

**FINAL DRAFT ARTICLE #: Temporary Revised as of 4-19-22**  
**Commercial Business Planned Development District (CB-PDD)**

**Table of Contents**

<b>FINAL DRAFT ARTICLE #: TEMPORARY .....</b>	<b>1</b>
<b>COMMERCIAL BUSINESS PLANNED DEVELOPMENT DISTRICT (CB-PDD).....</b>	<b>1</b>
§205-XX. <sup>(b)(1)</sup> INTENT, APPLICABILITY, AND PURPOSE.....	2
§205-XX. <sup>(b)(2)</sup> CB-PDD PROPOSAL. ....	3
§205-XX. <sup>(b)(3)</sup> CRITERIA FOR CB-PDD CONSIDERATION. ....	3
§205-XX. <sup>(b)(4)</sup> CB-PDD PROCESS OVERVIEW. ....	4
§205-XX. <sup>(b)(5)</sup> CB-PDD PROPOSAL SPECIFIC PROCEDURE. ....	5
§205-XX. <sup>(b)(6)</sup> PROCEDURES BEFORE THE VILLAGE BOARD OF TRUSTEES. ....	13
§205-XX. <sup>(b)(7)</sup> EXPIRATION.....	13
§205-XX. <sup>(b)(8)</sup> CHANGES AND AMENDMENTS. ....	13

## §205-xx. Intent, Applicability, and Purpose.

- A. It is the intent of the Village Board to establish new land use regulations for the Village during the time this ordinance is in effect, the adoption of which regulations shall repeal this ordinance or shall amend this ordinance. Projects started under this ordinance shall continue to be subject to it through completion.
- B. The CB-PDD is a floating zone which applies to property in the Central Business District, Commercial District, or Adult Use Zones only.
- C. CB-PDD shall be required for all development greater or equal to 15,000 of total Square Feet of Building Area within any five-year period on the same parcel(s) (BUILDING AREA definition (205.5)): The total floor area of each building, including open or enclosed porches or car ports, but excluding steps, uncovered porches, open fire escapes, awnings and canopies, bay windows, window sills, cornices, eaves and other similar architectural features).
- D. Each parcel or portion of a parcel with an approved CB-PDD may not seek another CB-PDD within two (2) years after final approval.
- E. The purpose of the CB-PDD is to encourage innovations in land development so that the demands of the community may be met with greater flexibility and variety in type, design and layout of sites and buildings. Proposals intending to meet an underserved need in the community or benefit the community at large are encouraged. Projects shall continue an appropriate urban pattern where one is in place; where an appropriate urban pattern is not apparent, projects shall establish high-quality precedent and urban context for future development to follow. Building design shall contribute to a pattern of spaces and structures rather than a series of unrelated buildings and streets. All proposals shall consider the following:
  - 1. Providing infill development and rehabilitation of existing areas with readily available services and infrastructure;
  - 2. Promoting more efficient and economic uses of land, while respecting historic context and landscape features;
  - 3. Protecting the existing scale and architectural character of historic buildings and streets by maintaining compatibility with the architectural context of the district and/or surrounding properties;
  - 4. Encouraging land uses that reduce transportation needs and that conserve energy and natural resources;
  - 5. Providing pedestrian and bicycle friendly environment that emphasizes street level activity through appropriate architecture, land use, and transportation design;

6. Encouraging institutional, cultural, office, residential and retail uses in mixed-use developments, capable of supporting activity in a lively setting;
7. Providing the fulfillment of housing needs appropriate to various age groups, lifestyles, and income levels;
8. Encouraging the preservation of natural site features by taking advantage of and connecting to parks, walking trails and water elements; and
9. Protecting quality of life for neighborhood residents through adequate controls on light, noise, air pollution, traffic generation, and hours of operation.
10. Encourage the provision of public amenities including, but not limited to, public art/sculpture, street furniture, plantings, pedestrian scale lighting, public green space.
11. Incorporate green infrastructure and green energy systems to promote treatment of stormwater and energy conservation respectively.
12. Practice age-friendly and Universal Design techniques to accommodate people of all ages and abilities.

**§205-xx. CB-PDD Proposal.**

- A.
- B. Any person, corporation, partnership, or association having an ownership interest in a proposed planned development district, or any group of owners united in interest, acting jointly and in pursuant to any agreement to carry out the proposal in separate ownership, may propose a Planned Development District.
- C. A parcel, parcels, district or site proposed for a planned development district need not be under single ownership where the proposed development consists of a group of structures or improvements capable of being developed separately but in accordance with a single, unitary plan, and in which the separate owners indicate their express intentions to enter into such private agreements between or among themselves as will facilitate their mutual enterprise, and assure its completion as planned to the satisfaction of the Village.

