

# Civil Infraction Procedures in the District Court

Type of Civil Infraction	BasCOT Case Type & Subtype	Is civil procedure mandatory?	Civil Assessment set by	Description of procedure	Procedure on default
<b>BICYCLE INFRACTIONS</b> c85 §11C	CI-BCI	Mandatory for violations of c85 §§11A-11B or local bicycle ordinances, by-laws or rules	c85 §§11A or 11B or local ordinance, by-law or rule	Citation returnable to Clerk-Magistrate (C-M) with payment within 21 days. No provision for civil hearing.	C-M notifies citing official to file criminal complaint application. If complaint issues after show cause hearing and defendant fails to respond to summons, C-M sends certified mail notice that warrant will issue 21 days later.
<b>CIVIL MOTOR VEHICLE INFRACTIONS</b> c90C §3(A)	MV	Mandatory	District Ct Chief Justice & Registrar of Motor Vehicles (RMV), acting jointly	Citation returnable to RMV within 20 days with payment or request for hearing. RMV notifies court of hearing requests. Initial hearing before magistrate, appealable de novo to judge. Questions of law then appealable to Appellate Division.	If motorist fails to respond to citation, or fails to pay after court hearing, RMV suspends license until paid.  If motorist requests hearing but does not appear, C-M notifies RMV, which suspends license until paid.
<b>DOG CONTROL INFRACTIONS</b> c140 §173A	CI-DCC	Mandatory	c140 §173A	When criminal complaint application received for violation of dog control by-law, C-M sends accused notice of option to dispose by paying civil assessment within 21 days. No provision for civil hearing.	If criminal complaint issues after show cause hearing and defendant fails to respond to summons, C-M sends certified mail notice that warrant will issue 21 days later.
<b>ENVIRONMENTAL INFRACTIONS</b> c21A §§ 10G-10H	CI-ECI	Optional with citing officer as alternative to criminal complaint for specified motorboat, hunting & fishing offenses	c21A §10H	Citation returnable to C-M with payment within 21 days. No provision for civil hearing.	C-M notifies citing official to file criminal complaint application. If complaint issues after show cause hearing and defendant fails to respond to summons, C-M sends certified mail notice that warrant will issue 21 days later.
<b>MBTA SMOKING INFRACTIONS</b> c161A §42	CI-MSC	Apparently optional with citing officer as alternative to criminal complaint	c161A §42	Citation returnable to C-M with payment within 21 days. No provision for civil hearing.	C-M notifies citing official to file criminal complaint application. If complaint issues after show cause hearing and defendant fails to respond to summons, C-M sends certified mail notice that warrant will issue 21 days later.

Type of Civil Infraction	BasCOT Case Type & Subtype	Is civil procedure mandatory?	Civil Assessment set by	Description of procedure	Procedure on default
<b>MOTORBOAT INFRACTIONS</b>  c90B § 14(a)  (See also "Environmental Infractions")	CI-MCI	Decriminalization option available to defendant for violations of c90B §§ 5, 5A, 6 or 9A, or first-offense violations of c90B§2 or related regs.	c90B § 14(a)	When a criminal complaint has issued for specified offenses, defendant may dispose civilly by paying assessment to C-M. No provision for civil hearing.	Not applicable.
<b>MUNICIPAL ORDINANCE / BY-LAW INFRACTIONS</b>  c40 § 21D	CI-MOB	Local option to permit or require citing officer to use as alternative to criminal complaint for violation of by-laws or rules	Local ordinance or by-law	Citation returnable to C-M within 21 days with payment or request for civil hearing. Hearing may be held by clerk or judge.	C-M notifies citing official, who may then file criminal complaint application.
<b>PEDESTRIAN INFRACTIONS</b>  c90 §18A	CI-PCI	Mandatory for violations of jaywalking rules	c90 §18A	Citation returnable to C-M with payment within 21 days. No provision for civil hearing.	C-M notifies citing official to file criminal complaint application. If complaint issues after show cause hearing and defendant fails to respond to summons, C-M sends certified mail notice that warrant will issue 21 days later.
<b>RUBBISH DISPOSAL INFRACTIONS</b>  c270 §16A	CI-RDC	Optional with citing officer as alternative to criminal complaint for violation of c270 §16	c270 §16A	Citation returnable to C-M with payment within 21 days. No provision for civil hearing.	C-M notifies citing official to file criminal complaint application. If complaint issues after show cause hearing and defendant fails to respond to summons, C-M sends certified mail notice that warrant will issue 21 days later.
<b>STATE BUILDING CODE OR FIRE CODE INFRACTIONS</b>  c148A	CI-SBFC	Optional with citing officer as alternative to criminal complaint for violations of State Building or Fire Codes  <i>Hearings and appeals available in District Court only where there is no Housing Court division.</i>	District & Housing Court Chief Justices, State Fire Marshal, and Commissioner of Public Safety, acting jointly	<u>Local citations</u> returnable to municipal hearing officer within 21 days with payment or request for hearing before municipal hearing officer. Decision appealable within 10 days for de novo hearing by C-M.  <u>State citations</u> returnable within 21 days to issuing agency with payment, or to C-M for civil hearing. Decision appealable within 10 days for de novo hearing by judge.	Citing agency files criminal complaint application, and C-M conducts show cause hearing. Default is prima facie evidence of guilt.

Type of Civil Infraction	BasCOT Case Type & Subtype	Is civil procedure mandatory?	Civil Assessment set by	Description of procedure	Procedure on default
<b>STATE PARK / FOREST/ RECREATION AREA INFRACTIONS</b> c132A § 7A	CI-SPF	Optional with citing officer as alternative to criminal complaint for specified offenses	c132A § 7A	Citation returnable to C-M with payment within 21 days. No provision for civil hearing.	C-M notifies citing official to file criminal complaint application, and conducts show cause hearing.
<b>DECRIMINALIZATION OF MISDEMEANORS &amp; BY-LAWS</b> c277 §70C	Criminal	Decriminalization optional on prosecution or defense motion at arraignment or PT conference, or on judge's own motion at any time, unless prosecutor files written objection, except for offenses excluded by § 70C.	If no civil assessment specified by statute, judge may impose civil assessment of not more than \$5000.	No right to appointed counsel. Defendant to be adjudicated responsible.	Not specified in statute. Dist Ct Chief Justice suggests ordering cancellation of civil fine, revocation of decriminalization and reinstatement of criminal charges. See Trans. 892 (8/2/05).

