

General Laws Chapter 40U – Alternate Process for Collection of Certain Fines

While many municipalities utilize noncriminal disposition (G.L. c.40, §21D) and special hearings for violations of the Building and Fire Codes (G.L. c.148A), a less widely known procedure exists for collecting other local penalties. Specifically, G.L. c.40U, a local acceptance statute, allows municipalities to impose fines through an administrative hearing process for failure to remove snow and ice on sidewalks and broadens municipal officials' ability to collect fines for state housing and sanitary code violations and municipal snow and ice fines.

With respect to snow and ice fines, the statute permits a municipality to implement, through adoption of a by-law or ordinance, procedures for requiring property owners to remove snow and ice on sidewalks abutting their property. Such by-law or ordinance must establish the time and manner for snow and ice removal and set penalties for a property owner's failure to clear the sidewalks. Of note, Chapter 40U requires such by-laws and ordinances to "be specific as to the width of the area to be cleared and the standards for clearance." Under the statute, fines for the removal of snow and ice may not exceed \$200 for each violation (compare the maximum penalty of \$300 under the noncriminal disposition process).

The process for issuing citations under G.L. c.40U for housing or sanitary code violations or snow and ice removal violations is similar to the noncriminal disposition process. First, be aware that a municipality that accepts Chapter 40U must appoint a municipal hearing officer to hear appeals of fines for housing or sanitary code violations or snow and ice removal. The G.L. c.40U hearing officer may be the same person as the officer that hears appeals under G.L. c.148A. Citations must be pre-numbered and prepared in triplicate or be issued by an automated ticketing device. Citations must be placed on the building or be hand-delivered to a property management office. Each citation must include the date, time and place of violation as well as the specific violation charged, and the name, division and badge number of the officer or inspector who issued the violation. To avoid delinquency charges, the person charged must pay the fine in full no later than 21 days after the citation issued or request a hearing before the municipal hearing officer. Notice of late payment shall be sent to the violator and after an additional 30 days, fines and interest may be attached and assessed on an individual's tax bill or a lien may be placed on the property. The costs of filing and releasing such liens may also be assessed.

In summary, Chapter 40U broadens municipalities' ability to impose and collect fines for a variety of code and bylaw violations using a non-judicial, administrative process. Please contact Attorneys Brian W. Riley (briley@k-plaw.com) or Gregg J. Corbo (gcorbo@k-plaw.com) at 617.556.0007 with further questions on Chapter 40U.

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