

**AN ORDINANCE CLARIFYING THE USES
IN THE R-A AND R-B ZONING DISTRICT
AND FURTHER AMENDING THE "CODE OF
THE TOWNSHIP OF PRINCETON, NEW
JERSEY, 1968"**

WHEREAS, in 1996 the Township of Princeton ("Princeton") adopted a comprehensive ordinance, 96-18, concerning nursing homes and assisted living residences entitled "AN ORDINANCE CONCERNING THE AUTHORIZATION FOR NURSING HOMES AND ASSISTED LIVING RESIDENCES AS CONDITIONAL USES AND AMENDING THE CODE OF THE TOWNSHIP OF PRINCETON, NEW JERSEY, 1968"; and

WHEREAS, a portion of 96-18 was codified in Subdivision XIX of the Code of the Township of Princeton, New Jersey, 1968 ("Code"), entitled "Nursing Homes and Assisted Living Residences," as Sections 10B-272.40, 41, 42, 43, and 44; and

WHEREAS, Sec. 10B-272.43 specifically sets out the bulk regulations for nursing homes and assisted living residences as conditional uses in the R-T, S-2, OR-1, and OR-2 zoning districts only; and

WHEREAS, 96-18 included a subsection that modified Sec. 10B-320 of the Code, the table of conditional uses, to change category (h) of the table to read "nursing homes and assisted living facilities in accordance with Section 10B-272.40, et. seq.," and to add an asterisk (*) to the appropriate columns in the table to denote that nursing homes and assisted living residences are conditional uses in the R-T, S-2, OR-1, and OR-2 zoning districts but not in any portion of the R-T zoning district which is designated as R-SMO; and

WHEREAS, while the intention of 96-18 was to permit nursing homes and assisted living residences as conditional uses in the R-T, S-2, OR-1, and OR-2 zoning districts only, an error

was made in transcribing 96-18 to the conditional use table and an asterisk was incorrectly added to the column for the R-A and R-B zoning districts; and

WHEREAS, nursing homes and assisted living residences were never meant to be allowable uses - permitted, conditional, or otherwise - in the R-A and R-B zoning districts; and

WHEREAS, to clarify this discrepancy, Princeton adopted an ordinance, 2006-11, to remove the erroneous identification from the conditional use table but not to modify any underlying zoning; and

WHEREAS, 2006-11 was challenged and overturned by the Superior Court in Sheehan, et al. v. Township of Princeton, bearing the docket number MER-L-1530-06; and

WHEREAS, on October 18, 2007, the Regional Planning Board for Princeton Township adopted a Master Plan Reexamination Report pursuant to *N.J.S.A. 40:55D-89*, which recommended and clarified that assisted living facilities should not be conditional uses in either the R-A or R-B zoning districts because of the environmentally sensitive nature of the zones; and

WHEREAS, on July 30, 2008, the Zoning Amendment Review Committee for the Regional Planning Board of Princeton unanimously recommended that an ordinance be drafted to address the recommendation of the Master Plan Reexamination Report concerning the uses in the R-A and R-B zoning districts; and

WHEREAS, Princeton now is desirous of adopting an ordinance clarifying the uses in the R-A and R-B zoning districts in accordance with the recommendations of the Master Plan Reexamination Report; and

WHEREAS, the adoption of this ordinance furthers purposes e. and j. of the Municipal Land Use Law, *N.J.S.A. 40:55D-2(e)* and (j), by both establishing appropriate population

densities to preserve the environment and preventing the degradation of the environment through the improper use of land; and

WHEREAS, pursuant to *N.J.S.A.* 40:55D-62.1, personal notice of this ordinance is not required as the amendment to the Code is being made according to the specific recommendation of the Master Plan Reexamination Report;

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of the Princeton as follows:

1. Sec. 10B-256.1, Special provisions relating to the R-A and R-B districts, of the Code is amended to read as follows:

(c) Nursing homes and assisted living residences are prohibited in the R-A or R-B zoning districts.

2. Sec. 10B-272.40 of the Code is amended to read as follows:

Sec. 10B-272.40. Nursing homes and assisted living residences: Conditional use requirements: Prohibition in R-A and R-B zoning districts.

(k) Nursing homes and assisted living residences shall not be allowed as permitted or conditional uses in the R-A or R-B zoning districts.

3. Sec. 10B-320 of the Code, Table of conditional uses allowed by approval of planning board, is amended as follows:

(h) Nursing homes and assisted living residences in accordance with section 10B-272.40, et seq. Nursing homes and assisted living facilities are not permitted as a conditional use in any portion of the R-A or R-B zoning districts or in any portion of the R-T zoning district which is designated as R-SMO.

4. Severability. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, section, paragraph, sentence or clause is adjudged to be unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.
5. This Ordinance shall take effect upon its passage, publication and the filing of a copy of same with the Mercer County Planning Board, all of which is required by law.

I, Kathleen K. Brzezynski, Deputy Clerk of the Township of Princeton, County of Mercer, State of New Jersey, do hereby certify that the foregoing is a true copy of an ordinance adopted by Township Committee at its meeting held April 12, 2010.



Kathleen K. Brzezynski
Deputy Clerk