

ARTICLE IV. CONDOMINIUM/COOPERATIVE CONVERSION¹

Sec. 7-61. Declaration of emergency.

Pursuant to the authority vested in the City of Somerville by Chapter 527 of 1983, as amended by Chapter 709 of 1989, and Chapter 218 of the Acts and Resolves of 1985, the City of Somerville finds and declares that a serious public emergency exists with respect to the housing of a substantial number of the residents of the City of Somerville. This rental housing emergency has been created by the lack of sufficient new rental housing production, by prolonged increases in housing costs at a rate substantially exceeding increases in personal income, and by increased costs of new housing construction and finance. In addition, the critical undersupply of housing in general within the surrounding region further exacerbates the emergency conditions that exist within Somerville. It has also been created by the effect of conversion of rental housing into condominiums or cooperatives. While these forms of home ownership may constitute an important and positive dimension in addressing the housing needs of the City of Somerville, absent sufficient new rental housing production, such conversion necessarily reduces the stock of rental housing otherwise available. A substantial and increasing shortage of rental housing, especially for the elderly, the disabled, and persons and families of low and moderate income, has been and will continue to be the result of this emergency. Unless the available stock of rental housing, and the tenants who reside therein, receive further protection from the consequences of conversion of said accommodations to condominiums and cooperatives than the law now affords, this rental housing shortage will generate serious threats to the public health, safety, and general welfare of the residents of the city, particularly the elderly, the disabled, and persons and families of low and moderate income. It is therefore necessary that such emergency be dealt with immediately.

(Ord. No. 2019-06, 3-28-2019)

Sec. 7-62. Title.

This ordinance shall be known and may be cited as the "Somerville Condominium/Cooperative Conversion Ordinance."

(Ord. No. 2019-06, 3-28-2019)

Sec. 7-63. Definitions.

As used in this ordinance, the following words shall, unless the context clearly requires otherwise, have the following meanings:

¹Editor's note(s)—Ord. No. 2019-06, adopted March 28, 2019, repealed the former Art. IV, §§ 7-61—7-76, and enacted a new Art. IV as set out herein. The former Art. IV pertained to similar subject matter and derived from Ord. No. 1985-9, §§ 1—16, August 22, 1985; Ord. No. 2006-09, § E, April 11, 2006.

A memo from the City Clerk dated January 18, 2021, changed the title of Article IV to read as set out herein. Formerly, Article IV was entitled "Condominium Conversion and Removal of Rental Units".

State law reference(s)—Condominiums, M.G.L.A. c. 183A.

Condominium or cooperative conversion eviction, shall mean

- (i) an eviction of a tenant for the purpose of removing such tenant from a housing accommodation in order to facilitate the initial sale and transfer of legal title to a condominium or cooperative unit in such housing accommodation to a prospective purchaser, or
- (ii) an eviction of a tenant by any other person who has purchased a condominium or cooperative unit in a housing accommodation when the tenant whose eviction is sought was a resident of the housing accommodation at the time the notice of intent to convert is given or should have been given to convert the building or buildings to the condominium or cooperative form of ownership pursuant to section 7-64. However, the eviction of a tenant for non-payment of rent or other substantial violation of a rental agreement shall in no event be deemed a condominium or cooperative conversion eviction, as long as the landlord would have taken the same action at the same time whether or not the owner was converting the building to condominiums.

If an owner intends to transfer property to a prospective purchaser where the owner knows or should have known that the prospective purchaser intends to convert the property to a condominium or cooperative unit, and such owner seeks to evict the tenant in anticipation of conversion, such eviction shall be deemed to be a condominium or cooperative conversion eviction for the purposes of this section.

For purposes of this definition, the "initial sale and transfer of legal title" shall mean the first bona fide sale or proprietary lease for fair market value; and "eviction" shall include, without limitation, any action by an owner of a housing accommodation which causes substantial deprivation of a tenant's beneficial use of such housing accommodation, materially impairs such tenant's beneficial enjoyment of such housing accommodation, or is intended to compel such tenant to vacate or to be constructively evicted from such housing accommodation. An eviction shall be presumed to be a condominium or cooperative conversion eviction if the owner has the intent to convert, as defined herein.

Condominium review board, the City of Somerville board established pursuant to section 7-67 herein.

Condominium unit, a unit in a housing condominium as that term is defined in G. L. c. 183A.

Convert, the initial offer, in any manner, for sale and transfer of title to any residential unit as one or more condominium units pursuant to an individual unit deed or deeds or, in the case of a cooperative, an individual proprietary lease or leases.

Cooperative unit, a unit in a housing cooperative as set forth in G. L. c. 157.

Disabled tenant, a tenant who is a person or group of persons residing in the same unit of a housing accommodation any one of whom has a physical or mental impairment, as of the date the notice provided for hereunder is given or should have been given, which (1) substantially limits such person's ability to care for him or herself, perform manual tasks, walk, see, hear, speak, breathe, learn or work; or (2) significantly limits the housing appropriate for such person or significantly limits such person's ability to seek new housing; or (3) meet the disability related provisions contained within the definition of "handicapped persons of low income" in G.L. c. 121B § 1.

