



# City of Somerville Planning Division

## Demolition Review Ordinance SUMMARY Legislative Matters

October 3, 2019

This presentation will be available at:  
[www.somervillema.gov/dro](http://www.somervillema.gov/dro)

# What is a demolition review ordinance?

- The ordinance puts a ‘pause’ on demolition of a building.
- IF the building is determined to be a SIGNIFICANT and PREFERABLY PRESERVED building, then the applicant will be asked to work with the Historic Commission on demolition alternatives.
- Demolition review is NOT an outright prohibition of demolition
- Many buildings are demolished after consultation with the HPC



# Where did this idea come from?

- Demolition Ordinances often follow recommendations from the Massachusetts Historical Commission
- Over 145 other cities and towns have developed demolition ordinances
- Review periods typically range from 6-18 months (with one at 24 months)
- Somerville has a demolition ordinance in place – it was adopted 16 years ago



# What are the current regulations?

## Demolition is reviewed by the Historic Preservation Commission:

- Buildings over 50 years old require review
- All buildings that are NOT in a historic district are subject to review, except buildings in Assembly Square and Innerbelt
- Two step process:
  - significant (no public hearing)
  - preferably preserved (public hearing)
- The demolition of a preferably preserved building can be delayed up to 9 months
- During this time, applicant works with HPC on alternatives and/or documenting of the building
- Small outbuildings are reviewed by staff – an informal process



# What isn't working?

- Projects determined significant / NOT significant:
  - Some applicants know they will get this designation and would like it skipped
  - Because there is only a butter notification for the “preferably preserved” step, some neighbors don't get to provide input before a decision is made
- Limited ability for the Commission to delegate review of small projects
- Lack of clarity in language surrounding the determination process and related findings
- Poor organization of the ordinance, as it mixes procedural text and definitions
- Lack of connection to SomerVision
- Lack of guidance on how to lift or not impose the review period when a mutual agreement between the applicant and the HPC determines the conditions under which demolition can proceed
- Length of the review period is not long enough to deeply explore alternatives for the most valuable buildings at risk of demolition



# How does the new ordinance work?

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The submitted draft makes the following changes:

1. It establishes a more straightforward operating system
2. It updates metrics and thresholds
3. It's calibrated to SomerVision
4. It provides clear guidance to the HPC



# How does the new ordinance work?

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- It establishes a more straightforward operating system
  - The entire ordinance is rewritten with an organizational process that is easier to understand
  - Definitions have been updated and clarified
  - Timelines for key decisions are updated to ensure timely filing of decisions



# How does the new ordinance work?

- It updates metrics and thresholds
  - The term ‘demolition’ includes more detail
  - The ordinance is triggered when a project is submitted for building permit or zoning review
  - The demolition moratorium period is extended to 12-24 months (discussion in later slide)
  - The building age that triggers review is changed from 50 to 75 years
  - Abutter notification area is increased to 300 feet
  - If an individual violates the ordinance, the delay before they can build a new structure is extended from 2 years to 4 years





# How does the new ordinance work?

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- It's calibrated to SomerVision
  - The 'exempt areas' are expanded to include Brickbottom, Boynton Yards and the D-blocks in Union Square as well as Assembly Square and Innerbelt



# How does the new ordinance work?

- It provides clear guidance to the HPC
  - Provisions are added to establish how the HPC determines a building preferably preserved
  - The ordinance permits the HPC to place some conditions on a decision that a building not be preferably preserved
  - Commission can seek additional info to address structural concerns and financial hardships
  - The ordinance permits the HPC to delegate a determination of “not preferably preserved” to staff



# What this ordinance DOES NOT do

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- It does not require every project to wait through the entire demo period
- It does not impact projects that change siding or roofs
- It does not impact interior renovations
- It does not create a new historic district



# Recent items of discussion . . .

- We've had this ordinance for 16 years
  - We should continue to have a demolition review ordinance
  - It should be clear, well-written and reflect the way the HPC operates
  
- Recent policy discussions:
  1. Should city-owned buildings be exempt?  
Council must approve disposition of city-owned buildings. Can request advisory review of HPC.
  
  2. What should the delay period be? Should it be the same for residential and commercial buildings?  
HPC wanted 24 mos. for all buildings.  
OSPDCD proposed "split" delay: 12 mos. for commercial, 24 mos. for residential. 24 mos. was never the proposal for all buildings. General agreement that split schedule is not desirable. 18 mos. left on table by Committee. With a single schedule, OSPDCD supports a delay closer to 12 months than 24.



# Recent items of discussion, *cont'd* . . .

3. Are the fines / violation penalties right?  
\$300/day/violation fine set by state.  
4 year prohibition on building permit after date of unauthorized demolition.
  
4. Are there issues to address about the definitions of “partial” and “serial” demolition?  
Updated January 2019 removing “partial” and “serial” with current proposal of 50% or more of the exterior surface area of a building including walls and roof).
  
5. Can we do an ‘expedited review’ when a demolition is going to occur for the purpose of building new affordable housing?  
Per Legal Dept., likely to be invalidated if challenged in Court under the Equal Protection Clause of the Constitution unless the provision is reasonably related to the purposes of the legislation.

# Upcoming discussions. . .

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Relationship between demo delay and real estate financing

Effect of demo delay on “Enhance” districts

Revisit decision timeline

Data: % of properties released from delay due to achieving alternative means of preservation

Data: turnaround time for release of accessory structures for demolition

