

TITLE IX: GENERAL REGULATIONS

Chapter

92. PUBLIC NUISANCES; SANITATION; ENVIRONMENT

CHAPTER 92: PUBLIC NUISANCES; SANITATION; ENVIRONMENT

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*GENERALLY***§ 92.01 PUBLIC NUISANCES PROHIBITED.**

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the city.

(1989 Code, § 10.01) Penalty, see § 92.99

§ 92.02 PUBLIC NUISANCE DEFINED.

A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

(A) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;

(B) In any way render the public insecure in life or in the use of property;

(C) Greatly offend the public morals or decency; or

(D) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use of public property.

(1989 Code, § 10.02)

§ 92.03 PUBLIC NUISANCES AFFECTING HEALTH.

The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of § 92.02:

(A) *Adulterated food.* All decayed, adulterated or unwholesome food or drink sold or offered for sale to the public.

(B) *Unburied carcasses.* Carcasses of animals, birds or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.

(C) *Breeding places for vermin and the like.* Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.

(D) *Stagnant water.* All stagnant water in which mosquitoes, flies or other insects can multiply.

(E) *Privy vaults and garbage cans.* Privy vaults and garbage cans which are not fly-tight.

(F) *Noxious weeds.* All noxious weeds and other rank growth of vegetation. All weeds and grass shall be kept cut to a height of not to exceed 1 foot. The city may cause all weeds and grass to be cut and removed and brush to be removed and the cost thereof charged to the property under Wis. Stats. § 66.0627.

(G) *Water pollution.* The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.

(H) *Noxious odors and the like.* Any use of property, substances or things within the city emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the city.

(I) *Street pollution.* Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the city.

(J) *Air pollution.* The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the city limits or within 1 mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property in the city.
(1989 Code, § 10.03)

§ 92.04 PUBLIC NUISANCES OFFENDING MORALS AND DECENCY.

The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency within the definition of § 92.02:

(A) *Disorderly houses.* All disorderly houses, bawdy houses, houses of ill-fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.

(B) *Gambling devices.* All gambling devices and slot machines.

(C) *Unlicensed sale of liquor and beer.* All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by the ordinances of the city.

(D) *Continuous violation of city ordinances.* Any place or premises within the city where city ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.

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(E) *Illegal drinking.* Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State of Wisconsin. (1989 Code, § 10.04)

§ 92.05 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition of § 92.02:

(A) *Signs, billboards and the like.* All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.

(B) *Illegal buildings.* All buildings erected, repaired or altered in violation of the provisions of the ordinances of the city relating to materials and manner of construction of buildings and structures within the city.

(C) *Unauthorized traffic signs.* All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic-control device, railroad sign or signal, or which because of its color, location, brilliance or manner of operation interferes with the effectiveness of any such device, sign or signal.

(D) *Obstruction of intersections.* All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.

(E) *Tree limbs.* All limbs of trees which project over and less than 10 feet above any public sidewalk, street or other public place.

(F) *Dangerous trees.* All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.

(G) *Fireworks.* All use or display of fireworks, except as provided by the laws of the state and ordinances of the city.

(H) *Dilapidated buildings.* All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human use.

(I) *Wires and cables over streets.* All wires and cables over streets, alleys or public grounds which are strung less than 15 feet above the surface thereof.

(J) *Noisy animals.* The keeping or harboring of any animal which, by frequent or habitual howling, yelping, barking or making of other noises shall annoy any person or persons.

(K) *Obstructions of streets; excavations.* All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the city or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished, or do not conform to the permit.

(L) *Unlawful assemblies.* Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.
(1989 Code, § 10.05)

(M) *Special assessment for weed removal on private property.* If a private citizen or business allows his, her or its property to become in such a condition as to be overrun with weeds or other grasses so as to require mowing, and that condition continues for a month period of time, the street crew for the city, upon giving a 10-day notice to the landowner, shall mow the private premises, at a minimum assessment to the landowner of \$50, and an additional assessment of \$50 per hour for each hour necessary to remove the weeds and other grasses.
(Ord. 505, passed 8-3-1993; Am. Ord. 711, passed 6-5-2007)

ABATEMENT

§ 92.15 ABATEMENT OF PUBLIC NUISANCES.