Elderly tenant, a tenant who is a person or group of persons residing in the same unit of a housing accommodation any one of whom has reached the age of 65 years or over as of the date the notice provided for hereunder is given or should have been given.

Household, all tenants who occupy a unit in a housing accommodation, including a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share such unit.²

Housing accommodation, any building or buildings, structure or structures, or part thereof, or land appurtenant thereto, or any other real or personal property rented or offered for rent for living or dwelling purposes, or any additional residential units created out of existing residential space, together with all services connected with the use or occupancy of such property, including two or more adjacent, adjoining, or contiguous buildings under common legal or beneficial ownership which are used in whole or in part for residential purposes, but not including the following:

- (i) housing accommodations which the United States or the commonwealth or any authority created under the laws thereof either owns or operates;
- (ii) housing accommodations in any hospital, convent, monastery, asylum, public institution or college or school dormitory operated exclusively for charitable or educational purposes, or in any nursing or rest home for the aged;
- (iii) housing accommodations in hotels, motels, inns, tourist homes, and rooming and boarding houses which are occupied by transient guests staying for a period of fewer than 14 consecutive days; and
- (iv) single family dwellings; except where additional units will be added to the same or adjacent property, whether the project adding such units is phased or not, and the existing single-family dwelling will be one or more or part thereof multiple condominium units governed by the same condominium association.

Intent to convert, the intent to make the initial sale and transfer of title to a residential unit in a housing accommodation as one or more condominium or cooperative units pursuant to an individual unit deed or deeds, or, in the case of a cooperative, a proprietary lease or leases. Factors which shall be considered in determining whether an owner has the intent to convert are:

- (i) a master deed or articles of organization for the housing accommodation has been prepared or recorded;
- (ii) the owner of the housing accommodation dwelling has prepared or is in the process of preparing a purchase and sale agreement for the sale of any unit as a condominium or cooperative unit;
- (iii) the owner has advertised for sale any unit in the housing accommodation as a condominium or cooperative unit;
- (iv) the owner has shown to any prospective purchaser a unit in the housing accommodation for the sale of such unit as a condominium or cooperative unit;
- (v) the owner has made any communication, written or oral, to any person residing in the housing accommodation expressly indicating an intent to sell any unit as a condominium or cooperative unit;
- (vi) the owner has had any unit in the housing accommodation measured or inspected to facilitate the sale of the units as a condominium or cooperative unit;
- (vii) the owner has had the land surveyed, an engineering study performed, or architectural plans prepared for the purpose of converting such housing accommodation into one or more condominium or cooperative units;
- (viii) demolition of the housing accommodation and construction of condominium units;
- (ix) retaining a real estate agent for the sale of the converted unit; and

²Note(s)—1 "household" definition adapted from Community Development Block Grant regulations at 24 CFR 570.3.

- (x) retaining an attorney for the purpose of pursuing a conversion.

Low/moderate income tenant household, a tenant/household is a person or group of persons residing in the

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same unit of a housing accommodation whose total income for the 12 months immediately preceding the date the notice provided for hereunder is given or should have been given is at or below 80% of Boston Area Median Income, adjusted for household size, as published annually by the U.S. Department of Housing and Urban Development.

Notice, the notice of intent to convert required in section 7-64(1) of this ordinance.

Non-rent paying tenant or occupant- a person living in a unit who has not paid rent as defined below.

Owner, a person who holds title in any manner to a building or housing accommodation, including without limitation, a corporation, partnership or trust, and an employee, agent, servant, or other representative of such owner.

Owner-occupied unit, a unit occupied as the principal place of residence by a person who has a present ownership interest in the property. No corporation, irrevocable trust, partnership, limited partnership, or association may be considered an owner-occupant.

Rent, all periodic payments, and all nonmonetary consideration including but not limited to, the fair market value of goods or services rendered to or for the benefit of the landlord under an agreement, written or oral, concerning the use or occupancy of a rental unit, premises, or amenities.

Tenant, a person or group of persons who are collectively entitled to occupy a unit in a housing accommodation pursuant to a rental agreement written or implied, and who occupy such unit on the date that the notice required hereunder is given or should have been given.

Tenant subsidy, any payment made by the federal or state government for or on behalf of any tenant to be applied toward the reduction of the tenant's rental payment.

Unit or residential unit, the room or group of rooms within a housing accommodation which is used or intended for use as a residence by one household.

(Ord. No. 2019-06, 3-28-2019; Ord. No. 2020-12, 5-14-2020)

Cross reference(s)—Definitions and rules of construction, § 1-4.

