



City of Cambridge

2.
IN CITY COUNCIL

December 28, 1987

MAYOR WALTER J. SULLIVAN

ORDERED: That all items currently pending before the City Council and not acted upon at this, the final legislative session of 1987 be placed in the files of the City Clerk without prejudice.

In City Council December 28, 1987.
Adopted by the affirmative vote of 9 members.
Attest:- Joseph E. Connarton, City Clerk.

A true copy;

ATTEST:-

Joseph E. Connarton
Joseph E. Connarton, City Clerk.

City of Cambridge

MASSACHUSETTS

In City Council

March 23 1987

C. Vellucci - Motion to Table Charter Right #5

	YEA	NAY	ABSENT	PRESENT
Mr. Thomas W. Danehy	✓			
Mr. Francis H. Duehay	① X	② ✓		
Ms. Sandra Graham		✓		
Mrs. Sheila T. Russell	✓			
Mr. David E. Sullivan		✓		
Mr. Alfred Vellucci	✓			
Mr. William H. Walsh	✓			
Ms. Alice K. Wolf		✓		
Mayor Walter J. Sullivan	✓			

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EXECUTIVE OFFICE OF COMMUNITIES & DEVELOPMENT



Michael S. Dukakis, Governor
Amy S. Anthony, Secretary

Incentive Aid REPORTER

A Management Improvement Program of EOCD and the Dept. of Education No. 12 Feb. 1987

Communities Use New Method To Enforce Laws

Taking legal action when local laws are violated is cumbersome, costly, and frequently more trouble than it is worth. Consequently, local animal control laws, false burglar alarm rules, zoning bylaws, and such go unenforced unless the violation is particularly blatant or obnoxious.

Since 1977 an alternative to court action has existed. "Noncriminal disposition" of local law violations allows an "enforcing person" to write a ticket for the offense that specifies a set fine. The process is similar to that used for minor traffic violations and is authorized under section 21D of chapter 40 of the Massachusetts General Laws. Surprisingly, only a few communities in the Commonwealth have taken advantage of this option.

Canton, Avon, Sharon, and Stoughton, the four towns served by the Stoughton District Court, decided to use an Incentive Aid Program grant to survey the experience of the communities using noncriminal enforcement methods. Their aim was to determine the utility of these methods and develop a plan for adopting them in the four towns. Their conclusions led Canton to develop a manual that would make the methods easily accessible to all communities.

Barnstable Leads

The survey found that only ten communities served by six district courts had taken advantage of the noncriminal enforcement available under section 21D, although all reported satisfaction with the process. The leader was Barnstable, which was not only the first community to adopt 21D procedures but was also by far the most active at the time of the survey.

Barnstable in fiscal year 1986 issued more than 6,000 citations for violations of local laws and received over \$70,000 in fines. The greatest number of tickets, around 900, was issued for "false burglar alarms," the second largest group, around 500, was for animal control violations, followed by citations for conservation and natural

resource law violations. Barnstable reported that very few of its citations are contested. It attributed this success partly to the fact that fines are low enough that few offenders find it worthwhile to participate in a hearing on the offense before a district court clerk-magistrate.

The survey reached the conclusion that Barnstable's success is also "directly related to the commitment it has made to enforcement of its bylaws, rules, and regulations and the relatively sophisticated manner in which the town has organized itself to do so."

Enforcement Uses Vary

Some of the communities that have instituted 21D procedures use them to enforce only one or two local laws. Boston, for example, enforces rubbish disposal regulations, Wareham enforces shellfish and conservation commission regulations, and Quincy enforces shellfish and dumping regulations. The others, Brookline, Concord, Lincoln, Stow, Yarmouth, and Falmouth, use 21D to enforce a broad range of laws.

The manual produced by Canton and EOCD reviews step by step the procedures for implementing noncriminal disposition of municipal law violations. It notes that using this method instead of criminal complaint procedures helps alleviate court burdens and in most cases removes the burden on a municipality to prove a case. For all concerned, the process is less complex.

The state statute sets out the procedures to be followed, but allows the community broad discretion to determine which offenses will be penalized in this way. Any local law (ordinance, bylaw, rule, or regulation of any municipal officer, board, or department) that is subject to a specific penalty may be enforced under 21D.

The most common application in the communities using noncriminal disposition was enforcing animal control laws. Following that were viola-



No. 4854

TOWN OF BARNSTABLE NOTICE OF VIOLATION OF TOWN BYLAW OR REGULATION

(Date of this Notice).....19.....

