

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 and the Harvard Square Historic Overlay District 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 **following**:

1. 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

2. The additional policy goal of preserving and enhancing the retail ecosystem, including the pedestrian retail window-shopping experience, the extent and density of contiguous storefront openings, and the pedestrian streetscape vitality generally.

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 #965.

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 **for the purpose of representing community input**.

c. 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 may wish to receive advice and recommendations.

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.* **The Committee shall consist of ~~twelve (12)~~ thirteen (13) members, as follows:**

(1) At least one member having recognized qualification as an architect or **urban planner** landscape architect.

(2) ~~One member having recognized qualifications as real estate or development or financial expert.~~

(3) **Two** ~~One members~~ who operate a **retail, restaurant or service** businesses within the Harvard Square Overlay District.

(4) **One Two owners or representatives of a corporate owners** of ~~two~~ members owning commercial property within the Harvard Square Overlay District.

(5) Five members representing residents of the five abutting Cambridge residential neighborhoods.

(6) One additional resident to be appointed with should serve at large.

(7) One member representing an institution owning institutional property in the Harvard Square Overlay District.

(8) One member representing the Cambridge Historical Commission.

b. Terms. Committee members shall be appointed for terms of three years each. **They may be re-appointed for a second consecutive three-year term. They shall thereafter be required to step down as committee members but shall be eligible to re-apply after a one-year gap. In the event of a mid-term vacancy, a replacement member shall be appointed to serve the remainder of that term in order to maintain full representation as set forth above.** ~~Initial appointments 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.~~

c. Board Chair. The members shall elect a chairperson at the first meeting of each calendar year. **The Chairperson shall serve until replaced, not to exceed one year, shall thereafter be required to step down as Chair, and shall be eligible for re-election after a one-year gap. In the event of a mid-year vacancy, the members shall elect an interim Chairperson to serve for the remainder of that year.**

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 street line in the districts and rising over one or more lots at a forty-five (45) degree angle.

~~a. All newly constructed GFA above 60' in height, or an equivalent amount of GFA located elsewhere in the building, shall be residential dwelling units. In granting a special permit, the Planning Board shall consider whether such dwelling units are designed and intended to be occupied by full-time residents (i.e. not absentee owners) that will patronize local businesses and help keep the streets safer at night.~~

3. deleted.

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

1. 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 or findings made:

- 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 and will not involve significant new construction.
- 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 applicant can demonstrate a need for the use(s) as a service to adjacent residential communities or to the academic community and can demonstrate that for economic or other reasons the use cannot easily be located in existing business or office districts where the use is permitted. In addition the applicant must demonstrate that either the use has been displaced as result of redevelopment elsewhere in the Harvard Square Overlay District, or that the use is important in its contribution to the variety, continuity, or uniqueness of the Harvard Square Overlay District.

j. The retail use does not take the place of a residential or dormitory use.

k. The following uses listed in Section 4.35 are however specifically prohibited:

4.35e (Lunchroom, restaurant, cafeteria);

4.35f (Establishments where alcoholic beverages are sold and consumed and where no dancing or entertainment is provided);

4.35g (Bar or other establishment where alcoholic beverages are sold and where dancing is provided);

4.35j (Mortuary, undertaking or funeral establishment);

4.35l (Veterinary establishment, kennel, pet shop);

4.35m (sales place for new and used cars);

4.35o (Fast Order Food Establishment);

4.35p (Massage establishment).

l. The proposed use is not located in a base Residence C-2B or Office 2 District.

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.

3. The conditions and required findings mentioned in this Section 20.54.3 are not severable, and if a court declares any such condition or required finding invalid, then this Section 20.54.3 shall cease to operate in its entirety, and no additional special permits shall be issued under its authority.

