

ARTICLE 12B
Planned Resort Development (PRD)

§ 179-12B-010. Intent and objectives.

A. Intent.

- (1) It is the intent of this planned resort development (PRD) article to provide flexible land use and design regulations for the rezoning of land so that mid-to large-scale resorts may be developed in the Town. Planned resort developments permit establishment of appropriate areas within the Town in which recreational uses may be brought together with residential and commercial uses in a compatible and unified plan of development, which shall be in the interest of the general welfare of the public. This article specifically encourages innovation in resort development so that market demands for recreational activities and resort housing at all economic levels may be met by innovative design and by the conservation and more efficient use of land in such developments.
- (2) This article recognizes that the standard zoning function may not be practical in resort developments due to the large tracts of land involved and the need for a fully integrated plan of development and operation. Thus, where planned development techniques are deemed appropriate through the rezoning of land to a Planned Resort Development District by the Town Board, the set of use and dimensional specifications elsewhere in this chapter are herein replaced with an approval process in which an approved plan becomes the basis for continuing land use controls.
- (3) PRDs are allowed only in the following zones: Parkland/Recreation and Recreation Commercial Zones.
- (4) In no case shall the regulations of this article be so interpreted as to circumvent the benefits of this chapter to the residents or occupants of adjoining properties. PRDs, as defined herein, may be established only in accordance with the procedure specified in this article.

B. Objectives. In order to carry out the intent of this article, the Planning Board shall consider the following objectives and find that the following objectives are satisfied by the project proposal pursuant to this article in order to issue a favorable report to the Town Board as provided in § 179-12-050:

- (1) The project shall provide public recreational facilities appropriate for the Town and the region and integrate a choice in the types of housing, transient accommodations, eating and drinking establishments and/or affiliated commercial retail and service uses available to potential residents and the public.
- (2) The project shall provide usable open space and integrated recreational opportunities that will be a benefit to residents of the Town and the tourism

industry of the region.

- (3) The project shall provide for the preservation of trees, outstanding natural topographic, environmentally sensitive areas and geologic features and the prevention of soil erosion.
- (4) Whether the project provides for a creative use of land and related physical development which allows an orderly transition of land from adjacent uses and surrounding area.
- (5) Whether the project provides a development pattern in harmony with the objectives of the Comprehensive Plan and consistent with the purposes and objectives of the underlying zoning district or districts.
- (6) Whether the project provides a more desirable environment than would be possible through the strict application of other articles of this chapter.
- (7) There shall be adequate water supply and sewage disposal facilities, and drainage facilities shall be designed to maintain predevelopment off-site runoff.
- (8) Whether the project provides scenic vistas, historic sites, and prevents disruption of natural drainage patterns.
- (9) The project utilizes landscaping and building design to present a sense of community, of integrated color schemes, architectural styles and layout.
- (10) The recreational aspect and associated facilities of the proposed PRD shall be the dominant land use in the PRD, with an appropriate ratio of residential uses and other mixed commercial uses that is appropriate and sustainable for its location, Town needs and market considerations. The actual ratio of mixed uses shall be specified by the applicant as part of the PRD application and approved by the Town Board as part of the approval process.
- (11) Underground on-site utilities are required, including telephone, electric, cable, water distribution laterals and sewer collection laterals.
- (12) All lighting shall be arranged so as to prevent direct glare or hazardous interference from the lighting for the proposed development to adjoining streets or properties.

§ 179-12B-020. General requirements.

- A. Ownership. The tract of land for a project may be owned, leased or controlled either by a single person or corporation, or by a group of individuals or corporations. An application must be filed by the owner or jointly by owners of all property included in a project. In the case of multiple ownership, the approved plan shall be binding on all owners. All common areas and amenities shall be owned and operated by an appropriate legal entity that will exist in perpetuity. The conveyance of individual parcels within a PRD may be acceptable, provided provision is made for continuity

of restrictions and controls in the form of deed covenants, restrictions and easements. The post-development ownership and maintenance plan shall be part of the application and approval process. Said post-development plan shall include a mechanism that will provide unified control and authority over the operations of the development so that there is one entity or individual that is responsible for enforcing the terms and conditions of the PRD approval for all tenants, homeowners, business owners and other users of the PRD.