(A) *Enforcement.* The Chief of Police, the Chief of the Fire Department, the Building Inspector and Health Committee shall enforce those provisions of this chapter that come within the jurisdiction of their offices, and they shall make periodic inspections and inspections upon complaint to ensure that such provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the officer shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and have satisfied himself or herself that a nuisance does in fact exist.

(B) *Summary abatement.* If the inspecting officer shall determine that a public nuisance exists within the city and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Mayor may direct the proper officer to cause the same to be abated and charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

(C) *Abatement after notice.* If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of the nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he or she shall serve notice on the person

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causing or maintaining the nuisance to remove the same within 10 days. If the nuisance is not removed within the 10 days, the proper officer shall cause the nuisances to be removed as provided in division (B) above.

(D) Other methods not excluded. Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the city or its officials in accordance with the laws of the State of Wisconsin.

(E) Court order. Except when necessary under division (B) above, no officer hereunder shall use force to obtain access to private property to abate a public nuisance but shall request permission to enter upon private property if the premises are occupied, and, if such permission is denied, shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance.
(1989 Code, § 10.08)

§ 92.16 COST OF ABATEMENT.

In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the city shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, the cost shall be assessed against the real estate as a special charge.
(1989 Code, § 10.09) Penalty, see § 92.99

TREE NUISANCES

§ 92.30 DUTCH ELM DISEASE.

(A) Public nuisances declared. The Common Council, having determined that the health of the elm trees within the city is threatened by a fatal disease known as Dutch elm disease, hereby declares the following to be public nuisances:

(1) Any living or standing elm tree or part thereof infected with Dutch elm disease fungus or which harbors any of the elm bug beetles, *Scolytus multistriatus* (Eichb.) or *Hylurgopinus rufipes* (Marsh.); and

(2) Any dead elm tree or part thereof, including logs, branches, firewood, stumps or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle destroying insecticide.

(B) City Forester. The City Forester shall have the powers and perform the duties imposed by this section and by Wis. Stats. Ch. 27.

(C) Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PUBLIC NUISANCE.

- (a) Dutch elm disease;
- (b) Elm bark beetles *Scolytus multistriatus* (Eichb.) or *Hylurgopinus rufipes* (Marsh.);
- (c) Any living or standing elm tree thereof infected with Dutch elm disease fungus or in a weakened condition which harbors any of the elm bark beetles; and/or
- (d) Any dead elm tree or part thereof, including logs, branches, firewood, stumps or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle destroying concentrate.

PUBLIC PROPERTY. Any premises owned or controlled by the city, including but not restricted to public sites, parks, playgrounds, streets, alleys, sidewalks, boulevards and terrace strips between the lot line and the curb or improved portion of any public way.

(D) Inspection.

- (1) The City Forester shall inspect or cause to be inspected at least twice a year all premises and places within the city to determine whether any public nuisance exists thereon. He or she shall also inspect or cause the inspection of any elm tree reported or suspected to be infected with the Dutch elm disease or any elm bark bearing material reported or suspected to be infested with elm bark beetles.
- (2) Whenever necessary to determine the existence of Dutch elm disease or elm bark beetles in any tree, the person inspecting the tree shall remove or cut specimens from the tree in such manner so as to avoid permanent injury thereto and deliver such specimens to the Forester who shall forward them to the Wisconsin Department of Agriculture for analysis to determine the presence of such nuisances.
- (3) The Forester and his or her agents or employees may enter upon private premises at reasonable times for the purpose of carrying out any of the provisions of this section.

(E) Abatement of nuisances; duty of Forester.

- (1) The Forester shall order, direct, supervise and control the abatement of public nuisances as defined in this section by spraying, removal, burning or other means which he or she determines to be necessary to prevent as fully as possible the spread of Dutch elm disease fungus or the insect pests or vectors known to carry the disease fungus.
- (2) Whenever the Forester after inspection or examination shall determine that a public nuisance as herein defined exists on public property in the city, he or she shall immediately abate or

cause the abatement of the nuisance in such manner as to destroy or prevent as fully as possible the spread of Dutch elm disease or the insect pests or vectors known to carry the disease fungus.

