



CITY OF SOMERVILLE, MASSACHUSETTS
LAW DEPARTMENT

September 20, 2011

Honorable Board of Aldermen
City Hall
93 Highland Avenue
Somerville, MA 02145

Re: Rodent Control Ordinance

Dear Honorable Board Members:

Enclosed for your consideration is draft Rodent Control Ordinance. The language of the ordinance was previously discussed in the Public Health and Safety Committee.

Please feel free to contact me if you have any questions.

Very truly yours,

David Shapiro
Assistant City Solicitor

**CITY OF SOMERVILLE
ORDINANCE NO. 2011 –
IN THE BOARD OF ALDERMEN:**

WHEREAS, notwithstanding the adoption of Ordinance 2006-12, entitled “Rat Stoppage,” as amended by Ordinance 2007-10, the City of Somerville continues to suffer detrimental effects as a result of evidence of significant rodent activity; and

WHEREAS, such levels of rodent activity raises concerns about public health and public safety as well as epidemic activity in certain neighborhoods; and

WHEREAS, the Board of Aldermen wishes to address the increased levels of rodent activity in Somerville by strengthening the Rat Stoppage ordinance and its enforcement capabilities:

NOW THEREFORE, be it ordained by the Board of Aldermen in session assembled, that the Code of Ordinances of the City of Somerville is hereby amended as follows:

1. Part II Code of Ordinances, Chapter 11 Public Works, Article II – Division of Highways, Electric Lines and Lights, Section 11-38 - Rat Stoppage is hereby amended to read as follows (additions are underlined and deletions are ~~crossed out~~):

Section 11-38 – ~~Rat Stoppage~~ Rodent Control

(a) *Purpose.* It is the purpose of this ordinance to limit the population growth, and prevent the potential spread of infectious and contagious diseases by rats, mice, and other rodents (hereinafter referred to as “rodents”).

(b) *Definitions.* As used in this ordinance, the following words and phrases shall have the meanings ascribed to them in this section:

(1) Exterminate means to eliminate rodents through methods utilized by a licensed pest control management company.

(2) Exterminator means an individual duly licensed by the Commonwealth of Massachusetts to exterminate and in good standing.

(3) Infestation means the recurrent presence, as determined by burrows, droppings, gnaw marks, tracks and other physical evidence, of rodents that is determined to be a threat to public health.

(c) General Requirements.

(1) All premises and places shall be maintained free from rats, mice, and other rodents; and it is unlawful for the owner and/or occupant thereof to fail to take such reasonable preventive and remedial measures for such purposes as shall be prescribed by the superintendent of inspectional services or Board of Health.

(2) The owners and/or occupants of premises shall:

- a. implement rodent-proofing and extermination measures as set forth below to prevent rats, mice, or other rodents from gaining access to or coming into contact with food and water sources, including food products, animal food, or bird food; and
- b. prevent the accumulation of materials stored in a manner capable of providing food or harborage for rodents, including, but not limited to, garbage, litter, excrement, filth, lumber, tree limbs, firewood, motor vehicle bodies or parts, construction or demolition debris, appliances, waste wood, scrap metal, overgrown vegetation, decaying animal or vegetable matter, and animal waste any other articles that provide shelter and protection for rodents.

(d) Duty to Implement Rodent-proofing and Extermination.

~~(a) Every building, structure or parcel on which a building has been demolished or is being constructed within the city shall be baited, as required by inspectional services department personnel. All persons performing demolition and construction work shall address any and all rodent problems that may arise from the project.~~

(1) Rodent infestation - If evidence of a rodent infestation occurs, a property owner and/or occupant shall take all necessary measures at the expense of the owner and/or occupant to eradicate the infestation and prevent future infestation. In addition, the owner and/or occupant of the property shall perform all eradication measures as reasonably required by the superintendent of inspectional services or Board of Health, including, but not limited to, rodent-proofing and/or extermination by a duly licensed exterminator.

(2) Permitted work - The superintendent of inspectional services is authorized to promulgate regulations regarding mandatory rodent extermination measures in advance of demolition, construction and land clearing projects on private property. The superintendent of public works is authorized to promulgate regulations regarding mandatory rodent extermination measures in advance of subsurface work in the public right of way and on private streets. Where rodent control is determined necessary, an extermination program shall begin on the project at least seven days prior to the start of work, unless waived by the respective superintendent. The extermination program must continue until

substantial completion of the project unless otherwise waived by the respective superintendent.

