

PROPOSED LOCAL LAW A OF 2017

A LOCAL LAW
TO AMEND CHAPTER 295, ZONING CODE OF THE VILLAGE OF HASTINGS-ON-
HUDSON TO UPDATE AND REVISE PROVISIONS REGARDING NURSING HOMES,
ASSISTED LIVING FACILITIES AND SENIOR HOUSING PROVISIONS

Be it enacted by the Board of Trustees of the Village of Hastings-on-Hudson as follows:

SECTION 1: Section 295-5 Definitions of the Zoning Code is hereby amended by removing the existing definition for “SENIOR ASSISTED-LIVING HOUSING” and inserting the following new definition:

ASSISTED-LIVING HOUSING

A residential facility operated by an entity licensed by the State of New York to operate an assisted living residence or residence with an assisted living program component, which combines resident rooms, communal dining, medication supervision, personal care, physical therapy, routine protective oversight, personalized assistance and supportive services, and health care designed to meet the individual needs of persons who need help with the activities of daily living, including, but not limited to, bathing, dressing, grooming, eating, and ambulation for persons in appropriately designed facilities, including "memory-care" accommodations for persons with Alzheimer's disease and other forms of dementia, but who do not need the skilled medical care provided by a nursing home or convalescent care facility.

SECTION 2: Section 295-5 Definitions of the Zoning Code is hereby amended by removing the existing definition for “HOSPITAL” and inserting the following new definition:

HOSPITAL

A building used for diagnosis, treatment and care of human ailments, licensed or approved by the New York State Department of Health.

SECTION 3: Section 295-5 Definitions of the Zoning Code is hereby inserting a new definition:

NURSING HOME

Skilled nursing/residential health care facility licensed or approved by the New York State Department of Health.

SECTION 4: Section 295-36 of the Zoning Code is hereby amended by inserting new uses and parking requirements as follows:

Use	Minimum Off-Street Parking
Assisted-Living Housing Nursing Home	1 space/2 beds, 1 space/employee during maximum shift, space/nonemployee medical practitioner or technician regularly practicing in the facility practitioner during maximum shift
Senior Enriched/Independent Living Housing	1 space/dwelling unit, 1 space/employee during maximum shift

SECTION 5: Section 295-36 of the Zoning Code is hereby amended by removing the words, “nursing home, sanitarium, convalescent home, and home for the aged” from the “Hospital, nursing home, or philanthropic institutions providing overnight facilities” use column of the parking requirements.

SECTION 6: Section 295-67(B)(3) through (B)(7) of the Zoning Code is hereby amended by removing this section in its entirety and inserting text, including new defined terms as follows:

295-67(B)

(3) Philanthropic and eleemosynary institutions; and hospitals; provided that:

(a) They shall occupy a lot of not less than 20 acres that has not less than 1,500 feet of frontage on a state highway; and

(b) They shall comply with the requirements set forth in Subsection A(3)(b) through (e) above.

(4) Nursing homes; provided that:

(a) They shall occupy a lot of not less than five acres, and may be combined with assisted-living housing, senior enriched/independent living housing, and senior housing on the same lot; and

(b) They shall be located at least 75 feet from any street or lot line and contain accommodations for not more than 40 beds per acre.

(5) Assisted-living housing, provided that:

(a) They shall occupy a lot of not less than two acres, and may be combined with nursing homes, senior enriched/independent living housing, and senior housing on the same lot;

(b) They shall contain accommodations for not more than 40 beds per acre;

(c) Assisted-living housing facilities shall meet all other bulk and dimensional requirements of the district in which it is located. Notwithstanding the foregoing, the special use permit approving agency shall have the authority to modify the bulk and dimensional requirements of the district in the interests of sound planning and design and where health, safety and welfare is preserved or enhanced, as determined by the approving agency;

(d) Maximum height of an assisted-living housing facility shall be forty (40) feet;

(e) On-site landscaping and screening determined to be appropriate by the special use permit approving agency shall be provided;

(f) Off-street parking shall be provided in accordance with Section 295-36 of this chapter; and

(g) In the event of any inconsistencies between the standards contained in this Section 295-67(B)(5) and any other provisions of this chapter, the provisions of this Section 295-67(B)(5) shall control and shall supersede such inconsistent provisions.