## RELEVANT STATUTES

### **BICYCLE INFRACTIONS** G.L. c. 85, § 11C

Section 11C. Every city and town shall, pursuant to clause (16B) of section twenty-one of chapter forty, provide a non-criminal ticketing procedure against violators of the provisions of sections eleven A and eleven B and of any rule, regulation, ordinance or by-law of the city or town regulating the registration, equipment and operation of bicycles . . . .

Every police officer who takes cognizance of such violations may give the offender a notice, which shall be in tag form, as provided in this section, to appear before the clerk of the district court having jurisdiction, at any time during office hours, not later than twenty-one days after the date of such violation. If the offender is under sixteen years of age, the officer may give such notice to the parent or guardian of the offender. All tags shall be prepared in triplicate and shall be prenumbered.

Said tag shall contain but shall not be limited to the following information: the registration number of the bicycle, if any; the name and address of the offender, if served with notice in hand at the time of such violation; the date, time, place and nature of the violation; the amount of the fine; instructions for the return of the tag; and a notice which reads as follows: This notice may be returned by mail, personally, or by an authorized person, and if property returned shall be deemed non-criminal. A court hearing may be obtained upon the written request of the offender. Failure to obey this notice within twenty-one days after the date of the violation will result in the offender's appearance in court on a criminal complaint . . . .

At or before the completion of each tour of duty, the officer shall give to his commanding officer those copies of each notice of such a violation taken cognizance of during such tour. Said commanding officer shall retain and safely preserve one of such copies and shall at a time no later than the beginning of the next court day after receipt of such notice deliver another of such copies to the clerk of the court before whom the offender has been notified to appear. The clerk of each district court shall maintain a separate docket of all such notices to appear.

Any person notified to appear before the clerk of a district court, as provided herein, may appear before such clerk and confess the offense charged, either personally or through an agent duly authorized in writing, or by mailing to such clerk the notice accompanied by the fine provided therein, such payment to be made only by postal note, money order or check made out to the clerk of the court. Returning the notice to the clerk of court and payment of the fine established shall operate as a final disposition of the case. Proceedings under this section shall not be deemed criminal; and no person notified to appear before the clerk of a district court as provided herein shall be required to report to any probation officer, and no record of the case shall be entered in the probation records.

If any person notified to appear before the clerk of the district court fail to appear or, having appeared, desire not to avail himself of the benefits of the procedure established by this section, the clerk shall, as soon as may be, notify the officer concerned, who shall forthwith make a complaint against the offender and follow the procedure established for criminal cases. If any person fails to appear in accordance with the summons issued upon such complaint, the clerk shall send such person by registered mail, return receipt requested, a notice that the complaint is pending and that if the person fails to appear within twenty-one days from the mailing of such notice, a warrant for his arrest will be issued. If any person fails to appear within twenty-one days from the mailing of such notice the court shall issue a warrant for his arrest. The notice to appear, provided herein, shall be printed in such form as the chief justice for the Boston municipal court department and the chief justice for the district court department may prescribe for their respective departments; provided, however, that any city or town may request that the [parking violation] notice prepared for said city or town pursuant to [G.L. c. 90, §§ 20A or 20C] may be so revised or adapted that said notice may also be used for the notice provided for in this section . . . .

### **CIVIL MOTOR VEHICLE INFRACTIONS** G.L.c. 90C, § 3(A)

Section 3. (A) (1) If a police officer observes or has brought to the officer's attention the occurrence of a civil motor vehicle infraction, the officer may issue a written warning or may cite the violator for a civil motor vehicle infraction in accordance with this subsection. If the officer issues a citation solely for one or more civil motor vehicle infractions without any associated criminal violations, the officer shall indicate on the citation the scheduled assessment for each civil motor vehicle infraction alleged.

(2) The citation shall notify the violator that within twenty days of the date of the citation the violator must, for each civil motor vehicle infraction alleged, either pay the scheduled assessment or contest responsibility for the infraction by requesting a noncriminal hearing before a magistrate of the district court.

(3) The violator shall pay the assessment indicated by the officer for each such infraction within twenty days of the date of the citation: (a) by mailing the total amount of the indicated assessment, along with the citation appropriately marked, to the registrar at the address indicated on the citation, or (b) by delivering, personally or through an agent duly authorized in writing, the total amount of the indicated assessment, along with the citation appropriately marked, to any office of the registrar during normal business hours. Payment may be made in such forms, including payment by credit card or other recognized form of electronic payment, as the registrar shall determine.

Payment of the indicated assessment shall operate as a final disposition of the matter. The violator shall not be required to report to any probation officer, and no record of the matter shall

be entered in any criminal or probation records of any court. The payment of the indicated assessment shall not be admissible as an admission of guilt, responsibility or negligence in any criminal or civil proceeding, except that such payment shall be an admission of responsibility and shall operate as a conviction for purposes of any action by the registrar pursuant to chapter ninety and for purposes of the safe driver insurance plan established by section one hundred and thirteen B of chapter one hundred and seventy-five.

(4) A violator may contest responsibility for the infraction by making a signed request for a noncriminal hearing on the back of the citation, and mailing such citation to the registrar at the address indicated on the citation within twenty days of the date of the citation.

A violator who does not, within twenty days of the date of the citation, request a noncriminal hearing shall not thereafter be given such a hearing, unless the registrar shall determine that the failure to make such a request timely was for good cause that was not within the control of the violator. The registrar's determination of such issue shall be final.

The registrar shall notify the clerk-magistrate of the district court for the judicial district in which the infraction occurred of such request for a noncriminal hearing, in such manner as the chief justice of the district court department and the registrar shall jointly determine. Unless a hearing date and time has already been assigned pursuant to procedures jointly established by the chief justice of the district court department and the registrar, the clerk-magistrate shall notify the police agency concerned and the violator of the date and time of the hearing before a magistrate of the court.

