

**THE FOLLOWING IS A DETAILED DESCRIPTION OF PROPOSED CHANGES TO THE TOWN OF MAMAKATING ZONING LOCAL LAW, IN A FORMAT THAT SHOWS BOTH THE CURRENT CODE LANGUAGE AND THE PROPOSED REVISIONS. ONLY ARTICLES AND SECTIONS PROPOSED FOR CHANGE ARE SHOWN HEREAFTER.**

**UNDERLINED TEXT IS PROPOSED FOR ADDITION.**

**STRUCK THROUGH TEXT IS PROPOSED FOR DELETION.**

Town of Mamakating, NY

Chapter 199. Zoning

Article I. General Provisions

§ 199-4. Zoning Map.

The location and boundaries of said districts are hereby established as shown on the Zoning Map of the Town of Mamakating, as revised, which is attached hereto and is hereby made a part of this chapter.[1] Said map or maps and all notations, references and designations shown thereon shall be a part of this chapter as if the same were all fully described and set forth herein.

**[SEE PROPOSED ZONING MAP]**

§ 199-5. Interpretation of boundaries.

A. The zoning district boundary lines are intended generally to follow the center lines of rights-of-way, existing lot lines, the mean water level of rivers, streams and other waterways or Town boundary lines, or to follow a straight line connection of corners or endpoints of the above features or to follow along a parallel path from such features at a set distance, all as shown on the official Zoning Map, ~~but where~~ a district boundary line does not clearly follow such a line/features, its position ~~is shown on said Zoning Map by a~~ shall be determined by the Building Inspector upon measurement of the official zoning map specific dimension expressing its distance in feet from a street line or other boundary line as indicated.

B. In cases of uncertainty as to the true location of a district boundary line in a particular instance, the Building Inspector shall request the Zoning Board of Appeals to render its determination with respect thereto.

C. In all cases where a district boundary divides a lot in one ownership, the lot is five acres or less and more than 50% of the area of such lot lies in the less restricted district, the regulations prescribed in this chapter for the less restricted district may apply to such portion of the more restricted portion of said lot upon the discretion of the property owner. For purposes of this subsection, the "more restricted district" shall be the district which is subject to regulations which prohibit the use intended to be made

of the lot or which regulations are more restrictive with respect to lot area, development coverage, landscaping requirements, etc. For lots that are more than five acres in size, each portion of the lot shall conform to the applicable district in which it is located. A district boundary shall not be construed to subdivide a property.

§ 199-6. Word usage and definitions.

A. Words used in the present tense include the future; the singular number shall include the plural, and the plural the singular; the word "structure" shall include the word "building"; the word "used" shall include "arranged," "designed," "constructed," "altered," "converted," "rented," "leased," or "intended to be used"; and the word "shall" is mandatory and not optional. Words not specifically defined shall have their ordinary dictionary meanings.

B. Unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of this chapter:

**[ONLY CHANGED DEFINITIONS LISTED]**

PUBLIC WATER OR PUBLIC SEWER

~~Sewage disposal and water supply systems approved by the Town Board as acceptable for municipal operation.~~

TOWN-ENDORSED SEWER SYSTEM OR WATER SYSTEM;

A central sewage collection and treatment works or central water supply system owned by the Town of Mamakating, or owned by another municipality and endorsed by the Town of Mamakating Town Board upon advice of its Town Engineer, that the system and works are designed and constructed to provide the level of sewage treatment and water quality required to safeguard the Town's residents and ecosystems and that adequate funding mechanisms and maintenance mechanisms are in place to guarantee the continued operation and maintenance in perpetuity, all in accordance with applicable State, County and Town standards.

Article II. District Provisions

§199-8.2 Residential density based on utilities.

A. Purpose: The Town of Mamakating finds that: (i) sewage collection systems, sewage treatment plants and central water systems constructed or funded by private developers tend to utilize the least expensive equipment and processes with prioritization to construction cost over end-user cost and longevity; (ii) most sewage collection systems and treatment plants and central water systems have limited operational lifespans with significant end-of-life costs; (iii) DEC is continuously refining permit standards, making older infrastructure obsolete; (iv) the ability for small enclaves of residences to afford on-going maintenance, compliance and end-of-life replacement/rehabilitation is extremely limited, often causing municipalities to eventually take over such private systems; (v) the receiving waters of the Basha Kill and Walkill River support a complex ecosystem of wetland and upland habitat; (vi) small

private package plants are rarely designed to meet the DEC's highest standards for tertiary treatment and have the potential to impact these ecosystems to a greater extent than lower-density development with subsurface disposal systems or larger municipal plants with tertiary treatment; (vii) only a municipally-owned plant subject to the acceptance by the Town of Mamakating can guarantee the on-going effectiveness and cost-feasibility of central sewer and water systems, thereby safeguarding the health, safety and general welfare of the Town's natural resources, Town residents and downstream neighbors.

B. Throughout this zoning law, the permissible density of year-round occupancy residential uses as established by minimum lot size or number of permissible units per acre for a given residential use varies based on the provision of central water and sewer service. It is acknowledged that such year-round residences depend on the availability of such services and there is little recourse for the Town to require residents to relocate or vacate individual residences in the event that such central utilities cease to operate adequately nor is there a mechanism by which the Town may effectively require a utility system owned by other entities to be repaired to adequate operational status in a timely manner to prevent harm to the Town's residents and natural resources.

C. In any zoning district where a higher density is permitted if a central water system or sewer system is provided, such system must be a Town-endorsed sewer system or water system. The foregoing requirement shall supersede any conflicting or inconsistent provision in the Town Code.

D. Other central water and sewer utilities, whether privately-owned or publicly-owned but not endorsed by the Town of Mamakating, may be used to provide service to residences so long as they meet all applicable State, County and Town standards. However the permitted density for year-round occupancy residences shall not be greater than that which would be permitted by the provision of individual well and subsurface waste disposal systems.

### Article III. Supplementary Bulk Regulations

#### § 199-9. Lot regulations.

A. Lot frontage. The minimum lot frontage of any lot shall be measured along the street line as required for the district in which it is located. The minimum lot frontage shall be 50 feet on a Town road, 75 feet on a county road, and 100 feet on a state road. For lots fronting on culs-de-sac or on a street with a radius of curvature at the center line of 100 feet or less, or in other appropriate circumstances, the lot frontage may be reduced by the Planning Board at the time of subdivision plat or site plan approval to no less than one-half of the required lot width; provided, however, that it shall not be less than the requirements for town, county and state roads provided above. No portion of the lot width shall be less than the approved lot frontage. Any driveway access to a lot shall be provided from the front lot line.

B. Corner lots. At all street intersections, no obstruction to vision (other than an existing building, post, column or tree) exceeding 30 inches in height above the established grade of the street at the property line which is a hazard to vehicular movement shall be erected or maintained on any lot within the triangle formed by the street lot lines of such lot and a line drawn between points along such street lot lines 30 feet distant from their points of intersection (see attached sketch).[1]

[1] Editor's Note: See Sketch A, included at the end of this chapter.

C. Required area or space cannot be reduced. The area or dimension of any lot, yard, parking area or other space shall not be reduced to less than the minimum required by this chapter, and, if already less than the minimum required by this chapter, said area or dimension may be continued and shall not be further reduced.

D. Minimum lot size for all uses. Where unusual subsoil or geological conditions are found to exist at a particular location, the Planning Board may require ~~lots proposed~~ to be developed with ~~private water individual wells and septic systems supply and sewage disposal systems or private sewage disposal systems may require to provide~~ larger lot sizes and widths ~~than are specified because of unusual subsoil or geological conditions found to exist on the particular location in question.~~ In such cases, the Planning Board may require that the minimum lot area and lot width otherwise required ~~shall~~ be increased ~~where to the extent~~ necessary to ~~the extent required~~ to allow the proposed water and/or sewerage ~~installation facilities~~ to operate effectively in order to protect the public health, safety and welfare. Detailed plans for such ~~water and/or sewerage systems facilities~~ shall be prepared by a professional engineer and submitted to the ~~Building Inspector or~~ Town Engineer and approved by him before a building permit shall be issued or a subdivision or site plan approved. The suitability of the proposed systems shall conform to the standards of New York State Department of Health.