Sec. 7-64. Condominium Conversion Procedures

(1) *Notice of Intent to Convert*

- (a) *Vacant units*. If an owner has an intent to convert an unoccupied housing accommodation to the condominium or cooperative form of ownership, the owner shall give one year advance notice to the condominium review board ("review board") on a form provided by the review board. This one-year notice period shall begin from the date the review board grants a conditional/preliminary permit. This one-year waiting period requirement shall not apply under the following circumstances:
- (i) Where the unit had been previously occupied by the owner, or a non-rent paying tenant or occupant that has knowingly and voluntarily signed a waiver of their rights, for the 12 months immediately preceding the unit becoming vacant; or
 - (ii) Where the unit is presently occupied by the owner, or a non-rent paying tenant or occupant that has knowingly and voluntarily signed a waiver of their rights, and has been for at least the 12 months immediately preceding the intent to convert; or
 - (iii) Where the unit is deed-restricted for affordability in perpetuity; or
 - (iv) Where the owner is selling the unit to a family member as provided for under section 7-64(4)(b).
- (b) *Occupied units*. If an owner has an intent to convert an occupied housing accommodation to the condominium or cooperative form of ownership, such owner shall give to each tenant then residing in a unit in such housing accommodation and simultaneously give to the condominium review board a written notice translated into the tenant's primary language if a need for such translation has been

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identified or is otherwise apparent to a reasonable person. This notice shall be deemed given on the date when proper notice is delivered in person to the tenant or the date on which the notice is received by the tenant after being sent by certified or registered mail, return receipt requested, or the date of service by a deputy sheriff or constable. The notice shall state the following in clear and conspicuous language:

- (i) that the owner intends to file (or has filed) a master deed at the Middlesex South District Registry of Deeds or Land Registration Office in Cambridge, thereby converting the housing accommodation to a condominium; or that the owner intends to file (or has filed) articles of organization with the secretary of the commonwealth, thereby converting the housing accommodation to a cooperative; and
- (ii) that the tenant shall have one year from the date the notice is given before the tenant shall be required to vacate the housing accommodation, except:
 - a) that any tenant who qualifies as elderly, disabled, or low/ moderate income shall have five years from the date the notice is given before such tenant shall be required to vacate the housing accommodation; or
 - b) if the tenant's written agreement extends past when the notice period would elapse, the notice period shall be extended to coincide with the lease period; and
- (iii) that, except as set forth in section 7-64(4)(b), the owner shall extend to the tenant, within 120 days, or 180 days in the case of an elderly, disabled, or low/moderate income tenant, from the date of the notice, a right to purchase the tenant's unit. The offer shall include terms and conditions which are substantially the same as or more favorable than those which the owner would, in good faith, extend or actually extends to prospective arm's length purchasers of such unit during the applicable period following the expiration of said tenant's right to purchase, as provided in section 7-64(4), provided that such terms and conditions represent fair market value for such unit in "as is" condition as described in section 7-64(4)(a); and
- (iv) that, except as set forth in section 7-64(4)(b), the tenant shall have a period of 120 days, or 180 days in the case of an elderly, disabled, or low/moderate income tenant, from the date the tenant received the right to purchase offer to determine if they are willing and able to purchase their unit.
- (v) that there is a permit review process involving (1) an initial hearing after service of this notice and (2) a final hearing for a conversion permit at the end of the notice period or upon vacancy of the tenant, in addition to hearings as necessary that may be initiated by the tenants, owner or review board. These hearings shall be before the review board and that the tenant and owner shall be notified of the date and time at least two weeks prior to the hearing date. The tenant and owner shall have a right to attend any such hearings and to present evidence as to whether the owner has or has not met the requirements of the Somerville Condominium/Cooperative Conversion Ordinance; and
- (vi) that if the tenant does not purchase the tenant's unit or another unit in the housing accommodation, the tenant has a right to relocation benefits as provided in section 7-64(5); and
- (vii) that the owner is obliged to find comparable housing for elderly, disabled, and low or moderate income tenants as provided in section 7-64(6) unless the owner is exempt thereunder or the notice period will be extended for up to two additional years; and that no change may be made in the tenant's rental agreement during the notice period, except that the owner may increase the rent at the expiration of the tenancy agreement by an amount not to exceed the sum which would result by multiplying said rent by the percentage increase in the consumer price index for all urban consumers as published by the United States Department of Labor, Bureau of Labor Statistics during the calendar year immediately preceding the date of the proposed rent increase, or ten percent, whichever is less and the owner may collect real estate taxes due under a valid tax escalation clause, provided such tax escalation clause was included within the rental agreement existing as of the date of the notice of intent to convert; and