If the hearing is conducted by a magistrate other than a justice, either the violator or the police agency concerned may appeal the decision of the magistrate to a justice, who shall hear the case de novo. Any violator so appealing the decision of a magistrate shall be responsible for paying a fee of \$20 prior to the commencement of the appeal hearing before a justice. There shall be no right of jury trial for civil motor vehicle infractions.

In any such hearing before a magistrate or justice, the citation shall be admissible and shall be prima facie evidence of the facts stated therein. Compulsory process for witnesses may be had by either party in the same manner as in criminal cases. On a showing of need in advance of such hearing, the magistrate or justice may direct that the violator be permitted to inspect specific written documents or materials in the possession of the police officer or agency concerned that are essential to the violator's defense.

At the conclusion of the hearing, the magistrate or justice shall announce a finding of responsible or not responsible. The magistrate or justice shall enter a finding of responsible if it was shown by a preponderance of the credible evidence that the violator committed the infraction alleged; otherwise the magistrate or justice shall enter a finding of not responsible. No other disposition shall be permitted, and such matters shall not be continued without a finding, dismissed, or filed.

If the violator is found responsible after a noncriminal hearing, the magistrate or justice shall require the violator to pay to the registrar an assessment which shall not exceed the scheduled assessment for that infraction. Such assessment shall be in accordance with any guidelines promulgated by the chief justice of that department of the trial court, which shall be binding on magistrates and justices, to the end that such assessments are made as uniformly as possible, and which may include provisions requiring a prescribed or a minimum assessment for specified civil motor vehicle infractions.

The violator shall pay to the registrar the assessment imposed by the magistrate or justice within twenty days of the date the violator is personally notified or is mailed notice of the decision of the magistrate or justice, unless for good cause the magistrate or justice allows the violator a longer time to pay the imposed assessment.

The violator's obligation to pay such imposed assessment shall automatically be stayed during the pendency of any timely appeal to the appellate division or any subsequent appeal to an appellate court. The violator shall be required to pay such imposed assessment to the registrar within twenty days of the date the appellate division or the appellate court renders a decision that is adverse to the violator and that has not been further appealed.

(5) Questions of law arising in the disposition of a civil motor vehicle infraction in a noncriminal hearing before a justice may be appealed to the appellate division. Such appeals shall be governed by a simplified method of appeal established by rules promulgated by the chief justice of the district court department, subject to the approval of the supreme judicial court. Claims of appeal shall be accompanied by an entry fee in an amount established by the chief justice for administration and management of the trial court. Proceedings under this chapter shall not be reviewable by a civil action in the nature of certiorari.

(6) (a) If a violator:

(i) fails either to pay the full amount of the scheduled assessment to the registrar or to request a noncriminal hearing within twenty days of the date of the citation plus such grace period as the registrar shall allow, or

(ii) fails to appear for a noncriminal hearing before a magistrate or a justice at the time required after having been given notice of such hearing either personally or by first class mail directed to such violator's mail address as reported to the registrar and after notice of such failure has been given to the registrar by the clerk-magistrate, the registrar shall notify such violator by first class mail directed to such violator's mail address that unless and until the violator pays to the registrar the full amount of the scheduled or imposed assessments for such civil motor vehicle infractions, plus any late fees or other administrative fees provided for by law or regulation:

(i) in the case of an operator violation, such violator's operators license, learners permit or right to operate will be suspended by operation of law and without further notice or hearing at the

expiration of thirty days from the date of the mailing of such notice, and any license to operate a motor vehicle issued to such violator by the registrar will not be renewed upon or after the expiration date of such license; or

(ii) in the case of an owner violation, any registration of a motor vehicle issued to such violator will be suspended by operation of law and without further notice or hearing at the expiration of thirty days from the date of the mailing of such notice, and any registration of a motor vehicle issued to such violator by the registrar will not be renewed upon or after the expiration date of such registration.

Unless such notice is sooner canceled by the registrar, in the case of an operator violation, such violator's operators license, learners permit or right to operate, or in the case of an owner violation any registration of a motor vehicle issued to such violator by the registrar, shall be deemed suspended by operation of law on the date indicated on the notice mailed by the registrar, and shall remain suspended until reinstated by the registrar upon payment of the scheduled or imposed assessments for such civil motor vehicle infractions, plus any late fees or other administrative fees which the registrar is required or authorized by law or regulation to impose, unless such fees are waived in whole or in part by the registrar.

(b) If a violator attempts to pay a scheduled assessment with a check, credit card, debit card, or any other payment method that is returned unpaid or rejected, or fails to pay the full amount of an assessment imposed by a magistrate or justice pursuant to this section within the time allowed plus such grace period as the registrar shall allow, the registrar shall revoke any operator's license, learner's permit, certificate of registration or title, number plate, sticker, decal or other item issued by the registrar and held by the violator and order the return thereof forthwith. Such violator may not apply for or receive any operators license, learners permit, certificate of registration or title, number plate, sticker, decal or other item issued by the registrar until such amount has been paid in full, plus any late fees or other administrative fees which the registrar is required or authorized by law or regulation to impose, unless such fees are waived in whole or in part by the registrar.

(c) Payment of a scheduled assessment or an assessment imposed by a magistrate or justice pursuant to this section, plus any late fees or other administrative fees provided for by law or regulation, shall; operate as a final disposition of the matter. The violator shall not be required to report to any probation officer, and no record of the matter shall be entered in any criminal or probation records of any court . . . .

