

**Watertown City Council  
Committee on Human Services  
Monday, December 15, 2022**

Members Present: Councilor Tony Palomba, Chair; Councilor Caroline Bays, Vice Chair; and Councilor John Gannon, Secretary

The Committee on Human Services held a public meeting on December 15, 2022, at 6:00pm to discuss rodent control measures in Watertown and to recommend changes to be made.

**1. Call to Order**

Committee Chair Palomba called the meeting to order at 6:05pm and introduced the other committee members present: Caroline Bays, Vice Chair; and John Gannon, Secretary. Also present during the course of the meeting were City Councilors Emily Izzo, John Airasian, and Nicole Gardner, as well as Watertown Health Department Director Larry Ramdin and Department of Public Works Director of Administration and Finance Tom Watkins, and over 20 members of the community, either in person or via Zoom.

This meeting was called to address a referral from the City Council relative to rodent control measures in Watertown and whether improvements may be made.

Councilor Bays stated that she had made an information request to the Council for information on rodent trap locations, types of traps, and management of traps. Councilor Gannon stated that he had previously made an information request to the Council for information on whether the City may legally ban rodenticides as a rodent control measure either citywide or for city properties only.

The committee heard from many residents sharing concerns on the overwhelming growth of the rodent problem in Watertown, as well as concerns with the number and types of rodent traps. Councilor Palomba stated that he is torn between feeling like we're finally doing something with respect to rodents and having concerns on the impact of the rodent traps. He noted the impact of East End development on the rodent problem. He noted that State Representative Steve Owens had sent a letter on the issue to City officials.

Eileen Ryan stated her concern that the 250 rodent control boxes on Mount Auburn Street had rodent poison that kills other wildlife. While such traps are cheaper than other traps, they can cause serious environmental harm. She expressed her concern that the City should utilize other solutions, including elimination of food sources for rodents.

Pat Rathbone asked a question on which entity has to approve the rodent traps. Councilor Palomba stated that city contractors are required to have a rodent control plan to be utilized during construction. Presumably, the Building Inspector is charged with monitoring such plans. This committee will seek to determine the areas of responsibility.

Other residents expressed their concerns about the rodent traps placed on Mt. Auburn Street. Councilor Palomba stated that he was aware that National Grid had also placed rodent control traps in the city.

Health Director Larry Ramdin addressed the placement of rodent traps. He stated that there is a need to bait the rodent traps in order to reduce the rodent population. He stated that the Department of Public Works places traps and that other departments monitor rodent control plans. Her stated that the departments have convened a task force to coordinate on rodent control issues, and that the Health Department would be in charge of the task force. He stated that education on rodent issues is key. To that end, he added information on rodents to the Health Department website. He also stated that the Health Department has a minimal budget to use a private contractor to address rodent issues. This contractor utilizes carbon monoxide in its traps. He stated that the Health Department will monitor vacant properties for rodent conditions. He noted that the Health Department had taken one property owner to court to remediate sanitary conditions on its property.

Mr. Ramdin stated that the task force would meet again in January. He would like the task force to create a comprehensive rodent control plan. The task force comprises the Health Department, DPW, Department of Buildings and Grounds, and the City Manager's office. He had looked at rodent traps utilized by the City of Somerville that use electricity to kill rodents and to alert the City of deceased rodents in the trap. He stated that such traps cost \$1,600 each and may be too expensive to use in Watertown. He stated his opinion that the Health Department could use more staff to monitor rodent concerns citywide. One such role the Health Department will take on is to monitor rodent control plans across the city.

Councilor Gannon commended the Health Department for utilizing legal efforts to address problem property owners and urged the department to continue doing so, as it is important to alert property owners that enforcing health regulations will be a priority. Councilor Gardner suggested using social media to inform residents about rodent control measures.

Councilor Palomba asked DPW Director of Administration and Finance Tom Watkins about the role of DPW in setting rodent traps. Mr. Watkins stated that both the DPW and National Grid set rodent traps on Mt. Auburn Street as a proactive measure, anticipating that street construction will displace numerous rodents. They used a standard brand of poison to bait the traps, which he stated was a common product. Councilor Gannon asked Mr. Watkins about the poison contents. He replied that contractors use the poisons, as well. He will speak to the task force about utilizing different types of rodent traps. Councilor Gannon suggested that the City Council could deny National Grid and other utilities requested permit locations if they utilize unsafe rodent control measures.

In response to a question about rodenticides used in traps, Mr. Ramdin stated that the federal Environmental Protection Agency regulates the pesticides that can be used. He stated that rodents eat rodenticides in the traps, then go back to their nests to share the poison with their nest mates. Residents questioned whether other types of traps could be used, such as those that contain rodent birth control chemicals. Mr. Ramdin stated that her had never seen such a trap, but that the task

force will review options. Councilor Palomba suggested that the task force look ahead to use of safe practices in rodent baiting. He would like to hear updates on the progress of the task force. He would like to see the task force present a policy brief in January addressing rodent control measures. Councilors Gannon, Gardner and Palomba reiterated that they would like to assure that safe rodent control traps be utilized for both public and private properties.

Councilor Bays had to leave the meeting prior to the close of the meeting. Councilor Gannon stated that there were no additional emails.

Councilor Gannon moved to adjourn the meeting and continue the Committee's discussion on rodent control measures to January. The motion was seconded by Councilor Palomba. The motion was approved 2-0.

The meeting adjourned at 7:45pm.

The meeting minutes were prepared by Councilor John Gannon.

**Watertown City Council  
Committee on Human Services  
Tuesday, January 31, 2023**

Members Present: Councilor Tony Palomba, Chair; Councilor Caroline Bays, Vice Chair; and Councilor John Gannon, Secretary

The Committee on Human Services held a public meeting on January 31, 2023, at 5:30pm to continue a discussion on rodent control measures in Watertown and to recommend changes.

**1. Call to Order**

Committee Chair Palomba called the meeting to order at 5:35pm and introduced the other committee members present: Caroline Bays, Vice Chair; and John Gannon, Secretary. Also present during the course of the meeting were City Councilors Lisa Feltner and Nicole Gardner. City staff present were Department of Public Works Superintendent Greg St. Louis, DPW Director of Administration and Finance Tom Watkins and Stephen Addonizio from the City Clerk's office, and many members of the community, either in person or via Zoom.

This meeting was called to address a referral from the City Council relative to rodent control measures in Watertown and whether improvements may be made.

