

APPENDIX I: SAMPLE INCENTIVE ZONING ORDINANCE

Town of Pittsford, NY

ARTICLE XXXVIII Incentive Zoning [Added 2-6-1996 by L.L. No. 3-1996]

§ 185-230. Purpose and objectives.

- A. It is the purpose of this article to empower the Town Board to grant incentives to the private sector engaged in the land development process to advance the Town's specific policies in accordance with the Town of Pittsford's Comprehensive Plan and in coordination with other community planning mechanisms or land use techniques.
- B. This authority may be used by the Town Board to assist the following objectives from the Town's Comprehensive Plan:
 - (1) To protect highly valued ecological resources and environmentally sensitive areas.
 - (2) To protect active farm operations.
 - (3) To preserve greenways and important open spaces, develop the Pittsford Trail System, preserve historic and archaeological resources and protect high-quality scenic resources.
 - (4) To provide a sound mix of housing types.
 - (5) To promote provision of neighborhood services in growing areas in a carefully planned manner with a design quality reflecting the values of the community with a secondary benefit of relieving some traffic congestion in other areas of the Town.
 - (6) To secure important public works improvements which would not otherwise be provided, such as extending sidewalks, connecting residential areas with schools or providing stormwater detention and treatment basins in excess of that necessitated by immediate project demand.

§ 185-231. Authority.

In accordance with § 261-b of the Town Law of the State of New York, the Town Board is empowered to provide for a system of zoning incentives as the Town Board deems necessary and appropriate, consistent with the purposes and conditions set forth herein.

§ 185-232. Applicability.

Except as specifically limited herein, this chapter will apply to all districts in the Town of Pittsford.

§ 185-233. Definitions.

As used in this article, the following terms shall have the meanings indicated:

COMPREHENSIVE PLAN — The Town of Pittsford Comprehensive Plan Update and Generic Environmental Impact Statement, as amended from time to time.

COMPREHENSIVE PLAN PRESERVATION AREA — The Resource Protection Areas A, B and C as designated by the Town in the Comprehensive Plan.

INCENTIVE ZONING — The system by which specific incentives are granted, pursuant to § 261-b of the Town Law and the provisions of this chapter, on condition that specific physical, social or cultural benefits or amenities would inure to the community.

REVIEW — A preliminary, nonbinding review by the Town Board of an application for use of incentive zoning to determine the merits of applying the incentive zoning concept to a particular project.

SEQRA — The State Environmental Quality Review Act, Article 8 of the New York State Environmental Conservation Law, as amended, and the regulations promulgated thereunder.

§ 185-234. Permitted incentives.

The Town Board may grant the following specific incentives:

- A. Increases in residential unit density only in the Comprehensive Plan Preservation Areas. These areas include a portion of the Rural Residential District RRAA and the Suburban Residential District SRAA, as shown on the attached map. *Editor's Note: The Official Zoning Map is on file in the Town offices.*
- B. Development of current residential unit density over a full parcel, as long as an equivalent amount of the open space that would have been required is provided for elsewhere.
- C. Changes in lot area and dimensional requirements.
- D. Changes of use.
- E. Reduction/elimination of the recreation fee required under § 185-125 of this chapter.
- F. Reduction of road construction standards applied under Chapter 175, Subdivision of Land, for example, permitting a slightly narrower pavement width to serve a limited development project.

§ 185-235. Community benefits or amenities.

- A. The following community benefits or amenities may, at the discretion of the Town Board, be accepted in exchange for an incentive provided in § 185-234. These community benefits or amenities may be either on or off the site of the subject application, may involve one or more parcels of land and may be situated in any district, unless otherwise specifically limited in this chapter:
 - (1) Agricultural conservation, open space, scenic, ecological, historic or other permanent conservation easements.
 - (2) Donations of land in fee simple for conservation and other community benefit purposes.
 - (3) Construction of recreation amenities, serving a Town-wide need, accessible to the general public, above and beyond that required under § 185-125 of this chapter.
 - (4) Construction or improvement to public works above and beyond that required to mitigate proposed impacts in accordance with SEQRA and the Town Code.
 - (5) Preservation and improvements of historical or cultural sites or structures.
 - (6) Other facilities or benefits to the residents of the community, as determined by the Town Board.

(7) Any combination of the above-listed community benefits or amenities.

- B. These amenities will be in addition to any mandated requirements pursuant to other provisions of the Town of Pittsford Code and any other applicable law or regulation.

§ 185-236. Special conditions.

- A. The particular incentive granted will be in relative proportion to the value and importance of the amenity provided, as determined by the Town Board at the time of application.
- B. Residential unit density increases, available only in the Comprehensive Plan Preservation Areas, which includes portions of the RRAA and SRAA Zoning Districts, will be granted in percent increments not to exceed 100% of the original zoned density for the particular parcel receiving the density increase.

