

**[Name of municipality], Tompkins County, New York
Incentive Zoning Ordinance [April 2009]**

1. Title

This ordinance shall be known and may be cited as the “Incentive Zoning Ordinance of the [name of municipality].”

2. Purpose

The purpose of this ordinance is to promote public welfare by providing safe and affordable housing for all incomes; to ensure enough housing especially for low-income households; to mitigate housing shortage and balance the demand and supply of housing by constructing more housing units; to encourage developers to increase housing production under the inclusionary zoning ordinance by offering them incentives; and to integrate all residents of the County regardless of their income levels.

Note: This ordinance is offered separately from the inclusionary zoning ordinance, but may be combined together by requiring a mandatory set aside and giving incentives simultaneously.

3. Definitions

Affordable housing: A dwelling unit for which renters or homebuyers pay no more than 30% of their annual gross income on housing.

Area Median Income (AMI): The midpoint in distribution of gross annual income in a specific area, Tompkins County in this case. AMI is determined by the US Department of Housing and Urban Development and used to determine eligible households for affordable units.

Building-to-land ratio: The ratio of the first floor area of all buildings to the size of the land.

Developer: An individual or group including for-profit and non-profit organizations that construct housing units.

Dwelling unit: An independent living space comprised of one or more rooms with private bath and kitchen facilities.

Floor Area Ratio (FAR): The ratio of the total area on all floors of all buildings to the size of the land.

For-sale unit: A dwelling unit that is constructed to be sold to individuals or organizations.

Household, low-income: A household whose income is more than 50% but does not exceed 80% of the area median income.

Household, moderate-income: A household whose income is more than 80% but does not exceed 120% of the area median income.

Affordable unit: A dwelling unit that is constructed under this ordinance and rented or sold at affordable rents or affordable prices to low-income and moderate-income households.

Market rate unit: A dwelling unit that is rented or sold at rents or prices determined by the market.

Rental unit: A dwelling unit that is constructed for rental purposes.

Residential Development: Creation of one or more dwelling units for single-family, two-family, and multi-family residences.

4. Incentives

4.1. The following developments are eligible to receive incentives.

- New residential development, regardless of the type of dwelling units
- New Mixed-use development containing a residential component
- Renovation of an existing residential unit that increases the number of total residential units
- Conversion of an existing single-family residential unit to a two-family or multi-family unit

Choosing incentives is not a requirement. Developers voluntarily choose whether or not to receive incentives. However, developers who choose to receive incentives shall construct at least 10% of the project's total units as affordable housing to low-income households. The affordable units shall be constructed on site. (Refer to Section 5. Requirements for details.) Incentives shall include density bonus and fee reduction.

4.2. Density bonus: Developers shall be allowed increased density provisions in exchange for additional units of affordable housing.

- In order to preserve the character of community, higher density shall be first achieved by the reduction in the minimum lot size. The pre-existing height requirements are applied to the development.
- Density bonuses shall be granted based on the number of affordable units designated in the development. Developers shall be allowed to construct two additional market rate units per one affordable unit. The following table shall represent maximum density bonuses by the number of affordable units.

Number of affordable units (units)	Density bonus (units)
1	2
2	4
3	6
4	8
5	10
6	12
7	14
8	16
9	18
10	20

When a developer allocates more than 10% of the total units affordable, the following density bonus is applicable to the development. [Need to provide a cap.]

Number of affordable units (units)	Density bonus (units)
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10

Example:

- If 10 market rate units were developed with an additional 1 affordable unit then the developer would be eligible for 1 density bonus unit for a total of 12 units.
- If 10 market rate units were developed with an additional 10 affordable units then the developer would be eligible for 10 density bonus units for a total of 30 units.
- If higher-story development is unavailable due to site restrictions, the municipality may approve the density bonus by increasing building heights. Density bonuses shall be granted through the increase in building heights. Floor Area Ratio (FAR) requirements shall be waived in order to promote higher story development. However, the building-to-land ratio of the development with incentives shall remain the same as that of the development without incentives. This shall enable higher story development while preserving the present level of community character through green spaces, open spaces, and roads. Developers shall provide additional application materials for the increase in building height along with the general application process.

4.3. Fee reduction: A development with affordable units shall be eligible for fee reduction. All one-time fees including development proposal application fees and building permit fees shall be reduced in half. All annual fees shall be reduced in half for the first three years.

