



# LAND DEVELOPMENT CODE

## Chapter 9 Operational Performance Standards

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### CHAPTER 9 OPERATIONAL PERFORMANCE STANDARDS

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### 9.00.00 PURPOSE.

It is the purpose of this chapter to provide appropriate standards relating to the operation of certain activities throughout the county. Such operations may create or maintain such excessive noise, vibration, air pollution, odor, litter, etc., as to be a detriment to the public health, comfort, convenience, safety, and welfare.

### 9.01.00 NOISE CONTROL.

The purpose of this section is to prevent, prohibit and provide for the abatement of excessive and unnecessary noise in order to protect the people of Okaloosa County.

**9.01.01 Terminology and Standards:** All technical acoustical terminology and standards used in this section shall be read or construed in conformance with the American National Standards Institute, Inc., ("ANSI") publication entitled "Acoustical Terminology," designated as ANSI S1.1-1960, or its successor publication.

### 9.01.02 Definitions germane to this Chapter.

1. A-weighted Sound Pressure Level: The sound pressure level, in decibels, as measured on a sound level meter using the A-weighted network. The level to read shall be designated as \_\_\_\_\_db(A) or \_\_\_\_\_dBA.
2. Ambient Noise Level: The sound pressure level of the all encompassing noise emanating from a given environment, usually being a composite of sounds from many sources.
3. Construction: Any site preparation, assembly, erection, substantial repair, alteration, or similar action, for or on public or private thoroughfares, structures, utilities or similar property.
4. Decibel or dB : A unit describing the amplitude of sound, equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micronewtons per square meter.
5. Demolition: Any dismantling, destroying or razing of structures, utilities, public or private thoroughfares surfaces, or similar property.
6. Emergency: Any occurrence or circumstance involving actual or imminent physical death of trauma, or property damage, demanding immediate emergency work or service.
7. Emergency Work or Emergency Service: Any labor performed for the purpose of preventing or alleviating, or attempting to prevent of alleviate, an emergency.
8. Environmental Protection Officer: Any Okaloosa County Environmental Protection Officer, Building Inspector, or Code Enforcement Officer as designated by the Board of County Commissioners or the Sheriff of Okaloosa County.
9. Fluctuating Noise: The sound pressure level of noise more than six (6) dB(A) during the period of observation when measured with the slow meter characteristic of a sound level



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meter. It does not equal the previously existing ambient noise level more than once during the period of observation.

10. Impulsive Sound: A sound of short duration, usually less than one second and of high intensity, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, the discharge of firearms, the barking of dogs, and the beating of drums.
11. Level, Day-Night (Ldn): A 24-hour average of the A-weighted sound pressure level, with the levels during the period 10 P.M. to 7 A.M. increasing to ten (10) dB(A) before averaging.
12. Motorboat: Any boat or vessel propelled or powered by machinery, regardless of whether such machinery is the principal source of propulsion, including boats, barges, amphibious craft, waterski towing devices and hover craft.
13. Motor Vehicle: Any vehicle defined as "motor vehicle" by Section 320.01(1), Florida Statutes.
14. Multi-Family Residential Dwelling: A building designed or used exclusively for residential occupancy by three (3) or more families.
15. Multi-Family Residential Dwelling Unit: The portion of a multi-family residential dwelling designed or used exclusively for residential occupancy by only one family.
16. Noise: Any sound produced in such quantity and for such duration that it annoys, disturbs or may injure a reasonable man or woman of normal sensitivities.
17. Noise Sensitive Zone: A quiet zone which is open or in session, and which is demarcated by conspicuous signs identifying it as a quiet zone. Noise-sensitive zones may only be schools, public libraries, churches, hospitals, and nursing homes.
18. Ordinances: This Nuisance Control Ordinance of Okaloosa County, Florida.
19. Person: Any individual, association, partnership, corporation or other business entity.
20. Plainly Audible Sound: Any sound for which the information content of that sound is communicated to the listener, including understandable spoken speech or comprehensible musical rhythms.
21. Powered Model Vehicle: Any self propelled airborne, waterborne or landborne plane, vessel or vehicle, which is not designed to carry persons, including any model airplane, boat, car or rocket.
22. Property Line: Any imaginary line along the surface of land or water, and its vertical plane extension, which separates the real property owned, rented or leased by one person from the real property owned, rented or leased by another person.
23. Public Right-of-Way: Any street, avenue, boulevard, highway, sidewalk, alley, or similar place normally accessible to the public which is owned or controlled by Okaloosa County.