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- (viii) that the tenant is entitled to an extension of the tenant's rental agreement to coincide with the period of notice, as provided in section 7-64(7) of this ordinance; and
 - (ix) that the tenant is entitled to freedom from unreasonable disruption and breach of quiet enjoyment as a result of rehabilitation, repairs or improvements made by the owner during the period of notice, as provided in Section 7-64(8); and
 - (x) that the date the notice is deemed "given" is the date on which the notice is delivered in person to the tenant or the date on which the notice is received by the tenant after being sent by certified or registered mail, return receipt requested, or the date of service by a deputy sheriff or constable.
- (c) The burden of proving that a tenant is elderly, disabled, or low or moderate income shall, if contested, rest with the tenant. The owner shall be entitled to provide the tenant with a written request to disclose whether the tenant claims to be elderly, disabled, or low or moderate income. In the event the tenant confirms in writing that they do not claim that they are elderly, disabled, or low or moderate income, then there shall be a rebuttable presumption that the tenant is not elderly, disabled, or low or moderate income, which presumption shall only be overcome by clear and convincing evidence to the contrary.
- (i) Any tenant may request that the Office of Housing Stability assist the tenant in establishing eligibility for extended protections on account of age, disability, or status as a low- or moderate-income household.
 - a) The Office of Housing Stability and board staff shall create and update policies and procedures for processes when tenants are requesting assistance in establishing eligibility.
 - b) The Office of Housing Stability shall provide to the City's ADA Coordinator documentation related to the request for establishing eligibility. The ADA Coordinator shall consider said documentation and issue a written recommendation regarding eligibility to the board.
 - c) The board shall make a determination upon consideration of the ADA Coordinator's recommendation.
 - (ii) The five-year notice period may be extended by mutual, written agreement between the qualifying tenant(s) and the landlord so long as the qualifying tenant(s) continue(s) to reside in the unit as their primary place of residence with voluntary approval of the landlord.
 - a) Once the qualifying tenant(s) no longer resides in their unit any remaining tenants in said unit shall have six months notice that the owner will be pursuing a final permit from the date the qualifying tenant(s) vacated.
 - b) Owners shall apply for a final permit within 30 days of the qualifying tenant(s) no longer residing in the unit.
- (d) An application to convert shall be submitted to the Board within 30 days of tenants being notified as required by Sec 7-64(1)(b).
- (2) *Renting units during conversion.*
- (a) If an owner intends to sell or offer for sale fewer than all of the units in a housing accommodation, within the applicable notice period or a reasonable time thereafter, the owner shall give to each tenant in a unit not for sale a notice which (a) informs such tenant of the date when the owner reasonably expects to offer the tenant's unit for sale and (b) states that, on or about such date, the owner will give to the tenant the notice required by section 7-64(1)(b)(i)—(x) hereunder; and thereafter, at such time as the owner is ready to offer the unit for sale, the owner shall give the tenant then occupying such unit the notice required by section 7-64(1)(b)(i)—(x) hereunder. The notice required herein must be translated into the tenant's primary language if a need for such translation has been identified or is otherwise apparent to a reasonable person.

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- (b) If a tenant who is entitled to receive the notice of intent to convert vacates such tenant's unit either before the initial sale and transfer of title to the residential unit as a condominium unit has occurred, and/or after the owner has otherwise already obtained a conditional/preliminary conversion permit for a unit which has not expired pursuant to section 7-65(3), then the owner shall give each prospective tenant of the unit written notice, prior to the inception of the tenancy, which informs such prospective tenant that the unit is being or will be offered for sale as a condominium or proprietary lease as a cooperative, but such prospective tenants shall not be entitled to the protections of this ordinance, except that they shall be entitled to the benefits of any remaining notice period for which the original tenant was entitled to, not to exceed one year. If such notice is not provided to the prospective tenant prior to the inception of the tenancy, the prospective tenant will then be afforded full tenant rights pursuant to section 7-64(1)(b) and the applicable notice period will restart in accordance with the status of the new tenant.
- (c) If an owner seeks to rent a previously vacant unit after initiating an intent to convert but before a Final Permit is issued, then the owner shall give each prospective tenant of the unit written notice, prior to the inception of the tenancy, which informs such prospective tenant that the unit is being or will be offered for sale as a condominium or proprietary lease as a cooperative, but such prospective tenants shall not be entitled to the protections of this ordinance, except that they shall be entitled to the benefits of any remaining notice period for which the original tenant was entitled to, not to exceed one year. If such notice is not provided to the prospective tenant prior to the inception of the tenancy, the prospective tenant will then be afforded full tenant rights pursuant to section 7-64(1)(b) and the applicable notice period will restart in accordance with the status of the new tenant.
- (3) *Condominium/cooperation eviction.* No owner shall seek or conduct a condominium or cooperative eviction against a tenant in occupancy of a housing accommodation at the time the notice of conversion was served or should have been served pursuant to section 7-64(1)(b) above until the expiration of the notice period required therein. Failure of the owner to comply with the provisions of this ordinance shall constitute a defense in a summary process action against such tenant(s).
- (4) *Tenant right to purchase.*
- (a) *Occupied units.* An owner shall extend to a tenant who is entitled to receive notice of intent to convert an exclusive right to purchase such tenant's unit, which right shall extend for a period of 120 days, or 180 days in the case of an elderly, disabled, or low/moderate income tenant beginning on the date the tenant receives a purchase and sale agreement from the owner containing the same or more favorable terms of sale than those the owner would, in good faith, offer, or actually does offer, to prospective arms' length purchasers of such unit, provided that such terms and conditions represent fair market value for such unit in "as is" condition. A copy of such agreement shall be contemporaneously provided to the condominium review board. Once the owner sets these terms of sale, the owner may not sell the unit under more favorable terms for 90 days from the expiration of the tenant's right to purchase. The tenant may exercise the right to purchase the tenant's unit by executing such purchase and sale agreement within the applicable period, whereupon the owner shall promptly countersign the agreement. Where there is more than one unrelated adult tenant in a household, the right to purchase shall only apply if (a) all tenants opt to purchase the unit jointly or (b) if all tenants other than those opting to exercise their rights to purchase waive their right to purchase under this section.
- If the tenant does not wish to exercise the tenant's right to purchase and the tenant so notifies the owner, in writing, prior to the expiration of the applicable period, the applicable period shall be deemed to have expired as of the date the owner receives such notice as to the tenant. If the tenant wishes to exercise the tenant's right to purchase, the tenant shall have priority over any other entity also wishing to purchase the unit pursuant to a right to purchase. Nothing herein shall be construed to provide any right to purchase, or obligation of any owner to sell, any unit for an amount which is less than the amount being offered, in good faith, to third parties, provided that such amount represents the fair market value of such unit in its condition as of the date of the notice set forth in section 7-64(1)(b) above. Fair market value shall include the cost of repairs required by law in the tenant's unit in order to sell it as a condominium and a proportional amount of costs based on square footage for
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repairs required by law to be performed to the common areas in order to sell the unit as a condominium. Fair market value in "as is" condition does not contemplate pricing reflecting the cost of optional upgrades or any required upgrades or repairs that are triggered by optional upgrades.

