

TOWN OF CLARKSTOWN

LOCAL LAW NO. – 2011

Be it enacted by the Town Board of the Town of Clarkstown as follows:

**Section 1. Title.**

A Local Law Amending Chapter 290 (Zoning) of the Local Laws of the Town of Clarkstown with respect to Hamlet Center Senior Housing.

**Section 2. Legislative Intent.**

The purpose of this local law is to provide for a Town Board special permit process for the development of affordable senior housing within all hamlet centers and to amend certain provisions of the Town Code relating to senior citizen housing. This local law proposes a new Section 290-170 (B) PROJECTS WITHIN HAMLET CENTERS, as described in Sections 290-7.2 and 7.3. Existing Section 290-170 will be relabeled Section 290-170 (A).

**Section 3. § 290-3 of the Zoning Code shall be modified as follows:**

The definitions of “SENIOR CITIZEN” and SENIOR CITIZEN CONGREGATE HOUSING” shall be modified to change the number “60” to the number “55.”

The definition of “USABLE OPEN SPACE” shall be amended by adding the following:

- (6) Notwithstanding the foregoing, “Usable Open Space” shall be actually available for use, taking into consideration the grade of the property, walkability and excluding wetlands, flood plains and other natural features which impede the actual use and enjoyment of such area.

**Section 4. §290-7.2 shall be modified as follows:**

Include a reference to add senior housing as a special permit use and two hamlet area maps for Congers and Nanuet.

**Section 5. §290-170 (A) (4) shall be changed to read as follows:**

- (4) Tax abatements/Payment in lieu of Taxes (PILOT).
  - (a) Any tax abatement/PILOT afforded under this subsection shall be for the purpose of reducing rent payments for housing for the elderly occupied by persons having

attained the age of 55 years and having been a resident of the Town of Clarkstown for at least five years.

- (b) To continue the eligibility for tax abatement/PILOT under this subsection, prior to renting any facility, the applicant, sponsor and/or owners of any development under this subsection shall contact the Town of Clarkstown for a current list of names and addresses of eligible senior citizens desiring housing for the elderly and give these eligible senior citizens priority in the rental of these facilities according to the length of years of residency in Clarkstown.
- (c) Anything to the contrary notwithstanding in hereinabove, eligibility for any housing provided shall be pursuant to the regulations of the United States Department of Housing and Urban Development in the event that financing is obtained pursuant to those programs, or other applicable federal, state and local government programs.

**Section 6. Add § 290-17O (B) as follows:**

**(B) PROJECTS WITHIN HAMLET CENTERS**

- (1) Application of preceding provisions. All of the provisions of § 290-17O (A) (1) through (5) and (7) through (10) shall apply, except that the last sentence of § 290-17O (A) (5) shall not apply.
- (2) Additional regulations.
  - (a) No trucking shall be permitted into a site from a collector or local street. No shipping or receiving of goods shall be permitted between the hours of 11:00 p.m. and 7:00 a.m., nor on Sunday.
  - (b) Minimum lot area shall be 1 acre and maximum lot area shall be 2 acres.
  - (c) Minimum front lot line shall be 100 feet along a major or secondary road.
  - (d) Access roads.
    - [1] Ingress and egress roads shall be from a major or secondary road.
    - [2] No roads or driveways shall be located within 100 feet of any street intersection.
  - (e) Floor area ratio shall be one (1).
  - (f) Maximum land coverage shall be 0.75.

(g) Maximum density permitted shall be 21 dwelling units per acre, none of which may contain more than one bedroom with the exception of a superintendent's apartment which shall consist of no more than three bedrooms.

(h) Yard requirements.

	<b>Minimum (feet)</b>	<b>Maximum (feet)</b>
Front Yard	0	20

Minimum yard requirements adjacent to a district line or use permitted by right or special permit:

	<b>Residential (feet)</b>	<b>Commercial (feet)</b>	<b>Parkland (feet)</b>
Side Yard	25	0/15*	10
Rear Yard	25	25	10

(i) Maximum building height shall not exceed 45 feet and shall be no more than three stories aboveground.