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24. Pure Tone: Any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of measurement, a pure tone shall exist if the one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by five (5) dB for center frequencies of five hundred (500) Hz and above and by eight (8) dB for center frequencies between one hundred and sixty (160) and four hundred (400) Hz and by fifteen (15) dB for center frequencies less than or equal to one hundred and twenty-five (125) Hz.
25. RMS Sound Pressure: The square root of the time averaged square of the sound pressure.
26. Single-Family Residential Dwelling: A detached dwelling containing complete housekeeping facilities for only one family, designed for or occupied exclusively by one family for usual domestic purposes, and having no enclosed space or cooking facilities or sanitary facilities in common with any other dwelling.
27. Single-Family Residential Dwelling Lot: The parcel of land upon which a single-family residential dwelling is located.
28. Sound: An oscillation in pressure, stress, particle velocity or other physical parameter, in a medium with internal forces. The description of sound may include any characteristic of such sound, including duration, intensity, and frequency.
29. Sound Level: The weighted sound pressure level obtained by the use of a metering characteristic and weighting A, B, C, as specified in American National Standards Institute specifications for sound level meters (ANSI Publication S1.4-1971) or successor publications, If the weighting employed is not indicated, the A-weighting shall apply.
30. Sound Level Meter: An instrument which includes a microphone, amplifier, RMS detector, integrator, or time averager, output meter, and weighting network used to measure sound pressure levels. The output meter reads sound pressure level when properly calibrated. The instrument is of Type 2 or better, as specified in the American National Standards Institute publication entitled "Specifications for Sound-Level Meters," designated as ANSI S1.4-1971.
31. Sound Pressure: The instantaneous difference between the actual pressure and the average of barometric pressure at a given point in space, as produced by the presence of sound energy.
32. Sound Pressure Level: A twenty (20) times the logarithm to the base ten (10) of the ratio of the RMS sound pressure to the reference pressure of twenty (20) micronewtons per meter squared. The sound pressure level is denoted  $L_p$  (or SPL) and is expressed in decibels.

### 9.01.03: Findings of Fact.

1. Excessive and unnecessary noise interferes with the quality of life and can interfere with the health, safety and general welfare of the public.



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2. In particular, excessive and unnecessary noise can cause adverse psychological and physiological effects on humans.
3. A substantial body of science and technology exists by which noise may be measured and substantially abated.

### 9.01.04 Maximum Permissible Sound Levels; Receiving Land Use Categories; Times; Adjustments for Character of Sound:

The following applicable sound level limits are established for the following applicable times when measured at or inside the property lines of the following applicable land use categories:

TABLE INSET:

Receiving Land Use Category	Time	Sound Level Limit (dBA)
Single-family residential dwelling (*)	7:00 a.m.--10:00 p.m.	60
	10:00 p.m.--7:00 a.m.	55

(\*)Single-family residential dwelling lot not in an Agricultural, or Industrial Zoning District, any other lot zoned for residential use, property south and east of U.S. Highway 98 in Santa Rosa Island Subdivision restricted to B1 or B2 use, noise sensitive zones, or multi-family residential dwelling units or lots not in an Agricultural, Business or Industrial Zoning District.

The allowable noise level shall be reduced by five (5) dBA for impulse or pure tone noises, or for noises consisting of amplified speed or music.

The land use categories set forth above shall be subject to existing special exceptions, non-conforming uses and variances.

**9.01.05 Measurement of Sound:** The measurement of sound shall be made with a sound level meter. Recorded measurements shall be taken so as to secure and ensure an accurate representation of the sound.

**9.01.06 Prohibited Acts:** Subject to the exemptions or variances, no person shall produce, cause to be produced or allow to be produced, by any means, any sound which, when measured inside or at the property line of those land use categories specified hereinabove exceeds the applicable sound level limits set forth for longer than ten (10) percent of any measurement period, which measurement period shall not be less than ten (10) minutes.