- B. Minimum area. The minimum area for a PRD shall be 100 contiguous acres of land. The Town Board may consider projects of lesser acreage where the applicant can demonstrate that the characteristics of his holdings meet the purposes and objectives of this article.
- C. Allowed uses and base residential density. Any type of nonresidential and residential use may be permitted within an area designated as a PRD, subject to the provisions of this article and the conditions of approval of the PRD, provided that the recreational use is the predominant use with at least 50% of all the land area devoted to uses for recreation and provided that the nonresidential uses are appropriate for a resort-type community and function. Base residential density (BRD) in a PRD is that density as permitted in the original district or districts in the current Zoning Ordinance. The residential density allowed in a PRD (PRD density) shall not exceed 100% of the original base residential density except as set forth below. The overall residential intensity of the project cannot exceed the amount of available development potential of the individual APA Land Use Intensity Zone if the proposed PRD is located within the Adirondack Park.
 - (1) For the inclusion of one LEED-certified dwelling unit under the United States Green Building Council's LEED (Leadership in Energy and Environmental Design) program, one dwelling unit may be added as a density bonus. The bonus unit must also be LEED-certified. The level of LEED certification does not matter.
 - (2) For the inclusion of three dwelling units certified as energy-efficient under the federal government's ENERGY STAR program, one dwelling may be added as a density bonus. The bonus unit must also be certified as energy-efficient under the federal government's ENERGY STAR program. This density bonus shall not exceed 10% of the base residential density.

§ 179-12B-030. Considerations.

In determining whether a planned unit development should be allowed, particularly as regards the intensity of land use, the Town Board shall consider the following factors:

- A. The need and market demand for the proposed project in the proposed location.
- B. The availability and adequacy of water service.
- C. The availability and adequacy of sanitary waste disposal facilities.
- D. The availability and adequacy of transportation systems, including the impact on

the road network.

- E. The pedestrian circulation and open space in relation to structures, throughout the proposed development, and as part of an adjoining or future connecting Townwide open and linear pathway system, if applicable.
- F. The character of the area in which the PRD is being proposed, including the safeguards provided to minimize possible detrimental effects of the proposed use on adjacent properties and the neighboring area in general.
- G. The density and location of buildings and their relation to the open space and recreational areas of the site.
- H. Potential impacts on local government services.
- I. Potential impacts on environmental resources, including wetlands, surface water, floodplains, critical environmental areas, and plant and wildlife communities.
- J. The general ability of the land to support the development, including such factors as slope, depth to bedrock, depth to water table and soil type.
- K. Other factors as may be deemed appropriate by the Town Board.

§ 179-12B-040. Common property.

- A. Common property in a planned resort development is a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites. Common property shall be allowed within a PRD and may include private streets, drives, services, parking areas, and recreational and open space areas.
- B. The ownership of land dedicated for park, recreation or open space use shall be determined by the property owner or applicant. The person or entity having the right of ownership shall be responsible for its proper maintenance and continued upkeep. Ownership shall be with one of the following: the Town; another public jurisdiction or agency, subject to its acceptance; a private, nonprofit organization incorporated with a purpose consistent with the use and management requirements of the dedicated land; shared, common interest by all property owners in a subdivision; a homeowners', condominium or cooperative association or organization; or private ownership encumbered by a conservation easement pursuant to § 247 of the General Municipal Law or §§ 49-0301 through 49-0311 of the Environmental Conservation Law. When common property exists in private ownership, satisfactory arrangements must be made for the improvement, operation and maintenance of such common property and facilities, including private streets, drives, services, and parking areas and recreational and open space areas.

§ 179-12B-050. Applications and zoning approvals.

