

Comparison of State Condo Ordinance to Proposed Somerville Ordinance 2008 to Current Somerville Ordinance to Old Proposal Fall 2006

	Current State Law (Chapter 527)	Proposed Somerville Ordinance 2008	Current Somerville Ordinance	Old Proposed Somerville Ordinance Fall 2006
1	Exempts housing accommodations with fewer than 4 units	Covers all housing accommodations but has different (lesser) requirements for 2-3 family homes (Section 3)	Covers all housing accommodations	Same as current Somerville ordinance
2	Notice required when landlord has “intent to convert” to condo or co-op.	Notice required when landlord has “intent to convert” to condo or co-op. (Section 4)	Notice required when landlord has “intent to convert” to condo or co-op or when landlord has filed Master Deed.	Notice required when landlord has “intent to convert” to condo or co-op.
	Statute defines both “convert” and “intent to convert”.	Same definition of “convert” as Chapter 527. Same definition of “intent to convert” as Chapter 527, except proposed ordinance says “factors which shall be considered in determining whether an owner has the intent to convert <u>include</u> ”... where Chapter 527 says "factors...are" (Section 3)	No definition of “convert” or “intent to convert”.	Statute defines “convert”, but no definition of “intent to convert”

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3	Requires 2-year notice of intent to convert to elderly, handicapped, low/moderate incomes tenants; 1 year notice to all other tenants. Requires landlord to locate comparable housing at the same or lesser rent within the City and failure to do so extends the notice period for an additional two years.	Same wording as Chapter 527 for 4+ buildings; lesser notice (6 months) to tenants in 2-3 family homes. Requires landlord to locate comparable housing at the same or lesser rent within the City and failure to do so extends the notice period for an additional two years. (Section 4(a)(ii) and Section 5(a)(ii))	Same in concept, although worded differently. Covers both notice of intent to convert and notice of intent to bring eviction proceeding.	Requires 2-year notice for elderly, handicapped, low/moderate income tenants in 2-3 family homes, 4 years for this population in 4+ buildings; 1-year notice for all others in 2-3 family homes, 2 years for this population in 4+ buildings
4	Burden of proof on tenant to demonstrate elderly, handicapped, or low/moderate income status	Burden of proof is on tenant to demonstrate elderly, handicapped, or low/moderate income status. Owner may provide the tenant with a written request to disclose whether tenant is elderly, handicapped, or low/moderate income. If tenant answers that they are not one of these classes, it is presumed that the landlord does not need to give additional notice and this presumption can only be overcome by clear and convincing evidence.	No mention of burden of proof re elderly, handicapped, or low/moderate income status.	No mention.

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5	Owner cannot seek condominium conversion eviction prior to the expiration of the notice period.	Same, plus cannot evict tenant from 2-3 family prior to expiration of 6-month notice period except for cause. (Section 4(b) and Section 5(b))	Same	Same
6	Tenant must be offered right to purchase unit and also has right to purchase the unit on terms and conditions which are substantially the same as or more favorable than those by which the owner extends to the general public for 90 days after expiration of tenant's right to purchase.	Tenant of 4+ must be offered 90-day right to purchase and if tenant does not wish to purchase, 90-day period expires when tenant communicates same to landlord. ((Section 4(c))	Tenant must be offered 30-day right to purchase and landlord may not sell to anyone else on more favorable terms for an additional 180- day period.	Tenant must be offered an initial right to purchase and must enter into a valid Purchase and Sales Agreement within 90. Tenant is also given a second right of refusal upon receipt of a bona fide offer from a third party if the tenant meets or exceeds the terms of the third party offer.

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7	No similar provision.	Proposed ordinance also give 90-day right of purchase to non-profit affordable housing developers to run concurrently with tenant's 90-day right to purchase. Non-profit must inform landlord within 30 days of its intention to purchase and must execute a purchase and sale agreement within the 90-day period. Tenants have priority over non-profits for purchase (Section 4(c))	No similar provision.	No similar provision.
8	Relocation assistance of actual documented expenses of up to \$1000 for elderly, handicapped, or low/moderate-income tenants, and up to \$750 for all other tenants.	Relocation assistance of flat fee of \$2000 for tenants in 2/3 family homes. Flat fee of \$4,000 for elderly, handicapped, or low/moderate-income tenants, and \$2000 for all other tenants in 4+ unit buildings.	Relocation assistance of actual documented expenses of up to 3 months rent for elderly, handicapped, low/moderate-income tenants, up to 2 months rent for all other tenants.	Relocation assistance of actual documented expenses of up to \$4000 or two months rent, whichever is greater, for elderly, handicapped or low/moderate income tenants. Up to \$2000 or one months rents, whichever is greater, for all other tenants.