Councilor Palomba opened the meeting by noting that Health Department Director Larry Ramdin was not present, and he had not sent to the Committee a policy paper that was discussed at the Committee's prior meeting of December 15, 2022. At the prior meeting, Councilor Palomba noted that many residents provided testimony expressing their concerns about poisons that are contained in rodent traps killing other animals. The Committee had also discussed that rodent control measures should be considered a city problem, and not an individual landowner problem, due to the upheaval of the rodent population resulting from construction and other disruptive activities.

DPW Superintendent Greg St. Louis addressed some of the rodent control issues. The city will be looking at removing hazardous poisons from bait stations and looking at so-called smart control measures. The city will also be looking at diversifying rodent control plans. He stated that the extent of rodent control measures is a new process, and we are about to be moving into a larger phase, as construction projects commence. The Mt. Auburn reconstruction project will be bid out in November, and construction will start during 2024. He stated that construction RFP's will require a less lethal rodent trap and encourage the use of smart boxes. Councilor Palomba noted that the DPW webpage has a page on rodent control FAQ's.

Resident Karen Russo of Birch Road noted the influx of rodents in her neighborhood. The building construction of 85 Walnut Street abuts her property. She has complained to the Health Department. She noted that there are no rodent traps on Birch Road, even though the construction plan calls for a rodent control plan. Councilor Palomba informed Ms. Russo that she should continue calling the Health Department, as he informed the Committee at the last meeting that the Health Department would serve as the focal point for rodent complaints.

Janet Erlick of Williams Street stated that her street has a larger population of rodents than she's ever seen. She noted that an adjacent parking lot has a dumpster and a clothing donation box where rodents congregate. She was likewise instructed to reach out to the Health Department. A resident of Capital Street also informed the Committee of an increase in rodents in her neighborhood. When she called the Health Department, she was informed that she needed to hire an exterminator. When she contacted the exterminator, she was informed that if she contracted with that company there was no guarantee that the rodents wouldn't come back. She said she never had problems with rodents before.

Councilor Feltner stated that she would like to know the locations of the rodent control plans. She noted that there are extensive construction activities on Galen Street and Arsenal Street. She has observed many rodents. Councilor Palomba stated that the questions should be addressed to Larry Ramdin, but he was not present. Several residents expressed fears of the growing rodent populations in their neighborhoods. One stated that rodents ate through her hard plastic city-issued trash and recycling barrels. Some thought that in situation like that the City should pay for a new trash totter and recycling totter.

Larry Ramdin subsequently arrived at the meeting. When asked about the status of the promised white paper on rodent control since the Committee last met on December 15, 2022, Mr. Ramdin responded that he had waited for the new Deputy City Manager to be appointed prior to working on the report. Councilor Palomba noted that the Committee at the December meeting had asked a lot of questions regarding the rodent traps, who's responsible for developer rodent control measures, the types of rodent traps used by the various city departments using such traps. He noted that Mr. Ramdin had stated that he would be the lead city official on rodent issues and had promised to deliver the policy brief. He wants to know how the task force will work. Mr. Ramdin stated that the Health Department policy regarding complaints is to review rodents in a larger area beyond the location of the property cited. The Health Department has a complaint tracking system, sometimes health officials place traps in these areas. Councilor Palomba asked what data the Health Department collects, and how many cases are addressed in each month. Mr. Ramdin stated that there were 536 rodent complaints in the last two years, but he could not provide further details.

Councilor Palomba asked how the task force will develop the rodent control plan. He stated that he would like to see the plan issued by the task force by the end of the fiscal year, so that additional funding for remediation programs could be included in the FY2024 budget. Mr. Ramdin stated that he could get the task force plan completed by the end of the calendar year. Councilor Palomba stated that he would like to see the complaint data be used to demonstrate where rodent complaints across the city are highest. Councilor Palomba reiterated his request that the rodent control policy brief be shared with the Committee by the time of the Committee's February meeting.

Councilor Gannon moved to adjourn the meeting and continue the Committee's discussion on rodent control measures to February. The motion was seconded by Councilor Bays. The motion was approved 3-0. The meeting adjourned at 7:15pm.

The meeting minutes were prepared by Councilor John Gannon.

**Watertown City Council**  
**Committee on Human Services**  
**Councilor Palomba-Chair, Councilor Bays-Vice Chair, Councilor Gannon-Secretary**  
**Committee Report – Meeting on March 23, 2023**

The Committee on Human Services held a public meeting on March 23, 2023 at 6:30 PM in the City Council Chambers to continue the discussion of the establishment of a City-wide Rodent Control Plan. This was a hybrid meeting so residents could join on Zoom. Also, questions and comments could be sent to Councilor Gannon at [jgannon@watertown-ma.gov](mailto:jgannon@watertown-ma.gov). Finally, the meeting was recorded by WCATV and will be broadcasted at a future date.

Present at the meeting were Councilor Tony Palomba, Chair; Councilor Caroline Bays, Vice Chair; and Councilor John Gannon, Secretary. Also attending from the Administration was Larry Ramdin, Director of the Health Department and on Zoom, Tom Watkins, Director of Administration and Finance for the Department of Public Health. Residents in attendance were Adrine Beurjlian, Eileen Zubrowski, Karen Russo, Janet Erlick, Susan Percoc-Barbato, Mary Marcus, and Jacky van Leeuwen (on Zoom).

The meeting began with testimony from residents regarding rat sightings in their neighbors, particularly in the Walnut Street area and in the Galen Street area where major life-science developments are being built. This led to a discussion of who is responsible for monitoring the rodent control programs at construction sites. Mr. Ramdin explained it was the Health Department's task though he has encounter resistance from the developers on Galen Street and that it has been difficult for his staff to keep up the review of the rodent plans at the many developments in the city. Residents expressed their dissatisfaction with the situation particularly since this is not the first time they have voiced their concern.

Mr. Watkins shared new information that the Department of Public Works (DPW) has taken to address the rodent problem.

1) They have contracted with Anticimex to install 80 SMART Technology traps which electrocute the rat. Forty of have been placed on Arsenal Street and 30 on Mt. Auburn Street, and 10 at various locations in the city. The traps allow for the collection of data noting the day and time the rat was killed. The data will be collected and shared with the DPW. The vendor is responsible for removing the dead rodent. The traps were installed approximately two weeks ago (during the week of March 6) and there will be real numbers on the effectiveness of the traps within one or two months. The Committee requested that the information be shared with the City Council. Mr. Watkins will also provide the cost of the new traps.

2) The 200 existing traps on Mt. Auburn Street and the 50 – 100 traps set on streets off of Mt. Auburn have been baited with a new product, Terad3 which is said to be less damaging to animals who consume rodents that have been poisoned.