Whenever any planned resort development is proposed, before any permit for the erection of a permanent building in such planned resort development shall be granted

and before any subdivision plat of any part thereof may be filed in the office of the Warren County Clerk, the developer or his authorized agent shall apply for and secure approval of such planned resort development in accordance with the following procedures:

1. Submit sketch plan to the Town Board for consideration. If the Town Board determines that the proposal merits further review, then it may refer the application to the Planning Board.
 2. Planning Board review of rezoning referral and sketch plan and public hearing held by Planning Board.
 3. Planning Board report to Town Board.
 4. Town Board conducts a public hearing on rezoning and conducts SEQR review.
 5. Upon approval of rezoning, review project elements for subdivision or site plan approvals.
- A. Application for sketch plan approval.
- (1) Sketch plan drawing. The application shall include a sketch plan drawn to scale, though it need not be to the precision of a finished engineering drawing, and it shall clearly show the following information:
 - (a) The location of the various uses and their areas.
 - (b) The general outlines of the interior roadways system and all existing rights-of-way and easements, whether public or private.
 - (c) Delineation of the various residential areas, indicating for each such area its general extent, size and composition in terms of total number of dwelling units, approximate percentage allocation by dwelling unit type (i.e., single-family detached, duplex, townhouse, garden apartments, high-rise) and general description of the intended market structure (i.e., luxury, middle-income, moderate-income, elderly units, family units, etc.), plus a calculation of the residential density in dwelling units per gross acre (total area, including interior roadways) for such area, and a calculation of total permeable area.
 - (d) The interior open space system and the land area devoted to recreational uses.
 - (e) The overall drainage system.
 - (f) If grades exceed 3% or portions of the site have a moderate to high susceptibility to erosion or a moderate to high susceptibility to flooding and ponding, a topographic map showing contour intervals of not more than five feet of elevation, along with an overlay outlining the above susceptible soil areas, if any. If grades are less than 3%, the topographic map may be at ten-foot contour intervals.
 - (g) Principal ties to the community at large with respect to transportation,

water supply and sewage disposal.

- (h) General description of the provisions of other community facilities, such as schools, fire protection services and cultural facilities, if any, and some indication of how these needs are proposed to be accommodated.
 - (i) A location map showing uses and ownership of abutting lands.
 - (j) A long-form environmental assessment form.
- (2) Additional sketch plan documentation. In addition, the following documentation shall accompany the sketch plan:
- (a) Evidence of how the principal recreational use and the particular mix of other land uses meets market or regional tourism demands.
 - (b) A general statement as to how common open space is to be owned and maintained.
 - (c) If the development is to be phased or staged, a general indication of how the staging is to proceed. Whether or not the development is to be phased or staged, the sketch plan of this section shall show the intended total project.
 - (d) How the plan is in conformance with the Town's Comprehensive Plan.
 - (e) Evidence of the applicant's physical and financial competence to carry out the plan and his awareness of the scope of such a project.
 - (f) A draft amendment of this chapter applicable to the project for review by the Town Board. The draft shall identify all amendments to this chapter and the Zoning Map as required by the PRD.
 - (g) A fiscal impact analysis identifying projected short- and long-term impacts on municipal and school district budgets.
- (3) In order to allow the Town Board and the developer to reach an understanding on basic design requirements prior to detailed design investment, the developer shall submit an application of his proposal to the Town Board. The Town Board, at its next regularly scheduled meeting, may, if it determines that the proposal merits review, refer the application to the Planning Board for review and recommendation. The date of Planning Board receipt of the application shall be the next regular meeting of the Planning Board. If the Town Board determines that the proposal does not merit review because it does not meet the objectives of this article, it shall not refer the application to the Planning Board and no further action on the application shall be taken. After referral by the Town Board and after receipt of all required information, as determined by the Planning Board, the Planning Board shall hold a public hearing in accordance with the hearing requirements of § 179-16-120 of this chapter and shall render either a favorable or an unfavorable report to the Town Board within 60 days of the closing of the public hearing.

