

ORDINANCE 45-2021

ORDINANCE OF THE BOROUGH OF MADISON AMENDING CHAPTER 195 OF THE BOROUGH CODE ENTITLED "LAND DEVELOPMENT" REGARDING ZONING

WHEREAS, the Planning Board has considered and recommends that the Borough Council consider proposed amendment to Chapter 195 of the Borough Code regarding zoning with a summary report from the Board provided; and

WHEREAS, the Borough Council having review the proposed amendments concurs in this recommendation from the Planning Board to amend zoning regulations in the Borough.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Borough of Madison, County of Morris, State of New Jersey that:

SECTION 1: Chapter 195 of the Borough Code, entitled "Land Development" is amended and supplemented to include the following:

...

I. Section 195-33B(7), "Assisted living residences may be located in any zone subject to the following conditions:" shall be deleted.

II. Section 195-32.8B shall be amended to read as follows:

B. Principal permitted uses.

- (1) Business, administrative, professional and medical offices.
- (2) Nonhazardous laboratories, research and development, experimentation and testing.
- (3) High technology/innovation business incubator facility.

III. Section 195-32.8 shall be amended to add Section 195-32.8C (existing Sections C, D, E and F to be recodified per notations herein), which reads as follows:

C. Conditional uses.

- (1) Assisted-living residences, subject to the following conditions:
 - (a) At least 10% of units shall be deed restricted under State Medicaid requirements per the definition of "Medicaid waiver".
 - (b) All assisted-living residences shall be licensed by the state of New Jersey.
 - (c) The maximum number of assisted living units in an assisted living residence shall not exceed 150 units.
 - (d) Assisted-living residences shall be located in existing structures.
- (2) Supportive housing, subject to the following conditions:
 - (a) There shall be no more than 125 beds in the PCD-O District.
 - (b) All supported housing shall be licensed by the state of New Jersey.
 - (c) Supportive housing shall be located in existing structures.
- (3) Short-term, acute physical rehabilitation centers shall be permitted, subject to the following conditions:
 - (a) The average stay shall not exceed 3 weeks.
 - (b) There shall be no more than 50 beds per center and a maximum of two centers and 100 short-term acute beds in the PCD-O District.
 - (c) Acute rehabilitation centers shall be located in existing structures.

- (4) Continuing care retirement communities (CCRC), subject to the following conditions:
 - (a) At least 20% of the independent living units shall be affordable to low and moderate income households and deed restricted for at least 30 years.
 - (b) The maximum number of independent living units in a continuing care retirement community shall not exceed 150 units.
 - (c) A minimum of 10% of all assisted and nursing care units or beds shall be deed restricted as Medicaid units.
 - (d) There shall be a maximum of one CCRC within the PCD-O District.
 - (e) CCRCs shall be located in existing structures.

- (5) Culinary destination center:
 - (a) Includes a restaurant with outdoor dining and two or more of the following additional uses:
 - (1) Café/bakery
 - (2) Licensed brew pub subject to the following requirements:
 - [a] Production shall be limited to no more than 10,000 barrels of 31 fluid gallons of capacity per year.
 - [b] At least 90% of the floor area dedicated to this use shall be located within existing structures and buildings.
 - (3) Licensed brewery, cidery, meadery, winery, or distillery, subject to the following requirements:
 - [a] Craft breweries, cideries, and meaderies shall be limited in production to no more than 100,000 barrels of 31 fluid gallons of capacity per year.
 - [b] Wineries shall be limited in production to no more than 100,000 gallons of distilled alcoholic beverages per year.
 - [c] Distilleries shall be limited in production to no more than 20,000 gallons of distilled alcoholic beverages per year.
 - [d] Storage of production waste and solid waste shall be in enclosed containers and stored inside or in a separately enclosed structure that confines odors, and obstructs views.
 - [e] A system to vent brewing or distilling and other exhausts and odors shall be provided.
 - [f] At least 90% of floor area dedicated to these uses shall be within existing structures and buildings.
 - (4) Farm, vineyard, garden, or apiary for the purposes of supplying the restaurant and/or brewery, cidery, winery or distillery with ingredients with total maximum acreage in production not to exceed 4.5 acres within the PCD-O District.
 - (5) Private club with dining, fitness and other ancillary uses.
 - (b) Cooking, baking, brewing and winemaking classes may be offered.
 - (c) Shall occupy no more than 50 acres within the PCD-O District and 90% of floor area shall be located within existing structures and buildings.

