**Chapter 51**

**PLANNED DEVELOPMENT DISTRICTS**

**§ 51-01. Planned development districts.**

1. Purpose and objectives. A planned development district (hereafter termed “PDD”) promotes and provides for innovative, efficient, and flexible residential, commercial, industrial or other land uses, or a mix thereof, to achieve economies of scale, creative architectural or planning concepts, and preservation consistent with the Town’s Comprehensive Plan and zoning laws. A PDD may, permit the development of property in a manner that this chapter may not otherwise allow in the zoning district(s) in which the property is located, but which serve to conserve municipal resources and preserve the rural character in accordance with best practices and the Town Comprehensive Plan.
2. PDDs.
3. This article sets forth the exclusive procedures required to establish a PDD.
4. The Town Board (“Town Board”), after appropriate review and recommendations from the Planning Board, shall have the sole authority to enact legislation establishing a PDD.
5. The establishment of a PDD has the effect of amending the Zoning Map with respect to the property approved for the PDD so that the conditions, restrictions and terms in the legislation establishing a PDD replace the zoning regulations for the underlying zone.
6. The Town Board shall not establish a PDD for an area consisting of an existing single lot if the granting of an area variance and/or a special use permit could allow the use that the applicant proposes for the PDD.
7. The establishment of a PDD shall not imply that the Town Board will establish any other PDD.
8. An applicant may propose, and the Town Board may establish, a PDD in any zoning district.
9. An applicant may propose, and the Town Board may establish, a PDD for an area that includes more than one zoning district.
10. The legislation establishing a PDD shall be binding on all owners, future owners, tenants, and future tenants in the PDD
11. An applicant proposing a PDD that includes a subdivision is exempt from the procedures set forth in Chapter 140 of this code.

**§ 51-02.** **Baselines and Deviations.**

1. For the purpose of this article, a “baseline” shall be a measurement from which an applicant seeks a deviation.
2. A PDD shall have a baseline of at least 7,000 contiguous square feet of land.
3. For the purpose of this article, the minimum lot width, minimum lot area, minimum yard dimensions, and maximum height baselines shall be those set forth in Chapter 160 of this code for the zoning district(s) in which the PDD is proposed. However, baseline front, side and rear yard requirements shall apply only to the lot lines of the proposed PDD project site, and not to adjoining property not subject to the PDD application.
4. The Town Board may allow a PDD applicant to deviate from one or more baseline requirements if the Town Board deems that the applicant has made a good faith effort to meet the purpose and objectives of this article, and the applicant additionally proposed community benefits acceptable to the Town Board as part of the application. The following are nonexclusive examples of community benefits:
5. The inclusion of public recreational facilities, pedestrian amenities, other community facilities, or a combination thereof.
6. Integration of publicly accessible open space.
7. Enhancements to the Town’s publicly accessible park(s).
8. Use of energy-efficient construction techniques and environmental conservation methods, including, but not limited to, pervious pavement, solar panels, geothermal heating systems, green infrastructure approaches (including green roofs), and low-impact development (LID) principles and practices.
9. Designation of a minimum percentage of total residential units as “affordable,” as the United States Department of Housing and Urban Development defines that term.
10. The applicant can propose community benefits, and the board shall consider, for property not subject to the PDD application.
11. The legislation establishing a PDD shall set forth the permitted baseline deviations.