(c) Correction Orders

If an inspection reveals a violation of this ordinance, the superintendent of inspectional services or Board of Health shall issue a correction order. Such order shall be in writing and shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

Any owner and/or occupant served with a correction order under this ordinance shall comply with the order within a period determined by the superintendent of inspectional services or Board of Health, but not to exceed twenty one days.

(b) (e). *Inspection notice: Right of Entry of Superintendent of Inspectional Services or Board of Health.*

Whenever necessary to make an inspection to enforce or determine compliance with the provisions of this ordinance, or whenever the superintendent of inspectional services or Board of Health has cause to believe that a violation of any provision of this ordinance has been or is being committed, the superintendent of inspectional services, inspectors from the inspectional service department and the health department and the Board of Health shall have authority to enter any land, building, structure, or premises at reasonable times to inspect the same, provided such entry is consistent with the constitutions of the United States and the Commonwealth of Massachusetts. If entry is refused, the superintendent of inspectional services or Board of Health shall have recourse to the remedies provided by law to secure entry, including, but not limited to, obtaining a search warrant, ~~with permission of the owner or occupant, with a duly authorized search warrant issued by a court of competent jurisdiction, or without a warrant under exigent circumstances.~~ Under these conditions, the superintendent of inspectional services or Board of Health and such authorized personnel may ~~to~~ inspect the interior and exterior of buildings, other structures, or parcels on which a building has been demolished or is being constructed to determine evidence of ~~rat rodent~~ harborage, ~~and rat rodent~~ infestation ~~and the~~ existence of ~~new~~ leaks in the ~~rat~~ stoppage and when any evidence is found indicating the presence of ~~rat~~ rodents or openings through which ~~rat~~ rodents may enter such buildings or structures, to report such evidence to the inspectors who shall serve the owner, agent or occupant of such building, structure or parcel, with written notice to abate the conditions found.

(f) *Area Baiting Requirements and Hearings*

If the Board of Health has cause to believe that a specified geographic area has a rodent infestation, then the Board of Health, may schedule a public hearing upon

fourteen days prior written notice to landowners within the identified area and 300 feet around, and after a public hearing, may require that the all landowners within the geographic area bait their property and/or take other remedial measures on such conditions and terms deemed necessary by the Board of Health.

(g) Adoption of rules.

The superintendent of inspectional services is authorized to adopt rules consistent with this ordinance for the purpose of carrying out and enforcing its provisions.

(h) Violations

It is unlawful for any owner or occupant of real property to fail to comply with the requirements of this ordinance or any order of the superintendent of inspectional services or Board of Health issued to carry out or enforce the requirements of this ordinance. The provisions of this ordinance may be enforced by the superintendent of inspectional services or Board of Health, by a noncriminal disposition pursuant to G. L. c. 40, s. 21D. Each violation of a provision of this ordinance is a separate and distinct offense and in a case of a continuing violation, each day that the violation continues constitutes a separate offense. Any person, firm, corporation, association or other entity violating any provision of this article shall be punished in accordance with Section 1-11 of this ordinance. A person who desires to contest a fine may request a hearing in accordance with the Acts of 2008, Chapter 106. The imposition of penalties herein prescribed shall not preclude the City from instituting other remedies to abate violations of this ordinances as permitted by law, including, but not limited to criminal proceedings, application for equitable relief, or receivership proceedings

(e) (i) ~~Rat stoppage by owner – Lien. Failure to comply – work by City – lien on property.~~

Upon receipt of notice in writing from the superintendent of inspectional services, the owner, agent, or occupant in charge of any building, structure or premises specified in such notice shall take immediate measures for the rat stoppage of such building or structure and for the freeing of said premises of all rats, and unless said work is completed in the time specified in the notice, in no event to be less than 15 days, or any written extension thereof that may be granted by the server of the notice, then the owner, occupant or agent in charge of said building, structure or premises shall be deemed guilty of a violation of this section. If an owner and/or occupant fails to comply with this ordinance after notice given hereinbefore set forth, the City may cause the work to be performed, and charge the owner of the property and place a lien against the property for expenses incurred.

2. Be it further ordained by the Board of Aldermen, that Section 1-11(b) of the Code of Ordinances is hereby amended by adding in its place the following (additions are underlined and deletions are ~~crossed out~~):

Section 1-11(b)

Offense	Fine	Enforcing Personnel
Rat Stoppage <u>Rodent Control</u> (Sec. 11-38)	\$100.00 <u>1st offense: \$50.00</u> <u>2nd offense: \$100.00</u> <u>3rd and subsequent</u> <u>offense: \$300.00</u>	Police; inspectional services; <u>Board of Health</u>