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## Sec. 15-5. Disturbing the peace.

- (a) *Definitions.* As used in this section and unless the context clearly requires otherwise, the terms and phrases defined in section 15-20 of this Code shall have the meanings therein ascribed, and the following terms and phrases shall have the meanings herein ascribed:
- (1) *Alcoholic beverage establishment* shall mean a place, business or other establishment holding a nontemporary license for the consumption of alcoholic beverages thereon.
  - (2) *Artificially amplified sound or noise* shall mean any of the following:
    - a. Any sound or noise caused by or for which the intensity is increased through the use or operation of any electronic sound amplifying device.
    - b. And any sound or noise caused by or produced through the use or operation of any media player, radio device or sound producing instrument.
  - (3) *Completely enclosed* with respect to the passenger compartment of a motor vehicle shall mean completely and entirely enclosed in glass, fiberglass, metal and other rigid materials with all windows completely closed, all doors securely shut and all removable tops latched in place.
  - (4) *Dog* shall mean any single dog or group or pack of dogs.
  - (5) *Farm operation* shall mean a farm operation as defined in Section 823.14, Florida Statutes (2000).
  - (6) *Intermittently* shall mean occurring on any three (3) distinct occasions, with the second and third such occasions being separated from the first and second such occasions, respectively, by intervals of not less than one (1) minute in duration.
  - (7) *Keep* and all tenses, participles, gerunds, infinitives and other forms and derivations thereof shall mean keep, house, board, control or maintain and all corresponding tenses, participles, gerunds, infinitives and other forms and derivations thereof.
  - (8) *Media player* shall mean any electronic device used in whole or in part for the playing, production or reproduction of any sound or noise from any form of recorded medium or digital data.
  - (9) *Motor vehicle* shall mean a motor vehicle as defined in Section 316.003(21), Florida Statutes (2000), that is powered or propelled by an internal combustion engine.
  - (10) *Muffler* shall mean an internal combustion engine's muffling device that for purposes of engine noise abatement functions at least as effectively as the original equipment installed by the manufacturer.
  - (11) *Nonresidential property* shall mean a parcel of real property developed, improved or used primarily for nonresidential activities and purposes.
  - (12) *Percussion instrument* shall mean any musical instrument, including, but not limited to, any drum, cymbal, gong, chime, bell, tambourine, triangle, glockenspiel, xylophone, piano, or maraca, from which sound is produced by the striking, rubbing or scraping of one (1) object with another or by being shaken.
  - (13) *Percussive sound or noise* shall mean any sound or noise caused by the use of a percussion instrument, whether amplified or unamplified.
  - (14) *Premises* shall mean the curtilage of and all improvements on a parcel of real property, and shall include any leasehold interest.
  - (15) *Racing vehicle* shall mean an unmuffled motor vehicle used or operated or designed or intended to be used or operated in professional or amateur motor vehicle racing competition.

