

Sec. 11-31. Household solid waste collection.

- (a) *Purpose.* It is the intent of the board of aldermen that this chapter be liberally construed for the purpose of providing a sanitary and satisfactory method of handling, collecting, and disposing of solid waste and for the maintenance of public and private property free of litter in a clean, orderly and sanitary condition for the appearance, health and safety of the community.
- (b) *Program Summary.* It is the intent of this program to provide residents with adequate trash and recycling collection while decreasing the city's solid waste tonnage due to the great interest of the residents of Somerville in preserving the environment by reducing the amount of solid waste sent to landfills and incinerators. This shall be accomplished through reasonable limits on the volume and quantity of residential trash receptacles.
- (c) *Eligibility.* Only residential dwellings of eight units or fewer are eligible for city solid waste collection. Commercial, non-profit establishments and residential dwellings of nine units or more are ineligible for city solid waste collection. Existing paid customers enrolled under section 11-34 as of November 1st 2014 will continue to be eligible for paid city solid waste removal through December 31st 2015.
- (d) *Definitions.* For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:
 - (1) *Aluminum* means aluminum cans, aluminum foil, and aluminum containers or trays used in packaging, preparation or cooking of food.
 - (2) *Authorized litter receptacles* means receptacles for the use of the general public placed outdoors by the city or by private persons on either public or private property. The receptacles shall be designed so as to prevent the escape of litter onto any public or private property.
 - (4) *Authorized solid waste receptacles* means authorized recycling receptacles and authorized trash receptacles.
 - (5) *Authorized trash receptacles* means receptacles that contain trash awaiting collection and are kept outdoors.
 - (6) *Cans* means all containers composed in whole of iron or steel (so-called tin cans) used as containers for the packaging or storage of various food and nonfood items, except containers that contain paint or petroleum-based solvents, and any pressurized aerosol cans.
 - (7) *Commercial establishment* means any nonresidential building, including, but not limited to, those used for retail, wholesale, industrial, manufacturing, dining, offices, professional services, automobile service, hotels and motels, restaurants, or shipping and receiving areas.
 - (8) *Corrugated cardboard* means paper in which a portion has been made to have a wavy surface (alternating ridges and grooves) and is placed between two flat surfaces for the sake of strength, and which is commonly used to form cartons.
 - (9) *Glass containers* means bottles and jars, made of silica, sand, soda ash, and limestone, being transparent or translucent, and used for packaging or bottling various materials. This does not include plastics or glass products such as window glass, blue glass, flat glass, mirrors, plate glass, light bulbs, dishes or ceramics.

- (10) *Housing unit* means an individual residential unit within a residential dwelling.
- (11) *Leaves* means deciduous and coniferous seasonal deposition from trees.
- (12) *Litter* means all solid waste, and includes any other waste material which, if thrown or deposited as prohibited in this chapter, tends to create a danger or nuisance to public health, safety or welfare.
- (13) *Magazines* means publications printed on glossy, clay-coated paper.
- (14) *Newspaper* means newsprint-grade paper, the common, inexpensive machine-finished paper made chiefly from wood pulp, which is printed and distributed, and includes all newspaper advertisement, comics and enclosures. This does not include newspaper soiled by food, paint, petroleum products, oil or oil solvents, or other solid wastes that are not recyclable.
- (15) *Nonprofit establishment* means an established organization or foundation dedicated to public service or culture, including, but not limited to, religious, educational and health care functions.
- (16) *Overflow bag* means a specially marked trash bag that may be purchased at local retailers, and is the only authorized receptacle for overflow trash.
- (17) *Overflow trash* means any household trash that exceeds the volume of that housing unit's authorized trash receptacle.
- (18) *Occupant* means any person living, sleeping or cooking in, or conducting any commercial or nonprofit activity, or having actual possession of any building or part thereof.
- (19) *Owner* means any person or entity which alone or jointly or severally with others:
- a. Shall have legal or equitable title to any private property with or without accompanying actual possession thereof; or
 - b. Shall have charge, care or control of any private property as owner or as executor, administrator, trustee or guardian of the estate of the owner or any other person in a representative capacity.
- (20) *Paper leaf bag* shall be a sanitary Kraft Paper Sack or equal of 30-gallon capacity, two-ply 50-pound wet strength with decomposing glue and reinforced self-supporting square bottom closure.
- (21) *Plastic* means clear and colored bottles and jugs made from high-density polyethylene (HDPE) and polyethylene terephthalate (PET) plastics, excluding caps and lids.
- (22) *Recyclable plastic* means clear and colored plastic bottles, containers, and jugs marked #1—#7 with the exception of polystyrene and plastic film or bags.
- (23) *Recyclable materials* means any type of solid waste designated by the commissioner of public works through rules and regulations issued under this chapter to be separated for recycling or composting.
- (24) *Solid waste* means all waste generated by occupiers of land in Somerville, excluding construction demolition debris.
- (25) *Residential dwelling* means any residential building, including single-family homes, apartment buildings, buildings containing cooperatives and condominiums, group houses, rooming houses or boardinghouses.
- (26) *Trash* means all solid waste excluding recyclable materials.