It was noted that one of the problems is that there are different vendors using different traps throughout the city. In addition to each developer hiring a company, there are companies hired by different city departments and that having multiply vendors in town makes data collection and the comparison of data to measure effectiveness difficult. Again this would fall to the Health Department and Mr. Ramdin said the new Rodent Control Working Group, composed of representatives from the Health Department, the Department of Community Development and Planning, the Department of Public Buildings, the Department of Public Works and the City Manager's Office are working to address this issue.

The Committee turns its attention to two questions, and the corresponding legal recommendation and rules, submitted by Councilor Gannon at a November meeting of the City Council under the agenda item “Request for Information”. The two questions were:

- 1) Can the City of Watertown legally vote to ban the use of rodenticides, or similar measures, citywide?
- 2) Can the City of Watertown legally vote to ban the use of rodenticides or similar measures, on city property, include public ways and parks?

Councilor Gannon reviewed the opinion of the City’s attorney, KP Law as well as rulings from the Attorney General’s office regarding the towns of Arlington and Belchertown and their efforts to control the use of rodenticides. (See attachments.) In sum and pertaining to Watertown, the City can regulate the use of rodenticides on city-owned property including streets, sidewalks and buildings by ordinance, but cannot regulate the use of rodenticides on private property.

The Committee then heard a presentation by Mr. Ramdin entitled, “Rats in Watertown” which was the second draft of his city-wide rodent control policy brief. (Attached are the first draft presented at an earlier meeting and the second draft presented at this meeting.)

The draft Plan included sections on:

- rat facts including that rodents can’t be eliminated but only controlled
- present city rodent control activities
- description of the roles of various city departments as well as the roles of the Zoning Board of Appeals and the Zoning Officer
- -the specific response procedures to complaints by the Department of Health and data on the number of complaints between 2019 and 2022
- activities of the Rodent Control Working Group
- Future Actions

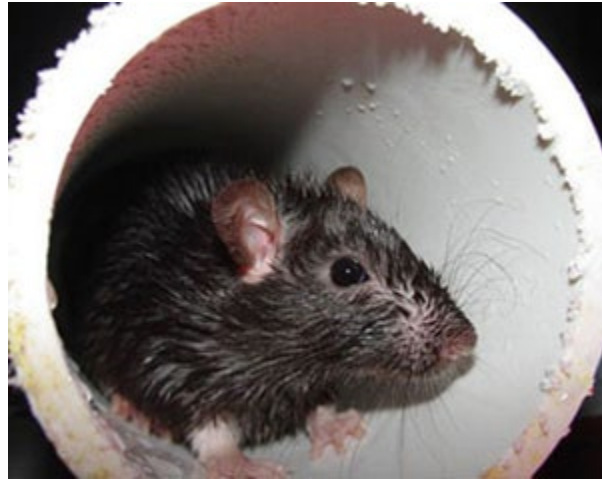
Unfortunately the Plan could not be shown on the Chamber screens which made it impossible for those on line to see it. Copies of the Plan were distributed to members of the audience and to the Committee. Comments from the Committee included:

- concern that the Plan was too board
- the need for more details in the Future Actions sections
- request that it included goals, strategies, action steps, timelines, evaluation criteria and costs

The meeting concluded with a request by the Committee that while the city-wide plan is being developed that the Health Department more vigorously review the rodent control plans of developers and if the developer is out of compliance with their plan that there be action taken to enforce accountability.

Councilor Bays made a motion to adjourn, Councilor Gannon seconded the motion and it was passed 3 – 0.

Minutes were prepared by Councilor Palomba



# Rats in Watertown

Presented by

**Larry Ramdin**

**Director of Public Health**



## Introduction

Rats are said to have arrived in the United States(US) in the 18th century on ships from Europe. These rats have spread across the US. The main rat of concern to us in Watertown is the Norway Rat (*Rattus norvegicus*) or Brown Rat. It has been suggested by some researchers and others in the pest control industry that the recent COVID-19 outbreak where many businesses, restaurants, schools and other commercial entities were closed. This led to rats leaving their normal habitats to seek food in nontraditional areas and migrated to two neighborhoods it's search of shelter and food. Additionally, with more people being home it was easier to see what was happening in the neighborhoods.

The milder winters we have been experiencing over the past few years is another cause for the increasing rodent population.

Also, construction and other noisy activity that includes digging and vibrations will displace the rodent population.

Rats require food, harborage, and water to survive in the environment.

Rodent Control Activities are focused on population reduction and impact on human population. Elimination of rats in the community is not feasible.

## Rat Facts

According to the Indiana Department of Public Health (**Norway Rats: Illinois Department of Public Health, Prevention and Control** retrieved from <http://www.idph.state.il.us/envhealth/pcnorwayrat.htm>)

- Rats will eat nearly any type of food, but they prefer high-quality foods such as meat and fresh grain. Rats require 1/2 to 1 fluid ounce of water daily when feeding on dry food.
- Rats have keen taste, hearing and sense of smell.
- They will climb to find food or shelter, and they can gain entrance to a building through any opening larger than 1/2 inch across.
- The Range of the Norway rat is 25-100 feet from its nest. However they will travel for greater distances in urban tracts: Sewers, Storm drains, rail beds etc.( Corrigan, 2001)

## City of Watertown Rodent Control Activities

Rodent Control response activities in the city are done by pest control contractors hired by multiple departments. The use of pesticides is governed by the MA Department of Agriculture and the EPA.

All City Departments are currently requiring the use of low toxicity baits and other control methods that are not harmful to non-target, secondary predators, examples are Terad 3(Cholecalciferol), use of Carbon Monoxide and Integrated Pest Management methods.

- The Health Department has primary responsibility for responding to resident complaints and taking action to mitigate rodent infestations on public property and serve orders to private property owners to take action to reduce harborage conditions and infestations. They enforce the Food Establishment, Housing and nuisance regulations to ensure rodent infestations are reduced. Additionally, they host a webpage that provides information on actions residents can take to reduce the rodent impact in their neighborhood. [Rodent Control | Watertown, MA - Official Website \(watertown-ma.gov\)](http://www.watertown-ma.gov/rodent-control)
- The Department of Public works is responsible for addressing current infestations in public parks, outside public buildings, and community public works projects. They also issue street opening permits for third party street projects. There are permitting requirements that include rodent mitigation efforts.
- The Public Buildings Department is responsible for internal pest control treatments in public buildings including schools. Pest control in schools is governed by the *Act to Protect Children and Families from Harmful Pesticides*. The Act requires an integrated pest management plan that must be filed with the Department of Agriculture. Those plans are site specific and require notification to all families on the use of pest control chemicals in the schools.
- The Department of Community Development and Planning Department (DCDP) includes Planning, Zoning and Building Officer. Each subunit has its own processes that help to address pest mitigation.

