By January 1, 1989, installation of cathodic protection shall be completed on all facilities in contact with the ground which were built between 1972 and 1977.

3. It shall be unlawful for any person to use, maintain or fill with toxic or hazardous materials an existing aboveground storage facility or part thereof without complying with the following inspection schedule and all regulations and standards promulgated pursuant thereto, and without submitting to the commissioner a statement of Proof of Inspection.

i. Any owner or other person in possession or control of an aboveground storage facility or part thereof shall file a Proof of Inspection with the commissioner by January 1, 1985. Where interior coating has not yet been applied, such inspection will be performed before coating.

ii. For the purpose of this section, inspection means the inspection of all aboveground tanks and other vessels for the storage of toxic or hazardous materials constituting an aboveground storage facility or part thereof.

iii. Any inspection of an existing aboveground storage facility of greater than 10,000 gallon capacity or part thereof as required by this subdivision shall be performed in accordance with a written protocol submitted to and approved by the commissioner by an authorized tank inspection firm or person or by a professional engineer licensed to practice professional engineering in the State of New York, and it shall be performed in compliance with any regulations and standards promulgated pursuant to this section relating to such inspections.

iv. Aboveground storage facilities or parts thereof, sitting on the ground and in contact therewith or partially buried in the ground and in contact therewith, shall be emptied and cleaned to facilitate inspection of portions thereof not accessible from the outside.

v. Proofs of Inspection must be filed with the commissioner on a form provided by the commissioner or one acceptable to the commissioner within thirty (30) days of each inspection and before the tank is refilled, and a copy of such form shall be kept and maintained by both the owner or other person in possession or control of the aboveground storage facility or part thereof and the inspector for a period of not less than five (5) years from the date of the inspection. The Proof of Inspection Form shall be subscribed by both the owner or other person in possession or control of the aboveground storage facility inspected and the inspector. This Proof of Inspection form shall contain a legally authorized form notice to the effect that false statements made knowingly therein are punishable pursuant to Section 210.45 of the Penal Law.

4. It shall be unlawful for any person to substantially modify or cause the substantial modification of any aboveground storage facility or part thereof without complying with the provisions of subdivision (a) above and all regulations and standards promulgated pursuant thereto.

c. General Provisions

1. It shall be unlawful for any person to abandon an aboveground storage facility or part thereof without first cleaning out all residue, venting it until dry and safe and leaving all of the hatches open or with all connections severed and valves blank flanged. For the purpose of this subdivision, an abandoned aboveground storage facility or part thereof means one that has remained substantially empty and unattended for one (1) year or more without being declared temporarily out of service, or has been temporarily out of service for two (2) years or more.

2. It shall be unlawful for the owner or other person in possession or control of an aboveground storage facility or part thereof to remove it from service unless:

i. said storage facility or part thereof is disposed of as junk by first rendering it vapor-free and by sufficiently perforating it so as to render it unfit for further use, and demolishing it and removing it from the site; or

ii. said storage facility or part thereof is demolished for sale or use elsewhere in which case it must be first cleaned and made vapor-free to be safe in transit, and such reuse shall be in accordance with all pertinent portions of this article if relocation is to be within Suffolk County; or

iii. said storage facility is declared abandoned; or

iv. said storage facility is declared temporarily out of service; and

v. the commissioner has been notified of the intended status of removal from service.

3. It shall be unlawful for the owner or other person in possession or control of an aboveground storage facility or part thereof to render it temporarily out of service unless said storage facility or part thereof is planned to be returned to active service within two (2) years of its placement temporarily out of service, and it is returned to active service within said two (2) years pursuant to the provisions of subsections (c), (d), and (e), following, and it is drained of all liquid and the fill line and opening and discharge line are capped and blind flanged and secured against tampering, and the vent line is left open.

4. It shall be unlawful for anyone to place toxic or hazardous materials in an abandoned or temporarily out of service aboveground storage facility.
5. It shall be unlawful for any person to bring an abandoned aboveground storage facility back into service without meeting all of the requirements of subsection (a) above. No a abandoned facility shall be brought back into service without a complete inspection acceptable to the commissioner.