(27) *Sorted office paper* means printed or unprinted sheets, shavings and cuttings of colored or white sulphite or sulphite ledger, bond, writing and other paper which have a similar fiber and filler content, and which are free of treated, coated, padded and heavily printed paper, carbon paper and nonpaper materials.

(28) *White goods* means major kitchen and laundry appliances including, but not limited to, stoves, washers, refrigerators and dryers. Nothing in this definition shall waive compliance with the rules and regulations for the generation, transportation, storage, and disposal of hazardous waste.

(29) *Yard waste/debris* means grass clippings, weeds, hedge clippings, garden waste, and twigs and brush not longer than three feet in length.

(d) *Private property owners and occupants—Duties.*

(1) *Residential property.*

a. Every owner (or occupant if designated in a written agreement), shall be mandated to use only the authorized solid waste receptacles supplied by the city sufficient to contain all solid waste accumulated between collection days and to keep the attached lids tightly closed at all times when solid waste is contained therein.. The owner, his agent or occupant shall maintain the container so that all solid waste spilled during usage is removed and the area is cleaned in a timely manner.

b. Any trash exceeding the volume of the authorized trash receptacle must be placed in an overflow bag available for purchase at local retailers. Residents shall heed the weight limitations of the overflow bags, as damaged bags and spilled trash will not be collected. If overflow trash accumulates between collection days, the owner, his agent or occupant shall store those bags on their property in a trash receptacle sufficient to contain all trash that is rodent resistant and has a tightly fitted cover. On collection day overflow bags may be placed on or next to the authorized trash receptacles. Any overflow not contained in an overflow bag will not be collected by the city. The overflow program will go into effect 90 days after the passage of this ordinance, or on April 1st 2015, whichever is later.

c. It shall be unlawful for any person other than the owner, his agent or occupant of the premises served by a solid waste container to deposit or cause to be deposited therein any article or thing whatsoever.

d. Every owner (or occupant, if designated in a written agreement), or the occupant of a single-family dwelling, shall cause the shared or common areas of the dwelling, its premises and yard area, and the adjoining sidewalk and gutter to be maintained in compliance with these ordinances.

e. Every occupant shall dispose of all solid waste in a clean and sanitary manner in compliance with these ordinances.

f. Every owner or occupant shall take proper care to protect such receptacle from misuse, loss and damage as the city may require payment for any replacement carts; and return such receptacle to the city or its contractor upon request; and in the event

that they vacate the premises, shall leave such receptacle with the premises for use by the subsequent owners or occupants.

g. All refuse set out for collection must be in the city-issued receptacle or designated overflow bags. Loose material will not be collected. All material put out with the exception of overflow trash must fit within the city-issued receptacle so that the receptacle lid remains closed.

(2) *Private property occupied by commercial or nonprofit establishments.* Every owner (or occupant, if designated in a written agreement) shall supply a sufficient quantity of authorized refuse receptacles in compliance with these ordinances. If refuse is not collected by the city, arrangements shall be made for adequate and regular private collection of refuse in compliance with these ordinances.

(e) *Private property owners and occupants—Keeping premises and adjacent areas free of litter.*

(1) Maintenance of private property. Every owner or occupant of private property shall maintain his property free of any accumulation of litter, and shall prevent any litter from escaping to any other public or private property.

(2) Maintenance of sidewalks. Every owner or occupant of private property bordering on a street where there is a public or private sidewalk or footway shall maintain such sidewalk or footway free of litter.

