

## SOMERVILLE CONDOMINIUM REVIEW BOARD RULES

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The ordinance referred to in these Rules is Somerville Ordinance 2019-06, entitled “Somerville Condominium/Cooperative Conversion Ordinance” (hereinafter “The Ordinance.”)

The Ordinance requires the issuance of Conversion Permits for the conversion of residential rental or owner-occupied units to condominium units.

These Rules are supplemented by Operating Procedures.

### ARTICLE I –APPLICATION

#### A. Applying for a Conversion Permit- Vacant Units and Owner-Occupied Units

1. There is a twelve-month waiting period, from the date a preliminary permit is granted before a final conversion permit can be granted for a vacant unit unless a vacant unit is exempt from this waiting period.
2. Applicants who qualify for a waiver of the one-year waiting period under Sec 7-64(1)(a) will be granted a Non-Rental Conversion Permit rather than a Rental Conversion Permit.
3. A unit that is being used for short-term rental purposes shall be deemed a rental unit for condominium conversion purposes. This means any applicable waiting period will still be required.

#### B. Applying for a Conversion Permit- Occupied Units

1. Any application for the conversion of a tenanted unit must be submitted within thirty (30) days of when the required Notice was properly served to any eligible tenant(s). If more than thirty (30) days passes between the time Notice is properly provided to the tenant(s) and the time the applicant submits an application for such permit, and the applicant has not received an extension for good cause, the application will be rejected.
2. The application for conversion of a rental unit must be filed and approved before any condominium conversion eviction is brought to recover possession of the unit.
3. The filing of a master deed with the Registry of Deeds prior to (a) submission of a conversion application and (b) before a tenant is afforded their right to purchase is in violation of this ordinance.
4. Along with the Condominium Conversion Notification, the owner shall provide to each tenant at least eighteen years or older, forms which need to be completed by each tenant as part of the application. Tenants should be given at least ten (10) days to complete the forms and to return the completed forms to the owner applicant, or their representative, for inclusion with the owner’s application. Tenants are advised to provide a copy of completed forms to Board Staff.

#### C. Application Form

1. Applications for a Conversion Permit shall be filed on the official application form provided by the Board. **No applications will be accepted without payment of the required filing fee.** All information requested in the application form and all Exhibits shall be furnished by the applicant in the manner therein prescribed.

If all required information is not provided within thirty days of tenants’ receipt of the Condominium Conversion Notice (“Notice”) as required by Section 7-65(1)(a) of the

Ordinance, the application may be rejected. Board staff may grant additional time to provide necessary documentation for good cause shown upon request of the applicant. Any such request for additional time must be made prior to the thirty-day due date.

If an application is first submitted more than thirty days after a Notice of Condominium Conversion is served on one or more tenant(s), the application will be rejected and the owner will need to serve a new Notice with a re-started notice period on the Board and the tenants by certified mail.

2. For Vacant Units: If deemed necessary, the Board may require that the applicant obtain written certification from the Inspectional Services Department of the City of Somerville that said unit or units are unoccupied. If a vacant unit was previously occupied by one or more tenants within the preceding twelve (12) months, information must be provided regarding such tenant(s), including the reason why the tenants vacated such unit and the tenant's current address after taking the required steps to obtain the information set forth in Section 7-65 (2)(d) of the Ordinance and Article IX(C) of the Rules.
3. Forms will be available from the Housing Division Condominium Review Board staff and on the City of Somerville Condominium Review Board webpage.
4. Applications shall be submitted to Condominium Review Board staff by email to [condoboard@somervillema.gov](mailto:condoboard@somervillema.gov) or by physical copy to City Hall Annex, 50 Evergreen Ave, 2<sup>nd</sup> Floor.