E. Through lot requirements. A through lot shall be considered as having two lot frontages, both of which shall be subject to the front yard requirements of this chapter. The location of accessory structures shall conform to the requirements contained in § 199-13.

F. Minimum Lot size requirements for average density (cluster development) in the BR, NR, HC, VC and TC Districts. These provisions shall apply to residential uses in these districts ~~as well as to any application for average density which may result in a minimum lot size of 40,000 square feet~~, which are not served by ~~either central-Town-endorsed central~~ water or ~~sewersewer systems~~.

(1) As part of an average-density subdivision, ~~the~~ minimum lot size in any district the BR, NR, HC, VC and TC Districts shall may be ~~lowered-reduced~~ by the Planning Board to the following specified minimum lot sizes as follows:

(a) The Planning Board ~~shall may~~ permit, subject to acceptable lot and road design, a reduction in the minimum lot area requirement to no less than that required to provide ~~, forty thousand square foot lots when private individual~~ water and subsurface waste disposal systems ~~are provided if the existing soil and ground characteristics of the site under review to~~ satisfy the following performance standards, but in no event to less than 40,000 square feet:

[1] Soil percolation and deep hole tests verify that sufficient and appropriate lands are available for a conventional subsurface sanitary sewage disposal system\* designed and constructed to serve a single-family residence and an additional area of not less than 50% of the area of the proposed conventional subsurface sanitary sewage disposal system ~~referred to above~~, which area is available and appropriate for the expansion of said system, if any, as shown by said tests, which additional area shall be reserved for the construction of additions to the system. The area proposed for the subsurface sanitary sewage

disposal system, including the reserve area, shall not exceed 10% in grade. [\*NOTE: "Conventional subsurface sanitary sewage disposal system" shall be defined ~~as described~~ under Paragraph 75-A.8 of Appendix 75-A of the New York State Codes, Rules and Regulations (10 NYCRR 75), last revised ~~April 1986~~ February 2010, or the most recent amendment.]

[2] Both the area for the conventional subsurface sanitary sewage disposal system and the additional reserved area shall be clearly delineated on any ~~map or plot plat~~ submitted to and approved by the Planning Board.

~~(2b)~~ Dwelling restriction. Any average density lot approved by the Planning Board ~~with a reduced~~ with a minimum lot size ~~of 40,000 square feet without central water or sewer pursuant to the provisions of this Subsection F~~ may not be used for ~~more than any use other than~~ one single-family dwelling and permitted accessory uses.

~~(3c)~~ Subdivision statement. On all average density subdivision plats ~~approved for minimum~~ showing lots ~~of 40,000 square feet with a reduced minimum lot size under pursuant to~~ the provisions of this Subsection F, the sub-divider will provide on the preliminary subdivision ~~plan plat~~ and final subdivision ~~plan plat~~ the following statement: "The minimum lot size in this subdivision ~~is are~~ in conformance with the minimum lot size required in the (applicable zoning district) as approved and modified by the Planning Board, in writing, on (date)."

#### **[NO FURTHER CHANGES THIS SECTION]**

§ 199-18. Planned resort community.

A. Intent. A planned resort community (PRC) is a mixed-use development planned as a single unit permitted by right in the Planned Resort Office (PRO) Zoning District. The PRC is intended to provide economic development within the community by creating a tourist destination on a large tract of land, compatible with the natural surroundings of the development's environs. These PRC regulations allow a range of residential, nonresidential, recreational and open space uses in accordance with performance criteria. A PRC is to be designed and organized so as to permit the site to function without necessarily requiring the supportive services of adjacent neighborhoods. This section encourages creativity and innovations in resort design and the protection of ecologically sensitive land.

B. Objectives. In order to carry out the intent of this section, a planned resort community shall achieve the following objectives. It shall:

(1) Promote economic development and encourage planned resort development in a manner that protects the rural character of the Town of Mamakating.

(2) Provide a mix of resort-related uses, including the residential, nonresidential, recreational and open space uses outlined in Schedule II,[1] in accordance with these regulations and with the site plan regulations contained in this chapter.[2]

[1]Editor's Note: Schedule II is included at the end of this chapter.

[2]Editor's Note: See Art. IX, Site Development Plan Review.

(3) Provide accessory facilities normally associated with resort-related uses and as outlined in the accompanying PRC Use Table within the site where appropriate, subject to these regulations and this chapter.

(4) Protect and enhance the economic vitality of the Village of Wurtsboro, the Village of Bloomingburg, and the hamlets in the Town of Mamakating by ensuring that the proposed uses in the planned resort community are compatible with, and not necessarily in direct competition with, the uses permitted in the villages and hamlets.

(5) To the maximum extent practicable, preserve water bodies, wetlands, steep slopes, hilltops, ridgelines, major stands of trees, outstanding natural topography, significant geological features, and other areas of scenic and ecological value.

(6) Prevent soil erosion and minimize flood hazards.

(7) Permit the innovative and staged development of land which allows for an orderly transition of land from vacant to occupied use.

(8) Allow the development of an appropriate mix of uses in a manner that protects the town's fiscal base at all stages of the PRC's build out.

C. Approvals required. Whenever any planned resort community is proposed, and before any permits for the use of land or erection of a building or structure in such development shall be granted, the developer or his authorized agent shall apply for and obtain site plan approval from the Town Planning Board.

D. Uses allowed in a PRC. All uses listed in Schedule II are permitted uses within a PRC.

E. General design standards for planned resort community. The PRC shall meet the following general design standards:

(1) Location of planned resort community within the PRO District. A PRC is allowed in the PRO District subject to the bulk requirements for the individual uses as set forth in Schedule II.

(2) Minimum area. The minimum area necessary to qualify for a PRC shall be 400 contiguous acres of land. For purposes of these provisions, property in the same ownership but separated only by a road or utility easement shall be deemed to be contiguous; however, property separated by other lands not in the same ownership shall be deemed to be noncontiguous. As a result of the large minimum lot requirement for a PRC, and the special requirements contained herein, § 199-35, Environmental constraints, of this chapter shall not apply.

(3) Maximum density.

(a) Year-round occupancy: dwelling units. The maximum density for a PRC ~~is one dwelling unit per one gross acre of the PRC tract~~ shall be no greater than the maximum density permitted for single-family

detached dwellings in the PRO district. The PRC is a use primarily intended to accommodate nonresidential resort-type facilities that promote economic development. To meet this objective, no more than 35% of the gross-net acreage after deduction of environmental constraints pursuant to §199-35 shall be used to calculate the residential density for dwelling units suited for year-round dwelling units occupancy. The applicant shall first calculate the total number of year-round dwelling units. The remaining acreage may be used to calculate the maximum number of guest units for the PRC. The Planning Board may further restrict the year-round occupancy density to ensure that all year-round occupancy dwelling units that are to be served jointly with the resort by private water or private wastewater treatment systems have adequate lot area to allow for lawful and fully compliant installation of individual well and septic systems, including consideration of soils, slopes, all applicable standards and the requirements of construction and access.

(b) Transient occupancy: guest units. After the net acreage used to calculate year-round occupancy dwelling units is subtracted from the total-gross-net acreage of the PRC parcel, the maximum number of guest units shall be established from the remaining-net acreage of the PRC parcel after deduction of environmental constraints pursuant to §199-35, and using the following sliding scale:

<u>Remaining Acreage After Acreage for Year-Round Dwellings Is Subtracted from Total Parcel Size</u>	
Guest Unit Density	
First 1 to 300 acres	5 guest units/acre
Each acre over first 300 acres	6 guest units/acre

(c) A guest unit is a lodging unit, motel unit, condo-hotel unit, bungalow unit, villa unit or similar tourist accommodation unit which is attached to a similar unit by a party wall, designed and maintained for transient occupancy only. The Planning Board shall have the authority to impose conditions to ensure that guest units maintain their transient nature, including conditions on the design of the guest units, e.g., limitations on use of kitchens and kitchenettes, washers and dryers, limitations on the duration of visitor stays, maintenance of visitor guest books, the filing of covenants and restrictions, and similar conditions.