(j) Minimum distance between buildings shall be no less than the height of the highest building.

(k) Parking shall not be permitted between the front lot line and building line.

(3) Application procedure.

(a) Application. Application for a special permit for senior housing shall be made, in the form of a written petition, to the Town Board. Application shall be made by the owner(s) of the land(s) to be included in the development or by a person or persons possessing written contract or option rights to purchase the lands. In the event that an application is made by a person or persons holding rights to purchase the lands, the application shall be accompanied by a statement signed by all owners of such land indicating concurrence. Upon submission of a complete application, the Town Board may refer the application to the Planning Board for recommendation. The Town Board may schedule an informational workshop to discuss the proposal at any point before or during the application process.

(b) Application materials. The applicant shall submit a preliminary plan in sufficient quantity as determined by the Town. The preliminary plan, to be complete, shall consist, at a minimum, of the following:

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\* When adjacent to commercial zoning district, none is required.

- a. Metes and bounds description of the proposed district.
- b. A survey of the parcel prepared and certified by a licensed land surveyor.
- c. A proposed preliminary plan, drawn to scale, showing existing conditions of the parcel, including:
  - [1] The name and address of the owner of record and applicant, if different.
  - [2] The name of the person or firm preparing the map.
  - [3] The date, North arrow and scale.
  - [4] The names, addresses and Tax Map parcel numbers of owners of all parcels within 500 feet of the subject property; also, mailing labels for all property owners of parcels within 500 feet of the subject parcel(s).
  - [5] The acreage of the parcel and the County Tax Map number.
  - [6] The boundaries of the parcel plotted to scale.
  - [7] The location and width of existing and proposed state, county or Town highways or streets and rights-of-way abutting or within 200 feet of the parcel.
  - [8] The location and outline of existing structures both on the parcel and within 100 feet of the property line.
  - [9] The location of any existing storm or sanitary sewers, culverts, water lines, hydrants, catch basins, manholes, etc., as well as other underground or aboveground utilities within or adjacent to the parcel.
  - [10] The existing zoning and location of zoning boundaries.
  - [11] The location and outline of existing water bodies, streams, marshes or wetland areas and their respective classification as determined by the appropriate governmental regulatory body.
  - [12] The approximate boundaries of any areas subject to flooding or stormwater overflows.
  - [13] The location and outline of existing vegetation clusters (for a distance of 50 feet onto adjoining property).
  - [14] Freestanding trees with a caliper d.b.h. of 8 inches or greater located within the parcel.
  - [15] Existing contours at an interval of two feet (or less) and extending no less than 50 feet onto adjoining property.

- [16] The identification of any other significant natural feature.
- [17] The approximate location and dimensions of principal and accessory buildings on the site, their relationship to one another and to other structures in the vicinity, as well as the number of dwelling units by housing type and size, plus a calculation of the density, in dwelling units per acre allowed per current zoning regulations.
- [18] The approximate location and dimensions of vehicular traffic circulation features of the site, including proposed roadways, internal driveways, parking and loading areas and proposed access to the site.
- [19] The approximate location and nature of pedestrian circulation systems, open space and outdoor recreation areas on the site.
- [20] The proposed source of water supply and method of delivery to the site.
- [21] A general plan for the collection and disposal of sanitary wastes from the site.
- [22] A general stormwater management plan and how it is to be connected to the drainage systems of adjoining land. If retention or detention basins are proposed, ownership information and maintenance responsibilities shall be noted.
- [23] A preliminary site grading plan at intervals of two feet or less.
- [24] Preliminary identification of areas which will be disturbed and areas which will remain undisturbed by project implementation.

- d. A vicinity map showing the proposed use in relation to adjoining uses: grocery stores, community facilities, social service facilities, post offices, public transportation, medical facilities, pharmacies, religious institutions and proximity to other active adult residences.
- e. Preliminary floor plans and building elevations.
- f. A description of any subsidy program relied on in development of the project and proposed rents or selling prices within a reasonable range.