**DOG CONTROL  
INFRACTIONS**  
G.L. c. 140, § 173A

Section 173A. Whenever a complaint is sought in a district court for a violation of an ordinance or by-law, made under the provisions of [G.L. c. 140, § 173], the clerk shall send a written notice to the person complained against stating that such a complaint has been sought and will issue unless such person appears before such clerk and confesses the offense either personally or through an agent duly authorized in writing, or by mailing to such clerk, with the notice the fine provided herein. If it is the first offense subject to this section committed by such person within a calendar year, the clerk shall dismiss the charge without the payment of any fine . . . . Such payment shall be made only by postal note, money order or check. Notwithstanding the foregoing procedure and schedules of fines and subject, however, to all of the other provisions of this section, a city or town may, by ordinance or by-law, provide for an alternative procedure and a different schedule of fines; provided, however, that no new schedule of fines shall contain a fine in excess of fifty dollars.

Proceedings under this section shall not be deemed criminal; and no person notified to appear before the clerk of a district court as provided herein shall be required to report to any probation officer, and no record of the case shall be entered in the probation records.

If a person notified to appear, as hereinbefore provided, fails to appear or pay the fine within twenty-one days of the sending of the notice, or having appeared, does not desire to avail himself of the procedure established by this section, the clerk shall issue the complaint and the procedure established for criminal cases shall be followed.

If any person fails to appear in accordance with the summons issued upon such complaint, the clerk of the court shall send such person, by registered mail, return receipt requested, a notice that the complaint is pending and that, if the person fails to appear within twenty-one days from the sending of such notice, a warrant for his arrest will be issued.

**ENVIRONMENTAL  
INFRACTIONS**  
G.L. c. 21A, § 10G

Section 10G. If the director [of Law Enforcement in the Executive Office of Environmental Affairs], his assistant or any environmental police officer, deputy environmental police officer, members of the state police, local police, local town law enforcement officials in shellfish beds over which they have jurisdiction, or harbor masters acting pursuant to authority arising under chapter 90B, employed to enforce the sections contained in [G.L. c. 21A, § 10H] determines that a violation thereof has occurred or is occurring, . . . . [s]uch officer may, as an alternative to instituting criminal proceedings, forthwith give to the offender a written notice to appear before the clerk of the district court having jurisdiction at any time during office hours, not later than 21 days after the date of such violation . . . .

Before the end of his tour of duty such issuing officer shall forward to the respective court before whom the offender has been notified to appear the court copy of each notice of such violation that he has issued during such tour. The clerk of each district court shall maintain a separate docket of all such notices to appear.

Any person so notified to appear before the clerk of a district court may appear before such clerk and confess the offense charged, either personally or through an agent duly authorized in

writing; or may mail to such clerk, with the citation, the fine provided on the citation, provided that it is the first offense for such violation within 2 calendar years.

At the time of such appearance the person shall provide the clerk with the notice issued by said officer and shall pay to the clerk the fine as provided in section 10H, such payment to be made only by cash, postal note, money order or certified check. Payment of the fine shall operate as a final disposition of the case. Proceedings under this paragraph shall not be deemed criminal and a person notified to appear before the clerk of a district court shall not be required to report to any probation officer, and no record of the case shall be entered in the probation records. If at any time the court finds that the interests of justice so require, it may cause a warrant to be issued as provided in [G.L. c. 218, § 32].

If any person notified to appear before the clerk of the district court fails to so appear and pay the fine provided under this section or, having appeared, desires not to avail himself of the procedure for the non-criminal disposition of the case, the clerk shall notify the officer concerned, who shall forthwith make a criminal complaint. If any person fails to appear in accordance with a summons issued upon such complaint, the clerk shall send to such person by certified mail, return receipt requested, a notice that the complaint is pending and that if the person fails to appear within 21 days from the sending of such notice, the court shall issue a warrant for his arrest . . .

All fines, penalties and forfeitures in actions under this section or section 10H shall be paid to the general fund of the city or town in which the violation occurred; provided, however, that if the complaining officer is receiving compensation from the commonwealth, such fines, penalties and forfeitures shall be paid to the commonwealth; and provided, further, that if the complaining officer is an environmental police officer or deputy environmental police officer, such fines, penalties and forfeitures shall be retained by the division of law enforcement; and provided, further, that if the complaining officer is a chief park ranger or park ranger, such fines, penalties or forfeitures, in addition to those imposed pursuant to [G.L. c. 270, § 16], shall be forwarded to the department of conservation and recreation to be deposited as revenue and shall be applicable to the department's retained revenue account . . . .

**MBTA SMOKING  
INFRACTIONS**  
G.L. c. 161A, § 42

Section 42. An officer of the [Massachusetts Bay Transportation] authority may forthwith give to a person who violates the provisions of [G.L. c. 272, § 43A] a written notice to appear before the clerk of the district court having jurisdiction at any time during office hours, not later than 21 days after the date of such violation . . . . At or before the completion of each tour of duty, the officer shall give his commanding officer those copies of each notice of such violation he has taken cognizance of during such tour which have not already been delivered or mailed by him as aforesaid. Said commanding officer shall retain and safely preserve one of such copies and shall, at a time not later than the next court day after said delivery or mailing, deliver another of such copies to the clerk of the court before whom the offender has been notified to appear. The clerk of each district court shall maintain a separate docket of all such notices to appear.

Any person so notified to appear before the clerk of a district court may appear before such clerk and confess the offense charged, either personally or through an agent duly authorized in writing, or by mail to such clerk, with the notice, and the sum of \$25, such payment to be made only by postal note, money order, or check. Payment of such sum shall operate as a final disposition of the case. Proceedings under this paragraph shall not be criminal and no person notified to appear before the clerk of a district court as provided herein shall be required to report to any probation officer, and no record of the case shall be entered in the probation records.

If any person notified to appear before the clerk of the district court fails to appear and pay the fine provided hereunder or, having appeared, desires not to avail himself of the procedure hereinbefore provided for the non-criminal disposition of the case, the clerk shall notify the officer concerned, who shall forthwith make a criminal complaint. If any person fails to appear in accordance with the summons issued upon such complaint, the clerk shall send such person, by certified mail, return receipt requested, a notice that the complaint is pending and that if the person fails to appear within 21 days from the sending of such notice, the court shall issue a warrant for his arrest. If a person fails to appear within 21 days from the sending of such notice, the court shall issue a warrant for his arrest.