5. Requirements

5.1. Housing provision

- Any development included in Section 4.1 shall be eligible to apply for incentives, as long as the development provides at least 10% of the project's total units as affordable housing to low-income households. The required percentage shall increase to 15% five years after the adoption of the ordinance and 20% ten years after the adoption.
- If the formula results in any decimal fraction, all fractions shall be rounded up.
- The following table shall represent the minimum number of required affordable units by the total number of units, if developers choose to receive incentives.

Number of total units (units)	Number of affordable units (units)
1-10	1
11-20	2
21-30	3
31-40	4
41-50	5
51-60	6
61-70	7
71-80	8
81-90	9
90-100	10

- All design features are applied identically to for-sale units and rental units, except the period of affordability. (Refer to Section 7. Period of Affordability for details.) There is no requirement for the ratio of for-sale units to rental units.

5.2. Income targeting

All affordable units shall be rented or sold to low-income households whose incomes are between 50% and 80% of the area median income. Developers may allocate their affordable units to various income groups. No specific mix of income groups is required within the range of 50% to 80% of the area median income.

6. Affordable Units

6.1. Location of affordable units: All affordable units shall be constructed on site. All affordable units shall be dispersed throughout the project by being integrated with the market rate units.

6.2. Completion of construction: All affordable units shall be constructed concurrently with the market rate units. Progress rate of affordable units shall be the same as that of the market rate units.

6.3. Exterior appearance: Affordable units shall be constructed with the identical exterior design and materials that are used in the market rate units. Similar landscaping shall be applied to both affordable units and the market rate units.

6.4. Interior appearance: Interior materials and amenities in the affordable units may be different from those used in the market rate units, provided that:

- Number of bedrooms shall be proportional between affordable units and market rate units.
- Size of affordable units may be smaller than that of the market rate units, but shall be at least 80% of the size of the market rate units in the project or larger than minimum standards expressed in the following table, whichever is smaller.

Number of bedrooms	Unit size (square feet)
Studio	600
1	800
2	1000
3	1200
4 and more	1400

7. Period of Affordability

7.1. Rental affordable units: All rental affordable units shall remain affordable in perpetuity. Initial developers may sell the rental affordable units to individuals or organizations. However, the subsequent owners shall maintain the units as affordable rental units to low-income households. The new owners shall not sell the units as either market rate units or affordable for-sale units.

7.2. For-sale affordable units: All for-sale affordable units shall remain affordable in perpetuity. The Municipality balances long-term affordability and asset building of low-income households. Owners, except initial owners, may resell their units at anytime, but new buyers shall be limited to low-income households, moderate-income households, or organizations that will maintain the units as affordable. Initial owners shall not sell their affordable units within 10 years of the purchase, but may resell the units after 10 years to low-income households, moderate-income households, or organizations that keep the units affordable.

8. Approval Procedure

8.1. Developers shall provide documentation to receive an approval for the development. All application procedures shall be the same as the general application for a building permit. However, the developer shall submit additional documentation as follows:

- Site development plan including the number, sizes, types of all affordable units
- Site plan including allocation of the affordable units and the market rate units
- Timeline of construction for each of the affordable units and the market rate units
- Proof of funds to pay in-lieu fees, if applicable
- Location and characteristics for off-site construction of affordable units, if applicable
- Development plan and site plan for the off-site construction of affordable units, if applicable

8.2. Developers shall abide by all of the requirements under this ordinance, prior to the issuance of a building permit. The [name of municipality] and the developer shall sign the agreement in a legally binding form. The submission of the agreement shall be completed along with additional documentation.

9. Enforcement

9.1. A development plan shall not be approved, and therefore a building permit shall not be issued, unless the development plan satisfies the requirements under this ordinance. The [name of municipality] may deny, suspend, or revoke any development plan if the plan violates this ordinance.

9.2. The [name of municipality] may cancel any approved development plan or issued building permit if it fails to maintain the requirements for the required period of time; and may take legal action to stop or cancel the approval of the building permit.

10. Appeals

10.1. Any person aggrieved by any denial, suspension, or revocation of approval of the development plan under this ordinance may appeal to the appropriate municipal board to hear such appeal.

10.2. Any person aggrieved by a final determination under this ordinance may appeal to the New York State Court system for a review of such determination.

References

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