- (b) If an owner who holds title as a natural person has an intent to convert a housing accommodation to a condominium or cooperative form of ownership, and said owner is transferring property as part of a conversion to a relative within the fourth degree of kindred, there shall be no tenant right to purchase. Any notices required pursuant to section 7-64 need not comply with section 7-64(1)(b)(iii).
 - (c) Where an owner, who bought a property in good faith, is bringing a non-permitted condo conversion that was required to be permitted into compliance with the condo conversion ordinance, there shall be no tenant right to purchase under this ordinance unless said owner owns more than two (2) units in the same housing accommodation. All other tenant rights, notification requirements and relocation fee requirements shall apply.
- (5) *Relocation payments.* An owner shall pay to a tenant who is entitled to receive notice of the owner's intent to convert, and who does not purchase the unit which such tenant occupies or another unit in the same housing accommodation and who relocates within the notice period or such longer period allowed for access to public or subsidized housing as set forth in this section below, a relocation payment which will be adjusted annually based on the Consumer Price Index. The relocation amounts, as of this ordinance's effective date, from which subsequent compound adjustments shall be made is \$10,000 for elderly, disabled, or low/moderate income tenants and \$6,000 for all other tenants. Relocation payments are per unit except if notice is not provided as outlined in Sec 7-64(2)(b), in that case an additional relocation payment shall be paid to those tenants. This dollar amount shall be adjusted annually in February of each year, by an amount equal to the increase in the consumer price index for all urban consumers (as published by the United States Department of Labor, Bureau of Labor Statistics) during the immediately preceding calendar year. Adjusted fee amounts shall be publicly posted. If a tenant vacates the premises pursuant to a notice under this ordinance without having paid all rent due, the owner may subtract any sums owed from the required payment of moving expenses. In the event an elderly, disabled, low or moderate income tenant is seeking public or subsidized housing and requires a judgment for possession to be issued in order to obtain emergency status or other preference/priority necessary to access such housing or housing subsidy program on an expedited basis, such tenant shall continue to be entitled to the relocation benefit whether or not the tenant has vacated by the end of the notice period, so long as the tenant vacates the unit within 90 days of any trial date set forth in a summary process complaint filed against the tenant, or such longer time period as agreed upon by the parties.

Relocation benefits shall be paid to the tenant within ten days after the date on which the tenant vacates the unit with the following exception: in recognition of the fact that many relocation costs must be paid in whole or in part before a tenant actually moves out, the owner shall, upon request of the tenant, make payments, up to the amount authorized by this section, directly to a moving company, realtor, storage facility, or successor landlord (upon receipt of a signed lease, tenancy at will agreement, or letter signed by the prospective landlord indicating that he/she has agreed to rent a particular unit to the tenant as of a date certain with a copy of proof of ownership), prior to the date on which they vacate the premises.

- (6) *Housing search assistance.* Any owner shall assist elderly, disabled, and low or moderate income tenants who are entitled to notice of intent to convert by locating, within the five-year period of the notice to such tenants, comparable rental housing within the City of Somerville which rents, for at least the remainder of the notice period, for a sum which is equal to or less than the sum which any such tenant had been paying for the tenant's unit. The failure of the owner of such residential property to find such comparable housing shall extend the period of notice required by section 7-64(1)(b)(vi) until the owner locates such comparable rental housing, or for 2 additional years, whichever occurs first.

Any owner who has both kept rent levels at or below Somerville Housing Authority Section 8 payment standards in place at the time the notice is served for a minimum of three consecutive years and has limited rent increases to no more than five percent annually for three consecutive years shall be exempt from (a) being required to locate comparable rental housing and (b) from providing an additional two-year notice period in the event that after five years, the elderly, disabled or low or moderate-income tenant has not yet located alternative housing.

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- (7) *Extension of rental agreement.* An owner shall give to a tenant who is entitled to notice of intent to convert an extension of such tenant's rental agreement, whether it be a lease or a written or oral tenancy at will, until the expiration of the notice period or the applicable right to purchase period, whichever is later. Conversely, if the one-year or five-year notice period would expire before the expiration date of such tenant's rental agreement, then the notice period shall be extended to coincide with the expiration date of such rental agreement.