#### **D. Exhibits**

1. The following documents are required to be included in the application for condominium conversion in order for the property to be scheduled for an initial hearing:
  - i. A fully completed application form including all forms filled out by any tenant(s); and
  - ii. Verification that proper Notice was sent to any current or former tenants who had resided in the unit during the twelve (12) months prior to the submission of the conversion application, including Affidavit C and any supplemental documents such as a receipt if Notice is sent by Certified mail and copies of any Notices sent on forms other than the Tenant Notification Form found in the application; and
  - iii. An affidavit listing the names and contact information of all current tenants in the building(s) to be converted (Affidavit A) and any tenants who had resided in the unit(s) during the twelve (12) months prior to submission of the application (Affidavit B) and any additional verification as requested by Section 7-67 (2)(d) of the Ordinance; and
  - iv. Any additional required affidavits described in the Rules below; and
  - v. A Quitclaim or other Deed for the property to be converted; and
  - vi. A stamped Certificate of Good Standing from Somerville's Treasury Department not older than thirty (30) days; and
  - vii. A copy of the most recent water bill and receipt or 'paid' stamp not older than thirty (30) days and proof of payment; and
  - viii. Proof of sale to a family member within the fourth degree of kinship where applicable; and

2. The following documents are not required to be scheduled for an initial hearing; however, they must be submitted in order to be scheduled for a final hearing:
  - i. A final version or a substantially complete draft version of the Master Deed; and
  - ii. A property condition report of an independent, licensed engineer or architect describing the present condition of all structural components and major mechanical systems of the building and including the approximate dates of construction, installation, major repairs, and the expected useful life of each such item.
3. Where a residential property is being demolished, and/or new or additional residential units are being constructed, an owner shall notify the Housing Division of their intent to demolish and/or construct new or additional residential units. Division staff shall issue a form acknowledging receipt of the notice which shall be included in the owner's permit application.

#### **E. Notices**

Notice documents will be translated into Spanish, Haitian Creole and Portuguese by the City. In the event that a tenant is of limited English proficiency requiring notice to be given in a language other than Spanish, Haitian Creole or Portuguese, the owner is required to have such documents translated into the appropriate language at their own expense.

#### **F. Application Fee**

The filing fee for a Conversion Permit shall be \$600.00 for each unit being converted. This fee must be submitted to the OSPCD Director of Finance and Community Development at the time of applying and a copy of the check must be included with the application. Payment shall be made by certified check or attorney's check payable to the City of Somerville. Checks shall include address to be converted on memo line, or other identifying information satisfactory to the City.

No fees will be refunded.

#### **G. Waiving of Tenant Rights**

1. If an owner claims that a tenant has waived any or all of the rights afforded to them by the Ordinance, the owner must provide the following:
  - i. Tenant paperwork prescribed by the application signed and dated by the tenant(s) indicating that the tenants have reviewed their rights and a notarized affidavit signed by the tenant(s) and the owner(s) indicating specifically which of their rights the tenants are opting to waive. This affidavit should include the tenant's intentions going forward detailing whether or not the tenant(s) chooses to waive their rights, when they plan to vacate the unit if they plan to vacate the unit, and set forth any compensation that has been or will be provided to the tenant in exchange for such waiver.
  - ii. Please be advised, any signed waiver will be valid only if it is "knowing" and "voluntary," meaning the tenant understood their rights at the time the waiver was signed and entered into such waiver voluntarily. If the Board determines that

the waiver was not knowing and voluntary it may not be considered valid by the Board.

2. No waiver of any rights by a tenant shall be accepted by the Board as valid unless current tenant contact information is provided to the Board.

## **ARTICLE II - DENIAL AND REAPPLICATION**

1. If an application for a Conversion Permit is denied for (1) failure to appear or (2) failure to timely provide a complete application with all required exhibits, a new application may be filed at any time subject to the limitation in paragraph three below of this Article. A new filing fee must be submitted with any new application. If an application for conversion is not submitted within thirty days of the date upon which the Notice was provided to tenant(s), and board staff, without good cause, a new notice with a restarted notice period must be served on the tenants and board staff pursuant to Article(I)(B)(1).
2. In all other cases where a permit is denied, no further application may be filed for the affected unit(s) by any person sooner than six (6) months from the date of denial, and (2) no new application may be filed by the same applicant for the same unit(s) unless the Board grants permission to re-apply based upon its satisfaction that some significant change has occurred regarding material facts.
3. Requests to re-apply shall be accompanied by an affidavit which specifies the facts which have changed and the manner in which those facts have changed. Requests to re-apply shall be heard by the Board.
4. In no event shall the Board allow more than two (2) applications for Conversion Permits to be filed for any one unit within any twelve (12) month period. The Board may grant reconsideration on written request by an affected landlord or tenant for good cause. A request for reconsideration must be made within twenty (20) days from the date of the decision of the Board.