When a Planning or Zoning Board of Appeals (ZBA) decision is rendered by the Board that decision typically includes a requirement for the applicant to engage in rodent mitigation efforts prior to start and over the life of the construction project.

The Zoning Officer oversees the Zoning regulations and helps to address conditions that may contribute to rodent harborage on properties in the community. They work in close collaboration with other offices in the DPCP, the Health Department and DPW.

The Building Department issues permits for construction and demolition. As part of the demolition permit application process, they require a pest control plan to be included in

their application and concurrence with the plan by the Health Department. If there is any construction work that includes extensive excavation and vibration, a rodent mitigation plan is also required.

## **Health Department Rodent Control Response Procedures**

The Health Department is the primary city agency responsible for rodent mitigation activities.

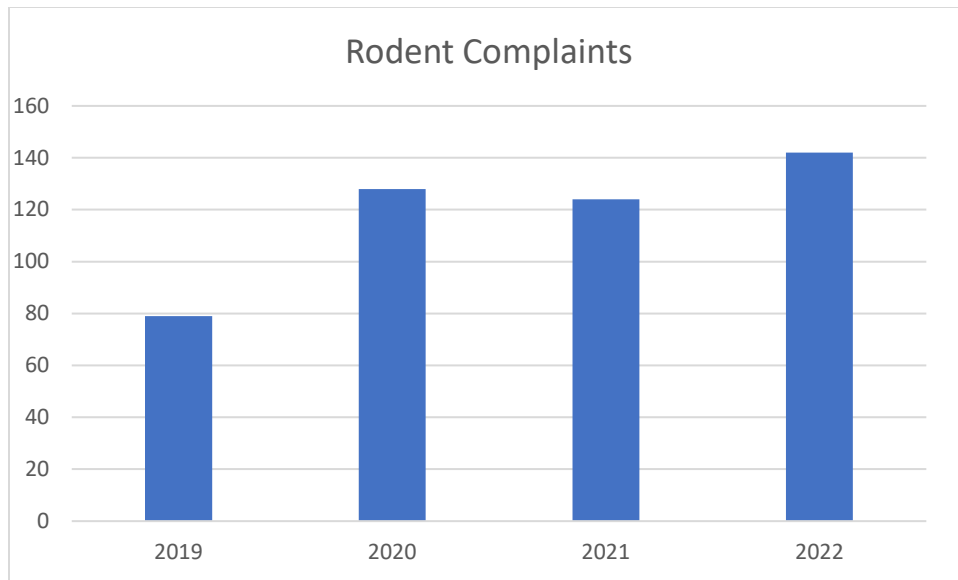
The Department also oversees dumpster /trash management in restaurants, Rental properties and other areas under the:

- Food Code
- Housing code
- General Nuisance law ( MGL Chap 111, s122)

How the Health Department addresses complaints:

- Complaints are received through our electronic portals see click fix, by phone, e-mail and walk-ins.
- When these complaints are received. They are recorded in our electronic complaint register and a staff person is assigned to investigate the complaint.
- If the complaint is not anonymous, we will contact the complainant and get additional information and schedule a time to meet with them to get a better understanding of the complaint.
- We will assess the infestation and identify root causes for the complaint. This can mean walking the entire neighborhood to identify possible causes of the infestation.
- Once these have been identified they will act and serve notice on the party responsible for contributing to the infestation to remedy the situation and remove all possible causes of the infestation.
- If compliance is not met and the situation causing the infestation is not remedied, tickets or court action may be instituted against the party contributing to the infestation. The city's legal department provides support advice and assistance in resolving the legal issues.
- The Health Department also treats rodent infestations on public ways and sewers in response to resident complaints. Additionally, they ensure that developers are meeting the requirements of their planning approval. In 2022, 25 neighborhoods were treated for rodent problems

The Health Department has seen an increase in rodent complaints over the last few years.



### **Department of Public Works**

The DPW has proactively started baiting on the Mt. Auburn Street corridor in anticipation of extensive roadwork. They have deployed bait stations above ground and are actively baiting the sewers to reduce the rodent population so that the abutting neighborhoods are not significantly impacted. They are utilizing low toxicity baits and have deployed 80 electrocutor “Smart boxes” to reduce the impact on non-target species.

### **Rodent Control Working Group**

A Rodent Control workgroup was established to address resident concerns on rats in the neighborhoods and ensure a collaborative approach is used in addressing the rodent concerns.

The Work Group consists of the:

- Health Department
- Department of Community Planning and Development
- Department of Public Buildings
- Department of Public Works

The workgroup will continue to meet monthly to discuss and develop collaborative strategies to reduce the rodent population in Watertown.

## **Future Action:**

- Continue DPW efforts to do multiple baiting around public property/projects.
  - Evaluate the approach currently being piloted on Mt. Auburn Street, which includes blanketing the surrounding area with multiple different rodent-control techniques, including SmartBoxes. If the pilot proves to be effective, expand the approach to other areas with rodent infestations.
  - Consolidate third-party rodent-control services & ensure best practices in contracts, including monitoring and reporting.
  - Continue experimenting with new rodent-control techniques (e.g., electrocution, drowning, fertility control, etc.) measure and report results.
  - Commit to continue using bait that does not have secondary toxicity; consider having Board of Health and/or council limit use of these pesticides on private sites.
- Take positive action to reduce reinfestation, such as closing burrows, removing food sources, entry points and other pest harborage conditions.
- Increase resident outreach, education, and engagement through public announcements, social media (e.g., Rat Tip of the Day), and more.
- Continue strict enforcement of the sanitary and food code and nuisance law to reduce opportunities for rodents to live and feed in Watertown.

