

ORDINANCE NO. 2022-11

CITY OF CAMBRIDGE

In the Year Two Thousand and Twenty-Three

AN ORDINANCE

In amendment to the Ordinance entitled “Cambridge Municipal Code”

PASSED TO A SECOND READING ON AUGUST 7, 2023

AMENDED IN CITY COUNCIL ON SEPTEMBER 18, 2023

That the Municipal Code of the City of Cambridge be amended in Chapter 2.78 entitled “Historical Buildings and Landmarks” as follows:

2.78.140 Purpose.

The City Council finds it necessary to enact this article under Section 6 of the Home Rule Amendment in order to preserve, conserve and protect the beauty and heritage of the City; to improve the quality of its built environment through identification, conservation and maintenance of neighborhoods, areas, sites and structures which constitute or reflect distinctive features of the architectural, cultural, political, economic, racial, or social history of the City; to foster appropriate use and wider public knowledge and appreciation of such neighborhoods, areas or structures; to welcome a diverse set of residents and broaden appreciation for individuals with marginalized identities who have shaped Cambridge’s history; and by furthering these purposes in balance with other City priorities such as affordable housing construction, environmental sustainability, and accessibility to promote the public welfare by making the City a more attractive, desirable, affordable, diverse, equitable, accessible, and inclusive place in which to live and work. To achieve these purposes, the City may designate neighborhood conservation districts and landmarks to be administered as set forth in this article.

2.78.160 Neighborhood conservation district commission—Established—Membership requirements.

A. Upon designation as provided in Section 2.78.180 of this article of any neighborhood conservation district, and unless the designation provides that the Historical Commission itself shall exercise authority with respect thereto, the City Manager shall appoint a neighborhood conservation district commission to consist of

seven members and three alternates who shall by reason of experience or education have demonstrable knowledge and concern for improvement, conservation, and enhancement of the district, and whose composition represents the diversity of the designated neighborhood in terms of age, race, ethnicity, gender identity, sexual orientation, and property ownership or tenancy. Appointments shall reflect the City's goals for anti-racism, diversity, equity, and inclusion. Members and alternates must have the ability to work and interact effectively with individuals and groups with a variety of identities, cultures, backgrounds, and ideologies. The membership shall be as follows:

Member 1. District homeowner

Member 2. District renter

Member 3. District resident

Member 4. District resident

Member 5. District business operator/owner or District resident

Member 6. Historical Commission member/CHC alternate or Cambridge resident

Member 7. Cambridge resident with professional qualifications

Alternate 1. District resident

Alternate 2. District resident

Alternate 3. District resident

The district business operator/owner seat shall be occupied by someone who owns or operates a business within the district that is not a formula business as defined in Article 2.000 of the Zoning Ordinance, or a representative of a business association within the district. The City Manager shall prioritize applicants representing retail establishments, local service establishments, or restaurants that employ no more than 50 full-time equivalent employees. The requirement to seat a district business operator/owner shall not apply when a district does not contain any portion of a commercial district or when the City Manager is unable to fill the seat after an exhaustive search. Whenever the requirement does not apply, the seat shall be filled by a district resident.

The position for a Cambridge resident with professional qualifications shall be occupied by someone who possesses training or experience in historical preservation, architecture, and/or a similar field. Three years after establishment of the district the requirement that one member be a member or alternate of the Historical Commission shall cease and a district resident shall be appointed to that position. Under no other circumstance may an individual serve at once on both the Historical Commission and a NCDC.

Neighborhood Conservation District Commissions shall act solely in the exercise of those functions described in this article which are applicable to the district under its administration.

B. Members shall be appointed by the City Manager with regard to the diversity of residents within and surrounding the district. Such members shall serve for a term of three years, except that the initial appointments shall be for one member to serve one year and one member to serve two years, and vacancies shall be filled for the unexpired term of office. No member shall serve more than two consecutive terms. Each member and alternate may continue in office for up to six months after expiration of his or her term until a successor is duly appointed and qualified. The City Manager may further extend an appointment until such time as a qualified successor is duly appointed.