**§205-xx. Criteria for CB-PDD consideration.**

In addition to the considerations above, the following criteria shall be addressed by the applicant and considered by the Village Board and Planning Board for all CB-PDD proposals:

- (1) That the proposal substantially conforms with the recent adopted plans including the Economic Development Plan and the Pedestrian and Bicycle Master Plan.
- (2) That the proposed development will benefit the neighborhood and community at-large.

- (3) That maintaining existing character of the neighborhood is encouraged and that adequate safeguards are provided to limit possible detrimental effects of the proposed development on adjacent properties, businesses and on the neighborhood in general.
- (4) That there is ample provision for water, sewer, storm and surface water drainage and other utilities.
- (5) That there is adequate access to the public, schools, police and fire protection, parks and recreational facilities, community facilities and public services.
- (6) That there are no negative social, economic, or cultural consequences likely to follow the proposed development.
- (7) That environmentally sensitive areas are maintained and protected as part of the proposed development.
- (8) That the location, height and bulk of buildings and structures on the site are in proportion to each other and relate well to other structures and visual perspectives in the vicinity.
- (9) That careful attention has been given to the patterns of pedestrian and bicycle circulation and to the effective use and design of open spaces, landscaping, exterior facade and amenities.
- (10) That vehicular access and circulation is adequate to and within the site, that parking and loading spaces are adequate and well located relative to the uses and structures served, that conflicts between vehicular traffic and other modal uses should be avoided.
- (11) That the proposed installation of driveways, lighting, signs, landscaping, fencing, screening, and other site details are consistent with the proposed structures; with adjacent properties, with the rights and interests of the public, and with the design qualities and objectives suggested by this chapter and the Planning Board.

**§205-xx. CB-PDD Process Overview.**

- A. The CB-PDD has five steps in the review and approval process. Step 1 is a pre-application meeting with the Planning Board. Step 2 is the initial review by the Board of Trustees, Step 3 a neighborhood work session. Step 4 is a detailed review by the Planning Board and a Public Hearing and, step 5 is the final review and vote on the proposal by the Village Board of Trustees.
- B. PDD adoption requires an amendment to this Ordinance and Map(s); ordinance amendments are discretionary acts of the Village Board of Trustees.
- C. Before any Subdivision Approval, Site Plan Approval or Building Permit is issued by the Planning Board or any other Village Department, the developer or their

authorized agent shall apply for and secure approval of such PDD in accordance with the procedures of this Section.

- D. All proposals for Planned Development Districts shall initially be submitted directly to the Planning Board through the Village Building Department.

#### §205-xx. CB-PDD Specific Procedure.

##### A. Pre-Application Concept Meeting with Planning Board

1. The applicant shall meet with the Planning Board. The Planning board shall aid and advise the applicant in preparing the proposal and supportive documents. The Planning Board shall familiarize the applicant with the CB-PDD process and review the purposes and clarify any concerns and considerations.
2. The Planning Board shall provide comments in writing to the applicant and the Village Board of Trustees within 45 days unless the applicant and the Planning Board agree to extend.

##### B. Initial Board of Trustees Review

1. The applicant shall prepare a concept plan based on the Planning Board's comments and the following:
  - a. A map of the project including its relationship to surrounding areas, existing topography and buildings, and key features.
  - b. Narrative summary of the proposed project including proposed uses, including analysis of benefit to the Village.
  - c. A statement explaining how the proposed CB-PDD complies with the policies and objectives of the economic development plan.
  - d. The number and type of dwelling units proposed, the type of commercial activity and square footage proposed and the approximate location, arrangement, and intensity of use and bulk of all buildings and structures.
  - e. Description of the intended market.
  - f. If the development is to be phased, a general indication of how the phasing is to proceed.
  - g. The approximate proposed parking, traffic and pedestrian circulation plan, including major streets, pedestrian and bike paths, and trails.