(4) Maximum development coverage. Maximum development coverage shall not exceed 25% of the entire site.

(5) Ownership. The tract of land proposed for a PRC development may have one or more owners, and every application shall require the written consent of all individuals, firms, associations, syndicates, partnerships, or corporations with proprietary interest in the affected land, authorizing the applicant to act on behalf of the owner or owners in connection with all matters pertaining to the PRC application. In the case of multiple ownership, a plan once approved shall be binding on all owners, their successors and assigns.

(6) Utilities. A planned resort community shall be served by central water and central wastewater treatment systems. Central water systems shall be constructed in accordance with standards and specifications as required by the New York State Department of Health and other applicable agencies, and central wastewater treatment systems shall be constructed in accordance with standards and

specifications as required by the New York State Department of Environmental Conservation and other applicable agencies or standards and specifications promulgated by the Town of Mamakating, ~~whichever are more protective of the environment~~. In developing utilities to service the proposed PRC, the applicant shall consider the infrastructure needs of adjoining neighborhoods and shall explore methods to develop a Town-endorsed system that accommodates the needs of adjoining neighborhoods. The applicant shall comply with the Town of Mamakating procedures and standards for establishment or extension of a municipal-Town water and/or wastewater treatment district should the proposed project require establishment or extension of a municipal district. Gray water systems and water-saving devices shall be used to the maximum extent to limit water consumption. In the event that a Town-endorsed water and Town-endorsed sewer system are not provided, year-round occupancy units that will or may be owned separately from the ownership of the overall resort must be located on individual separate lots of adequate lot size and arrangement to accommodate the lawful and fully compliant installation of well and septic systems in the event that operation of any shared private utilities of the resort cease to properly operate. The sizing and arrangement of such individual lots shall consider soils, slopes all applicable standards, and the requirements of construction and access.

**[NO FURTHER CHANGES THIS SECTION]**

§ 199-19. Supplemental use regulations for the RVP District.

A. Intent. Given the historic resort use of lands in proximity to New York State Route 17, areas of the RVP Zoning District are suited for limited mixed-use resort development. Use of these areas for limited mixed-use resort development will provide economic development activities consistent with the goals and objectives of the Town of Mamakating Comprehensive Master Plan for Conservation and Development.

B. General design standards. The following standards are set forth to provide a balanced approach for continued use of a limited portion of the Shawangunk Ridge for a mix of resort-type uses while maintaining the visual integrity of this area of the town.

(1) Location. Development of mixed-use resorts shall only be permitted on properties within the RVP District which properties or portions thereof are located within 2,000 feet of an existing entrance and/or exit to New York State Route 17.

(2) Permitted uses. A limited mixed-use resort development consists of, at a minimum, a building or buildings used for guest overnight accommodations and recreational uses, including a golf course (subject to the design requirements contained in 199-26I), cross-country ski trails, horse and hiking trails, tennis and paddle ball courts, basketball courts, indoor or outdoor swimming pool and clubhouse. A limited mixed-use resort development may also include resort-related single-family detached structures or single-family attached (townhome) units subject to the design requirements contained in 199-26N(5)(a). The following uses are allowed accessory to the resort hotel, provided said uses are incorporated into the principal resort building: rooms for meetings and conferences, dining rooms, indoor fitness center, and administrative offices. Ancillary retail uses are permitted, provided they are limited to use by resort guests and the space for said uses is incorporated into the principal resort

building. The Planning Board may limit the size and hours of operation of accessory uses to ensure conformity with the intent of these regulations.

(3) Ownership. The tract of land proposed for mixed-use resort development within the stated location may have one or more owners, and every application shall require the written consent of all individuals, firms, associations, syndicates, partnerships, or corporations with proprietary interest in the affected land, authorizing the applicant to act on behalf of the owner or owners in connection with all matters pertaining to the site plan application. In the case of multiple ownership, a plan once approved shall be binding on all owners, their successors and assigns.

(4) Utilities. Mixed-use resort projects located within the stated area shall be served by central water and central wastewater treatment systems. Central water systems shall be constructed in accordance with standards and specifications as required by the New York State Department of Health, and central wastewater treatment systems shall be constructed in accordance with standards and specifications as required by the New York State Department of Environmental Conservation or standards and specifications promulgated by the Town of Mamakating, whichever are more protective of the environment. In developing utilities to service the proposed mixed-use resort, the applicant shall consider the infrastructure needs of adjoining neighborhoods and shall explore methods to develop a [Town-endorsed](#) system that accommodates the needs of adjoining neighborhoods. The applicant shall comply with the Town of Mamakating procedures for establishment or extension of a municipal water and/or wastewater treatment district should the proposed project require establishment or extension of a municipal district. Gray water systems and water-saving devices shall be used to the maximum extent to limit water consumption. [In the event that a Town-endorsed water and Town-endorsed sewer system are not provided, year-round occupancy units that will or may be owned separately from the ownership of the overall resort must be located on individual separate lots of adequate lot size and arrangement to accommodate the lawfully compliant installation of individual well and septic systems in the event that shared private utilities of the resort cease to properly operate. The sizing and arrangement of such individual lots shall consider soils, slopes, all applicable standards, and the requirements of construction and access.](#)

(5) Minimum lot area. The minimum lot area for development of mixed-use resorts shall be 200 contiguous acres. For purposes of these provisions, property in the same ownership but separated only by a road or utility easement shall be deemed to be contiguous; however, property separated by other lands not in the same ownership shall be deemed to be noncontiguous. As a result of the large minimum lot [area](#) requirement stated above, and the special requirements contained herein, § 199-35, Environmental constraints, of this chapter shall not apply [in the limited purpose of meeting the minimum lot area, but shall apply in determining maximum density and for any other purpose.](#)

(6) Maximum density.

(a) Year-round occupancy: dwelling units. The maximum density for a mixed-use resort is one dwelling unit per ~~one 7.5 gross-net~~ [acres after deduction of environmental constraints pursuant to § 199-35](#). No more than 50% of the [gross-net](#) acreage shall be used to calculate the residential density for [dwelling units suited for](#) year-round [dwelling units occupancy](#). The applicant shall first calculate the total number

of year-round dwelling units. The remaining acreage may be used to calculate the maximum number of guest units for the mixed-use resort.

(b) Transient occupancy: guest units. After the acreage used to calculate year-round occupancy is subtracted from the total gross-net acreage of the parcel, the maximum number of guest units shall be established. ~~Each G~~guest units, ~~lodging unit, each motel unit, each condo-hotel unit, and each hotel unit or similar tourist accommodation unit which is attached to a similar unit by a party wall, each accommodation unit or similar structure for rent~~ shall be permitted at a density of four-one guest units per net acre after deduction of environmental constraints pursuant to §199-35 ~~and shall be designed and maintained for transient occupancy only.~~

(c) A guest unit is a lodging unit, motel unit, condo-hotel unit, bungalow unit, villa unit or similar tourist accommodation unit ~~which is attached to a similar unit by a party wall~~, designed and maintained for transient occupancy only. The Planning Board shall have the authority to impose conditions to ensure that guest units maintain their transient nature, including conditions on the design of the guest units, e.g., limitations on use of kitchens and kitchenettes, washers and dryers, limitations on the duration of visitor stays, maintenance of visitor guest books, the filing of covenants and restrictions, and similar conditions.

(7) Maximum development coverage. Maximum development coverage shall not exceed 25% of the entire site.

(8) Maximum development height. The maximum height for building and structures within the stated location shall be as follows:

(a) Forty feet for resort conference centers, lodging facilities, condo-hotels, hotels and motels.

(b) Thirty feet for all other uses, including residential dwellings.

(9) Optional increase in development height. The Town Planning Board may approve an increase in maximum development height for resort conference centers, lodging facilities, condo-hotels, hotels and motels of up to eight stories not to exceed 80 feet.

(a) The Planning Board, in its deliberations, shall determine that said increase shall have the following benefits:

[1] The architecture of any proposed buildings that are permitted an increase in development height shall be of superior visual quality and its design compatible with the surrounding rural and rustic character of the ridgeline and its environs.

