

ARTICLE **INCENTIVE ZONING**

SECTION 1 **PURPOSE AND INTENT**

The purpose and intent of these provisions are to offer incentives to applicants who provide amenities that assist the Town to implement specific physical, cultural and social policies in the Comprehensive Plan as supplemented by the local laws and ordinances adopted by the Town Board.

SECTION 2 **DISTRICTS DESIGNATED FOR INCENTIVES**

All zoning districts are designated as eligible for zoning incentives. Incentives may be offered to applicants who offer an acceptable amenity to the Town in exchange for the incentive.

SECTION 3 **AMENITIES FOR WHICH INCENTIVES MAY BE OFFERED**

- A. The following amenities may be either on or off the subject application:
 - (1) Affordable housing.
 - (2) Passive and active open space and related improvements.
 - (3) Parks.
 - (4) Child-care or elder-care facilities.
 - (5) Utilities.
 - (6) Road improvements.
 - (7) Health or other human-service facilities.
 - (8) Cultural or historical facilities.
 - (9) Other facilities or benefits to the residents of the community.
 - (10) Any combination of amenities and/or cash in lieu of any amenity(ies).

- B. These amenities shall be in addition to any mandated requirements pursuant to other provisions of the Zoning Law or Ordinance.

SECTION 4 **INCENTIVES PERMITTED**

The following incentives may be granted by the Town Board to the applicant on a specific site:

- A. Decreases in required minimum lot sizes.
- B. Changes of use or zoning classifications.
- C. Changes in setbacks or height.
- D. Reduction to open space.
- E. Any other changes in the provisions of the Zoning Law or Ordinance.

SECTION 5

CRITERIA AND PROCEDURE FOR APPROVAL

- A. Applications for incentives in exchange for amenities shall be submitted to the Town Board. In order to preliminarily evaluate the adequacy of amenities to be accepted in exchange for the requested incentive, the following information shall be given by the applicant:
- (1) The requested incentive.
 - (2) The proposed amenity.
 - (3) The cash value of the proposed amenity.
 - (4) A narrative which:
 - (a) Describes the benefits to be provided to the community by the proposed amenity.
 - (b) Gives preliminary indication that there is adequate sewer, water, transportation, waste disposal and fire protection facilities in the zoning district in which the proposal is located to handle the additional demands the incentive and amenity, if it is an on-site amenity, may place on these facilities beyond the demand that would be placed on them as if the district were developed to its fullest potential.
 - (c) Explains how the amenity helps implement the physical, social or cultural policies of the Comprehensive Plan as supplemented by the local laws and ordinances adopted by the Town Board.
- B. The Town Board shall review the proposal and inform the applicant whether or not the proposal is worthy of further consideration. If it is deemed worthy of further consideration, the applicant may then submit two (2) sketch plans to the Planning Board:
- (1) The first sketch plan.
 - (a) The first sketch plan shall show how the site will be developed, with the amenity, if it is on-site, and the incentive. In addition to meeting the requirements of the Zoning Law or Ordinance for Site Plan Review, the plan shall also show existing development, property owners' names and tax account numbers for all property within two hundred (200) feet of the property lines of the proposed project or such other distance as specified by the Town Board.
 - (b) If the incentive will result in a setback or open space reduction, the drawing shall show this reduction in relation to the principal structures on-site and on adjacent properties, as well as property line locations.
 - (2) The second sketch plan should meet the requirements of the Zoning Law or

Ordinance for Site Plan Review; show existing development, property owners' names and tax account numbers for all properties within two hundred (200) feet of the property lines of the project site or such other distance as specified by the Town Board; but shall only show how the site would be developed exclusive of any amenity or incentive.

- (3) The applicant shall also submit such additional information and plans as may be required by the Planning Board, including such additional information and plans as may be required under other sections of the Zoning Law or Ordinance, which, in its judgment, are necessary in order to perform a thorough evaluation of the proposal.
- C. The Planning Board will review the proposal and report to the Town Board with its evaluation of adequacy with which the amenity(ies)/ incentive(s) fit the site and the relate to adjacent uses and structures. The Planning Board's review shall be limited to the planning design and layout considerations involved with the project review or such other issues as may be specifically referred by the Town Board. The Planning Board's report shall be submitted to the Town Board within seventy (70) days from the date of the Planning Board meeting at which the proposal is first placed on the agenda. This time period may be exceeded/ suspended upon the consent of the applicant or for good cause by the Town Board.
 - D. The Town Board will review the Planning Board's report. The Town Board will notify the applicant as to whether it is willing to further consider the proposal. If the Town Board decides to further consider the proposal, it shall hold a public hearing. For Town Board public hearings on incentive zoning requests, the Town Clerk shall give notice of the hearing at least five (5) days prior to the date of the hearing.
 - E. All applicable requirements of the State Environmental Quality Review (SEQR) Act shall be complied with as part of the review and hearing process. In addition to other information that may be required as part of the environmental assessment of the proposal, the assessment shall include verification that the zoning district in which the proposal is to be located has adequate sewer, water, transportation, waste disposal and fire protection facilities to:
 - (1) First, serve the remaining vacant land in the district as though it were developed to its fullest potential under the district regulations in effect at the time of the amenity/ incentive proposal: and
 - (2) Then, serve the on-site amenity and incentive, given the development scenario in subsection E (1) above.

- F. Following the hearing and in addition to compliance with all SEQR requirements, the Town Board shall, before taking action, refer the proposal for review and comment to other governmental agencies as may be required and may refer the proposal to the Planning Board and other town boards and officials for review and comment.
- G. In order to approve an amenity/ incentive proposal, the Town Board shall determine that the proposed amenity provides sufficient public benefit to provide the requested incentive. In no circumstances, however, shall the Town Board be compelled to approve any amenity/ incentive proposal and it may deny any such proposal in its sole and absolute discretion. The Town Board may also impose such conditions upon its approval as it may deem appropriate to promote the health, safety and welfare of the community.
- E. Following the approval by the Town Board, the applicant may proceed to apply for any additional permits or approvals as may be required by the Zoning Law or Ordinance or any other law or regulation, including, where appropriate, site plan approval under the Zoning Ordinance/ Zoning Law. No such additional permit or approval by any board or agency of the Town shall materially alter any condition imposed by the Town Board under Paragraph G thereof and, in the event that any permit or approval by any agency outside the Town materially alters any such condition, the project may not proceed until and unless the Town Board approves of the modification.

SECTION 6 **CASH PAYMENT IN LIEU OF AMENITY**

If the Town Board finds that a community benefit is not suitable on site or cannot be reasonably provided, the Town Board may require a cash payment in lieu of the provision of the amenity. These funds shall be placed in a trust fund to be used by the Town Board exclusively for amenities specified prior to the acceptance of the funds. Cash payments shall be made prior to the issuance of a building permit. Cash payments in lieu of amenities are not to be used to pay general and ordinary town expenses.