the certificate of appropriateness. The vote was as follows: In favor, Mayor Wilson, Vice Mayor Bennett-Parker, Councilman Aguirre, Councilman Chapman, Councilwoman Jackson, Councilwoman Pepper, and Councilman Seifeldein; Opposed, none.

21. Zoning Text Amendment #2021-00001
Permitted and Administrative Uses in CDD/Coordinated Development District Zones (A) Initiation of a Text Amendment; and (B) Public Hearing and consideration of a Text Amendment to the Zoning Ordinance to amend Section

5-602 to allow certain uses in CDD zones to be permitted or administrative uses.
Staff: City of Alexandria, Department of Planning & Zoning
Planning Commission Action: Recommended Approval 7-0

(A copy of the Planning Commission is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 21; 05/15/21, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilman Aguirre and carried unanimously, City Council closed the public hearing and approved the Planning Commission recommendation. The vote was as follows: In favor, Mayor Wilson, Vice Mayor Bennett-Parker, Councilman Aguirre, Councilman Chapman, Councilwoman Jackson, Councilwoman Pepper, and Councilman Seifeldein; Opposed, none.

22. Special Use Permit #2020-00106
1015 Duke Street
Public Hearing and consideration of a request for a Special Use Permit for a parking reduction and lot modifications for the conversion of a commercial use to a residential use; zoned: CL/Commercial Low. Applicant: Patrick Jansen
Planning Commission Action: Recommended Approval 5-2

(A copy of the Planning Commission report is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 22; 05/15/21, and is incorporated as part of this record by reference.)

The following persons participated in the public hearing for this item:

1. William Carle, Alexandria, spoke against the proposal.
2. Helena Choi, Alexandria, spoke against the proposal.
3. Kristen Brady, Alexandria, spoke against the proposal.
4. Kumar Pater, Alexandria, spoke against the proposal.
5. Theodora Stringham, attorney for the applicant, spoke in support of the proposal and responded to questions from Council.
6. Patrick Jansen, applicant. Spoke in support of the proposal and responded to questions from Council.

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilman Chapman and carried unanimously, City Council closed the public hearing. The vote was as follows: In favor, Mayor Wilson, Vice Mayor Bennett-Parker, Councilman Aguirre, Councilman Chapman, Councilwoman Jackson, Councilwoman

Pepper, and Councilman Seifeldein; Opposed, none.

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilman Chapman and carried unanimously, City Council closed the public hearing. The vote was as follows: In favor, Mayor Wilson, Vice Mayor Bennett-Parker, Councilman Aguirre, Councilman Chapman, Councilwoman Jackson, Councilwoman Pepper, and Councilman Seifeldein; Opposed, none.

A motion was made by Councilman Chapman, seconded by Vice Mayor Bennett-Parker, to deny the Planning Commission recommendation because of parking reduction and open space modification.

A substitute motion was made by Councilwoman Pepper, seconded by Councilman Aguirre and carried 5-2, for City Council approved the Planning Commission recommendation. The vote was as follows: In favor, Mayor Wilson, Councilman Aguirre, Councilwoman Jackson, Councilwoman Pepper, and Councilman Seifeldein; Opposed, Vice Mayor Bennett-Parker and Councilman Chapman. This becomes the main motion.

WHEREUPON, motion Councilwoman Pepper, seconded by Councilman Aguirre and carried 5-2, City Council approved the Planning Commission recommendation. The vote was as follows: In favor, Mayor Wilson, Councilman Aguirre, Councilwoman Jackson, Councilwoman Pepper, and Councilman Seifeldein; Opposed, Vice Mayor Bennett-Parker and Councilman Chapman.

ORDINANCES AND RESOLUTIONS

23. Public Hearing, Second Reading and Final Passage of an Ordinance to amend Title 11 Chapter 5: Noise Ordinance. [ROLL-CALL VOTE]

(A copy of the City Manager's memorandum dated May 5, 2021, is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 19; 05/15/21, and is incorporated as part of this record by reference.

A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 19; 05/15/21, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 19; 05/15/21 and is incorporated as part of this record by reference.)

The following person participated in the public hearing for this item:

1. Sara Casar, Alexandria, spoke about the need for clarifications to noise

variances and clear rules for businesses regarding the noise ordinance.