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- (16) *Radio device* shall mean any radio, television or other electronic device that receives transmissions of electromagnetic signals and converts the same to sound.
- (17) *Residence* shall mean a permanent structure used or intended to be used primarily for nontemporary single-family or multifamily dwelling purposes.
- (18) *Sound producing instrument* shall mean any electronic device for the production of any sound or noise through the direct playing, manipulation, activation, use or operation thereof, including, but not limited to, any electric or electronic musical instrument, but excluding any alarm, doorbell, chime, pager, telephone or cellular phone, and any warning or emergency signal device such as a siren, yelper, beeper, chime, horn or bell when utilized for its intended purpose.
- (19) *Uninterruptedly* shall mean occurring without any noticeable cessation.
- (20) *Unmuffled motor vehicle* shall mean a motor vehicle lacking a muffler.
- (b) *Barking dogs.*
- (1) *Prohibition in general.* It shall be unlawful and a violation of this subsection for a person to keep a dog that by barking, howling, baying or whining shall utter any sound that shall disturb the peace, quiet and repose of any other person of reasonable and ordinary sensibilities.
- (2) *Prohibition in particular.* It shall be unlawful and a violation of this subsection for a person to keep on any premises a dog that has uttered any sound by barking, howling, baying or whining, whether uninterruptedly or intermittently, during any period of five (5) consecutive minutes that is heard or capable of being heard by a person of ordinary hearing ability at any boundary line of such premises.
- (3) *Responsibilities of owners and leaseholders.* Any owner in possession or holder of a leasehold interest of any premises upon which any violation of this subsection is alleged to have occurred, and the on-premises manager or agent of such owner or holder, shall be deemed to be the keeper of the dog that is alleged to have been the cause of the violation.
- (c) *Artificially amplified sound or noise.*
- (1) *Prohibition in general.* It shall be unlawful and a violation of this subsection for a person to make or cause or to permit if within his or her control the making or causing of any artificially amplified sound or noise of a continuous duration which shall disturb the peace, quiet and repose of any other person of reasonable and ordinary sensibilities.
- (2) *Prohibition in particular.* It shall be unlawful and a violation of this subsection for a person on any premises to make or cause or to permit if within his or her control the making or causing of any artificially amplified sound or noise, whether uninterruptedly or intermittently, during any period of five (5) consecutive minutes that is heard or capable of being heard from within an occupied residence not the residence of such person by a person of ordinary hearing ability; provided, the provisions of this paragraph (2) shall not apply to artificially amplified sound or noise coming from the premises of an alcoholic beverage establishment between the hours of 7:00 a.m. and 12:00 a.m.
- (3) *Prohibition as to alcoholic beverage establishment.* It shall be unlawful and a violation of this subsection for a person on the premises of any alcoholic beverage establishment to make or cause or to permit if within his or her control the making or causing of any artificially amplified sound or noise between the hours of 12:00 a.m. and 7:00 a.m. that is heard or capable of being heard by a person of ordinary hearing ability at any boundary line of such premises.
- (4) *Prohibition as to vehicle.* It shall be unlawful and a violation of this subsection for a person operating a motor vehicle upon any public or private road or right-of-way to use or operate or to permit to be used or operated within or upon such motor vehicle any media player, radio device or sound producing instrument that produces any sound or noise that is heard by a person of ordinary hearing ability

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within the completely enclosed passenger compartment of any other motor vehicle operated upon any public or private road or right-of-way.

- (5) *Responsibilities of owners and leaseholders.* Any owner in possession or holder of a leasehold interest of any premises upon which any violation of this subsection is alleged to have occurred, and the on-premises manager or agent of such owner or holder, shall be deemed to be exercising control under this subsection in the permitting of the making or causing of any artificially amplified sound or noise, unless any third-party invitee or licensee is directly responsible for the making or causing thereof, and the exerciser of control has made all reasonable and lawful attempts to abate the sound or noise, and, if necessary, to remove the third party from the premises by summoning the appropriate law enforcement agency, if necessary; provided, however, that such manager or agent of such owner or holder shall not be responsible for the actions of any trespassers.
- (d) *Unmuffled motor vehicles.*
- (1) *Unmuffled motor vehicle prohibition.* It shall be unlawful and a violation of this subsection for a person to use or operate an unmuffled motor vehicle.
- (2) *Racing vehicle prohibition.* At any time that a racing vehicle is located on a public or private road or right-of-way, or on a residentially developed lot or parcel of land, or on a lot or parcel of land immediately adjacent to a residentially developed lot or parcel of land, it shall be unlawful and a violation of this subsection for a person to use or operate such racing vehicle, or to run or to permit, suffer or cause to be run the engine of such racing vehicle.
- (e) *Percussive sound.*
- (1) *Prohibition in general.* It shall be unlawful and a violation of this subsection for a person to make or cause or to permit if within his or her control the making or causing of any percussive sound or noise of a continuous duration which shall disturb the peace, quiet and repose of any other person of reasonable and ordinary sensibilities.
- (2) *Prohibition in particular.* It shall be unlawful and a violation of this subsection for a person on any premises to make or cause or to permit if within his or her control the making or causing of any percussive sound or noise, whether uninterruptedly or intermittently, during any period of five (5) consecutive minutes that is heard or capable of being heard from within an occupied residence not the residence of such person by a person of ordinary hearing ability; provided, the provisions of this paragraph (2) shall not apply to percussive sound or noise coming from the premises of an alcoholic beverage establishment between the hours of 7:00 a.m. and 12:00 a.m.
- (3) *Prohibition as to alcoholic beverage establishment.* It shall be unlawful and a violation of this subsection for a person on the premises of any alcoholic beverage establishment to make or cause or to permit if within his or her control the making or causing of any percussive sound or noise between the hours of 12:00 a.m. and 7:00 a.m. that is heard or capable of being heard by a person of ordinary hearing ability at any boundary line of such premises.
- (4) *Responsibilities of owners and leaseholders.* Any owner in possession or holder of a leasehold interest of any premises upon which any violation of this subsection is alleged to have occurred, and the on-premises manager or agent of such owner or holder, shall be deemed to be exercising control under this subsection in the permitting of the making or causing of any percussive sound or noise, unless any third-party invitee or licensee is directly responsible for the making or causing thereof, and the exerciser of control has made all reasonable and lawful attempts to abate the sound or noise, and, if necessary, to remove the third party from the premises by summoning the appropriate law enforcement agency, if necessary; provided, however, that such manager or agent of such owner or holder shall not be responsible for the actions of any trespassers.
- (f) *Exceptions.*

