

# ARTICLE XI INCENTIVE ZONING

## SECTION

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### SECTION 1100 - PURPOSE

The purpose of these provisions is to offer incentives to applicants who provide amenities that assist the Town in implementing the specific physical, environmental, economic, cultural and social policies outlined in the Town of Clarendon Comprehensive Plan, as supplemented by the local laws and ordinances adopted by the Town Board.

### SECTION 1101 - ZONING DISTRICTS ELIGIBLE FOR INCENTIVES

All zoning districts are eligible for zoning incentives. Incentives may be extended to those applicants who offer acceptable amenities to the Town in exchange for the incentive.

### SECTION 1102 - AMENITIES FOR WHICH INCENTIVES MAY BE OFFERED

- A. The following amenities may be offered by an applicant. These amenities may be provided either on or off the site of the subject application:
  - 1. Affordable housing.
  - 2. Passive and active open space and related improvements.
  - 3. Parks.
  - 4. Child care or elderly-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 amenities that may be mandated elsewhere in this Ordinance.

### SECTION 1103 - INCENTIVES PERMITTED

- A. The following incentives may be granted by the Town Board. These incentives would apply to the site of the subject application:
  - 1. Reduction in lot size requirements.
  - 2. Reduction in setback or height requirements.
  - 3. Reduction in open space requirements.
  - 4. Changes in use or zoning classifications.

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5. Changes to any other provisions of this Ordinance.

### SECTION 1104 - CRITERIA AND PROCEDURE FOR APPROVAL

- A. Applications for incentives in exchange for amenities shall be submitted to the Town Board. The following information shall be provided by the applicant so that the Town Board can evaluate the adequacy of amenities to be provided in exchange for incentives:
  1. The requested incentive.
  2. The proposed amenity.
  3. The cash value of the proposed amenity.
  4. A description of the benefits to be provided to the community by the proposed amenity.
  5. A description of the existing sewer, water, transportation, waste disposal and fire protection facilities in the zoning district in which the proposal is located, and the adequacy of these facilities to handle the additional demands the incentive and 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).
  6. An explanation as to how the amenity will assist in implementing the specific physical, environmental, economic, cultural and social policies outlined in the Town of Clarendon 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. 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 Section 902 of this Ordinance, the plan shall also show existing development, property owner names and tax account numbers for all property within two hundred (200) feet of the property lines of the proposed project site 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. Second Sketch Plan:
    - a. The second sketch plan shall show how the site would be developed exclusive of any amenity or incentive. In addition to meeting the requirements of Section 902 of this Ordinance, the plan shall show existing development, property owner names and tax account numbers for all property within two hundred (200) feet of the property lines of the project site or such other distance as specified by the Town Board.
    - b. The applicant shall also provide any additional information or plans which the Planning Board deems necessary (including any information required under Section 903 of this Ordinance) 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 the

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adequacy with which the amenity(ies)/incentive(s) fit the site and how they 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 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 extended/suspended with 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 conduct a public hearing thereon. For Town Board public hearings involving incentive zoning requests, the Town Clerk shall give notice of the hearing in the official newspaper of the Town at least five (5) days prior to the date of the hearing.
- E. All applicable requirements of the State Environmental Quality Review Act (SEQRA) 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 the SEQRA 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 circumstance, 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 conditions upon its approval as it may deem appropriate to promote the health, safety and welfare of the community.
- H. Following approval by the Town Board, the applicant shall apply for any additional permits or approvals that are required under this Ordinance or any other law or regulation, including where appropriate, site plan approval under Article IX of this Ordinance. 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 hereof, and in the event that any permit or approval by any agency outside the Town materially alters any such condition, then the project may not proceed until and unless the Town Board approves of the modification.

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**SECTION 1105 - 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 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.