

**BOROUGH OF NEW PROVIDENCE**  
**Ordinance No. 2019-07**

**AN ORDINANCE OF THE BOROUGH OF NEW PROVIDENCE AMENDING AND  
SUPPLEMENTING CERTAIN SECTIONS OF CHAPTER 310, ENTITLED “ZONING,” OF  
THE BOROUGH’S REVISED GENERAL CODE TO ESTABLISH AN OVERLAY ZONE  
OVER BLOCK 320 LOT 18.01 PERMITTING A CONTINUING CARE RETIREMENT  
COMMUNITY FACILITY**

WHEREAS, the Borough Council of the Borough of New Providence desires to foster development that provides continuing care to the senior population of the Borough, region, and State; and

WHEREAS, the Borough Council has determined that it is appropriate to place an overlay zone that permits the development of a Continuing Care Retirement Community over a portion of the Business Innovation Zone I (“TBI-1”), known as Block 320 Lot 18.01.

BE IT ORDAINED by the governing body of the Borough of New Providence, Union County, New Jersey, that the Zoning and Land Use Ordinance of the Borough of New Providence is hereby amended to establish the Continuing Care Retirement Community Overlay (CCRCO) Zone.

NOW, WHEREFORE, IT IS HEREBY ORDAINED by the Mayor and Borough Council of the Borough of New Providence as follows:

§ 310-7, entitled “Districts Established,” and § 310-8, entitled “Zoning Map,” is hereby amended to place the following parcels in the Continuing Care Retirement Community Overlay (“CCRCO”) Zone:

Block 320 Lot 18.01

§ 310-9.1, entitled “CCRCO Continuing Care Retirement Community Overlay Standards” is hereby created to read as follows:

**CCRCO Continuing Care Retirement Community Overlay**

- A. The purpose of the Continuing Care Retirement Community (CCRC) District, which covers Block 320, Lot 18.01 (comprising approximately 24.6 acres), is to (1) provide an overlay zone for the development of a continuing care retirement community, consisting of independent living units and health care units, and related facilities, and (2) specify all zoning requirements applicable to the development of a CCRC. This zone is an overlay zone, so that the uses permitted in the Technology and Business Innovation Zone I under Borough Ordinance No. 2011-15 are also permitted, in accordance with the terms of that ordinance. The intent of this overlay zone is to have the CCRC developed as a single entity. Should any Borough ordinance be in conflict or inconsistent with the standards contained in this Ordinance No. 2019-07, the terms of this Ordinance No. 2019-07 shall take precedence.

B. Definitions:

CONTINUING CARE RETIREMENT COMMUNITY (“CCRC”): A development of residential living units for residents who are sixty-two (62) years of age or older, or for couples, one of whom is at least sixty-two (62) years of age, that provides “continuing care” as defined in N.J.S.A. 52:27D-332.c.,

CONTINUING CARE RETIREMENT COMMUNITY ACCESSORY USES: Any use necessary for the operation of the CCRC facility or for the benefit or convenience of the residents, employees, and their guests, such as, but not limited to, kitchen and dining facilities, places of worship, indoor and outdoor recreational buildings and uses, retail and banking facilities, beauty salons and barber shops, gift shops, classrooms, security facilities, conference rooms, common areas, guest rooms, administrative offices, health and wellness center, medical offices, postal center, pharmacy, maintenance facilities, craft and music rooms, library and television room, and non-age restricted day care center for relatives of employees.

HEALTH CARE UNIT (“HCU”): shall consist of either:

(a) An assisted living unit or memory care unit, each of which is an apartment configured for those needing assisted living or memory care, and (i) designed to house 1 or 2 related or unrelated individuals, and (ii) having an entrance door opening onto an interior corridor, which is a common area; or

(b) A skilled nursing room substantially similar to a room in a nursing home, where the CCRC provides health care under medical supervision and continuous nursing care for residents who do not require the degree of care and treatment which a hospital provides, and (i) designed to house 1 or 2 related or unrelated individuals requiring nursing or rehabilitation care, and (ii) having an entrance door opening onto an interior corridor which is a common area.

INDEPENDENT LIVING UNIT (“ILU”): A self-contained apartment with full kitchen facilities and private bath comprising an independent self-contained dwelling unit (i) designed to house individuals not needing assisted living services, memory care, rehabilitation care, or nursing care, and (ii) having an entrance door opening onto an interior corridor.