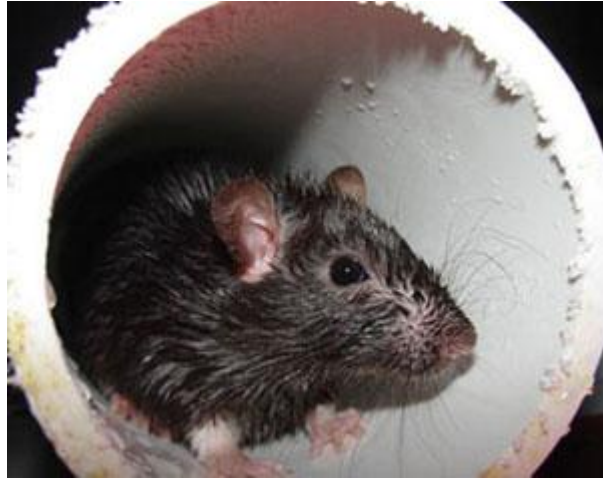
## **References**

Centers for Diseases Control: How to Control Wild Rodent Infestations January 2023, retrieved from <https://www.cdc.gov/healthypets/pets/wildlife/rodent-control.html>

[Corrigan , Robert: Rodent Control a practical guide for Pest management Professionals.GIE Media , Cleveland. 2001](#)

**Norway Rats: Illinois Department of Public Health, Prevention and Control** retrieved from <http://www.idph.state.il.us/envhealth/pcnorwayrat.htm>

[Rodent Control | Watertown, MA - Official Website \(watertown-ma.gov\)](#)



# Rodents in Watertown

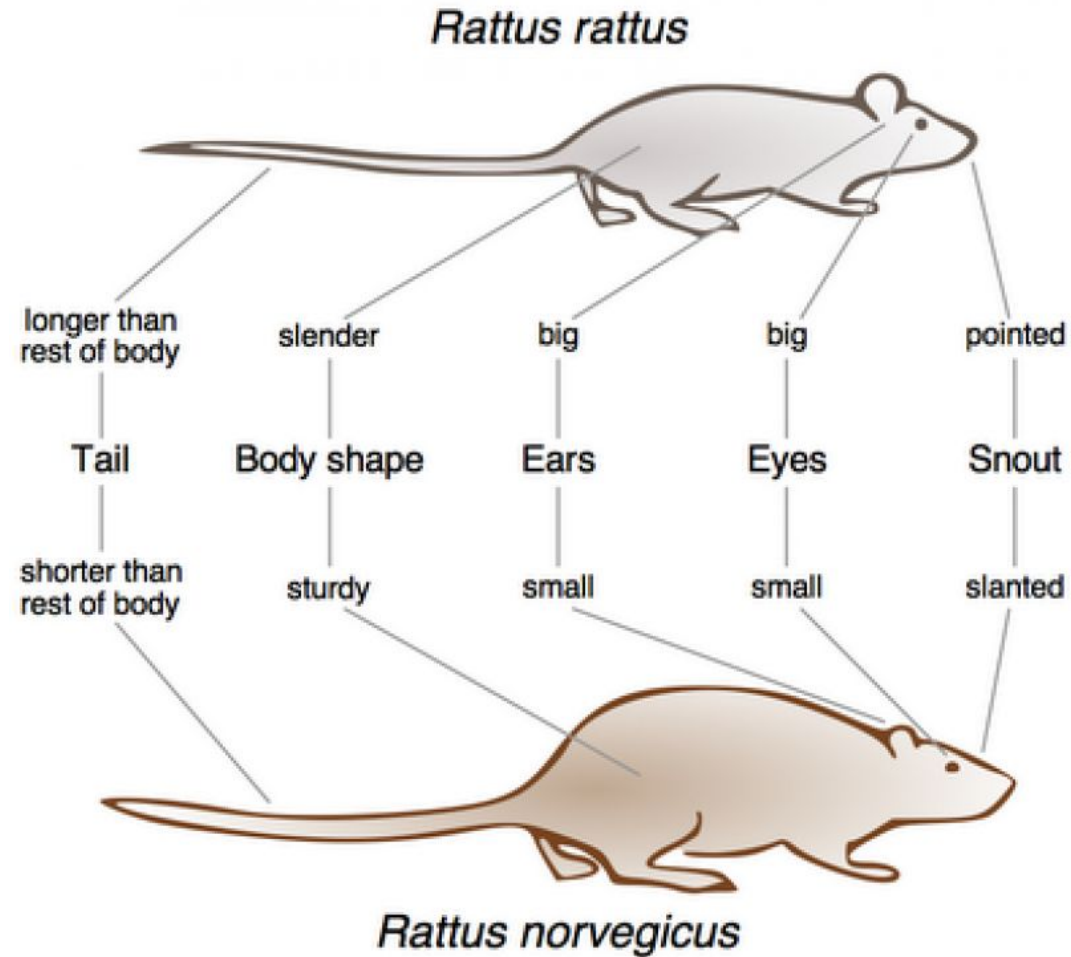
Larry Ramdin

Director of Public Health

# History

- Rats originated in Asia and made their way to Europe there are two Rats of Public concern
  - *Rattus norvegicus* : The Brown Rat/Norway Rat
  - *Rattus rattus* : Black Rat
  - *Rattus rattus* is not a concern in eastern MA
  - It has been suggested that the Brown rats arrived in the US in the late 1700's

# Comparison





# Brown Rat Facts

- Black or brown with lighter underside
- 15-20 inches head to tail
- Average weight 12oz male, 9oz females 35 oz
- Nocturnal in nature, but will be seen feeding in daylight when there is a high population
- Keen sense of smell
- Gestation period 21-22 days
- Females come in heat every 4-5 days and will breed 2-5 days after delivering litter
- Litter 6-12 pups- independent in 3-4 weeks sexual maturity at 8-12 weeks

# Brown Rat Facts

- Poor eyesight and color blind
- Keen sense of smell
- Good Swimmers and climbers
- Good hearing

# Brown Rat Facts

- Rats live in burrows with multiple entrances
- Omnivorous
- Range 25 – 100 feet from nest normal range
- Will travel several hundred feet to feed
- Some rats have been noted to travel up to 4 miles to follow sewer and pipe trails

# Needs

- Rodents need:
  - Food( anything that will provide sustenance
  - Water
  - Harborage: places for them to live
    - They will pass through openings that allows their head to pass approx.  $\frac{1}{4}$  inch)

# Distribution

- Rats are distributed almost evenly across Watertown
- Concentrations found in the East Watertown Area between Arsenal and Belmont Streets
- Pleasant Street Corridor

# Control

- Eliminate sources of Food, Water and harborage
- Identify Activity areas
- Bait/ Trap

# Food

- Open Dumpsters/ garbage cans
- Bird Feeders and spilled seeds
- Bread intended for birds
- Unharvested garden produce
- Grass
- Improperly disposed Animal fecal waste
- Litter and food scraps/spills

# Water

- Animal bowls
- Depressions that hold water
- Blocked drainage
- Improperly discarded waste especially containers that can hold water



# Harborage

- Holes in ground
- Sewers
- Basements
- Low lying Bushes plants
- Dead spaces under porches and sheds
- Crawlspace
- Spaces in stone walls

