

**PROPOSED LOCAL LAW AMENDING THE MUNICIPAL CODE  
OF THE INCORPORATED VILLAGE OF FARMINGDALE, CHAPTER \_\_\_\_\_  
ENTITLED “ZONING”, SECTION \_\_\_\_\_ ENTITLED “APPLICATION OF  
REGULATIONS”,  
TO GIVE THE BOARD OF TRUSTEES ALL POWERS SET FORTH IN NEW  
YORK STATE VILLAGE LAW §7-703**

Application of Regulations

- A. Development Incentive Bonuses
1. This Local Law is intended to give the Board of Trustees all powers set forth in New York State Village Law §7-703.
  2. Definitions. As used in this section:
    - a. “Incentive bonuses” shall mean adjustments to the permissible density, coverage, floor area ratios, parking requirements, setbacks, topographical changes, area, height, open space, use or other provisions of the Farmingdale zoning and land use laws for a specific purpose authorized by the Board of Trustees.
    - b. “Community benefits or amenities” shall mean open space, parks, the amenities set forth in Paragraph 6 of this Subdivision A, or other specific physical, social or cultural amenities, or cash in lieu thereof, as authorized by the Board of Trustees, which provide a benefit to the residents of the community.
    - c. “Incentive zoning” shall mean the system by which specific incentives or bonuses are granted to applicants pursuant to this section on condition that specific physical, social, or cultural benefits or amenities would inure to the benefit of the community.
    - d. “Development Incentive Bonus Overlay District” (the “DIBOD”) shall mean the entire Business D District and that portion of the downtown area beginning at the intersection of the south side of NYS Route 109 running north up Main Street to Melville Road and east from Main Street along the Long Island Rail Road tracks to the boundary line of the Village. The DIBOD shall extend to the greater of the Business D District or 1,000 feet east and 1,000 feet west of Main Street and the north and south of the Long Island Rail Road tracks.
  3. Purpose. The purpose of this system of incentive bonuses shall be to advance the Village’s specific physical, cultural and social policies in accordance with the Village’s comprehensive plan and in coordination with other community planning mechanisms or land use techniques. These planning mechanisms include:

- a. Encouraging a mix of moderate and high density development within walking distance of transit stations to increase transit ridership;
  - b. Creating a pedestrian-friendly environment to encourage walking, bicycling and transit use;
  - c. Providing an alternative to traditional development by emphasizing mixed use, pedestrian oriented development;
  - d. Creating a neighborhood identity that promotes pedestrian activity, human interactions, safety and livability;
  - e. Encouraging building reuse and infill to create higher densities;
  - f. Reducing auto dependency and roadway congestion by locating multiple destinations and trip purposes within walking distance of one another;
  - g. Providing a range of housing options for people of different income levels and at different stages of life; and
  - h. Taking advantage of the Village's location adjacent to Route 110 and the new industries being located there by supporting new uses, ancillary uses and housing for advancing science and technology.
4. Applicable Zoning Districts. This system of development incentive bonuses shall be applicable to the Development Incentive Bonus Overlay District.
  5. Environmental Impact Statement. In the event that the Board of Trustees determines that a generic environmental impact statement is warranted pursuant to Village Law §7-703(3)(c), any applicant for incentive bonuses shall pay a proportionate share of the cost, if any, of preparing an environmental impact statement, if so required, and such charge shall be added to any site-specific charge made pursuant to the provisions of Section 8-0109 of the Environmental Conservation Law.
  6. The Board of Trustees, following a public hearing, may provide incentive bonuses in exchange for the applicant providing one or more of the following facilities or amenities: open space, parks and recreational facilities, streetscape amenities, landscaping, road improvements, water and sewer system improvements or other specific physical, social or cultural amenities, or cash in lieu thereof, of benefit to the residents of the Village authorized by the Board of Trustees.
  7. In addition to the uses permitted in the District within which the property lies, the following uses may be allowed by Special Permit:

- a. Single family homes;
- b. Commercial surface parking lots;
- c. Laboratories;
- d. Fast Food Establishments;
- e. Research facilities;
- f. Stadiums and sports facilities with over 10,000 seats;
- g. Grocery stores over 10,0000 square feet; and
- h. ~~Multiple dwelling units and mixed use buildings.~~

The Board of Trustees, acting as the Special Permit Granting Authority may grant a Special Permit in the DIBOD if it finds that the use will promote the purpose of the DIBOD as described in Section 3.