## **ARTICLE III - REVOCATION OF PERMITS**

Any Conditional Conversion Permit may be revoked if it is found that the applicant is failing to abide by the provisions of the Ordinance. If a Conditional Conversion Permit is revoked, the applicant shall not be permitted to reapply for conversion of the same unit(s) for a minimum of six (6) months.

## **ARTICLE IV - WITHDRAWAL OF APPLICATION**

1. An application may be withdrawn at any time prior to a decision by the Board without penalty.
2. Written notice of withdrawal must be filed with the Board and provided to all affected former and current tenant(s).
3. Written notice must be filed on a form provided by the Board.
4. No fees will be refunded when an application is withdrawn.

## **ARTICLE V - EXPIRATION OF CONVERSION PERMIT**

1. Applicants shall inform review board staff of book and page number where recorded master deed can be found within 30 days of recording.

2. The initial sale of a unit after either a Conditional or Final Conversion Permit has been granted shall be reported within 30 days to review board staff and copy of the unit deed supplied.
3. An applicant seeking a Conversion Permit for a property where a prior Conditional or Final Conversion Permit was granted and has expired, shall be required to file a new application and provide tenants and the Board with a new Notice with all applicable protections provided by law.

## **RULES GOVERNING TENANCIES DURING CONVERSION**

### **ARTICLE VI- NEW TENANCIES WHILE CONVERTING**

1. If an owner chooses to rent to new tenants one or more units undergoing conversion, they must provide all prospective tenants written notice prior to the inception of the tenancy which informs the prospective tenant(s) of the following
  - i. that the unit is being or will be offered for sale as a condominium unit and
  - ii. the date upon which the waiting period expires, such that the owner will likely be authorized to sell the unit and
  - iii. that the tenants will not receive the protections provided under Somerville's Condominium Conversion Ordinance.
2. The owner must also notify the Board of any new tenancy during the conversion period and must provide the Board with a copy of the notice(s) given to the new tenant(s). If the notice is not provided to the prospective tenant prior to the inception of the tenancy, the tenant will then be entitled to full tenant protections pursuant to Section 7-64(2).
3. Those seeking to convert such units must still abide by all sections of the Ordinance that pertain to their application, including, but not limited to, submitting a completed application to the Board and providing the Board with required Exhibits.

### **ARTICLE VII- ACTION TO RAISE RENT DURING NOTICE PERIOD**

1. If an owner wishes to raise the rent during the notice period in accordance with Section 7-64(7), they must submit to the Board the Notice of Rent Increase form prescribed by the Board at least two (2) months prior to the effective date of such a rent increase. It is not required that the applicant appear personally before the Board to request an increase in rent.
  - i. If the requested increase is within the guidelines provided in the aforementioned section, the Board will verify the requested amount is allowable under the Ordinance. As per state law, a rent increase can only be implemented if agreed to by the tenant. However, refusal by a tenant to accept a rent increase allowable under the Ordinance may constitute good cause for eviction such that an eviction action, if filed against such tenant, would not be considered a prohibited condominium or cooperative conversion eviction.
  - ii. In the event that the owner of a property with three or fewer units believes that the limitations on the rent that they are authorized to charge, pursuant to Section 7-64(7) of the Ordinance, would violate the provisions of M.G.L. c. 40P in that the owner would be required to charge below market rents, such property owner may, upon notice to the Board, charge a rent that exceeds that which is allowable under the Ordinance, provided that it does not exceed the market rent. In order to do so, the owner must submit on a form prescribed by the Board a request for verification that the rent does not exceed

market rent. The owner may submit suitable evidence that said rent is consistent with the rents charged for at least *three* comparable rental properties. The Board shall, within 30 days of receipt of said form and evidence, issue a ruling as to whether said rent does not exceed market rent. The rebuttable presumption exists that a rent increase in excess of market rent is for the purposes of a prohibited condominium conversion eviction.