(3) Every owner or occupant of private property shall cut and dispose of weeds in any yard area or vacant lot, or around any public or private property.

(4) No person shall sweep into or deposit in any gutter, street, square or other public place the accumulation of litter from any building or lot, or from any public or private sidewalk, footway or driveway.

(f) *Solid waste from commercial or nonprofit establishments.*

(1) Solid waste from commercial or nonprofit establishments shall not be thrown or deposited in any public litter receptacles by the owners, occupants, employees or agents of the commercial or nonprofit establishments.

(2) Commercial or nonprofit establishments may maintain authorized litter receptacles for the use of the general public outdoors on private property or on the adjoining sidewalk in a manner not to inconvenience the use of the sidewalk by pedestrians.

(g) *City's duties and responsibilities.*

(1) The city shall provide, or cause to be provided, one authorized trash receptacle to each housing unit of residential dwellings eligible for municipal solid waste collection services. The receptacle size shall be determined by the city, and the city shall maintain ownership of the receptacle.

(2) The city shall maintain regular schedules of street cleaning, and shall post signs city-wide and otherwise publicize by all appropriate means the schedules of regular street cleaning times.

(3) The city shall maintain regular schedules of solid waste collection subject to the provisions of these ordinances, and shall publicize the schedules by all appropriate means.

(4) The city shall maintain and service authorized litter receptacles owned by the city.

(5) The city shall require all federal, state and local government organizations to comply with the regulations in these ordinances, for owners of private property and for commercial or nonprofit establishments.

(6) The city shall publicize the provisions of this chapter through the media of signs, advertisements, flyers, leaflets, announcements on radios and television, newspaper articles and through any other appropriate means, so that all citizens will have the opportunity to become informed about the legal duties of property owners and occupants, pedestrians and motorists, and about the city recycling, solid waste and anti-litter services.

(7) The city shall maintain a citizen information service to disseminate information and to accept and to track complaints about litter, recycling, solid waste and snow removal problems.

(h) *Time of placement.* All solid waste contained in city-issued authorized trash or recycling receptacles shall be placed upon the sidewalk not earlier than 4:00 p.m. of the day prior to collection and no later than 7:00 a.m. on collection day. All authorized solid waste receptacles must be placed curbside with their lids tightly closed. Overflow bags may be placed upon the sidewalk or on top of an authorized receptacle between 5:30am and 7:00am on collection day. Additionally, all empty receptacles will be removed from the sidewalk by 7:00 p.m. the day of collection. There will be one collection day weekly. If solid waste is placed out for collection after 7:00 a.m. and the collector has already driven by the residence, the solid waste will not be collected and the owner or occupant shall be responsible for removing the solid waste from the sidewalk. If overflow bags are placed out for collection before 5:30am on collection day the city may issue a fine.

(i) *Use of receptacle.*

(1) Any person desiring the removal of solid waste from private residential property of eight units or less shall cause the solid waste to be placed in authorized solid waste receptacles as determined by the city. No receptacle shall exceed 50 pounds per container.

(2) The city will not be responsible for any damage to barrels, including but not limited to splitting and/or denting due to subzero temperatures and icing.

(3) Nonregulation barrels or any other unapproved containers will be treated as a bulk item and disposed of as such. Cardboard barrels and cardboard boxes are deemed unapproved containers. If such an unapproved container falls apart during collection as a bulk item, any trash remaining shall not be the responsibility of the city.

(j) *Paper goods.* Newspapers, magazines, or collapsed cardboard boxes may be set out in securely tied bundles not to exceed 50 pounds.

(k) *Yard waste/debris.* Yard waste/debris such as tree trimmings, hedge clippings and similar materials shall be cut to a length not exceeding three feet and shall be securely tied in bundles before being set out for collection or disposed of in either paper leaf bags or barrels labeled with "yard waste" stickers provided by the department of public works.

(l) *Hazardous waste.* Hazardous waste shall not be put out for collection. Hazardous waste includes gasoline, explosives, compressed gases from other than household consumer products, explosive chemicals, wet-cell batteries, tires and all other hazardous wastes as so defined by the department of environmental protection or any other materials as the commissioner of public works may determine to be hazardous.