[2] The resulting design reduces overall disturbance to the project site, especially in areas where sensitive ecological habitat has been documented.

(b) The following information shall be submitted by the applicant to assist the Planning Board in its decision making:

[1] A zone of visibility map shall be provided in order to determine locations from which the building may be seen.

[2] A computerized, three-dimensional visual simulation of the proposed structures and/or buildings which are expected to exceed 40 feet in height. Visual simulations and other appropriate graphics shall be provided illustrating views from key viewpoints within the Town and its villages, including but not limited to state highways and other major roads, state and local parks, other public lands, preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors or travelers. The Planning Board shall determine the appropriate key locations from which visual simulations prior to their preparation.

[3] An architectural rendering of each elevation of the structures and/or buildings which are projected to exceed the forty-foot height limit. The renderings and other support information shall demonstrate how the structures and/or buildings will be compatible with the surrounding character of the natural and built environment.

[4] A description and illustrative representation of the site disturbance and amount of clearing associated with the proposed development.

[5] Such other information as the Board shall request from time to time.

(c) Design. The Planning Board, in its decision making, shall utilize the following general design principles:

[1] Windows. Ribbon glass is not permitted. Windows shall incorporate shutters, bracketed tops, entablatures or pediments, keystone or flat lintels, multi-paned glazing, and other decorative elements to provide visual interest and break up any monotony of the building facade.

[2] Building facade. The building facade shall incorporate varied materials to provide texture and visual interest. Decorative details which use wood, timbers, stone, brick, and similar natural materials shall be incorporated into the design to provide a rural, rustic character to the building.

[3] Lighting. Exterior lighting above four stories shall be discouraged to limit impacts to the night sky. Windows shall include glazing which minimizes the window's illumination and impacts to the night sky.

[4] Building massing. The building's mass shall be varied, and the Planning Board may require alternating heights, square or round towers, rooftop cupolas, oriels, chimneys, building wings, and setbacks and breaks in the plane of building walls to achieve variations in building massing.

[5] Rooflines. In order to avoid a monotonous roofline, the roofline shall be varied using alternating roof pitches, a combination of side and front gables, dormers, decorative parapets, or other elaborations that achieve the same effect. Flat roofs are not permitted. Roofs shall use darker, earth tone colors to minimize visibility.

[6] Building color. The Planning Board may require that the building be designed with darker, earth tone colors to limit the visibility of the structure.

[7] Architecture. The Planning Board shall consider the building characteristics and features of Mohonk Mountain House as a model of rural or rustic character. Nothing herein, however, shall limit the Planning Board from approving other designs that similarly complement the rural and rustic character of the Town of Mamakating.

(10) Existing natural features, such as streams, rock outcrops, topsoil, trees and shrubs shall be preserved and incorporated in the landscaping of the development to the maximum extent practicable. Buffers along water bodies and/or wetland areas shall conform to standards set forth by the New York State Department of Environmental Conservation (DEC) and the Army Corps of Engineers. As a general guideline, multiple stream crossings should be avoided and stream corridors should remain forested to protect water quality and avoid soil erosion.

(a) Buildings and structures shall be set back, and no disturbance shall be permitted, within a minimum distance of 50 feet from the banks of any stream regulated by the New York State DEC unless the applicant has obtained a stream disturbance permit from New York State DEC. Along streams that are not regulated by New York State DEC, buildings and structures shall be set back, and no disturbances shall be permitted, within a minimum distance of 25 feet from the stream's bank. Stream buffers shall be included as practicable in the overall PRC design to protect the quality of surface water runoff which ultimately discharges to the Bashakill natural area and recharges the town's groundwater upon which the Town and village residents rely for water supply.

(b) Where the Planning Board finds, based on the conclusions of the ecological survey and in consultation with New York State DEC, that a proposed development may have an impact on a rare, threatened or endangered species, or a species of special concern, the Planning Board may require additional undisturbed buffers or may require relocation or reduction in development density or intensity to mitigate potential impacts.

(11) Emergency services. The applicant shall demonstrate to the satisfaction of the Planning Board that adequate emergency access is provided to the site. Police, fire, ambulance and other agencies that are required to service the proposed development shall be provided with a copy of the site plan application for their review and comment, and the Planning Board shall take said comments into consideration in its deliberations. The applicant may be required to supplement emergency service protection, including the provision of on-site facilities, if it is demonstrated that existing services, facilities or equipment are inadequate to properly provide emergency protection.

(12) Building area. The location and arrangement of all structures shall be in harmony with the intent of this district. The location and arrangement of structures shall not be detrimental to existing or prospective adjacent development or to the existing or prospective development of the town.

(13) Boundary setbacks, buffer areas, screening and transitional uses. No building, parking area or road shall be permitted within 50 feet of any property line in order minimize visual and noise impacts on adjoining parcels. A combination of fencing, natural, undisturbed areas and/or supplemental plantings shall be provided to create a transitional separation between surrounding existing and prospective uses and the proposed development.

(14) Off-street parking and loading requirements. Off-street parking and loading facilities for any uses or structures shall conform to the requirements listed in Article VII, Parking Standards. Parking areas shall be broken up to avoid the appearance of significant expanses of impervious surfaces and amply landscaped. A parking garage, if required, shall be integrated and directly attached to the principal resort building structure, and its facade shall be consistent with and integrated with the building facade for the resort hotel.

(15) Common property. Common property is a parcel or parcels of lands, and privately owned road or roads, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites. Arrangements satisfactory to the Town Board upon the review and recommendations of the Attorney for the Town must be made for the improvement, operation, and maintenance of such common property and facilities, including private streets, drives, parking and recreation areas.

(16) Utilities. Utilities shall be designed, installed and operated in accordance with industry standards and best management practices. Plans for utilities shall be reviewed by the Town Engineer, and installed and operated in accordance with required permits. To improve the visual quality of the environment and reduce disruption of service during inclement weather, utilities, including electric and cable, shall be installed underground.

(17) Stormwater management and erosion control plan. The applicant shall submit a stormwater management and erosion control plan and shall follow best management practices promulgated by the New York State Department of Environmental Conservation to adequately handle stormwater runoff and protect water quality. Stormwater management facilities, including detention or retention ponds, swales and other drainage features, shall be attractively landscaped.

(18) Landscaping. All areas of a limited mixed-use resort development shall be amply landscaped with a combination of decorative and native plant materials. A landscaping plan shall be submitted and approved as part of the site plan application.

(19) Lighting. On-site lighting shall be designed and installed in a manner that minimizes visual impacts to the night sky. A lighting plan depicting the level and intensity of illumination within the site and at the property boundary shall be submitted to the Planning Board with the application for site plan review. The level of illumination shall not exceed a minimum average horizontal level of .5 footcandle at the property boundary. Decorative lighting fixtures shall be incorporated into the overall design of the project; cobra-head light fixtures shall be discouraged.

(20) Signage. The applicant shall furnish a sign plan illustrating the location and design of on-site signs to be approved as part of the site plan. Signs shall be uniform and attractive in appearance.

(21) Additional site development standards. In addition to the standards set forth in this section, the applicant shall also comply with the appropriate design, site development plan and performance standards of this chapter and the Subdivision Regulations.[1] However, where a conflict exists between the development standards contained in this section (i.e., § 199-19 et seq.) and any of the above, this section shall prevail.

[1] Editor's Note: See Ch. 166, Subdivision of Land.

C. Application procedures. Site plan review and approval shall be conducted in accordance with the provisions contained in Article IX, Site Development Plan Review; provided, however, that a public hearing on the [PRC-mixed-use resort](#) application shall be required. The Planning Board shall cause the applicant to post notice on the subject property indicating the date, time, and location of the public hearing, and a brief description of the action being considered, at least 10 days prior the public hearing date. One notice shall be posted along each property line adjoining a road and shall be clearly visible from said road. Notices shall be affixed in a manner prescribed by the Planning Board. Said notice shall be removed following the close of the public hearing.

D. Submission requirements. In addition to those elements normally required as part of a site plan or subdivision plan submission, the following additional information shall be submitted as part of the site plan application. Alternatively, these data may be submitted in conjunction with a draft environmental impact statement if one is prepared.