**9.01.07 Exemptions:** The provisions of 9.01.04 above shall not apply to the following sounds:

1. The unamplified human voice;
2. Railway locomotives or cars;
3. Household or farming tools, appliances and equipment meeting manufacturer's specifications as to



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4. sound, if applicable;
  5. Aircraft and airport activity conducted in accordance with federal laws and regulations;
  6. Maintenance of public service facilities;\
  7. Law enforcement activities, including training;
  8. Licensed game hunting activities;
  9. Authorized target shooting;
  10. Emergency signals during emergencies;
  11. Emergency testing between 7:00 a.m. and 7:00 p.m.;
  12. Motor vehicles operating on a public right-of-way subject to Section 316.293, Florida Statutes;
  13. Refuse collection vehicles not exceeding eighty-six (86) dBA;
  14. Operation of any regulated utility;
  15. Construction activities for which Okaloosa County has issued a development permit, as defined by Section 163.3164, Fla. Stat., provided such activity occurs between 7:00 AM and 10:00 PM, or produces less than eighty-six [86] dBA, and;
  16. Organized athletic contests.

### **9.02.00 COMMUNITY NOISE ABATEMENT.**

**9.02.01 Findings and Intent:** The Board hereby finds and declares that certain community noise has the documented potential to cause adverse health effects including: hearing loss; sleep disturbances; cardiovascular and psycho physiologic problems; performance reduction; annoyance responses; and adverse social behavior<sup>1</sup>. It is the intent of the Board to further the protection of county inhabitants from the potential adverse health effects of community noise, and the Board does hereby declare that such protection furthers a legitimate government interest toward safeguarding the public health, safety, and welfare.

<sup>1</sup> Centers for Disease Control and Prevention. World Health Organization, *Guidelines for Community Noise*, 1999.

**9.02.02 Definitions:** The definitions specified in Section 9.01.02 shall also apply to this section. In addition, the following definitions shall apply to this section.

Annoy: means to irritate, weary, trouble or irk.

Clearly be heard: means a noise or sound that can be detected by the human ear at 55 dBA or greater or 50 dBA or greater for impulse or pure tone noises or noises consisting of amplified speed or music measured on the property line where the noise is being detected.



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Comfort : means a condition of ease or well-being.

Community noise: means noise emitted for all environmental sources except noise from an industrial workplace and may include roadway, rail and air traffic; construction activity and human activities during the course of normal daily living.

Disturb: means to throw into disorder, to move from a state of rest or regular order, or to interrupt a settled state.

Loud noise : means a noise that can be heard by a reasonable person which is in excess of 100 dBA, especially when the duration of the noise is 30 minutes or more.

Neighboring inhabitants means those persons occupying buildings or residing in residences in the vicinity of a specific location.

Noise: means an unwanted or undesirable sound.

Offend means to arouse anger, resentment, or indignation in a reasonable person.

Peace: means a state of tranquility.

Person: means a human being or other entity recognized by law as having the rights and duties of a human being.

Premises: means a lot, parcel, tract, or plot of land together and in combination with any buildings or structures thereon.

Quiet: means a condition of situation generally free of noise.

Sound: means a vibratory disturbance in the pressure and density of a fluid or in the elastic strain in a solid, with frequency in the approximate range between 20 and 20,000 hertz capable of being detected by human organs of hearing.

**9.02.03 Prohibitions and Restrictions:** In furtherance of this section the following restrictions and prohibitions shall apply as prescribed herein.

1. Playing of Sound Devices; Prohibitions.

- a. No person shall play, between the hours of 10:00 p.m. and 7:00 a.m., any radio, music player, television, audio system, musical instrument (including "live band" music) in such a manner or at such a volume as to annoy or disturb the peace, quiet, comfort or repose of other reasonable persons or in a manner which could be anticipated to offend other reasonable persons.
- b. Except for organized events which have received applicable permits from the County in conjunction with the event, no person shall play any radio, music player, television, audio system, or musical instrument upon a public right-of-way or upon other public property in such a manner or in such a volume as to disturb the peace, quiet, comfort or repose of other persons, or in a manner which could be anticipated to offend other reasonable persons.

