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" **County** Nassau County
" **City of**
" **Town**
" **Village** Inc. Village of Farmingdale

Local Law No. 3 of the year 2018

A local law
(Insert Title)

TITLE:
**A LOCAL LAW ADOPTING CHAPTER 300,
"FLOOD DAMAGE PREVENTION"
OF THE CODE OF
THE INCORPORATED VILLAGE OF FARMINGDALE**

Be it enacted by the of the Board of Trustees
(Name of Legislative Body)
" **County** Nassau County
" **City of as follows:**
" **Town**
" **Village** Inc. Village of Farmingdale

Chapter 300. Flood Damage Prevention

[Adopted 2-5-2018 by L.L. No.3-2018]

§ 300. Statutory Authorization and Purpose.

§ 300.1 Findings.

The Board of Trustees for the Incorporated Village of Farmingdale finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Incorporated Village of Farmingdale and that such damages may include: destruction or loss of private and public housing, damages to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize

the threat of such damages and to achieve the purpose and objectives hereinafter set forth, this local law is adopted.

§ 300.2 Statement of Purpose.

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood condition in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to flood, including facilities which such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filing, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify for and maintain participation in the National Flood Insurance Program.

§300.3 Objectives.

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§ 301 Definitions.

Unless specifically defined below, words or phrases used in this document shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this document its most reasonable application.

“Appeal” means a request for a review of the Local Administrator’s interpretation of any provision of this Local Law or a request for a variance.

“Basement” means that portion of a building having its floor subgrade (below ground level) on all sides.

“Building” see “Structure.”

“Cellar” has the same meaning as “Basement.”

“Crawl Space” means an enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space shall be properly vented to allow for the equalization of hydrostatic forces which may be experienced during periods of flooding.

“Development” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

“Existing manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by the community.

“Expansion to an existing manufactured home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

“Federal Emergency Management” means the Federal agency that administers the National Flood Insurance Program.

“Flood” or **“Flooding”** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters;
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

“Flood” or **“flooding”** also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe similarly unusual and unforeseeable event which results in flooding as defined in (1) above”.

“Flood plain” or **“flood prone area”** means any land area susceptible to being inundated by water from any source (see definition of “Flood”).

“Floodproofing” means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

“Historic structure” means any structure that is”

- (1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (a) by an approved state program as determined by the Secretary of the Interior or
 - (b) directly by the Secretary of the Interior in states without approved programs.

“Local administrator” is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions.

“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a “Recreational vehicle.”

“Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“Person” includes any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

“Start of construction” includes substantial improvement and means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the “actual start” means affixing of the manufactured home to its permanent site.

“Structure” means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

“Substantial improvement” means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. The term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) any alternation of a “Historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “Historic structure.”

“Variance” means a grant of relief by a community from the terms of a flood plain management regulation.

“Violation” means the failure of a structure or other development to be fully compliant with the community’s flood plain management regulations.

§ 302 Administration.

§ 302.1 Permitting Official.

The Superintendent of Buildings for the Incorporated Village of hereinafter referred to as the “Local Administrator” is responsible for receiving applications, examining the plans and specifications and issuing permits for the proposed construction or development.

§ 302.2 Permit Requirements.

- (1) No person shall erect, construct, enlarge, alter, repair, improve, move, or demolish any building or structure without first obtaining a separate permit for each building or structure from the Local Administrator.
- (2) No man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, shall be commenced until a separate permit has been obtained from the Local Administrator for each change.
- (3) No manufactured home shall be placed on improved or unimproved real estate without first obtaining a separate permit for each mobile home from the Local Administrator.

§ 302.3 Application.

To obtain a permit, the applicant shall first file a permit application on a form furnished for that purpose. The form must be completed and submitted to the Local Administrator with a fee which shall be set from time to time by resolution of the Board of Trustees before the issuance of a permit will be considered.

§ 302.4 Permitting Procedures.

- (1) After reviewing the application, the Local Administrator shall require any additional measures which are necessary to meet the minimum requirements of this chapter.
- (2) The Local Administrator shall review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or state law,

including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 V.S.C 1334.