# Control

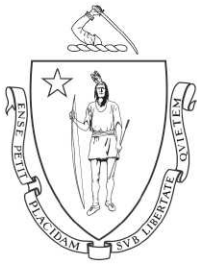
- Follow guidance and information on how to control for rodents on your property
  - <https://www.watertown-ma.gov/627/Rodent-Control>
  - <https://content.civicplus.com/api/assets/982e5a6a-63e8-4bcd-9a35-dba9e1e1ec41?cache=1800>
- Eliminate Dead spaces around your property including low lying shrubs newr to building
- Pre-treatment of all construction work and rodent surveys for demolition work

# Actions

- Complaint received by Health Department
  - Staff assigned to do a local survey of complaint and identify areas of harborage, food and water
  - Actions recommended to property owner or City send request to Pest Control provider
  - Decision on method of treatment is left to the Pest Control Provider based on extent of th problem
  - The Health Department is currently requiring( as far as possible) low toxicity means of rodent control including: low toxicity baits, baits in bait boxes,
  - Carbon Dioxide

# Recommendations

- Develop A community wide Rodent Control plan
  - Health Department manages the monitoring of development and vacant property Rodent control plans
  - Create more visibility of rodent control actions by the City
  - Require active rodent management by developers
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# THE COMMONWEALTH OF MASSACHUSETTS OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION

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ATTORNEY GENERAL

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December 19, 2022

Juliana Brazile, Town Clerk  
Town of Arlington  
730 Massachusetts Avenue  
Arlington, MA 02476

**Re: Arlington Annual Town Meeting of April 25, 2022 -- Case # 10690  
Warrant Articles # 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 39, 41, 42, 43,  
and 44 (Zoning)  
Warrant Articles # 6, 7, 8, 10, 11, 12, 15, 16, and 18 (General) <sup>1</sup>**

Dear Ms. Brazile:

**Article 18** - Because the Town has not yet obtained the special legislation that is necessary for a town to adopt a by-law regulating rodenticides, we place Article 18 on "hold" pending receipt of the requested special legislation. <sup>2</sup>

## **I. Summary of Article 18**

Under Article 18 the Town voted to adopt a new general by-law, "Use of Second-Generation Anti-Coagulant Rodenticides," that requires certified and commercial pesticide applicators to register with the Town (and pay registration fee) and notify the Town prior to applying second generation anti-coagulant rodenticides. The Town's Department of Health and Human Services is authorized to adopt regulations to administer the by-law. The by-law imposes fines for failure to comply.

The Town also voted to authorize the Select Board to petition the Legislature for a special act to authorize the Town's adoption of the Rodenticides by-law. <sup>3</sup>

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<sup>1</sup> In a decision issued on September 29, 2022, we approved Articles 6, 7, 8, 10, 12, 15, 16, 28, 29, 31, 32, 33, 34, 35, 36, 37, 39, 41, 42, 43, and 44. By agreement with Town Counsel as authorized by G.L. c. 40, § 32 we extended our deadline for a decision on Articles 11, 18, and 30 by 90 days through December 28, 2022.

<sup>2</sup> During our review of Article 18 we received communications in opposition from the New England Pest Management Assoc. and Terminix (now Rentokil/Terminix). We appreciate these communications and they have aided us in our review of Article 18.

<sup>3</sup> We take no action on that part of Article 18's vote that authorized the filing of a petition for special legislation.

## **II. Absent a Special Act, Article 18 is Preempted by the Massachusetts Pesticide Control Act**

The Massachusetts Pesticide Control Act (“Act”) both expressly (by the Act’s text) and impliedly (because “the purpose of the [Act] would be frustrated [by the by-law] so as to warrant an inference that the Legislature intended to preempt the field.”) preempts the use of herbicides, rodenticides and other pesticides in a Town. See St. George Greek Orthodox Cathedral of Western Massachusetts, Inc. v. Fire Department of Springfield, 462 Mass. 120, 125-126 (2012) (quoting Wendell v. Attorney General, 394 Mass. 518 (1985)).

General Laws Chapter 132B establishes the Massachusetts Department of Agricultural Resources’ (MDAR) “exclusive authority in regulating the labeling, distribution, sale, storage, transportation, use and application, and disposal of pesticides in the commonwealth . . .” G.L. c. 132B, § 1. General Laws Chapter 132B, Section 2 defines “Pesticide” as “a substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant. . .” The Act establishes a Pesticide Board within MDAR (Section 3), and authorizes the Pesticide Board to register pesticides for use in the Commonwealth if the Board determines that “a pesticide, when used in accordance with its directions for use, warnings and cautions and for the uses for which it is registered. . . will not generally cause unreasonable adverse effects on the environment. . .” (Section 7).<sup>4</sup> The Act prohibits application of a registered pesticide in a way that is inconsistent with its labeling or other restrictions imposed by the MDAR (Section 6A).

The Act includes an express statement of intention to preempt local regulation of the application of pesticides: “The exclusive authority in regulating the labeling, distribution, sale, storage, transportation, use and application, and disposal of in the commonwealth shall be determined by this chapter.” G.L. c. 132B, § 1, as amended by Chapter 264 of the Acts of 1994. Further, MDAR has repeatedly confirmed the preemptive effect of the Act and regulations over pesticide application.<sup>5</sup>

Even if the Act did not include a statement of express preemption, the Act impliedly preempts local regulation of pesticide application. The purpose of the Act and Regulations is to have centralized and uniform regulations for the use of pesticides in the state. Town of Wendell, 394 Mass. at 518

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Votes to authorize the filing of special act petitions are not by-law amendments and are not subject to review by this Office. See G.L. c. 40, § 32.

<sup>4</sup> MDAR defines “Use of a pesticide” in 333 CMR § 10.02 to include the following: any act of handling a pesticide, releasing of a pesticide, or exposing of man or the environment to a pesticide, including, but not limited to: (a) Application of a pesticide including mixing or loading of equipment and any supervisory action in or near the area of application. (b) Storage actions relative to pesticides and pesticide containers carried out or supervised by an applicator. (c) Disposal actions relative to pesticides and pesticide containers carried out or supervised by an applicator. (d) Transportation actions relative to pesticides and pesticide containers except those by carriers and dealers.

<sup>5</sup> We disapproved similar prohibitions on the use of pesticides in decisions issued to the Towns of Belchertown on November 14, 2022 (Case # 10613), Hopkinton on April 19, 2022 (Case # 10454), and Wellfleet on September 7, 2016 (Case # 7919).

(town by-law regulating the use of pesticides in town frustrates the statutory purpose of centralized regulation of pesticide use). By prohibiting pesticide application, the by-law imposes an additional layer of regulation at the local level. This additional local regulation prevents the achievement of a statewide determination of the reasonableness of the use of a specific pesticide in particular circumstances that frustrates the purpose of the Act. Id. at 529.