6. It shall be unlawful for any person to bring a temporarily out of service facility back into use after January 1, 1990, without first meeting all the requirements of subsection (a) above.

7. An aboveground storage facility properly declared to be temporarily out of service may be returned to service prior to 1990 by written notification to the commissioner if the requirements of Section 1211(b)(2) have been met.

8. It shall be unlawful for the owner or other person in possession or control of an aboveground storage facility or part thereof to fail to empty, clean, and inspect pursuant to subsection (b)(3)(iii) above, to file Proof of Inspection pursuant to subsection (b)(3)(v) above, to leak test, and/or to recoat if necessary every seven (7) years each tank or vessel for the storage of toxic or hazardous materials within the said storage facility or part thereof.

9. It shall be unlawful for any person to replace or cause the replacement of any aboveground storage facility or part thereof for any reason without complying with the new storage requirements of subdivision (a) above and without complying with the inspection and Proof of Inspection requirements of subsections (b)(3)(iii) and (b)(3)(v), respectively.

10. It shall be unlawful for any person to use, maintain, construct, fabricate, modify or install any aboveground storage facility or part thereof without conforming to all plans and specifications submitted to and approved by the commissioner prior to such use, maintenance, construction, fabrication, modification or installation.

d. Leaks, Repairs

1. When an aboveground storage facility or part thereof is found to be leaking, it must immediately be emptied of all contents therein contained and removed from service unless approval is specifically granted by the commissioner to do otherwise.

2. It shall be unlawful for the owner or other person in possession or control of a leaking aboveground storage facility or part thereof to cause or permit it to remain in service or to continue to retain its toxic or hazardous contents after said owner or other person knows or should have known of the existence of the leak.

Section 1212. Piping, Fittings, Connections

a. New Installations

1. For the purpose of this section, new installations means piping, pipelines, fittings, connections for use with toxic or hazardous materials for which installation or construction actually begins on or after November 1, 1982.

2. All new installations shall

i. be fabricated, constructed and installed in a manner that will prevent the escape of the toxic or hazardous materials contained therein to the ground, groundwater or surface waters of Suffolk County; and

ii. be protected against corrosion by the use of non-corrosive materials, cathodic protection with coatings approved by the commissioner of the functional equivalent of the foregoing options approved by the commissioner; and

iii. be designed, constructed and installed with access points as required by the commissioner to permit periodic pressure testing of all underground piping without the need of extensive excavation; and

iv. be designed, constructed and installed with a simple, effective, reliable means of monitoring the new installation for leakage including a warning device to indicate the presence of a leak, spill or other failure or breach of integrity for piping installed underground or in areas where piping is not clearly visible; and

v. be constructed of double-walled pipe or be constructed in product-tight trenches or galleries where the piping is
buried or below grade except that single-walled piping will be allowed for facilities containing products with a specific gravity less than one and only slightly soluble in water such as gasoline and fuel oil.

3. It shall be unlawful for any person to fabricate, construct, install, use or maintain or to cause the fabrication, construction, installation, use or maintenance of any new substantial installation or part thereof for use with toxic or hazardous materials:

i. without previously having submitted plans therefor to the commissioner, and without having received approval of said plans; and

ii. without complying with the plans submitted to and approved by the commissioner as required in subsection (a) (3) (i) above; and

iii. without complying with the provisions of subsections (a) (1) and (a) (2) above and any regulations and standards promulgated thereunder.

b. Existing Installations

1. For the purpose of this section, existing installations shall mean piping, fittings and connections for use with toxic or hazardous materials for which installation or construction actually begins prior to November 1, 1982.

2. Commencing January 1, 1995, it shall be unlawful to use or maintain any existing installation or part thereof in association with any underground storage facility or part thereof unless said existing installation complies with all of the provisions of subdivision (a) above and all regulations and standards promulgated pursuant thereto.

3. It shall be unlawful for the owner or other person in possession or control of any existing piping installation or part thereof associated with any underground storage facility or part thereof to fail to pressure test said existing piping or part thereof whenever the associated underground storage facility or part thereof is tested.