- (8) Artist galleries/work lofts:
 - (a) A unit must be a single, enclosed work space of at least 1,200 square feet devoted to work space for the creation, display and sale of art.
 - (b) Retail galleries are permitted.
 - (c) Art galleries /work lofts are permitted in existing buildings and structures.

IV. Recodify Section 195-32.8C as 195-32.8D.

V. Recodify Section 195-32.8D as 195-32.8E.

VI. Recodify Section 195-32.8E as 195-32.8F.

VII. Recodify Section 195-32.8F as 195-32.8G.

VIII. Section 195-32.8E(4) (formerly 195-32.8D(4)), shall be amended to read as follows:

(4) Development standards. Section 195-33A shall be amended to read as follows:

General. The Planning Board shall not approve a conditional use unless it finds that the use meets all the conditions identified herein. For conditional uses and associated standards within the PCD-O Zone, please see Section 195-32.8.

IX. Section 195-32.8E(5) (formerly 195-32.8D(5)), shall be amended to read as follows:

(5) A hotel in the PCD-O provides transient lodging accommodations to the general public and contains at least 100 rooms and no more than 200 rooms/suites, and may include additional facilities and services, such as a full-service restaurant, meeting space/function areas, and a fitness center/private club for use by hotel guests and the general public on a membership basis.

X. Add Section 195-28H. Overlay for Block 32, Lot 1 to read as follows:

195-28H. Overlay Zone for Block 32, Lot 1

H(1). Additional Permitted Uses for Block 32, Lot 1

(a) In addition to the PCD-O permitted uses, the following uses may be permitted in new buildings in accordance with PCD-O bulk, dimensional and other applicable standards in 195-28:

(1) Licensed Supportive Housing not to exceed 100 beds

(2) Licensed Assisted Living not to exceed 100 units with at least 10% of units be deed restricted under State Medicaid requirements per the definition of "Medicaid waiver".

(3) Licensed Continuing Care Retirement Community with a maximum of 100 independent units and at least 20% of the independent living units deed restricted as affordable to low and moderate income households for at least 30 years and a minimum of 10% of all assisted living units deed restricted under State Medicaid requirements per the definition of "Medicaid waiver."

XI. Section 195-7 shall be amended to include:

Artist

A person or persons regularly engaged in the arts as a career and not as a hobby. This does not mean that the creation of art generates the person's primary source of income, but rather that the artist has a body of work that demonstrates the development of the art and intends to pursue that work for the foreseeable future.

Short-Term Acute Physical Rehabilitation Center

An establishment that is licensed by State of New Jersey that provides short-term acute physical rehabilitation care for persons transitioning from an inpatient hospital status to independent living or recovery from surgery, debilitation, or serious illness.

Supportive Housing

Permanent housing, licensed by the State of New Jersey, that provides access to supportive services for people with physical or developmental disabilities.

Medicaid Waiver

Medicaid waiver designates a form of insurance payment for certain assisted living care, health and medical services paid through the Enhanced Community Options (ECO) waiver program which is a home and community-based services waiver for the elderly and disabled. The New Jersey Department of Health and Senior Services must license Medicaid providers of assisted living services. In addition, the New Jersey Department of Health and Senior Services allocates Medicaid waivers to specific licensed assisted

living residences. In accordance with N.J.S.A. 26:2H-12.16 et seq., a new assisted living residence or comprehensive personal care home licensed on or after September 1, 2001, shall attain a level of occupancy by Medicaid eligible persons of at least 10% of its total bed complement within three years of licensure and shall maintain this level of Medicaid occupancy thereafter.

Art Gallery

A building or space used for the display of art for the purpose of promoting and selling artworks.

ADOPTED AND APPROVED

ROBERT H. CONLEY, Mayor

Attest:

ELIZABETH OSBORNE, Borough Clerk: