

## **ORDINANCE NO. 1420**

**FINAL PUBLICATION NO. 3535. FIRST PUBLICATION IN THE CHRONICLE ON FEBRUARY 20, 2020.**

### **CITY OF CAMBRIDGE**

**In the Year Two Thousand and Twenty**

### **AN ORDINANCE**

That the Zoning Ordinance of the City of Cambridge be amended on a petition by Suzanne P. Blier, et al., to amend Section 20.50 Harvard Square Overlay District and Harvard Square Historical Overlay District as follows:

**20.50 HARVARD SQUARE OVERLAY DISTRICT AND HARVARD SQUARE HISTORIC OVERLAY DISTRICT**

**20.51 Establishment and Scope.** There is hereby established the Harvard Square Overlay District, the Harvard Square Historic Overlay District, and Harvard Square Conservation District Goals and Guidelines which shall be governed by the regulations and procedures specified in this Section 20.50. It is the intent of this section that these regulations will apply to an area described generally as the Harvard Square business district and certain abutting portions of the neighborhoods around it.

**20.51.1** The Harvard Square Overlay District shall be that overlay district established on the Zoning Map of the City of Cambridge by Section 3.20. The Harvard Square Historic Overlay District shall be that portion of the Harvard Square Overlay district that is encompassed by any historic district duly established by the City Council under the authority granted by the City of Cambridge by Chapter 40C of the General Laws of the Commonwealth of Massachusetts or any Neighborhood Conservation District established by the City Council under the provisions of chapter 2.78 of the Cambridge Municipal Code. All provisions of the Harvard Square Overlay District and all references to it in this Ordinance shall apply equally to the Harvard Square Historic Overlay District except as set forth below.

**20.52 General Purpose.** It is the purpose of this Section 20.50 to augment existing zoning regulations to respond to the unique problems and pressures for change particular to the Harvard Square area. The regulations contained in said section provide for more careful public scrutiny of development proposals that may alter the established urban form of the Harvard Square area. These regulations are intended to channel the extreme development pressures in ways which will preserve and enhance the unique functional environment and visual character of Harvard Square; to mitigate the functional impacts of new development on adjacent residential neighborhoods; to maintain the present diversity of development and open space patterns and building scales and ages; and to provide sufficient regulatory flexibility to advance the general purposes of this Section 20.52. The additional flexibility granted to development within the Harvard Square Historic Overlay District is intended to facilitate the protection and enhancement of the historic resources and character of Harvard Square while not unreasonably limiting the opportunities for appropriate contemporary

changes to the built environment in the Harvard Square area.

20.53 General Provisions.

20.53.1 The Harvard Square Overlay District shall be considered an area of special planning concern. Development proposals listed in Subsection 19.42 and 19.43, Development Consultation Procedures, shall be subject to the Development Consultation Procedure specified in Article 19.40 except that any Large Project Review (new buildings of 2,000 square feet or more) shall be conducted by the Harvard Square Advisory Committee using procedures specified in Subsection 20.54.1 of this Section 20.50.

20.53.2 Criteria for Development Consultation Review and Review of Applications for Special Permits and Variances. In reviewing applications for variances, special permits or development consultation reviews the permit or special permit granting authority or the Harvard Square Advisory Committee shall be guided by the objectives and criteria contained in the publication Harvard Square Development Guidelines [Document compiled from the Guidelines for Development and Historic Preservation as contained in the Final Report of the Harvard Square Neighborhood Conservation District Study Committee, dated November 29, 2000 and the Harvard Square Development Guidelines, 1986], in addition to the requirements of Sections 10.30 (Variances) and 10.40 (Special Permits) and this Section 20.50. These guidelines are also intended to assist in shaping any contemplated physical change within the Harvard Square Overlay District

20.53.3 National Register and Contributing Buildings. For the purposes of this Section 20.50 the following definitions shall apply:

1. National Register Building shall be a building individually listed or determined eligible for the National Register of Historic Places as determined by the Secretary of the Department of the Interior.
2. A contributing building shall be:
  - a. Identified as a contributing building in a listed or eligible National Register District as determined by the Secretary of the Department of Interior; or
  - b. A building located outside a National Register District but identified as a contributing building in the Harvard Square Development Guidelines, Community Development Department, July 1, 1986.

However, a building shall no longer be considered a contributing building as defined in this Subsection 20.53.3(b) for the purposes of this Section 20.50 if, upon application for a demolition permit, the Cambridge Historical Commission shall determine the building not to be a preferably preserved significant building as defined in the City of Cambridge Demolition Ordinance.