C. Principal permitted use: A Continuing Care Retirement Community

D. Permitted accessory uses:

1. Continuing Care Retirement Community Accessory Uses
2. Off-street parking and loading, including garages and structured parking above and below grade
3. Signs
4. Uses customarily incidental to the principal use

E. The following bulk standards shall apply:

1. Minimum Lot Area: 20 Acres
2. Minimum Lot Width: 300 feet
3. Minimum Yard Requirements:
  - a. From Mountain Avenue: 100 feet
  - b. From Southgate Road: 100 feet
  - c. From Ryder Way: 100 feet
  - d. From existing R-1 Zone boundary, along the northerly rear lot line of Block 320 Lot 18.01: 200 feet

There shall be no setback requirement along the boundary line of any adjacent CCRC development

4. Maximum Building Height:
  - a. Principal structure:
    - i. Maximum of 6 stories (exclusive of up to two (2) partial building levels below the six (6) stories of the structure, and a building level shall be deemed to be a partial building level, and not a story, if (x) it contains no more than 40% of the floor area of the footprint of the building of which it is a part, (y) no more than two of its elevations are exposed, i.e., visible from the exterior, and (z) none of the exposed elevations face Mountain Avenue); and
    - ii. Maximum height of 80 feet measured to the highest point of the roof, and from the finished floor elevation immediately above the highest partial building level.
  - b. Detached Accessory structure: 15 feet
5. Maximum building length: 200 feet; provided a building can be up to 340 feet in length if a parking deck is included in the calculations.

Attached structures separated by a firewall are deemed to be separate buildings.
6. Maximum Building Coverage: 40%
7. Maximum Improved Lot Coverage: 60%
8. Density: 17 units per acre, subject to the provisions set forth in Section E.9, below, and with the number of units being calculated in the following manner:

- a. Each ILU shall be considered to be one unit.
- b. Each HCU shall be considered to be one-third (1/3) of a unit.

9. Increased Density:

The developer may elect to develop up to, but not greater than, 24 units per acre, in accordance with the method of calculation set forth above in Section E.8.a and b; however, in addition to the Non-Residential Development Fee, as set forth in N.J.S.A. 40:55D-8.3, et. seq., the developer shall pay an additional Three Thousand Dollars (\$3,000.00) for each ILU over 17 units per acre and an Additional Development Fee of One Thousand Dollars (\$1,000.00) for each HCU over 17 units per acre, as set forth more particularly below in this Section E.9 (collectively, the “Additional Fee”) into the Borough’s Affordable Housing Trust Fund. One half of the payment of the Additional Fee shall be due at the time of the application for the building permit, and the balance shall be due prior to the issuance of the certificate of occupancy. The computation of density over which the Additional Fee becomes payable, and payment of the Additional Fee, shall be in accordance with the following provisions:

- a. Threshold Density. First, one shall compute the number of units over which the Additional Payment becomes due (the “Threshold Density”). Assuming that total area of the subject property is 24.6 acres, the Threshold Density shall be 418 units (= 17 units/acre x 24.6 acres).
- b. Counting of Units. Second, the number of units is then computed as the CCRC development proceeds, with each ILU counting as one unit, and each HCU counting as 1/3 of a unit.
- c. Payments of Additional Fee. After the Threshold Density is reached, then:
  - i. For each ILU thereafter constructed, an Additional Fee of Three Thousand Dollars (\$3,000) shall be paid (i.e., \$1,500 prior to building permit and \$1,500 prior to certificate of occupancy) since, as set forth above, each ILU is the equivalent of one unit for which the Additional Fee is payable.
  - ii. For each HCU thereafter constructed, an Additional Fee of One Thousand Dollars (\$1,000) per HCU shall be paid (i.e., \$500 for each HCU prior to building permit and \$500 for each HCU prior to certificate of occupancy) since, as set forth above, each HCU is the equivalent of one-third (1/3) of a unit for which the Additional Fee is payable.
- d. Examples: The following examples assume total acreage of 24.6 acres and build-out of 540 ILU's and 108 HCU's.
  - i. Example 1 – Calculation of Permitted Density. The 540 ILU's and 108 HCU's constitute, in accordance with Section E.8, a total of 576 units for purposes of calculating permitted density (576 units = 540 ILU's + (108 HCU's/3)). At a

maximum density of 24 units/acre, the total number of permitted units, based on assumed acreage of 24.6 acres, is 590 (=24 units/acre x 24.6 acres). Therefore, the 540 ILU's and 108 HCU's are permitted, as they represent 576 units, i.e., less than the 590.