### III. Conclusion

Because of the preemptive effect of the Act, the by-law has no lawful effect without the requested special legislation. We thus place this by-law on “hold” pursuant to G.L. c. 40, § 32 pending receipt of the requested special legislation.

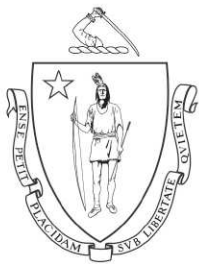
**Note:** Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,  
MAURA HEALEY  
ATTORNEY GENERAL

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November 14, 2022

Theresa A. Camerlin, Town Clerk  
Town of Belchertown  
P.O. Box 629  
Belchertown, MA 01007

**RE: Belchertown Annual Town Meeting of May 9, 2022 - Case # 10613**  
**Warrant Articles # 18, 19, 20, and 22 (Zoning)**  
**Warrant Article # 28 (General)**

Dear Ms. Camerlin:

**Article 22** - Under Article 22 the Town voted to amend the zoning by-laws to delete Section 145-28, the Town's existing solar by-law and insert a new Section 145-28, "Commercial Solar Photovoltaic Installations" (CSPIs). CSPIs are allowed as of right over parking lots and on existing structures and all other CSPIs are allowed by special permit in all of the Town's zoning districts. We approve the by-law amendments except for Section 145-28 (F) (2) that prohibits the application of herbicides, rodenticides, and other pesticides, that we disapprove because it is preempted by state law.<sup>1</sup>

In this decision, we summarize the by-law amendments adopted under Article 22 and the Attorney General's standard of review of zoning by-laws, and then explain why, based on our standard of review, we approve Article 22, in part.

## **I. Summary of Article 22**

Under Article 22 the Town added a new Section 145-28, "Commercial Solar Photovoltaic Installations," that regulates the development, placement, design, and construction of CSPIs. Section 145-28 (A) (1). CSPIs are large-scale (minimum 250 kW rated nameplate capacity) solar photovoltaic installations. Section 145-28 (B). The new Section 145-28 allows CSPIs as of right over parking lots and on existing structures. Section 145-28 (B) (1). All other CSPIs are allowed by special permit in all zoning districts. Section 145-28 (B) (2). The new Section 145-28 prohibits

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<sup>1</sup> By agreement with Town Counsel as authorized by G.L. c. 40, § 32 we extended our deadline for a decision on Article 22 by 90 days through November 29, 2022.



the following installations: CSPIs that are larger than 15 acres in area; require clear cutting of more than five acres; are located on slopes greater than eight percent, have inadequate frontage, or are located within the 500-year FEMA Flood Plain. Section 145-28 (B) (3). Section 145-28 also imposes design standards and safety and environmental standards, including lighting, signage, land clearing, fire protection, and control of vegetation and animals. Sections 145-28 (E) and (F). As to controlling vegetation and animals, Section 145-28 (F) (2) states as follows:

Control of Vegetation and Animals, Including Insects. Herbicides, rodenticides, or any other pesticides may not be used to control vegetation or animals at a CSPI. In a dual-use CSPI, the agricultural operator, but not the CSPI operator, is exempt from this restriction.

## **II. Protections for Solar Uses Under G.L. c. 40A, § 3**

Solar uses are protected under G.L. c. 40A, § 3. In adopting G.L. c. 40A, § 3, (“Section 3”), the Legislature determined that certain land uses are so important to the public good that the Legislature has found it necessary “to take away” some measure of municipalities’ “power to limit the use of land” within their borders. Attorney General v. Dover, 327 Mass. 601, 604 (1950) (discussing predecessor to G.L. c. 40A, § 3); see Cnty. Comm’rs of Bristol v. Conservation Comm’n of Dartmouth, 380 Mass. 706, 713 (1980) (noting that Zoning Act as a whole, and G.L. c. 40A, § 3 specifically, aim to ensure that zoning “facilitate[s] the provision of public requirements”). To that end, the provisions of Section 3 “strike a balance between preventing local discrimination against” a set of enumerated land uses while “honoring legitimate municipal concerns that typically find expression in local zoning laws.” Trustees of Tufts Coll. v. City of Medford, 415 Mass. 753, 757 (1993). Over the years, the Legislature has added to the list of protected uses, employing different language—and in some cases different methods—to limit municipal discretion to restrict those uses.

Solar energy facilities and related structures have been protected under Section 3 since 1985, when the Legislature passed a statute codifying “the policy of the commonwealth to encourage the use of solar energy.” St. 1985, c. 637, §§ 7, 8. Id. § 2. Specifically, Section 3’s solar provision grants zoning protections to solar energy systems and the building of structures that facilitate the collection of solar energy as follows:

No zoning . . . bylaw shall prohibit or unreasonably regulate the installation of solar energy systems or the building of structures that facilitate the collection of solar energy, except where necessary to protect the public health, safety or welfare.

In codifying solar energy as a protected use under Section 3, the Legislature determined that “neighborhood hostility” or contrary local “preferences” should not dictate whether solar energy systems are constructed in sufficient quantity to meet the public need. See Newbury Junior Coll. v. Brookline, 19 Mass. App. Ct. 197, 205, 207-08 (1985) (discussing educational-use provision of Section 3); see also Petrucci v. Bd. of Appeals, 45 Mass. App. Ct. 818, 822 (1998) (explaining, in context of childcare provision, that Legislature’s “manifest intent” when establishing Section 3 protected use is “to broaden . . . opportunities for establishing” that use). Indeed, the fundamental purpose of Section 3 is to “facilitate the provision of public requirements” that may be locally disfavored. Cnty. Comm’rs of Bristol, 380 Mass. at 713.

The Supreme Judicial Court has recently reaffirmed this principle in Tracer Lane II v. City of Waltham, 489 Mass. 775 (2022). In ruling that Section 3’s protections required Waltham to allow an access road to be built in a residential district for linkage to a solar project in Lexington, the Court explicitly noted that “large-scale systems, not ancillary to any residential or commercial use, are key to promoting solar energy in the Commonwealth.” Id. at 782 (citing Executive Office of Energy and Environmental Affairs, Massachusetts 2050 Decarbonization Roadmap, at 4, 59 n.43 (Dec. 2020) (“the amount of solar power needed by 2050 exceeds the full technical potential in the Commonwealth for rooftop solar, indicating that substantial deployment of ground-mounted solar is needed under any circumstance in order to achieve [n]et [z]ero [greenhouse gas emissions by 2050]”). The Court explained that whether a by-law facially violates Section 3’s prohibition against unreasonable regulation of solar systems will turn in part on whether the by-law promotes rather than restricts this legislative goal. Id. at 781. While municipalities do have some “flexibility” to reasonably limit where certain forms of solar energy may be sited, the validity of any restriction ultimately entails “balanc[ing] the interest that the . . . bylaw advances” against “the impact on the protected [solar] use.” Id. at 781-82.

