

**COLONIE LAND USE LAW
ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

Article VI – Chapter 190-6 (as last amended 5/21/09 by LL#4-09)

Dimensional Requirements and Density Incentives

A. INTRODUCTION

All development projects must comply with the dimensional requirements set forth below. All requirements are defined in the Definitions Article of this Chapter.

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B. DIMENSIONAL TABLE

District	Building and Lot Requirements							Yard Requirements ³		
	Maximum Height ¹ (feet)	Maximum Building Footprint (sq. feet)	Lot Area Minimum (sq. feet)	Lot Width and Frontage Minimum ² (feet)	Minimum Green Space Coverage ³	Base Residential Density (units/acre)	Base Commercial Density (sq. ft./acre)	Front Setback ⁴ Minimum (feet)	Side Setback Minimum Each Side / Total of Two Sides (feet) ⁵	Rear Setback Minimum (feet) ⁵
SFR	40	30% of Lot Area	18,000 ⁶	80	35%	2 ⁶	--	40	10 / 25	25
MFR⁷	50	15,000	20,000	100	35%	6 ⁸	--	20	10 / 25	30
OR	40	30,000	20,000	100	35%	See note 9	18,000 ⁹	Minimum: 20	10 / 25	15
NCOR	40	15,000	6,000	60	35%	See note 9	18,000 ⁹	Minimum: 20	5 / 15	15
COR	75	30,000	20,000	100	35%	See note 9	18,000 ⁹	Minimum: 20	10 / 25	15
HCOR	75	--	20,000	100	35%	See note 9	18,000 ⁹	Minimum: 20	20 / 50	15
CO	75	--	20,000	100	35%		18,000 ¹⁰	Minimum: 20	20 / 50	15
IND	75	--	20,000	100	35%	--	18,000 ¹⁰	Minimum: 50	20 / 50	15
ABA	75	--	20,000	100	35%	--	18,000 ¹⁰	Minimum: 50	20 / 50	15
LC	--	--	--	--	35%	--	--	--	--	--
CEM	40	--	--	--	--	--	--	Minimum: 50	25 / 50	25

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NOTES ON DIMENSIONAL TABLE:

1. With the exception of church towers, spires, or belfries; flagpoles; water tanks; elevator bulkheads; or stairway enclosures. A parapet wall may extend not more than eight feet above the Maximum Height. The peak of a pitched roof may extend not more than 15 feet above the Maximum Height. Building-mounted accessory structures such as communications antennae shall not exceed the maximum height or the highest point of the building, whichever is greater.
2. The minimum lot width shall be maintained continuously between the front lot line and the front building setback line, and shall be provided at all points along the front building setback line, for each front yard. The minimum lot frontage shall apply to each street on a corner lot or through lot.
3. Minimum green space requirements shall apply to any use other than a single-family dwelling or two-family dwelling. Minimum green space is subject to incentive provisions as described below. Any area of a Street or utility right-of-way adjacent to a parcel, and used for off-street parking, loading, storage or other such purposes incidental to the use of the parcel, shall be considered a part of the parcel for purposes of determining the minimum required green space.
4. Minimum front yard setbacks apply only to new construction and not to renovation of existing structures.
5. All non-residential structures and related parking, loading, refuse containment areas, and storage areas must be set back a minimum of twenty-five (25) feet from the boundary of any adjacent lot with an existing single-family use, except in the NCOR District.
6. Base Residential Density in an SFR District shall apply to conservation subdivision development only.
7. In an MFR District, a lot conforming to the minimum dimensional requirements contained in this table may be subdivided for development of single-family or two-family residences, with lot sizes, minimum building setbacks from newly created lot lines, other area and dimensional requirements, development design, road standards, and provisions for open space subject to review and approval by the Planning Board in accordance with the standards established for conservation subdivisions in the Overlay Districts Article of this Chapter. The overall development density shall not exceed six units per acre, and building setbacks from the original lot lines shall conform to the minimum dimensional requirements contained in the table.
8. Where a lot is proposed to be subdivided for development of multi-family dwellings, the allowable number of dwelling units for the entire development shall be determined by the area of the original lot, including any part of the original lot to be set aside for public or private roadways, open space, recreation areas, or other such uses. The density on any individual lot in such a development may exceed six units per acre, provided that the average density for the entire development does not.
9. In an OR, NCOR, COR, or HCOR District, up to 80% of the Base Commercial Density may be converted to residential use, at a ratio of 3,000 sq. ft. commercial use per dwelling unit.
10. Base Commercial Density in a CO, IND or ABA District shall apply to conservation development only.

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C. Exceptions and Additions to Dimensional Table

(1) Established lots.