**MOTORBOAT  
INFRACTIONS**  
G.L. c. 90B, § 14(a)

Section 14. (a) . . . . Any person against whom a complaint has been issued for a violation of [G.L. c. 90B, § 2] or of any rule or regulation pertaining thereto may, if it is the first offense committed by such person in violation of the provisions of this chapter or of any rule or regulation made under authority hereof, appear in person or through an attorney or agent duly authorized in writing, before the clerk of the court having jurisdiction of the offense, and confess the offense charged. In the alternative, any person against whom a complaint has been issued for violation of [G.L. c. 90B, §§ 5, 5A, 6 or 9A] may waive a trial and plead guilty by mailing to the clerk of the court having jurisdiction of the offense, payment in the amount of ten dollars for each offense, by postal note, money order, or certified check made payable to said clerk. Payment by such a person to such clerk of a fine of ten dollars and costs shall operate as a final disposition of the case. Proceedings so disposed of by such clerk shall not be deemed criminal and no person who appears before a clerk of court as provided herein shall be required to report to any probation officer and no record of the case shall be entered in the probation records. Such clerk shall, within three days of such payment, forward to the director [of Law Enforcement in the Executive Office of Environmental Affairs] a certified copy of such proceedings. For the purpose of counting

violations such disposition shall operate as if a finding of guilty had been made in court.

**MUNICIPAL  
ORDINANCE/ BY-LAW  
INFRACTIONS**  
G.L. c. 40, § 21D

Section 21D. Any city or town may by ordinance or by-law not inconsistent with this section provide for non-criminal disposition of violations of any ordinance or by-law or any rule or regulation of any municipal officer, board or department the violation of which is subject to a specific penalty.

Any such ordinance or by-law shall provide that any person taking cognizance of a violation of a specific ordinance, by-law, rule or regulation which he is empowered to enforce, hereinafter referred to as the enforcing person, as an alternative to initiating criminal proceedings shall, or, if so provided in such ordinance or by-law, may, give to the offender a written notice to appear before the clerk of the district court having jurisdiction thereof at any time during office hours, not later than twenty-one days after the date of such notice . . . .

At or before the completion of each tour of duty, or at the beginning of the first subsequent tour of duty, the enforcing person shall give to his commanding officer or department head those copies of each notice of such a violation he has taken cognizance of during such tour which have not already been delivered or mailed by him as aforesaid. Said commanding officer or department head shall retain and safely preserve one copy and shall, at a time not later than the next court day after such delivery or mailing, deliver the other copy to the clerk of the court before which the offender has been notified to appear. The clerk of each district court and of the Boston municipal court shall maintain a separate docket of such notices to appear.

Any person notified to appear before the clerk of a district court as hereinbefore provided may so appear and confess the offense charged, either personally or through a duly authorized agent or by mailing to the city or town clerk of the municipality within which the violation occurred together with the notice such specific sum of money not exceeding three hundred dollars as the town shall fix as penalty for violation of the ordinance, by-law, rule or regulation. Such payment shall if mailed be made only by postal note, money order or check. Upon receipt of such notice, the city or town clerk shall forthwith notify the district court clerk of such payment and the receipt by the district court clerk of such notification shall operate as a final disposition of the case. An appearance under this paragraph shall not be deemed to be a criminal proceeding. No person so notified to appear before the clerk of a district court shall be required to report to any probation officer, and no record of the case shall be entered in any probation records.

If any person so notified to appear desires to contest the violation alleged in the notice to appear and also to avail himself of the procedure established pursuant to this section, he may, within twenty-one days after the date of the notice, request a hearing in writing. Such hearing shall be held before a district court judge, clerk, or assistant clerk, as the court shall direct, and if the judge, clerk, or assistant clerk shall, after hearing, find that the violation occurred and that it was committed by the person so notified to appear, the person so notified shall be permitted to dispose of the case by paying the specific sum of money fixed as a penalty as aforesaid, or such lesser amount as the judge, clerk or assistant clerk shall order, which payment shall operate as a final disposition of the case. If the judge, clerk, or assistant clerk shall, after hearing, find that violation alleged did not occur or was not committed by the person notified to appear, that finding shall be entered in the docket, which shall operate as a final disposition of the case. Proceedings held pursuant to this paragraph shall not be deemed to be criminal proceedings. No person disposing of a case by payment of such a penalty shall be required to report to any probation office as a result of such violation, nor shall any record of the case be entered in the probation records.

If any person so notified to appear before the clerk of a district court fails to pay the fine provided hereunder within the time specified or, having appeared, does not confess the offense before the clerk or pay the sum of money fixed as a penalty after a hearing and finding as provided in the preceding paragraph, the clerk shall notify the enforcing person who issued the original notice, who shall determine whether to apply for the issuance of a complaint for the violation of the appropriate ordinance, by-law, rule or regulation . . . .

The notice to appear provided for herein . . . . may also include notice of violations pursuant to [bicycle infractions under G.L. c. 85, § 11C], [pedestrian infractions under G.L. c. 90, § 18A], [dog control infractions under G.L. c. 140, § 173A] and [rubbish disposal infractions under G.L. c. 270, § 16A]. Any fines imposed under the provisions of this section shall ensure to the city or town for such use as said city or town may direct. This procedure shall not be used for the enforcement of municipal traffic rules and regulations. Chapter ninety C shall be the exclusive method of enforcement of municipal traffic rules and regulations.

**PEDESTRIAN  
INFRACTIONS**  
G.L. c. 90, § 18A

Section 18A. The department [of Highways] on ways within their control and at the intersection of state highways, and other ways, the metropolitan district commission on ways within their control and at the intersection of metropolitan district commission roadways, except state highways, and other ways, the traffic and parking commission of the city of Boston, the traffic commission or traffic director of any city or town having such a commission or director with authority to promulgate traffic rules, the city council of any other city, and the board of selectmen of any other town may, subject to the provisions of [G.L. c. 85, § 2], adopt, amend and repeal rules, not repugnant to law, regulating the use by pedestrians of ways within their respective control . . . . As used in this paragraph, the word "pedestrian" shall include a person in or on any conveyance, other than a bicycle, constructed and designed for propulsion by human muscular power, as well as including a person on foot . . . .

