



CITY OF SOMERVILLE, MASSACHUSETTS LAW DEPARTMENT

February 21, 2012

Honorable Board of Aldermen
City Hall
93 Highland Avenue
Somerville, MA 02143

Re: Order No. 192373
Guideline for Reporting Contractor Violations to the State/Fines for
Code Violations

Dear Honorable Board Members:

You have asked this office to submit to the Board of Aldermen a guideline that the City may use for reporting contractor violations to the state.

Attached is a draft guideline for the City for use for reporting contractor violations to the state by the Inspectional Services Division.

You have also asked whether the City is issuing the maximum fines for code violations. Section 1-11 (b) of the Somerville Code of Ordinances provides a warning for the first offense, and a \$300 fine for the second and subsequent offense.

In my opinion, the ordinance lawfully may be amended for the City to issue a specific penalty of up to \$300 for the first offense.

For your additional information, as an alternative to issuing fines under the ordinance, the City may utilize the procedure set forth in G. L. c. 148A, §2. G. L. c. 148A, §2 provides that local code enforcement officers are empowered to enforce violations of the State Building Code and Fire Safety Code by issuing a written notice of code violation or "ticket." G. L. c. 148A is an alternative non-criminal procedure for enforcing certain provisions of the State Building Code and Fire Safety Code.

Pursuant to G. L. c. 148A, §2, the enforcing officer may issue a warning. Alternatively, the enforcing officer may issue a fine in the amount of \$100 for the first offense, \$500 for the second offense, and \$1000 for the third or subsequent offense. The local appeals process is an appeal to the municipal hearings officer.



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With respect to the State Building Code, the Department of Public Safety has limited the violations for which a ticket may be issued to thirteen (13) violations.

These violations are as follows: 1. blocked or impeded egress; 2. emergency lighting and/or signage; 3. occupant load exceeded; 4. interior finish; 5. occupant notification devices; 6. fire detection services; 7. sprinkler system; 8. occupying a building without an appropriately issued certificate of occupancy; 9. occupying a building beyond the expiration date of a temporary certificate of occupancy; 10. proceeding with construction work without proper inspections; 11. beginning work without applying for and receiving a building permit; 12. failing to submit amended plans to reflect a change in the scope of work; and 13. failing to maintain a property in a manner safe for occupancy.

Finally, you have asked whether the City may consider violations across projects in determining a repeat offense. In my opinion, the City may lawfully consider violations across projects in determining a repeat offense. However, in order to deem the violation a repeat offense, in my opinion, the violation needs to be the exact same violation. For example, in my opinion, a contractor who fails to apply for a building permit at one project, and who subsequently fails to apply for a building permit at another project, may lawfully be issued a ticket for a second offense.

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

Very truly yours,

David Shapiro
Assistant City Solicitor

cc: Mayor Joseph Curtatone
Janice Delory, Chief of Staff
Francis X. Wright, Jr., City Solicitor
Michael Glavin, Executive Director, OSPCD
Ellen Schneider, Operations Manager, ISD
Ed Nuzzo, Superintendent, ISD

GUIDELINE FOR REPORTING CONTRACTOR
VIOLATIONS TO THE STATE BY THE INSPECTIONAL SERVICES DIVISION

Whenever, in the opinion of the Superintendent of Inspectional Services, there is a record of willful health and safety violations of a sufficient frequency and severity so as to evidence a pattern of noncompliance with the State Building Code, the Superintendent may report the contractor violations to the Department of Public Safety for construction supervisor licenses, the Office of Consumer Affairs for Home Improvement Contractors, the Division of Capital Planning and Operations for all contractors, and/or the Division of Professional Licensure for plumbers and electricians.