C. Neighborhood Conservation District Commissions and study committees shall elect annually a Chair and Vice-Chair from their own number. In the case of absence, inability to act, or unwillingness to act because of self-interest on the part of a member, their place shall be taken by an alternate member designated by the Chair, if available, otherwise by the Vice-Chair if available, otherwise by a majority vote of the members and alternate members of the Commission present. The person exercising the function of Executive Director of the Historical Commission or their designee, shall serve as secretary of each neighborhood conservation district commission. Persons serving as members or alternate members of a neighborhood conservation district commission shall, as a result of such service, be considered as "special municipal employees" for purposes of Chapter 268A of the General Laws.

2.78.170 Powers and duties.

A. The Historical Commission and each neighborhood conservation district commission shall have like powers, functions and duties with respect to each landmark and neighborhood conservation district over which it has jurisdiction as is provided Historic District Commissions under clauses (a) through (g) under Section 10 of Chapter 40C of the General Laws with respect to historic districts, including without limitation with respect to the approval and disapproval of certificates of

appropriateness, non-applicability and hardship, the dating and signing of such certificates, the keeping of records and adoption of rules and regulations, the filing with the City Clerk and Building Department of certificates and determinations of disapproval by it, and the determination of designs of appurtenances (excluding colors) which will meet the requirements of the landmark or neighborhood conservation district.

2.78.180 Designation procedures.

A. The Historical Commission by majority vote may recommend for designation as a landmark any property within the City being or containing a place, structure, feature or object which it

determines to be either (1) importantly associated with one or more historic persons or events, or with the broad architectural, aesthetic, cultural, political, economic or social history of the City or the Commonwealth or (2) historically or architecturally significant (in terms of period, style, method of construction or association with a famous architect or builder) either by itself or in the context of a group of structures; may recommend for designation as a neighborhood conservation district any area within the City containing places and structures which it determines are of importance to the architectural, aesthetic, cultural, political, economic or social history of the City, and which considered together cause such area to constitute a distinctive neighborhood or to have a distinctive character in terms of its exterior features; and may recommend amendments to any designation of landmark or neighborhood conservation district theretofore made.

B. Prior to the recommendation of designation or amendment of designation of any landmark or neighborhood conservation district an investigation and report on the historical, architectural and other relevant significance thereof shall be made. The report shall recommend the boundaries of any proposed landmark or neighborhood conservation district and shall recommend for incorporation in the order of the City Council designating each landmark or neighborhood conservation district general and/or specific standards and appropriate criteria consistent with the purposes of this article and the provisions of Section 2.78.190 of this article that are to be applied in making any determination of the type referred to in Sections 2.78.170, 2.78.210 and 2.78.220 of this article, with respect to the designated landmark or within the designated neighborhood conservation district.

C. In the case of a landmark, preparation of the report shall be directed by the Historical Commission. In the case of a neighborhood conservation district, preparation of the report shall be directed by a study committee consisting of three members or alternates of the Historical Commission and six persons appointed by the

City Manager who shall by reason of experience or education have demonstrable knowledge and concern for improvement, conservation, and enhancement of the district, and whose composition represents the diversity of the neighborhood itself in terms of age, race, ethnicity, gender identity, sexual orientation, and property ownership or tenancy. Appointments shall reflect the City's goals for antiracism, diversity, equity, and inclusion. Members must have the ability to work and interact effectively with individuals and groups with a variety of identities, cultures, backgrounds, and ideologies. Members shall be appointed by the City Manager with regard to the diversity of residents within the district. Membership shall be as follows:

Member 1. District homeowner

Member 2. District renter

Member 3. District resident

Member 4. District resident

Member 5. District business operator/owner

Member 6. Cambridge resident

Member 7. CHC member/CHC alternate

Member 8. CHC member/CHC alternate

Member 9. CHC member/CHC alternate

The district business operator/owner seat shall be occupied by someone who owns or operates a business within the district that is not a formula business as defined in Article 2.000, of the Zoning Ordinance, or a representative of a business association within the district. The City Manager shall prioritize applicants representing retail establishments, local service establishments, or restaurants that employ no more than 50 full-time equivalent employees. The requirement to seat a district business operator/owner shall not apply when a district does not contain any portion of a commercial district or when the City Manager is unable to fill the seat after an exhaustive search. Whenever the requirement does not apply, the seat shall be filled by a district resident.