To:

(Name of Offender)

(Address of Offender)

(City, State, Zip Code)

YOU HAVE BEEN OBSERVED VIOLATING

(specific bylaw or regulation)

by
(act constituting violation)

at (A.M.) (P.M.) on 19.....
(time and date of violation)

at
(place of violation)

(Signature of Enforcing Person)
I HEREBY ACKNOWLEDGE RECEIPT OF THE
FOREGOING CITATION:

(Signature of offender)

☐ Unable to obtain signature of offender.

THE FINE FOR THIS OFFENSE IS \$.....
YOU HAVE THE FOLLOWING ALTERNATIVES WITH
REGARD TO DISPOSITION OF THIS MATTER:

(1) You may elect to pay the above fine, either
by appearing in person between 9:00 A.M. and
5:00 P.M., Monday through Friday, legal holidays
excepted, before: THE CLERK-MAGISTRATE

District Court Department
First Barnstable Division
Court Compound, Main Street
Barnstable, Ma. 02630

or by mailing a check, money order or postal note
to the Clerk-Magistrate WITHIN TWENTY-ONE (21)
DAYS OF THE DATE OF THIS NOTICE. This will
operate as a final disposition of the matter, with
no resulting criminal record.

(2) If you desire to contest this matter in a non-
criminal proceeding, you may do so by making a
written request to the above CLERK-MAGISTRATE
for a hearing. A determination by a Judge, Clerk-
Magistrate or Assistant Clerk will operate as a fi-
nal disposition, with no resulting criminal record,
provided any fine imposed by that officer is paid
within the time specified.

(3) If you fail to pay the above fine or to ap-
pear as specified, a criminal complaint may be
issued against you.

I HEREBY ELECT the first option above, con-
fess to the offense charged, and enclose payment
in the amount of \$.....

Signature

Barnstable's "ticket" enforces local laws by
issuing fines for violations rather than pur-
suing criminal complaints.

tions of local police regulations, such
as laws against false burglar alarms,
public consumption of alcoholic bev-

(Continued on page 2)

(over)

Urban Management Program Continues To Grow

Two cities with plans for management improvements, Lynn and Fall River, have received Urban Management Program implementation grants to fund specific aspects of those plans. This brings the number of cities participating in the Urban Management Program, a component added to the Incentive Aid Program last year, to thirteen.

Also participating are Chelsea, New Bedford, North Adams, and Malden, all of which have completed full management improvement studies conducted with the help of \$15,000 Urban Management Program grants. Marlborough will begin implementing its consultant's recommendations for a revised budget preparation process, a capital improvement program, and an updated purchasing system using a \$38,000 grant and \$4,000 in matching funds. Everett, Chicopee, Brockton, Springfield, Somerville, and Northampton have either chosen consultants or are in the process of choosing consultants who will conduct studies and assist in developing a Management Improvement Plan.

For most communities, Urban Management Program participation begins with formation of a local advisory committee, composed of civic and business leaders, to work with municipal officials and a management consultant in developing a Management Improvement Plan for the city. Lynn, however, had a head start on this process: studies of Lynn's management systems and personnel and of local government structure had already been completed. Based on these, Mayor Albert V. DiVirgilio plans to use a \$90,000 grant along with \$17,800 in local funds for recruiting and hiring an internal operations manager to coordinate the functions of city department heads, for recruiting and hiring an intergovernmental relations manager to coordinate and manage grants, and for employing two community mobilization and resource developers to organize community volunteers.

Since 1977, Fall River has had an active regional task force composed of leaders in business, labor, government, finance, and education. The city has benefited from several studies conducted by the task force. Basing his plan on one of these studies, Mayor Carlton M. Viveiros is using a \$59,320 grant and \$11,430 in local funding to implement a number of changes. One priority will be to develop a system for coordinating all of the city's functions relating to public health, aging, veterans' affairs, and code enforcement.

Fall River will institute a new professional position, director of management information systems, to coordinate information systems needs in all departments. The city will also conduct a study of the feasibility of streamlining its economic development agencies and processes.

In addition to those communities currently part of the Urban Management Program, Boston is considering participation to carry out recommendations made by Mayor Raymond Flynn's Management Review Committee. The city's Office of Budget and Program Evaluation would plan to retain a consultant to design and implement program budgeting and evaluation, including developing a staff training program in this area. The changes would be expected to enhance the budget office's ability to evaluate policies and programs and to play a role in departmental planning and management.

New Method Used For Enforcing Local Laws

(Continued from page 1)

erages, and littering; zoning bylaw violations; and, in shore areas, violations of waterway and shellfish regulations.

The statute also provides that "enforcing persons" be designated for specific provisions. Enforcing persons could be police officers, animal control officers, building inspectors, zoning enforcement officers, health agents or board of health members, or any other appropriate officials.