Applying that framework to the facts of the case before it, the Court explained that Waltham had unreasonably restricted solar energy systems by excluding large-scale solar arrays from most zoning districts and “in all but one to two percent” of the City’s land area. Id. at 782. The Court acknowledged that Waltham’s regulation was designed to advance the generally legitimate municipal purpose of preserving each zone’s unique characteristics. Id. But the Court explained that Waltham’s categorical and extensive limitation on large-scale solar arrays—a critical form of solar energy system—undermined the state policy favoring solar energy and lacked any public health, safety, or welfare justification sufficient to justify the extent of the restriction. Id. at 781-82. The regulation was therefore unreasonable and unlawful. Id. at 782.

### **III. Analysis of Article 22**

The by-law amendments adopted under Article 22 appear to be reasonable solar regulations that are designed to enhance, rather than limit, the development of commercial solar installations in the Town. The new Article 22 allows CSPIs as of right over parking lots and existing structures. And except for certain prohibited types of CSPIs, all other CSPIs are allowed by special permit in all of the Town’s zoning districts. However, if Article 22 is applied in ways that make it impracticable or uneconomical to build solar energy systems, such application would run a serious risk of violating G.L. c. 40A, § 3. The Town should consult closely with Town Counsel in applying Article 22 to ensure that the by-law amendments do not result in an unreasonable regulation of solar energy systems.

### **IV. Section 148-28 (F) (2)’s Prohibition on Herbicides, Rodenticides and Other Pesticides is Preempted by G.L. c. 132B**

Section 145-28 (F) (2) prohibits the use of herbicides, rodenticides and other pesticides at CSPIs. We disapprove and delete Section 148-28 (F) (2) because it is preempted by the Massachusetts Pesticide Control Act (“Act”), either expressly (by the 1994 amendment) or impliedly (because “the purpose of the [Act] would be frustrated [by the by-law] so as to warrant an inference that the Legislature intended to preempt the field.”) See St. George Greek Orthodox

Cathedral of Western Massachusetts, Inc. v. Fire Department of Springfield, 462 Mass. 120, 125-126 (2012) (quoting Wendell v. Attorney General, 394 Mass. 518 (1985)).

A. Section 148 (F) (2) is Preempted by the Pesticide Control Act

General Laws Chapter 132B establishes the Massachusetts Department of Agricultural Resources' (MDAR) "exclusive authority in regulating the labeling, distribution, sale, storage, transportation, use and application, and disposal of pesticides in the commonwealth . . . ." G.L. c. 132B, § 1. General Laws Chapter 132B, Section 2 defines "Pesticide" as "a substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant. . . ." The Act establishes a Pesticide Board within MDAR (Section 3), and authorizes the Pesticide Board to register pesticides for use in the Commonwealth if the Board determines that "a pesticide, when used in accordance with its directions for use, warnings and cautions and for the uses for which it is registered. . . will not generally cause unreasonable adverse effects on the environment. . . ." (Section 7).<sup>2</sup> The Act prohibits application of a registered pesticide in a way that is inconsistent with its labeling or other restrictions imposed by the MDAR (Section 6A).

1. *Express Preemption*

The Pesticide Control Act includes an express statement of intention to preempt local regulation of the application of pesticides: "The exclusive authority in regulating the labeling, distribution, sale, storage, transportation, use and application, and disposal of in the commonwealth shall be determined by this chapter." G.L. c. 132B, § 1, as amended by Chapter 264 of the Acts of 1994. Further, MDAR has confirmed the preemptive effect of the Act and regulations in the area of pesticide application.<sup>3</sup>

Based upon the clear language of the Act, we determine that the by-law is expressly preempted. Even if the by-law was not expressly preempted, this section of the Town's by-law is impliedly preempted by the Act and Regulations, as explained below.

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<sup>2</sup> MDAR defines "Use of a pesticide" in 333 CMR § 10.02 to include the following: any act of handling a pesticide, releasing of a pesticide, or exposing of man or the environment to a pesticide, including, but not limited to: (a) Application of a pesticide including mixing or loading of equipment and any supervisory action in or near the area of application. (b) Storage actions relative to pesticides and pesticide containers carried out or supervised by an applicator. (c) Disposal actions relative to pesticides and pesticide containers carried out or supervised by an applicator. (d) Transportation actions relative to pesticides and pesticide containers except those by carriers and dealers.

<sup>3</sup> We disapproved a similar prohibition in a decision issued to the Town of Hopkinton on April 19, 2022 (Case # 10454).

## 2. *Implied Preemption*

The purpose of the Act and Regulations is to have centralized and uniform regulations for the use of pesticides in the state. Town of Wendell v. Attorney General, 394 Mass. 518 (1985) (town by-law regulating the use of pesticides in town frustrates the statutory purpose of centralized regulation of pesticide use). By prohibiting pesticide application, the by-law imposes an additional layer of regulation at the local level. This additional local regulation prevents the achievement of a statewide determination of the reasonableness of the use of a specific pesticide in particular circumstances that frustrates the purpose of the Act. Id. at 529.

In addition, the use of pesticide application on private property is comprehensively addressed in the Act and Regulations. The comprehensive delegation of authority to MDAR to determine appropriate pesticide regulation in the Commonwealth reflects the legislative intent that there is no room for local regulation on this subject. See Doe v. City of Lynn, 472 Mass. 521 (2015) (ordinance imposing residency and location restrictions on sex offenders preempted by comprehensive statutory scheme governing the oversight of sex offenders); and Boston Edison Co. v. Town of Bedford, 444 Mass. 775 (2005) (town by-law imposing fines for failure to remove utility poles preempted by the comprehensive, uniform state regulation of utilities in G.L. c. 164). Because G.L. c. 132B, § 1, provides that the Act and Regulations establish MDAR's exclusive authority and because the Act and Regulations comprehensively regulate the topic of pesticide applications on private property, the by-law text regarding pesticides in Section 148-25 (F) (2) is preempted by state law.

## V. **Conclusion**

We approve Article 22 except for Section 148-25 (F) (2)'s prohibition on the use of herbicides, rodenticides, and other pesticides, which is preempted by state law. However, the Town should consult with Town Counsel to ensure that the application of the by-law is consistent with the solar use protections in G.L. c. 40A, § 3.

**Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.**

Very truly yours,

MAURA HEALEY  
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cc: Town Counsels Gregg J. Corbo and Jonathan D. Eichman