The provisions of such rental agreement may not be modified by the owner except with respect to the amount of annual rent. The total increase in rent for any one year during the period of notice shall not exceed an amount equal to the sum which would result by multiplying said rent by the percentage increase in the consumer price index for all urban consumers as published by the United States Department of Labor, Bureau of Labor Statistics, during the calendar year immediately preceding the date of receipt of the notice of intent to convert, or ten percent, whichever is less; provided, however, nothing herein shall limit the right of an owner to any amounts which may be due under a valid tax escalation clause, provided such tax escalation clause was included within the rental agreement existing as of the date of the notice of intent to convert. The review board shall be notified of any rent increase on a form provided by the review board.

- (8) *Renovation to units during the notice period.* Tenants are entitled to freedom from unreasonable disruption as a result of rehabilitation, repairs, or improvements. The owner may only make repairs in a tenanted unit undergoing conversion that are required by the State Sanitary or Building Codes. Other unit renovations or improvements may only be undertaken with the express written consent of the tenant. In the event that the owner wishes to make optional upgrades to vacant units or common areas, the owner must comply with review board rules and policies regarding such repairs or renovations including, but not limited to, days and times repairs can be made, methods for notifying tenants in advance of the work schedule, rules regarding any interruption of services and clean up procedures.
- (9) *Tenant's right to vacate.* A tenant shall be permitted to vacate the unit upon 30 days' notice without penalty regardless of the status of their rental agreement, during the notice period.
- (10) The rights specified in section 7-64 hereunder shall vest with a tenant at the time that the owner intends to convert any unit in such property to the condominium or cooperative form of ownership.
- (11) *Rescinding of Intent to Convert.* An owner may rescind their notice of intent to convert or application at any time prior to a Final Conversion permit being granted. No fees will be refunded for rescinded applications. Tenant(s)' rights, except the right to purchase, shall remain in effect for the length of the applicable notice period.
- (a) Owners must submit a request to rescind on a form provided by the review board.
- (12) *Rejection of Intent to Convert.* Review board staff and the review board may reject a notice of intent to convert or application for failure to comply with terms set forth under this ordinance. No fees will be refunded for dismissed applications. Tenant(s)' rights, except the right to purchase, shall remain in effect for the length of the applicable notice period.
- (13) *Denial of Application to Convert.* The review board may refuse to issue a conditional/preliminary or final conversion permit as set forth under Sec 7-65(2)(e) below. No fees will be refunded for denied applications. Tenant(s)' rights, except the right to purchase, shall remain in effect for the length of the applicable notice period.
- (a) If an application to convert is denied, a new application may not be submitted until six months after the date of denial.
- (14) *Revoking of Permit.* The review board may revoke a conditional/preliminary or final conversion permit as set forth under Sec 7-65(2)(e) below. No fees will be refunded for revoked applications. Tenant(s)' rights, except the right to purchase, shall remain in effect for the length of the applicable notice period.
- (a) If a conditional/preliminary or final permit is revoked, a new application may not be submitted until six months after the date of revocation.

(Ord. No. 2019-06, 3-28-2019)

Sec. 7-65. Permitting process.

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(1) *Application for conversion permits and granting of conditional/preliminary permits.*

(a) Any owner who has an intent to convert an occupied housing accommodation shall concurrently provide notice of intent to convert to the review board staff and tenant as required in section 7-64(1). In addition, the owner shall, within 30 days of service of said notice, submit to the review board staff a fully completed application, including all required tenant and other documentation, for a conversion permit.

(1) A new notice of intent to convert shall be provided as required under section 7-64(1) to tenant(s) and the board if more than 30 days has elapsed between the original notice and the submission of a completed application.

i. If a new notice of intent to convert is provided, all timelines for actions required by this Ordinance shall be calculated based on the date of service of this new notice.

(b) Any owner who has an intent to convert an unoccupied housing accommodation shall provide notice to the review board on an application form provided by the board.

Upon submission of a completed application for a conversion permit, a hearing will be scheduled for an upcoming regularly scheduled review board meeting. For tenanted or formerly tenanted units, the review board shall be responsible for giving written notice at least two weeks in advance to the tenant(s) stating the date, time, and place of any hearing regarding the housing accommodation in which such tenants reside or formerly resided. For previously untenanted units, the review board's written notice date shall comply with Massachusetts Open Meeting Law requirements. At such hearing the owner shall appear, and tenants may appear and testify, if so desired. The review board, after reviewing relevant documents and any testimony will render a determination regarding whether the actions taken by the owner thus far comply with this ordinance. In addition, the review board shall review with any tenants present their rights afforded by this ordinance. If the review board agrees that the owner has complied with its obligations under this ordinance a permit shall be issued.

(c) Permit types issued include, but are not limited to, the following:

- (1) Conditional/preliminary rental conversion permit
- (2) Conditional/preliminary non-rental conversion permit
- (3) Final conversion permit
- (4) Courtesy conversion permit

(d) Conditional/preliminary permits shall indicate if the unit is tenanted and the expiration date of any applicable notice period. An owner may not seek a final conversion permit until the tenant has vacated the unit or the notice period has expired, whichever comes first.