**§ 51-03. PDD Application Procedures and Review.**

1. Pre-application conference.
2. Prospective applicants considering a PDD may request the Zoning Enforcement Officer (“ZEO”) to schedule a pre-application conference with Town officials and representatives of departments or boards that may have jurisdiction concerning the application to discuss the proposed project informally, receive initial feedback and learn about the application process.
3. To expedite the pre-application conference, the applicant should be prepared to discuss the proposed PDD’s purpose, proposed geographic location, building locations, land use, open space, traffic circulation, parking, pedestrian walks, landscaping and utilities.
4. The pre-application conference shall not result in any decision regarding the proposal’s approvability, nor bind the Town Board concerning any decision with respect to the proposal.
5. Although discussions during the pre-application conference are not binding on the Town or the applicant, the applicant is encouraged to include in its application the information and materials suggested during the conference.
6. Application.
7. An applicant for a zoning change to a PDD shall file with the ZEO an application, signed by the applicant or the applicant’s authorized representative or agent, and the nonrefundable application fee in accordance with the Standard Schedule of Fees of the Town.
8. The application shall provide sufficient information concerning the proposal to enable the Town Board to decide whether the proposal has merit and whether to allow the application to proceed, and shall contain the following:
9. A preliminary sketch (and any other visual aids or photographs) showing the PDD’s proposed geographic location, building locations, land use, open space, traffic circulation, parking, pedestrian walks, landscaping and utilities.
10. A written statement identifying or explaining the following:
11. The applicant(s), including a description of the applicant’s experience and expertise in similar projects, whether or not within a PDD.
12. The parcel(s) sought to be included in the PDD, including the current owner(s) of the parcel(s) and the current structures and uses on the parcel(s).
13. The purpose of the proposed PDD, including the type of any residential and nonresidential development.
14. The differences between the proposal and what the current provisions of this chapter otherwise permit.
15. Any proposed subdivision.
16. Any desired baseline deviation.
17. Any proposed community benefit.
18. Any proposed demolition.
19. How the proposal would benefit the neighborhood in which it is proposed and the Town as a whole.
20. Proof of the applicant’s ownership or control in the property to be included in the PDD, or evidence that a single entity, or multiple property owners who will have joined in the application, will own or control the PDD’s entire area before the Town Board establishes the PDD.
21. Information concerning the applicant’s financial ability to complete the proposed PDD project.
22. The Town Board can either allow the application to proceed, request the applicant to provide additional information, or reject the application. If, after a request, the applicant provides additional information, the Town Board can thereafter allow the application to proceed or reject the application. If rejected, no further action shall occur concerning the application.
23. If the Town Board allows the application to proceed, the applicant, after depositing the consultant fees set forth below, can initiate a Planning Board preliminary review.
24. Consultant Fees.
25. If the Town board allows the application to proceed, it shall specify the required initial amount, if any, of consultant fees that the applicant must deposit with the Town for the application to proceed.
26. The Town shall deposit the consultant fees into an escrow account established for the project for the sole purpose of paying the costs and fees of the consultant(s) that the Town retains to review the PDD proposal.
27. Such consultants may include planners, engineers, attorneys or other experts and/or professionals retained to review the applicant’s plans, maps, studies, agreements, environmental assessment, forms, environmental impact statements and all other proceedings required by the Town Board, the Planning Board, or this chapter. Choice of consultant shall be at the Town’s sole discretion. Consultants will only be used for analysis and advice on areas that are not within the expertise of the Town.
28. The Town Board shall base consultant fees on the specific fee schedule(s) of the particular consultant(s) retained as well as the scope of services that such consultant(s) will provide.
29. Additional deposits may be required as the review process continues.
30. The Town Board and Planning Board shall coordinate to identify an escrow amount necessary to conduct their respective reviews.
31. The consultant(s) retained shall provide the Town Board with detailed invoices showing the service rendered for the time period billed, and the Town Board shall provide the applicant with an opportunity to review the invoices prior to payment.
The Town shall notify the applicant if the escrow account balance falls below the amount that the Town Board specified. On such notification, the applicant shall promptly replenish the funds to the balance that the Town Board specified. The Town will take no further action on the application until the applicant deposits the required funds with the Town.
32. At the conclusion of the application process, the Town shall promptly return any sums held in escrow that exceed the invoiced expenditures.
33. Planning Board preliminary review and recommendations.
34. The preliminary review shall not constitute a formal application under Chapter 160 of this code and the Planning Board cannot grant any approval based on it.
35. The submission materials should be sufficiently complete and comprehensive with respect to the particular PDD project proposed to enable the Planning Board to conduct the preliminary review.
36. An applicant initiates a preliminary review by filing with the ZEO one original and 10 copies of a request, signed by the applicant or the applicant’s authorized representative or agent, accompanied by the following:
37. A written assessment of how the proposed PDD is consistent or compatible with the overall character of the surrounding area, neighborhood and Town; if not consistent or compatible, the reasons why and what measures are included in the PDD proposal to enhance compatibility or mitigate incompatibility.
38. A written description of the proposed uses.
39. A sketch plan drawn to approximate scale generally depicting the information set forth in § 160-20(B) of this code.
40. A written description of the proposed ownership of the post-development PDD, including a description of organization(s) intended to own, maintain and manage common areas, commercial space, residential units, and infrastructure improvements and whether the applicant or future owner(s) plans to offer for sale or conveyance to third parties certain structures or parcels within the PDD.
41. Density calculations and explanations of any proposed baseline deviation.
42. A written description of proposed community benefits if seeking a baseline deviation.
43. A phasing plan, if any, including timing of phases, proposed offers of dedication of land, public area improvements and/or easements.
44. A full environmental assessment form (EAF) pursuant to SEQRA concerning the proposed PDD and the proposed development’s design elements.
45. Planning Board meetings and recommendations.
46. The Planning Board shall consider the preliminary review request and provide the Town Board with its recommendation as to whether or not it should approve the proposed PDD, together with any issues or concerns the Planning Board has regarding any aspect of the proposed PDD.
47. The applicant shall attend the initial Planning Board meeting in order to explain the proposal and answer any questions the Planning Board may have. The applicant shall attend additional Planning Board meetings if deemed necessary by the Planning Board.