Setting Fines

Fines, the manual recommends, are most successful when set in the range of \$25 to \$50—high enough to be noticed by the offender but not high enough to be worth contesting. It notes that one community has found that most of its \$100 citations are contested.

The manual contains full details on implementing the 21D procedure, beginning with determining local interest in doing so. It also provides a sample implementing bylaw, citation form, and other necessary documentation.

For more complete information or for a copy of the manual on noncriminal disposition, contact Becky Tearte at EOCD.

The Urban Management Program is open to communities whose complex management needs require a comprehensive approach and who fit the program's profile: population greater than 25,000, below state median in per capita income, and in the lowest quartile for property tax revenue available per capita. Communities with populations above 25,000 that do not meet the other criteria may request special consideration, however. For additional information on the program, call Edward F. Donnelly at EOCD.

'Color Barrier' in Public Management Will Be Topic

The Massachusetts Minority Internship Program and the town of Andover will sponsor a panel discussion on "Breaking the Color Barrier in Massachusetts Municipal Management" on Wednesday, February 11 from 9:30 a.m. to noon at the Andover Town Hall.

The panel will include Alex Rodriguez, chairman of the Massachusetts Commission Against Discrimination, Neal Anderson of the state's Department of Personnel Administration, and William Kennedy, deputy executive director of the Massachusetts Municipal Association.

For information, call Tom Stokes, Massachusetts Minority Internship Program Manager, at (617) 253-0525.



Incentive Aid REPORTER

Executive Office of
Communities and Development
Division of Municipal Development,
Room 904, 100 Cambridge
Street, Boston, MA 02202

Michael W. Tierney
Assistant Secretary

Contributing Staff: Marilyn K. Bannister, Marilyn Contreas, Edward F. Donnelly, Deborah Lindsay, Rebecca Tearte, B. Ann Whittaker. With special assistance from Robin Hosmer.

617-727-3253
1-800-392-6445

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40:21B.

POWERS AND DUTIES OF CITIES AND TOWNS.

[CHAP. 40.]

city a personnel relations review board required by this section to be 18
 approved by the mayor of such city shall be amended except by ordinance 19
 likewise approved. 20

40:21C. Time Off without Loss of Pay for Employees in Cities or Towns to Attend Union Conventions.

Section 21C. An employee of a city or town which accepts this section 1
 may be granted a leave of absence with pay while attending a convention 2
 of an employee union as an officer, delegate or alternate delegate. 3

40:21D. Noncriminal Disposition of Certain Violations.

Section 21D. Any town may by ordinance or by-law not inconsistent 1
 with this section provide for noncriminal disposition of violations of any 2
 ordinance or by-law or any rule or regulation of any municipal officer, 3
 board or department the violation of which is subject to a specific penalty. 4

Any such ordinance or by-law shall provide that any person taking 5
 cognizance of a violation of a specific ordinance, by-law, rule or regulation 6
 which he is empowered to enforce, hereinafter referred to as the enforcing 7
 person, as an alternative to initiating criminal proceedings shall, or, 8
 if so provided in such ordinance or by-law, may, give to the offender 9
 a written notice to appear before the clerk of the district court having 10
 jurisdiction thereof at any time during office hours, not later than 11
 twenty-one days after the date of such notice. Such notice shall be in 12
 triplicate and shall contain the name and address, if known, of the 13
 offender, the specific offense charged, and the time and place for his 14
 required appearance. Such notice shall be signed by the enforcing person, 15
 and shall be signed by the offender whenever practicable in acknowledge- 16
 ment that such notice has been received. 17

The enforcing person shall, if possible, deliver to the offender a copy 18
 of said notice at the time and place of the violation. If it is not possible 19
 to deliver a copy of said notice to the offender at the time and place 20
 of the violation, said copy shall be mailed or delivered by the enforcing 21
 person, or by his commanding officer or the head of his department or 22
 by any person authorized by such commanding officer, department or 23
 head to the offender's last known address, within fifteen days after said 24
 violation. Such notice as so mailed shall be deemed a sufficient notice, 25
 and a certificate of the person so mailing such notice that it has been 26
 mailed in accordance with this section shall be prima facie evidence 27
 thereof. 28

At or before the completion of each tour of duty, or at the beginning 29
 of the first subsequent tour of duty, the enforcing person shall give to 30
 his commanding officer or department head those copies of each notice 31
 of such a violation he has taken cognizance of during such tour which 32
 have not already been delivered or mailed by him as aforesaid. Said com- 33
 manding officer or department head shall retain and safely preserve one 34

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 all 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 such clerk with the notice such specific sum of money not exceeding two 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. The payment to the clerk of such sum 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 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.