- h. The approximate location of any proposed major common open space and any proposed community and public facilities, and any floodplain, wetlands or other natural resource areas designated for preservation.
  - i. The proposed hours of operation for any commercial uses if known. Twenty-four (24) hour operations are discouraged.
  - j. A visual presentation of how the CB-PDD will relate to and be compatible with adjacent and neighboring areas.
  - k. The Village Board may request additional materials after reviewing the initial concept plan.
- 2. The Village Board of Trustees shall review and provide comments to the applicant within 45 days of submission of the Concept Plan.
- 3. Within 45 days of receipt of comments from the Village Board of Trustees, a neighborhood work session shall be held by the applicant to present the proposal. Notice of the neighborhood work session shall be published in a newspaper of general circulation in the Village of Ballston Spa not less than 10 days prior to such workshop. In addition, a notice by certified mail shall be sent to all neighboring properties within 500' of the property boundary. The mailing shall be received at least 5 days prior to the neighborhood work session. The purpose of the meeting is to provide information about the proposal and solicit feedback from the community.
- 4. The applicant shall return to the Village Board of Trustees after the neighborhood work session to review public comment.
- 5. The Village Board of Trustees shall, within 30 days, determine whether or not to approve the Concept Plan as submitted, approved with modifications, or disapprove.
- 6. If the Concept Plan is approved or approved with modifications, the Village Board of Trustees shall refer the applicant to the Planning Board for detailed review.
- 7. If the Concept Plan is disapproved the applicant may, within six months of disapproval, re-apply with a modified Concept Plan directly to the Village Board of Trustees. Another neighborhood work session may be held at the discretion of the Village Board of Trustees. If more than six months have passed, the applicant shall restart the application process with a Pre-Application Concept Meeting with the Planning Board.

#### C. Detailed Application Review with Planning Board

- 1. Proposals shall include detailed information regarding the proposed mix of uses, development density and scale, infrastructure improvements, community amenities,

retained natural areas, and created open space. In addition to the site plan submission requirements outlined in the zoning code, the applicant should include the following information.

2. A location map showing existing uses and names of owners of abutting lands.
3. Delineation of the various residential areas on the site, indicating for each such area general extent, size, and composition in terms of total number of dwelling units.
4. Approximate percentage allocation by dwelling unit type (i.e., single family, two-family, townhouse, multi-family). All development height and bulk standards with proposed height and floor area of all buildings; and calculation of percent of permeable area.
5. The location of any nonresidential uses and the approximate square footage of all non-residential uses.
6. The outlines of the interior roadways and sidewalk systems; intended road ownership, and all existing rights-of-way and easements, whether public or private.
7. Delineation of open space, trails or recreational areas.
8. .
9. A landscape plan showing the materials to be used and their treatment for private and common open space.
10. Enough information on land areas adjacent to the proposed CB-PDD to show the relationships between the proposed development and adjacent areas, including adjacent buildings, land uses, zoning classifications, densities and intensities, circulation systems, public facilities, and floodplains, wetlands, and other natural resource areas.
11. The proposed treatment of the perimeter of the CB-PDD, including land use restrictions, setbacks, landscaping, and other measures, such as screens, fences and walls.
12. A general statement on common open space ownership and maintenance jurisdiction.
13. A SEQRA Assessment Form.

1. In addition, the applicant shall demonstrate how they have incorporated the following Design Criteria as shown with architectural and engineering drawings:

A. Building Siting

- i. Buildings should be located close to the street right-of-way.
- ii. Buildings shall replicate the setbacks of existing buildings to create a consistently developed edge, to reinforce the established pattern of development, and to enhance pedestrian orientation. Where existing

setbacks coincide with the right-of-way line, active street-level uses shall open into the pedestrian zone.

- iii. Building configurations should not create awkward, physically, or visually incompatible relationships with adjacent properties, buildings, and streetscapes.
- iv. Buildings fronting multiple streets must be consistent on each frontage with respect to scale and proportion.
- v. Buildings on corner lots should address both streets.
- vi. Building facades and main entrances should be oriented toward the street, a plaza, or a pedestrian way that directly leads to a street.
- vii. Buildings should be sited to create active outdoor spaces. Spaces between building masses (e.g., alleys, recessed entries, courtyards) should maximize the comfort of users.
- viii. Access for public uses should be provided to adjacent waterways where feasible.
- ix. Service areas, mechanical equipment, and refuse storage areas should be located to the rear or sides of buildings and be screened from view from the street or public space. The use of alleys should be encouraged for mechanical, electrical, and utility equipment placement.
- a. Building Proportion and Scale
  - i. Buildings should incorporate elements that relate to the human scale. Large buildings should be designed to reduce their perceived height by dividing the building mass into smaller-scale components.
  - ii. Buildings are encouraged to use high-quality natural materials, authenticity, and craftsmanship.
  - iii. Height shall be evaluated on a parcel-by-parcel basis, considering the context of the surrounding development and shall not exceed three stories at the streetside or a maximum height of 42 ft. Four (4) stories or a maximum of 56 ft in height shall be allowed with either a 28 ft back from the edge of pavement at ground level or a minimum 15 ft building recessed for the additional floor above the third floor of a building. Building height exceeding three floors must be adjacent to a paved roadway of at least 32 ft wide.