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9	Owner must assist elderly, handicapped, or low/moderate income tenants to find comparable housing or notice period may be extended for up to an additional two years.	Same as Chapter 527 for 4+ buildings; no requirement of assistance or penalty of extended notice period for 2-3 families. (Section 4(e))	Same	Same
10	Owner must extend rental agreement to coincide with the expiration of notice period or the 90-day right to purchase, whichever is longer.	Same as Chapter 527 for 4+ and also extends to 2-3 families for the 6-month notice period. (Section 4(f) and Section 5(d))	No specific extension of rental agreement and no provision for rent increases during extension period.	Same as Chapter 527
11	Rental agreement may not be modified except that rent may be increased annually by the lesser of 10% or the CPI increase, and owner can collect under a valid tax escalation clause.	Same as Chapter 527 for 4+ and gives owners of 2-3 family homes the same right to raise rent and collect tax increase. (Section 4(f) and Section 5(e))	Rental agreement may not be modified in any respect during notice period.	Same as Chapter 527

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12	There are no specific provisions defining when an owner can access tenant's apartment during the notice period. (G.L. c. 186, s.15B covers Landlord's rights of entry.)	There are no specific provisions defining when an owner can access tenant's apartment during the notice period. . (G.L. c. 186, s.15B covers Landlord's rights of entry.)	Tenant must give access to landlord for inspection, actual or prospective workers or purchasers at reasonable times on 2 days notice.	Same as current Somerville ordinance.
13	Statute has no unreasonable disruption or interruption of essential services provisions. (G.L. c. 186, s.14 covers tenant's right to quiet enjoyment and prohibits interruption of essential services.)	Provides that, in addition to requirements of G.L. c. 186, s.14 owner may not undertake rehabilitation, repair, or improvement of unit occupied by tenant unless requested by tenant or specifically allowed by lease provision, and may not allow work to common areas or vacant units which crease unreasonable disruption to tenant. (Section 4(g))	Owner may not undertake rehabilitation, repair or improvement of a unit while occupied by a tenant, and may not create unreasonable disruption of common areas, defined as restricting access to common areas or units, interference with quiet use and enjoyment of premises, abuse of right of access to units, or harassment of tenants.	Same as current Somerville ordinance.

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		No interruption of essential services provision. (G.L. c. 186, s. 14 prohibits interruption of essential services.)	Includes interruption of essential services provision saying that tenant can notify Condo Review Board and City Building and Health Departments, who can implement corrective action.	No interruption of essential services provision. (G.L. c. 186, s. 14 prohibits interruption of essential services.)

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14	Violations punishable by fine of not less than \$1000 or imprisonment for not less than 60 days. Each unit constitutes a separate offense.	Violations punishable for fine of not less than \$1,000. No imprisonment. Each violation constitutes a separate offense. (Section 6)	Violation of ordinance or false statement punishable by fine of not more than \$200. Defines what constitutes "one" violation.	Same as Chapter 527
15	No similar provision.	Proposed ordinance also creates civil cause of action for tenants, entitled to actual and consequential damages or one month's rent, whichever is greater, plus attorney's fees. (Section 6)	No similar provision.	Creates civil cause of action for tenants with treble damages and attorney's fees.
16	If tenant entitled to notice vacates, landlord must tell prospective tenants that property is being converted to condominiums or cooperatives, but the prospective tenants do not have any special rights.	Same as Chapter 527. (Section 4(a))	No mention of this in current ordinance.	Same as Chapter 527.

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17	Does not create a Board -- enforcement is through the courts when a landlord seeks an eviction.	Provides for a 5-person "Condominium/Cooperative Conversion Board" and "Conversion Permit" process at a cost of \$750/permit. (Section 9(a) and Section 8(a)(i))	Provides for a 5-person "Condominium Review Board" and a "Removal Permit" process at a cost of \$500/permit.	Provides for a 5-person "Condominium Review Board" and a "Conversion Permit" process at a cost of \$750/permit.
		Permit is Granted where: 1) all required documents have been submitted; and 2) requirements of s. 4(a)-(g) of the proposed ordinance have been met. (Section 9(d))	In deciding whether to grant or deny a permit, the Board must consider: benefits to the citizens of Somerville of issuing the permit; hardships imposed on tenants residing in units proposed to be removed, including any mitigating provisions made by applicant; aggravation of shortage of rental housing in city, esp. of units suitable for elderly, handicapped, low/moderate income, or people on fixed incomes.	Permit is granted where: 1) all required documents have been submitted; and 2) Bard determines that all submitted documents are true.

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		Permit lapses if (1) owner has failed to file Master Deed by 12/31 of year of issuance; or (2) unit has not been sold to bona fide purchaser within 4 years of granting of permit. (Section 8 (a)(ii))	If condo conversion plan is “abandoned”, owner is prohibited from sending new notice to tenants for 18 months. No definition of “abandon”. No mention of “lapse” of removal permit.	Permit lapses if unit has not been sold for within 4 years after the permit was granted.
		Denial of Permit: discretionary where documentation is incomplete in any respect; mandatory if a document or statement is determined to be false in any material respect. (Section 9(d))		Denial of Permit: discretionary where documentation is incomplete in any respect; mandatory if a document or statement is determined to be false in any material respect.
		Revocation of Permit: if document or statement is determined retroactively to have been false in any material respect. (Section 9(d))	No provision for revocation.	No provision for revocation.