(1) Traffic study, indicating the ability, in terms of capacity and geometry, of the internal and roadway network to accommodate traffic generated by the proposed development. The traffic study shall identify mitigation measures, if necessary, to minimize traffic impacts on Town roads and ensure adequate traffic flow through the community.

(2) Ecological survey, assessing the type and quality of ecological habitat on the project site and immediately adjoining properties, and a description of the flora and fauna determined through on-site field investigation. The applicant shall consult with the New York State DEC early in the application process to determine the likely presence of rare, threatened or endangered species as well as species of special concern, and the design of the resort shall conform to any mitigations required to avoid impacts to said sensitive species. The ecological study shall take into consideration seasonal variations in determining the likely presence of species. To the maximum extent practicable, the design of the resort development shall maximize opportunities to provide a contiguous system of open space which may be linked to open space areas on adjoining parcels.

(3) Cultural resource survey, including a Stage 1A investigation and, if necessary, subsequent stages of investigation in accordance with methods and procedures promulgated by the New York State Office of Parks, Recreation and Historic Preservation.

(4) Market feasibility study, demonstrating the market demand for the proposed components of the resort development, and evidence to demonstrate the applicant's experience and financial capability to carry out the plan.

(5) Demographic analysis, identifying the number and type of housing and guest units to be constructed, the bedroom mix, and the anticipated year-round and seasonal population, including school children, to be generated, utilizing demographic multipliers derived from the market area which the proposed project will serve.

(6) Fiscal impact study and the assumptions upon which it is based to review the estimated municipal and school district costs, including capital and operating costs, and the services and ratables which might be anticipated for the development.

(7) A report demonstrating the effect of the introduction of a water supply system to service the resort on off-site wells prepared by a hydro geologist. The report will include data on existing and proposed on- and off-site well locations, well yield test and well pump data, well yield capacity, and aquifer recharge/water budget analysis. The potential impact on drawdown of surrounding wetland and water resources shall be documented.

E. SEQRA. An application shall be deemed to constitute a Type I action, which may require the submission of a draft environmental impact statement (DEIS). The site plan application shall not be deemed complete until the Town Planning Board has either adopted a negative declaration under SEQRA or has accepted a DEIS as complete.

F. Project phasing. If the project is to be phased, then a phasing plan shall be submitted and approved as part of the site plan application. The Planning Board, as a condition of site plan approval, may require that the project and ancillary improvements be phased in order to assure that the Town and other community services may keep pace with the demands placed on these services as a result of the development. The Planning Board may also approve a part or parts of the site plan in phases.

G. Conditions. The Town Planning Board, at its discretion, may attach any reasonable conditions as necessary to assure conformance with this section and SEQRA.

H. Site improvements. No certificate of occupancy shall be issued for construction of a resort development, or portion thereof, until the required improvements are installed in accordance with the approved site plan.

#### Article V. Special Use Permits

§ 199-25. Special uses.

#### **[NO CHANGES]**

§ 199-26. Individual Standards for Special uses.

#### **[NO CHANGES SUBSECTIONS A THROUGH M]**

N. Planned residential development (PRD).

(1) Town policy. Planned residential developments are designed to encourage residential development in the NR and HC Districts where appropriate as a means of strengthening and expanding these residential communities. This use is also permitted in the PO District.

(2) Procedure. PRDs shall be subject to the approval of the Planning Board. Application for a PRD shall be made to the Planning Board for review. Within 60 days of receipt of the application, the Planning Board will notify the developer, in writing, of the date of preliminary hearing or, where warranted, may

request further documentation from the developer. Upon submission of the additional documentation, a preliminary hearing will be held and the developer so notified.

(3) Items submitted. An application for a planned residential development shall include all elements required of a preliminary subdivision plan.[4]

[4] Editor's Note: See Ch. 166, Subdivision of Land.

(4) Standards. Planned residential developments must:

(a) Contain a minimum of 50 dwelling units.

~~(b) Provide public water and sewage.~~

(~~b~~) Preserve a minimum 50% of the site in its natural undisturbed state, allowing limited use for passive recreational uses.

(~~c~~) Provide necessary public services and facilities as required by the Planning Board. In considering the need for services, the Planning Board shall consider the scale of the development and its direct and indirect impact upon the town.

(~~d~~) For a PRD proposed as part of a PO District east of the Shawangunk Ridge, in keeping with the Comprehensive Plan recommendation for the Burlingham Road/Winterton Economic Development Area, at least 35% of the lot area of a PRD shall be devoted to nonresidential uses that are permitted in the PO District and the lot area dedicated to the nonresidential uses shall not be used in calculating residential density.

(~~e~~) For all other PRDs, At the request of the applicant, and with the approval of the Planning Board, the planned residential development may include professional office and accessory retail and personal service uses that are accessory to the PRD, except that such uses shall not occupy more than 15% of the lot area of the PRD in order to reinforce the residential character of the area. Any such lot area so dedicated to nonresidential use shall not be used for calculating residential density, although this shall not be construed to limit the location of dwelling units above nonresidential uses in traditional mixed-use form once the permitted density is established.

(5) Planning Board review. The Planning Board in its deliberations shall consider the following:

(a) Residential building groups. ~~Spacing between buildings and orientation in multiple dwelling structures shall be as follows~~The following design standards shall apply:

[1] Where individual wells and septic systems are proposed, residential units may consist only of single-family detached dwellings.

[2] In any PO District east of the Shawangunk Ridge, in keeping with the Comprehensive Plan recommendation for maintaining the agricultural character of the Burlingham Road and Winterton areas, only single-family detached dwellings on lots of at least two acres shall be permitted, or on lots of

at least one acre where residences are connected to a Town-endorsed sewer system and Town-endorsed water system.

[3] In all other areas where residences are connected to Town-endorsed water and Town-endorsed sewer, Residential units may consist of a mix of single-family attached (townhomes), flats, and small lot single-family detached residential dwellings. For flats, the maximum number of dwellings in a structure shall be 12 units. For townhomes, the maximum number of dwellings in a structure shall be six units. The smallest lot size shall be 7,500 square feet for a small lot detached residential unit.

[24] Walls containing main window exposures or main entrances shall be so oriented as to ensure adequate light and air exposures.

[53] Such buildings shall be so arranged as to avoid undue exposure to concentrated loading or parking facilities and shall be so oriented as to preserve visual and audible privacy between adjacent buildings.

[64] A building exposing both windows and an entranceway shall be located no closer to another building than a distance equal to the height of the taller building of the two, but in no case less than 50 feet.

[57] A building wall exposing only windows or only an entranceway shall be located no closer to another building than a distance equal to the height of the taller building of the two, but in no case less than 40 feet.

[68] A building group may not be so arranged that any temporarily or permanently inhabited building is inaccessible to emergency vehicles.

[79] No building shall be located closer than 100 feet to a state highway.

[810] A PRD shall orient buildings and structures in a manner that retains the street fabric of the adjoining population center. Buildings shall be oriented to sidewalks, shade trees shall be provided in accordance with § 199-41, and formal landscaped front yards shall adjoin streets. Where the Planning Board deems appropriate, the PRD shall include decorative street lighting.

(b) Land use, spacing and orientation of commercial groups. Spacing between buildings and orientation in commercial building groups shall be as follows:

[1] Commercial activities shall only be provided when, in the opinion of the Planning Board, existing commercial uses are too distant or inadequate to serve the convenience of shopping needs of the residents of the planned residential development and where the provision of commercial or office facilities is consistent with the Comprehensive Plan.

[2] Commercial activities shall be so located as to minimize traffic through residential streets.

[3] Commercial activities shall be developed in harmony with adjoining residential uses.

[4] Exterior walls of opposite buildings shall be located no closer than a distance equal to the height of the taller building.

[5] A building group may not be so arranged that any permanently or temporarily occupied building is inaccessible to emergency vehicles.

[6] Buildings shall be scaled to a village character, with no building exceeding 4,000 square feet. Buildings shall be arranged in village-like clusters, with buildings oriented to a street.