4. It shall be unlawful for the owner or other person in possession or control of an existing installation or part thereof when testing or contracting to test said installation or part pursuant to subsection (b) (3) above to:

i. fail to test or have said installation or part thereof tested by a person whose qualifications are acceptable to the commissioner; and

ii. to fail to test or have tested said installation in a manner acceptable to the commissioner; and

iii. to fail to test or have installation tested in accordance with a written protocol submitted to and approved by the commissioner prior to said test; and

iv. to fail to test or have tested said installation in accordance with any regulations or standards which may be promulgated under this subdivision relating to said testing; and

v. to fail to submit to the commissioner within thirty (30) days of said test a completed Certificate of Test Completion form, pursuant to Section 1210(d) (3)(e) and any regulations and standards promulgated thereunder.

c. General Provisions

1. Notwithstanding the requirements of subsection (b) (3) above, it shall be unlawful for the owner or other person in possession or control of a new or existing installation or part thereof not to test said installation or part in accordance with the procedures set forth in subsection (b) (3) above and in all regulations and standards promulgated thereunder whenever the commissioner has determined that such a test is necessary, or whenever the commissioner has ordered that such a test be performed.

2. Whenever an existing installation or part thereof is found to be leaking, it must immediately be emptied of all contents therein contained and removed from service.

i. It shall be unlawful for the owner or other person in possession or control of said leaking installation or part thereof to cause or permit it to remain in service or to continue to retain its toxic or hazardous contents after said owner or other person knows or should have known of the existence of the leak.

ii. It shall be unlawful for any person to repair or cause the repair of any new or existing installation or part thereof which has leaked or otherwise failed without performing said repairs or having said repairs performed in a manner approved by the commissioner.

iii. It shall be unlawful for any person to reuse or cause the reuse of any new or existing installation or part thereof which had leaked or otherwise failed without repairing said installation pursuant to the provisions of subsection (c) (2) (i) above and all regulations and standards promulgated thereunder.

iv. It shall be unlawful for any person to reuse or to cause the reuse of any new or existing installation or part thereof which had leaked or otherwise failed without repairing said installation or part so as to conform to the requirements of subdivision (a) above and all regulations and standards promulgated thereunder.
Section 1213. Transfer of Toxic or Hazardous Materials

a. Transfer Facilities

1. Transfer facilities means truck fill stands and/or any other facility for the loading or unloading of toxic or hazardous materials.

2. It shall be unlawful for any person to fabricate, construct, or install a transfer facility or part thereof:
   
i. without first submitting plans therefor to the commissioner and without first obtaining the commissioner's approval thereof; and
   
ii. without fabricating, constructing and installing said transfer facility or part thereof in accordance with the plans submitted and approved pursuant to subsection (a) (2) (i) above, and
   
iii. without providing a simple, effective, reliable means of monitoring the transfer facility or part thereof for leakage or spillage, including a warning device, and
   
iv. without providing a level of spill protection equivalent to that provided by a fill stand area completely paved and curbed with an impervious material and drained to a holding tank of adequate size to contain any spill that could reasonably be expected to occur from the normal operation of the facility, and roofed so as to exclude precipitation which would otherwise tend to fill the holding tank.

3. It shall be unlawful for any person to operate, maintain or use a transfer facility or part thereof so as to permit the escape therefrom of toxic or hazardous materials to the ground, groundwaters or surface waters of Suffolk County. All holding tanks associated with spill control shall be maintained in an empty condition at all times to provide maximum storage capacity at the time of a spill.

b. Transfer Operations

1. It shall be unlawful for any person to transfer, cause the transfer or permit the transfer of toxic or hazardous materials to or from a storage facility, part thereof or vehicle, where conditions at the transfer facility are inadequate at the time of said transfer to ensure a safe transfer operation without the occurrence of spills, leaks or accidents.

2. Failure of a transfer facility to conform and comply with the provisions of subdivision (a) and all regulations and standards promulgated thereunder shall constitute a rebuttable presumption that conditions at said transfer facility are inadequate for the purposes of subsection (b) (1) above.