(3) When the Forester shall determine with reasonable certainty that a public nuisance exists upon private premises, he or she shall immediately serve or cause to be served personally or by registered mail upon the owner of the property, if he or she can be found, or upon the occupant thereof a written notice of the existence of the nuisance and shall direct that the nuisance be abated within 10 days after service of the notice. This notice shall describe the nuisance and recommended procedure for its abatement, and it shall further state that, unless the owner shall abate the nuisance in the manner specified in the notice, the Forester will cause the abatement thereof at the expense of the property served. If the owner cannot be found, the notice shall be given by publication in the newspaper of general circulation in the city.

(F) *Spraying.*

(1) Whenever the Forester determines that any elm tree or part thereof is infected with Dutch elm disease fungus or is in a weakened condition and harbors elm bark beetles, he or she may cause all elm trees within 1,000-foot radius thereof to be sprayed with an effective elm bark beetle destroying concentrate.

(2) In order to facilitate the work and minimize the inconvenience to the public of any spraying operations conducted under this section, the Forester shall cause to be given advance public notice of such operations by newspaper, radio, television public service announcements or other effective means and shall also cause the posting of appropriate warning notices in the areas and along the streets where trees are to be sprayed at least 24 hours in advance of spraying. When any residue or concentrate from municipal spraying operations can be expected to be deposited on any public street, the Forester shall also notify the Chief of Police, who shall take all necessary steps to make and enforce temporary parking and traffic regulations on such streets as conditions require. Temporary "No Parking" notices shall be posted in each block of any affected street at least 24 hours in advance of spraying conditions.

(3) When appropriate warning notices and temporary "No Parking" notices have been given and posted in accordance with division (F)(2) above, the city shall not allow any claim for damages to any vehicle caused by such spraying operations.

(4) When the trees on private property are to be sprayed, the Forester shall notify the owner of the property and proceed in accordance with the requirements of division (E)(3) above.

(G) *Cost of tree care; special assessments.*

(1) The cost of abatement of a public nuisance or spraying elm trees or elm wood at the direction of the Forester, if the nuisance, tree or wood is located on public park or grounds, shall be borne by the city.

(2) The cost of abating a public nuisance or spraying elm trees or elm wood located on private premises or in the public right-of-way when done at the direction and under the supervision of the

Forester, shall be assessed to the property on which the nuisance, tree or wood is located or which abuts on the public right-of-way in which the nuisance tree or wood is located, as follows:

(a) The Forester shall keep account of the cost of the work or spraying and the amount chargeable to each lot or parcel and shall report such work charges, description of lands to which chargeable, and the names and addresses of the owners of the lands to the City Clerk-Treasurer on or before October 15 of each year.

(b) The City Clerk-Treasurer shall mail notice of the amount of the final assessment to each owner of property assessed at his or her last known address, stating that unless paid within 30 days of the date of the notice, such assessment shall bear interest at the rate of 7% per annum and will be entered on the tax roll as a delinquent tax against the property, and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to the assessment.

(c) The city hereby declares that in making assessments under this section, it is acting under its police power. No damages shall be awarded to any owner for the destruction of any diseased or infested elm tree or elm wood or part thereof.

(H) *Prohibited acts.* No person shall:

(1) Transport any bark bearing elm wood bark or material on public streets or highways or other public premises without first securing the written permission of the Forester;

(2) Interfere with or prevent any act of the Forester or his or her agents or employees while they are engaged in the performance of duties imposed by this section;

(3) Refuse to permit the Forester or his or her duly authorized representative to enter upon his or her premises at reasonable times to exercise the duties imposed by this section; or

(4) Permit any public nuisance to remain on any premises owned or controlled by him or her when ordered by the Forester to abate the nuisance.

(1989 Code, § 10.06) Penalty, see § 92.99

§ 92.31 BOX ELDER TREES.

All female box elder trees and all other box elder trees infected with box elder bugs are a nuisance and shall be removed by the owner thereof within 5 days after written notice to remove given by the City Forester. If the owner of the land upon which any such tree is located shall fail to remove the tree within 5 days as required by the City Forester, the Forester may enter upon the land and remove any such tree and assess the cost thereof to the property owner as a special charge against the property.