20.54 Detailed Provisions.

20.54.1 Harvard Square Advisory Committee. There shall be established a Harvard Square Advisory Committee, with members appointed by the City Manager, which shall have the following duties, responsibilities, and membership.

1. Purpose. It is the intent of this Subsection 20.54.1 that the Committee shall in its

official actions fulfill the following purposes.

- a. To establish a formal, ongoing body that will review all major development actions in the Harvard Square Overlay District.
- b. To provide a forum within which a wide range of perspectives on development actions can be heard.
- c. To support local businesses and uses that enhance the vibrancy and historical nature of Harvard Square with the aspirational goal of maintaining a seventy percent local and non-formula retail experience throughout the district, at the ground floor level.
- d. To establish a citizen/professional body which can advise both public agencies and private interests as to the development and urban design issues raised by a development or planning proposal and suggest avenues of research which might be pursued to resolve identified conflicts or make the project better fulfill both public and private objectives for the Harvard Square Overlay District.

2. Responsibilities. The Committee shall undertake all Large Project Reviews and shall receive all applications for variances and special permits for activities within the Harvard Square Overlay District for review and comment. In addition, the Committee may comment on any preliminary proposal for which any public agency or private interest has planned for the Overlay. The Committee shall meet on an approximately monthly basis or with as much frequency as is needed to address pertinent issues in the Harvard Square Overlay District, with the schedule to be determined at the discretion of the Chair.

3. Procedures.

- a. Within six (6) months preceding any application for (1) a building permit for any project subject to Large Project Development Consultation Review or (2) a special permit or variance for any project within the Harvard Square Overlay District, the graphic and other material required in Section 19.43.2 - Application for a Large Project Review shall be submitted to the Harvard Square Advisory Committee for their review and comment.
- b. Within thirty (30) days of that submittal, [or within up to sixty (60) days with the written consent of the applicant] the Committee shall prepare a written report of findings and recommendations with respect to the applicant's proposed project.
- c. The Committee's written report shall outline the urban design and development issues raised by the proposal. It shall suggest those areas within which additional exploration of alternatives might be sought or factual information gathered which might help to resolve potential conflicts between the public and private objectives or which help to shape the project to better serve these objectives.
- d. The report shall be forwarded to the applicant and shall be included in any application for a building permit, special permit or variance.

- e. It is expected that, in making decisions regarding special permits and variances within the Overlay District, the Planning Board and/or Zoning Board of Appeal will give due consideration to the report and recommendations of the Advisory Committee. Where the Committee makes recommendations with respect to the granting of special permits and/or variances, and the Planning Board and/or Zoning Board of Appeal does not follow said recommendations, then the Board(s) shall make written reply to the Committee, detailing why the Board(s)'s decisions were different from the Committee recommendations.
- f. The Community Development staff shall serve as staff to the Committee.

#### 4. Membership and Terms

##### a. Membership.

- (1) At least two members having recognized qualification as an architect, attorney who specializes in zoning, urban planner, architectural historian, or landscape architect.
- (2) One member who operates a non-formula business within the Harvard Square Overlay District.
- (3) One member owning commercial property within the Harvard Square Overlay District.
- (4) Four residents living within a half mile of the Harvard Square Overlay.
- (5) One member representing the Harvard Square Neighborhood Association or Neighborhood group representing Harvard Square.
- (6) One member representing an institution owning institutional property in the Harvard Square Overlay District.
- (7) One member representing the Cambridge Historical Commission.

- b. Terms. Committee members shall be appointed for terms of three years each. Initial appointment shall, however, be staggered such that four members shall have terms of one year, five members shall have terms of two years, and four members shall have terms of three years each. On an annual basis at the first meeting in September the Harvard Square Advisory Committee will elect a Chair who may serve no more than two (2) years as chair within a three (3) year period.

20.54.2 Building Height Limitations. The maximum height of buildings in the Harvard Square Overlay District shall be governed by the requirements of this Section 20.54.2; however, at locations where the base zoning district establishes a more restrictive height limitation, the more restrictive shall apply.

- 1. As of Right Height Limitations. The maximum height of any building shall be sixty (60) feet.
- 2. Special Permit for Additional Height. The maximum allowable height in the Harvard Square Overlay District may be increased up to eighty (80) feet upon issuance of a

Special Permit by the Planning Board. If a Special Permit is issued portions of the building may extend to eighty (80) feet in height provided that those portions in excess of sixty (60) feet are set back from the street line at least ten (10) feet, and that those portions are also set back from one or more forty-five (45) degree sky exposure planes, unless otherwise permitted by the Planning Board. A forty-five (45) degree sky exposure plane shall be an imaginary inclined plane beginning fifty-five (55) feet above any streetline in the districts and rising over one or more lots at a forty-five (45) degree angle.