(m) *Bulk items.*

(1) Bulk items shall not be deemed acceptable trash. A bulk item shall be defined as any item so large or heavy that one person could not reasonably handle it, approximately seventy-five (75) pounds. Only residents that are eligible for city trash removal may leave bulk items for collection, and they are limited to two (2) bulk items per week. Not all bulk items are eligible for curbside pickup.

a. Bulk items eligible for curbside pickup include furniture with mirrors/glass taped and doors or drawers tied down or removed, carpet or rug rolled, tied and no longer than three feet in length and small amounts of wood tied into three foot bundles.

b. White goods: Appliances such as stoves, air conditioners, dishwashers, washing machines, dryers, hot water heaters and refrigerators will be picked up by the city, but are required to have all doors completely removed prior to being placed on the sidewalk for collection and must have affixed thereon a white goods disposal sticker purchased from the department of public works. White goods do not count toward the two (2) bulk item per week limit.

c. The owner is responsible for hauling, or providing for private hauling of the following items: building or construction materials (unless there is a green building permit on display), business hazardous waste, car parts, dirt/loam, heavy metal items, kerosene, gasoline or heating oil, motorized lawn mower, aboveground metal pools, snow blowers and windows.

(2) If in the opinion of the commissioner of public works or his or her designee the household solid waste from any one household is unusually great or if the quantity, size, weight or nature of bulk items cannot be reasonably handled, they will not be collected. Earth, stones, tree trunks or large tree limbs will not be collected by the city and are the responsibility of the resident for disposal.

(3) The following items will be accepted at the department of public works yard, sanitation division garage:

a. Automobile tires (unmounted, not mounted) up to four each;

b. Automobile wet-cell batteries up to two each; and

c. Latex paint (up to ten gallons).

(n) *Building materials.* Building materials from owner-occupied one- or two-family dwellings where the owners and not private contractors have done repairs or rehabilitation will be picked up subject to the following restrictions:

(1) Materials shall be tied in bundles not to exceed four feet in length or 24 inches in diameter or 50 pounds.

(2) Such materials shall not exceed one cubic yard per collection.

(3) Such collections will require a current building permit to be prominently displayed on the owner's building, and the following criteria must be met: the building permit is for an amount not to exceed \$5,000.00, and the work must be performed by or supervised by the owner.

(o) *Violation.* A violation of this section shall be punishable by a fine pursuant to the provisions of section 1-11 to be imposed on the resident or owner of the property or the person responsible where

the violation occurs. Each violation shall be subject to judicial action pursuant to the provisions of Chapter 401 of the Acts of 1977 (General Laws Chapter 40, Section 21D).

(p) *Illegal dumping.* No household solid waste or bulk item, as defined herein, shall at any time be placed on any property other than the owner's own residence for collection. Any person violating the provisions of this paragraph may be prosecuted under the provisions of Chapter 270, Section 16 of the General Laws.

(Code 1963, § 8-22; Ord. No. 1987-1, 1-29-87; Ord. No. 1987-2, § 1, 2-26-87; Ord. No. 1987-8, 8-27-87; Ord. No. 1990-6, 3-22-90; Ord. No. 1991-3, 2-14-91; Ord. No. 2005-11, § 23, 7-14-2005; Ord. No. 2006-12, 9-28-2006; Ord. No. 2007-10, 5-24-2007; Ord. No. 2014-01, 4-24-2014)

Cross reference— Noncriminal disposition for violation of residential trash ordinance, § 1-11(b); disturbing trash containers before collection, § 9-52; placing trash in public trash containers, § 9-53; littering and dumping trash and trash on public property, § 12-3; trash and trash on streets and sidewalks, § 12-12.

Sec. 11-32. Trash or trash picking, collecting or disturbing.

Ashes, recyclable materials, trash and garbage placed upon the sidewalk for collection shall be deemed to be in the custody of the commissioner of public works. No person, other than the commissioner, his or her agents, or a person duly licensed by the commissioner in writing, shall disturb, collect or take away any ashes, trash or garbage so placed, except that the depositor may reclaim any or all of it.

(Code 1963, § 8-22; Ord. No. 2014-01, 4-24-2014)

Cross reference— Disturbing trash containers before collection, § 9-52; placing trash in public trash containers, § 9-53; collection of ashes and offal, § 11-30; household trash and trash collection, § 11-31; littering and dumping trash and trash on public property, § 12-3; trash and trash on streets and sidewalks, § 12-12.