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- (1) *As to dogs.* The provisions of subsection (b) shall not apply to the following:
- a. *Law enforcement and hunting.* The barking, howling, baying or whining of a dog utilized and engaged in law enforcement activities or under the direct supervision and control of the keeper thereof while lawfully engaged in a hunting activity or exhibition.
  - b. *Supervision.* The barking, howling, baying or whining of a dog while outside of any enclosed and habitable structure and under the direct supervision and control of the keeper thereof if such keeper immediately and effectively abates such barking, howling, baying or whining. An enclosed and habitable structure does not include a dog house or a dog run.
  - c. *Board-operated facility.* The barking, howling, baying or whining of a dog kept at any facility operated by the board for animal control purposes.
  - d. *Farm operation.* The barking, howling, baying or whining of a dog kept on any premises actually used in connection with a bona fide farm operation.
  - e. *Security dog.* With respect to any dog kept for security purposes on the premises of any nonresidential property, the barking, howling, baying or whining thereof in direct response to such dog's detection of a person who has entered or attempted to enter such premises during any period of time that such premises are unattended, so long as such barking, howling, baying or whining has abated within a period of five (5) minutes immediately following the departure of the person so entering or attempting to enter such premises.
  - f. *Commercial kennel.* The barking, howling, baying or whining of a dog kept on any premises actually used in connection with a bona fide commercial kennel lawfully operating as a nonconforming or conditional use therefor under the zoning provisions of the county's land development regulations applicable thereto.
- (2) *As to artificially amplified sound.* The provisions of subsection (c) shall not apply to the following:
- a. *Government property.* Artificially amplified sound or noise caused or made on premises owned or leased by any governmental entity if caused or made in connection with any activity or event occurring thereon with the express permission of such governmental entity through its authorized agents.
  - b. *Official business.* Artificially amplified sound or noise caused or made by an officer, employee, contractor or agent of any public or private utility, emergency services provider or governmental entity in the performance of his or her official duties.
- (3) *As to vehicles.* The provisions of subsection (d) shall not apply to the following:
- a. *Repair.* The use or operation of an unmuffled motor vehicle between the hours of 7:00 a.m. and 9:00 p.m. while being repaired or serviced at a commercial, governmental or institutional automotive repair facility.
  - b. *Delivery for repair.* The use or operation of an unmuffled motor vehicle other than a racing vehicle while being delivered to a commercial, governmental or institutional automotive repair facility for muffler repair work.
  - c. *Racing event.* The use or operation of a racing vehicle while engaged in a professional or amateur sanctioned, competitive sports event for which an admission or entry fee is charged, in practice or time trials for and at the site of such event, or in preparation for such event, practice or time trials at the site of such event.
  - d. *Grace period.* The use or operation of an unmuffled motor vehicle other than a racing vehicle within a period of seventy-two (72) hours immediately following the failure of its muffler to

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function so as to abate engine noise at least as effectively as the original equipment installed by the manufacturer.