3. The transfer of toxic or hazardous materials to any storage facility or part thereof which does not comply with all provisions of this article applicable thereto and any regulations and standards promulgated under this article applicable thereto, shall constitute a rebuttable presumption that conditions at said transfer facility are inadequate for the purposes of subdivision (b) (1) above.

4. Conditions at the transfer facility shall be deemed to be inadequate at the time of a transfer if:
   
i. the transfer facility is constructed so that all possible points of overflow are not visible from the loading and unloading locations; or
   
ii. the truck, storage facility or part thereof being delivered to does not have adequate capacity to contain the amount of toxic or hazardous material being transferred or to be transferred, or if a person performing or causing said transfer does not insure by some reliable means that the truck, storage facility or part thereof has adequate capacity to contain the amount of toxic or hazardous material being transferred or to be transferred.

Section 1214. Indoor Storage Facilities

a. An indoor storage facility is specifically intended to include within its meaning all tanks, vessels and appurtenant plumbing which contain or are to contain or be used for the transmission of toxic or hazardous materials regardless of the volume of said tanks and vessels and regardless of the duration of time said tanks and vessels may contain the toxic or hazardous materials and regardless of their use.
1. All processing baths and tanks including dip tanks and rinse tanks and tanks associated with wastewater treatment located indoors shall constitute an indoor storage facility or part thereof.

2. All portable containers and tanks with an individual volume of greater than 80 gallons, stored or located indoors and used to contain toxic or hazardous materials, shall be deemed to be an indoor storage facility or part thereof and shall be subject to all of the provisions of this section and any regulations and standards promulgated pursuant hereto, and not the provisions of Section 1215 and the regulations and standards created thereunder.

b. New Storage Facilities

1. A new indoor storage facility or part thereof is one for which construction, fabrication or installation actually begins on or after November 1, 1982, or one consisting of portable containers and/ or tanks each with an individual volume in excess of 80 gallons, for which indoor storage of said portable containers and/ or tanks containing toxic or hazardous materials actually begins on or after November 1, 1982.

2. It shall be unlawful to fabricate, construct or install a new indoor storage facility or part thereof unless:

i. plans and specifications for said storage facility have been first submitted to and approved by the commissioner; and unless

ii. said fabrication, construction or installation is accomplished in accordance with the approved plans and specifications submitted pursuant to subsection (b)(2)(i) above; and unless

iii. said fabrication, construction or installation is accomplished in accordance with all regulations and standards which may be promulgated under this subdivision; and unless

iv. the fabrication, construction or installation provides for impervious secondary containment for the new storage facility or part thereof equal to or greater than 110% of the entire volume to be contained; and unless

v. said storage facility or part thereof is fabricated, constructed or installed in a manner which will prevent the release into the ground, groundwaters or surface waters of Suffolk County of any toxic or hazardous materials; and unless

vi. any open tanks or vessels containing or to contain toxic or hazardous materials within the storage facility or part thereof in a building equipped with a sprinkler system are provided with head deflectors or automatic covers or the equivalent thereof acceptable to the commissioner to prevent the overflow of the tanks by reason of flow from the sprinkler system; and unless

vii. high level alarms or other adequate means of detecting an impending overfill condition have been provided for all tanks not readily visible by the operator controlling filling.

3. It shall be unlawful to operate, maintain or use a new indoor storage facility or part thereof unless:

i. said storage facility or part thereof has been fabricated, constructed and installed in accordance with all of the provisions of subdivision (b) above and any regulations and standards promulgated thereunder; and unless

ii. said storage facility or part thereof has been inspected prior to said operation, maintenance or use pursuant to the provisions of Section 1211 (b)(3)(iii) and any regulations and standards promulgated thereunder; and unless

iii. Proof of Inspection is filed with the commissioner within thirty (30) days of the inspection conducted pursuant to subsection (b)(3)(ii) above and such filing occurs prior to said operation, maintenance or use, and said Proof of Inspection conforms to all of the provisions of Section 1211 (b)(3)(x) and any regulations and standards promulgated thereunder; and unless

iv. said storage facility or part thereof is operated, used or maintained in a manner which will prevent the discharge of toxic or hazardous materials therefrom into the ground, groundwaters or surface waters of Suffolk County.