(1) Where a tenant has relinquished their right to purchase their unit pursuant to section 7-64(4) an owner who has received a conditional/preliminary permit may sell the unit to any other purchaser prior to issuance of a final conversion permit only under the condition that the new owner takes the unit subject to the tenant's rights under this ordinance including, but not limited to, the right to remain in their unit for the remainder of any notice period, payment of relocation expenses and the duty to find comparable housing. In order to effectuate such a sale, the owner must provide to the review board and the tenant a sworn document signed by the then current and future owners stating that the purchaser stands in the shoes of the prior owner and that they must fully comply with all obligations of the owner under this ordinance.

(2) If at any point a tenant or an owner believes the other has not complied with their obligations under this ordinance, they may request a hearing before the review board. The review board will notify the tenant, all other building tenants also undergoing conversion and the owner of the time and date of the hearing. The party that requested the hearing must appear and the other party may appear at such hearing and may testify.

(2) *Conversion permit timeline.*

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- (a) An owner may not engage in a condominium conversion eviction of a tenant or sell a unit for immediate occupancy by the purchasing owner prior to the granting of a final conversion permit by the board.
 - (b) An owner of a unit that was occupied at the time the notice of intent was provided to the review board may request a final conversion permit on a form provided by the review board no sooner than the earlier of
 - (i) the expiration of the notice period or (ii) when the tenant vacates the premises, provided such vacation of the premises was fully knowing and voluntary or (iii) when the tenant purchases the unit.
 - (c) An owner of a unit that was vacant at the time the notice of intent to convert was provided to the review board may request a conversion permit on a form provided by the review board at the end of any required waiting period.
 - (d) In addition to other documentation required for a conditional/preliminary permit or a final conversion permit, an owner applying for a permit shall submit with the application a complete list of names and contact information of (i) current tenants; (ii) former tenants who vacated during the previous 12 months, if known, or reasonably discoverable in the exercise of due diligence; (iii) any tenant who was evicted during the previous 12 months along with a copy of the summons and complaint; and (iv) any tenants who received a notice to quit or a notice of rent increase during the previous 12 months, with a copy of the notice to quit and/or the notice of rent increase.
 - (e) A conversion permit shall be granted where all documents required by the review board have been submitted and the review board has made a determination after a hearing, of which notice has been provided to the owner and tenants as required by Sec 7-65(1)(b)) that the requirements of sections 7-64(1)(b)—(9) in the case of a housing accommodation have been met.

Notwithstanding the above, the review board may deny a conversion permit where documentation is incomplete in any material respect. The review board may also impose reasonable conditions on the granting of a permit. The review board may deny a conversion permit where it has made a determination that any document or statement is false in any material respect. In addition, the review board, in its discretion, may deny a conversion permit if the review board finds that the owner has taken any action to circumvent the state or local condominium law, including, but not limited to, unreasonable rent increases, reduction or elimination of services, termination of tenancy without cause, or the imposition of new conditions of the tenancy. The review board may revoke a conversion permit previously granted where it makes a determination that any document or statement was false in any material respect at the time of the review board's decision to grant the conversion permit. The review board shall have the power to require the submission of additional documentation, including without limitation, purchase and sale agreements, deeds, agreements with real estate brokers, and/or cancelled checks, if in the review board's reasonable judgment, such documentation is necessary to ensure the fairness of its deliberations. The review board may, in its discretion, continue a hearing. A decision shall be rendered by the review board within 60 days of the close of the hearing.

(3) *Deed restricted affordable unit*

- (a) An Affordable Housing Implementation Plan (AHIP), approved at the discretion of the Director of Housing, must be agreed to and signed by the Applicant and Director of Housing for development subject to this section.
- (b) The review boards shall require applicants to execute and record a deed restriction limiting the sale or rental of affordable units to eligible households in perpetuity with the Middlesex South Registry of Deeds, or filed with the Land Registration Office, and submit a final AHIP to the Director of Housing for approval as a condition of any conversion permit approval.

(4) *Conversion permit expiration.*

- (a) A conditional/preliminary conversion permit shall lapse, and the owner shall reapply for a new permit subject to the then current provisions of this ordinance or any successor ordinance, on the last day of the month a unit's notice period expires, or, if a unit does not have a notice period, on the last day of

the month one year from date of issuance, unless a final permit has been requested on a form provided by the board.

