



# VILLAGE OF BROCKPORT

127 Main Street · Brockport, New York 14420  
Telephone (585) 637-5300 · Fax (585) 637-1045  
Website: [www.brockportny.org](http://www.brockportny.org)

*The Victorian Village on the Erie Canal  
Preserve America Community  
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Certified Local Government  
Tree City USA Community  
Erie Canalway Heritage Award of Excellence  
NYS Climate Smart Community  
NYS Clean Energy Community*

## VILLAGE OF BROCKPORT Notice of Public Hearing

Please take notice that the Board of Trustees of the Village of Brockport will hold a **public hearing beginning at 7:00 pm on Monday, November 18, 2019** at the Village Court conference room 49 State Street, Brockport, NY 14420 to consider proposed Local Law of 2019 to amend Brockport Village Code Chapter 58 Zoning to include "Incentive Zoning".

Text of the proposed local law is available for public inspection during normal business hours at the Village Clerk's office and is on the Village website at [www.brockportny.org](http://www.brockportny.org).

All interested parties will be given the opportunity to be heard.

By Order of the Brockport Village Board

Leslie Ann Morelli  
Brockport Village Clerk

Dated: 11/5/19

For publication in Suburban News and posting on Village website and at Village Hall.

*The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.*

## Article VI Incentive Zoning

**DRAFT**

### § 58-36.1 Title.

This article shall hereinafter be known and cited as "The Incentive Zoning Law of the Village of Brockport."

### § 58-36.2 Purpose and intent.

The Village Board of Trustees (Village Board) has determined that it may be appropriate to make adjustments to permissible use, density and area requirements for the specific purpose of encouraging development using principals set forth in the Village of Brockport's Comprehensive Plan while providing amenities to the Village at a minimum cost to the residents and taxpayers. It is the intent of this article to empower the Village Board to grant incentives or bonuses to advance the vision and policies articulated in the Village of Brockport's Comprehensive Plan and the following objectives:

- A. The preservation and enhancement of natural and cultural features.
- B. The accommodation of land uses and physical site arrangements which are not contemplated under conventional zoning but which would further the land use goals of the Village.
- C. The creation of usable open space and public access to recreation lands and trails.
- D. The orderly development of parks..
- E. The provision of a more desirable environment than what would be possible through the strict application of existing zoning regulations.
- F. The promotion of the general health, safety and welfare of the Village.

### § 58-36.3 Legislative authority.

In accordance with § 7-703 of the Village Law of the State of New York, the Village Board of the Village of Brockport is empowered to provide for a system of zoning incentives or bonuses in exchange for specific social, economic, or cultural benefits or amenities as the Village Board deems necessary and appropriate and which are consistent with the intent and purpose set forth in § 58-36.2.

### § 58-36.4 Applicability.

This article shall apply to all zoning districts in the Village of Brockport.

### § 58-36.5 Definitions.

For the purpose of this article, the terms used are defined as follows:

#### **COMMUNITY BENEFITS OR AMENITIES**

Open space, parks, Historical Preservation, off-street parking and other specific physical, social or cultural amenities, or cash in lieu thereof, of benefit to the residents of the community, authorized by the Village Board.

#### **INCENTIVES or BONUSES**

Adjustments to the permissible density, area, height, use or other requirements of the Zoning Code for

the Village of Brockport and any amendments thereto in exchange for a specific community benefit or amenity. These adjustments may incorporate two or more noncontiguous parcels of land.

## **INCENTIVE ZONING**

The system by which specific incentives or bonuses are granted, pursuant to § 7-703 of the New York State Village Law, on condition that specific social, economic, or cultural benefits or amenities are provided to the community.

### **§ 58-36.6 Benefits or amenities.**

A. The following benefits or amenities may be either on or off the site of the subject application:

- (1) Preservation of open space.
- (2) Construction, improvement and enhancement to Town buildings and grounds including parks.
- (3) Preservation of cultural or historic facilities in excess of those required to mitigate proposed development impacts.
- (4) Enhancement and preservation of designated Historical Landmarks.
- (5) Other facilities or benefits to the residents of the community which are consistent with the purpose and intent of this article, as determined by the Village Board.
- (6) If the Village Board finds that a community benefit is not suitable on the site or cannot be reasonably provided, the Village Board may require a cash payment in lieu of the provision of the amenity or bonus. These funds shall be placed in a trust fund to be used by the Village Board exclusively for amenities specified in these provisions.
- (7) Any combination of the above-listed amenities and/or cash in lieu of any amenity(s) for specific purposes identified.

B. Prior to the issuance of any permit, stripping of any ground cover, site grading, or any other site improvements or construction activities:

- (1) Any property transfers shall have been made;
- (2) A cash payment in lieu of amenities shall be made;
- (3) If the amenities include construction by the developer, the letter of credit posted by the developer shall include provisions for such work.

C. These amenities shall be in addition to any mandated requirements pursuant to other provisions in the Code of the Village of Brockport.

### **§ 58-36.7 Incentives or bonuses.**

The following incentives may be granted by the Village Board to an application on a specific site:

- A. Increases in residential or nonresidential unit density.

- B. Changes in use.
- C. Increases in lot coverage.
- D. Changes in setbacks or height.
- E. Increases in floor area.
- F. Reduction of required buffer area.
- G. Modification of parking requirements.

