

LOCAL LAW ,2010

Local Law to amend Chapter 165 of the Town Code to the Town of Putnam Valley (Zoning) so as to add a new Article XXII providing for Incentive Zoning, as authorized under New York State Town Law Section 261-b.

BE IT ENACTED by the Town Board of the Town of Putnam Valley as follows:

(1) There shall be added to Town Code Chapter 165 (Zoning) a new Article XXII entitled “Incentive Zoning”, which Article shall read as follows:

**Article XXII
Incentive Zoning**

Sect. 165-102 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 policies in accordance with the Town of Putnam Valley'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 advance the following objectives from the Town's Comprehensive Plan.

1. To protect ecological resources and environmentally sensitive areas.
2. To protect active farm operations.
3. To preserve greenways and important open spaces, develop a 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 a carefully planned manner with a design quality reflecting the values of the community, and to relieve traffic congestion in the Town.
6. To secure public works improvements which would not otherwise be provided, including but not limited to providing stormwater detention and treatment basins in excess of that necessitated by immediate project demand, providing recreational facilities, and contributing to a capital fund for future Town

infrastructure needs.

Sect. 165-103 Authority

In accordance with Section 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.

Sect. 165-104 Applicability

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

Sect. 165-105 Definitions

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

Comprehensive Plan - The Town of Putnam Valley's Comprehensive Plan and Generic Environmental Impact Statement, as amended from time to time.

Incentive Zoning - The system by which specific incentives are granted, pursuant to Section 261-b of the Town Law and the provisions of this chapter, on condition that certain physical, social, cultural and/or financial benefits or amenities are provided to the Town.

Review - A preliminary, non-binding 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.

Sect. 165-106 Permitted Incentives.

The Town Board may grant the following specific incentives:

- A. Increases in developmental density.
- B. Development of allowable residential density over a full parcel, as long as an equivalent amount of the open space that would have been required *by the Planning Board* is provided for elsewhere in the Town *by or through the Applicant*.
- C. Changes in height, lot and bulk regulations as specified in Sect. 165-14.
- D. *Allowing use of the premises for a purpose or purposes not authorized in the Base Zoning District.*
- E. Reduction/elimination of the recreation fee required under Section 277(4) of the New York State Town Law.

- F. Modification of Town road and/or driveway construction standards, subject to the approval of the Town Engineer, and provided any such modification creates no threat to public health and safety.

Sect. 165-107 Community Benefits Or Amenities.

A. The following Town benefits or amenities may, at the discretion of the Town Board, be accepted in exchange for one or more incentives as provided in section 165-106 above. These Town 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 and/or other permanent conservation easements.
- (2) Donations of land in fee simple for conservation and other Town benefit purposes.
- (3) Construction of recreation amenities, accessible to the general public, above and beyond those required under New York State Town Law Section 277(4).
- (4) Construction of or improvements to public works beyond that required to mitigate anticipated impacts from a project proposal in accordance with SEQRA and the Town Code.
- (5) Preservation and/or improvement of historical and/ or cultural sites and/or structures.
- (6) Other facilities or benefits to the residents of the Town, as determined by the Town Board, including, as appropriate, financial contributions to a capital improvement and/or land acquisition fund.
- (7) Any combination of the above-listed Town benefits or amenities.

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

Sect. 165-108 Special Conditions

A. The particular incentive granted shall be in reasonable proportion to the value and importance of the amenity provided, as determined by the Town Board at the time of final determination.

B. Developmental unit density increases shall not exceed 100% of the original zoned density

for the particular parcel receiving the density increase.

Sect. 165-109 Criteria and Procedure for Approval

- A. Optional pre-application review. It is recommended that the applicant meet informally with Town staff prior to completion of an application under Subsection (B) hereof for purposes of gathering information for the proposed amenity/incentive exchange. The applicant is advised to review the Comprehensive Plan, 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, through the office of the Town Clerk, and shall include the following information:
- (1) A detailed description of the proposed project, including preliminary site development plan.
 - (2) The requested incentives.
 - (3) The proposed amenities.
 - (4) The estimated cash value of the proposed amenities and incentives, respectively.
 - (5) A narrative which demonstrates the following:
 - (a) The benefits to the Town 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 are adequate sewer, water, transportation, waste disposal and fire-protection facilities accessible and available to the parcel(s) for which the incentive is proposed.
 - (e) That all other applicable requirements of the law in respect to the project proposal, can realistically be met.
 - (f) Any other information or support materials as needed or requested by the Town Board.
- C. Review by Town Board. Within 90 days of complete submission (***as determined by the Town Board***) of an incentive zoning 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. If the Town Board deems the application worthy of further consideration, ***it shall grant Concept Plan approval to the application, which will then be transferred to the Planning Board for the conditional obtainment of all approvals within that Board's jurisdiction.***

- D. ***Upon completion of its reviews the Planning Board shall render its decision with respect to the application(s) before it subject to, and contingent upon, the Town Board's grant of the incentive zoning relief sought by the Applicant. As part of its decision the Planning Board may, but need not, render an advisory opinion to the Town Board with respect to the incentive zoning relief incorporated within the approval(s) granted by it.***
- E. ***Upon receipt of the Planning Board's decision (and advisory opinion, if any) the Town Board shall conduct a public hearing on the conditionally-approved application in accordance with the hearing procedures applicable to a Zoning Code amendment.***

F. 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 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 Code.
- (c) Public Benefit. 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 will promote the purposes herein, and that the project is sufficiently advantageous to render it appropriate for grant of an incentive.
- (e) Comprehensive Plan. That the use of incentive zoning for the particular project is consistent with the Comprehensive Plan.

G. *All incentive zoning project applications shall undergo, coordinated reviews under the N.Y. State Environmental Quality Review Act. ("SEQR") and the Planning Board shall serve as Lead Agency.*

(1) This Local Law shall take effect upon the date of its filing with the New York State Secretary of State.

Dated: Putnam Valley, New York
October , 2010