(1989 Code, § 10.07)

*HEALTH AND SANITATION***§ 92.45 PUBLIC PROPERTY AND HEALTH COMMITTEE; DUTIES AND POWERS.**

(A) *General duties.* The Public Property and Health Committee, under the supervision of the District State Health Officer, shall:

- (1) Maintain continuous sanitary supervision over its territory;
- (2) Promote the spread of information as to the causes, nature and prevention of prevalent diseases and the preservation and improvement of health;
- (3) Enforce the health laws, rules and regulations of the State Department of Health and Social Services, the state and the city, including the laws relating to contagious diseases contained in Wis. Stats. Ch. 252;
- (4) Take steps necessary to secure prompt and full reports by physicians of communicable diseases and prompt and full registration of births and deaths;
- (5) Keep and deliver to its successor a record of all its official acts; and
- (6) Make an annual report to the State Department of Health and Social Services and to the Common Council and such other report as they may request.

(B) *Materials and supplies.* The Committee may procure at the expense of the city all record books, quarantine cards and other material needed by the Committee, except such as are furnished by the State Department of Health and Social Services.
(1989 Code, § 11.01)

§ 92.46 RULES AND REGULATIONS.

The Committee may make reasonable and general rules for the enforcement of the provisions of this chapter and for the prevention of the creation of health nuisances and the protection of the public health and welfare, and may where appropriate require the issuance of licenses and permits. All these requirements when approved by the Common Council shall have the same effect as ordinances and any person violating any of such regulations and any lawful order of the Committee shall be subject to a penalty as provided in § 10.99 of this code.
(1989 Code, § 11.02)

§ 92.47 ABATEMENT OF HEALTH NUISANCES.

The Public Property and Health Committee may abate health nuisances in accordance with Wis. Stats. § 254.58, which is adopted by reference and made a part of this chapter as if fully set forth herein. (1989 Code, § 11.03)

§ 92.48 COMMUNICABLE DISEASES.

Wis. Stats. Ch. 252 and Wis. Adm. Code, Ch. HFS 145, are adopted by reference and made a part of this chapter, and the Committee shall enforce the provisions thereof. (1989 Code, § 11.04)

§ 92.49 REGULATION OF NUISANCE TYPE BUSINESSES.

(A) *Permit required.* No person shall conduct within the city any business which has a tendency to create a public nuisance, except upon permit issued by the Public Property and Health Committee and subject to such conditions as they may impose.

(B) *Definition.* A business which has a tendency to create a public nuisance is one which, unless properly regulated, may create conditions creating a public nuisance, as defined in § 92.02 of this municipal code.

(C) *Enactment.* This section is enacted pursuant to Wis. Stats. § 66.0415. (1989 Code, § 11.05) Penalty, see § 92.99

§ 92.50 MILK AND MILK PRODUCTS.

No person shall sell, offer or expose for sale within the city any milk or milk products other than Grade A pasteurized milk or milk products as defined in Wis. Adm. Code, Ch. ATCP 80, or any milk or milk product which is adulterated or misbranded. (1989 Code, § 11.06) Penalty, see § 92.99

§ 92.51 COMPULSORY CONNECTION TO SEWER AND WATER.

(A) *Notice to connect.* Whenever sewer and water become available to any public, commercial, mercantile or business building or building used for human habitation, the Water and Sewer Superintendent shall notify in writing the owner, agent or occupant thereof to connect thereto all facilities required by the Superintendent. If the person to whom the notice has been given shall fail to comply for more than 10 days after the notice, the Superintendent shall cause the necessary connections to be made and the expense thereof shall be assessed as a special tax against the property pursuant to Wis. Stats. Ch. 77.

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(B) *Deferred payment.* The owner or his or her agent or the occupant may within 30 days after completion of the work file a written option with the Clerk-Treasurer electing to pay the amount of the assessment in 5 equal annual installments with interest on the unpaid balance at 8% per year.