**§ 58-36.8 Criteria and procedure for approval.**

- A. A preapplication conference is required prior to the submission of an application for incentive zoning. The purpose of a preapplication conference is to inform the applicant of applicable procedures, submission requirements, development standards and other pertinent matters before the applicant finalizes the incentive zoning proposal.
  - (1) The preapplication conference will be coordinated through the Building Department and will normally be attended by the Mayor, Superintendent of Public Works, the Building Inspector, and other interested parties who may be designated by the Mayor.
  - (2) The applicant requesting consideration for incentive zoning is required to attend the preapplication conference and is encouraged to bring the project's design professional(s).
  - (3) Upon the request for the preapplication conference, the applicant shall pay a fee in an amount determined by the Village Board by resolution and as set forth in the fee schedule. This fee shall be nonrefundable.
  - (4) Opinions presented during a preapplication conference are advisory in nature and do not represent a commitment on behalf of the Village Board or represented agency regarding the acceptability of the incentive zoning proposal.
- B. An application for incentive zoning will consist of a letter of intent accompanied by the following information:
  - (1) One concept plan showing the site developed to its fullest extent under the zoning regulations in this chapter of the Village Code and one concept plan showing the site developed in a manner that incorporates the desired incentive and amenity to be provided. These plans shall show the following information:
    - (a) Location and extent of all proposed land uses, including development areas and open spaces, with areas shown in acres.
    - (b) All interior streets, roads, access easements and their planned private or public ownership, as well as all points of access and egress from existing public rights-of-way.
    - (c) An area map showing adjacent parcels; that portion of the applicant's property under consideration; all

properties, zoning districts, subdivisions, streets, access easements, watercourses, drainage facilities, buildings, structures and other significant natural and built features within 300 feet of the applicant's property and all uses of abutting lands.

- (2) A written description of the proposed amenity.
- (3) The cash value of the proposed amenity.
- (4) A narrative which:
  - (a) Describes the benefits to be provided to the community by the proposed amenity.
  - (b) Provides a 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 may place on these facilities beyond the demand on them as if the site were developed to its fullest extent under the zoning regulations in this chapter of the Village Code.
  - (c) Explains how the amenity helps implement the vision and policies of the Comprehensive Plan and land use goals of the Village as supplemented by the laws and regulations adopted by the Village Board.
  - (d) Describes in detail the requested incentive(s).
- (5) A completed Long Environmental Assessment Form, Part I.
- (6) Payment to the Village in an amount established by resolution of the Village Board as set forth in the fee schedule. This shall be nonrefundable.
- C. In addition to the fee above, the developer shall be responsible for all costs associated with reviewing the application, including legal fees and engineering fees. To guarantee the payment of these costs, the developer shall be required to deposit the sum of \$1,500 with the Village at the time of application. Any unused portion shall be refunded to the developer upon completion of the project or withdrawal of the application. The Village may request payment of additional fees as required, and such payment shall be due within 10 days of request.
- D. Twelve sets of the application shall be provided to the Village for distribution and review. The Village Board, upon receipt of an application, and as part of its review, may, in its discretion, refer the application to the Planning Board for its review and recommendations.
- E. If requested by the Village Board, the Planning Board shall forward a written recommendation to the Village Board indicating whether or not it supports the approval of the incentive and amenity. This recommendation shall consider the following:
  - (1) The suitability of the site(s) for the type of open space preservation proposed, the physical characteristics of the land and the relation of the proposed development to surrounding existing and probable future development.
  - (2) The adequacy of major roads, utilities and other facilities and services to serve the development.

- (3) That the proposal is conceptually sound, is consistent with the Village Comprehensive Plan, and meets local and area-wide needs.
- F. The application shall be referred to the Monroe County Planning Department for its review if required by the General Municipal Law. The Village may also refer the application to the Village Engineer, as well as other local and county officials, representatives of federal and state agencies and consultants as deemed appropriate. These agencies may include, but are not limited to, the Monroe County Department of Transportation, the New York State Department of Transportation and the New York State Department of Environmental Conservation.
- G. 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 the environmental assessment of the proposal, 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:
- (1) First, serve any vacant land on the site as though it were developed to its fullest potential under the zoning regulations in effect at the time of the amenity/incentive proposal; and
  - (2) Then, serve the on-site amenity and incentive.
- I. In order to approve an amenity/incentive proposal, the Village Board shall determine that the requirements of SEQR have been met and the proposed amenity provides sufficient public benefit to provide the requested incentive. In order to make this determination, the Village Board may require the completion of an environmental impact statement. Thereafter, the Village Board is authorized to act on an application for approval pursuant to this article.
- J. The Village 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.
- K. Upon a favorable decision of the Village Board, an application shall be submitted to the Planning Board for subdivision and/or site plan approval pursuant to the applicable provisions of the Code and regulations of the Village of Brockport. Failure to submit the application to the Planning Board within six months of approval by the Village Board shall render any incentive zoning granted hereunder null and void unless extended by resolution of the Village Board. Any such extensions shall be in increments of no more than 6 months and the Village Board shall allow no more than 2 extensions unless the applicant shall demonstrate exceptional circumstances warranting any further extension.

**§ 58-36.9 Expenses of compliance with SEQRA.**

In accordance with § 7-703 of the Village Law, any applicant for incentives or bonuses shall pay a proportionate share of the cost of preparing any generic environmental impact statement prepared in conjunction with the project, and such charge shall be added to any site-specific charge made pursuant to the provisions of § 8-0109 of the Environmental Conservation Law.