**§ 51-04. Town Board Action.**

1. The Town Board shall commence its consideration of the PDD application after it receives both the Planning Board’s recommendation on approvability.
2. The Town Board shall consider the Planning Board’s recommendations on approvability, but need not follow it. However, if the Planning Board recommends the PDD application’s denial, the Town Board can deny the application without a public hearing or SEQRA review.
3. TheTown Board shall be responsible for initiating the SEQRA process.
4. The Town Board shall schedule a public hearing on the proposed zone change of the property to the proposed PDD in the same manner as a local law.
5. The Town Board may schedule the public hearing prior to completion of the SEQRA process if the lead agency finds that the public hearing may assist in its environmental review.
6. Notice of the public hearing shall conform to the requirements set forth in § 160-20(C) of this code and General Municipal Law § 239-m, shall be followed.
7. The Town Board shall decide whether to grant approval of the proposed PDD pursuant to the reasonable terms, conditions and requirements it deems appropriate.
8. The Town Board shall make its decision within 62 days after the close of the public hearing.
9. If the lead agency issued a positive declaration in accordance with SEQRA, the PDD procedural time frames specified herein shall be suspended until the applicant submits a draft environmental impact statement (“DEIS”) and the lead agency accepts the DEIS as complete.
	1. Upon the lead agency’s acceptance of a DEIS, the public hearing and comment period on the DEIS and PDD application may be coordinated and run concurrently.

* 1. Under a positive declaration, the Town Board shall make no decision regarding the approvability of the PDD proposal until the lead agency completes the environmental impact statement process and issues a SEQRA statement of findings in accordance with SEQRA.
1. In rendering its decision on whether to disapprove or to grant approval of the proposed PDD, the Town Board may consider the following guidelines in addition to other factors the Town Board considers relevant:
2. The Town Comprehensive Plan.
3. The need for, or suitability of, the proposed land uses in the subject location.
4. The compatibility of the proposed PDD with the surrounding area or neighborhood and the existing uses located on properties adjacent to the proposed PDD.
5. The safeguards provided or conditions required that would minimize possible detrimental effects of impacts that the proposed PDD may have on environmental resources, adjacent properties, and the surrounding area in general and the Town at large.
6. Adequacy of drainage, water supply and sewage disposal facilities, traffic access, traffic circulation, and municipal services that may be required.
7. Whether the proposed PDD will further the general welfare of Town residents with sufficient protection for the health and safety of Town residents.
8. Whether the Town can expect a positive or beneficial increase in the tax base when compared with the cost of municipal services, including, but not limited to, emergency responses and roads that it would provide.
9. The Town Board, as part of its decision and approval of the proposed PDD, may set forth conditions that are reasonably related and incidental to the proposed project, to the mitigation of potential impacts and/or in furtherance of the guidelines set forth above or others specified in rendering its decision.
10. The Town Board’s approval shall be in the form of legislation establishing the PDD.

