

## **ARTICLE 5 INCENTIVE ZONING**

### **Sec. 5.0. Intent.**

The purpose and intent of these provisions is to offer incentives to applicants who provide amenities that assist the city in implementing the specific physical, cultural, economic development and social policies of the Comprehensive Development Plan of the City of Olean as supplemented by the local laws and ordinances adopted by the common council, all in accordance with Section 81-b of the General City Law of the State of New York.

### **Sec. 5.1. Applicable to the Industrial (I), General Industrial (12) and City Center (CC) Use Districts.**

For this purpose the Industrial (I), General Industrial (12) and City Center (CC) Use Districts are designated as eligible for zoning incentives. Incentives may be offered to applicants who offer an acceptable amenity to the city in exchange for the incentive.

### **Sec. 5.2. Amenities for which zoning incentives may be offered.**

Amenities for which Incentives may be offered in the I, 12 and CC Districts may be provided either on or off the site of the applicant's primary proposal and may include:

1. Affordable housing;
2. Passive and active open space and related improvements;
3. Parks and plazas;
4. Child care or adult care facilities;
5. Utilities;
6. Parking or road improvements for use by the general public;
7. Health or other human service facilities;
8. Cultural, visitor or historic facilities;
9. Building or facade improvements in accordance with guidelines adopted by the common council of the City of Olean;
10. Other facilities or benefits to the residents of the community; and 11. Any combination of amenities and/or cash in lieu of any amenity.

### **Sec. 5.3. Zoning incentives which may be granted.**

The following incentives may be granted by the common council to the applicant on a specific site:

1. Increases in building density;
2. Changes of use;
3. Increases in lot coverage;

4. Changes in setbacks or height;
5. Increases in floor area;
6. Reductions or modifications of parking requirements where shared or joint use parking is practicable and the necessary agreements have been reached.

#### **Sec. 5.4. Incentive zoning applications.**

Applications for incentives in exchange for amenities shall be submitted to the common council through the code enforcement officer of the city, who shall also notify the department of community development of such application, and the common council shall evaluate the adequacy of amenities to be accepted in exchange for the requested incentive.

The following information shall be provided by the applicant to the common council:

1. A description of the proposed amenity;
2. The cash value of the proposed amenity;
3. A narrative which describes the benefits to be provided to the community by the proposed amenity; gives preliminary indication that there are 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; and explains how the amenity helps implement the physical, social, economic development or cultural policies of the comprehensive development plan as supplemented by other local laws and ordinances adopted by the common council.
4. The requested incentive or incentives. The common council shall refer all applications to the planning board for its review and comment.

#### **Sec. 5.5. Application review process.**

The common council shall review the proposal and inform the applicant whether or not the application is complete and whether the application is worthy of further consideration. If the application is deemed to be worthy of further consideration, the common council shall prepare a resolution with required minimum sponsorship and submit that together with two sketch plans prepared by the applicant to the planning board.

The first sketch shall show how the site will be developed with the amenity, if it is onsite, and the incentive. The plan shall also show existing development, property owner's names and tax account numbers for all property within 200 feet of the property lines of the proposed project or such other distance specified by the common council.

If the incentive will result in a structural height increase, the applicant shall submit an elevation drawing at a scale of 1/4 inch equal one inch which shows the height permitted by the district regulations, the proposed additional height, the distance to other principal structures on-site and on adjacent properties and their heights, as well as property line locations.

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.

The second sketch plan should show existing development, property owners' names, and tax account numbers for all property within 200 feet of the property line at the project site, or such other distance as specified by the common council; but shall only show how the site would be developed exclusive of any amenity or incentive.

The applicant shall also submit such additional information and plans as may be required by the planning board which, in its judgment, are necessary in order to perform a thorough evaluation of the proposal.

The planning board shall review the proposal and report to the common council with their evaluation of the adequacy with which the amenity or amenities and incentives 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 project review and such other issues as may be specifically referred by the common council. The planning board's report shall be submitted to the common council within 70 days from the date the application by the applicant to the common council is determined to be complete. This time period may be extended/suspended for good cause by the common council.

The common council will review the planning board's report. The common council will notify the applicant whether it is willing to further consider the proposal and hold a public hearing thereon.

#### **Sec. 5.6. Public hearings and environmental compliance.**

For common council public hearings on incentive zoning requests, the city clerk shall give notice of the hearing in the official newspaper of the city at least 10 days prior to the date of the hearing.

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 an environmental assessment of the proposal, the assessment shall include verification that the area has adequate sewer, water, transportation, waste disposal and fire protection facilities to, 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 then, serve the on-site amenity and incentive.

#### **Sec. 5.7. Final common council action.**

Following the hearing and in addition to compliance with all SEQR requirements, the common council 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 other agencies for review and comment. In order to approve an amenity incentive proposal, the common council shall determine that the proposed amenity provides sufficient public benefit to provide the requested incentive. Thereafter, the planning board is authorized to act on an application for preliminary plan approval.

Following preliminary plan approval and subject to meeting all conditions imposed on the preliminary plan, including the provision by the applicant of a performance bond to guarantee

completion of the amenities and all documentation required by the city attorney and common council, the applicant may submit a final plan for review and approval.

If the common council finds that a community benefit is not suitable on site or cannot be reasonably provided, the common council 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 city upon approval by the common council exclusively for amenities specified in these provisions. Cash payments shall be made prior to the issuance of a building permit.