

City of Salem, Massachusetts



**"Know Your Rights Under the Open Meeting Law, M.G.L. c. 30A ss. 18-25 and  
City Ordinance Sections 2-2028 through 2-2033."**

The City Council Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole  
met in the Council Chamber on July 15, 2021 at 6:00 P.M.  
for the purpose of discussing the matters(s) listed below. Notice of this meeting was posted on  
July 9, 2021 at 10:34 A.M.

(This meeting is being recorded)

**ATTENDANCE**

**ABSENT WERE: None**

**Committee of the Whole Members Present: Councilors McCarthy, Riccardi, Dibble, Madore**

**Also in Attendance: Beth Rennard, City Solicitor; Lt. David Tucker, Salem Police Department; Patti Kelleher, Planning Department; Barbara Cleary, Historic Salem**

**SUBJECT(S)**

**#208 Amending an Ordinance Relative to Demolition Delay Ordinance**

Councilor Morsillo begins by reviewing the previous meeting held on July 1, 2021. At that meeting the definition of demolition was clarified, the length of delay was modified from 12-18 months depending on the age of the structure, some general clean-up of the language (using capitalization for defined terms within the text) was offered.

Ms Rennard reviews the changes to the proposed ordinance. Substantive changes include:

**Add a definition for Character Defining Elements: "CHARACTER DEFINING ELEMENTS" - Character-defining elements include the overall shape of the building, its materials, craftsmanship, decorative details, interior spaces and features, as well as the various aspects of its site and environment."**

In the definition of Demolition: **change "roof assemblies" to "roof structures".**

**Add the following bullet item to the end of the list of criteria in the definition of Significant Building: "The Building is the subject of a Massachusetts Cultural Resource Information System Form B that indicates historic or architectural significance."**

In Section 12-80, paragraph 2, **change "During the public hearing" to "Following the close of the public hearing"; and "may be postponed at the close of the public hearing" to "may be postponed to a subsequent meeting".**

In Section 12-80, paragraph 8, **change "character defining features" to "Character Defining Elements".**

In Section 12-81, last paragraph, **change "In implementation of the above" to "In implementation of this section".**

Councilor McCarthy asks about delay of demolition for a 50-year-old home in, for example, Witchcraft Heights, where the homeowner wishes to remove the roof and add a second floor to their ranch style home. Will we really hold up this project?

Ms Kelleher explains that the demolition delay always used the 50-year-old threshold since the ordinance was written in the 1980's and is based on the National Parks Service when they look at historic significance for the National Register. In determination, the Historic Commission will look at whether the building is historically significant and preferably preserved.

Councilor McCarthy asks if we are using this to stop "developers" and not considering regular homeowners who simply want to renovate their home for their family. This will create more hoops to jump through and create delays.

Ms Cleary explains that the Commission must come to a determination that the building is historically significant, and it is most unlikely that a ranch house that is 50-some years old would qualify. The Commission is already considering 50-year-old structures, and not determining most to be historically significant, and not even requiring a hearing.

Councilor McCarthy asks why the delay period begins after the close of the public hearing instead of the current ordinance which states that the delay period starts with the filing. Ms. Kelleher responds that the Salem Historical Commission has found that applicants will submit their application, then ask for continuances to delay the conversation and use up the delay period. This keeps them from running out the clock. There is a 14-day period before the public hearing which is a requirement for such meetings. The Historical Commission does not require public advertisement in the paper, so there is no fee charged to the owner.

Councilor Sargent asks if this applies to a shed on a property, and how to determine its historical significance. Ms Kelleher responds that there is language in the ordinance that the Commission can forgo sheds and garages even if it meets the 50-year-old threshold. Carriage Houses are separate and are considered within the demolition delay process.