In an SFR District, any established lot¹ may be developed for single family residence and accessory uses in conformance with the dimensional requirements in the following chart. If the lot is included in a cluster subdivision plan approved pursuant to Section 278 of the NY State Town Law, the dimensional requirements specified on the filed subdivision plan shall be applicable.

Lot established prior to ¹ :	Maximum Height ²		Lot Requirements			Yard Requirements		
	Feet	Stories	Maximum Building Footprint	Lot Area Minimum (sq. feet)	Lot Width Minimum (feet)	Front Setback Minimum (feet) ³	Side Setback Minimum Each Side / Total of Two Sides (feet)	Rear Setback Minimum (feet)
8/6/87	40	3	45% of Lot Area	12,000 ⁴	75 ⁵	30	5 / 14	25
11/2/06	40	3	35% of Lot Area	16,000	80 ⁶	40	10 / 20	25

1. A lot shall be considered established if:
 - (a) It was a lawfully created existing lot as of the date specified in the chart, or
 - (b) It was shown on a subdivision plan for which the Town of Colonie Planning Board granted concept approval or for which the Town of Colonie Town Board authorized development of a cluster subdivision on or before August 6, 1987, and the final subdivision plan was approved and filed in the Albany County Clerk's office on or before August 6, 1991.
 - (c) It was shown on a subdivision plan for which the Town of Colonie Planning Board granted concept approval or for which the Town of Colonie Town Board authorized development of a cluster subdivision on or before of October 5, 2006, and the final subdivision plan is approved and filed in the Albany County Clerk's office on or before January 1, 2009.

Nothing herein shall be construed to prevent the addition of land to an established lot such that it more closely conforms to the dimensional requirements of this Article.
2. With the exception of church towers, spires, belfries, flagpoles, water tanks, elevator bulkheads, or stairway enclosures.
3. If the lot is included in a subdivision plan filed in the office of the Albany County Clerk, and such plan requires a greater front setback than that specified in the chart, the greater requirement shall be applicable.
4. This minimum lot area requirement shall not apply to lots on which a principal structure has been lawfully constructed.
5. The minimum lot width shall be 15 feet at the front lot line, and 75 feet at the front building setback line for each front yard.
6. The minimum lot width shall be maintained continuously between the front lot line and the front building setback line for each front yard.

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- (2) Accessory Structures
 - (a) Structures accessory to a single family dwelling or two-family dwelling may occupy up to 40% of the rear yard.
 - (b) Structures accessory to a single family dwelling or two-family dwelling, located in the rear yard, and less than 16 feet in height, may be erected with a 5-foot setback from a rear or side lot line.

- (3) Additional Lot and Yard Requirements
 - (a) Corner and Through Lots
 - [1] A corner lot shall not have a rear yard.
 - [2] A corner lot shall have a front yard of the required depth on each street frontage.
 - [3] A through lot shall have a front yard of the required depth on each street frontage.
 - (b) Vision Clearance
 - No wall, fence, sign or other structure shall be erected and no hedge, tree, shrub or other growth shall be maintained within a required front yard space so as to cause danger to traffic by obstructing the travelling public's view.
 - (c) Yard Projections
 - [1] In any district, cornices, eaves, and awnings may project up to two feet into a front, side or rear yard setback, and protective overhangs at access doors may project up to four feet into a side or rear yard setback, but in no case shall any such projection extend beyond the lot line of the parcel.
 - [2] In OR, CO, NCOR, COR and HCOR Districts, awnings or canopies may extend into a front or side yard, provided that such awnings or canopies shall not extend more than eight feet beyond the face of the building, nor beyond the lot line of the parcel, and that such awnings or canopies, when fully lowered, shall not be less than seven feet above the surface of the ground or pavement beneath them.
 - [3] In any district, an uncovered porch may extend up to 10 feet into the front yard setback, but in no case shall extend beyond the lot line of the parcel.
 - (d) Structures in Front Yards. No structure of any description shall be permitted in a front yard, with the following exceptions
 - [1] A sign that meets the requirements of this Chapter shall be permitted in a front yard.

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- [2] A public transit stop shelter or a structure housing congregate mailboxes shall be permitted in a front yard, but shall not be located nearer than 10 feet to any side lot line.
- [3] On a through lot, accessory structures may be constructed within one of the front yards, if such structures meet the front yard setback requirement.
- (e) Light poles are exempt from dimensional requirements except as to height.

D. INCENTIVE ZONING

(1) Purpose and Objectives.

It is the purpose of this section of the Town of Colonie Land Use Law to authorize the Planning Board to grant incentives to project sponsors during the plan review process. Such incentives shall advance the Town's comprehensive planning policies and provide opportunities to preserve open spaces in the Town with an approximate equivalence between the open space that may be lost or gained, as articulated in the Town's Comprehensive Plan and other current planning studies.

(2) Authority of the Planning Board.