- ii. Example 2 – Calculation of Additional Fee. If 108 HCU's are first built, then since they each count as 1/3 of a unit, they will be treated as 36 units (=108/3). Therefore, the Threshold Density of 418 units will be reached upon construction of 382 ILU's (= 418 – 36). Thereafter, when an additional 158 ILU's are constructed, for the above total of 540 (= 382 + 158), the Additional Fee of \$3,000/ILU shall be paid for each of said 158 ILU's in excess of the Threshold Density, for a total Additional Fee of \$474,000 (= 158 ILU's x \$3,000/ILU), all payable at one-half prior to building permit and one-half prior to certificate of occupancy.
- iii. Example 3 – Calculation of Additional Fee. If 418 ILU's are initially constructed, then the Threshold Density of 418 units will have been reached. If thereafter, 108 HCU's are built, an Additional Fee of \$1,000/HCU shall be paid for each of said 108 HCU's, i.e., an Additional Fee of \$108,000. And if thereafter, 122 ILU's are constructed, bringing the total to 540 ILU's (= 418 + 122), then an Additional Fee of \$3,000/ILU shall be paid for each of said 122 ILU's, i.e., an Additional Fee of \$366,000 (= 122 ILU's x \$3,000/ILU), for a total Additional Fee of \$474,000 (= \$108,000 + \$366,000), all payable at one-half prior to building permit and one-half prior to certificate of occupancy.
- iv. Example 4 – Maximum Additional Fee. If 540 ILU's and 108 HCU's are constructed on 24.6 acres, then the maximum, total Additional Fee shall be Four Hundred Seventy-Four Thousand Dollars (\$474,000) computed as follows:

$$\begin{aligned}
 & (540 \text{ ILU's} + (108 \text{ HCU's}/3) - 418) \times \$3,000 = \\
 & (540 + 36 - 418) \times \$3,000 = \\
 & 158 \times \$3,000 = \$474,000
 \end{aligned}$$

F. Parking:

- 1. Size requirements:
  - a. Minimum parking space size: 9 feet x 18 feet
  - b. Minimum two-way traffic aisle width: 24 feet
- 2. The minimum number of parking spaces for the entirety of a CCRC, including for all of its visitors and employees, and all of its components (such as physical rehabilitation facilities, business and medical offices, and dining spaces) shall be based only on the following ratios:
  - a. Parking for the ILU's within the CCRC development shall comply with Table 4.4 in the Residential Site Improvement Standards, N.J.A.C. 5:21-1.1, et seq. ("RSIS"), at 1.3 parking spaces per ILU where the number of bedrooms

per unit is not shown on the site plan, N.J.A.C. 5:21-4.14; and

b. Parking for the HCU's shall be governed by the Nursing Home requirement in Borough Ordinance 2013-11 (1 parking space for each 2 beds), all subject to such relief as may be granted under RSIS, including de minimis relief under N.J.A.C. 5:21-3.1, and under the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq.

3. Setback: parking shall be allowed in any yard, subject to a 70-foot setback requirement.

G. Fences: Fences shall conform to the Borough's fence ordinance, found in Article V of Chapter 310, except that fences eight (8) feet in height shall be permitted around the memory care center, and all fences shall be located outside of the required front, side, and rear yard setback areas, except as otherwise required by law.

H. Additional Zone Standards:

1. Principal Buildings: multiple principal buildings shall be allowed on a single lot.

2. Except for stormwater management facilities, utilities, street lighting, and signage (including related signage lighting), accessory structures shall abide by all setback requirements as established herein.

3. To the extent feasible, existing forested areas within required setbacks shall be maintained.

4. Any access points to the CCRC development (tract) from Southgate Road, north of Ryder Way would be designated as emergency access only.

5. Generators shall be required to provide back-up electric service to the following life safety improvements in common areas: Elevators, fire alarms, egress/access control doors, egress lighting, eyewash station lighting, and mechanical room lighting.

6. The provisions of the Borough's steep slopes ordinance do not apply.

I. Signs: The signage provisions of Section "L" of Ordinance No. 2011-20 governing Commercial and Industrial districts shall be applicable to the CCRC district. One freestanding monument sign shall be permitted at each entrance to the CCRC, other than any entrance limited to emergency vehicles.

J. Design Standards

Except as expressly provided below in subsection "F" (Sustainable Building Design Guidelines), any deviation from the following standards shall trigger waiver relief.

a. Landscaping.

i. Any landscaping which, within 2 years of planting dies for any reason, shall be replaced by the developer(s) at their expense by way of written agreement.