2. Restrictions on Unnecessary Noise.



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- a. No person shall make, or cause, suffer, allow, or permit to be made any unreasonably loud, disturbing, and unnecessary noise, or noises of such character, intensity or duration as to be detrimental to the health of any individual.
- b. Unreasonably loud, disturbing and unnecessary noises shall include but not be limited to the following:
  - i. The sounding of any horn, bell, or other signal or warning device on any motor vehicle, motorcycle, bus or other vehicle, except as a danger or warning signal or for a duration that exceeds ten (10) consecutive minutes.
  - ii. The sound produced by any kept or raised animal or bird which, by causing continuing or intermittent noise for a duration of more than thirty (30) consecutive minutes, disturbs the peace, quiet, comfort or repose of any reasonable person when such noise can be clearly heard outside the property line of the premises where the animal or bird is being kept or raised.
  - iii. Any noise which can clearly be heard for a duration of thirty (30) consecutive minutes beyond the property line of the premises where the noise is being produced between the hours of 12:00 midnight and 7:00 a.m. for a duration of more than ten (10) consecutive minutes.
  - iv. Any noise which can clearly be heard on any other lot zoned for residential use beyond the property line of the property where the noise is being produced between the hours of 10:00 p.m. to 7:00 a.m. for a duration of more than ten (10) consecutive minutes.

**9.02.04 Exemptions:** The exemptions listed in Section 9.01.07 of shall also apply to this section. In addition, the requirements of this section shall not apply to the operation and running of internal combustion electric generators when such operation is necessary to produce electric power during times of electric power outages caused by manmade or natural disasters, or power outages during a declared state of emergency.

**9.02.05 Content of Regulated Noise or Sound Neutral:** The specific intent of this section is to regulate the times and manner as to how noise and sound may be produced and heard. Nothing in this section should be implied or interpreted to impose any prohibitions or restrictions on the message, content or free speech of any naturally, mechanically, or electronically produced noise or sound.

**9.02.06 Enforcement and Penalties:** Violations of this Chapter shall be prosecuted in the same manner as misdemeanors are prosecuted. Such violations shall be prosecuted in the name of the state court having jurisdiction of misdemeanors by the prosecuting attorney thereof 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 60 days or by both fine and imprisonment, or by civil fine of two hundred fifty dollars (\$250.00) for the first violation, and five hundred dollars (\$500.00) for each violation thereafter. Any deputy sheriff appointed pursuant to Section 30.07 may enforce this regulation in the manner provided by law for enforcement of misdemeanors. (Ord. No. 07-60, § 2 (Exhibit A), 11-13-07)





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### 9.03.00 LITTER AND NUISANCE CONTROL.

Reference Ordinance 87-33.

**9.03.01 Definitions:** The following definitions are germane to this chapter:

1. **Litter:** Refuse and rubbish including, but not limited to paper, bottles, cans, glass, crockery, scrap metals, plastic, rubber, yard trash, tar paper, lumber, masonry, concrete, drywall, packing and crating materials, discarded appliances, tires, tree and shrub trimmings, leaves, disposable packages and containers, and any other solid waste matter visible to the eye.
2. **Nuisance:** Any violation of this ordinance is declared to be a public nuisance and subject to abatement as such in accordance with the terms of this ordinance.
3. **Person:** Any natural person, partnership firm, corporation, company, or other legal entity.
4. **Storage:** The interim containment of litter, in an approved manner such as roll-off containers, wire fencing, wood fencing, or other controlled measures after generation and prior to proper and final disposal.
5. **Unauthorized Accumulation:** Accumulation of litter on any property not permitted as a landfill site in violation of this ordinance. This shall not include building materials used during active construction or repair of a building or stored off the ground for future construction or repairs.
6. **Written Corrective Notice:** A written statement shall be issued to the violator or his/her agent of any provisions of this ordinance. It shall identify and specify the violation, the date and time of issuance, corrective measures to be taken and the date and time correction is to be completed.