Incentive zoning provisions may be used by the Planning Board to further the following Town objectives:

- (a) To protect the Town's important natural resources such as stream corridors, steep slopes, floodplains, wetland systems, wildlife habitats and unique ecosystems.
- (b) To encourage the conservation of viable farmland and significant open spaces.
- (c) To develop a network of open lands to provide wildlife habitat and potential recreational trail corridors, connections, and pathways.
- (d) To protect the Town's significant cultural and historic resources.
- (e) To focus development and redevelopment into mixed-use centers.
- (f) To ensure that all development occurs in an ecologically sound manner so that the Town can improve air and water quality.
- (g) To protect viewsheds, scenic roads and environmentally sensitive lands.
- (h) To encourage the use of conservation development throughout the Town but particularly in environmentally sensitive or ecologically unique areas such as the Albany Pine Bush, the Mohawk and Hudson Rivers and tributaries, the Town's creeks,

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the Ashford Glen Preserve, Ann Lee Pond and the Shaker Heritage Site, Kettle Bog, Stump Pond and other significant areas.

- (i) To protect and enhance the Town's recreational resources.
 - (j) To provide public access to protected open spaces.
 - (k) To allow for an increased density of both commercial and residential development while enhancing and protecting a diversity of housing types.
- (3) Applicability.
Incentives for increased density may only be used in the following districts as shown on the Town of Colonie Zoning Map: Office Residential (OR), Commercial Office (CO), Neighborhood Commercial Office Residential (NCOR), Commercial Office Residential (COR), Highway Commercial Office Residential (HCOR), Airport Business Area (ABA), and Industrial (IND).
- (4) Incentive Standards
- (a) The Planning Board may grant reductions in the minimum green space requirement in increments of 5%.
 - (b) Required green space shall not be reduced below 15%.
 - (c) Residential density shall not exceed eight dwelling units per acre.
 - (d) Commercial density shall not exceed 24,000 sq. ft. per acre.
 - (e) If the lot where the incentive is requested is in more than one district the provisions for the more restrictive district shall apply.
 - (f) In mixed use developments 3,000 gross square feet of commercial space shall equal one dwelling unit.
 - (g) [Owners of previously developed parcels of land containing less than the 35% minimum green space required by the zoning standards \(§190 Attachment 2\), but at least meeting the 15% green space required by this section may be permitted by the Planning Board to redevelop the parcel without fine or penalty so long as the redeveloped parcel maintains or exceeds its current percentage of green space. A "previously developed parcel of land" is one that met the zoning and site plan requirements in effect at the time it was approved and has been lawfully developed and maintained thereafter.](#)
- (5) Amenities.
- (a) The following amenities may be accepted in exchange for an incentive as provided above. These amenities may be located either on same lot as the project or located on another lot, and may involve one or more parcels of land. Amenities may be

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located anywhere in the Town of Colonie however, the Planning Board may reject amenities that are not of sufficient value to merit an incentive.

- [1] Permanent conservation easements: agricultural conservation, open space, scenic, ecological, historic or other types of permanent conservation easements. Proof of recording of easement is required prior to issuance of any building permit in connection with an incentive zoning proposal.
 - [2] Permanent protection of land in fee simple for conservation and other community benefit purposes. Proof of transfer of ownership is required prior to issuance of any building permit in connection with an incentive zoning proposal.
 - [3] Cash in accordance with the incentive unit schedule adopted by the Town Board, paid into the Town of Colonie's dedicated amenity zoning fund account, for use by the Town exclusively for the permanent protection of open space and/or environmental remediation in Colonie. Proposed cash must be placed in an escrow account to be held by the Town prior to issuance of any building permit in connection with an incentive zoning proposal
 - [4] Any combination of the above-listed amenities.
- (b) These amenities will be in addition to any other mandated requirements pursuant to other provisions of the Town of Colonie Code and any other applicable law or regulation.
 - (c) The Town of Colonie Town Board shall adopt an incentive unit schedule which it shall update as needed, establishing the minimum monetary value for each incentive unit. Incentive units shall be valued based on reduction in the amount of required site greenspace, in increments of 5% of the total area of the site. The minimum value for each 5% greenspace reduction shall be based on an escalating scale where each additional 5% shall be valued at least 30% more than the prior 5%. Reductions of less than 5% shall be valued proportionately within each increment. The Incentive Unit Schedule should be updated annually but if it is not updated the prior schedule shall remain in effect.

E. Administration and enforcement.

- (1) The provisions of this article with respect to dimensional requirements other than Minimum Green Space shall be primarily

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administered and enforced by the Building Department, which shall have the power to make necessary inspections.

- (2) The provisions of this article with respect to Minimum Green Space and Incentive Zoning shall be primarily administered and enforced by the PEDD, which shall have the power to make necessary inspections.