4. It shall be unlawful to repair and reuse a new indoor storage facility or part thereof without complying with all of the provisions of subsection (b)(2) above and all regulations and standards promulgated pursuant thereto.

c. Existing Storage Facilities

1. An existing indoor storage facility includes all indoor storage facilities or parts thereof as described in subdivision (a) above, not within the class of storage facilities described in subsection (b)(1) above as new indoor storage facilities.

2. Commencing November 1, 1982, it shall be unlawful to fabricate, construct, install, modify, operate, maintain or use any indoor storage facility or part thereof which does not conform to all of the provisions of subdivision (b) above and all regulations and standards promulgated thereunder.
3. It shall be unlawful for any person to operate, maintain or use an existing indoor storage facility or part thereof in a manner which will allow the discharge of toxic or hazardous materials therefrom into the ground, groundwater or surface waters of Suffolk County.

Section 1215. Portable Containers and Tanks

a. Storage Facilities

1. It shall be unlawful to fabricate, construct, install or otherwise create a storage facility or part thereof for portable containers and tanks in excess of 250 gallons total capacity containing toxic or hazardous materials if the facility has to be used for more than thirty (30) days without:

i. first having submitted satisfactory plans and specifications thereto to the commissioner; and without

ii. constructing, installing, fabricating or otherwise creating said storage facility in accordance with the reports and plans submitted pursuant to subsection (a)(1)(i) above, and without

iii. constructing, installing, fabricating or otherwise creating said storage facility so as to prevent the discharge of any of the toxic or hazardous contents of the portable containers therein to the ground, groundwater or surface waters of Suffolk County; and without

iv. providing a chemically resistant pad on which to place the portable containers or tanks, impervious to the toxic or hazardous materials being stored in said containers and tanks; and without

v. providing a complete impervious containment of the storage facility or part thereof sufficient to contain at least thirty (30%) percent of the volume to be stored; and without

vi. constructing, fabricating, installing or otherwise creating a storage facility or part thereof in accordance with all regulations and standards promulgated under this subdivision.

b. Handling of Portable Containers or Tanks

It shall be unlawful for the owner or other person in possession or control of a storage facility containing portable containers or tanks which contain toxic or hazardous materials:

i. to stack said portable containers or tanks more than two (2) high without using a properly designed storage rack for that purpose, or to attempt any stacking without adequate equipment; and

ii. to store said portable containers or tanks in a manner so as to prevent all sides thereof from being available for inspection; and

iii. to fail to maintain current inventory records indicating deliveries, consumption, sale and final disposal of all toxic or hazardous materials stored in portable containers or tanks and to maintain said records for five (5) years from the occurrence recorded; and

iv. to fail to handle the said portable containers or tanks in accordance with any regulations and standards promulgated pursuant to this subdivision; and

v. to store said portable containers in numbers in excess of the maximum allowed by the approved design of the storage facility.
c. Inspections

1. It shall be unlawful for the owner or other person in possession or control of a storage facility containing portable containers or tanks for the storage of toxic or hazardous materials to fail to have said facility or part thereof containing said portable containers or tanks inspected:
   i. prior to application for the renewal of a permit to operate a storage facility issued pursuant to Section 1217; and
   ii. subsequent to any substantial modification of the storage facility or part thereof containing said portable containers or tanks, and prior to the using or putting into service a storage facility or part thereof; and
   iii. prior to the using or putting into service said storage facility or part thereof after repairs had been performed on it.

2. It shall be unlawful to fail to have the inspections required by subsection (c) (i) above performed in accordance with the provisions of Section 1211 (b) (3) (vii) and any regulations and standards promulgated pursuant thereto and those promulgated under this subdivision.

3. It shall be unlawful to fail to file a Proof of Inspection with the commissioner within thirty (30) days of the performance of an inspection required by subsection (c) (i) above complying with the provisions of Section 1211 (b) (3) (vii) and any regulations and standards promulgated pursuant thereto.