- (4) In reviewing the sketch plan, the Planning Board may call upon the County Planning Department and any other public or private agencies or consultants that the Board feels are necessary to provide a sound review of the proposal. In addition to the fee listed on the schedule of fees, the Planning Board may charge a fee to developers of projects requiring legal and technical review, provided that the fee reflects the actual cost of legal and technical assistance to the Planning Board.
- (5) A favorable report shall include a recommendation to the Town Board that the proposal has merit and should proceed to further consideration by the Town Board, including a public hearing to be held for the purpose of considering planned resort development districting. It shall set forth the reasons supporting the recommendation and shall be based on the objectives set forth in § 179-12B-010. Said report must include, at a minimum, the following findings:
 - (a) That the proposal meets the intent and objectives of planned resort development, as expressed in this article.
 - (b) That the proposal meets all the general requirements in this article.
 - (c) That the proposal is conceptually sound in that it meets a community and/or regional need and it conforms to accepted design principles in the proposed functional roadway system, land use configuration, open space system, drainage system and scale of the elements, both absolutely and to one another.
 - (d) That there are adequate services and utilities available or proposed to be made available in the construction of the development.
 - (e) That the proposal is in accordance with the Comprehensive Plan and furthers the policies, goals and/or objectives of the Comprehensive Plan.
- (6) An unfavorable report shall state clearly the reasons therefor and, if appropriate, point out to the applicant what might be necessary in order to receive a favorable report. The applicant may, within 10 days after receiving an unfavorable report, file an application for planned resort development districting with the Town Board. The Town Board may then determine, on its own initiative, whether or not it wishes to call a public hearing. If the Town Board determines not to hold a hearing, no further action shall be taken and the application shall be considered denied.
- (7) The Chairman of the Planning Board shall certify when all of the necessary application material has been presented, and the Planning Board shall submit its report within 60 days of such certification. If no report has been rendered after 60 days, the applicant may proceed as if an unfavorable report were given to him.

B. (Reserved)

- C. Application for planned resort development districting.
- (1) Upon receipt of a favorable report from the Planning Board or upon its own determination, the Town Board shall set a date for and conduct a public hearing for the purpose of considering planned resort development districting for the applicant's plan, in accordance with the procedures established by the Town Board for holding meetings, said public hearing to be conducted within 45 days of the receipt of the favorable report or the decision on appeal from an unfavorable report.
 - (2) If required, the Town Board shall refer the application to the Warren County Planning Board for its analysis and recommendations, and the Town Board shall also refer the application to such other agencies or consultants it deems appropriate. If County Planning Board review is not required, the Town Board may still refer the application for its review and recommendations.
 - (3) Within 30 days following receipt of the report from the County Planning Board, the Town Board shall render its decision on the application.
- D. Zoning for planned resort development. If the Town Board grants the planned resort development districting, the Zoning Map shall be so noted. The Town Board shall, in order to fully protect the public health, safety and welfare of the community, attach to its zoning resolution any additional conditions or requirements for the applicant to meet. Such requirements may include, but are not confined to, visual and acoustical screening, land use mixes, order of construction and/or occupancy, circulation systems, both vehicular and pedestrian, availability of sites within the area for necessary public services such as schools, firehouses, and libraries, protection of natural and/or historic sites and other physical or social demands. Proposed uses and density of the PRD shall be subject to § 179-12B-020C of this article.
- E. Site plan and subdivision approvals. Subsequent to obtaining any rezoning under this article, individual project elements shall be subject to subdivision or site plan approvals, as applicable. The procedure for such approvals shall be as specified in Article 9, Site Plan Review, of this chapter for site plan approvals and in the Town of Queensbury Subdivision Regulations for subdivision approvals.¹ Due to the intent of PRDs and their flexible, yet cohesive, nature the subdivision and site plan approval processes may take place simultaneously. Where procedures are in conflict, the more restrictive process will apply.

§ 179-12B-060. Changes in plan.

