



**Legislative Department
Seattle City Council
Memorandum**

Date: July 8, 2010

To: Council President, Richard Conlin
Councilmember Sally Bagshaw
Councilmember Tim Burgess
Councilmember Sally Clark
Councilmember Richard Conlin
Councilmember Jean Godden
Councilmember Bruce Harrell
Councilmember Nick Licata
Councilmember Mike O'Brien
Councilmember Tom Rasmussen

From: Ketil Freeman, Council Central Staff

Subject: Nighttime Disturbance Civil Infraction

Introduction

Councilmember Licata is proposing to create a new civil infraction in the Seattle Municipal Code (SMC). The new infraction is intended to address nuisance behavior in public areas by patrons of nightlife establishments. The proposal stems in part from the work of the Nightlife Advisory Board. The Nightlife Advisory Board was created by the Council through Resolution 31003 to advise the Council on policy issues related to "promotion, development and sustainability of the nightlife industry."¹ This includes issues related to regulation of the industry and its patrons.

Proposed Bill

The proposed bill has been developed by Councilmember Licata's Office in consultation with the City Attorney's Office and the Police Department. The bill borrows elements from crimes related to nuisance noise², harassment,³ and fighting,⁴ which, for a variety of reasons, have not been useful or effective for regulating disruptive behavior by patrons of nightlife establishments in public areas.

Specifically, existing nuisance noise provisions require that police officers first warn someone and that the offending party continue to make noise prior to that person being subject to arrest. Existing harassment provisions do not apply to circumstances in which mutual belligerents exchange fighting words prior to a fight. And, existing fighting provisions do not apply to circumstances in which mutual belligerents engage in a fight that does not threaten injury to an uninvolved third party's person or property.

The new infraction proscribes certain behavior between midnight and five a.m. in public places in certain areas of town and establishes a civil penalty.

¹ Resolution 31003, Section 3. Adopted December 10, 2007.

² SMC § 25.08.500.

³ SMC § 12A.06.040.

⁴ SMC § 12A.06.025.

Proscribed Behavior

The proposed bill would establish a new nighttime disturbance civil infraction in SMC Title 15. Title 15 governs use of and behavior in public rights-of-way. The infraction would make it unlawful between midnight and early morning for people in a public area to:

- ***Make unreasonable noise*** that is audible from 75 feet away, such as shouting, revving a car engine, or using a noisemaker; or
- ***Threaten another person***, such as using fighting words to instigate a fight; or
- ***Fight another person***, regardless of whether the persons engaged in the fight are mutual belligerents.

Geography and Public Area

The proposed infraction would only apply to behavior in public areas defined as 1) public rights-of-way, 2) parking lots, and 3) the curtilage of buildings open to the public, such as door wells and plazas. The infraction **would not** reach the behavior of individuals inside nightlife establishments. Additionally, the infraction would only apply in areas of the City where nightlife establishments currently exist or where they could be established. This includes all of downtown and commercially zoned areas outside of the downtown core.

Civil Penalty

Violators of the new civil infraction would be subject to citation and a fine with a maximum penalty of \$125.

Next Steps and Central Staff Review

Central Staff will be reviewing the proposed bill and providing issue identification for the Housing Human Service and Health Committee. The Committee will take up the proposed bill for discussion and issue identification at its meeting on July 14th.