(c) Circulation.

[1] There shall be an adequate, safe and convenient arrangement of pedestrian circulation facilities, roadways, driveways, off-street parking and loading space.

[2] There shall be an adequate amount, in a suitable location, of pedestrian walks, malls and landscaped spaces to prevent pedestrian use of vehicular ways and parking spaces and to separate pedestrian walks, malls and public transportation loading places from general vehicular circulation facilities.

[3] Buildings and vehicular circulation open spaces shall be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic.

(d) Paving and drainage. There shall be adequate design of grades, paving, gutters, drainage and treatment of turf to handle stormwater and to prevent erosion and formation of dust.

(e) Signs and lighting. Signs and lighting devices shall be properly arranged with respect to traffic control devices and adjacent residential districts.

(6) Open space and recreation areas shall be provided as follows:

(a) Up to 10% of the gross land area of the development shall be provided for active recreation facilities, which may include tennis courts, swimming pools, playgrounds, and other recreational facilities.

(b) However, to preserve natural areas or vistas, the developer may choose to provide or the Planning Board may require additional open areas.

(7) Average lot area.

(a) The residential density for the development shall be calculated based on the total gross-net acreage of the parcel, after deduction of environmental constraints pursuant to §199-35; and deduction of the area of any existing streets or proposed internal streets, whether public or private; and deduction of lot area dedicated to commercial use, commercial sites or commercial accessory use such as commercial accessory surface parking excluding those areas identified below in Subsection N(7)(b). The residential density shall not exceed 1/2 dwelling unit per one acre the maximum residential density permitted for single-family detached dwellings in the same zoning district as the proposed PRD; provided, however, that within the PO District the residential density shall not exceed except as follows:

[1] for any PO District east of the Shawangunk Ridge, in keeping with the Comprehensive Plan recommendation for maintaining the agricultural character of the Burlingham Road and Winterton areas, one dwelling unit per 25 acres shall be the maximum residential density;

[2] one dwelling unit per two net acres shall be the maximum residential density in any other PO District.

[3] one dwelling unit per ten net acres shall be the maximum residential density in the PRO District, except where Town-endorsed water system and Town-endorsed sewer system are provided with the capacity to serve at least twice the number of homes as are proposed in the PRD, the maximum residential density may be increased to one dwelling unit per two net acres.

~~(b) In computing residential density, environmental constraints, commercial uses and streets shall be excluded from the acreage of the parcel.~~

**[NO CHANGES SUBSECTIONS O THROUGH S]**

T. Resort hotels and country inns, subject to the following:

(1) Accessory uses at a resort or country inn may include any of the following: conference center, dining rooms, banquet hall, indoor fitness center, administrative offices, golf course, cross-country skiing, hiking and horse trails, tennis courts, paddle ball courts, basketball courts, swimming pool, and clubhouse. A minimum of 250 square feet of recreational space shall be provided per guest unit, except that golf courses shall be required to meet the individual requirements for that special use. Use of the recreational facilities by non-overnight guests (the general public) may be permitted upon a finding by the Planning Board that said use and traffic associated with the use shall not have a negative impact on adjoining uses.

(2) The maximum number of guest units permitted shall be calculated by first deducting environmental constraints pursuant to 199-35 and then applying the density factors below: ~~one guest unit per 10,000 square feet of lot area.~~

<u>Zoning District</u>	<u>Density</u>
<u>RVP</u>	<u>1 unit per two acres</u>
<u>MG</u>	<u>1 unit per two acres</u>
<u>LIO</u>	<u>4 units per acre</u>
<u>PRO</u>	<u>4 units per acre</u>
<u>PO</u>	<u>4 units per acre</u>

A maximum of four principal buildings may be permitted for the housing of guest units. Kitchenettes shall not be permitted in individual guest units. An application for a resort hotel shall be subject to the requirements contained in § 199-19B(6)(c) of these zoning regulations.

(3) An application shall be accompanied by architectural renderings and building elevations depicting the architecture and design of the facility. The design of said facility shall be such that the color, character, and scale of the structure(s) do not have a negative impact on its environment. Within the

RVP District, applications for resort hotels and country inns shall be subject to § 199-19B(9)(b) and (c) of these regulations. The colors shall be subdued and earthtone to minimize visibility.

(4) There shall be presented with the application for this permit a certificate of the State Department of Health approving of the source and method of treatment of the proposed supply of potable water.

(5) There shall be presented with the application for this permit two copies of a map or plan of the system of sewage and waste disposal, which said copies shall bear the endorsement and approval of the State Department of Health.

(6) Signage shall be subdued in color, and stone or wood shall be used in its construction. One monument sign, not to exceed 50 square feet, is permitted. Interior directional signs shall be approved as part of the special use permit.

(7) The Planning Board may limit the location and time of exterior lighting in order to protect the night sky, particularly for adjoining residences.

U. Schools and educational institutions and religious institutions, subject to the following:

(1) No building or part thereof or any parking or loading area shall be located within 100 feet of any street or lot line.

(2) The sum of all areas covered by principal and accessory buildings shall not exceed 20% of the area of the lot. Minimum lot size shall be two acres, except as provided below.

(3) The maximum height shall be 35 feet or 2 1/2 stories.

(4) The entire lot, except for areas covered by buildings or parking or loading areas, shall be suitably landscaped and properly maintained.

(5) Sufficient exterior illumination of the site shall be required to provide convenience and safety. All such illumination shall be shielded from the view of all surrounding streets and lots.

(6) Any school permitted in this section shall be a nonprofit organization within the meaning of the Internal Revenue Act and shall be registered effectively as such thereunder, or a nursery school licensed by the State Department of Education shall occupy a lot with an area of not less than five acres, plus one for each 100 pupils for which the building is designed.

V. Senior (adult) housing, subject to the following:

(1) Purpose. The purpose of this special use permit is to provide a variety of alternative living environments in the town, including the design and development of multifaceted, relatively self-contained living environments for individuals and families age 55 and over. As part of any senior housing proposal, the following types of housing or adult care environments are allowed by special use:

(a) Nursing home.

(b) Residential health care.

(c) Adult multifamily dwelling units.

(d) Attached patio homes and/or attached townhomes.

(2) Permitted accessory uses include administrative, social and recreational buildings, structures and areas. Recreational facilities may include, but are not limited to, swimming pools, tennis courts, open field areas, passive sitting areas, picnic facilities, walking trails, shuffleboard and bocci courts, off-street parking and private garage facilities, fences and walls, and utility and maintenance structures. A single-family dwelling unit to be utilized and occupied as a residence exclusively for the director of the facility, administrator or other head of operations whose presence on the site is essential for the effective operation of the facility.

(3) The minimum tract size for each type of facility shall be 15 contiguous acres of land.

(4) The residential density of the project shall be determined by first establishing the net acreage, after deduction of environmental constraints pursuant to §199-35 which may be devoted to residential use:

	% of Total Lot Area	
	Minimum	Maximum
Nursing/residential health care, adult multifamily residential dwellings and /or adult patio homes and/or townhomes, accessory structures		55
Recreation	15	—
Open space	30	

(5) The maximum densities in the following project components shall be established by multiplying the net acreage by the following densities:

Nursing/residential health care \_\_\_\_\_ 25 beds per acre

Adult multifamily \_\_\_\_\_ 8 units per acre

Adult townhouse/patio homes \_\_\_\_\_ 4 units per acre

Example: An applicant proposes a nursing home facility on a parcel of 100 gross acres. After application of §199-35, the net site acreage is 50 net acres. Fifty-five percent or 27.5 acres of the ~~gross net~~ acreage may be devoted to nursing/residential health care, or dwelling units 8.25 acres. ~~Multiplying the Said~~ net acreage, ~~8.25 acres,~~ can be allotted for a mix of the allowable uses - use of 7.5 acres for nursing/residential healthcare at a ~~by the~~ maximum residential density of 25 beds per acre, would permit ~~an applicant to construct a two-hundred-six-~~ a 187 bed facility and allow the remaining acreage to be used for up to 160 multifamily units or 40 townhouse/patio homes or a mix thereof.