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilman Seifeldein and carried unanimously, City Council closed the public hearing. The vote was as follows: In favor, Mayor Wilson, Vice Mayor Bennett-Parker, Councilman Aguirre, Councilman Chapman, Councilwoman Jackson, Councilwoman Pepper, and Councilman Seifeldein; Opposed, none.

WHEREUPON, upon motion by Councilman Seifeldein, seconded by Vice Mayor Bennett-Parker and carried unanimously by roll-call vote, City Council adopted an ordinance to amend Title 11 Chapter 5: Noise Ordinance with the following amendments:

- On page 19: Line 1 - add the word back, "and any subsequent"
- Line 3-7 - delete
- Line 24-29 - delete
- Line 32 - delete words " or summons or arrests for a criminal violation"
- Line 36 - delete words " or summons or arrests"

The vote was as follows: In favor, Mayor Wilson, Vice Mayor Bennett-Parker, Councilman Aguirre, Councilman Chapman, Councilwoman Jackson, Councilwoman Pepper and Councilman Seifeldein; Opposed, none.

The ordinance reads as follows:

ORDINANCE NO. 5347

AN ORDINANCE to amend Chapter 5 (NOISE CONTROL) of Title 11 (HEALTH, ENVIRONMENTAL, AND SANITARY REGULATIONS) of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Chapter 5 of Title 11 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by deleting the text shown in strikethrough and adding the text shown in underline as follows:

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.

Sec. 11-5-2 - Definitions.

For the purposes of this chapter, 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*. The area within 200 feet of all boundaries of any property producing noise or, where such property is a railroad, the area within 200 feet perpendicular to the centerline of the railroad track at the source of the noise, when the predominant use of the properties in that area is for commercial purposes.
- (7) *Construction*. Any or all activity necessary or incidental to the erection, demolition, assembling, altering, installing or equipping of buildings, public or private highways, roads, railroads, 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 the use of which is permitted on authorized vehicles or which are mounted on poles, buildings, towers or other supports.
- (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) *Engineer*. The noise pollution specialist designated or appointed by the director.

- (15) *Exhaust system.* A system which removes and transports air or gas from a device.
- (16) *Hertz.* A unit of measurement of frequency numerically equal to cycles per second.
- (17) *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.
- (18) *Industrial use area.* The area within 200 feet of all boundaries of any property producing noise or, where such property is a railroad, the area within 200 feet perpendicular to the centerline of the railroad track at the source of the noise, when the predominant use of properties in that area is for industrial purposes.
- (18.1) *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, convalescent home, nursing home, continuum of care facility, 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 which 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.* A steady-state or impulsive sound or sounds occurring on either a continuous or intermittent basis.
- (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 bodies politic and corporate, 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) *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. Does not include air or surface transportation vehicles, construction devices, sound signaling devices or power lawn and garden equipment.
- (32) *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, snow and leaf blowers, tillers, and trimmers.
- (33) *Property.* The smallest area owned or leased by the same person or persons.
- (34) *Rail rapid transit system.* A railroad used exclusively for local service in the transportation of passengers as a common carrier for hire together with the appurtenances, facilities and equipment thereof.
- (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.* The area within 200 feet of all boundaries of any property producing noise or, where such property is a railroad, the area within 200 feet perpendicular to the centerline of the railroad track at the source of noise, when the predominant use of properties in that area is 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/m²(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 receiver, television, receiver, tape recorder, phonograph 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. 11-5-4 - 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 device. 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 or as provided in subsection 11-5-6. The sounding of any sound signal device attached to a motor vehicle, wagon or manually propelled cart, from which food or any other items are sold, 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 radio receiving set, musical instrument, phonograph, 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) Reserved.
- (4) Reserved.
- (5) -Reserved.

Reserved.-

- (7) 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

Reserved.

- (9) Reserved.
- (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 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.

- (11) Reserved.
- (12) Reserved.
- (13) Reserved.
- (14) Reserved.
- (15) Construction devices and power equipment. The operation or permitting the operation during the hours prohibited in Table I of any construction device or power equipment unless permitted in accordance with section 11-5-7 of this chapter.

TABLE I		
	Prohibited Hours	
Day	Before	After
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(a)(5)a.		

- (16) 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.

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.	9:00 a.m.	9:00 p.m.