If a police officer takes cognizance of a violation of any provision of any such rule, he shall

forthwith give to the offender a written notice to appear before the clerk of the district court having jurisdiction, at any time during office hours, not later than twenty-one days after the time of such violation. Such notice shall be made in triplicate and shall contain the name and address of the offender, the time, place and nature of the violation, and the name of the police officer. Upon the completion of his tour of duty such police officer shall give his commanding officer two copies of such notice. Said commanding officer shall retain one such copy in his files and, not later than the next court day, deliver the other copy to the clerk of the court before whom the offender has been notified to appear . . . .

Any person notified to appear before the clerk of a district court as hereinbefore provided may appear before such clerk and confess the offense charged, either personally or through an agent duly authorized in writing or by mailing to such clerk, with the notice, the sum provided herein, such payment to be made only by postal note, money order or check. If it is the first, second or third offense subject to this section committed by such person within the jurisdiction of the court in the calendar year, payment to such clerk of the sum of one dollar shall operate as a final disposition of the case; if it is the fourth or subsequent such offense so committed in such calendar year payment to such clerk of the sum of two dollars shall operate as a final disposition of the case. Proceedings under this paragraph shall not be deemed criminal; and no person notified to appear before the clerk of a district court as provided herein shall be required to report to any probation officer, and no record of the case shall be entered in the probation records.

Should any person notified to appear before the clerk of the district court fail to appear or, having appeared, desire not to avail himself of the procedure hereinbefore provided for the non-criminal disposition of the case, the clerk shall, as soon as may be, notify the officer concerned, who shall forthwith make a complaint and follow the procedure established for criminal cases. If any person fails to appear in accordance with the summons issued upon such complaint the clerk shall send such person by registered mail, return receipt requested, a notice that the complaint is pending and that if the person fails to appear within twenty-one days from the sending of such notice a warrant for his arrest will be issued. If any person fails to appear within twenty-one days from the sending of such notice the court shall issue a warrant for his arrest.

A violation of any provision of any such rule or of any provision of this section shall not, in any civil proceeding, constitute negligence or be admissible as evidence of negligence, nor shall a conviction for such a violation be shown to affect the credibility of a witness in any proceeding.

The provisions of this section relative to ways within the control of cities or towns shall be effective in cities or towns accepting said provisions . . . .

**RUBBISH DISPOSAL  
INFRACTIONS**  
G.L. c. 270, § 16A

Section 16A. If any officer empowered to enforce [G.L. c. 270, § 16] takes cognizance of a violation thereof, he . . . . may, as an alternative to instituting criminal proceedings, forthwith give to the offender a written notice to appear before the clerk of the district court having jurisdiction at any time during office hours, not later than twenty-one days after the date of such violation . . . . At or before the completion of each tour of duty the officer shall give to his commanding officer those copies of each notice of such a violation he has taken cognizance of during such tour which have not already been delivered or mailed by him as aforesaid. Said commanding officer shall retain one of such copies and shall, at a time not later than the next court day after said delivery or mailing, deliver another copy to the clerk of the court before whom the offender has been notified to appear. The clerk of each district court shall maintain a separate docket of all such notices to appear.

Any person notified to appear before the clerk of a district court as hereinbefore provided may appear before such clerk and confess the offense charged, either personally or through an agent duly authorized in writing, or by mailing to such clerk, with the notice, the sum provided herein, such payment to be made only by postal note, money order or check . . . . Proceedings under this paragraph shall not be deemed criminal; and no person notified to appear before the clerk of a district court as provided herein shall be required to report to any probation officer, and no record of the case shall be entered in the probation records.

If any person notified to appear before the clerk of the district court fails to appear and pay the fine provided hereunder or, having appeared, desires not to avail himself of the procedure hereinbefore provided for the non-criminal disposition of the case, the clerk shall notify the officer concerned, who shall forthwith make application for a criminal complaint and follow the procedure established for criminal cases, and shall notify, if a motor vehicle is involved, the registrar of motor vehicles, or, if a motor boat is involved, the division of motor boats. If any person fails to appear in accordance with the summons issued upon such complaint the clerk shall send such person by certified mail, return receipt requested, a notice that the complaint is pending and that, if the person fails to appear within twenty-one days from the sending of such notice, a warrant for his arrest will be issued. If any person fails to appear within twenty-one days from the sending of such notice, the court shall issue a warrant for his arrest . . . .

**STATE  
BUILDING CODE  
OR FIRE CODE  
INFRACTIONS**  
G.L. c. 148A

Section 1. As used in this chapter the following words shall, unless the context otherwise requires, have the following meanings: -

"Code violation", a violation of the state building code, 780 CMR or the State Fire Code, 527 CMR.

"Housing court", the housing court within the county in which an alleged code violation has occurred, or, if there is no housing court in the county, the district court with jurisdiction of the location in which the alleged code violation occurred.

"Local code enforcement officer", the head of the fire department as defined in section 1 of chapter 148, or a designee of the head of the fire department who is empowered to enforce the state fire code, or the local building inspector empowered to enforce the building code pursuant to section 3A of chapter 143.

"Municipal hearing officer", a person appointed by the appointing authority of a municipality to conduct requested hearings of code violations pursuant to this chapter.

"Scheduled assessment", the amount of the civil assessment for a particular code violation as determined jointly by the state fire marshal, commissioner of public safety, and the chief justices of the district and housing court departments, respectively. A scheduled assessment shall not exceed the maximum assessment or fine established by law for each such violation.

"State code enforcement officer", in cases involving the state fire code, the marshal as defined in section 1 of chapter 148, or in the case of state building code violations, the state building inspector empowered to enforce the building code pursuant to section 3A of chapter 143.

Section 2. (a) Notwithstanding any general or special law to the contrary, any local code enforcement officer, empowered to enforce violations of the state building code or the state fire code may, as an alternative to initiating criminal proceedings, give to the offender a written notice of a code violation . . . .