§ 185-237. Criteria and procedure for approval.

- A. Optional preapplication review. It is recommended that the applicant meet informally with Town public works staff prior to completion of an application for purposes of gathering information for the proposed amenity/ incentive exchange. The applicant is advised to review the Comprehensive Plan, the Resource Inventory and Evaluation Report and any other materials the Town may have on file regarding the incentive zoning program.
- B. Applications for incentives in exchange for amenities will be submitted to the Town Board in accordance with adopted procedures for requests to amend this chapter. The application will include the following information:
- (1) The requested incentive.
 - (2) The proposed amenity.
 - (3) The estimated cash value of the proposed amenity.
 - (4) A narrative which demonstrates the following:
 - (a) The benefits to the community from the proposed amenity.
 - (b) Consistency with the goals and objectives of the Town's Comprehensive Plan.
 - (c) The relative importance and need for the amenity.
 - (d) 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 if the district were developed to its fullest potential.
 - (e) That all conditions and other applicable requirements of the law are met.
 - (5) Any other information or support materials as needed or requested by the Town Board.
- C. Review by Town Board. Within 45 days of submission of an application, pursuant to Subsection B herein, the Town Board will prepare a brief response to the proposal, outlining in writing the Town Board's determination on whether the proposal is worthy of further consideration and the basis for that determination. The Town Board may engage a consultant to assist in review of the application, the cost of which will be borne by the applicant. Suggested modifications to the proposal may also be provided by the Town Board to the applicant. With a supporting determination, the proposed application will be transferred to the Planning Board.

D. Advisory referral to Planning Board.

- (1) The application will be submitted to the Planning Board for its nonbinding advisory opinion to the Town Board. The review at this stage is intended to obtain the input of the Planning Board for the subject land use decision. It is not intended to serve as a site or subdivision review, which would only occur after a decision by the Town Board on the incentive zoning request.
- (2) The Planning Board will schedule a public workshop on the application, which may be conducted as part of its regularly scheduled meeting. The intent of the workshop is to share information between the applicant, the Planning Board and interested members of the public. The workshop will not supplant the formal hearing which will be conducted by the Town Board later in the review process.
- (3) Within 45 days of receipt of the application from the Town Board, the Planning Board will prepare an advisory report to the applicant and the Town Board. The Planning Board's report will describe the beneficial aspects of the proposal and make recommendations for the amelioration of any adverse aspects of the proposal. The Planning Board's report and the application will then be transferred back to the Town Board for its final decision on the application.

E. Compliance with SEQRA.

- (1) Every decision by the Town Board concerning an application for use of incentive zoning on a particular project will fully comply with the provisions of SEQRA.
- (2) The applicant will submit an Environmental Assessment Form, Part 1, to the Town Board after the referral by the Planning Board.
- (3) The Town Board will establish itself as SEQRA lead agency for all applications submitted pursuant to this article.
- (4) If a generic environmental impact statement has been prepared by the Town Board in enacting or amending this article, the applicant will pay a proportionate share of the cost of preparing such impact statement.

F. Public hearing by Town Board. Prior to its final decision and in conjunction with its SEQRA review, the Town Board will conduct a public hearing in accordance with the standard procedures for adoption of an amendment to the zoning ordinance or local law. At least five days' notice (14 days if a draft environmental impact statement or supplemental environmental impact statement was required) of the time and place of the hearing will be published in an official newspaper of the Town. *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

G. Findings and final decision.

- (1) Following the public hearing and completion of the SEQRA process, the Town Board will approve, approve with modifications or conditions or deny the proposed incentive zoning application. A written statement of the findings will be prepared by the Town Board documenting the basis of its decision. The findings will include, but not be limited to, the following:
 - (a) SEQRA. That all requirements of SEQRA have been met, including the required findings under that law.
 - (b) Development capacity. That the proposed project, including the incentive, can be adequately supported by the public facilities available or provided as a result of the project, including but not limited to sewer, water, transportation, waste disposal and fire protection, without reducing the availability of such facilities for projects permitted as of right under the Town of Pittsford Code.
 - (c) Public benefit. That the public benefit realized by the amenity provided by the

applicant is commensurate with the incentive granted by the Town Board.

- (d) Project quality. That the project is in harmony with the purpose and intent of this article and with the stated objectives and will promote the purposes herein, that the project is sufficiently advantageous to render it appropriate for grant of an incentive and that the project will add to the long-term assets of the Town of Pittsford.
- (e) Comprehensive Plan. That the use of incentive zoning for the particular project is consistent with the Comprehensive Plan.

- (2) The Town Board may impose conditions on a project to ensure that the above findings are ensured through the subsequent plan review and construction phases of the project.

H. Plan review. Following the receipt of a favorable decision by the Town Board, an application for approval may be submitted pursuant to the applicable provisions of the Town of Pittsford Code.