**§ 51-05. Site Plan Review; Application for a Certificate of Appropriateness; Security; and Failure to Construct.**

1. After the PDD is established, the applicant may apply to the Planning Board for approval of a site plan in accordance with Chapter 160 of this code.
2. The applicant shall submit to the ZEO one original and 10 copies of the application signed by the applicant or the applicant’s authorized representative or agent.
3. In addition to all other requirements set forth in Chapter 160 of this code, the application shall include the following:
	1. A drawing, of one or more sheets, prepared to a scale of not less than one inch to 100 feet, showing accurately and with complete dimensioning the following:
		1. The boundaries and total acreage of the PDD’s entire area.
		2. The location of environmental features of land comprising the proposed PDD, including, but not limited to, wetland areas, bonds, streams and drainageways; tree stands and hedgerows; topography (using contour intervals of not more than 10 feet), and any other existing natural features, with identification of what is to be preserved and/or removed.
		3. The location and description of all of the PDD’s existing non-natural features and of all properties adjacent to the PDD, including land uses, structures, driveways or streets, wells, sidewalks, easements and common open areas, with identification of what the applicant intends to maintain, alter, demolish, and/or remove.
		4. The layout of the proposed development, including the location, areas and dimensions of proposed uses, structures, signage, lighting, access and internal roads; parking areas and spaces; water and sewer system facilities and laterals; and all other proposed site development features.
		5. The location, area and features of each development phase if the applicant proposes to construct the development in phases.
	2. Proposed architectural drawings and guidelines applicable for all structures and signage proposed within the PDD, and a general narrative description of the type of architecture proposed and how it compares to the existing architectural features of nearby areas.
	3. A complete plan of the significant landscape features, including buffer areas, screening and aesthetic features.
	4. Stormwater drainage plan with supporting engineering documentation regarding the sufficiency of existing receiving channels or areas and/or mitigation measures.
	5. Traffic studies and plans.
	6. Parking and circulation plans.
	7. Lighting plan.
	8. Utility plan and report establishing either that capacity exists for the PDD or the required improvements proposed.
4. The Planning Board shall not approve a final site development plan unless and until a single entity, or multiple property owners who have joined in the application, owns or controls the PDD’s entire area.
5. Construction of the PDD development shall not commence unless and until the Planning Board has approved the final site plan and the ZEO has issued a building permit.
6. To ensure the full and faithful completion of all land development activities in compliance with the conditions of the PDD approval and the approved site plan, or restoration of the land if the PDD project is not completed, the ZEO shall not issue a zoning permit until the applicant has filed adequate security with the Town Clerk.
7. The security shall be in an amount that the Town Board determines after consultations with the Planning Board, the ZEO, the Town Attorney, and other appropriate parties.
8. The security may be a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution that guarantees satisfactory completion of the project and restoration of the land if the project is not completed, and names the Town as the beneficiary.
9. Physical construction must begin within one year from the date on which the ZEO issued a zoning permit. If it has not, and the Town Board has not granted an extension, the legislation establishing the PDD shall expire and the subject property shall revert to the underlying zoning district(s) and associated regulations in existence prior to the legislation that established the PDD.
10. An applicant or the current owner(s) of the property subject to the PDD can apply to the Town Board, no less than 60 days before the legislation establishing the PDD would otherwise expire, for additional time to commence construction.
11. The extension application must demonstrate that substantial grounds exist that prevented the construction.
12. The Town Board may grant the extension based on the original SEQRA determination and without a public hearing.
13. If the Town Board grants the extension, and physical construction has not begun before the extension’s expiration, the legislation establishing the PDD shall expire and the subject property shall revert to the underlying zoning district(s) and associated regulations in existence prior to the legislation that established the PDD.

**§ 51-06. Mobile Homes.**

All applications for mobile homes, mobile home parks or courts, and for mobile home subdivisions shall be considered to be PDD projects and subject to PDD procedures. In addition to the other requirements of this article, the Planning Board shall review the following specific elements during its preliminary review and its final site development plan review:

1. Provisions for adequate water and sewer connections for each mobile home parking space or lot form a public system. The New York State Department of Health standards for public systems shall determine the requirements for adequacy.