- (17) 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.
- (18) Trash collection. No person shall operate or permit the operation of any refuse collection motor vehicle for collection of solid waste except as permitted by title 5, chapter 1 of the city code.
- (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. 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 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, and person shall include any state, or agency, instrumentality or contractor of a state, in addition to the meaning defined in section 11-5-2(30).

Sec. 11-5-4.1 - Same—central business district.

- (a) Notwithstanding any conflicting provision of this chapter or other law, it shall be unlawful for any person to engage in, or to suffer or permit on or 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, any public park, marina or open space, or any private outdoor property that is open to the public for commercial or recreational

purposes, within the central business district established by section 8-300(A) of the City of Alexandria Zoning Ordinance, except as is permitted by this section.

- (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 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 or be 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
- (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~~ or be 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
- (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 parks, recreation and cultural activities;
 - (3) in conformity with regulations promulgated by the city manager for the use of market square;
 - (4) under a special permit, displayed at the place of sound generation, issued by the city manager pursuant to section 11-5-7; or
 - (5) on private property pursuant to a special use permit, displayed at the place of sound generation, approved by the city council under section 11-500 of the City of Alexandria Zoning Ordinance.
- (g) This section shall be enforced by the director, the chief of police, the director of citizen assistance, the director of parks, recreation and cultural activities within any public park, marina or open space, and the director of general services within market square, and by their respective designees.
- (h) As used in this section, "background noise level" means all sound sources impacting at the place of measurement, excluding the specific source that is suspected of violating this section.
- (i) A violation under the section may be proved by either or both:

- (1) Testimony or other evidence that the sound generation was plainly audible above the background noise level at the distance from the source, and for the duration of time, specified in subsections (c) or (d); or
- (2) Testimony or other evidence that the sound generation equalled or exceeded the sound level, at the distance from the source, and for the duration of time, specified in subsections (c) or (d), as measured with a sound level meter, maintained in good working order, and having an accuracy specification of 2 dB at 114 dBSPL (sound pressure level) or better, and using the A weighting network of such meter. The measurement of sound level under this section, made with such meter, need not comply with the provisions of section 11-5-5.

Sec. 11-5-5 - Same—decibel provisions.

- (a) Classification of use areas: residential, commercial, ~~and—~~industrial, and institutional.
- (1) Except as otherwise provided by this chapter, on or after July 1, 1977, it shall be unlawful to project a sound or noise beyond the boundaries of the property from which such noise emanates which exceeds any of the limiting noise spectra set forth in Table III of this subsection which are applicable to that property. 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 which is not located in a residential, commercial, ~~or~~ 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 three and one-half (3½) feet above ground.
 - d. 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:

TABLE III			
MAXIMUM PERMISSIBLE SOUND LEVELS			
Use Areas	Maximum dB(A)	Octave Band	
		Center Frequency Hertz-(HZ)	Levels dB
Residential	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	60	31.5	75
		63	74
		125	69
		250	64
		500	58
		1,000	52
		2,000	47
		4,000	43

		8,000	40
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
<u>Institutional</u>	<u>60</u>	<u>31.5</u>	<u>75</u>
		<u>63</u>	<u>74</u>
		<u>125</u>	<u>69</u>
		<u>250</u>	<u>64</u>
		<u>500</u>	<u>58</u>
		<u>1,000</u>	<u>52</u>
		<u>2,000</u>	<u>47</u>
		<u>4,000</u>	<u>43</u>
		<u>8,000</u>	<u>40</u>

(4) The maximum permissible sound levels established in Table III for application to the boundaries of a property shall not applied to construction sites. Construction site noise shall be regulated by section 11-5-4(b)(10) and 11-5-4(b)(15) and other appropriate sections of this chapter.

(5) a. 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).

b. The provisions of section 11-5-5(a). 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.

- (b) Power equipment and power lawn and garden equipment. It shall be unlawful to operate in the city any equipment which creates a noise or sound that exceeds the noise level limits set out in Table IV below. This equipment shall not be used during hours prohibited by either section 11-5-4(b)(15) or section 11-5-4(b)(16), as applicable.

TABLE IV	
LIMITING NOISE LEVELS FOR POWER LAWN OR GARDEN EQUIPMENT AND POWER EQUIPMENT	
Maximum Permissible Noise Level	75 dB(A)
Location of Measurements	Property Line of Noise Source
Measurement Procedure	As stated in sec. 11-5-5(a)(2)a.