Sec. 11-33. Driveway construction.

(a) *Curbs:* The superintendent of highways, electric lines and lights is authorized to promulgate regulations and accept petitions from owners of property requesting that he or she cause the curb at the front of such property to be dropped to allow for the installation of a driveway. Upon approval of such petition by the superintendent he or she shall cause said curb to be dropped. The superintendent shall not approve a petition that does not conform to the Code of Ordinances, the Somerville Zoning Ordinance as applied through any special permit and/or variance granted by the planning board or zoning board of appeals, and the paving and driveway permit regulations in section 11-33(b) below. The fee for such service shall be set in accordance with Chapter 40, Section 22F of the General Laws.

(b) *Paving and driveways:* The city engineer is hereby authorized to promulgate regulations and accept petitions from owners of property requesting to construct, alter, reconstruct, restore or expand driveways, whether pervious or impervious, and other impervious surfaces that would not otherwise require a building permit on lots within the City of Somerville. The regulations will include a required review of stormwater runoff, landscaping requirements, pervious surface requirements and other related regulations in one comprehensive process. The city engineer may delegate the inspection and

enforcement provisions of this regulation to the superintendent of inspectional services. The fee for such permit shall be set accordance with Chapter 40, Section 22F of the General Laws. Petitions submitted by applicants seeking to replace existing driveways or other impervious surfaces without change to dimensions, pavement material and stormwater runoff shall not be denied.

(c) *Paving contractor registration:* The construction, alteration, reconstruction, restoration or expansion of any impervious driveway, and any other impervious surface that would not otherwise require a building permit on any lot within the City of Somerville, (including but not limited to asphalt, concrete and compacted gravel) shall be made by a person who registers with the city engineer. Every person registered as a paving contractor shall, before performing any work authorized thereby, execute an agreement or bond with one or more sureties satisfactory to the city engineer, that he or she will restore any public infrastructure damaged by their operations. The value of the bond shall be determined by the city engineer, but shall not be less than \$2,500.00. No registered paving contractor shall perform any work such as is specified in section 11-33(b), without first following the regulations referenced therein. If a paving contractor shall fail to perform the requirements of this section or section 11-33(b), then the paving contractor shall not be entitled to receive another permit until said violation has been remedied. Failure to comply with the regulations of this section or section 11-33(b) may result in the revocation of registration for a period of one year subsequent to the most recent violation.

(d) Penalties for violations of these regulations are established per section 1-11(b) of the Code of Ordinances.

(Code 1963, § 8-22; Ord. No. 2004-12, 9-23-2004; Ord. No. 2005-10, § 5, 6-23-2005; Ord. No. 2012-04, § 1, 4-12-2012)

Sec. 11-34. Commercial trash collection.

(a) For the purpose of this section, commercial trash shall mean all trash, solid waste, debris, garbage, scrap, by-products and other waste material produced by any commercial, industrial, manufacturing, retail and/or wholesale establishment, or by any individual, corporation or any other entity, that is not household solid waste, including but not limited to:

- (1) Building materials.
- (2) Produce, including but not limited to vegetables, fruits and animal products.
- (3) Industrial and commercial appliances including but not limited to vending machines, coin-operated washers and dryers, restaurant equipment, and the packaging all such appliances come in.
- (4) Office equipment and furnishings.
- (5) Computers and computer-related equipment.
- (6) Motor vehicles, truck, and motorcycle parts.
- (7) Restaurant garbage.

(b) It is mandatory that all such commercial trash shall be disposed of in accordance with the provisions of sections 8-16, 9-52, 9-53 and 11-31, by using either the collection service provided by the city, a duly licensed private trash collection service, or by dumping at any sanitary disposal site approved and licensed pursuant to the provisions of Chapter 111, Section 150A of the General Laws.

The collection service provided by the city will cease for commercial customers on December 31st 2015. After this date, those commercial establishments will be required to use a licensed private hauler or dump at a sanitary disposal site as noted in the above provisions.

(c) No commercial trash shall at any time be deposited on any way, public or private, on any public place or on the property of another.

(d) No individual may bring any trash originating outside the boundaries of the city into the city.

(e) Existing commercial customers will be allowed to use their current solid waste receptacles through the remaining period of paid city solid waste removal.