(4) Initial review.

- (a) In its review of the application, the Town Board may, in lieu of rejection of the application, suggest such changes in the preliminary plans as are found to be necessary or desirable to meet the requirements of this section, to protect the established or permitted uses in the vicinity and to promote the orderly growth and sound development of the community. The Town Board may notify the applicant of such changes and may discuss the changes with the applicant. The suggestion of changes by the Town Board shall not

constitute a waiver of its discretion to reject or to deny the application. If it elects, the Town Board may delegate to the Planning Board, as part of its referral of the matter, this function of dialogue with the applicant on suggested modification to the preliminary plans.

- (b) The applicant may submit revised preliminary plans incorporating the changes requested. If resubmission is not made within 90 days of receipt of the Town Board's suggested changes, the application shall be deemed abandoned. Upon mutual consent of the Town Board and the applicant, the Town Board may extend the time frame for resubmission for an additional 90 days.
- (5) Criteria for review of special permit. In making findings and in determining whether or not to recommend approval, the Town Board, or the Planning Board, as the case may be, shall consider, together with the intent and objectives of this article, and make written findings with respect to whether the proposed district and development meet the following criteria:
- (a) The proposed location in relation to similar developments nearby, whether by age restriction, income or density.
  - (b) Site suitability in relation to safety of vehicular access, availability of public transportation, pedestrian access to off-site locations for retail services, medical care, or recreation.
  - (c) Anticipated marketability in relation to similar developments in the Town, neighborhood factors, potential for occupancy by Town residents.
  - (d) Compatibility with the neighborhood in which the development is proposed, potential for separation from nearby uses, and environmental factors.
  - (e) The site shall be served by both public water and public sanitary sewer facilities, and said facilities shall be adequate to accommodate the additional demand placed upon them by the proposed development.
  - (f) The site shall be well-drained, and stormwater generated by development of the site shall not place an undue burden on existing facilities or contribute to downstream flooding.
  - (g) The site shall be located in an area suitable for residential purposes and shall be reasonably free of objectionable conditions, such as odors, noise, dust, air pollution, high traffic volumes, incompatible land uses and other environmental constraints.
  - (h) The site should be located within reasonable proximity to public transportation service, or, in the alternative, shuttle bus or other transportation service shall be available to the site.
  - (i) The site shall be located such that access to the site can be obtained from a public street which meets current engineering standards of the Town with respect to roadway width and alignment, and acceptable sight distances can

be developed at the site entry/exit and at intersections in the vicinity of the site.

- (j) The architectural style of the proposed development, exterior materials, finish and color shall be consistent with existing community and neighborhood character.
  - (k) The development shall provide appropriate recreational amenities such as game rooms, meeting rooms, lounges and exercise rooms, if such are lacking in the immediate vicinity as determined by the Planning Board.
  - (l) The development of the site shall not produce undue adverse effects on the surrounding neighborhood.
- (6) Town Board review.
- (a) Upon receipt of a recommendation from the Planning Board, the Town Board shall schedule and hold a public hearing.
  - (b) Following completion of the public hearing, the Town Board may act to approve, approve with modification or conditions, or disapprove the application.
- (7) Limitations on occupancy.
- (a) The occupancy of senior housing residential communities shall be limited to:
    - i. Individuals age 55 or older;
    - ii. A caregiver under the age of 55 if it is established that the presence of such a person is essential for the physical care of the senior. A caregiver shall not be considered a "permanent resident."
  - (b) Persons under the age of 55 shall not be permitted to be "permanent residents" of dwelling units. For the purposes of this section, a "permanent resident" shall mean any person who resides within the dwelling for more than three consecutive weeks, or has listed the residence as a dwelling for any purpose whatsoever, including, but not limited to, enrollment in public or private schools.
  - (c) Notwithstanding the foregoing, each senior community may set aside one dwelling unit to be occupied by a superintendent or building manager, to which the limitations on occupancy set forth above shall not apply.
- (8) Restriction on rental; Affordability.
- (a) Every unit shall be a rental unit. Every renter of a unit shall certify, on a form prescribed by the subsidy program, that such unit is the primary place of residence and that they are "income eligible." No owner shall rent any unit without first obtaining such verified certificate from the tenant. For purposes of this section, "income eligible" shall mean individuals whose incomes do

not exceed United States Department of Housing and Urban Development low income guidelines for Rockland County.