- iv. Impact of shading of adjacent parcels should be evaluated.

b. Building Facades

- i. A mix of complementary building materials are encouraged for a consistent, systematic treatment of all exterior facades. Individual facade elements should respect the scale of adjacent building elements. Facades should be organized into clearly defined base and upper stories with strong horizontal elements separating the two.
- ii. Varying setbacks on wall surfaces should be encouraged to form entrances, express structural elements, or create special exterior areas incorporating planters, seating, and alcoves.
- iii. Building elements should create strong patterns of shade and shadow.
- iv. Visible rear and side facades should incorporate characteristics similar to the front facade.
- v. Building details at the ground or sidewalk level should create visual interest and enhance the pedestrian environment. Each building facade oriented to a street or public space should provide surface variation at openings; changes in color, texture, or materials.
- vi. Art or specifically designed ornamentation integrated into building facades is encouraged.
- vii. Large areas of undifferentiated or blank facades facing the streetside are prohibited.
- viii. Transparency, the amount of window coverage that buildings offer, is encouraged in all structures when appropriate.
- ix. Buildings on corner lots should have features that reinforce both street environments.
- x. Awnings and canopies are encouraged at entries and display windows where appropriate.

c. Building Entrances

- i. Entrances to individual stores or uses should be oriented toward the public street in a way that engages the street.
- ii. Larger buildings that front multiple streets are encouraged to provide multiple entrances.

d. Building Signage

- i. Signs should fit the overall proportions of the building and be integrated into building design. They should avoid dominating a building's facade.
- ii. Signs should be mounted no higher than the bottom of second-story windows in multistory buildings.
- iii. Signs must not impact surrounding residential areas with light pollution or obstruction of sight lines.

e. Sidewalks

- i. ADA compliant sidewalks at least 5 feet wide are required along all streetsides, and sidewalks up to 8 feet in width are encouraged.
- ii. New sidewalks should meet DOT standards.
- iii. Existing sidewalks must be replaced or repaired to ADA and DOT standards.

f. Screening

- i. Appropriate screening of parking lots, delivery areas, loading docks, dumpsters, mechanical equipment, utility service connections, ice and vending machines, freezers and coolers, and transformers must be provided.
- ii. Screening can be accomplished by the incorporation of softscape (living materials) or hardscape.
- iii. Plant materials are encouraged for screening uses if they provide sufficient year-round density to screen adequately.
- iv. Fences and walls used to screen equipment or service areas should be located and sized to adequately conceal the equipment or area and should be of solid construction to prevent visibility of the area being screened.
- v. Fences and walls should be designed to reflect and complement the architectural style of the adjacent building and should incorporate similar materials to that of the adjacent building.

g. Landscaping

- i. Tree plantings along the edge of private property facing the street are encouraged.

- ii. Preservation and the creation of green space is encouraged.
- iii. The use of green infrastructure should be implemented where feasible.

h. Lighting

- i. Control of light intensity to limit light pollution and glare to residential areas is required. Light spillage over the property line cannot be more than 0.5 foot-candles.
- ii. Lighting of sidewalks and entrances should be a minimum of 2.0 foot-candles, not to exceed 5.0 foot-candles. Parking lot lighting should be a minimum of 2.0 foot-candles, not to exceed 10.0 foot-candles.
- iii. Flashing, pulsating, or moving lights and noncommercial lighting fixtures are prohibited.
- iv. For pedestrian promenades and primary sidewalks, ornamental light fixtures are encouraged to enhance the pedestrian environment
- v. Lighting should be energy-efficient (LED, etc.).