(f) A violation of this section, disposed of pursuant to the noncriminal disposition procedures of Chapter 40, Section 21D of the General Laws shall be subject to a penalty in accordance with the provisions of section 1-11. Any judicial enforcement pursuant to complaint shall carry a fine of up to \$300.00 per day for each day of violation. Any individual violating this section shall be required to remove any trash disposed of in violation of this section at his/her expense, or pay the costs of removal if removed by the city or its agents or employees.

(Ord. No. 1990-2, 12-13-90; Ord. No. 2005-11, § 24, 7-14-2005; Ord. No. 2006-12, 9-28-2006)

Sec. 11-35. Trash and trash collection for dwellings with nine or more units.

(a) All dwellings of nine or more units desirous of having their solid waste, as defined in section 11-31, collected by the city shall be subject to a fee of \$150.00 per unit payable annually in advance. All of the definitions, time, place and manner restrictions and limitations regarding household trash and trash collection, as set forth in section 11-31, shall apply to such dwellings. Such service shall be available until December 31st 2015, at which point all dwellings of nine or more units must use a licensed private hauler or dump at a sanitary disposal site.

(b) It is mandatory that all trash from such dwellings shall be disposed of in accordance with the provisions of sections 8-16, 9-52, 9-53, 11-31 and 11-34, 11-36 by using either the collection service provided by the city (available through December 31st, 2015), a duly licensed private trash collection service, or by dumping at any sanitary disposal site approved and licensed pursuant to the provisions of Chapter 111, Section 150A of the General Laws.

(c) A violation of this section, disposed of pursuant to the noncriminal disposition procedures of Chapter 40, Section 21D of the General Laws, shall be subject to a penalty in accordance with the provisions of section 1-11. Any judicial enforcement pursuant to complaint shall carry a fine of up to \$300.00 per day for each day of violation. Any individual violating this section shall be required to remove any trash disposed of in violation of this section, and provide any other remedy necessary to correct any actions in violation of this section, at his/her expense, or pay the cost of such removal or other remedy if removed or corrected by the city or its agents or employees.

(Ord. No. 2004-09, 7-22-2004; Ord. No. 2005-11, § 25, 7-14-2005; Ord. No. 2006-12, 9-28-2006)

Sec. 11-36. Grease containers.

(a) Any container used by any food establishment, as defined in the State Sanitary Code Article X - Minimum Sanitation Standards for Food Service Establishments, for the storage, collection or removal of cooking grease or kindred solid waste shall be constructed of impervious material and subject to the

inspection of the health department. Cooking grease or kindred solid waste shall be disposed of in a manner consistent with the State Sanitary Code and in accordance with the regulations of the department of environmental protection.

(b) *Grease containers—Maintenance and removal.*

(1) It shall be the duty of every person responsible for the use of a grease container in which cooking grease or kindred solid waste is stored to (1) keep a tightly fitted cover in place, except when opened for the deposit or removal of its contents; and (2) remove spillage after every use by applying a cleaning agent and (3) contract with a licensed scavenger for grease removal.

(2) It shall be the responsibility of every grease hauler responsible for the collection of any grease container in which cooking grease or kindred solid waste is stored to:

- a. Provide a tightly fitting cover for the container;
- b. Resecure the container cover if it is removed during collection;
- c. Remove any grease spilled during collection by applying a cleaning agent.

(3) Any person who violates any provision of this section shall be fined not less than \$50.00 nor more than \$300.00 for each offense. Each day a violation continues shall constitute a separate and distinct offense. A violation of this section, disposed of pursuant to the noncriminal disposition procedures of Chapter 40, Section 21D of the General Laws, shall be subject to a penalty in accordance with the provisions of section 1-11.

(Ord. No. 2006-12, 9-28-2006)

Sec. 11-37. Disinfection of solid waste vehicles.

Any person owning or controlling any solid waste vehicle shall cause all vehicles and all implements used in connection with the loading or unloading thereof, when not in use, to be stored and kept in such a place and in such a manner as not to create a nuisance, and shall cause all such vehicles and implements to be thoroughly disinfected and put in an inoffensive condition when so stored or not in use. Such vehicles and implements shall be thoroughly disinfected at least once a week, whether in use or not, unless the same shall not have been used since the last disinfection thereof. Any owner or other person found in violation of this section shall be fined not less than \$50.00 nor more than \$300.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense. A violation of this section, disposed of pursuant to the noncriminal disposition procedures of Chapter 40, Section 21D of the General Laws shall be subject to a penalty in accordance with the provisions of section 1-11. Any judicial enforcement pursuant to complaint shall carry a fine of up to \$300.00 per day for each day of violation.