4. It shall be unlawful for any person to repair or modify or to cause or permit said repairs or modifications of a storage facility or part thereof containing portable containers or tanks for the storage of toxic or hazardous materials without performing said repairs or modifications or having them performed pursuant to a written protocol previously submitted to and approved by the commissioner.

5. At the discretion of the commissioner, Sections 1215 (a) (i) (iv), (v), (vi), and 1215 (c), may be waived for temporary facilities such as spill cleanup operations.

Section 1216. Bulk Storage of Toxic or Hazardous Materials

a. It shall be unlawful for any person to fabricate, construct, install, repair or modify any bulk storage facility or part thereof without doing so in accordance with a written protocol previously submitted to and approved by the commissioner.

b. It shall be unlawful for any person to fabricate, construct, install, modify, repair, use, maintain or operate any bulk storage facility or part thereof without:

1. doing so in a manner that will prevent the toxic or hazardous materials contained therein from coming into contact with precipitation or other sources of moisture unless there is provision made for collecting and treating the leachate and runoff generated so as to prevent a discharge of toxic or hazardous materials to the ground, groundwater or surface waters of Suffolk County and so as to prevent the development of an explosive, incendiary or other hazardous or dangerous condition; and without

2. providing for the segregation of and without segregating potentially reactive chemicals which are toxic or hazardous materials or which may react so as to form toxic or hazardous materials, which reaction may present or cause a hazardous or dangerous condition; and without

3. providing for and storing bagged toxic or hazardous materials on pallets, and within a roofed structure which prevents precipitation from reaching the bags; and

4. in the case of an indoor bulk storage facility, without providing for and providing an impervious floor without floor drains with a surrounding impervious dike so as to provide containment for hazardous or toxic materials generated from firefighting within the building; and without

5. providing for and providing adequate security so as to protect the storage facility and toxic or hazardous contents therein from vandalism and accident; and without

6. complying with any regulations and standards which may be promulgated pursuant to this section.

c. Road deicing salt and other deicing materials are toxic or hazardous materials. In addition to the foregoing provisions of this section, road deicing salt may be stored near the shore or other areas where no adverse environmental impact will occur without brine control so long as the commissioner's approval for such a storage facility has been applied for and received in advance.

Section 1217. Reporting; Records; Clean-Up

a. It shall be unlawful for the owner or other person in possession or control of any storage facility or part thereof to fail to report any unauthorized discharge, spill, leak or recognizable loss of toxic or hazardous materials therefrom or the failure of said storage facility to the commissioner within two (2) hours of the time such owner or other person had sufficient evidence that he knew or should have known of said unauthorized discharge, spill, leak, loss or failure.

1. A report to the commissioner shall not be deemed compliance with any reporting requirement of any other federal, state or local law.
b. It shall be unlawful for the owner or other person in possession or control of any storage facility or part thereof to fail to keep records reflecting the types and amounts of toxic or hazardous materials stored in the said storage facility or part thereof at any given time.

1. It shall be unlawful for the owner or other person in possession or control of any storage facility or part thereof to fail to keep records of the disposal of other toxic or hazardous materials in such transfer. The name and vehicle license and registration numbers of the transporter, and the intended destination must also be included if the material is waste.

2. It shall be unlawful for any person required to keep records by any provision of this article to fail to maintain said records available for inspection by the commissioner for at least five (5) years from the date of the event, occurrence or transaction recorded. Copies shall be provided by the owner or operator for the commissioner if requested.

3. It shall be unlawful for any person required to keep records by any provision of this article to fail to keep, record and maintain said records in accordance with any regulations and standards promulgated pursuant to this section.

c. It shall be the responsibility and obligation of any person who discharges, or causes or permits the discharge of any toxic or hazardous material to the ground, groundwaters or surface waters of Suffolk County to cease said discharge, to reclaim, recover and/or properly dispose of the discharged toxic or hazardous material and any other substance contaminated therefrom, to restore the environment to a condition and quality acceptable to the commissioner, and to repair any damages caused thereby, all to the satisfaction of the commissioner.