(6) Senior Enriched/Independent Living Housing provided that:

(a) They shall occupy a lot of not less than five acres, and may be combined with assisted-living housing, nursing homes, and senior housing on the same lot;

(b) They shall contain accommodations for not more than 12 units per acre;

(c) Senior enriched/independent living housing facilities shall meet all other bulk and dimensional requirements of the district in which it is located. Notwithstanding the foregoing, the special use permit approving agency shall have the authority to modify the bulk and dimensional requirements of the district in the interests of sound planning and design and where health, safety and welfare is preserved or enhanced, as determined by the approving agency;

(d) Maximum height of a senior enriched/independent living housing facility shall be forty (40) feet;

(e) On-site landscaping and screening determined to be appropriate by the special use permit approving agency shall be provided;

(f) Off-street parking shall be provided in accordance with Section 295-36 of this chapter; and

(g) In the event of any inconsistencies between the standards contained in this Section 295-67(B)(6) and any other provisions of this chapter, the provisions of this Section 295-67(B)(6) shall control and shall supersede such inconsistent provisions.

(7) Public utility substations, public utility transmission and distribution lines, public utility water towers and railroads and public utility rights-of-way and structures necessary to provide service within the Village, but not personal wire service facilities.

SECTION 7: Section 295-68(B) and (C) of the Zoning Code is hereby amended by removing this section in its entirety and inserting text, as follows:

§295-68

B. Principal uses requiring a special use permit. The following uses are permitted principal uses in an R-10 District but require a special use permit issued pursuant to Article X of this chapter: any use in an R-20 District requiring a special use permit as set forth in § 295-67B above, except philanthropic and eleemosynary institutions, hospitals and nursing homes.

C. Accessory uses. The following uses are permitted accessory uses in an R-10 District but only in conjunction with a principal use that is permitted in an R-10 District: any accessory use permitted in an R-20 District as set forth in § 295-67C above, except uses accessory to philanthropic and eleemosynary institutions, hospitals and nursing homes.

SECTION 8: Section 295-69(B) of the Zoning Code is hereby amended by excluding new principal uses requiring a special permit, as follows:

295-69.B. Principal uses requiring a special use permit. The following uses are permitted principal uses in an R-7.5 District but require a special use permit issued pursuant to Article X of this chapter: any use permitted in an R-10 District requiring a special use permit as set forth in § 295-68B above, except assisted-living housing and senior enriched/independent living housing.

SECTION 9: Section 295-71(B) of the Zoning Code is hereby amended by adding new principal uses requiring a special permit, as follows:

295-71.B. Principal uses requiring a special use permit. The following uses are permitted principal uses in an MR-2.5 District but require a special use permit issued pursuant to Article X of this chapter: any use permitted in a 2R District requiring a special use permit as set forth in § 295-70B above, and

(1) Assisted-living housing, provided that:

(a) They shall occupy a lot of not less than two acres, and may be combined with nursing homes, senior enriched/independent living housing, and senior housing on the same lot;

(b) They shall contain accommodations for not more than 40 beds per acre;

(c) Assisted-living housing facilities shall meet all other bulk and dimensional requirements of the district in which it is located. Notwithstanding the foregoing, the special use permit approving agency shall have the authority to modify the bulk and dimensional requirements of the district in the interests of sound planning and design and where health, safety and welfare is preserved or enhanced, as determined by the approving agency;

(d) Maximum height of an assisted-living housing facility shall be forty (40) feet;

(e) On-site landscaping and screening determined to be appropriate by the special use permit approving agency shall be provided;

(f) Off-street parking shall be provided in accordance with Section 295-36 of this chapter; and

(g) In the event of any inconsistencies between the standards contained in this Section 295-71(B)(1) and any other provisions of this chapter, the provisions of this Section 295-71(B)(1) shall control and shall supersede such inconsistent provisions.