Allowed Special Permit exceptions to upper floor setbacks must successfully reduce the overall negative effect of multiple floor setbacks and enhance both the proposed building silhouette and townscape of the block. Such architectural elements as pergolas, and occupiable corner pavilions, occupiable pavilion directly above the main building entry, and special features that animate the public domain experience. All such exceptions are to be limited in scope and work cohesively.

All approved facade setbacks are to provide accessible, useable balconies for tenants.

#### 20.54.3 Retail, Business, and Consumer Service Establishments (Section 4.35) in Office and Residential Districts.

1. Any retail use (4.35) allowed in the Business B zoning districts, as of right, within the Overlay may also be allowed as of right in any office or residential zone within the Overlay provided the structure that contains the use has a main entrance on Massachusetts Avenue, Mt. Auburn Street, Arrow Street or Bow Street. For all other lots, the Planning Board may allow by special permit the retail use of a lot or structure all or partially within the Harvard Square Overlay District and in a base residential or office district where retail uses are not permitted under the provisions of Section 4.30 - Table of Use Regulations; provided, however, that the following conditions are met:
  - a. The general purposes of this Section 20.50 are met.
  - b. The use will be located in a structure in existence as of June 1, 1985.
  - c. The addition of such use(s) will assist in the preservation, rehabilitation and/or restoration of a National Register or contributing building or important open space by increasing the economic feasibility of maintaining such features.
  - d. The preservation of the buildings and open space identified in (c) above is assured through an approved mechanism for the full period that the special permit is in force and effect.
  - e. The proposed use will preserve, rehabilitate or restore the outward appearance of the structure or open space.
  - f. In its operation the use will not, in impact, be significantly different from the uses permitted in the base district.
  - g. The use is completely contained within the structure.
  - h. The use will be patronized substantially by pedestrians and will, if required by

the Planning Board, function adequately without additional off street parking or loading facilities and will in any case not generate vehicular traffic in quantity and type substantially different from that generated by permitted uses.

- i. The retail use does not take the place of a residential or dormitory use.
- j. The use is not a formula business.
- k. The following uses listed in Section 4.35 are however specifically prohibited:
  - 4.35j (Mortuary, undertaking or funeral establishment);
  - 4.35l (Veterinary establishment, kennel, pet shop);
  - 4.35m (Sales place for new and used cars);
  - 4.35p (Massage establishment);
  - 4.35s (Cannabis Retail Store).

- 2. In the Office 2 base district the provisions of Section 4.40 - Footnotes to the Table of Use Regulations, footnote 12, shall not apply in the Harvard Square Overlay District.

20.54.4 Parking and Loading Requirements. Uses in the Harvard Square Overlay District which meet the following requirements shall be exempt from the parking and loading requirements as specified in Section 6.36 - Schedule of Parking and Loading Requirements.

- 1. The use is contained within a structure or portion of a structure in existence on or before June 1, 1940 or if constructed later is identified as a National Register or contributing building; or
- 2. The use is contained in a new structure or new addition to a structure identified in (1.) above, after the issuance of a special permit by the Planning Board provided:
  - a. The subject lot is sufficiently small in size as to contribute to a development pattern of diverse, small scale, new structures and the retention of existing structures (for lots exceeding 10,000 square feet a specific finding shall be made that this objective has been met).
  - b. The Planning Board shall specifically find that an exemption from parking and loading requirements will result in a building design that is more appropriate to its location and the fabric of its neighborhood and that it is in conformance with the objectives and criteria contained in Harvard Square Development Guidelines.
  - c. No National Register or contributing building is demolished or so altered as to terminate or preclude its designation as a National Register or contributing building; and
  - d. No National Register or contributing building has been demolished or altered so as to terminate or preclude its designation within the five (5) years preceding

the application.