(b) The local code enforcement officer shall indicate on the notice of violation that the violation is either: (1) a written warning; or (2) a code violation. If the notice is for 1 or more code violations, the code enforcement officer shall indicate on the notice the scheduled assessment for each violation alleged. If the notice of violation is for a continuing condition, the code enforcement officer shall indicate that the condition must be corrected within 24 hours of receipt of such notice. Failure to correct the condition within 24 hours may serve as grounds for criminal prosecution pursuant to section 34C of chapter 148.

(c) If the notice is for 1 or more code violations, the alleged violator shall return the notice of violation by mail, personally or by authorized person to the municipal hearing officer and shall, within 21 days, either: (1) pay in full the scheduled assessment; or (2) request a hearing before the municipal hearing officer. Any amounts paid shall be payable to the city or town, as the case may be. If the alleged violator requests, in a timely manner, a hearing before the municipal hearing officer, the municipal hearing officer shall schedule a hearing not later than 45 days after receiving such hearing request. The municipal hearing officer shall duly notify the alleged violator of the date, time and location of the hearing. In no case shall the hearing officer, so designated, be an employee or officer of the fire department or building department associated with the code enforcement officer who issued the notice of violation. The hearing by the municipal hearing officer shall be informal and the formal rules of evidence shall not apply.

(d) Any person aggrieved by a decision of the municipal hearing officer, after a hearing, may appeal to the housing court within the county in which the violation occurred and shall be entitled to a hearing before a clerk magistrate of the court. The appeal shall be filed by the aggrieved person within 10 days after receiving notice of the decision from the municipal hearing officer who conducted the hearing.

(e) Any person who has received a notice of violation issued in accordance with this section who, within the prescribed time, fails to pay the scheduled assessment or fails to exercise his right to request a hearing before the municipal hearing officer or who fails to appear at the time and place of the hearing, shall be deemed responsible for the code violations as stated in the notice of violation and such finding of responsibility shall be considered prima facie evidence of a finding of responsibility for the code violation in any civil proceeding regarding said violation and shall be admissible as evidence in a subsequent criminal proceeding . . . .

Section 3. (a) Notwithstanding the provisions of any general or special law to the contrary, any state code enforcement officer empowered to enforce violations of the state building code or state fire code may, as an alternative to initiating criminal proceedings, give to the offender a written notice of a code violation . . . .

(b) The state code enforcement officer shall indicate on the notice of violation that the violation is either: (1) a written warning; or (2) a code violation. If the notice is for 1 or more code violations, the state code enforcement officer shall indicate on the notice the scheduled assessment for each violation alleged. If the notice of violation is for a continuing condition, the state code enforcement officer shall indicate that the condition must be corrected within 24 hours of receipt of such notice. Failure to correct the condition within 24 hours may serve as grounds for criminal prosecution pursuant to section 34C of chapter 148.

(c) If the notice is for 1 or more code violations, the alleged violator shall, within 21 days of the receipt of the notice either: (1) pay in full the scheduled assessment in accordance with the instructions on the notice of violation; or (2) request a hearing before a clerk magistrate of the housing court within the county in which the alleged violation occurred, by submitting the notice by mail, personally or by authorized person to the housing court. If the alleged violator requests a hearing before the clerk magistrate as prescribed, the clerk magistrate shall schedule a hearing not later than 45 days after receiving such hearing request. The clerk magistrate shall duly notify the alleged violator and the state code enforcement officer of the date, time and location of the hearing. The code enforcement officer who issued the notice of violation may appear personally at said hearing or may designate another person from his department or district to prosecute the case who is also empowered to enforce such building or fire code, as the case may be. Such hearing by the clerk magistrate shall be informal and the formal rules of evidence shall not apply.

(d) Any person aggrieved by a decision of the clerk magistrate, after a hearing, may appeal

to a single justice of the housing court and shall be entitled to a hearing before a single justice of the court. The aggrieved person shall file such appeal within 10 days after receiving notice of the decision from the clerk magistrate who conducted the hearing. The decision of the single justice shall be final.

(e) Any person who has received a notice of violation issued in accordance with this section who, within the prescribed time fails to pay the scheduled assessment or fails to exercise his right to request a hearing before the clerk magistrate or who fails to appear at the time and place of the hearing, shall be deemed responsible for the code violations, as stated in the notice of violation and such finding of responsibility shall be considered prima facie evidence of a finding of responsibility for such code violation in any civil proceeding regarding the violation and shall be admissible as evidence in a subsequent criminal proceeding . . . .

Section 5. All fines, penalties or assessments in actions under this chapter, brought by a local code enforcement officer, shall be paid to the general fund of the city or town in which the violation occurred. Such city or town shall earmark such fines, penalties or assessments collected for enforcement, training and education of fire prevention officers, building inspectors, and the stipend for municipal hearing officers, which shall be not less than \$2,500 a year. All fines, penalties or assessments in actions brought under this chapter by a state code enforcement officers shall be paid to the commonwealth and shall be forwarded to the department of fire services as revenue to the General Fund and shall be assigned to the department's retained revenue account for the purposes of enforcement, training and education of state code enforcement officers.

**STATE PARK / FOREST /  
RECREATION AREA  
INFRACTIONS**  
G.L. c. 132A, § 7A

Section 7A. . . . A park ranger who has been appointed as a deputy environmental police officer who observes any violation of regulations promulgated pursuant to [G.L. c. 21, § 4A], and [G.L. c. 132A, § 7] . . . may, as alternative to instituting criminal proceedings, give to the offender a written notice to appear before the clerk of the district court having jurisdiction at any time during office hours within twenty-one days after the date of such violation. Said notice shall contain the name and address of the offender, offense charged, signature of the officer and option of the offender acknowledging that the notice has been received. The clerk of courts shall maintain a separate docket of all such notices to appear.

If any person notified to appear before the clerk of the district court fails to appear and pay the fine provided hereunder or, having appeared, desires not to avail himself of the procedure for the non-criminal disposition of the case, the clerk shall notify the ranger concerned, who shall forthwith make a criminal complaint.

