

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

**DRAFT**

County  City  Town  Village  
(Select one:)

of Canandaigua

5/6/2022

Local Law No. \_\_\_\_\_ of the year 2022

A local law Amendments to Chapter 220 (Zoning) Section 220-31 Incentive Zoning District  
(Insert Title)

Be it enacted by the Town Board of the  
(Name of Legislative Body)

County  City  Town  Village  
(Select one:)

of Canandaigua as follows:

See Attachment A

(If additional space is needed, attach pages the same size as this sheet, and number each.)

**Attachment A**  
**Draft Local Law \_\_\_\_ of 2022**

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**§ 220-31 Incentive Zoning District.**

- A. Intent. The Town Board finds that in addition to existing powers and authorities to regulate by planning and zoning, including authorization to provide for the granting of incentives or bonuses pursuant to other enabling law, the Town Board is hereby empowered, as part of Chapter 220 of the Town Code, to provide for a system of zoning incentives, or bonuses, as the Town Board deems necessary and appropriate consistent with the purposes and conditions set forth in this section.
- B. Purpose. The purpose of these regulations of incentive, or bonus, zoning shall be to advance the Town's specific physical, cultural and social policies in accordance with the Town's Comprehensive Plan and in coordination with other community planning mechanisms or land use techniques. The system of zoning incentives or bonuses shall be in accordance with the meaning of § 261-b of Article 16 of the New York Town Law, as may be amended from time to time.
- C. Authority. This authority may be used by the Town Board to assist in implementing the following planning objectives:
- (1) To protect highly valued ecological resources, geological features and environmentally sensitive areas.
  - (2) To protect active farmland operations.
  - (3) To preserve greenways and important open spaces, and provide access to trail corridors.
  - (4) To preserve historic and/or archaeological resources.
  - (5) To protect high-quality scenic resources.
  - (6) To secure important public works improvements which would not otherwise be provided to planned development areas of the community and which are in excess of that necessitated by immediate project demand.
  - (7) To provide a more desirable environment than what would be possible throughout the strict application of existing zoning regulations.
- D. Districts designated for incentives. The Town Board shall have the authority to designate incentives in all zoning districts of the Town of Canandaigua.
- E. Permitted incentives. The Town Board may grant the following specific incentives:
- (1) Increase in dwelling unit density for a site.
  - (2) Changes in lot area and dimensional requirements.
  - (3) Changes of use.
- F. Community benefits or amenities. The following community benefits or amenities may, at the discretion of the Town Board, be accepted in exchange for an incentive identified in

Subsection E above. These community benefits 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 section and will be in addition to any mandated requirements pursuant to other provisions of the Town of Canandaigua Code and any other applicable law or regulation.

- (1) Agricultural conservation, open space, scenic, ecological, historic or other permanent conservation easements.
- (2) Donation of land in fee simple for either conservation or community benefit purposes.
- (3) Construction of recreation amenities, serving a Town-wide need, accessible to the general public, above and beyond that required elsewhere in the Town Code.
- (4) Construction or improvement to public work facilities which are above and beyond that required to mitigate proposed impacts in accordance with the Town Code and the State Environmental Quality Review (SEQR) regulations.
- (5) Preservation and improvement of historical or cultural sites or structures.
- (6) Provision of shared driveways, cross-access easements or access and service streets, internal circulation systems or interconnected parking.
- (7) Other facilities or benefits to the residents of the community, as determined by the Town Board.
- (8) Any other combination of the above-listed community benefits or amenities.

G. Criteria for approval. Applications for incentives in exchange for amenities shall be submitted in writing to the Town Board. In order to preliminarily evaluate the adequacy of amenities to be accepted in exchange for the requested incentive, the following information shall be provided by the applicant:

- (1) A sketch plan of the proposed amenity.
- (2) The value of the proposed amenity.
- (3) Narrative.
  - (a) A narrative which:
    - [1] Describes the benefits to be provided to the community by the proposed amenity.
    - [2] Provides preliminary indication that there are adequate sanitary sewers, water, transportation, waste disposal and fire protection facilities within the existing zoning district which the proposal is located in order to accommodate additional demands, if any.
    - [3] Explains how the proposed amenity promotes implementation of physical, environmental or cultural policies articulated in proposed plans.
    - [4] Describes the requested incentive and its value.
    - [5] Describes the manner in which any common areas are to be owned and maintained, including open space, streets, lighting and other considerations relevant to the proposal.
    - [6] Describes any covenants, grants of easement or other restrictions proposed to be imposed upon the use of the land, buildings or structures, including proposed easements for public utilities.
  - (b) The Town Board, in its discretion, may waive any or all of the above listed

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submission requirements.

