

Key Issues
for the
Demolition Ordinances
And
Some Proposals to Address Them

July 9, 2018

Key issues:

- 1) Should City Buildings be exempt?
- 2) What should the delay period be? Should it be the same for residential and commercial buildings?
- 3) Are the fines and violation penalties right?
- 4) Are there issues to address with the definitions of “partial” and “serial” demolition?
- 5) Can we do an “expedited review” within the ordinance for demolition where the new project will include a majority of the housing is affordable housing?
- 6) Do we have the correct “exempt areas”?
- 7) Does the proposed ordinance not give the Commission a timeframe in which to act?
- 8) Do we fix commission peer review language?

1. Should City-owned buildings be exempt?

Current Ordinance:

Does not exempt city buildings.

Proposed Draft:

The draft ordinance recommends that they should be exempt.

Recommended Strategy:

Add new section 9 – and renumber current Section 9 to Section 10:

9. City Owned Buildings

9.1 Exemption: As noted in the definition of “exempt area,” buildings owned by the City of Somerville or any of its political subdivisions are not subject to the demolition review process.

9.2 Historic Commission Review: Prior to the demolition of any building owned by the City of Somerville or any of its political subdivisions, the City Administration shall submit information about the demolition to the Commission for a non-binding review and comment.

9.3 Comment Meeting: The Commission shall schedule, at their next available public meeting, for the City Administration to present the building to be demolished and the purpose and need for the demolition.

9.4 Commission Role: After the presentation by the City Administration, the Commission may, within 35 days, issue comments on the demolition. Comments will be provided to the City Administration and the Board of Aldermen. Those comments may include, but not be limited to: suggestions for photographic documentation or renderings of the building to be demolished, identification of materials for salvage and/or suggestions for installation of historic or interpretive signage at or near the site.

9.5 Board of Aldermen Action on Demolition: The Board of Alderman may not approve any order, including appropriation of funds, that will permit the demolition of a building owned by the City of Somerville or any of its political subdivisions, until the building has been submitted for review by the Commission and either a) the Commission has provided comments to the Board of Aldermen; or b) 35 days have elapsed after the date of the presentation to the Commission, with no comments submitted.

Reasoning:

All City-owned buildings go through an extensive process before the Board of Aldermen, prior to funds being appropriated to them for major work (renovation, repair, etc.). The elected Board will make a decision on the condition of the building and its suitability for demolition as a part of any project that might be ongoing by the City. Creating a statutory right for another Board to slow this process could challenge the intent of Board of Aldermen. But, the BOA should understand the role that the building may have played in the city’s history. Therefore, staff recommends a required review process, but no mandatory delay.

Alternative Strategies:

1. Maintain current proposal – exempt all city buildings
2. Maintain existing strategy – exempt no city buildings

2. What should the delay period be? Should it be the same for residential and commercial buildings?

Current Ordinance:

All buildings have a 9 month delay period

Proposed Draft:

Residential buildings have a 24 month delay period while all others have a 12 month delay period.

Recommended Strategy:

Maintain current proposal.

Reasoning:

There has been substantial conversation about how long a review period should be. The review period should be long enough to ensure that there is adequate opportunity to explore alternatives to demolishing a 'preferably preserved' structure. It need not be longer, as the goal is to ensure conversation and cooperation – not to stop all development and revitalization. Therefore, it needs to extend to at least 12 months, to address circumstances where current owners may see this process more as a process to wait-out than one to engage. But, how far beyond that we go depends upon how much more time may be needed to engage in substantial discussion. The residential structures, particularly those in the RA and RB zoning districts, have a character that is somewhat unique to Somerville and often worthy of preservation. These are also generally within the 'conserve' districts in the SomerVision plan. Therefore, permitting more time to seek alternatives to demolition seemed appropriate in that case.

Alternative Strategies:

Create a combined demolition period of 9, 12, 18 or 24 months

3. Are the fines and violation penalties right?

Current Ordinance:

\$300 fine and 2-years of time that no structure can be built on the lot

Proposed Draft:

\$300 fine and 3-years of time that no structure can be built on the lot

Recommended Strategy:

Change Section 1-11 to permit:

\$300 fine and No building permit issued for four (4) years after the date of unauthorized demolition

Reasoning:

See email from legal (second part of the attached email). As noted, the \$300 fine is a cap set by the state, but legal finds that increasing the timeframe to 4 years is not unreasonable.

Alternative Strategies:

Maintain a 2 year or 3 year timeframe

4. Are there issues to address with the definitions of “partial” and “serial” demolition?

Current Ordinance:

Not specific about what to do with partial and/or serial demolition

Proposed Draft:

Both terms are defined, and included in the overall definition of demolition. Therefore, partial and serial demolition is subject to the same process as demolition of an entire structure.