- (3) The Local Administrator shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of prefabricated buildings and mobile homes) shall: a) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure; b) be constructed with materials and utility equipment resistant to flood damage; and (c) be constructed by methods and practices that minimize flood damage.
- (4) The Local Administrator shall review subdivision proposals and other proposed new development to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood prone area, any such proposals shall be reviewed to assure that (a) all such proposals are consistent with the need to minimize flood damage within the flood prone area, (b) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and (c) adequate drainage is provided to reduce exposure to flood hazards.
- (5) The Local Administrator shall require within flood prone areas new and replacement water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems.
- (6) The Permitting Official shall require within flood prone areas (a) new and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and (b) onsite waste disposal systems to be located to avoid impairment to them or contamination from them during the flooding.

§ 303 Variance Procedure.

§ 303.1 Appeals Board.

- (1) The Zoning Board of Appeals for the Incorporated Village of Farmingdale shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The Zoning Board of Appeals for the Incorporated Village of Farmingdale shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the Zoning Board of Appeals for the Incorporated Village of Farmingdale may appeal such

decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.

- (4) In passing upon such applications, the Zoning Board of Appeals for the Incorporated Village of Farmingdale, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
 - (a) the danger that materials may be swept onto other lands to the injury of others;
 - (b) the danger of life and property due to flooding or erosion damage;
 - (c) the susceptibility of the propose facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) the importance of the services provided by the proposed facility to the community;
 - (e) the necessity to the facility of a waterfront location, where applicable;
 - (f) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (g) the compatibility of the proposed use with existing and anticipated development;
 - (h) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - (i) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) the costs to local governments and the dangers associates with conducting search and rescue operations during periods of flooding;
 - (k) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (l) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

(5) Upon consideration of the factors of Section 303.1(4) and the purposes of this local law, the Zoning Board of Appeals for the Incorporated Village of Farmingdale may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.

(6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

§ 303.2 Conditions for Variances.

- (1) Variances shall be based upon a hardship that runs with the land and shall not be issued for economic or other personal hardships.
- (2) Variances shall be issued upon:
 - (a) a showing of good and sufficient cause;
 - (b) a determination that failure to grant the variance would result in significant hardship; and
 - (c) a determination that the variance shall not result in increased flood risks, create nuisances, cause fraud or victimization of the public or conflict with existing local laws and ordinances.
- (3) Variances to this chapter shall be consistent with the requirements of other Local and State law, code, or regulation.

§ 303.3 When effective.

This article shall take effect immediately upon filing with the Secretary of the State of New York.

This Local Law shall become effective immediately upon being filed with the Secretary of State.

(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.3 of 2018 of the Village of Farmingdale was duly passed by the Board of Trustees On February 5, 2018, in accordance with the applicable provisions of law.

~~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 2006 of the _____ was duly passed by the _____ on _____ 2006, and was (approved)(not approved) (repassed after disapproval) by _____ and was deemed duly adopted on _____ 2006, 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 2006 of the _____ was duly passed by the _____ on _____ 2006, and was (approved)(not approved) (repassed after disapproval) by _____ on _____ 2006.

~~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 2006 of the _____ was duly passed by the _____ on _____ 2006, and was (approved)(not approved) (repassed after disapproval) by on _____ 2006. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 2006, 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. DOS-239 (Rev. 05/05)

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

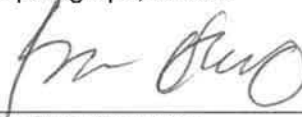
I hereby certify that the local law annexed hereto, designated as local law No. of 2006 of the _____ having been submitted to referendum pursuant to the provisions of section ~~(36)~~(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the ~~(special)~~(general) election held on _____ 2006, 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 2006 of the County of Nassau 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.



Village Clerk /Treasurer

2.13.18

Date: _____

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Signature

Title Village Attorney

Village of Farmingdale

Date: 2/13/18

DOS-239 (Rev. 05/05)