(6) Maximum impervious coverage. The total amount of impervious coverage from building roofs, roads, parking areas, sidewalks, etc., shall not exceed 60% for the entire project.

(7) A minimum of 30% of the total lot area shall be set aside as open space to remain in its natural undisturbed state. This area may include buffer areas as required in this section. An additional 15% of the site shall be devoted to active and passive recreational uses, such as recreation and social gathering areas, walkways, sitting areas, gardens and adjacent usable open space.

(8) A minimum vegetative screen of 100 feet shall be provided along all property lines. Buffer areas may be included as part of the required setback areas. The buffer area so required shall be preserved in its natural state and supplemented with additional landscaping as necessary to achieve a full and substantial screening effect when viewed from adjoining properties.

(9) A marketing plan shall be prepared by the applicant describing the plan, advertising, market selection, and implementation.

(10) No one under 18 years of age shall be a permanent resident of the senior housing facility. Implementation of this requirement shall be through the rules and regulations of the project association or the governing organization.

(11) The total number of parking spaces provided on site shall be in accordance with the following schedule:

Use Type	Per Unit or Bed 1 space per gross sf bldg. area
Patio homes/unit	2
Attached townhouses/unit	2
Multiple adult dwelling unit	1
Nursing home/bed	.5
Residential health care units	.33
Administrative/recreation/support uses	250 sf
Neighborhood community center	200 sf
Professional office center	200 sf

(12) A minimum of one parking stall shall be provided in an attached parking garage for each townhouse and patio home of market value.

(13) The design and layout of the site of the dwelling unit and all buildings shall be planned for the convenience of the senior citizens and in accordance with applicable codes and regulations.

(14) Handicapped access to all buildings (except townhomes and patio homes) and all floors within said buildings shall be provided. Installation of ramps and elevators shall be in accordance with all applicable codes and regulations.

(15) Each parking space shall be a minimum of nine feet by 18 feet with 4% of the overall parking requirement reserved for handicapped spaces. Spaces shall be provided in accordance with New York State regulations.

(16) Each townhouse building shall have no more than six units per building. Each patio home shall be attached to no more than one other patio home.

(17) Town-endorsed Central sewerage and water and Town-endorsed sewer systems facilities shall be required in order to develop at the densities listed above. If a Town-endorsed water or sewer system is not provided, the permissible density for adult multifamily and adult townhouse/patio homes used to calculate maximum density per subsection (5) shall be no greater than the permissible density for single-family detached dwellings in the district in which the Senior (adult) housing is proposed.

(18) Special use permit approval shall be conditioned upon receipt of all New York State Department of Health and any other state approvals.

**[REMAINDER OF THIS SECTION REMAINS UNCHANGED]**

§ 199-34. (Reserved)

Article VIII. Environmental and District Controls

§ 199-35. Environmental constraints.

This section shall apply to the calculation of minimum lot size, development coverage and residential density~~the subdivision of land into two or more residential building lots, or the development of lots for multifamily residential uses or nonresidential uses requiring site plan or special use permit approval.~~ For purposes of calculating development yield, the following areas shall be subtracted from the gross acreage of a parcel to establish the minimum lot area and maximum permissible development coverage, in the case of non-residential projects requiring site plan approval, or development yield and permissible density; in the case of residential subdivisions or site plans~~plots~~:

A. Utility rights-of-way and designated streets. Fifty percent of any land within easements or rights-of-way for overhead utilities of 69 kilovolts or greater, or within a designated street line, shall not be counted as part of any minimum lot area requirement. No building, structure, yard or land proposed for prolonged habitual human occupancy shall be located within a utility easement; however, a road may traverse the easement.

B. Land under water (applicable prior to development). One hundred percent of that portion of a lot subject to the following shall not be counted as part of any minimum lot area requirement: ponds; freshwater wetlands regulated by the Army Corps of Engineers; streams; and that portion of any freshwater wetland and any one-hundred-foot control area designated by the New York State

Department of Environmental Conservation. No construction shall be permitted within the limits of the freshwater wetland or stream without appropriate federal or state permits.

C. Floodplains. Fifty percent of any land contained within the one-hundred-year floodplain as designated on Federal Emergency Management Agency maps shall not be counted as part of any minimum lot area requirement. No construction shall be permitted within the one-hundred-year floodplain.

D. Steep slopes (applicable prior to development).

(1) Not more than 50% of the land area of that portion of each lot that is proposed to be disturbed may be counted as part of any lot area if subject to the following:

(a) For residentially zoned properties, slopes over 25%.

(b) For nonresidentially zoned properties, slopes over 15%.

(2) No construction shall be permitted on that portion of a lot with a slope in excess of 35%.

(3) No portion of the land area of that portion of a lot with a slope in excess of 50% may be counted as part of the minimum lot area of a parcel.

E. Rock outcrops (applicable prior to development). Not more than 50% of the area of that portion of a lot that is proposed to be disturbed with rock outcrops in excess of 50 square feet may be counted as part of the lot area of a parcel.

[1]Editor's Note: L.L. No. 3-2007, adopted 12-18-2007, provided that a stormwater pollution prevention plan consistent with the requirements of Chapter 160 and § 199-44 shall be required for site plan approval. The SWPPP shall meet the performance and design criteria and standards in § 199-44. The approved site plan shall be consistent with the provisions of Chapter 160 and § 199-44.

§ 199-36. RVP and MG District density calculations.

A. Purpose. The RVP and MG Zones encompass areas that contain lands that are constrained due to shallow depth to bedrock, seasonally perched water table, and steep topography. For purposes of establishing residential development yield that is consistent with the environmental characteristics of the land, an applicant has the option of selecting two alternatives for calculating development yield.

B. Minimum lot size alternative. The applicant may choose to establish development yield for residential subdivisions utilizing the minimum lot size and bulk requirements for the RVP or MG District. The environmental constraints outlined in § 199-35 above shall first be subtracted from the gross acreage to establish net residential development yield. The applicant shall then map a subdivision that meets the minimum bulk requirements for single-family dwellings in the RVP or MG Zone.

C. Soil [survey designation](#) alternative. An applicant may choose to establish the maximum residential development yield by utilizing [the](#) soil data contained in the Soil Survey of Sullivan County, New York. For purposes of calculating development yield for [single-family detached](#) residential subdivisions, § 199-35, Environmental constraints, shall not apply. The letters listed below refer to the slope designations

contained in the soil mapping units that are enumerated in the Soil Survey of Sullivan County, New York. To establish the development yield for a particular site, the following density provisions shall apply:

Slope Designation	Maximum Density
A (0% to 3%)	1 unit/ <del>13</del> acre
B (3% to 8%)	1 unit/ <del>26</del> acres
C (8% to 15%)	1 unit/ <del>39</del> acres
D (15% to 25%)	1 unit/ <del>515</del> acres
E (25% to 35%)	1 unit/ <del>1030</del> acres
F (35% to 50%)	1 unit/ <del>1545</del> acres
Hydric soils	1 unit/ <del>515</del> acres

D. The applicant shall calculate the number of acres contained within each slope category. The acreage of each slope category shall be multiplied by the appropriate residential density to determine the total number of units permissible. The applicant may then utilize the average density provisions  [\(§199-38\)](#) to cluster residential units on soils with slope designations of A, B or C (0% to 15%). The minimum bulk requirements for the clustered residential lots shall be the same as for single-family detached residences in the Neighborhood Residential (NR) Zoning District (for residences with ~~neither out-Town-endorsed~~ sewer ~~nor Town-endorsed~~ water ~~systems~~). The maximum residential yield and the final configuration and size of each building lot shall be established based on the applicant demonstrating that individual well and septic systems, adequate access, and other ~~design~~ specifications of this chapter, ~~and the Town~~ subdivision regulations, ~~and all other applicable of the Town of Mamakating laws and regulations~~ shall be met.

E. Other uses in the RVP or MG Zones. All other uses allowed in the MG or RVP Zoning Districts shall be required to establish minimum lot area and development yield by applying the requirements contained in § 199-35, Environmental constraints.

