



**CITY OF PEABODY
DEPARTMENT OF HUMAN SERVICES**

**24 Lowell Street
Peabody, Massachusetts 01960
(978) 538-5926
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**BOARD OF HEALTH
BERNARD H. HOROWITZ, CHAIRMAN
STEPHEN S. KALIVAS, R.Ph.
LEIGH ANN MANSBERGER, MD, MPH**

**SHARON CAMERON
DIRECTOR**

PROPOSED AMENDMENTS

Peabody Board of Health Regulation

Noncriminal Disposition of Ordinance, By-law, Rule, or Regulation Violations

Authority: Massachusetts General Laws, Chapter 40, section 21 D.

Rationale: Adoption of Board of Health Regulation will enable the Peabody Board of Health to use noncriminal disposition to enforce ordinances, by-laws, rules, and regulations of the City of Peabody. This will provide an alternative enforcement mechanism. Currently, violations are addressed through criminal enforcement in the Peabody District Court and/or Northeast Housing Court.

Applicable codes: All City of Peabody ordinances as contained in the City of Peabody Code of Ordinance book, 2006. All Peabody Board of Health regulations, including: tattooing; body piercing; massage and massage establishment; keeping of animals; tobacco control; and any other regulations adopted by the Peabody Board of Health. The Peabody Board of Health also adopts as local regulation the State Sanitary Code and State Environmental Code as follows: Chapter I: Administrative Procedures; Chapter II, 105 CMR 410 Minimum Standards of Fitness for Human Habitation; Chapter IV, 105 CMR 430.000 Minimum Standards for Recreational Camps for Children; Chapter V, 105 CMR 435.00 Minimum Standards for Swimming Pools; Chapter X, 105 CMR 590.000 Minimum Sanitation Standards For Food Establishments; Chapter VIII, 105 CMR 480.000 Storage And Disposal Of Infectious Or Physically Dangerous Medical Or Biological Waste; Chapter VII, 105 CMR 445.000 Minimum Standards For Bathing Beaches; 105 CMR 123.000 Tanning Facilities; 105 CMR 561.000: Frozen Desserts And Frozen Dessert Mixes; 310 CMR 15.00 Septic Systems. The Peabody Board of Health also adopts as local regulation the federal Food and Drug Administration's 2013 Food Code.

Procedures:

1. Upon identification of a violation, the enforcing officer may at his/her discretion seek to enforce the written notice of violation through either a criminal process or through a noncriminal process.
2. In the event of a noncriminal process, the enforcing officer shall issue a written notice to the offender requiring him/her to appear for a hearing at the district court.
3. The written notice will allow the offender the option of paying a penalty in lieu of appearing for a hearing. In the event that the offender chooses to pay the penalty, such payment shall serve as final disposition of the matter, with no record of the matter being entered into or resulting in a probation record.
4. Enforcement of the noncriminal matter shall be done as outlined in MGL C. 40 sec. 21D.
5. Penalty structure shall be as defined in Code of the City of Peabody and the Peabody Board of Health penalty structure for ticketing.
6. Payment of penalties will be made to the Peabody Health Department, a designated agent of the Peabody City Clerk, in accordance with MGL C. 40 sec. 21D. The Health Department shall then notify the district court of the payment, and the receipt by the district court clerk of such notification shall operate as a final disposition of the case.
7. A copy of the ticket and record of its disposition shall be entered into the case file for the property. In addition, a record of the ticket shall be entered into a central database used for tracking purposes.
8. A report of all tickets issued and penalties collected shall be presented to the Board of Health on a monthly basis.



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**Peabody Board of Health
Penalty Structure for Non-criminal Disposition of Ordinance Violations**

Whoever violates any provision of a Peabody Board of Health regulation or a City ordinance enforced by the Board of Health shall be penalized in accordance with the penalty structure set out in the specific regulation or ordinance. Non-criminal disposition as defined in M.G.L.A., c. 40, § 21D may also be used for such violations, according to the following schedule:

Violation	First Offense	Second Offense	Third and Subsequent Offense	Comments
General	\$50.00	\$150.00	\$300.00	2 nd offense if violation repeated within 12 months of 1 st offense. 3 rd offense if violation repeated within 12 months of 2 nd offense.
Sec. 6-1 Permit required for animals	Written warning	\$100.00	\$300.00	As above.
Sec. 6-2 and Sec. 6-3 Stables	Written warning	\$100.00	\$300.00	As above.
Sec. 13-1 Placing refuse for collection	Written warning	\$25.00	\$50.00	Subsequent offenses in same calendar year.
Sec. 13-2 Commercial trash collection	\$300.00	\$300.00	\$300.00	
Sec. 13-3 White goods	Written warning	\$25.00	\$50.00	Subsequent offenses in same calendar year.
Secs. 13-17 (Receptacles), 13-18 (Littering), 13-19 (Maintenance of Property), 13-21 (Hauling trash), 13-23 (Trash vehicles)	Written warning	\$100.00	\$300.00	Repeat offenses as per general offenses.
Sec. 13-20 Refuse -	\$50.00	\$100.00	\$300.00	As above.



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nuisance				
Secs. 14-1 (Offense substances), 14-2 (Offensive substances), 14-4 (Inspection of rental units), 14-9 (Leather scraps)	Written warning	\$100.00	\$300.00	Repeat offenses as per general offenses.
Sec. 14-10 Water pollution	\$50.00	\$150.00	\$300.00	As above.
Sec. 14-12 Floor drains	\$50.00	\$150.00	\$300.00	As above.
Sec. 14-13 Feeding waterfowl	Written warning	\$10.00	\$10.00	
Sec. 20-1 Overgrown vegetation	Written warning	\$50.00	\$100.00	As above.
Minimum Standards for Food Establishments; 2013 Food Code	Written warning	\$75.00	\$100.00	As above.
Minimum Standards of Fitness for Human Habitation	Written warning	\$100.00	\$300.00	As above.
Tanning, Massage, Body Piercing, Swimming Pools, Recreational Camps, Infectious Wastes, Beaches, Frozen Dessert, Septic Systems	Written warning	\$100.00	\$300.00	As above.

Public Hearing held 12-26-07. Adopted by unanimous vote of Board of Health on 12-26-07.

Proposed amendment presented for public hearing 7-28-16.