The types of uses permitted, prohibited, or allowed with a Special Permit may differ based on the character of the area in which the development is located. The goal is to encourage pedestrian oriented uses and discourage auto-dependent or auto-oriented uses. Further, the Village should encourage uses that can be easily served by transit, that have high levels of visitor activity, and/or that have high employment to floor area ratios. Thus, office, retail and entertainment establishments are encouraged, while industrial and warehouse uses (which generally have fewer visitors and two or less employees per 1,000 square feet) are prohibited.

8. For applicants who provide or make provision for amenities and facilities in this subsection, the Board of Trustees may, at its discretion, award the incentive bonuses by varying the required density, coverage and floor area ratios, parking requirements, building heights, required setbacks, topographical changes, open space, and permissible uses in the District.
9. Criteria for Approval. Methods required for determining the adequacy of community amenities. To evaluate the adequacy of the proposed benefits to be accepted in exchange for the requested incentives, the following information shall be provided by the applicant with its application for development incentive bonus approval:
  - a. A description of the proposed amenities outlining the benefits that will accrue to the community;
  - b. The economic value of the proposed amenities to the Village as compared with the economic value of the proposed incentives to the applicant;

- c. A preliminary demonstration that there are adequate sewer, water, transportation, waste disposal and fire-protection facilities serving or proximate to the proposed development to handle the additional demands the incentive and amenity may place on such facilities beyond the demand that would otherwise occur with as-of-right development; and
  - d. An explanation as to the way in which the amenity will implement physical, social or cultural policies of the Comprehensive Plan and this Chapter.
10. Procedure For Obtaining Incentive Bonuses: Application, Review Process, Imposition of Terms and Conditions. Applications for development bonuses shall be completed by each applicant and filed with the Village Building Department along with the payment of any applicable fees. Authorization for development incentive bonuses shall be subject to approval by the Board of Trustees after a public hearing. Upon completion of the public hearing to consider the application for development incentive bonuses, the Board of Trustees shall grant or deny the application. The Board of Trustees shall determine whether the proposed amenities provide sufficient public benefit to provide the requested incentives. In the event that the Board of Trustees grants such application, it may impose such terms and conditions as are necessary to advance the Village's specific physical, cultural and social policies in accordance with the Village's Comprehensive Plan.
11. Public Hearing. Public Notice. The Board of Trustees shall hold a public hearing to review all applications submitted pursuant to this Section. Public notice shall be given by publication in the official village newspaper of such hearing at least ten (10) days prior to the date thereof. Before an application for development incentive bonuses may be heard by the Board of Trustees, a complete and accurate list of the names and addresses of the owners of all the lands within a radius of four hundred (400) feet of the property affected by such application as appears on the latest completed assessment roll of the County of Nassau shall be submitted simultaneously with the application. The applicant shall send, by certified mail, to each owner shown on the applicable list, no less than ten (10) days nor more than twenty (20) days before the date set for a hearing upon this application, a notice addressed to such owners signed by the applicant, generally identifying the property affected thereby and setting forth the development incentive bonuses requested and the date, hour and place fixed by the Board of Trustees for a hearing thereon. Before such cases may be heard by the Board of Trustees, the applicant must file with the Village Clerk, not later than five (5) days prior to the hearing date, an affidavit of the mailing of such notice as herein provided, said affidavit to be made on forms to be provided by the Board of Trustees.
12. If the Board of Trustees determines that a suitable community benefit or amenity is not immediately feasible, or otherwise not practical, the Board of Trustees may require, in lieu thereof, a payment to the Village of a sum to be determined by the Board of Trustees. If cash is accepted in lieu of other community benefit or amenity, provisions shall be made for such sum to be deposited in a trust fund to be used by the Board of Trustees for specific community benefits authorized by the Board of Trustees.

13. Limitations on Board of Trustee powers. The following limitations shall be on the Incentive Bonuses in the DIBOD:

- a. The maximum building height for buildings within twenty five (25') feet of Main Street shall be the lesser of three and one half (3 ½) stories or fifty (50') feet;
- b. The maximum building height for buildings not located within twenty five (25') feet of Main Street shall be the lesser of four and one half (4 ½) stories or fifty (50') feet; and
- c. Density for multiple dwelling residences shall not exceed seventy-five (75) units per acre.
- d. The Board of Trustees may vary the amount of parking required, however, in no case may the Board of Trustees require less parking than one (1) space for three hundred fifty (350') square feet of retail or office use and one (1) space per residential unit. The proximity of a building to the railroad station shall be a factor in the analysis of the required parking.