

DEMOLITION REVIEW ORDINANCE
CITY OF SOMERVILLE

Section 1: Intent and Purpose.

The purpose of this ordinance is to preserve and protect significant buildings within the City of Somerville (“City”) by providing advance notice of their proposed demolition, which constitute or reflect distinctive features of the architectural, cultural, political, economic, or social history of the City, and which are outside the designated historic district; to encourage owners of such preferably preserved significant buildings and members of the Somerville Historic Preservation Commission (“Commission”) to seek out persons willing to purchase and to preserve, rehabilitate, or restore such buildings, rather than demolish them; and to promote the public welfare by making the City a more attractive place in which to live. To achieve these purposes, the Commission is empowered to advise the Building Inspector with respect to the issuance of demolition permits. The issuance of demolition permits for significant buildings is regulated as provided in this ordinance.

1.1 Exclusions: This ordinance shall not apply to any building or structure located within the boundaries of the proposed Assembly Square District or the Inner Belt Industrial Park District, which districts are shown on the maps attached hereto.

Section 2: Definitions.

For the purposes of this ordinance, the following words and phrases shall have the meanings set forth below:

- 2.1 **Applicant** means any person filing an application for a demolition permit. However, if the applicant is not the owner of the building or structure that is subject of the application, the owner to give written authorization for the demolition, including a statement of ownership and identification of his or her authorized agent, on the application.
- 2.2 **Application** means an application for a permit for the demolition of a building or structure.
- 2.3 **Board of Survey** means the board ordered to respond, by Massachusetts General Laws Chapter 143 Section 8, when an owner of a building or structure does not respond to a notice that the building or structure is unsafe. The board shall consist of the City engineer, the head of the fire department, and one disinterested person to be appointed by the Building Inspector.
- 2.4 **Building** means any combination of materials forming a shelter for persons, animals or property.
- 2.5 **Building Inspector** means the person occupying the office of Superintendent of Inspectional Services, or any person otherwise authorized to issue demolition permits in the City.

- 2.6 **Business day** means a day that is not a recognized municipal or federal holiday, and is not a Saturday or Sunday.
- 2.7 **Chairperson** means the head of the Commission, the person performing the functions of the chairperson in the event no one holds that title, or any other person to whom the chairperson delegates authority to act according to this ordinance.
- 2.8 **City Clerk** means the person holding the office of city clerk in the City.
- 2.9 **Demolition** means the act of pulling down, destroying, removing, or razing a building or structure or commencing the work of total or substantial destruction with the intent of completing the same. For the purposes of this ordinance, the term “demolition” shall not include routine maintenance, interior renovations, removal or construction of porches, decks, windows or other types of renovations for which Commission approval is generally not required.
- 2.10 **Final determination** means a determination made by the Commission in accordance with Section 4.2D of this chapter.
- 2.11 **Initial determination** means a determination made by the Commission in accordance with Section 4.2A of this chapter.
- 2.12 **Owner** means the person with legal title to a building or structure.
- 2.13 **Permit** means a permit issued by the Building Inspector for demolition of a building or structure pursuant to an application.
- 2.14 **Person** means an individual, corporation, partnership, association, trust, or society.
- 2.15 **Preferably preserved significant building or structure** means any significant building or structure, which the Commission determines as provided in Section 2.17 of this chapter, that it is in the public interest to be preserved or rehabilitated rather than to be demolished.
- 2.16 **Premises** mean the parcel of land upon which the demolished building or structure was located and all adjoining parcels of land under common ownership or control.
- 2.17 **Significant building or structure** means any building or structure within the City which:
- A. Is listed on, or is within an area listed on, the National Register of Historic Places, or which is the subject of a pending application for listing on the National Register, or

- B. Is at least 50 years old, and is or has been determined by the Commission to be a significant building or structure after a finding that the building or structure is either:
 - i. Importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the City or the Commonwealth of Massachusetts, or
 - ii. Historically or architecturally significant (in terms of period, style, method of building construction, or association with a reputed architect or builder) either by itself or in the context of a group of buildings or structures, and therefore it is in the public interest to be preserved or rehabilitated rather than to be demolished.

2.18 **Structure** means any constructed, erected, or placed material or combination of materials in or upon the ground, excluding sidewalks, stairs and paving on streets, driveways, parking areas, and patios.

2.19 **Voluntarily** means any act(s) done by design or intention, which is proposed, intended, or not accidental. An Act of God is not considered voluntary, but rather is regarded as an act done without the will or choice of the applicant (or owner, if different from applicant). For the purposes of this chapter, the destruction of a significant building or structure for failure to properly secure it shall be considered voluntary.

