

Summary of Major Changes to the proposed Condo Conversion Ordinance

March 7, 2019

Legislative Matters

1. Page 2 Definition of Elderly: In response to comments, the Administration increased the threshold for protected seniors from age 62 to age 65.
2. Page 3: Definition of Household: In response to concerns as to whether persons who were unknown to an owner, but were occupants of a unit would get protections we changed the definition of "household" to refer to "tenants" who occupy a unit rather than "persons" who occupy a unit.
3. P.4: Definition of Intent to Convert: At the suggestion of commenters we added the retaining of a real estate agent or attorney for the purpose of converting a unit to condominiums to the list of factors that might indicate an intent to convert.
4. P.4: Definition of low/mod income tenant – added "household" to be clear that the income of everyone in the household is considered when evaluating protected status based on income
5. Page 4, Section 7-64(a): We exempted from the twelve month waiting period for vacant units, units that were owner occupied and not rented over last 12 months and units purchased by City/designee.
6. Page 5, Section (1)(b): We added a provision to make sure the tenant gets a notice in their own language. We anticipate the CRB developing this form and translating it into some common languages.
7. Page 5, Section 7-64(b)(iv): We created a two-step process for obtaining Conversion Permits which requires both the issuance of a preliminary Conditional Permit and a final Conversion Permit . A Preliminary hearing will be held after service of Notice to the CRB. The CRB will provide notice in advance to all parties (tenants, owner and former tenants. The hearing will be held to review compliance with the Ordinance to date and to apprise all parties of their rights. A second "final" hearing will be held either at the end of the notice period and/or when the tenant vacates to determine if the owner has complied with all obligations during the notice period and, if so, the CRB will issue a Conversion Permit. [See also Section 7-67]
8. Page 5, Section 7-64 (1)(b) (vi) added a provision to clarify that some owners are exempt from the obligation to find comparable housing "the benevolent landlord exemption."
9. Page 6, Section 7-64(1) at the end after subsections: Specified that OHS will be responsible for assisting tenants with establishing enhanced protections under the Ordinance if tenants need assistance.
10. Page 6, Section (2): One commenter pointed out that an owner needs to send notice to the tenant while still being able to have time to complete renovations. We wanted to clarify that an owner could serve the notice of intent where they were intending to do renovations at a reasonable time after expiration of the notice. Also, the Conversion permit would not lapse under Section 7-67(3) for two years from the date the permit is issued which provides plenty of time to complete renovations.

11. Page 7-8, Section 7-64(4)(a): (1) One commenter noted that the right to purchase period for a tenant was 120 days or 180 days if elderly, disabled, low/moderate income but that the City or designee only had 120 days to execute a right to purchase regardless of the status of the tenant. We adjusted the timeframe for the right to purchase to be the same for both parties in all instances to run concurrently and (2) The Ordinance previously provided that the owner could not sell the unit than less for the price given to the tenant or City/designee for six months following that offer. We realized that the right to purchase period however, is also six months so there would be no real incentive to price the unit at fair value unless we changed the period of time the owner had to keep the price the same after the tenant's right to purchase expired. We changed proposed language to say that an owner couldn't charge a lower price for ninety days after expiration of the right to purchase.
12. Page 8, Section 7-64(4)(a)last sentence: Several commenters noted the difficulty of setting a fair market value price for a unit given that some level of repairs are necessary to sell a unit as a condominium. The Administration thought it made sense for a prorated portion of costs for common area improvements that are **required** be included in the "As Is" price but not for any optional upgrades designed to maximize profit from fully renovated units.
13. Page 8, Section 7-64(5): We noticed that it was not clear if the owner had to make relocation payments if the tenant did not vacate within the notice period. We clarified that relocation expenses are only to be paid if the tenant vacates within the notice period or during any extension for those accessing public/subsidized housing. This mirrors the state law which does limit relocation payments to moves within the notice period. In addition the Ordinance provided that a tenant being evicted could get the relocation payments if they moved within sixty days from date of entry of judgment against them (whether or not it was during the notice period) since a judgment is needed to get emergency status at the Somerville Housing Authority for both state and federal public housing based on no fault eviction. We recommend changing this to 90 days from judgment as it is taking longer to place even those families with emergency status.
14. Page 9, Section 7-64(6): We clarified that for the benevolent landlord exemption, we would look at whether the rent was below the payment standard at the time the notice was served.
15. Page 10, Section 7-64(9): In response to comments, we added back a protection in the existing Ordinance providing that because an owner is effectively notifying a tenant that they need to relocate at the end of the notice period, a tenant can break a lease during notice period upon thirty days' notice to the owner.
16. Page 11, Section 7-67(a): We added an express requirement that the owner submit an application for the Conversion Permit with all requested information and attachments within thirty days of serving the notice of intent to the Board.
17. Page 11-12, Section 7-67(b): We wanted to clarify what happens, if anything, at the beginning of the notice period and what happens at the end of the notice period. We set up a two part process. First, after notice is served, the application for a Conversion Permit must be submitted. A preliminary hearing would be scheduled with notice to the owner and present and former tenants provided by the CRB with the date/time of the meeting. This preliminary hearing would

also be an opportunity for the CRB to explain to the tenants their rights so they won't waive their rights without understanding their options first.

The CRB would then both make a decision about whether to that point the owner had complied with the Ordinance (proper notice etc.), and, if yes, issue a Conditional Permit. The Conditional Permit would state whether the unit was tenanted and set out the time frame of the notice period.

18. Page 12, Section 7-67(1)(c): We clarified that the owner can sell the condo unit prior to the end of the notice period, but only if new owner takes subject to the old owner's obligations . We set out a process for documenting the new owner's understanding of and consent to their obligations under the Ordinance
19. Page 12 7-67(2)(d): It was unclear whether a party could ask to come before the Review Board at any time regarding compliance with the Ordinance. We added an express provision allowing either tenant or owner to request a hearing on compliance at any time.
20. Page 13, Section 7-67(2)(d): Multiple comments were received in regards to the language in the Ordinance which would have allowed a permit to be denied even where the owner had fully complied with the Ordinance due to hardship to the tenant. Commenters thought this was unfair and vague. We agreed that there were no clear standards and that the concept of hardship was woven into the law through enhanced protections for vulnerable populations. As a result we removed the language allowing the CRB to deny a permit due to tenant hardship.
21. Page 14, Section 7-78: The Ordinance as previously drafted did not have an effective date. Given that it will take the CRB time to determine how to implement the new bill and to be fair to those currently in the process of conversion, we recommend that the new rules be effective six months from date of passage of the Ordinance.