

CITY OF SOMERVILLE
ORDINANCE NO. 2002-13
IN THE BOARD OF ALDERMEN: November 26, 2002

BE IT ORDAINED BY THE BOARD OF ALDERMEN, IN SESSION ASSEMBLED, AS FOLLOWS:

CRIMINAL STREET GANG ACTIVITY AS PUBLIC NUISANCE

WHEREAS, the City of Somerville, like other cities across the nation, faces alarmingly high rates of violent crimes and of drug offenses; and

WHEREAS, The Board of Alderman has determined that criminal street gang activity in the City is largely responsible for this unacceptable situation; and

WHEREAS, Aggressive action is necessary to preserve the City's streets and other public places so that the public may use such places without fear; and

WHEREAS, Criminal street gang activity involves a substantial interference with the public health, the public safety, and the public welfare.

NOW THEREFORE, be it ordained by the Board of Aldermen of the City of Somerville, that Chapter 9 of the Code of Ordinances of the City of Somerville is amended by adding the following:

SECTION 9-120. CRIMINAL STREET GANG ACTIVITY AS PUBLIC NUISANCE

(a) Any real property which is erected, established, maintained, owned, leased, or used by any criminal street gang for the purpose of conducting criminal gang activity is a public nuisance. No person shall keep, maintain or use such real property as a public nuisance.

(b) The Chief of Police shall by written directive promulgate procedures to prevent the enforcement of this Section against persons who are engaged in activities that are protected by the Constitution of the United States and/or the Commonwealth of Massachusetts.

(c) The City may use all lawful methods of abating violations of this section, including, but not limited to, application for equitable relief from a Court of competent jurisdiction.

(d) As used in this Section:

(1) "Criminal street gang" means any ongoing organization, association in fact or group of three or more persons, whether formal or informal, having as one of its substantial activities the commission of one or more of the criminal acts enumerated in paragraph

(2), and whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.

(2) "Criminal gang activity" means the commission, attempted commission, or solicitation of the following offenses, provided that the offenses are committed by two or more persons, or by an individual at the direction of, or in association with, any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members:

The following sections of the Massachusetts General Laws: M.G.L. c. 265, Section 1 (murder); M.G.L. c. 265, Section 13 (manslaughter); M.G.L. c. 13A, (assault or assault and battery); M.G.L. c. 265, Section 13B (indecent assault and battery on a child under fourteen); M.G.L. c. 265, Section 13C (assault and battery to collect loan); M.G.L. c. 265, Section 13D (assault and battery upon public employees); M.G.L. c. 265, Section 13D (indecent assault and battery on mentally retarded person); M.G.L. c. 265 Section 13H (Indecent assault and battery on person fourteen or older); M.G.L. c. 265, Section 13I (assault or assault and battery on emergency medical technician, ambulance operator, or ambulance attendant); M.G.L. c. 265, Section 13J (assault and battery upon a child); M.G.L. c. 265, Section 13K (assault and battery upon an elderly or disabled person); M.G.L. c. 265, Section 14 (mayhem); M.G.L. c. 265, Section 15 (assault; intent to murder or maim); M.G.L. c. 265, Section 15A (assault and battery with dangerous weapon); M.G.L. c. 265, Section 16 (attempt to murder); M.G.L. c. 265, Section 17 (armed robbery); M.G.L. c. 265, Section 18 (assault with intent to rob or murder); M.G.L. c. 265, Section 18A (dangerous weapon; assault in dwelling house); M.G.L. c. 265, Section 18B (Use of firearms while committing a felony); M.G.L. c. 265, Section 18C (entry of dwelling place; persons present within); M.G.L. c. 265, Section 19 (robbery by unarmed person); M.G.L. c. 265, Section 20 (simple assault; intent to rob); M.G.L. c. 265, Section 21 (stealing by confining or putting in fear); M.G.L. c. 268, Section 21A (assault, confinement, etc. of person for purpose of stealing motor vehicle; weapons); M.G.L. c. 268, Section 22 (rape); M.G.L. c. 268, Section 22A (rape of child); M.G.L. c. 268, Section 23 (rape or abuse of child); M.G.L. c. 268, Section 24 (assault with intent to commit rape); M.G.L. c. 268, Section 24B (assault of child; intent to commit rape); M.G.L. c. 268, Section 25 (attempted extortion); M.G.L. c. 268, Section 26 (kidnapping); M.G.L. c. 268, Section 26A (kidnapping of minor or incompetent by relative); M.G.L. c. 268, Section 26B (drugging persons by kidnapping); M.G.L. c. 268, Section 29 (assault; intent to commit felony); M.G.L. c. 268, Section 39 (assault or battery for purpose of intimidation; weapons); M.G.L. c. 268, Section 44 (coercion of child under eighteen into criminal conspiracy); M.G.L. c. 266, Section 1 (dwelling house; burning or aiding in burning); M.G.L. c. 266, Section 2 (meeting house; burning or aiding in burning); M.G.L. c. 266, Section 14 (burglary; armed; assault on occupants); M.G.L. c. 266, Section 15 (burglary; unarmed); M.G.L. c. 266, Section 16 (breaking and entering at night); M.G.L. c. 266, Section 17 (entering without breaking at night; breaking and entering in the day time; weapons); M.G.L. c. 266, Section 18 (dwelling house; entry at night; breaking and entry in the day time; weapons); M.G.L. c. 266, Section 25 (larceny by stealing; punishment; victim sixty-five or older); M.G.L. c. 266, Section 30 (larceny); and M.G.L. c. 94C (Controlled Substance Act).

(3) "Pattern of criminal gang activity" means two or more acts of criminal gang activity of which at least two such acts were committed within five years of each other.

Approved by the Board of Aldermen:

President