Councilor Sargent asks if we can simply put a start year on the ordinance so that it does not change every year. Ms Kelleher explains that some communities do this, though the current ordinance uses a 50-year threshold. Councilor Sargent asks whether this expands the jurisdiction of the ordinance outside of the Historic District. Ms Kelleher responds that the current ordinance covers the whole city not simply the Historic District.

Ms Kelleher assures the Committee that the clear definition of Significant Building is specific, and that determination will only be made on the significance of the structure and not anything else. The Commission can not use anything but historical significance or cultural significance.

Councilor Hapworth explains that this ordinance change is bringing us in line with other neighboring communities and will help to save our historic buildings which are being lost because the current delay is not strong enough.

Councilor Morsillo asks how long it would take for a homeowner to get a decision from the Historic Commission that their home is not significant, and therefore, demolition of all or part of the structure can proceed. Ms. Kelleher explains that typically it is about 16 days to get on to the agenda. There may be a situation where the Commission needs more information and would take a little more time, but generally 3-4 weeks to learn that the home is not historically significant.

Councilor Dibble adds that building permits take about 2 weeks, so this is not much of a delay or inconvenience, and is worth it for the protection provided for significant buildings.

Councilor Hapworth motions to accept the changes above and refer to the Council for Approval for first passage, seconded by Councilor Dominguez. Motion passes 5-0.

#### **#147 Home Rule Petition to install video camera speed detection systems in school zones**

Councilor Morsillo reviews the Committee's discussion from the June 23 meeting. At that meeting, the Committee agreed that the speed threshold for a ticket should be 10 MPH over the speed limit, and the fees collected from these tickets should go to a fund for educational programs. In addition, the Police Department wanted to do more research on possible 3<sup>rd</sup> party companies that could administer the program.

Ms Rennard reviews the changes to the text:

In Section 5: **change** "five miles per hour" to **"ten miles per hour"**.

**Remove** Section 7(a) completely.



**Change Section 9 to read: "City shall establish a revolving or equivalent fund for all proceeds generated from this Act and such proceeds shall be used for traffic and safety enhancements and driver safety education."**

**Add Section 10 for "This act shall take effect upon its passage." (This was previously Section 9.)**

Lt. Tucker explains that the company that he had been dealing with about this Home Rule Petition in 2019 no longer handles the ticketing of drivers. This required him to do more research into alternative companies to handle the administrative tasks associated with the speed camera tickets, as the Police Department does not have the staff to handle the volume of paperwork associated with the tickets that would result from the installation of speed cameras. They wanted some latitude in the Home Rule Petition to find a 3<sup>rd</sup> party to work with, and that is why Section 7(a) was eliminated.

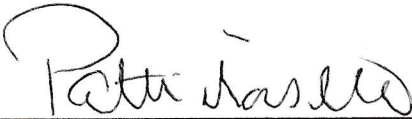
Councilor Dominguez asks Lt. Tucker how we will keep the records for this system. Does the 3<sup>rd</sup> party keep them or the City? Lt. Tucker thinks the 3<sup>rd</sup> company should handle the data and produce the tickets and manage the financial aspects and split the fines with the City. The 3<sup>rd</sup> party would handle the data. We would need to follow the laws for the retention of public records and store them electronically for as long as specified.

Councilor Morsillo asks about wording in the text of the Home Rule Petition that specifies that the photos would be destroyed within 48 hours of final disposition. Lt. Tucker explains that the record of the violation and payment is held longer than that, but not the photograph. He explains that this record is retained for about 10 years, by law.

Councilor Dominguez moves to accept the changes to the ordinance listed above and refer it to the City Council with a recommendation for approval, seconded by Councilor Hapworth. Motion passes 5-0.

Councilor Morsillo thanks the Committee for all their hard work over the first half of the year. She also thanks Beth Rennard and the City Clerk for all of the work they do in support of the Committee.

On the motion of C Sargent the meeting adjourned at 6:50 P.M.

A handwritten signature in cursive script, appearing to read "Peter Morsillo", is written above a horizontal line.

(Chairperson)