(Ord. No. 2006-12, 9-28-2006)

Sec. 11-38. Rodent control.

(a) *Purpose.* It is the purpose of this section 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 section, 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.*

(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.

(e) *Correction orders.* If an inspection reveals a violation of this section, 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 section shall comply with the order within a period determined by the superintendent of inspectional services or board of health, but not to exceed 21 days.

(f) *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 section, or whenever the superintendent of inspectional services or board of health has cause to believe that a violation of any provision of this section has been or is being committed, the superintendent of inspectional services, inspectors from the inspectional service 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. Under these conditions, the superintendent of inspectional services or board of health and such authorized personnel may 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 rodent harborage and rodent infestation and when any evidence is found indicating the presence of rodents or openings through which 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.

(g) *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 14 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.

(h) *Adoption of rules.* The superintendent of inspectional services is authorized to adopt rules consistent with this section for the purpose of carrying out and enforcing its provisions.

(i) *Violations.* It is unlawful for any owner or occupant of real property to fail to comply with the requirements of this section or any order of the superintendent of inspectional services or board of health issued to carry out or enforce the requirements of this section. The provisions of this section 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 section 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 Code. Any interested person may request, in writing, a hearing before a municipal hearing officer to contest the issuance of a fine, as provided in Chapter 106 of the Acts of 2008. 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

(j) *Failure to comply—Work by City—Lien on property.* If an owner and/or occupant fails to comply with this section 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.

(Ord. No. 2006-12, 9-28-2006; Ord. No. 2007-10, 5-24-2007; Ord. No. 2011-08, § 1, 10-13-2011)

Sec. 11-39. Removal of litter from a retail establishment's parking area.

(a) Every person owning, managing, or controlling any retail establishment with an adjacent parking area provided for customer use shall cause to be removed at his own expense all litter located in the parking area. It shall be the duty of the owner or manager to cause all litter placed in litter baskets to be deposited daily in the retail establishment's commercial solid waste container for removal by a licensed vendor.

(b) It shall be the duty of every owner or manager to provide and maintain in good condition and in good repair litter baskets, sufficient in size and number to prevent any overflow or accumulation of litter outside the containers. Litter baskets shall be placed at appropriate locations throughout the parking areas so as not to constitute a nuisance to adjacent properties or occupants thereof.

(c) Unremoved litter is hereby declared to be a public nuisance. It shall be the duty of the commissioner of public works or designee to serve notice in writing by certified mail upon the owner or manager where a nuisance may be found, requiring him to abate the nuisance within three day from receipt of the notice. The commissioner may prescribe in his notice the manner in which any nuisance may be abated. If the owner or manager fails within three days from the date of notice to abate the nuisance, or if the owner or manager is unknown or cannot, with due diligence be found, the commissioner may proceed to abate the nuisance or seek to enjoin the nuisance. In addition to any fine or penalty, an amount equal to three times the cost or expense incurred by the city in abating a nuisance may be recovered in an appropriate court action. Nothing in this section shall be construed to prevent the city from acting without notice to abate a nuisance in an emergency where nuisance poses an immediate threat to public health or safety, nor shall this section be construed to deny any common law right to anyone to abate a nuisance.

(d) Any owner or other person found in violation of this section shall be fined not less than \$50.00 nor more than \$300.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense. A violation of this section, disposed of pursuant to the noncriminal disposition procedures of Chapter 40, Section 21D of the General Laws shall be subject to a penalty in accordance with the provisions of section 1-11. Any judicial enforcement pursuant to complaint shall carry a fine of up to \$300.00 per day for each day of violation.

(e) The amendments to sections 11-31, 11-34 and 11-35, and the new sections 11-36, 11-37, 11-38 and 11-39 shall take effect 90 days after enactment. For the first 60 days, violations of these sections shall be punished by the issuance of warnings.

(Ord. No. 2006-12, 9-28-2006; Ord. No. 2007-10, 5-24-2007)

Sec. 11-40. Mandatory recycling.