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 total development authorized on the site is reduced to eighty (80) percent of the maximum permitted on the lot; or a cash contribution is made to the Harvard Square Improvement Fund to be established by the City of Cambridge in an amount equal to fifty (50) percent of the cost of construction of the spaces not provided, said contribution to be used by the City of Cambridge for one or more of the following capital improvements in the Harvard Square Overlay District:

- (1) Provision of public parking, preferably for short term users, **or other transit transportation solutions designed to make Harvard Square stores, offices and restaurants accessible to drive-to and other non-walk-to customers;**

- ~~(2) Improvements to public parks, or restoration of historic structures, monuments and other features owned by the City of Cambridge or other public agency or a nonprofit organization;~~

- ~~(3) Extension throughout the Harvard Square Overlay District of the surface improvements installed by the MBTA as part of the Red Line subway extension (brick sidewalks, light post, street furniture, etc.)~~

The Harvard Square Advisory Committee **in public session** shall make **comments recommendations on any all proposals** for the expenditure of such cash contributions. To the extent practicable the provision of public parking facilities shall be the first priority of any expenditure. The funds shall not be used for ordinary maintenance activities normally undertaken by the City of Cambridge. **The City of Cambridge shall publish annually a report stating the amounts assessed, collected, and spent for the year then ended together with the ending balance in the account.**

The value of the cash contribution shall be determined by the Community Development Department assuming equivalent structured parking spaces and using generally accepted cost estimation methods customarily used by architects and engineers or using actual construction costs for comparable contemporary parking construction in Cambridge.

- b. 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).

- c. 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*.

d. 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

e. 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

2. 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.

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 uses except dwellings, 3.0 for dwellings; 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.

20.55 *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.

20.56 **Formula Business regulations**

A Formula Business as defined in this Ordinance may be established in the Harvard Square Overlay District, or move to new premises, only after the issuance of a special permit from the Planning Board. In reviewing an application, the Planning Board shall consider whether:

- a. **The proposed storefront design (including the exterior signage) maintains and/or enhances the historical character of existing buildings and storefronts in the proposed location.**
- b. **The proposed storefront design is sufficiently adapted from the formula design so as to make the Harvard Square location unique.**

20.57 **Small Store regulations**

To promote the policy goal of preserving and enhancing the retail ecosystem, any development, or re-development project that displaces substantially all of its tenants for the purpose of re-development, and that has a total area of more than _____

square feet shall be required to designate half (50%) of its frontage as complete (excluding building entrances) as Small Store space, defined as less than 1,250 rentable square feet at grade, excluding spaces below grade or on upper floors that may be included in the leasehold.

Notwithstanding the foregoing, if a tenant in a Small Store space wants to expand into an adjacent Small Store space, they may do so provided the total

Note: The Planning Board agreed with concerns raised regarding the overlapping jurisdiction for sign review that could be created between the Planning Board and the Historical Commission, which can currently approve signs that deviate from some of the normal signage requirements in Article 7.000 of the Zoning Ordinance.

~~amount of designated Small Store frontage remains above the 50% requirement following such expansion.~~

20.578 **Frontage Limitations.**

To promote the policy goal of preserving and enhancing the retail ecosystem by enhancing the pedestrian window shopping experience, no bank, trust company, real estate or other agency, or administrative office may occupy a pedestrian-level frontage of more than twenty-five (25) feet.

A special permit may be granted to relax this maximum frontage limitation but only if (a) the building architecture prevents strict adherence to the twenty-five foot limit and (b) the landlord or tenant in question will make a permanent and commensurate contribution to street and community vitality, such as free rotating community window displays or dedicated community meeting room without any conditions such as the requirement of having an account at that bank.

Note: The Planning Board recommended that the 25-foot standard be reviewed to determine if a different numerical standard would be more appropriate.

20.589 **FAR exemption for Below-Grade Spaces.**

To promote the policy goal of encouraging density of retail and service businesses serving the public, GFA that is entirely below-grade shall be exempt from the FAR calculation provided that either (a) it will serve as retail support (e.g. kitchen or storage spaces) to active street-level uses, or (b) it will accommodate a retail or public service use that is customarily open to the public, including such as a Cambridge history center, a tourist information center, or public toilets.