As used in this section the term "district court" shall include, within the limits of their jurisdiction, the municipal court of the city of Boston and the housing courts of the city of Boston and the county of Hampden.

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The notice to appear provided for herein shall be printed in such form 82
 as the chief justice of the municipal court of the city of Boston shall 83
 prescribe for said court, and as the chief justice of the district courts 84
 shall prescribe for the district courts. Said notice may also include notice 85
 of violations pursuant to section eleven C of chapter eighty-five, sections 86
 eighteen A, twenty A or twenty C of chapter ninety and section sixteen 87
 A of chapter two hundred and seventy. Any fines imposed under the 88
 provisions of this section shall be distributed in accordance with section 89
 two of chapter two hundred and eighty. 90

40:22. Regulation of Carriages, Taxicabs, etc.

Section 22. Except as otherwise provided in section eighteen of chap- 1
 ter ninety and subject, so far as applicable, to section two of chapter 2
 eighty-five and sections eight and nine of chapter eighty-nine, a city or 3
 town may make ordinances or bylaws, or the board of aldermen or the 4
 selectmen or the town council may make rules and orders, for the regula- 5
 tion of carriages and vehicles used therein, and may set penalties for 6
 the violation thereof; and may set and receive an annual fee for each 7
 license granted to a person to use any such carriage or vehicle therein. 8
 No such rule or order shall prohibit the use of passenger or station wagon 9
 type motor vehicles whose gross weight is less than five thousand pounds 10
 and which are registered for commercial use, on ways, parkways or boulevards 11
 where noncommercial passenger-type motor vehicles are permitted 12
 to operate. Such rules and orders shall not take effect until they have 13
 been published at least once in a newspaper published in the city, town 14
 or county. 15

No penalty shall be imposed upon any disabled veteran or handicapped 16
 person, whose vehicle bears the distinctive number plates authorized by 17
 section two of chapter ninety, for parking such vehicle on any way for 18
 a longer period of time than permitted by said ordinances, by-laws, rules 19
 or orders. 20

Except in the counties of Dukes and Nantucket every metered taxicab 21
 licensed under this section shall have the name or the trade name of 22
 the owner and the name of the city or town in which it is licensed painted 23
 on the sides thereof in letters not less than four inches high and one 24
 half inch wide. 25

40:22A. Installation and Operation of Parking Meters; Use for Advertising Purposes Forbidden; Fee or Penalty; Parking Areas for Disabled Veterans and Handicapped Persons.

Section 22A. Any city or town, for the purpose of enforcing its ordi- 1
 nances, by-laws and orders, rules and regulations relating to the parking 2
 of vehicles on ways within its control and subject to the provisions of 3
 section two of chapter eighty-five, may appropriate money for the acquisi- 4
 tion, installation, maintenance and operation of parking meters, or by 5
 vote of the city council or of the town may authorize a board or officer 6
 to enter into agreement for such acquisition, installation or maintenance 7



City of Cambridge

(Calendar Item No. 1)

-13-

IN CITY COUNCIL

COUNCILLOR DAVID SULLIVAN

~~March 16, 1987~~

December 28, 1987

ORDERED:

That the City Manager request the Law Department to draft, for consideration by the City Council, an ordinance providing for "non-criminal enforcement", by issuing a "notice" or ticket as provided in chapter 40, section 21D of the Massachusetts General Laws (attached), of the following existing sections of the City Code: section 13-4 (smoking), section 13-10 (noise), and sections 17-73 to 17-80 (concerning refuse disposal and removal of snow and ice from sidewalks); and be it further

ORDERED:

That this draft ordinance authorize the following officials to issue such a notice: police officers, dog officers, Inspectional Services inspectors, and parking control officers.

3/16/87 - CHARTER RIGHTED BY MAYOR WALTER J. SULLIVAN

12/28/87 - PLACED ON FILE WITHOUT PREJUDICE, PURSUANT TO ORDER NO. 2 OF
DECEMBER 28, 1987

Order #13

CS # 1-686

C.D. Sullivan order re: City Manager to request the Law Dept. to draft an ordinance providing for "non-criminal enforcement" by issuing a "notice" or ticket regarding the following sections of the City Code: Section 13-4 (smoking), section 13-10 (noise) & sections 17-73 to 17-80 (refuse disposal & removal of snow & ice from sidewalks).

12/28/87

Placed on File
Pursuant to Order #2

In City Council,

March 16, 1987

MW 95
Charter Fight

3/23/87 Tabled on
motion of Councillor
Vellucci 5-4-0