- (b) A final conversion permit shall lapse by operation of law and the owner shall reapply for a new permit subject to the then current provisions of this ordinance or any successor ordinance in the case of either of the following:
- (1) The owner has failed to file a master deed within one year after the date on which the final conversion permit has been granted; or
 - (2) The unit for which a final conversion permit has been granted has not been sold to a bona fide purchaser for fair market value in an arm's length transaction within two years after the date of the granting of said permit; or
 - i. Where a tenant in a unit within the same housing accommodation is entitled to enhanced protections under this ordinance, an owner may extend the date by which non-entitled units within the same housing accommodation are required to be sold to be the lesser of either a) the date the entitled unit must be sold by or b) six years after the non-entitled unit receives a final permit. Owners shall notify board staff if they are seeking this extension when requesting a final permit for non-entitled unit(s).
 - (3) When a unit is intended to be sold to family within the fourth degree of kindred but the sale is not executed within 6 (six) months of the Final Permit being issued, or if said family member does not maintain ownership for at least two years after the sale. The owner shall submit proof of filing of the master deed and proof of sale of each unit to review board staff within thirty (30) days of each occurrence.
 - (4) Where a deed restriction limiting the sale or rental to eligible households is not recorded prior to the issuance of a Certificate of Occupancy (CO) or, if a CO is not required, prior to the initial sale of the unit as a condominium.
- (c) A final conversion permit shall not lapse in the following circumstances:
- (1) When a unit qualified for a waiver of the one-year notice period to the board and the unit continues to be occupied by an owner, or a non-rent paying tenant or occupant, as their primary place of residence.

(Ord. No. 2019-06, 3-28-2019; Ord. No. 2020-12, 5-14-2020)

Sec. 7-66. Notice to tenants given prior to date of this ordinance.

In the case of any housing accommodation for which the applicable notice required under City of Somerville Ordinance 1985-9 was given prior to the adoption of this ordinance, the period of notice shall be deemed to have commenced on the date the notice was received by the tenant.

(Ord. No. 2019-06, 3-28-2019)

Sec. 7-67. Condominium/cooperative review board.

- (1) There is hereby established a condominium/cooperative conversion review board to consist of five full members and one alternate member, all of whom shall be City of Somerville residents. The failure of a review board member to reside in Somerville shall result in automatic termination of membership. Review board members shall serve staggered terms of three years each. The review board shall include two homeowners, two tenants, and one elderly, disabled, or low- or moderate-income person, who may be either a homeowner or a tenant, and an alternate who may be either a homeowner or a tenant and who shall serve as needed.
- (2) Review board members shall be appointed by the mayor, subject to confirmation by the city council. For

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(Supp. No. 22)

good cause shown, a review board member may be removed by the mayor prior to the expiration of such member's term of office. Members of the review board shall receive such annual compensation as the mayor shall propose and the city council shall approve.

- (3) The review board shall have the power to enforce the provisions of this ordinance and shall be responsible for promulgating such rules, policies, and procedures, as it may deem advisable in furtherance of its purposes. The review board may adopt such rules, policies, and procedures by majority vote. Without limiting the generality of the foregoing, the review board shall be responsible for conducting hearings and granting or denying conversion permits. The review board and its staff shall also be responsible for developing administrative forms and procedures.
- (4) Review board members shall be deemed public employees for purposes of G.L. c. 258. Review board members shall be deemed special municipal employees for purposes of G.L. c. 268A.

(Ord. No. 2019-06, 3-28-2019)

Sec. 7-68. Effective date.

This ordinance shall take effect on July 31, 2019.

(Ord. No. 2019-06, 3-28-2019)

Sec. 7-69. Severability.

In the event that the court determines that Chapter 218 of the Acts and Resolves of 1985 does not remain in full force and effect, or that the City of Somerville is otherwise prohibited from regulating dwellings with less than four units, it is the intent of this ordinance to regulate four or more units in the same manner as set forth in this ordinance, to the extent permitted by state law. Furthermore, in the event that the court determines that Chapter 218 of the Acts and Resolves of 1985 does not remain in full force and effect, it is the intent of this ordinance to provide any tenant protections to the extent permitted by state law. Otherwise, it is hereby declared to be the intention of this ordinance that the sections, paragraphs, sentences, clauses and phrases of these ordinances are severable, and if any phrase, clause, sentence, paragraph or section of these ordinances, shall be declared invalid by the valid judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of these ordinances, since the same would have been enacted without the incorporation in these ordinances of any such invalid phrase, clause, sentence, paragraph, or section.

(Ord. No. 2019-06, 3-28-2019)

Sec. 7-70. Annual reporting.

The review board shall submit an annual report to the city council which provides comprehensive data and other documentation on the development of conversion condominiums in the city and the implementation of this ordinance.

(Ord. No. 2020-12, 5-14-2020)

Sec. 7-71. Penalties for violation.

Any person who violates a provision of this ordinance which is promulgated pursuant to St. 1983, c. 527, shall be punished by a fine of not less than \$1,000.00. Each violation of any provision shall constitute a separate offense. In the alternative, any person who violates this ordinance shall be punished by a fine in accordance with the provisions of section 1-11 of the Code of Ordinances. Nothing in this ordinance shall preclude a tenant from seeking civil remedies for violation of this ordinance as permitted by law.

Any violation of this ordinance by an owner shall not affect the validity of a conveyance of a condominium unit or an interest in a housing cooperative to a purchaser for value who has no knowledge of the violation.

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The Somerville District Court, Eastern Division of the Housing Court, and the Middlesex Superior Court shall have jurisdiction over an action arising from any violation of this ordinance and shall have jurisdiction in equity to restrain or remedy any such violation. The city shall be entitled to initiate such actions.

(Ord. No. 2020-12, 5-14-2020)

Secs. 7-72—7-90. Reserved.