

TOWN OF BROOKLINE NOTICE OF VIOLATION OF TOWN BYLAW OR REGULATION

Date of this Notice _____ 19__

To: _____ (Name of Offender)

_____ (Address of Offender)

_____ (City, State, Zip Code)

THE FOLLOWING CONDITION/PRACTICE ON YOUR PROPERTY is in violation of:

- State Sanitary Code, Chapter _____, sec. _____
State/Local Health Regs. _____

Description: _____

at _____ (A.M.) - (P.M.) on _____ 19__

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 IN THE DISPOSITION OF THIS MATTER:

(1) You may elect to pay the above fine by appearing in person, or by mailing a check, money order, or postal note to the: Brookline Town Clerk, 333 Washington Street, Brookline, MA 02146

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 for a Hearing to: The Clerk-Magistrate, Brookline District Court, 360 Washington Street, Brookline, MA 02146

A determination by a Judge, Clerk Magistrate, or Asst. Clerk will operate as a final 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 appear as specified, a criminal complaint may be issued against you.

I HEREBY ELECT the first option above, admit to the offense charged, and enclose payment in the amount of \$_____

Signature _____

Housing Code (105 CMR 410.000) Chapter II

Table with 2 columns: Code (H-01 to H-99), Description (Kitchen Facilities, Washbasins, Toilets, Tub or Shower, Potable Water, Hot Water, Room Temperature, etc.), Reg. No. Fine (\$50)

Food Estabts (105 CMR 590.000) Chapter X.

Table with 2 columns: Code (F-01 to F-99), Description (Choke Saver on Premises, Tobacco Sale to Minor/Posting, FOOD, Supply, FOOD PROTECTION, etc.), Reg. No. Fine (\$50)

Brookline Health Department

COMPLIANCE-BASED SURCHARGES FOR FOOD ESTABLISHMENTS

During recent years, Massachusetts motorists have become familiar with the concept of surcharges based on the driving record of licensed operators. Under such a plan, drivers who are cited for moving violations or those involved in 'at fault' motor vehicle accidents are assessed a surcharge on their automobile insurance. The rationale for such a system of surcharges is to place the financial burden squarely on the shoulders of those who contribute most directly to the increasing cost of insurance coverage by reason of their "high risk" behavior as drivers and who, therefore, are statistically more likely to be involved in accidents.

This proposal seeks to apply a similar rationale to food establishments subject to licensing and inspection by the Brookline Health Department. Annual permits are issued with the fee level determined by the number of patron seats for Food Service establishments and on the basis of square footage of Retail Food stores. (A schedule of present and proposed permit fees for food service and retail food establishments is attached.) Chapter X of the State Sanitary Code (105 CMR 590.000) requires that food establishments be inspected by the local health authorities at least every six months. In Brookline, the goal for inspection frequency is three inspections per year. The cost of the three routine inspections per year (and one reinspection, if necessary, for each routine inspection) is defrayed, in part, by the annual permit fee.

For many food establishments, the three inspections per year are sufficient to maintain compliance with the regulations of Chapter X, and provide adequate protection to the health and well-being of patrons and the general public. For some other establishments, however, the three inspections per year are inadequate and more frequent health department visits or other actions are found to be necessary. In some instances, a number of reinspections are necessary to assure the correction of previously cited violations, and more frequent comprehensive inspections may be needed to maintain an acceptable level of compliance. In the course of this type of intensified follow-up, it may be necessary for the Health Department to issue Order Letters, schedule and conduct administrative hearings, and take action to suspend or revoke a permit. Additionally, food establishments which give rise to repetitive citizen complaints also require closer inspectional attention, as do those involved in alleged outbreaks of food-borne illnesses.

It is seen as both fair and equitable that establishments which, by reason of negligence and non-compliance, require the expenditure of additional time and effort by the Health Department should pay some of the additional costs involved. In the absence of a system of compliance surcharges, it would be necessary to further increase permit fees for all establishments, placing an unwarranted financial burden on business establishments which maintain a high level of compliance with minimal Health Department supervision.

Under the proposed system of compliance surcharges, whenever one of the program actions identified on the attached schedule is taken by the Department, an appropriate notation will be made in the files. Additional follow-up actions required during the same license year will similarly be noted in the files. When the annual permit renewal forms are prepared for mailing in early December, a surcharge will be assessed on the basis of the highest level of departmental action identified on the schedule of compliance surcharges. Issuance or renewal of a permit will be ~~done~~ only upon payment of the base permit fee, plus the amount of any surcharge assessed against the establishment. It should be noted that the proposed surcharges seek to partially defray the department's operating expenses and are not punitive in nature. A surcharge applies only to the year just completed and, following permit renewal, all establishments start with a clean slate for the coming year.

BROOKLINE HEALTH DEPARTMENT

Schedule of

Food Establishment Compliance Surcharges

- A. Increased Program Contact _____ 25% each
1. Late Renewal
 2. Complaints
 3. Trash Violations
 4. Smoking Violations
- B. Investigation of Food-Borne Illness _____ 50%
- C. Accelerated Inspection Status _____ 60%
1. Two or more reinspections as f/u to routine inspections.
 2. More frequent 'preventive' insps. to assure compliance.
- D. Order Letter
1. Non-Critical Violations _____ 75%
 2. Critical Violations _____ 100%
- E. Show Cause Hearing _____ 150%
- F. License Suspension or Revocation _____ 200%

In determining the fee for the renewal of the Food Service Permit, the basic charge will be applied, depending on the number of patron seats in the establishment. In addition, applicable surcharges will be determined by the highest level of compliance effort required during the past year, as shown on the above schedule.