D. Any thirty registered voters of the City may petition that the Historical Commission initiate, or the Historical Commission on its own may initiate, the

process of designating a landmark or amending or rescinding any such designation theretofore made. Any one hundred registered voters of the City may petition that the Historical Commission initiate the process of designating a neighborhood conservation district or amending or rescinding any such designation theretofore made. The Commission shall within sixty days following the filing of such request or petition hold a preliminary hearing and arrange for the preparation of a report and, if required, request the appointment of a study committee. In the event the Historical Commission requests the

appointment of a study committee, the approval of the formation of such committee shall be by order of the City Council. If a petition for a landmark designation is not accepted by the Historical Commission or a request to initiate a study of a neighborhood conservation district is not recommended by the Historical Commission or approved by the City Council, the Historical Commission shall not reconsider a proposed designation, amendment or rescission of designation within two years of its previous hearing thereon. No later than sixty days after the transmittal of a report to the Commission pertaining to a proposed designation, the Commission shall hold a public hearing. The Commission shall give not less than fourteen days notice of such public hearing by publication in a newspaper of general circulation in the City and by mailing notice thereof to the owner of the proposed landmark and to every registered voter and property owner abutting the proposed landmark or within the proposed neighborhood conservation district, each such voter and owner to be determined from the then current records of the Assessing Department and Election Commission, and to the City Manager, the Planning Board and the City Clerk.

E. Prior to the public hearing, the Commission shall transmit copies of the report to the Planning Board for its consideration and recommendations.

F. The recommendation of the Historical Commission with regard to any designation, amendment or rescission shall be transmitted to the City Manager and to the City Clerk with a copy of the approved designation report. When making recommendations pertaining to Neighborhood Conservation Districts only, the Historical Commission shall include in their report information on the impact of the designation on housing and renovation costs in the district. The Historical Commission shall obtain and include a letter from each business association within, or within 500 yards of, the proposed district setting out their views on the proposed district, or they shall otherwise provide a statement that no response was received. The Historical Commission shall include each written public comment that was properly received during the Study Committee process. The Historical Commission shall provide a review of current and available academic and industry research on the price effects of historical preservation districting and shall provide a written summary of that research and relevant citations as part of the report. Designation of a landmark or a

neighborhood conservation district or amendment or rescission of designation shall be by order of the City Council. In the case of a designation, the order shall include a statement of the reasons for such designation and a statement of standards which the Historical Commission or neighborhood conservation district commission is to apply under Sections 2.78.170 and 2.78.190 through 2.78.220 of this article.

G. No designation, amendment or rescission of designation shall become effective until a map setting forth the boundaries of the landmark or neighborhood conservation district or change in the boundaries thereof, has been filed with the City Council and has been recorded with the Registry of Deeds for the South District of Middlesex County.

H. If the order establishing or amending a neighborhood conservation district contains provisions for both regulatory and educational/incentive programs, the regulatory provisions of the order shall not be effective unless and until the educational/incentive provisions of the order are funded.

I. Following acceptance of a landmark designation petition by the Historical Commission, no application for a building permit for new construction or alterations on the premises of a property being considered for landmark designation shall be granted until reviewed by the Commission as though the property were designated as a landmark under this Article III. Beginning with the acceptance of a designation petition or a vote to initiate a landmark designation study and until (a) the Historical Commission makes a negative recommendation on a proposed designation, (b) the City Council determines not to enact the proposed designation, or (c) one year has elapsed, whichever is less, the Commission shall review all proposed construction, demolition, or alteration that affects the exterior architectural features, other than color, of the structures on the premises of a proposed landmark. The Commission shall have no jurisdiction over issuance of building permits in a neighborhood conservation district study area except in the case of properties that are already designated as landmarks or protected by a preservation restriction or with regard to applications to demolish buildings pursuant to Ch. 2.78.Article II.

J. Notwithstanding the prior provisions of this section 2.78.180, a neighborhood conservation

district previously established by order of the City Council, in accordance with this section, which order instructs that there be a review of the activities of the neighborhood conservation district commission established pursuant to that order, following one or more public hearings by such neighborhood conservation district commission and by the Historical Commission, and a report to the City Council by such commissions containing a summary of testimony at such hearings and

recommendations by such commissions for amendments to the powers, responsibilities and procedures of such neighborhood conservation district commission (including amendments to the boundaries of the affected neighborhood conservation district), may be amended by the City Council, in a manner consistent with the recommendations of such report, or be rescinded without the necessity of the appointment of a new study committee or of a de novo study process.