- a. For the purposes of this section, two properties within the City of Somerville shall be deemed comparable if they are similar in size (i.e., number of bedrooms, square footage, etc.); similar in location (i.e., neighborhood, exposure, proximity to community amenities such as public transportation and/or nuisance factors); and similar in condition (i.e., paint job, doors, locks, cabinets, windows, counters, bathroom and kitchen appliances, stairs, lighting, etc.). The City recognizes that no two units will be exactly the same, and that a unit does not need to be identical to be considered comparable.
  - b. Also for the purposes of this section, the attributes and features of a petitioning owner's property shall be established by the already requested Engineer/Architect report, stamped certified, attesting to the present condition of the property including all structural components and major mechanical systems of the building and also including the approximate dates of construction, installation, major repairs and the expected useful life of each such item; and by additional photographic evidence or documentation submitted by said owner; and by that owner's or real estate professional's affidavit addressing attributes and features which are not described in the aforementioned Engineer/Architect report and which cannot be verified photographically or using other available documentation, providing the basis for why such unit is comparable for each comparable unit submitted. The "comparability" of properties cited to justify a higher rent shall be established using reasonably available information collected and submitted by the petitioning owner.
  - c. The property owner may also submit alternative methodologies for determining market rent, for the Board's review.
- iii. A link to the most recent U.S. Dept. of Labor Bureau of Labor Statistics Consumer Price Index for urban consumers will be available on the Condominium Review Board's webpage.
2. If the Board finds that the amount to which the applicant wishes to raise the rent is beyond the scope of what is permitted by applicable law, the Board shall deny the request and the applicant will need to amend the request to an amount suitable under applicable law. The initial determination on rent increase requests shall be made by Board staff. An owner may appeal to the Board if they believe a denial to be unfounded.
    - i. If the amount of the requested rent increase is amended, a revised notice shall be sent by the applicant to both the Board and tenants with a minimum of 60 days' notice of the amendment and request.
    - ii. No rent increase shall be implemented without a minimum of sixty days' notice to the tenants of any revised increase in rent. A rent increase can only be made effective on the normal date on which the tenant is required to pay their rent.

3. A copy of notice to the Board regarding a rent increase shall also be provided to the tenant at the same time that it is provided to the Board.

## **ARTICLE VII- EXERCISING RIGHT TO PURCHASE**

### **A. Tenant's Right to Purchase**

1. In the event that the tenant(s) wishes to exercise their Right to Purchase and the owner is not transferring the property to a family member as set forth in 7-64(4)(b), the following must be provided to the Board: 1) the completed tenant form in the application indicating an intent to purchase on the part of the tenant; and 2) when available, a copy of the offer, purchase and sales agreement, and/or other document(s) that set forth the terms of the anticipated sale and are signed by all parties.
  - i. In the event that the tenant does not in the end purchase the unit, the notice period remains in effect, as do all other rights afforded to the tenant. Under these circumstances the owner must request that the tenant sign the Notice of Cancellation of the Sale form and submit the signed form to the Board.
2. In the event that the tenant does not timely indicate their intent to purchase their unit, the Owner must make diligent efforts to provide the following to the Board:
  - i. A notarized affidavit signed by the tenant(s) attesting to the fact that they do not wish to exercise their Right to Purchase and that the waiver is knowing and voluntary, and setting forth the reasons for the waiver; and
  - ii. An affidavit signed by the owner attesting to the sale price offered to the Tenant and acknowledgment that the unit may not be sold for a lesser price for a period of at least six months as is required by Section 7-64(4)(a) of the Ordinance in order to ensure property owners are providing their tenants with a bona fide offer.
3. 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) one or more tenants opt to purchase the unit jointly, as applicable, and any remaining tenants waive their right.
4. The owner must offer the unit at 'fair market' value in "as is" condition. Fair market value shall include (1) the cost of repairs required by the State Sanitary Code or State Building code in the tenant's unit in order to sell it as a condominium; and (2) a proportional amount of costs based on square footage for repairs required 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.

## **ARTICLE VIII- ACCEPTABLE WORK PARAMATERS DURING NOTICE PERIOD**

1. Pursuant to Section 7-64(8), owners are able to perform renovations to vacant units and common areas while at least one or more units in the building remain occupied only under the following conditions:
  - i. All work must be performed in a professional and work person like manner. See 105 CMR 410.200.