- (b) The landowner and developer shall file a declaration at the time of subdivision or site plan approval restricting all units as rental units, all of which shall be "affordable units" as defined in § 290-3 hereof. The declaration shall include a provision requiring that every lease for a unit shall include the following paragraph to inform all renters that this unit is restricted to senior housing subject to the provisions of this section:

"This dwelling is for use by seniors in accordance with the Town of Clarkstown Zoning Local Law, which limits occupancy to occupants age 55 or older who are income eligible for leasing the dwelling."

(9) Additional requirements.

- (a) Dwelling units shall be air-conditioned with individual thermostatic controls for heating and air conditioning;
- (b) All dwelling units shall comply with all residential standards of ANSI A117.1, "Accessible and Usable Building and Facilities," latest edition, or the New York State Building Code, whichever is more stringent, and incorporate design features, to the maximum extent practical, which ensure the safety and convenience of the residents, including, but not limited to, elevators, provision of grab-bars, nonscalding faucets, water-impervious nonslip floors, flush thresholds and wheelchair-accessible doorways.
- (c) If pets are permitted, specific pet walking areas designated and located so as to prevent nuisance and annoyance or health hazards to the residents and/or abutting property shall be provided.
- (d) Elevators shall be able to accommodate a gurney and emergency crew and shall be located closest to handicapped accessible units.
- (e) Entrance canopies shall be no lower than 14 feet so as to accommodate buses and emergency vehicles.
- (f) All dwelling units shall be designed and constructed in accordance with Chapter 109 of the Town Code.

(10) Site plans and approvals.

- (a) The Planning Board shall review all applications for development in accordance with the provisions of this chapter.
- (b) The Planning Board shall refer the site plan to the Architecture and Landscape Commission for recommendations after the issuance of a special permit, if granted by the Town Board, and prior to site plan approval.

- (c) For all developments including detached and semi-attached patio homes and multi-unit complexes, the applicant shall set aside park, Usable Open Space and shall pay any fee required, as per § 246-12C.
- (d) Where not modified by this section, all other conditions of the site plan approval and/or subdivision regulations of the Town shall apply, including but not limited to Chapter 246 and Chapter 254.
- (11) Alternative Space. Notwithstanding the provisions of §§ 290-170 (B) (10) (c) above, regarding the requirement for community space and usable open space, the Planning Board may modify such requirements in the event that there are suitable alternatives in the neighborhood to assure adequate community space and usable open space.
- (12) Severability. Should any section, paragraph, sentence, clause, word or provision of this section be declared void, invalid or unenforceable, for any reason, such decision shall not affect the remaining provisions of this section.

**Section 7. Effective Date.**

This local law shall become effective immediately upon filing with the Secretary of State.

# Congers Hamlet Center - Proposed Boundary



Source: Rockland County Planning Department, GIS/Planning, 2008/2009. Provided by: Congers Hamlet Center, June 8, 2011. All rights reserved. No warranty is made for the accuracy of this data or the map. The map is for general informational purposes only and should not be used for engineering or other specific purposes.



1:5,610

# Nanuet Hamlet Center - Proposed Boundary



Source: Resident County Planning Department, Q18 Spring 2007 Aerial  
 Provided by: Chatham County Planning Department, May 14, 2018  
 Note: Public information. The Town of Chatham makes no warranty, express or implied, as to the accuracy of this data information. It is provided "as is" and should not be used for engineering or other professional purposes.

Scale: 1" = 100'