Recommended Strategy:

Staff recommends, at this time, the highlighted changes:

2.10 Demolition means the act of pulling down, destroying, removing, moving, or razing a building. Demolition includes commencing the work of partial, substantial, serial, or total destruction of a building with the intent of completing the same. For the purposes of this ordinance, the term “demolition” ~~shall~~ **does not include:**

- a. removal, replacement, or installation of siding, roof shingles or windows,**
- b. routine maintenance as long as the maintenance undertaken does not fit the definitions of demolition contained in this ordinance, ~~nor~~**
- c. interior renovations (except ~~as noted below~~ where the renovation is conducted for the purpose of compromising the integrity of the building ~~is at risk~~), nor,**
- d. minor projects as defined below.**

Demolition includes partial demolition, serial demolition, illegal demolition and demolition by neglect.

2.10.1 Partial Demolition means demolition of more than 25% ~~of the volume, or 25% of the exterior surfaces of the building.~~ of the surface area of the core structure (exterior walls and roof), and the structural members supporting this surface area.

2.10.2 Serial Demolition means the ongoing demolition in stages over any time period of 5 years or less where several ~~small~~ demolitions accrete to ~~a point where they meet the definition of a Partial Definition per 2.10.1. 25% or more of the volume or exterior surfaces of the building.~~

2.10.3 Illegal Demolition means a demolition undertaken by any person without an application having been reviewed and approved by the Somerville Historic Preservation Commission and/or without building or demolition permits from the Inspectional Services Department (ISD).

2.10.4 Demolition by Neglect is as defined in Chapter 7, Section 7.29 of the City of Somerville Ordinances. is a situation in which a property owner intentionally allows a property to suffer severe deterioration, until it is beyond the point of repair.

2.10.5 Minor Project is the removal of a portion of a single- two- or three-unit structure for the purpose of only accomplishing one or more of the following: adding a dormer, dormer window, entry canopy, bay, or gable; adding an addition to the side or rear of the structure; adding or altering a portico, porch or deck; or, changing the shape, style or structure of a roof.

Reasoning:

This addresses a few issues:

- a. Creating a class of minor project that will permit all of the projects that are fast-tracked under proposed zoning to also not need demolition review.
- b. Addressing concern about the use of the term 'volume' in the definitions
- c. Addresses that interior renovations are exempt unless they are conducted with the intent to compromise the integrity of the building and thereby force a demolition
- d. A definition is added for "Demolition by Neglect"
- e. Addressing concern about the use of the demolition ordinance to incorporate re-siding a house or other similar changes to materials (which is NOT and never has been the intent of the Administration or the HPC)

Alternative Strategies:

These issues can be further addressed.

The Board may choose to remove the definitions of partial or of serial demolition.

The percentage can change from 25% to a different number

5. Can we do an “expedited review” within the ordinance for demolition where the new project will include a majority of the housing is affordable housing?

Current Ordinance:

No expedited review that is specific to affordable housing

Proposed Draft:

No expedited review that is specific to affordable housing

Recommended Strategy:

See email from legal. Based on this, no change is recommended

Reasoning:

See email from legal (first part of the attached email).

Alternative Strategies:

none

6. Do we have the correct “exempt areas”?

Current Ordinance:

Assembly Square and Innerbelt areas are exempt

Proposed Draft:

Assembly Square, Innerbelt, Brickbottom, Boynton Yards, and the D-blocks noted in the Union Square Revitalization Plan are exempt

Recommended Strategy:

Maintain proposed strategy

Reasoning:

The proposed strategy permits the development of the ‘transformational’ areas of the SomerVision plan, without further demolition review. These are the areas of the City that have been identified in both the SomerVision plan and various neighborhood plans, as the best parts of the City for complete redevelopment work. There has been some concern about Union Square being a part of this district. The demolition ordinance follows the recommendation of the neighborhood plan for Union Square, by encouraging the redevelopment of the D-blocks, while protecting many adjacent properties that will ensure that Union Square balances old and new properties effectively.

Alternative Strategies:

Different mapping proposal for ‘exempt properties’ can be suggested

7. Does the proposed ordinance not give the Commission a timeframe in which to act?

Current Ordinance:

Commission can keep demo reviews open under review prior to making a decision

Proposed Draft:

Commission can keep demo reviews open under review prior to making a decision

Recommended Strategy:

Provide a timeframe for action, as follows:

Add to Sections 5.4 and 6.3:

The commission shall complete the public hearing within thirty-five (35) calendar days of opening the hearing, unless an extension of time is permitted by mutual agreement of the applicant and the Commission.

Reasoning:

Time schedules should not be indefinite for development project reviews of any type

Alternative Strategies:

None

8. Do we fix commission peer review language?

Current Ordinance:

No language on peer review.

Proposed Draft:

Peer review under MGL 44 53G.

Recommended Strategy:

Change language as follows:

The commission may call for a peer review of any professional report, should the Commission deem it necessary to make a final determination, subject to the availability of funds.

Reasoning:

MGL 44, 53G is not applicable to historic commissions. This was discussed with the Board and agreed upon at the last BOA meeting on this topic

Alternative Strategies:

None