- ii. A work plan and schedule encompassing the scope of work and timeline for performance must be provided to both the tenant(s) and Board at least one (1) week prior to work beginning and must set forth a name and contact phone number for any concerns regarding the performance of such work. Any significant changes to the scope of the plan must be posted in the building in a location visible to all tenants and must be provided to the Board.
  - iii. Work is only permitted between the hours of 9:00am-5:00pm, Monday-Friday. No work is to be done on Saturdays or Sundays.
  - iv. If at any point in time (1) it is necessary for any utilities to be shut off (except in cases of emergency) and/or (2) if any common areas will not be accessible during the workday, tenants must be given at least forty-eight (48) hours' advanced written notice of the same. Utilities can only be suspended during work hours stated above and for no more than one day at a time and not on consecutive days. Tenants may be entitled to an abatement or money damages relating to such interruption of service or discontinued use of common areas as otherwise provided by law.
  - v. In the event that products which emit potentially harmful fumes, such as paint, are being used, proper ventilation is required for the entire duration of any usage of such products.
  - vi. In the event that the work plan is not being substantially followed, the Board may revoke a Conditional Permit.
  - vii. At the close of any day where work is performed, all materials must be stowed away and not blocking any pathways in common areas or occupied units. Work areas must be properly cleaned at the end of each day and reasonable measures must be taken to prevent the migration of dust, fumes and other airborne particulates that may result from construction. Vacant units undergoing renovation must be properly sealed off and ventilated to prevent migration of dust, fumes or airborne particles. If there is dust or fume penetration into occupied units, the owner shall arrange and pay for cleaning upon request.
2. For occupied units, owners may only perform those repairs necessary for compliance with the State Sanitary Code or Building Code without the express written consent of the tenant to perform more extensive repairs and/or optional renovations. The consent form must state the approximate scope of the intended work and approximate time frame for completion of such work. If the tenant so consents, the owner must provide to the tenant and Board the work plan described above. Whether or not the tenant so consents, the owner must provide forty-eight (48) hours advanced written notice of **any** proposed entry into the unit during the notice period and must provide the tenant an opportunity to request an alternate date and time if they cannot be available and wish to be present during the work.

**ARTICLE IX-ACCEPTABLE DOCUMENTS FOR VERIFICATION**

- A. Verification of Prior Owner-Occupancy for Waiver of Twelve (12) Month Waiting Period**
  - 1. Pursuant to Section 7-64(1)(a), in order to verify that a unit for which the applicant is seeking a Conversion Permit was previously owner-occupied for at least twelve (12) months prior to the unit becoming vacant, an applicant shall provide the following documents:
    - i. Copy of trust documents if ownership was held in a trust; and



- ii. A notarized, stamped and certified affidavit signed by the owner-occupant, executor or other person or entity having legal title to a property attesting to the owner-occupancy that includes the dates of such occupancy; and
- iii. Documentation verifying receipt of a Residential Exemption for the twelve-month period prior to the vacancy; or
- iv. Utility bills, bank statements or cable/internet bills for the twelve-month period prior to the unit becoming vacant; or
- v. Other verification satisfactory to the Board.

**B. Verification of Current Owner Occupancy for Waiver of Twelve (12) Month Waiting Period**

- 1. Pursuant to Section 7-64(1)(a), in order to verify that a unit for which the applicant is seeking a Conversion Permit is currently owner-occupied and has been for at least the preceding consecutive twelve (12) months, an applicant shall provide the following documents:
  - i. Copy of trust documents if ownership held in a trust; and
  - ii. An affidavit signed by the owner-occupant setting forth the basis for claiming status as owner-occupant, the address of any other property owned by the applicant and, if they do not have a residential exemption, why they do not have this exemption; and
  - iii. Documentation verifying receipt of a Residential Exemption; or
  - iv. Utility bills, bank statements or cable/internet bills for the preceding twelve months; or
  - v. Other verification satisfactory to the Board.

**C. Verification of Prior Occupancy by Non-rent Paying Tenant or Occupant for Waiver of Twelve (12) Month Waiting Period**

- i. A per unit affidavit signed by all occupants for which the applicant seeks a waiver of the notice period. The affidavit must state the basis/bases by which the signer(s) claim status as a non-rent paying tenant or occupant. The affidavit must also include language that the signer(s) knowingly and voluntarily waives their rights under the conversion ordinance.