2.78.190 Review procedures.

A. Except as the order designating or amending a landmark or neighborhood conservation district may otherwise provide in accordance with this article, the Historical Commission or neighborhood conservation district commission having jurisdiction shall review all construction, demolition or alteration that affects the exterior architectural features, other than color, ADA compliance features, accessibility features, climate resiliency features, or renewable energy features of any landmark or within any neighborhood conservation district.

B. The order designating or amending a landmark or neighborhood conservation district may provide that the authority of the Historical Commission or neighborhood conservation district commission having jurisdiction shall not extend to the review of one or more of the following categories of structures or exterior architectural features of the landmark or within the neighborhood conservation district in which event the structures or exterior architectural features so excluded may be constructed or altered without review by the Commission:

1. The application of exterior wall material in a manner that does not require the removal or enclosure of any cornice, fascia, soffit, bay, porch, hood, window or door casing, or any other protruding decorative element;
2. Alterations to the exterior of existing structures that do not increase or diminish the size and location of windows and doors, cause the removal of any bay, porch, hood, window or door casing or any other protruding decorative element, or alter the appearance of a roof;
3. The exterior appearance of a new structure that does not require a variance or special permit under the zoning ordinance then in effect;
4. Signs, temporary structures, lawn statuary, or recreational equipment, subject to such conditions as to duration of use, dimension, location, lighting, removal and similar matters as the Commission may reasonably specify;

5. Terraces, walks, driveways, sidewalks and similar structures substantially at grade level;

6. Walls and fences;

7. Storm doors and windows, screens, window air conditioners, lighting fixtures, antennae, trellis work and similar appurtenances.

C. The Historical Commission or a neighborhood conservation district commission may determine from time to time after a public hearing that certain categories of exterior architectural features or structures, including, without limitation, any of those enumerated in this section, if the provisions of the applicable order do not limit the authority of such commission with respect thereto, may be constructed or altered without review by such commission without causing substantial derogation from the intent and purposes of this article.

D. If the order establishing or amending a neighborhood conservation district provides, the determination of a neighborhood conservation district commission shall be binding only with regard to applications to construct a new building, to demolish an existing structure if a demolition permit is required, to construct a parking lot as a principal use, and to construct an addition to an existing structure that would increase its gross floor area, and in all other cases the determinations of a commission shall be advisory only and not binding on an applicant. In no case shall a building permit be issued until the commission has made a determination under the applicable provisions of this article.

E. A determination of the Historical Commission with regard to an application to construct a residential building in which a majority of the units are permanently reserved for households at or below 100% of area median income through the Affordable Housing Overlay or any other means on the premises of a designated landmark shall be advisory only and not binding on the applicant.

F. Applications for temporary accessibility features shall be granted Temporary Certificates of Hardship for the length of the ownership or tenancy of the disabled applicant. Such certificates shall be issued through administrative procedures within one business day. A determination of a Neighborhood Conservation District Commission with regard to an application to construct permanent accessibility features shall be advisory only and not binding on the applicant. A determination of the Historical Commission with regard to an application to construct such permanent features on the premises of a designated landmark shall be binding, but the Commission shall not in any case deny all accessibility improvements necessary to

comply with provisions of the Americans With Disabilities Act and relevant Massachusetts statutes.

G. A determination of a Neighborhood Conservation District Commission with regard to an application to construct climate resiliency and renewable energy features shall be advisory only and not binding on the applicant. A determination of the Historical Commission with regard to an application to construct such features on the premises of a designated landmark shall be binding but not unreasonably denied.

2.78.210 Certificates of appropriateness, non-applicability or hardship.

A. Except as the order establishing or amending a landmark or neighborhood conservation district may otherwise provide, no structure designated a landmark or within a neighborhood conservation district shall be constructed or altered in any way that affects exterior architectural features unless the Historical Commission or neighborhood conservation district commission having jurisdiction shall first have issued a certificate of appropriateness, a certificate of non-applicability or a certificate of hardship with respect to such construction or alteration.

B. Any person who desires to obtain a certificate from the Historical Commission or neighborhood conservation district commission shall file with the Commission an application for a certificate of appropriateness, a certificate of non-applicability or a certificate of hardship, as the case may be, in such form as the commission may reasonably determine, together with such plans, elevations, specifications, material and other information, including in the case of demolition or removal a statement of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the Commission to enable it to make a determination on the application.