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, and emergency pressure relief valves.
- (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 provided by public service companies, the rail rapid transit system and the city.
- (8) Noises resulting from the operation of rail rapid transit systems,
- (9) Interstate motor carriers, and medium and heavy trucks manufactured and operated in accordance with federal noise standards. Such vehicles may not be operated with a defective muffler or with tampered or missing noise control devices.

Sec. 11-5-7 - Application for special permit.

- (a) Applications for a permit for 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) Any permit issued pursuant to this chapter shall be valid no longer than three years from the date it is issued. Upon the expiration of any such permit no new permit may be issued except in compliance with all the provisions of this section.

Sec. 11-5-8 - Administration.

- (a) The director shall be charged with administering and enforcing the provisions of this chapter.
- (b) The city manager shall, upon the request of the director, allocate such resources of the police department as the city manager shall deem necessary to assist the director in the administration and enforcement of the provisions of this chapter.
- (b.1) The fire marshal, deputy fire marshals, new construction inspectors and existing structures inspectors within the code enforcement bureau shall have concurrent jurisdiction to enforce the provisions of this chapter relating to construction, construction devices and power equipment as defined in section 11-5-2 of this Code.

- (c) The engineer and the director shall whenever possible coordinate their activities to the end that noise pollution in the city is regulated, prevented, abated and controlled.
- (d) 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.
- (e) The city manager shall submit to the city council recommended noise design limits 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, employee, or representative of the engineer or 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 - Enforcement procedure.

- (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 notice of the violation to the owner failing to comply with this chapter, ordering him to take such corrective measures as are necessary within a reasonable time thereafter. The notice and order 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 notice and order, if any.
- (b) Nothing in this chapter shall prevent the director from making efforts to obtain voluntary compliance through warning, conference or any other appropriate means.

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 is causing or contributing to noise pollution and that the causing or contributing to noise pollution creates an emergency which requires immediate action to protect the public health or safety, the director shall order the owner 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 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, assists in or attempts 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 \$50.
 - (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 \$100.
 - (3) The third and any subsequent 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) Each hour of a continued violation shall constitute a separate offense under this chapter.

(c) 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 violation to be served on any or all persons committing, permitting, assisting in or attempting 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.

(v) A finding of admission of liability or a plea of no contest to a civil violation shall not be deemed evidence of a criminal violation for any purpose.

(vi) A notice of civil violation, as provided in this section, may be issued or had, notwithstanding that no prior notice of violation and ordering of corrective measures as provided in section 11-5-10 has been given.

(vii) The provisions for judicial review contained in section 11-5-16 shall have no application to notices of violation, issued or made under the provisions of this section.

(viii) Any person operating or controlling a noise source shall be guilty of any violation caused by it. If the person operating or controlling the noise source cannot be identified, any owner, tenant, resident, or manager physically present on the property where the noise source is located may be charged if the circumstances establish their dominion and control over 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 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.

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, the engineer and other departments, agencies and officers of the city, and appropriate federal and

Commonwealth of Virginia noise pollution control officials to the extent permitted by law, 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 - Application of chapter.

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 five working days after receipt 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.

Section 2. That Chapter 5 of Title 11 as amended pursuant to Section 1 of this ordinance, be, and the same hereby is, reordained as part of the City of Alexandria City Code.

Section 3. That this ordinance shall become effective upon the date and at the time of its final passage.

**REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)
DEFERRAL/WITHDRAWAL CONSENT CALENDAR**

Planning Commission (continued)

None.

THERE BEING NO FURTHER BUSINESS TO BE CONSIDERED, upon motion by Councilwoman Pepper, seconded by Councilman Seifeldein and carried unanimously, City Council adjourned the public hearing meeting of May 15, 2021 at 5:39 p.m. The vote was as follows: In favor, Mayor Wilson, Vice Mayor Bennett-Parker, Councilman Aguirre, Councilman Chapman, Councilwoman Jackson, Councilwoman Pepper, and Councilman Seifeldein; Opposed, none.

APPROVED BY:

JUSTIN M. WILSON MAYOR

ATTEST:

Gloria A. Sitton, CMC City Clerk