




**CITY OF SOMERVILLE, MASSACHUSETTS**  
**Office of Strategic Planning and Community Development**  
**JOSEPH A. CURTATONE, MAYOR**

**MEMORANDUM**

**Office of the Executive Director**

**MEMORANDUM**

**TO:** Mayor Joseph A. Curtatone

**FROM:** Monica R. Lamboy, Executive Director 

**DATE:** September 23, 2010

**SUBJECT:** Ordinance amending the Code of Ordinances to amend or add provisions related to vegetative overgrowth, hazardous trees, outdoor wood storage, inoperable vehicles, unregistered vehicles, storage of boats or recreational vehicles, and modifying or adding fines

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The Office of Strategic Planning and Community Development (OSPCD) respectfully requests that you forward the attached proposed ordinance amending the Code of Ordinances to the Board of Aldermen (BOA) for their review and approval. OSPCD and Law Office staff have been working closely to prepare an ordinance to address vegetation and trees on property, storage of wood, storage of inoperable or unregistered vehicles and storage of boats or recreational vehicles, and the fine structure applicable to Article 4 Offenses on Property of the Code of Ordinances.

**Background**

While the majority of property owners in Somerville maintain their properties in good condition, at times, some can allow vegetation on the property to become overgrown. To date, the only provision in the Code of Ordinances has been related to vegetation grown in proximity to public ways. This has been an important tool to require property owners to cut vegetation that can impede the sidewalks or roadways. However, has been difficult to use related to overgrown vegetation farther away from the public way. This spring, the Law Office offered a first draft of legislation to address overgrown vegetation, but the Legislative Matters Committee requested further revisions. In response, staff researched on ordinances from other cities. Staff has also been reviewing the Code of Ordinances relative to reducing food and shelter opportunities for rodents and offers a recommended ordinance provision dealing with the storage of wood pile outdoors on a property. In addition, it was identified that no code provision exists relative to hazardous trees or tree limbs.

Another significant enforcement issue is the storage of vehicles on private property that are either inoperable or unregistered. The Neighborhood Impact Team (NIT) has investigated properties with inoperable vehicles on a number of occasions and had limited ability to require the property owner to

remove the vehicle(s) due to the fact that the Code of Ordinances only offers restrictions relative to performing repair work on vehicles on private or public lots. An earlier version of an ordinance related to unregistered vehicles was presented to the Legislative Matters Committee this spring, but they requested modifications. In addition, staff identified a gap in the existing regulations regarding parking of boats or other recreational vehicles.

In addition, the BOA requested that staff more closely review the fine structure within the Code of Ordinances to make penalties for violations of the building code were appropriate.

### **Proposed Amendment to Code of Ordinances**

The proposed series of amendments is intended to provide the City with the means to require property owners to keep vegetation cut back, to reduce storage of inoperable or unregistered vehicles, guide storage of boats or recreational vehicles, and to enhance the fine structure for violations. The following summarizes proposed changes and additions to the Code of Ordinances.

- **Vegetation and Wood on Private Property (Section 9-56)**

As mentioned above, at present, the Code of Ordinances only contains one provision relative to weeds or overgrowth. This provision specifically addresses property abutting a public sidewalk and is designed to require property owners to keep the sidewalk clear of overgrowth. This provision has not been successful on properties where the overgrowth is farther away from the sidewalk.

Staff recommend that the Code be modified to add a new section for weeds/overgrowth on private property which indicates that all property must be kept free of vegetation that could harbor rodents, vermin, other dangerous insects or other animals, conceal pools of stagnant water conducive to the breeding of mosquitos, or create a fire hazard. In addition, in a separate provision, language is recommended so that property owners would be required to remove hazardous trees or tree limbs that could be injurious to the public.

The last recommended modification in this section would require all wood stored out of doors be raised one foot off the ground. This is designed to address the fact that rodents can very comfortably live in outdoor woodpiles. The recommended provision would require property owners to elevate any wood pile to make it unwelcome as a home for rodents.

Fines are recommended at \$25 (first offense), \$50 (second offense), and \$100 (third and subsequent offense).

- **Repairing and storing motor vehicles on public and private property (Section 9-57)**

As mentioned above, the Code of Ordinances does not offer enforcement staff with a code section that can be used to require a property owner to remove a vehicle from a property that is becoming a health or safety problem. The proposed ordinance distinguishes between an unregistered vehicle and an inoperable vehicle. An unregistered vehicle is proposed as a vehicle that could otherwise be driven on a roadway but for the fact that the owner has not renewed the vehicle registration. An unregistered vehicle theoretically could be registered, but the owner may wish to keep it off the road for a period of time. In contrast, an inoperable vehicle is one that clearly cannot move on its own. Staff recommends that one unregistered vehicle be allowed to remain on a property for up to 90 days while all inoperable vehicles would need to be removed within seven days.

In addition, staff recommends that a provision be added that defines where a boat or other recreational vehicle can be placed on a property. The proposed ordinance would require that the boat be no closer to the sidewalk than the existing front façade of the building, that it be outside the required setback in the zoning, and that it be screened by a fence.

Fines are recommended at \$100 (first offense), \$200 (second offense), and \$300 (third and subsequent offense).

- **Penalties and violations**

The Board of Aldermen asked that staff review the existing fine structure and determine if it provided sufficient disincentive that persons would not violate the building, fire, or sanitary codes. Upon reevaluation, staff believed that modification would be beneficial.

First, it is important to recognize that the City's fee structure is already set up in a way to penalize someone doing work without a building permit. Specifically, a stop work order is issued and the violator is charged 3x the regular fee for the building permit they secure after the stop work order. In one instance, this has cost at least one commercial property owner tens of thousands of dollars. Second, the priority for public health and safety is to make sure that violators come into compliance with the code, as opposed to becoming more surreptitious about their work.

Therefore, staff recommend that the fine structure be modified to apply a fine when/if a violator fails to respond to notification, as opposed to immediately upon discovery of the violation, like a trash ticket. Staff would determine if a violation existed, provide a time period to remedy the violation, and reinspect. If the violation was not addressed at the time of reinspection a fine would be issued. The fines for failure to remedy building code, fire code, and sanitary code violations are recommended at \$100 (first offense) and \$200 (second and subsequent offense). OSPCD staff are plan to revise the administrative fee structure to clarify that a fee for second inspection will be charged if the violation is not remedied. This will compensate the City for the staff time spent performing the failed inspection.

### **Recommendation**

It is recommended that the Board of Aldermen adopt the attached ordinance amending the Code of Ordinances to amend or add provisions related to vegetative overgrowth, hazardous trees, wood storage, abandoned vehicles, unregistered vehicles, storage of boats or recreational vehicles, and modifying or adding fines