**D. Verification of Outreach to Current and Former Tenants**

- 1. Where an applicant has owned the property for at least five (5) years, the following must be provided, pursuant to Section 7-67(2)(d) of the Ordinance:
  - i. A list, including contact information (name, address, phone and email), of: (i) current tenants; (ii) former tenants who vacated during the previous 12 months; (iii) any tenants who were evicted during the previous 12 months along with a copy of the notice to quit, summons and complaint and any court agreements or decisions; 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; and
  - ii. A copy and receipt of a certified letter sent to the current addresses, if known, of eligible former tenants notifying them of the application; and
  - iii. A signed and notarized affidavit setting forth the applicant's efforts in identifying former tenants and/or finding current contact information for former tenants; and

- iv. Copies of all correspondence with any former tenants who meet the criteria above; and
  - v. Copies of all correspondence that demonstrates an attempt to contact former tenants if the applicant claims they cannot make contact with such prior tenants.
2. Where an applicant has owned the property for less than five (5) years, the following verification must be provided, pursuant to Section 7-67(2)(d) of the Ordinance
- i. A list, including contact information, of: (i) current tenants; (ii) former tenants who vacated during the previous 12 months (iii) any tenant who was evicted during the previous 12 months along with a copy of the notice to quit, summons and complaint, if known; 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, if known; and
  - ii. Copies and/or documentation of any correspondence that demonstrates an attempt to contact former owner(s) to obtain name and contact information for prior tenants who meet the criteria above; and
  - iii. Copies and/or documentation of any correspondence that demonstrates an attempt to contact City/County/State agencies/departments, including for example the Elections Department, to obtain name and contact information for prior tenants who meet the criteria above; and
  - iv. A copy and receipt of a certified letter sent to the current address, if known, of the previous owner, if necessary, and a copy and receipt of a certified letter sent to the current addresses, if known, of eligible former tenants notifying them of the application; and
  - v. Copies of all correspondence with any former tenants who meet the criteria above; and
  - vi. A signed and notarized affidavit setting forth the applicant's efforts in identifying former tenants and an explanation of steps taken if those efforts were not fruitful.

**E. Verification of Intent to Sell a Tenanted Unit to a Family Member Within the Fourth Degree of Kindred**

1. Pursuant to Section 7-64 (4)(b), applicants for a Conversion Permit are able to sell their converted units to a family member within the fourth degree of kindred without having to first offer an existing tenant a right to purchase. The following verification must be provided if the owner intends to sell their unit to a family member within the fourth degree of kindred:
- i. A signed and notarized affidavit indicating both the applicants' intentions for the unit and the relationship between the applicant and buyer; and
  - ii. The executed purchase and sale agreement for the sale to the eligible family member, provided within one hundred and twenty (120) days of receipt of the Conditional Permit; and
  - iii. The unit deed transferring the property, which must be provided to the Board promptly once the unit is transferred. If the owner does not execute this transfer of ownership within six months, or such other period expressly agreed upon by the Board for good cause shown, the tenant must be provided with the Right to Purchase the unit.

- iv. As the property cannot be sold from the family member within the fourth degree of kindred within two years of that sale, a deed verifying that ownership was maintained for the required two years must be provided after two years passes from the date of sale.
- 2. An owner may receive exemption from the requirement to offer a tenant the right to purchase due to sale to a family member within the fourth degree of kindred for only one unit in any building or on any parcel.
- 3. In the event that multiple owners, who hold title jointly as natural persons, are seeking to sever ownership of a jointly held property, the exemption from the requirement to offer a tenant the right to purchase due to a sale to a family member within the fourth degree of kindred shall apply to up to three units in the housing accommodation.