H. Initial review and consideration. All applications for incentive zoning shall commence with a written proposal to the Town Board which sets forth the criteria listed in Subsection G above. The Town Board shall review the proposal and inform the applicant whether or not the proposal is worthy of further consideration.

(1) Sketch plan requirements.

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- (a) The sketch plan shall show how the site will be developed, with the amenity, if it is on-site, and the incentive being requested. In addition to meeting the requirements of the applicable sections of the Town Code, the plan shall also meet the requirements of Article VII, Site Plan Regulations, §§ 220-64 through 220-72, and/or Chapter 174, Subdivision of Land, and show existing development, property owners' names and tax account numbers for all property within 200 feet of the property lines of the proposed project or such other distance as may be specified by the Town Board.
- (b) If the incentive will result in a structural height increase, the applicant shall submit an elevation drawing, at a scale of 1/4 inch equals one foot, which shows the height permitted by 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.
- (c) If the incentive will result in a setback or open space reduction, the drawing shall show this reduction in relation to the principal structure on site and on adjacent properties, as well as property lines.
- (d) The Town Board, in its discretion, may waive any or all of the above-listed sketch plan requirements. Notwithstanding any such waiver granted by the Town Board relative to the sketch plan required for the incentive zoning application, all site plan requirements shall remain in full force and effect relative to any required Planning Board approvals.

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

I. Planning Board review. The Planning Board will review the proposal and report to the Town Board with its evaluation of the 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 impact of the proposed incentive zoning on the planning design and layout of the project unless otherwise requested by the Town Board. The Planning Board's report shall be submitted to the Town Board within 45 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 by the Town Board.

J. Town Board decision after public hearing. The Town Board, upon its receipt of the Planning Board's report, will review the document and then notify the applicant as to

whether or not it is willing to further consider the proposal and hold a public hearing thereon. If the Town Board decides to further consider the proposal, it shall hold a public hearing thereon. For Town Board public hearings on incentive zoning requests, the Town Clerk shall give notice of the hearing in the official newspaper of the Town at least five days prior to the date of the hearing.

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- K. SEQR compliance and verification. All applicable requirements of the State Environmental Quality Review (SEQR) regulations shall be complied with as part of the review and hearing process. 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 serve the on-site amenity and incentive.
- L. Costs. Any applicant for incentives or bonuses shall pay the cost of preparing any environmental impact statement required by the Town Board, this chapter, Town Law § 261-b, as amended, or 6 NYCRR Part 617, as amended, and such charge shall be added to any site-specific charge made pursuant to the provisions of § 8-0109 of the Environmental Conservation Law.
- M. Coordination with other governmental agencies. The Town Board shall, before taking action, refer, where appropriate, the application to the Ontario County Planning Board for review and recommendation under the provisions of §§ 239-l and 239-m of the New York State General Municipal Law. Where said rezoning application affects property located within 500 feet of a municipal boundary, the Town Clerk shall provide notice of said action to the Clerk of the adjacent municipality. Following the hearings and in addition to compliance with all SEQR 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. 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. The Town Board shall, as part of their conditional approval, specify the amenity being provided, along with a detailed description of the incentive(s) being provided. Thereafter, the Town Board is authorized to act on an application for preliminary approval as provided for elsewhere in this section. In no circumstances may the Town Board be compelled to approve any incentive zoning proposal, such act being an absolutely discretionary legislative act. The Town Board may also impose such conditions upon its approval as it may deem appropriate to promote the health, safety and welfare of the community. Following approval of the incentive zoning by the Town Board and subject to meeting all conditions imposed on the preliminary plan, including all documentation required by the Town Attorney, Town Highway and Water Superintendent, Town Water and Sewer Superintendent, Town Code Enforcement Officer, Town Zoning Officer, Town Planner and the Fire Chief of either the City of Canandaigua Fire Department or the Fire Chief of the Cheshire Volunteer Fire Department on the amenity, the applicant may submit a site plan for review and approval by the Planning Board subject to all other requirements of the Town Code.
- N. Notation on official Zoning Map. Upon final plan approval, the Town Clerk shall affix a

reference to the Official Zoning Map that the development of this site was approved under the Town's incentive zoning provisions and include a reference to the date such action was taken.

- O. 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 provisions of the amenity. These funds shall be placed in a fund or capital project at the discretion of the Town Board to be used by the Town Board exclusively for amenities specified prior to acceptance of 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. Cash payments may be directed to existing reserve funds, capital projects, other funds; or funds or projects to be created by the Town Board.

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(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 2022 of the (County)(City)(Town)(Village) of Canandaigua was duly passed by the Town Board on \_\_\_\_\_, in accordance with the applicable provisions of law.

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**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20    , in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_.

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph \_\_\_\_\_ above.

\_\_\_\_\_  
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: \_\_\_\_\_

(Seal)