

**Chapter 46**  
**MUNICIPAL INFRACTIONS**

**§ 46-1. Definitions.**

**§ 46-2. Declaration of infraction; fine.**

**§ 46-3. Issuance of citation.**

**§ 46-4. Payment of fine.**

**§ 46-5. Duties and rights of offender.**

**§ 46-6. Election to stand trial.**

**§ 46-7. Failure to pay fine.**

**§ 46-8. Criminal conviction and civil disabilities not applicable.**

**§ 46-9. Court proceedings and rights of accused.**

**[HISTORY: Adopted 3-5-79. Amendment history noted where applicable.]**

**§ 46-1. Definitions.**

As used herein, the following terms shall have the meanings indicated:

"Infraction" -- Any violation of this Code, which violation has been specifically declared to be an "infraction" or "municipal infraction." For purposes of this Code, an "infraction" is a civil offense.

"Misdemeanor" --

(a) A criminal offense, not amounting to be a felony, arising from a violation of a law of the state, which violation is defined as a "misdemeanor."

(b) Unless otherwise specified, a violation of any law of this town. All violations of this Code shall be treated as "misdemeanors" unless specifically declared to be infractions.

**§ 46-2. Declaration of infraction; fine. [Amended 2-6-95, effective 2-26-95.]**

The Council shall, by official act, declare the violation of which ordinance or ordinances shall be an infraction or infractions, and for each such violation a specific fine shall be set.

This fine shall never exceed two hundred dollars (\$200) for any single, initial violation or four hundred dollars (\$400) for each repeat or continuing violation. The fine shall be expressed as a discrete amount rather than being expressed in terms of a maximum or minimum amount. The authority to declare infractions and set fines shall not be delegated by the Council to any other administrative or legislative body.

**§ 46-3. Issuance of citation. [Amended 2-6-95, effective 2-26-95.]**

The town code enforcement officials or town police authorized by the Council to enforce this Code may deliver a citation to any person alleged to be committing an infraction. A copy of the citation shall be retained by the town and shall bear the certification of the enforcing official attesting to the truth of the matter set forth in the citation. The citation shall contain at a minimum the following information:

- (a) Date of issuance of the citation;
- (b) Name and address of the person charged;
- (c) The section number of the Code that has been violated;
- (d) The nature of the infraction;
- (e) The location and time that the infraction occurred or was observed;
- (f) The amount of the infraction fine assessed;
- (g) The manner, location, and time in which the fine may be paid to the town;
- (h) If applicable, notice that each day of continued violation thereafter shall be deemed a separate violation subject to additional citation;
- (I) The right of the accused to stand trial for the infraction.

**§ 46-4. Payment of fine.**

The fine for an infraction shall be as specified in the law violated. The fine is payable by the recipient of the citation to the town within twenty (20) calendar days of receipt of the citation.

**§ 46-5. Duties and rights of offender.**

The town shall not conduct any formal hearing for those persons in receipt of a citation of infraction. Any offender so cited may pay the fine as indicated in the citation or elect to stand trial for the offense. This provision shall not prevent an offender from requesting, either personally or through an attorney, additional information concerning the infraction.

**§ 46-6. Election to stand trial.**

A person receiving the citation for an infraction may elect to stand trial for the offense by notifying the town in writing of his intention of standing trial. The notice shall be given at least five (5) days prior to the date of payment as set forth in the citation. Upon receipt of the notice of the intention to stand trial, the town shall forward to the District Court having venue a copy of the citation and a copy of the notice from the person who received the citation indicating his intention to stand trial. All fines, penalties, or forfeitures collected by the District Court for violations of infractions shall be remitted to the general fund of the town.

**§ 46-7. Failure to pay fine.**

If a person receiving a citation for an infraction fails to pay the fine for the infraction by the date of payment set forth on the citation and fails to file a notice of his intention to stand trial for the offense, a formal notice of the infraction shall be sent to the offender's last known address. If the citation has not been satisfied within fifteen (15) days from the date of the notice, he shall be liable for an additional fine not to exceed twice the original fine. If, after thirty-five (35) days, the citation has not been satisfied, the town may request adjudication of the case through the District Court. The District Court shall promptly schedule the case for trial and summon the defendant to appear.

**§ 46-8. Criminal conviction and civil disabilities not applicable.**

Conviction of a municipal infraction, whether by the District Court or by payment of the fine to the town, is not a criminal conviction for any purpose, nor does it impose any of the civil disabilities ordinarily imposed by a criminal conviction.

**§46-9. Court proceeding and rights of accused.**

In any proceeding for a municipal infraction, the accused shall have the same rights as for the trial of criminal cases. He shall have the right to cross-examine witnesses against him, to testify or introduce evidence in his own behalf, and to be represented by an attorney of his own selection and at his own expense.