i. Parking

- i. Use of joint parking facilities for residential and nonresidential uses, and creation of publicly shared single row parking along frontage is encouraged where there is no on street parking. On-site parking, loading areas, and utilities shall not impair the overall character of the streetscape or pedestrian facilities;
- ii. Sidewalks must be used to provide access to parking facilities.
- iii. Parking lots should be located at the side or rear of buildings rather than between a primary building façade and the street except where there is no on-street parking where a publicly shared single row off-street parking along frontage being encouraged.
- iv. Parking lots should be effectively screened from the surrounding street network.
- v. Parking lots should incorporate islands and a minimum percentage of 10% green space to provide shade and visual relief from large expanses of pavement.
- vi. Parking lot pavement materials should be reinforced concrete, asphalt, or a permeable alternative. Dirt or gravel surfaces are prohibited.
- vii. Private residential garages are encouraged, and entrances should not open onto a public street but rather a parking lot or alley.

- j. Parking Structures, if proposed.
  - i. Parking structures should be within or placed at the back of buildings whenever possible.
  - ii. The inclusion of retail, commercial, or office uses is encouraged along street frontages on the ground floor of parking structures.
  - iii. The primary entrances to parking structures should be visible and easily accessed from the primary pedestrian and vehicular routes.
  - iv. Parking structures that face on a street or public open space should have facades designed to be compatible with neighboring buildings.
  - v. The use of plant material as a screening element where facades face streets or residential properties is encouraged. Exterior planters, open grillwork or trellises supporting climbing plants can be effective stormwater management, attractive screen, create a green wall, and maintain ventilation.
- D. Upon submission of all final plans and specifications for the development, the matter shall be placed on the agenda of the Planning Board at its next regular meeting.
- E. The Planning Board shall hold a public hearing(s).
- F. The Planning Board shall consider the proposal input from its professional consultants, if any, and make findings based on the Criteria for Consideration and Design Criteria listed above.
- G. In making its decision, the appropriate SEQR form shall be used to evaluate the potential environmental impacts based on scale and location, and a report shall be made to the Village Board of Trustees which shall be the Lead Agency.
- H. The Planning Board may adopt a resolution recommending to the Village Board of Trustees that the parcel be rezoned to the designated CB-PDD and shall transmit such resolution and the other supporting materials related to the proposal, to the Village Board of Trustees. The resolution may contain conditions, restrictions, or limitations that the Planning Board deems requisite to its recommendation.
- I. If the Planning Board declines to recommend rezoning, or in the event that the Planning Board does not act upon the proposal within a period of 90 days after the date that the complete application has been submitted as determined by the Planning Board, the applicant may submit the proposal directly to the Village Board of Trustees with a request that said Village Board of Trustees consider the proposal upon its own motion. The applicant shall, in such instance, make full disclosure to the Village Board of Trustees of the reasons for Planning Board's failure or refusal to approve. Before taking final action upon such proposals, the Village Board of Trustees

shall hear and consider any statements or opinions of the Planning Board as to the merits of the proposal or reasons for its failure or refusal to approve.

**§205-xx. Procedures before the Village Board of Trustees.**

- A. Upon receipt of a resolution of the Planning Board recommending a zoning amendment to include a CB-PDD, the Village Board of Trustees shall proceed in accordance with the amendment provisions of §205-74 Amendments by the Village Board of Trustees.
- B. The Village Board of Trustees shall be the Lead Agency for SEQRA review.
- C. Referral to the Planning Board of the proposed amendment shall be deemed waived unless a substantial change in the proposal shall occur after the date of the Planning Board recommendation.
- D. Proposed zoning amendment shall include direction as to when further site plan review, subdivision review, or other approvals are required.

**§205-xx. Expiration.**

- A. If a CB-PDD is approved by the Village Board of Trustees and if construction work has not been commenced and diligently pursued within 24 months from Village Board of Trustees approval of the zoning change, the approved PDD shall become null and void and the property shall revert to the zoning in effect at that time. Phases within an approved development must have fixed deadlines which shall also expire within 24 months of the start of the subsequent phase and will revert to the zoning in effect at that time. The Village Board of Trustees may grant up to two six-month extensions upon request by the applicant.

**§205-xx. Changes and amendments.**

- A. Any minor changes or minor amendments to an approved CB-PDD may be reviewed and acted upon by the Planning Board through the Site Plan Review processes.
- B. Changes or amendments to an approved CB-PDD that are beyond the scope of the Planning Board's authority as determined by the Village Board shall still be reviewed by the Planning Board, but such changes shall not become effective until approved by the Village Board of Trustees in accordance with the Amendment provisions of §205-74 Amendments by the Village Board of Trustees.