- ii. Street trees shall be planted 40 to 50 feet apart along all internal streets/roadways.
  - iii. Street trees shall be at least 2.5 inch caliper at planting and adhere to the American Standards for Nursery Stock.
  - iv. All areas not occupied by buildings, roadways, parking areas, patios, walkways, and/or any other impervious surface shall be adequately landscaped.
  - v. A minimum of 1 tree per 20 surface parking spaces shall be planted around the perimeter of, or adjacent to, the outdoor surface parking areas.
  - vi. No landscaping at any location shall interfere with sight triangles.
- b. Exterior Lighting.
- i. Exterior lighting fixtures shall not create excessive glare or light levels or direct light onto neighboring buildings or properties.
  - ii. All building entrances shall be illuminated by exterior lighting.
  - iii. Site lighting: Light fixtures shall not exceed 20 feet in height and shall be equipped with LED bulbs. Such fixtures shall provide for precision lighting to minimize any overflow lighting or intrusion.
- c. Circulation.
- i. The development of the tract shall take into consideration both the vehicular and pedestrian movement of the site in accordance with RSIS standards.
  - ii. Sidewalks shall have a minimum clearance of 4 feet in width. Sidewalk clearance must not be less than the minimum levels set by the Americans with Disabilities Act.
  - iii. All intersections shall contain handicapped accessible ramps.
  - iv. All intersections shall contain crosswalks.
  - v. All crosswalks shall be a minimum of 5 feet in width.
- d. Utilities.
- i. Utilities shall be screened as reasonably as possible.
  - ii. Meters and access panels shall be integrated with street and building design.
  - iii. Transformers and primary and back-up generators shall be screened.
- e. Refuse and Recycling.
- i. No refuse and recycling storage and collection areas shall be permitted between the front of a building and a public right-of-way.

- ii. All outside refuse and recycling storage areas shall conform to the building setbacks and buffer areas as established herein.
  - iii. Outdoor refuse and recycling containers shall be screened with a durable enclosure, so as to not be visible from public rights-of-way or adjacent residential zones. Landscaping and/or fencing may be used as additional screening measures.
  - iv. Refuse and recycling areas shall be designed to appropriately contain all refuse generated on site.
  - v. There shall be clear and unobstructed access to all refuse and recycling areas for collection vehicles.
- f. Sustainable Building Design Guidelines

The following guidelines provide opportunities to improve building efficiency and sustainability, and are provided for an applicant's strong consideration, but deviation from the following guidelines does not require waiver, exception or variance relief.

- i. Energy Star appliances shall be utilized.
- ii. Where possible, windows should be oriented to the south.
- iii. Utilize high-performance glazing to reduce heat gain while admitting light.
- iv. Provide shading devices, such as roof overhangs, controllable shades, etc.
- v. Use deciduous landscaping to shade the summer sun and maximize heating from winter sun.
- vi. Ensure that insulation is properly rated.
- vii. Install high-efficiency HVAC systems.
- viii. Incorporate thermal mass construction.
- ix. Install fully shielded and cutoff light fixtures that are compatible with dark skies guidelines.
- x. Utilize programable switches, sensors or timers to adjust lighting levels for different times of day, and to reduce energy consumption.
- xi. Install lighting fixtures that utilize LED bulbs or similar efficient models.
- xii. Use roofs of lighter shades or utilize reflective surface finishing.



Part III Article IV §310-10, entitled “Schedules” is hereby amended to include the newly established CCRC Continuing Care Retirement Community Overlay Zone as set forth below:

**SCHEDULE I**  
**PERMITTED USES**

**CCRCO Continuing Care Retirement Community Overlay Zone**

Permitted Principal Uses	A Continuing Care Retirement Community
Principal Accessory Uses	Continuing Care Retirement Community Accessory Uses Off-Street parking and loading, including garages and structured parking above and below grade. Uses customarily incidental to the principal use.

**SCHEDULE II**  
**LOT AND YARD REQUIREMENTS**

**CCRCO Continuing Care Retirement Community Overlay Zone**

Minimum Lot Area	20 Acres
Minimum Lot Width	300 feet
Minimum Yard Requirements:	
From Mountain Avenue	100 feet
From Southgate Road	100 feet
From Ryder Way	100 feet
From existing R-1 Zone boundary, along the northerly rear lot line of Block 320 Lot 18.01	200 feet
	There shall be no setback requirement along the boundary line of any adjacent CCRC development

**SCHEDULE II**  
**COVERAGE AND LIVING AREA REQUIREMENTS**

**CCRCO Continuing Care Retirement Community Overlay Zone**

Maximum Building Height Principal Building	6 stories / 80 feet measured to the highest point of the roof, and from the finished floor elevation immediately above the highest partial building level
Accessory Structure	15 feet
Lot Coverage	40%
Maximum Improved Lot Coverage	60%
Maximum Density	17 units per acre, subject to the provisions set forth in 310-9.1
Increased Density	Up to 24 units per acre, subject to the provisions set forth in 310-9.1

**REPEALER**

All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

**SEVERABILITY**

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**EFFECTIVE DATE**

This ordinance shall take effect upon passage and publication as provided by law.

Introduced: August 12, 2019  
Public Hearing: September 9, 2019  
Adopted: September 9, 2019

BOROUGH OF NEW PROVIDENCE  
COUNTY OF UNION  
STATE OF NEW JERSEY

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Allen B. Morgan, Mayor

Attest:

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Wendi B. Barry, Borough Clerk

Exhibit A  
Zoning Map