If it becomes apparent in the subdivision and/or site plan review process that certain elements of the sketch plan, as approved by the Town Board, are not feasible and need significant modification, the applicant shall present solutions to the Planning Board to address the PRD subdivision and/or site plans, in accordance with all of the above procedures. The Planning Board shall then determine whether or not the modified plan is

1. Editor's Note: See Ch. A183, Subdivision of Land.

still in keeping with the intent of the local law creating the PRD. If a negative decision is reached, the site plan shall be considered disapproved. The applicant may then produce another site plan in accordance with the approved PRD plan. If an affirmative decision is reached, the Planning Board shall so notify the Town Board, stating all of the particulars of the matter and its reason for feeling the project should be continued as modified. Preliminary site plan approval may then be given only with the consent of the Town Board.

§ 179-12B-070. Development phasing.

- A. If the applicant wishes to develop the PRD in phases, or if the Town Board wishes to require that development be phased, the applicant may then submit only those phases for site plan review and/or subdivision approval per the approved staging plan. Any plan anticipated to require more than 24 months to be completed shall be required to be phased, and a phasing plan must be developed. The Zoning Administrator or Code Enforcement Officer may withhold the issuance of zoning or building permits if the approved phasing plan is not being followed. A phasing plan shall be submitted to the Board of Trustees as part of the PRD application materials if development phasing is contemplated by the applicant. The Town Board shall have the authority to approve, with or without modifications and/or conditions, or deny the phasing plan based on the following standards:
- (1) Each phase must be related to surrounding areas and available public facilities in such a manner that failure to proceed to subsequent phases will not adversely affect those areas or facilities.
 - (2) Each phase, when completed, must be able to fully function on its own or in conjunction with prior phases without dependence on subsequent phases, and each phase shall be fully completed prior to the final approval of subsequent phases.
 - (3) The infrastructure, as installed, shall be sufficient to accommodate each planned phase of development.
 - (4) Each phase shall have an appropriate ratio of the various uses proposed for the development.
- B. Construction schedule. The applicant shall propose and the Town Board shall review and approve a construction schedule for the development of an approved PRD. Generally, commencement of development of the PRD, or the first phase if a phased PRD is approved, must occur within two years of the date that the final site plan of the PRD is approved. However, it is recognized that, depending on the scale and complexity of the development, consideration may be made with respect to the reasonable time necessary for the applicant to obtain construction financing, insurance and bonds, executing construction contracts, and other such aspects involved in a development project. Thus, the Town Board may modify the time period allowed for commencement of construction depending on the circumstances of each PRD.

§ 179-12B-080. Compliance required prior to construction.

No zoning or building permits shall be issued for construction within a Planned Resort Development District until improvements are installed or financial security is posted in accordance with the procedures of § 179-12B-090 of this chapter and/or the Town of Queensbury Subdivision Regulations.² Construction may also not occur until such other requirements and conditions as established by the Town Board and Planning Board have been met.

§ 179-12B-090. Financial security.

The Town Board may require the posting of financial security in the form of a bond, letter of credit or other instrument in order to ensure that improvements are carried out as specified in the plans and approvals. The Boards shall follow the procedures in the Town of Queensbury Subdivision Regulations³ or New York State Town Law § 277(9) for such financial security.

§ 179-12B-100. Expiration of approval.

Unless otherwise specified or extended by the Town Board, any PRD approval shall expire if the applicant fails to undertake the proposed action or project within one year from the filing date of such decision thereof.

§ 179-12B-110. Filing of decisions.

All Planning Board decisions shall be filed with the Town Board and Town Clerk, and the Town Board shall file all decisions with the Planning Board and Town Clerk. The applicant shall receive copies of all decisions.

§ 179-12B-120. Fees.

- A. Fees for planned resort developments shall be set in accordance with a schedule of fees as adopted by the Town Board pursuant to § 179-16-110.
- B. In addition to the fee listed on the schedule of fees, the Town may charge a fee to developers of projects requiring legal and technical review, provided that the fee charged reflects the actual cost of legal and technical assistance to the Planning Board and the Town Board.

2. Editor's Note: See Ch. A183, Subdivision of Land.

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