**9.03.02 Littering Prohibited:** It is a violation of this ordinance for any person to throw, discard, place, drop or deposit litter in any manner or amount in or upon any public property, private property, highway, street, right-of-way or body of water in Okaloosa County except in areas and containers provided therefore. Reference Section 12.02.00 for Schedule of Fees, which lists the fine for litter violations.

1. In any case where litter is ejected or discarded from a motor vehicle, except at approved and permitted disposal sites, the operator of the motor vehicle shall be in violation of this ordinance.
2. It shall be a violation of this ordinance for any person to deposit any item, items, or materials except litter in any receptacle placed for public use as a depository for litter.
3. It shall be a violation of this ordinance for any person to deposit litter or waste materials in any receptacle, dumpster, or container without the permission of the owner or person in control thereof.
4. It shall be a violation of this ordinance for any person to deposit any item, items, or materials in any receptacle placed for public use at county parks except those items generated during the utilization of the park, and in no event shall litter generated in a residential or commercial establishment be deposited in receptacles.



### 9.03.03 Litter Storage.

1. All commercial establishments shall store their litter in a controlled manner so as to eliminate wind-driven debris and litter in and about their establishments. The number and size of containers necessary for each commercial establishment shall be as required to control all waste generated on the premises. Spillage and overflow around containers shall be immediately cleaned up as it occurs by the generator.
2. All loading and unloading areas at commercial establishments shall be provided with litter receptacles by the generator to store loose debris, paper, cardboard, packaging material, and similar materials.
3. It shall be the duty of any and every person, corporation, company, lessee or agent owning or operating any public establishment or place open to the public to have available receptacles adequate to contain litter generated from such establishment.
4. It shall be the duty of every person, corporation, company, firm, owner, lessee or agent in possession, charge of or in control of any place, public or private, where litter is accumulated or generated, to have available and at all times to keep said litter in adequate and suitable receptacles and/or containers capable of holding such materials until proper final disposal is accomplished.
5. Any unauthorized accumulation of litter on any property (vacant or occupied), premises, public street, alley, or other public or private place is a violation of this ordinance.

### 9.03.04 Litter Control.

1. All construction and demolition contractors, owners, or agents shall provide on-site control measures to prevent wind-driven scattering of such materials if the materials are otherwise not properly disposed of on a daily basis. All litter, tar paper, packaging and crating materials and similar materials shall be removed within thirty (30) days after the completion of the construction or demolition.
2. It shall be the duty of each operator, owner, lessee, or agent of any business, industry, institution, apartment, hotel, condominium or other complex, public or private, profit or non-profit, to keep the adjacent and surrounding areas clean of wind-driven or animal-carried litter generated from such establishment. These areas include public property, roads, right-of-ways, grounds, parking lots, loading and unloading areas and vacant lots owned or leased by the establishments.
3. It is a violation of this ordinance for any private property owner, tenant, occupant, lessee or agent to grant permission to any person to dispose of litter on his property in any manner except in permitted disposal sites, or as authorized by the rules of the Florida Department of Environmental Protection.

**9.03.05 Public Nuisance:** The following conditions existing, permitted, maintained, or caused by any person on real property in Okaloosa County shall constitute the maintenance of a public nuisance injurious to the health or general welfare of the citizens of Okaloosa County and shall constitute a violation of this ordinance.



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1. The creation or maintenance of any condition capable of breeding flies, mosquitoes or other arthropods capable of transmitting diseases directly or indirectly to humans.
2. The accumulation of rubbish, trash, garbage, litter, or other solid or liquid waste materials in violation of this ordinance.
3. The existence of any dwelling, house, building, structure or real property on which a dwelling, house, building or other structure is located which is unsafe, unsecured, deteriorated, uninhabitable, degraded with obscene graffiti, or a menace to the health, safety, or general welfare of the citizens of Okaloosa County.
4. The utilization of any single-family or multi-family residential property by the owner or occupant thereof for the exterior storage of any, icebox, refrigerator, stove, or other large appliance normally located inside a dwelling unit.

**9.03.06 Disposal of Litter:** Litter shall be stored and transported in accordance with the provisions of this ordinance.

**9.03.07 County Landfills:** No person shall directly or indirectly remove litter from the landfills operated by Okaloosa County, or attempt to search for or locate materials or items for removal therefrom without obtaining a permit from the governing body of Okaloosa County.