Any person notified to appear before the clerk of the district court for a violation of said [G.L. c. 21, § 4A], and of [G.L. c. 132A, § 7], may so appear within the time specified and pay a fine of fifty dollars. Notwithstanding any other provision of law, all fines and penalties recovered for violation of rules and regulations made under authority of this section shall be accounted for by the clerk of the court and forwarded to the department of environmental management to be deposited as revenue and shall be applicable to the department's retained revenue account . . . .

**DECRIMINALIZATION  
OF MISDEMEANORS  
& BY-LAWS**  
G.L. c. 277, § 70C

Section 70C. Upon oral motion by the commonwealth or the defendant at arraignment or pretrial conference, or upon the court's own motion at any time, the court may, unless the commonwealth objects, in writing, stating the reasons for such objection, treat a violation of a municipal ordinance, or by-law or a misdemeanor offense as a civil infraction. The provisions of this section shall not apply to the offenses in sections 22F, 24, 24D, 24G, 24L, and 24N of chapter 90, sections 8, 8A, and 8B of chapter 90B, chapter 119, chapter 119A, chapter 209, chapter 209A, chapter 265, sections 1, 2, 3, 6, 6A, 6B, 8B, 13, 13A, 13B, 13C, 14, 14B, 15, 15A, 16, 17, 18, 19, 20, 23, 28, 31 and 36 of chapter 268, chapter 268A, sections 10, 10A, 10C, 10D, 10E, 11B, 11C, 11E, 12, 12A, 12B, 12D and 12E of chapter 269 and sections 1, 2, 3, 4, 4A, 4B, 6, 7, 8, 12, 13, 16, 28, 29A and 29B of chapter 272. If a motion to proceed civilly is allowed, the court shall not appoint counsel. If counsel has already been appointed, the court shall revoke the appointment. A person complained of for such civil infraction shall be adjudicated responsible upon such finding by the court and shall not be sentenced to any term of incarceration. The commonwealth shall maintain a copy of all objections filed under this section and shall report the number of such objections, delineated by divisions of the district court, every 6 months to the house and senate committees on ways and means.

When the court has treated a violation of a municipal ordinance or by-law or a misdemeanor offense as a civil infraction under this section and the ordinance, by-law or misdemeanor in question does not set forth a civil fine as a possible penalty, the court may impose a fine of not more than \$5,000. An adjudication of responsibility shall neither be used in the calculation of second and subsequent offenses under any chapter, nor as the basis for the revocation of parole or of a probation surrender. An adjudication of responsibility under this section may include an order of restitution.

**Offenses Ineligible for Decriminalization under G.L. c. 277, § 70C**

c90 §22F c90 §24	Habitual Traffic Offender OUI-Liquor or OUI-Drugs Leaving the Scene of Personal Injury or Property Damage Racing a Motor Vehicle Negligent or Reckless Operation Use of a Motor Vehicle Without Authority False Statement in Application for License or Registration
c90 §24G c90 §24L	Motor Vehicle Homicide OUI with Serious Injury
c90B §8	OUI Boat Negligent/Night Use of Water Skis/Surfboard Leaving the Scene of Motorboat Accident Leaving the Scene of Personal Injury or Property Damage by Boat Unsafe Operation of Boat Use Boat Without Authority
c90B §8A c90B §8B	OUI Boat with Serious Injury Homicide by Boat
c119	Juvenile Delinquency offenses
c209A	Violation of Abuse Restraining Order
c265	Crimes against the Person
c268 §1-3 c268 §6 c268 §6A c268 §6B c268 §8B c268 §13 c268 §13A c268 §13B  c268 §13C c268 §14 c268 §14B c268 §15 c268 §15A c268 §16 c268 §17 c268 §18 c268 §19 c268 §20 c268 §23 c268 §28, 31 c268 §36	Perjury Offenses False Statement to Specified State Agencies False Report by Public Employee False Return by Process Server Compel Person to Decline Civil Service Appointment Bribing Juror, Master or Arbitrator Picketing Court, Judge or Juror Intimidating or Harassing Witness, Juror, Court Official, Prosecutor or Police Disrupting Court Proceedings Juror, Master or Arbitrator Accept Bribe Employer Discharge Witness Aiding Felon or Convict to Escape Escape from Municipal Lockup Escape from Penal Institution or Court Aiding Escape from Officer Permit Prisoner to Escape Permit Escape from Penal Institution Negligently Permit Prisoner to Escape Fail or Delay Service of Warrant Deliver Contraband to Prisoner Compound or Conceal Felony
c268A	State Ethics Act offenses
c269 §10 c269 §10A c269 §10C c269 §10D c269 §10E c269 §11B c269 §11C  c269 §11E c269 §12 c269 §12A c269 §12B  c269 §12D c269 §12E	Firearms & Dangerous Weapons violations Sell, Use or Possess a Silencer Use Tear Gas or Mace in Crime Use Body Armor in Felony Trafficking in Firearms Possess Firearm with Defaced Serial No. during Felony Deface Firearm Serial No. Receive Firearm with Defaced Serial No. Manufacturer Firearm Serial No. Violation Make or Sell Certain Dangerous Weapons Sell or Give a BB Gun or Air Rifle to Minor Discharge BB Gun or Air Rifle on Way Minor Discharge BB Gun or Air Rifle Carry Rifle or Shotgun on Way Discharge Firearm within 500 ft. of Building

c272 §1	Abduct Person under 16 for Marriage
c272 §2	Abduct Person for Prostitution
c272 §3	Drug for Sexual Intercourse
c272 §4	Induce Chaste Minor to Sexual Intercourse
c272 §4A	Induce Minor to Prostitution
c272 §4B	Derive Support from Minor Prostitute
c272 §6	Maintain House of Prostitution
c272 §7	Derive Support from Prostitute
c272 §8	Solicit for Prostitution
c272 §12	Procure for Prostitution
c272 §13	Detain or Drug Person in Brothel
c272 §16	Open and Gross Lewdness
c272 §28	Obscene Matter to Minor
c272 §29A	Pose or Exhibit Child in Nude or Sexual Act
c272 §29B	Distribute Material of Child in Nude or Sexual Act