(a) *Purpose and declaration of policy.* This section has been created because of the great interest of the people of Somerville in preserving the environment by reducing the amount of solid waste sent to landfills and incinerators. It shall be the policy of the city to reduce the amount of solid waste generated and to require the recycling of recyclable materials to the fullest extent possible.

(b) *Establishment of program.* There is established a program for the mandatory separation of certain recyclable materials from solid waste which shall apply to all buildings in Somerville and shall be carried out under the supervision of the commissioner of public works.

(c) *Mandatory separation of recyclable materials.* It shall be mandatory for each owner or occupant in Somerville to separate all designated recyclable materials from other solid waste in accordance with the provisions of this section. These mandatory recycling requirements shall apply to all buildings without regard to whether the building's solid waste is collected by the city.

(1) *Buildings which receive city solid waste collection services.* It shall be mandatory for each owner or occupant of a building which receives city solid waste collection services to separate from other solid waste all recyclable materials designated by the commissioner in rules and regulations issued under this section. This requirement shall also apply to all city-owned buildings, including schools.

(2) *Buildings which do not receive city solid waste collection services.* It shall be mandatory for each owner or occupant of a building which does not receive city solid waste collection to separate all designated recyclable materials from other solid waste in accordance with a recycling plan to be submitted to the commissioner or his or her designee, in accordance with subsection (e) as set forth below.

(d) *Collection of recyclable materials.*

(1) *Residential dwellings.*

a. The preparation and placement of recyclables shall be accomplished in accordance with the requirements relative to time of placement for solid waste as stated in subsection 11-31(g).

b. All recycling containers and receptacles shall be placed for collection on the outer edge of the sidewalk so as not to obstruct the free passage of pedestrians.

c. Recyclables shall only be placed in authorized recycling receptacles, which will be issued by the city and commonly referred to as "carts" or "toters." Recyclables shall not be placed in plastic garbage bags for collection, removal or disposal. Recyclables shall not be placed in the same solid waste containers as trash or mixed with trash or litter for collection, removal or disposal. If separation of recyclable materials from trash does not take place, the city may decide not to collect said trash.

d. Upon placement of recyclables for the city or its contractor at the curbside, pursuant to this subsection, such recyclables shall become the property of the city. It shall be a violation of this section if any person, other than authorized agents of the city acting in the course of their employment or contract, collects or causes to be collected any recyclables so placed. Each and every such collection in violation of

this subdivision from one or more locations shall constitute a separate and distinct offense. In addition to the penalty provided in this section, any violator of this subsection shall make restitution to the city for the value of recyclables illegally removed. No fine or restitution requirement shall apply under this subsection to any violation by a person who collects recyclable containers redeemable under state law without use of a motor vehicle.

(2) *Commercial and nonprofit establishments.* In commercial or nonprofit establishments, the materials designated for recycling in rules and regulations promulgated by the commissioner shall be placed in recycling receptacles provided by the owner or owners of such buildings. The owner or owners of such buildings shall be responsible for the costs of recyclables separation and collection. The commissioner shall have the authority to require documentation from the city's recyclables collection contractors and from any owner, lessee or tenant of a building which does not receive city recyclables collection services, that recyclables are being delivered to a broker or end market that causes the material to be recycled or composted rather than landfilled or incinerated.

(e) *Recycling plans.*

(1) All property owners of property whose recycling is not collected by the city are required to submit recycling plans to the commissioner upon request.

(2) Contents of plan. Each recycling plan will cover the following items:

- a. Certification that all recyclable materials will be put out for collection;
- b. Frequency of collection;
- c. Methods to be used for collection, including types of containers;
- d. Any other items which may be specified in rules and regulations promulgated by the commissioner under this section.

(3) Format of plan. Plans shall be submitted in a format to be specified in rules and regulations promulgated by the commissioner under this section.

(f) *Recyclable materials.* The recyclable materials to be separated shall be designated by the commissioner in rules and regulations to be issued under this section.

(g) *Violation.* A violation of this section shall be punishable by a fine pursuant to the provisions of section 1-11 to be imposed on the resident or owner of the property or the person responsible where the violation occurs. Each violation shall be subject to judicial action pursuant to the provisions of Chapter 401 of the Acts of 1977 (General Laws Chapter 40, Section 21D).

(Ord. No. 2014-01, 4-24-2014)