Section 3: Computation of Time.

The day from which a period runs is excluded. The last day is included, unless it is a municipal or federal holiday or a Saturday or Sunday, in which case the period runs to the end of the next day business day

Section 4: Procedure

4.1 When the Building Inspector receives a demolition permit application for a significant building or structure, he or she will within seven (7) business days notify the Commission in writing that a demolition permit application has been received by forwarding a copy of the application to the Commission by interoffice mail and fax, or by in-hand delivery.

4.2 Board's Determinations.

- A. Initial Determination: The Commission or its designee shall make a written determination whether the building or structure, which is the subject of the demolition permit application, is a significant building or structure, within thirty (30) days of receiving a copy of the application.

- i. If the Commission determines that the building or structure is not a significant building or structure, this determination shall be transmitted to the Building Inspector, the applicant, the building owner and to the City Clerk. The applicant will not be required to take any further steps and the permit may be granted by the Building Inspector.
- ii. If the Commission determines that the building or structure is a significant building, it shall notify the Building Inspector, the applicant, and the City Clerk, of its determination.
- iii. If the Commission fails to act in accordance with §§ 4.2A-4.2A(ii) within the prescribed time periods, the Building Inspector shall grant the demolition permit, provided that the applicant has met all other requirements under the demolition permit application, and shall notify the Commission in writing that the permit has been granted.

B. Demolition Plan Review: After the Commission's initial determination that a demolition permit application involves a significant building or structure, the applicant for a demolition permit may submit to the Commission a demolition plan that shall include:

- i. A brief description of the type of building or structure.
- ii. A scaled plot plan showing the location of the significant building or structure on the property and with reference to neighboring properties
- iii. Photographs of all street façade elevations and portions of the building or structure visible from a public way.

C. Public Hearing: The Commission shall conduct a hearing on the application and the initial determination within forty-five (45) days of its initial determination. The Commission shall give the public notice of the hearing by publishing the time, place, and purpose of the hearing in a local newspaper, at least fourteen (14) days prior to the hearing. The Commission shall also mail, in a form designated by the Commission, a notice to the applicant, the building owner and abutters to the property, which is the subject of the application, at least fourteen (14) days prior to the hearing.

D. Final Determination: Within twenty one (21) days following the date of the public hearing, the Commission shall file a final determination, in writing, with the City Clerk. If the Commission determines that the demolition of the significant building or structure would be detrimental to the architectural, cultural,

political, economic, or social heritage of the City, such building or structure shall be considered a preferably preserved building or structure.

4.3 Upon the Commission's final determination that said building or structure is preferably preserved, it shall so advise the Building Inspector, the applicant and the building owner (if different from applicant). Upon this determination, the Building Inspector shall not issue a demolition permit for building or structure for a period of nine (9) months from the date upon which the Commission made the final determination that building or structure is preferably preserved. During the nine (9) month delay, the applicant, the owner (if different from applicant), and the Commission are required to actively pursue alternatives to demolition of the preferably preserved building or structure, including but not limited to, finding a buyer for the building or structure that is willing to rehabilitate the property, rather than demolish it.

4.4 Upon a determination by the Commission that a building or structure is a preferably preserved building or structure, the owner shall be responsible for properly securing the building or structure.

4.5 Notwithstanding the preceding, the Building Inspector may issue a demolition permit at anytime, upon receipt of written advice from the Commission that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate or restore such building or structure.

4.6 Emergency demolition: Nothing in this article shall derogate from the authority of the Building Inspector to act under Massachusetts General Laws Chapter 143 and the State Building Code.

4.7 Enforcement:

A. The Commission and the Building Inspector are each specifically authorized to institute any and all actions and proceedings, in law or in equity, as they deem necessary and appropriate to obtain compliance with the requirements of this article, or to prevent a threatened violation thereof.

B. Anyone who voluntarily demolishes a significant building or structure without complying fully with the provisions of this ordinance shall be subject to a fine of not more than \$300.

C. No building permit shall issue for a new building or structure on any premises where a significant building or structure is voluntarily demolished in violation of this ordinance for a period of two (2) years after the date of demolition.

4.8 Historic Districts Act: If any provision of this ordinance conflicts with the "Historic Districts Act," Massachusetts General Laws Chapter 40(C), the Act shall prevail.

4.9 Severability: In case any section, paragraph or part of this ordinance for any reason shall be declared invalid by any court, every other section, paragraph and part shall continue in full force and effect.

Approved:

President
Board of Aldermen