

Introduced at Regular Meeting of Town Board on October 15, 2001, by: Councilwoman Mauro

Dated: October 12, 2001

Placed on Desk of Town Board Members: October 12, 2001

Date of Public Hearing: November 19, 2001

Adopted: \_\_\_\_\_

Local Law No. \_\_ of 2000  
of the Town of Beekman

### **“INCENTIVE ZONING”**

**A LOCAL LAW TO AMEND** the CODE OF THE TOWN OF BEEKMAN by adding a new section to Chapter 155 thereof, ZONING, to provide incentives to land development applicants for the provision of open space and public amenities.

BE IT ENACTED BY the Town Board of the Town of Beekman as follows:

#### ***Section 1.***

The CODE OF THE TOWN OF BEEKMAN is hereby amended to add a new section 155-55 to Chapter 155, ZONING, to be entitled “**Incentive Zoning**”, to read as follows:

#### **§ 155-55. Incentive zoning.**

- A. Purpose and intent. The Town Board may grant zoning incentives to property developers to encourage the provision of certain community benefits or amenities, such as parks, open space, public active and passive recreational opportunities, and other physical, social, or cultural benefits or amenities that are in compliance with the Town Comprehensive Plan.
- B. Incentive zoning restricted to added benefits. Incentives shall be granted only when the community benefits or amenities offered would not otherwise be required or likely to result from the applicable planning process before the Planning Board. Such benefits shall be in addition to any items that are or would be required under other provisions of this chapter or State law, including any mitigation measures required pursuant to the State Environmental Quality Review Act.
- C. Allowable benefits for which incentives may be granted. The following may be offered either on or off the site of the subject application:
  - (1) (1) Permanent conservation of natural areas or agricultural lands;
  - (2) (2) Provision of passive or active open space and related improvements;

- (3) (3) Permanent protection of scenic views;
- (4) (4) Public Parks and recreational facilities;
- (5) (5) Public access to waterfronts;
- (6) (6) Public trails and trail linkages; or
- (7) (7) Cultural or historic facilities deeded to municipality or qualified not-for-profit agencies.

D. Incentives permitted.

- (1) The Town Board may grant the following incentives to the applicant on a specific site:

- (a) (a) Increases in residential unit density:

- [1] [1] The maximum number of residential dwelling units and/or lots permitted in an “incentive development” shall be the sum of the total number of conventional lots/dwelling units as determined pursuant to subdivisions G and C(3) of § 155-54 herein, plus an “incentive density,” which is the additional number of residential dwelling units/lots granted by the Town Board on the basis of the specific community benefits or amenities to be provided by the applicant.

- [2] [2] Where the plat falls within two or more contiguous districts, the Town Board may approve an incentive development representing the cumulative density as derived from the summing of all residential dwelling units and/or lots allowed in all such districts together with the incentive density, and may authorize actual construction to take place in all or any portion of one or more such districts.

- (b) (b) Increases in non-residential density:

- [1] [1] Decreases in required minimum lot area, setbacks or other bulk standards;

- [2] [2] Increases in impervious lot coverage, floor area ratios, building heights or other standards.

- (c) (c) Any other waivers of provisions of this chapter as deemed necessary and appropriate by the Town Board for the achievement of the community benefit or amenity.

E. Procedure and criteria for approval.

- (1) (1) Authorization of zoning incentives is subject to approval by the Town Board upon referral from the Planning Board prior to the grant of preliminary plat or preliminary site plan approval. Applicants may seek non-binding input from the Town Board as to whether the proposal is worthy of consideration prior to the application or at any stage of the application process prior to the formal referral of the application by the Planning Board pursuant to subdivision “6” below.
- (2) (2) For residential developments, applications for zoning incentives in exchange for community benefits shall be processed in accordance with the same procedures applicable to cluster development under § 155-54 herein (whether or not the incentive proposal is in conjunction with a cluster development), and shall include sketch and preliminary plat subdivision layouts for the proposed incentive development of the site.
- (3) (3) For non-residential developments, applications for zoning incentives in exchange for community benefits shall be processed in accordance with the site plan review procedures under § 155-59 herein, and shall include sketch plan and preliminary site plan layouts for the proposed incentive development of the site.
- (4) (4) To evaluate the adequacy of the proposed benefit(s) to be accepted in exchange for the requested incentive(s), the following information shall be provided by the applicant with its application for subdivision or site plan approval:
  - (a) (a) A description of the proposed amenity or amenities outlining the benefits that will accrue to the community;
  - (b) (b) The economic value of the proposed amenity or amenities to the Town as compared with the economic value of the proposed incentive or incentives to the applicant;
  - (c) (c) A preliminary demonstration that there is adequate sewer, water, transportation, waste disposal and fire protection facilities serving or proximate to the proposed development to handle the additional demands the incentive and amenity may place on such facilities beyond the demand that would otherwise occur with conventional subdivision development; and
  - (d) (d) An explanation as to the way in which the amenity will implement physical, social or cultural policies of the Comprehensive Plan and this Chapter.

- (5) All applicable requirements of the State Environmental Quality Review Act (“SEQRA”) shall be complied with as part of the review and hearing process before the Planning Board.
- (6) Prior to granting approval of the preliminary plat or preliminary site plan based on an incentive proposal but after at least one hearing thereon has been held, the Planning Board shall refer the proposal to the Town Board. The Planning Board’s report shall include the following:
  - (a) (a) The Planning Board’s recommendations regarding the proposal, including an evaluation of the adequacy with which the benefit(s) and incentive(s) fit the site and how they relate to adjacent uses and structures, and that such benefit(s) would not otherwise result as provided in § 155-55(B) above. The Planning Board’s evaluation shall be limited to planning, design and layout considerations, or such other issues as may be specifically referred to it by the Town Board;
  - (b) (b) A SEQRA determination as to whether the proposal will have a significant impact on the environment; and
  - (c) (c) An assessment that there is adequate sewer, water, transportation, waste disposal and fire protection facilities to serve the proposed incentive development, benefit(s) provided, and other impacted lands, and that such development will not substantially and deleteriously impact upon the development prerogatives of neighboring lands pursuant to the zoning and land-use regulations then in effect.
- (7) Upon receipt of the Planning Board’s referral, the Town Board shall hold a public hearing on the proposal. For Town Board public hearings on incentive zoning requests, notice of the hearing shall be published in the official newspaper of the town at least five (5) days prior to the date of the hearing.
- (8) For approval of an amenity/incentive proposal, the Town Board shall determine that the proposed amenity provides sufficient public benefit to provide the requested incentive. Thereafter, the Planning Board is authorized to act on the application for preliminary approval pursuant to the Subdivision Regulations and or § 155-59 of this Chapter.
- (9) Following preliminary plan approval and subject to meeting all conditions imposed on the preliminary plan, including all conditions and documentation required by the Town Board for the incentive, the applicant may submit a final plat or plan for review and approval of the incentive proposal in accordance with the Subdivision Regulations or § 155-59.

***Section 3. Severability.***

If any section of this local law or the application thereof to any person or circumstance shall be adjudged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any provision of any section of the application of any part thereof to any other person or circumstances, and to this end, the provisions of each section of this local law are hereby declared to be severable.

***Section 4. Effective date.***

This local law shall take effect immediately upon its filing with the Secretary of State.