F. Restrictions to be added to subdivision plat. Any lot created by process of these provisions shall be considered to have the minimum lot area and maximum residential density permissible within the MG and RVP Zoning Districts. A note shall be added to the subdivision plat indicating that the lots created represent the maximum number of lots permitted in accordance with the MG and RVP regulations. The maximum number of lots permissible and the calculation of residential density yield shall also be included as a map note. The proposed subdivision of any lot previously approved in accordance with these regulations shall require area variances to permit an increase in the maximum residential density and a reduction in the minimum lot size, in addition to any other variances that may be required.

§ 199-37. Stream buffers.

A. Purpose. Stream and riparian areas, the habitat bordering streams, are critical for water quality protection, erosion control, and as a living environment for many species of birds and wildlife. When properly designed, these areas can also serve as linear parks for hiking, nature viewing and other low-impact recreational activities. One of the most important methods of protecting stream quality is to limit disturbance within close proximity to a stream and its riparian area. For purposes of these regulations, the following shall apply:

(1) No building, structure or impervious surfaces shall be situated, nor clear-cutting of natural vegetation be permitted, within 150 feet of a streambank of a stream with a water quality designation of A or B or any trout spawning (TS) or trout production (T) waters.

(2) No building, structure or impervious surfaces shall be situated, nor clear-cutting of natural vegetation be permitted, within 75 feet of a streambank of a stream with a water quality designation of C or D.

B. Disturbance of the stream buffer shall require a disturbance permit from the Planning Board. In considering the need for said disturbance, the Planning Board shall consider:

(1) Reasonable alternative locations for said structures or buildings.

(2) The necessity of any clear-cutting activities, e.g., no other location for a septic system or well.

C. The Planning Board shall establish such conditions as may be necessary to minimize disturbance to the stream buffer, including a delineation of the area to be disturbed prior to work being conducted.

§ 199-38. Average density (cluster development).

A. Approval of plats; conditions for changes in zoning provisions. The Mamakating Town Board, pursuant to § 278 of the Town Law, hereby empowers the Planning Board, simultaneously with the approval of a plat, to modify applicable provisions of this chapter, subject to the conditions hereinafter set forth and such other reasonable conditions as the Town Board may in its discretion add thereto. The purpose of this authorization is to enable and encourage flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economical provisions of streets and utilities, and to preserve the natural and scenic qualities of open lands.

B. The conditions hereinabove referred to are as follows:

(1) The Planning Board may require the submission of an application for the use of this procedure if, in its judgment, the application would benefit the Town and the public interest. If the owner makes written application for the use of this procedure, it may be followed at the discretion of the Planning Board subject to the purposes noted above.

(2) This procedure shall be applicable only to lands zoned for residential purposes, and its application shall result in a permitted number of building lots or dwelling units which shall in no case exceed the number which could be permitted, in the Planning Board's judgment, if the land were subdivided into

lots conforming to the minimum lot size and density requirements applicable to the district or districts in which such land is situated and conforming to all other applicable requirements; provided, however, that where the plat falls within two or more districts with differing density requirements, the Planning Board may approve in any one such district a cluster development representing the cumulative density as derived from the summing of all units allowed in all such districts. In determining development yield, the applicant shall adhere to the provisions of § 199-35 of this chapter.

(3) In the case of a residential plat or plats, the dwelling units may be single-family detached or single-family attached (townhouse) on individual lots, ~~as the discretion of determined by~~ the Planning Board, ~~single-family detached, single-family attached (townhouse) or multifamily (flats) units. Multifamily units shall be permitted only in the NR-1, HC, VC and TC Zoning Districts. The design standards for planned residential developments (PRDs) shall be used in determining the size and location of multifamily units which may be proposed in accordance with these provisions; however, this provision shall not be construed to require special use permit approval for an average density development which results in the creation of attached or multifamily units.~~

(4) In the event that the application of this procedure results in a plat showing lands available for park, recreation, open space, or other municipal purposes directly related to the plat, then the Planning Board, as a condition of plat approval, may establish such conditions on the ownership, use and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes. Any conditions relating to Town ownership of the lands shall be approved by the Town Board prior to the Planning Board granting final approval to the plat.

(5) The proposed site plan or plat, including areas within which structures may be located, the height and spacing of buildings, open spaces and their landscaping, off-street open and enclosed parking spaces, and streets, driveways, and all other physical features as shown on said plan or otherwise described, accompanied by a statement setting forth the nature of such modifications, changes or supplementations of existing zoning provisions as are not shown on said site plan, shall be subject to review and public hearing by the Planning Board in the same manner as required for the approval of a subdivision plat and/or site plan.

(6) On the filing of the plat in the office of the County Clerk, a copy shall be filed with the Town Clerk, who shall make appropriate notations and references thereto on the Town Zoning Map.

(7) The provisions of this section shall not be deemed to authorize a change in the permissible use of such lands as provided in this chapter.

(8) The authorization herein shall apply to all lands within the Town of Mamakating.

§ 199-39. Voluntary transfer of density.

A. Purpose. The purpose of this section is to allow applicants, upon approval by the Town Board, to transfer the development rights permitted to a lot, parcel, or other area of land from a designated sending district to an area designated as a receiving district, in order to accomplish the following objectives:

(1) To protect environmentally sensitive lands by transferring development rights from the sending district;

(2) To protect scenic view sheds by transferring development rights from the sending district; and

(3) To transfer development rights to an area of the Town of Mamakating planned for growth and by allowing a density which ~~will~~ may encourage the provision of Town-endorsed central-water and Town-endorsed sewage treatment facilities/sewage systems.

B. For purposes of this section, the sending districts and receiving districts shall be designated as follows:

(1) Sending districts. In the MG and RVP Zones, residential density may be transferred at a rate of one dwelling unit per 7.5 ~~gross-net~~ acres after deduction of environmental constraints pursuant to §199-35.

(2) Receiving districts: NR-~~1~~ and HC Zones. Within the receiving district, the maximum residential yield shall be increased by the number of dwelling units transferred from the sending district, but the total density, after transfer, shall be no more than five units per acre for single-family detached dwellings and six units per acre for single-family attached dwellings, where attached dwellings are otherwise permitted by the zoning. Single-family detached residences shall meet the minimum bulk requirements for a single-family detached residence (with Town-endorsed central-sewer and Town-endorsed water) in the VC District. The minimum bulk requirements for single-family attached dwellings shall be the same as required for single-family attached dwellings in the VC District. Nothing herein shall be construed to allow residential density to exceed the capacity of the land to support individual water and individual subsurface wastewater disposal systems, except where Town-endorsed water and Town-endorsed sewer systems are provided.

C. Consent of owners. The owner of the property in the receiving district shall submit an affidavit consenting to the transfer of density onto the receiving parcel.

D. Subdivision or site plan approved required. A site plan and/or subdivision plan shall be filed with the Planning Board concurrently with the request to the Town Board to permit the transfer. The subdivision or site plan shall conform to the requirements of the zoning, subdivision and/or site plan regulations. Where the Planning Board determines that the transfer will meet the goals and objectives of this section, it may waive the environmental constraints provisions as apply to the receiving parcel.

E. Development shall be transferred from a sending district to a receiving district, provided the development rights remain within the same school district.

F. Conservation easement. The burden upon land within a sending district from which development rights have been transferred shall be documented by an instrument duly executed by the grantor in the form of a conservation easement as defined in Title 3 of Article 49 of the Environmental Conservation Law, which burden upon such land shall be enforceable by the Town of Mamakating in addition to any other person or entity granted enforcement rights by the terms of the instrument. Any development right which has been transferred by conservation easement shall be evidenced by a certificate of

development right which shall be issued by the Town of Mamakating to the transferee in a form suitable for recording in the Registry of Deeds in the County of Sullivan.

G. Within one year after a development right has been transferred, the assessed valuation placed on the affected property for real property tax purposes shall be adjusted to reflect the transfer. A development right which is transferred shall be deemed to be an interest in real property, and the rights evidenced thereby shall inure to the benefit of the transferee, and his heirs, successors and assigns.

**[SEE CHANGES TO DISTRICT SCHEDULES]**

**[NO FURTHER CHANGES TO THIS CHAPTER]**