

Tommy Wells Introduces Bill to Protect Residents from Amplified Noise; Protects Free Speech

Contributed by Charles Allen
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On Tuesday, April 3, 2007, Councilmember Tommy Wells introduced the "Noise Control Protection Amendment Act of 2007." The bill is intended to change the definition of a noise disturbance to both protect First Amendment free speech as well as protect the health and peace of residents from amplified noise.

In 2004, Council amended the definition of a noise disturbance, exempting non-commercial public speech in the daytime from enforcement by the Noise Control Act. The definition change created a loophole with unintentional effect – leaving non-commercial speech in the daytime subject to absolutely no noise limitations under District law.

As an example of how the loophole is being taken advantage of, a group has been using large amplifiers to blast noise every Saturday for four to eight hours for the last four years at the corner of 8th and H Streets, NE. DCRA inspectors took readings of the amplified noise over a four-month period and recorded decibel levels ranging from 75 to 92 decibels. That's equivalent to same loudness created by factory noise or thunder.

"As a result of the group's amplifiers, residents as far away as three blocks away can't open their windows or work in their yards without being subject to the amplified noise. As a result of the legal loophole, DC officials cannot do anything to get the group to turn down their speakers to a more reasonable level and several attempts at mediation have been unsuccessful," remarked Mr. Wells.

The Noise Control Protection Amendment Act of 2007 seeks to balance First Amendment rights and protections, with the rights of residents to enjoy quiet in their homes and protect their hearing from lasting damage. Going above and beyond First Amendment protections found in other jurisdictions, with this bill, non-commercial public speech measured above 70 decibels would only constitute a noise disturbance if it were also found to be excessive under the "reasonable person" standard as defined by DC law. DC's Attorney General has reviewed this proposal and believes it represents a Constitutionally sound approach that balances the protection of free speech and protection for residents.

In researching noise ordinances and case law, DC's Attorney General reviewed statutes in Boston, Chicago, Los Angeles, San Diego, Atlanta, New York and Maryland. Of those, only Los Angeles differentiated speech from other amplified noise by zone, time of day and distance from the noise. In each of the other statutes, speech and amplified speech is not treated differently from other unreasonable noises.

In reviewing the statutes of Los Angeles, any noises above 75 decibels are considered a disturbance. In Miami, any noise above 60 decibels in residential zones or 75 decibels in commercial and industrial zones is considered a disturbance.

The issue of noise disturbance also relates to the health of those subjected to long-term exposure to amplified noise, such as the residents around 8th and H Streets, NE. According to OSHA, 8 hours of noise at 85 dB causes permanent hearing loss. And according to the EPA, exposure to 70 decibels or more for 24 hours will cause measurable hearing loss over a lifetime and levels of 55 decibels outdoors and 45 decibels indoors are identified as the levels of noise which will permit spoken conversation and other activities such as sleeping, working and recreation, which are part of the daily human condition, and prevent interference with regular activities.

Mr. Wells remarked, "The process to get to introduction today has been a long wait for the neighborhoods and residents subjected to amplified noise. I have worked closely with the Attorney General and her staff, as well as had the benefit of partnering with Councilmember Cheh and her Constitutional law expertise and perspective as a former board member of the ACLU. I have also invited labor and community leaders to sit at the table for every step of this process."

Councilmembers Mary Cheh and Kwame Brown joined Mr. Wells by co-introducing the bill and Councilmember David Catania co-sponsored the proposal.

Quick Facts:

- When considering decibel levels and their relationship to noise created, it's important to note that every increase of 10 decibels (dBs) represents a doubling of the loudness of the noise.

- Below is a table of decibel level examples:

- 0 dB - threshold of hearing
- 10 dB - rustle of leaves, a quiet whisper
- 20 dB - average whisper
- 20-50 dB - quiet conversation
- 40-45 dB - hotel, theater between performances
- 50-65 dB - loud conversation
- 65-70 dB - traffic on a busy street
- 65-90 dB - train
- 75-80 dB - factory noise (light/medium work)
- 90 dB - heavy traffic
- 90-100 dB - thunder
- 110-140 dB - jet aircraft at takeoff

Check out news coverage of Mr. Wells' proposal: [Click Here](#) and [Here](#) .