1. It shall be unlawful for the owner or other person in possession or control of any source discharging toxic or hazardous materials to the ground, groundwaters or surface waters of Suffolk County to fail to cease said discharge immediately upon obtaining knowledge or notice of its existence.

2. It shall be unlawful for the owner or other person in possession or control of any source discharging or which has discharged toxic or hazardous materials to the ground, groundwaters or surface waters of Suffolk County to fail to reclaim, recover and/or dispose of the discharged toxic or hazardous materials. Where time permits, cleanup shall be in accordance with a written protocol previously submitted to and approved by the commissioner.

3. It shall be unlawful for the owner or other person in possession or control of any premises or place to fail to reclaim, recover and/or otherwise dispose of any toxic or hazardous materials discharged thereon, in accordance with a written protocol previously submitted to and approved by the commissioner. In the event the persons described in subsection (c)(2) above are not ascertainable or otherwise fail to comply with the provisions of subsection (c)(2), this provision shall not abridge any existing right of action in any person, nor shall it create any new right of action in any person.

4. It shall be unlawful for the owner or any person in possession or control of any source which has discharged toxic or hazardous materials to the ground, groundwaters or surface waters of Suffolk County to fail to restore the environment contaminated or damaged by the said discharge to its condition prior to the discharge, repairing any damages caused thereby in accordance with a written protocol previously submitted to and approved by the commissioner.

5. It shall be unlawful for any person required by this article or any order of the commissioner to reclaim, recover or otherwise dispose of discharged toxic or hazardous materials and other substances contaminated therefrom and/or to restore the environment to the condition that existed prior to the discharge of toxic or hazardous materials thereto, to fail to perform said required acts pursuant to any regulations and standards promulgated pursuant to this subdivision.

Section 1218. Confidentiality of Records

a. Any information relating to secret processes, or methods of manufacture or production, obtained in the course of an inspection or investigation, or submitted to the department, shall be kept confidential except for the use and purpose of the department in the enforcement of this article and the rules and regulations promulgated thereunder.

b. In the event that a person claims to be unable to file complete reports and/or plans and specifications on the grounds that it relates to and is part of a secret process or method of manufacture or production, an affidavit signed by an authorized person must be filed with the commissioner, stipulating:

1. location of process or equipment, specifying the building and the section or part of the building in which it is located;

2. in general terms, the name of the process equipment;

3. means to be employed for the control of water contaminants;

4. nature and estimated rate of discharge of contaminants to the ground or surface waters;

5. authority of the person signing the affidavit;
6. a statement that the installation is related to a secret process or method of manufacture or production.

In the event any such affidavit is filed, the commissioner shall determine the extent to which an exemption should be granted. Any information relating to secret processes, methods of manufacture or production which may be required, ascertained or discovered by the commissioner shall not be disclosed and shall be kept confidential.

Section 1219. Posting and Labeling

a. It shall be unlawful for the owner or other person in possession or control of any place, building, land, vehicle or thing to store toxic or hazardous materials therein without conspicuously posting a notice warning of the presence of such materials and providing any safety information necessary to protect the public and emergency response personnel in carrying out their responsibilities.

b. It shall be unlawful for any person to use, maintain or operate any storage facility or part thereof:

1. without clearly labeling the specific contents of each portable container conspicuously on said container; and

2. without clearly labeling the specific contents of each indoor and aboveground tank or vessel conspicuously therein; and

3. without clearly labeling the specific actual, intended and possible contents of piping associated with any storage facility or part thereof at or near the points of filling or drawing; and

4. without conspicuously posting any permit issued pursuant to this article.

c. It shall be unlawful for any person to falsely post or label any container or storage facility or to post an invalid permit.

d. It shall be unlawful for any person to use, maintain or operate any storage facility or part thereof without complying with all regulations and standards promulgated pursuant to this section.

Section 1220. Waivers

Any requirement, mandate, prohibition or time limitation imposed by this article or any regulation, standard or order generated hereunder, may be waived or modified by order of the commissioner.
INDUSTRIAL ZONING ORDINANCE FOR
SENSITIVE BUSINESS DISTRICT
HYDROGEOLOGIC ZONES
TOWN OF BROOKHAVEN CODE

Article XXXIII

B. [Added 5-16-83, effective 6-6-83] Property located within certain hydrogeologic sensitive zones. In the event that an Industrial I zoned property is located within the geographical area described in § 85-367 of this Article, the following standards shall apply:

(1) Height. No building or structure shall be erected or altered to a height in excess of fifty (50) feet.