20.54.5 Building Setbacks. Maintenance of the Harvard Square Overlay District's positive diversity of building form and scale and its variety of open spaces, yards and courtyards is encouraged throughout the District. It is therefore desirable to permit design flexibility to allow any physical change in the District to reflect the character of the area within which it is located. To this end any building in the Harvard Square Overlay District shall be exempt from the yard requirements as specified in Section 5.30, (except where such yard abuts a lot, but not a public way, outside the Overlay District) if the following conditions are met:

1. The building existed as of December 15, 1985 or a building permit had been issued by that date, or

For any new building in any Business, Office or Residence C-3 base-zoning district, for which a building permit is issued after December 15, 1985, the Planning Board issues a Special Permit exempting the building from yard requirements provided:

- a. The design of the new structure shall be in conformance with the objectives and criteria contained in Harvard Square Development Guidelines.
  - b. No National Register or contributing building is demolished or so altered as to terminate or preclude its designation as a National Register or contributing building; and
  - c. No National Register or contributing building previously existed on the site in the preceding five (5) years and which has been so altered as to terminate or preclude its designation or demolished prior to the application.
3. For any new building in a Business B district seeking a Special Permit a rear yard setback of twenty (20) feet shall be provided with upper floor ten (10) foot setbacks beginning at forty-five (45) feet above grade. The resulting yard shall create a landscaped open space.

20.54.6 Maximum Ratio of Floor Area to Lot Area (FAR) in the Harvard Square Historic Overlay District. Notwithstanding the FAR limits set forth in Article 5.000 or elsewhere in this Ordinance, the maximum FAR applicable in the Harvard Square Historic Overlay District shall be as follows: Business B district: 4.0 for all Non-Residential Uses and 4.0 for all Residential Uses (4.31 a-h; Office 3 district: 3.0 for all uses; Office 2 district: 2.0 for all uses; Residence C-3 district: 3.0 for all uses; Residence C-2B district: 1.75 for all uses; Residence C-1 district: 0.75 for all uses; Business A district: 1.0 for all uses except dwellings, 1.75 for dwellings.

20.54.7 Additional FAR. Upon the issuance of a special permit, the special permit granting authority (Planning Board) may increase the allowable FAR on any lot or portion of a lot in the Business B district located within the Harvard Square Overlay District for any residential use in section 4.31 (a-h) or any commercial use in section 4.34 or 4.35 provided the Planning Board finds that the use and design complies with the goals and design guidelines set forth in the Harvard Square Conservation District and provides additional public benefits commensurate with the additional development, such as the following:

1. Ground floors that are devoted to retail and similar uses that activate the square and serve the needs of the surrounding community and visitors;
2. Commitments to recruit and retain small, local, and independent businesses, in part through maintaining 50 percent of first floor public frontage as commercial rental space of approximately 1,500 sq. ft.in size;
3. Creation of mixed-income housing;
4. Commitments to sustainable design that minimize greenhouse gas emissions and increases vegetation, and;
5. Investments into creating or improving public space.

20.54.8 FAR Exemption for Ground Floor Retail. Retail spaces of 1,500 square feet or less shall be excluded from the calculation of floor area ratio.

20.54.9 Frontage Restrictions. Banks, trust companies, or similar financial institutions as identified in Section 4.34e shall occupy no more than twenty-five feet (25') of the ground-floor level frontage of a building facing a street, measured horizontally parallel to that street. In addition, such uses shall not occupy more than thirty percent (30%) of a building's total horizontal ground-floor building frontage aggregated over one or more streets. The Planning Board may grant a special permit to allow a minor increase in the permitted frontage upon finding that such increase would create a result that is more compatible with the unique conditions of a particular building or site and that the criteria set forth in Section 20.53.2 above are met.

20.54.10 Fast Order Food Establishments (as identified in Section 4.35o) are allowed by right within the Harvard Square Overlay District and are further not subject to the provisions of Article 11.30 of this Ordinance provided the Fast Order Food Establishment is not a Formula Business.

## 20.55 Sign Regulations in the Harvard Square Historic Overlay District.

20.55.1 All provisions of Article 7.000 shall apply in the Harvard Square Historic District, except as modified below. It is the intent of these modifications to allow greater flexibility in the size, location and illumination of signs in order to encourage more thoughtful design of individual signs, to encourage greater respect for the building and visual context within which new signs are erected, and thereby add interest and character to the shopping environment in Harvard Square.

1. In Section 7.16.22 - Signs in all Business, Office and Industrial Districts, Paragraphs A, B, and C shall not apply in office and business base districts. However, no sign on the outside of a building may extend higher than 20 feet above grade.
2. In Section 7.16.3 - Application of the Sign Frontage Formula shall not apply.
3. In the Residence C-2B base district the provisions of Section 7.16.22 shall apply to permitted or legally established nonconforming office and retail uses.



In City Council March 2, 2020.

Passed to be ordained as amended by a yea and nay vote:

Yeas 9; Nays 0; Absent 0.

Attest:- Anthony I. Wilson, City Clerk.

A true copy:

ATTEST:- Anthony I. Wilson  
City Clerk