(2) Senior Enriched/Independent Living Housing, provided that:

(a) They shall occupy a lot of not less than five acres, and may be combined with assisted-living housing, nursing homes, and senior housing on the same lot;

(b) They shall contain accommodations for not more than 12 units per acre;

(c) Senior enriched/independent living housing facilities shall meet all other bulk and dimensional requirements of the district in which it is located. Notwithstanding the foregoing, the special use permit approving agency shall have the authority to modify the bulk and dimensional requirements of the district in the interests of sound planning and design and where health, safety and welfare is preserved or enhanced, as determined by the approving agency;

(d) Maximum height of a senior enriched/independent housing facility shall be forty (40) feet;

(e) On-site landscaping and screening determined to be appropriate by the special use permit approving agency shall be provided;

(f) Off-street parking shall be provided in accordance with Section 295-36 of this chapter; and

(g) In the event of any inconsistencies between the standards contained in this Section 295-71(B)(2) and any other provisions of this chapter, the provisions of this Section 295-71(B)(2) shall control and shall supersede such inconsistent provisions.

SECTION 10: Section 295-86 of the Zoning Code is hereby amended by removing this section in its entirety and inserting text, as follows:

§ 295-86. Board of Appeals and Planning Board authorization. Subject to the provisions of this article and other provisions of this chapter, and except as otherwise provided by this chapter, the Board of Appeals and the Planning Board, where indicated in this Chapter, may issue a special use permit for any use requiring such a permit. All such uses are declared to possess characteristics of such unique and special forms that each application for a special use permit shall be considered as an individual case.

SECTION 11: Section 295-90 of the Zoning Code is hereby amended by removing this section in its entirety and inserting text, as follows:

§295-90. For Zoning Board of Appeals special permits, within 45 days after the referral of the application for a special use permit (unless extended with the consent of the applicant), the Planning Board shall transmit to the Board of Appeals an advisory report setting forth the Planning Board's recommendations with respect to the application.

SECTION 12: Section 295-91 of the Zoning Code is hereby amended by removing this section in its entirety and inserting text, as follows:

§295-91. Action of Board of Appeals or Planning Board; disapproval by County Planning Board.

A. The Zoning Board of Appeals or the Planning Board shall conduct a public hearing on the proposed application within 62 days after the application is received by the Building Inspector. The hearing shall be held upon the same notice as that required for a zoning variance.

B. The Board of Appeals or the Planning Board shall decide upon the application within 62 days after the final hearing on the application. The time within which the Board of Appeals or the Planning Board must render its decision may be extended by mutual consent of the applicant and the Board.

C. The Board of Appeals or the Planning Board shall issue the special use permit if it finds that all requirements of this chapter have been met, in particular, without limitation, the requirements of Article IX with respect to principal uses requiring special use permits and § 295-87 above. The Board of Appeals or the Planning Board shall deny any application that, in the judgment of the Board, does not meet the requirements of this chapter.

D. If the County Planning Board, in appearing before the Board of Appeals or the Planning Board at the public hearing, disapproves of the issuance of the special use permit or recommends changes or modifications thereof, then the permit shall not be issued without the adoption of a resolution by the Board of Appeals or the Planning Board setting forth specifics as to why it disagrees with the County Planning Board recommendation.

E. The decision of the Zoning Board of Appeals or the Planning Board on the special use permit application shall be filed in the office of the Village Clerk within five business days after the day the decision is rendered, and a copy of the decision shall be mailed to the applicant.

SECTION 13: Section 295-92 of the Zoning Code is hereby amended by removing this section in its entirety and inserting text, as follows:

§295-92. In issuing a special use permit, the Board of Appeals or Planning Board may impose any conditions that it deems necessary to accomplish the reasonable application of the standards set forth in § 295-87, and to assure conformity with all other requirements of the law, including this chapter. Such conditions may include, without limitation, a requirement that the special use permit be periodically renewed or that it terminate at the end of a stated period.

SECTION 14: Section 295-97 of the Zoning Code is hereby amended by removing this section in its entirety and inserting text, as follows:

§295-97. In considering any application for a special use permit, the Board of Appeals or Planning Board shall comply with the provisions of the State Environmental Quality Review Act and its implementing regulations.

SECTION 15: Section 295-103(B)(4) of the Zoning Code is hereby amended by removing this section in its entirety and inserting text, as follows:

§295-103.B(4). The Planning Board shall have the power to review and approve, approve with conditions or disapprove applications for special permits in accordance with § 295-86, or for personal wireless service facilities in accordance with § 295-85 of this chapter.

SECTION 16: SEVERABILITY

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

SECTION 17: EFFECTIVE DATE

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.