C. No building permit for alteration of an exterior architectural feature of a landmark or construction of a structure or for alteration of an exterior architectural feature within a neighborhood conservation district and no demolition permit for demolition or removal of a landmark or of a structure within a neighborhood conservation district shall be issued by the City or any department thereof until the certificate required by this article has been issued by the Historical Commission or neighborhood conservation district commission having jurisdiction.

D. This provision does not apply to proposals for, or existing, affordable housing that either is developed under the Affordable Housing Overlay, as defined in Section 11.207 of the Zoning Ordinance, or has a majority of units permanently reserved for households at or below 100% of Area Median Income, in a neighborhood conservation district, over which no neighborhood conservation district commission

has jurisdiction. The Historical Commission shall have only advisory jurisdiction with regard to such affordable housing.

2.78.220 Factors considered by Commissions.

A. In passing upon matters before it, the Historical Commission or neighborhood conservation district commission shall consider, among other things, the historic and architectural value and significance of the site or structure, the general design, arrangement, texture and material of the features involved, and the relation of such features to similar features of structures in the surrounding area. In the case of new construction or additions to existing structures a Neighborhood Conservation District Commission shall not consider the appropriateness of the

size and shape of the structure, and a Neighborhood Conservation District Commission shall not impose dimensional and setback requirements in addition to those required by applicable provision of the zoning ordinance. A Commission shall not consider interior arrangements or architectural features not subject to public view.

B. A Neighborhood Conservation District Commission shall not make any recommendation or requirement except for the purpose of preventing proposals incongruous to the historic aspects, architectural significance or the distinctive character of the landmark or neighborhood conservation district.

C. In passing upon matters before it, the Historical Commission or neighborhood conservation district commission shall also consider community goals as may from time to time be expressed by the City Council, including the need to provide additional housing, affordable and otherwise, and to promote the sustainable use of energy and capacity for climate resilience.

2.78.270 Enforcement and remedies.

The Historical Commission and any neighborhood conservation district commission are each specifically authorized to institute any and all actions, proceedings in law and in equity, as it deems necessary and appropriate to obtain compliance with the requirements of this article or to prevent a threatened violation thereof. Any violation of any provision of this article may be punished to the like extent provided in Section 13 of Chapter 40C of the General Laws for a violation of said Chapter 40C. In addition to the foregoing, no building permit shall be issued, with respect to any premises upon which a landmark or a structure within any neighborhood conservation district has been voluntarily demolished otherwise than pursuant to a certificate granted after compliance with the provisions of this article, for a period of two years after the date of the completion of such demolition (the word "premises" for the

purposes of this sentence referring to the parcel of land upon which the demolished structure was located and all adjoining parcels of land under common ownership or control.)

2.78.280 Decennial Review.

A. Every ten years beginning in 2024, the City Council shall review each existing Neighborhood Conservation District according to the following schedule:

Half Crown Marsh Years ending in 4 (2024, 2034, 2044, etc.)

Mid Cambridge Years ending in 6 (2026, 2036, 2046, etc.)

Avon Hill Years ending in 8 (2028, 2038, 2048, etc.)

Harvard Square Years ending in 0 (2030, 2040, 2050, etc.)

B. The Historical Commission with other relevant City departments will present a report to the City Council no later than September 30 of the year in which review is scheduled to occur. The report shall contain:

1. Summary of current NCD membership, boundaries, guidelines, and procedures.
2. Summary of the activities of the NCD over the previous decade including (but not limited to) a list of any cases in which an application was outright rejected as well as relevant and instructive examples of cases in which applications were approved or approved with modifications.
3. Information about any demographic changes or other major changes that occurred within the district over the previous decade
4. Guidance on recommended changes to the boundaries, guidelines, and/or procedures of the NCD, if there are any.
5. Assessment of progress toward achieving council diversity and representation goals for the NCD.

C. No later than 3 months following the end of the year in which the NCD was subject to review, the City Council shall adopt an order either to re-approve of the NCD (with or without changes), discontinue the NCD, or establish a Study Committee to consider deeper changes related to district boundaries, guidelines, and procedures.