**9.03.08 Owners and Generators Responsibility:** Any person, corporation, establishment, firm, business, owner, or agent of property within Okaloosa County who generated litter shall be responsible for ensuring such litter is managed, stored, handled, transported and disposed of in accordance with the provisions of this ordinance.

**9.03.09 Enforcement:** The enforcement of this ordinance shall be the duty and responsibility of the Okaloosa County Sheriff's Department, the Okaloosa County Health Department, Okaloosa County Code Enforcement, and their respective agents or representatives.

1. The Sheriff, Deputy Sheriffs, Okaloosa County Code Enforcement Officers, are hereby empowered to issue uniform citations, court summons, arrests, or to issue written corrective notices to persons violating any provisions of this ordinance and may serve or execute all warrants and other processes issued by the Court in enforcing the provisions in this ordinance. Okaloosa County Code Enforcement Officers can issue correction notices, uniform citations, and notice of hearings to go before the Code Enforcement Board. Health Department agents may request the assistance of a Deputy Sheriff or Environmental Officer at the scene of a violation, and if in the opinion of the officer, sufficient probable cause exists, the officer may arrest or issue the violator a court summons.
2. Interference with the officer attempting to enforce this ordinance, shall constitute a violation of this ordinance as well as any other criminal sanction which may be imposed.
3. Prosecution for a violation of this ordinance shall be initiated by the officer who witnesses such offense or has sufficient probable cause or who discovers an article of litter bearing a person, corporation, company, firm, business, or institution's name or address on property of another or on any public property. It shall be presumed that any article of litter so discovered is the property of such person whose name or address appears thereon, and that said person, company, corporation, firm, business, or institution placed or



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caused to be placed such article of litter on the property of another or public property. This presumption is based on the tenet that all generators of such litter are responsible for such litter until such time as it has been properly disposed of.

4. Corrective written notices may be issued to violators of this ordinance to correct an offense, in lieu of arrest. The notice shall state the date and time issued, nature of the offense committed, corrective measures to be taken and the date and time such corrections shall be made. All such notices issued shall be maintained by the issuing authority for public inspections during normal office hours. Notices mailed by certified mail or return receipt requested to the violator's last known place of residence shall be deemed personal service upon the person, for the purposes of this ordinance.

**9.03.10 Failure to Comply with a Notice:** Any person, corporation, company, firm, business, institution, owner, lessee, agent, tenant, or occupant who has been served such notice in accordance with the provisions of this ordinance, and who shall neglect or shall refuse or shall fail to fully comply with the corrective notices so ordered and/or within the time frame so ordered therein, shall be in violation of this ordinance.

**9.03.11 Government Authorization for Clean-Up:** In all instances where a public nuisance or a violation of this ordinance exists and the owner or agent of the properties' whereabouts are unknown, or are residing out of the County or State, and after written corrective notice, as described herein, has been served, and the owner or agent has failed to correct the violation, The Code Enforcement Board shall hear the case and recommend to the Board of County Commissioners to cause the public or private property to be cleaned up or removed and the nuisance or violation abated. The cost for such cleanup shall be billed and mailed via certified mail to the last known address of the owner or agent and if said bill is not paid within thirty (30) days from the mailing date, the Board acting through its Chairman shall execute a lien on the property for the amount expended on the cleanup until the bill is paid or satisfied.

**9.03.12 Penalty:** Any person, corporation, company, firm, business, institution, establishment, owner, agent, tenant, lessee, or occupant who shall violate any provision, shall fail, neglect, or refuse to fully comply with any written corrective notice, as described herein, or given pursuant to the authority of this chapter shall be prosecuted for a misdemeanor. Any person found guilty of any provisions of this chapter by court of competent jurisdiction shall be punished by fine of not less than fifty (50) dollars and not more than five hundred (500) dollars, or a sentence of not more than sixty (60) days in the County jail, or by both such fine and imprisonment. However, imposition of such fines or jail sentences shall not prohibit or preclude said court from imposing civil or other penalties which would include, but not be limited to picking up litter or performing other labor or services commensurate to the offense committed.