(C) *Privies and cesspools prohibited.* After connection of any building to a sewer main hereunder, no privy, cesspool or waterless toilet shall be used in connection with the building.
(1989 Code, § 11.07)

§ 92.52 HAZARDOUS MATERIALS AND INFECTIOUS AGENTS.

(A) *Application.*

(1) *Notification.* All persons using, researching or producing hazardous materials and/or infectious agents shall notify the Fire Department as prescribed by this section.

(2) *Retroactivity.* The provisions of this section shall apply to all persons using, researching, producing or storing hazardous materials and/or infectious agents on and after the effective date of this section.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

HAZARDOUS MATERIALS. Those materials that can cause death or disabling injury from brief exposure; those materials that could cause a lost time injury from exposure; and those materials that could cause temporary disability or injury without permanent effects which are used, researched, produced or stored within or on premises, except those household consumer products used at the point of consumption and not used for commercial or experimental purposes. This definition shall include radioactive materials.

INFECTIOUS AGENT. A bacterial, mycoplasmal, fungal, parasitic or viral agent known to cause illness in humans which is used, researched, produced or stored within or on premises.

(C) *Information required.*

(1) Any person using, researching, producing and/or storing any hazardous materials shall provide in writing to the Department the following information:

(a) Address, location of where hazardous materials are used, researched, stored or produced;

(b) The trade name of the hazardous material;

(c) The chemical name and any commonly used synonym for the hazardous material and the chemical name and any commonly used synonym for its major components;

- (d) The exact locations on the premises where materials are used, researched, stored and/or produced;
 - (e) The amounts of hazardous materials on premises per exact location;
 - (f) The boiling point, vapor pressure, vapor density, solubility in water, specific gravity, percentage volatile by volume, evaporation rate for liquids and appearance and odor of the hazardous material;
 - (g) The flashpoint and flammable limits of the hazardous substance;
 - (h) Any permissible exposure level, threshold limit value or other established limit value for exposure to a hazardous material;
 - (i) The stability of the hazardous substance;
 - (j) Recommended fire extinguishing media, special firefighting procedures and fire and explosion hazard information for the hazardous material;
 - (k) Any effect of overexposure to the hazardous material, emergency and first aid procedures and telephone numbers to call in an emergency;
 - (l) Any condition or material which is incompatible with the hazardous material and must be avoided;
 - (m) Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming into contact with the hazardous materials; and
 - (n) Procedures for the handling or coming into contact with the hazardous materials.
- (2) Any person using, researching, producing and/or storing infectious agents and/or carriers of infectious agents shall provide in writing to the Department the following:
- (a) The name and any commonly used synonym of the infectious agent;
 - (b) Address/location where infectious agents are used, researched, stored and/or produced;
 - (c) The exact location where infectious agents are used, researched, stored and/or produced;
 - (d) Amount of infectious agent on premises per exact locations;
 - (e) Any methods or routes of transmission of the infectious agents;

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(f) Any symptoms of effect of infection, emergency and first aid procedure and a telephone number to be called in an emergency;

(g) Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming in contact with the infectious agent; and

(h) Procedure for handling, cleanup and disposal of infectious agents leaked or spilled.

(D) Reimbursement for cleanup of spills. Any person who possesses or controls a hazardous material or infectious agent which was discharged or caused the discharge of a hazardous material or infectious agent shall reimburse the city for actual and necessary expenses incurred by the city or its agents to contain, remove or dispose of the hazardous substance or infectious agent or take any other action which is deemed appropriate under the circumstances.

(1989 Code, § 11.08) (Ord. 459, passed - -)

§ 92.99 PENALTY.

(A) Any person who violates any provision of this chapter for which no penalty is provided shall be subject to the terms of § 10.99.

(B) Any person who shall violate any provision of this chapter except for §§ 92.45 through 92.52 or permit or cause a public nuisance shall be subject to a penalty as provided in § 10.99 of this municipal code.

(1989 Code, § 10.10)

(C) Except as otherwise provided, any person who shall violate any provision of §§ 92.45 through 92.52 or any order, rule or regulation made hereunder shall be subject to a penalty as provided in § 10.99 of this municipal code.

(1989 Code, § 11.15)