- e. *Manufacturer testing.* The use or operation of a motor vehicle in connection with engineering, design or equipment testing activities by or on behalf of the manufacturer thereof.
  - f. *Certain equipment.* The use or operation of any construction or agricultural equipment either on a job site or while traveling on any public or private road or right-of-way.
- (g) *Nonavailability of certain defenses.* The following circumstances shall not give rise to or constitute a defense to the prosecution of a violation of this section as a misdemeanor under subsection (i) or as a civil infraction under subsection (j):
- (1) *Nonownership of dog.* The keeper of the dog that is alleged to have been the cause of any violation of subsection (b) is not the owner thereof.
  - (2) *Absence as to dog.* The keeper of the dog that is alleged to have been the cause of any violation of subsection (b) was absent from the place of the alleged violation during the violation.
  - (3) *Absence as to artificially amplified sound or noise.* The owner or leaseholder of the premises or the on-premises manager or agent of such owner or leaseholder of the premises under subsection (c)(5) was absent from the place of an alleged violation of subsection (c)(2) or (c)(3) during the violation.
  - (4) *Nonownership of vehicle.* The operator of the motor vehicle or racing vehicle that is alleged to have been the cause of any violation of subsection (d) is not the owner thereof.
  - (5) *Absence as to percussive sound or noise.* The owner or leaseholder of the premises or the on-premises manager or agent of such owner or leaseholder of the premises under subsection (e)(4) was absent from the place of an alleged violation of subsection (e)(2) or (e)(3) during the violation.
- (h) *Multiple dogs.* If more than one (1) dog is kept at the same premises upon which any violation of subsection (b) is alleged to have occurred, proof of which dog or dogs were the cause of the violation shall not be required nor shall any evidence distinguishing one (1) dog from another in the causation of the violation be deemed relevant in the prosecution of a violation of this section as a misdemeanor under subsection (i) or as a civil infraction under subsection (j).
- (i) *Violation prosecuted as misdemeanor.* A person committing a violation under this section that would be deemed a habitual violation as defined in section 15-20 of this Code if charged as a civil infraction shall be guilty of an offense that, pursuant to Section 125.69, Florida Statutes (2000), and any successor thereto, shall be prosecuted in the same manner as misdemeanors are prosecuted, and upon conviction, shall be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the county jail, not to exceed sixty (60) days, or by both such fine and imprisonment, if such violation and the second violation by which such violation would be deemed a habitual violation are committed within a period of one hundred eighty (180) days following the commission of the prior violation applicable to such second violation.
- (j) *Violation prosecuted as civil infraction.* The provisions of section 15-20 of this Code may be used to enforce subsection (b)(1), (b)(2), (c)(1), (c)(2), (c)(3), (c)(4), (d)(1), (d)(2), (e)(1), (e)(2) or (e)(3) as an nonexclusive alternative to enforcement by any other means authorized by law. The violation of subsection (b)(2) on the premises of a residence or the violation of subsection (b)(1), (c)(1), (c)(2), (c)(4), (e)(1) or (e)(2) shall constitute a civil infraction that, for purposes of section 15-20 of this Code and the civil penalties provided thereunder, is designated as a category 1 civil infraction for an initial violation, as a category 3 civil infraction for a second violation, and as a category 6 civil infraction for a habitual violation. The violation of subsection (b)(2) on the premises of nonresidential property or the violation of subsection (c)(3), (d)(1), (d)(2) or (e)(3) shall constitute a civil infraction that, for purposes of section 15-20 of this Code and the civil penalties provided thereunder, is designated as a category 1 civil infraction for an initial violation, as a category 6 civil infraction for a second violation, and as a category 10 civil infraction for a habitual violation.

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- (k) *Nuisance.* Any person who has committed or is responsible for the commission or causing of a violation under this section that constitutes a habitual violation as defined in section 15-20 of this Code shall be deemed guilty of maintaining a nuisance within the meaning of Section 823.05, Florida Statutes (2000), if such habitual violation is committed within a period of one hundred eighty (180) days following the commission of the first of the predicate violations therefor. Such nuisance, the premises upon which the same is maintained and the person responsible for causing the same shall be subject to abatement and injunction as provided in Sections 60.05 and 60.06, Florida Statutes (2000).
- (l) *Applicability.* The provisions of this section shall be applicable throughout the unincorporated area of the county.

(Ord. No. 88-19, §§ 1-10, 2-23-88; Ord. No. 2001-37, §§ 1, 3, 7-10-01; Ord. No. 2001-63, § 1, 12-11-01; Ord. No. 2009-40, § 1, 10-13-09; Ord. No. 2010-1, § 1, 1-26-10)

Editor's note(s)—Section 3 of Ord. No. 2001-37, adopted July 10, 2001, further provided that subsection (e)(1)f. shall be repealed effective October 1, 2001.

Cross reference(s)—Animals and fowl, Ch. 4, nuisances, Ch. 14.