**F. Verification That the Owner Provided Housing Search Assistance to Tenants Entitled to Enhanced Protections**

- 1. Pursuant to Section 7-64(6), property owners are required to assist tenants that have low/moderate income or are elderly or disabled with locating comparable housing of similar size and with similar amenities within the City of Somerville at the same or lesser rental amount than what they are currently paying. In the event that either 1) an eligible tenant is unable to relocate within the 5-year notice period or 2) an eligible tenant requests a hearing because they believe the owner is not abiding by this provision, the following verification must be submitted to the Board:
  - i. Copies of all correspondence providing the tenant with information pertaining to an alternative housing accommodation that meets the parameters of ‘comparable housing’; and
  - ii. Copies of any materials provided to the tenant in order to assist them in locating ‘comparable housing’; and
  - iii. A copy of the Housing Search Log on a form prescribed by the Board and maintained by the owner which includes the address, size, rent amount and utility information for each listing that was provided to the tenant by the owner. The Board recommends that tenants maintain an independent Housing Search Log as well; and
  - iv. A signed and stamped affidavit from the owner describing in detail all steps that were taken to locate ‘comparable housing’ over the course of the notice period whether or not any such comparable units were identified.
- 2. In the event that the above documents are either not provided or do not satisfactorily demonstrate compliance with Section 7-64(6), the Board reserves the right to make the following determination:
  - i. That the additional two-year notice period go into effect if the tenant has reached the end of their five-year notice period and has still not located ‘comparable housing’; or
  - ii. That the previously granted Conditional Conversion Permit be revoked if it is found that the owner is actively neglecting their responsibility to locate ‘comparable housing’ within the five-year notice period. An owner will not be deemed to have actively been neglecting their responsibility if they are making diligent and good faith efforts to identify comparable housing over the course of the notice period but, despite these efforts, have been unable to do so.

**F.** In the event that the above documents are provided, and a Final Conversion Permit has issued, but the tenant in question still has not relocated from the unit, the owner may move to repossess the unit. **Verification of Entitlement to Enhanced Protections**

1. In the event that a tenant or tenant household's status and entitlement to enhanced protections is contested after the tenant has signed the requested affidavit regarding protected status or the owner has made and documented diligent attempts to obtain the same, the burden of proof of entitlement to enhanced protections rests with the tenant(s).
  - i. Any tenant may request that the Office of Housing Stability (OHS) assist the tenant in establishing eligibility for enhanced protections on account of age, disability or status as a low- or moderate-income household.
  - ii. Whether or not any tenant seeks the assistance of OHS, they must provide documentation to the Board establishing their entitlement to enhanced protections if they have signed an affidavit alleging that they are eligible for enhanced protections. Board staff will make determinations regarding enhanced protections prior to any hearing on a Conditional Permit. Board staff will seek assistance from OHS staff as necessary to help in establishing entitlement to these enhanced protections.
  - iii. If an owner has contested a tenant's entitlement to enhanced protections and the tenant seeks assistance from OHS, or board staff determines their assistance is needed the tenant shall follow the policies and procedures established by OHS and board staff in order to establish eligibility, including but not limited to signing any waivers, forms, and applications and responding in a timely manner.
    - i. Documentation gathered that establishes entitlement shall be shared with the City's ADA Coordinator.
    - ii. The ADA Coordinator shall submit a written recommendation for the Board to use when making their determination.
2. The Board may, upon recommendation of the City's ADA Coordinator, allow for disability related accommodations in permit issuance.

**G. Verification of Relocation Payment**

1. Prior to receiving a Final Conversion Permit, an Owner must provide the following to verify they have paid the required relocation payment in the appropriate amount as required by the Ordinance, Section 7-64(5):
  - i. A copy of the check or money order paid to the tenant with proof of service; or
  - ii. Confirmation directly from the tenant that they received the appropriate payment in the form of a bank statement or paid invoices if the owner paid allowable vendors directly; or
  - iii. Receipts from payment made directly to appropriate vendors.
2. Payments, in combination, must total the appropriate payment amount in order to receive Conversion Permit. If any less than the full relocation payment amount is paid to the tenant to make up for any back rent, verification must be provided.

**ARTICLE XI- MARKETING OF CONDOMINIUM UNITS**

An owner must not market any units as for sale as condominium units on Multiple Listing Service (MLS) until the applicant has had their initial hearing and has received a Conditional Permit from the Board,

unless the owner indicates on MLS that the condominium conversion permit has not yet been obtained. In the event that an applicant is found to have marketed their unit prematurely, prior to receiving conditional approval at a preliminary hearing, the application will be denied, and the applicant will need to reapply, pursuant to Article II of this document. No six (6) month waiting period shall apply for reapplication in these cases.

## **ARTICLE XII- VIOLATIONS OF THE ORDINANCE AND RULES**

Any violation of the Somerville Condominium Conversion Ordinance shall be subject to the penalties pursuant to Section 1-11 of the Somerville Code of Ordinances.