(2) Building area. The total building area shall not exceed thirty percent (30%) of the total lot area.

(3) Lot area. No building, structure or premises shall be used or occupied, and no building or structure shall be erected or altered on a lot having an area of less than two (2) acres or upon a lot having a frontage of less than two hundred (200) feet. The average lot area shall not be less than three (3) acres.

(4) Front yard. There shall be a front yard having a depth of not less than fifty (50) feet. If the street frontage on the same side of the street between the two (2) nearest intersecting streets shall have been improved with two (2) or more industrial or business buildings or in the event that building permits shall have been issued therefor and work commenced thereon, not less than the average front yard depth as so established by such existing or permitted buildings shall be maintained; provided, however, that any such front yard depth shall not be required to be more than sixty (60) feet.

(5) Side yards. There shall be two (2) side yards, one (1) on each side of the building, the total width of both to be fifty (50) feet and no one (1) side shall be less than twenty (20) feet wide.

(6) Rear yard. There shall be a rear yard having a minimum depth of fifty (50) feet.

(7) State Environmental Quality Review Act. All proposed actions and changes in tenants or occupants, or new tenancies or occupancies, shall be considered as having a potential significant effect on the environment which will require notification and coordinated review pursuant to the State Environmental Quality Review Act, Part 617, with possible preparation of an environmental impact statement.

(8) Natural vegetation. As much of the site's natural vegetation as is possible shall be retained in preparation of the final site plan and final development, including necessary actions to protect natural vegetation during site development.

(9) Landscaping. No greater than fifteen percent (15%) of any lot shall be established in turf and landscaped areas. All other disturbed areas are to be established in a natural type vegetation pursuant to plans which shall be approved by the Town of Brookhaven, Department of Planning, Environment and Development.

(10) Toxic or hazardous materials: financial assurance. All industries, owners, tenants or occupants, whose ac-
tivity conducted on site involves storage and handling of toxic or hazardous materials and/or industrial discharges, shall be required to submit adequate financial assurances guaranteeing the immediate cleanup of spills or illegal discharges. The Planning Board, as part of its site plan review, shall fix the amount of such assurance in such an amount as it deems adequate for the cleanup of spills or illegal discharges. In addition, said Planning Board shall approve the sufficiency of the financial assurance. In addition, the Planning Board shall not approve any site plan for industries involving storage and handling of toxic or hazardous materials and/or industrial discharges unless an irrevocable consent to enter the property for the purposes of inspection and monitoring is supplied by the owners, tenants and occupants. The owner of any such property shall be required to file a covenant on behalf of himself, his heirs, assigns and successors for the Town of Brookhaven to enter said property and clean up any spills or illegal discharges and to assess the costs of any such cleanup against said property to the extent the costs of said cleanup exceeds the amount recovered from any financial assurance.

(11) Industrial discharge. No industrial discharge shall be permitted unless in conformance with a treatment and disposal system to be approved by Suffolk County Health Department and the Town of Brookhaven, Department of Planning, Environment and Development. This subsection shall not apply to an approved sanitary disposal system, a noncontact cooling water discharge system or precipitation collection and drainage facilities. Sampling accessibility must be provided to the above discharges.

§ 85-360. Height.

In the L Industrial 1 District, no building or structure shall be erected or altered to a height in excess of fifty (50) feet or three (3) stories.

§ 85-361. Building area.

In the L Industrial 1 District, the total building area shall not exceed sixty percent (60%) of the total lot area.

§ 85-367. Delineation of hydrogeologic sensitive zones. [Added 5-16-83, effective 6-6-83]

A. All property located within the following bounded and described area shall be considered located within a hydrogeologic sensitive zone:

Beginning at a point where the center line of Sunrise Highway, New York State Route 27, meets the town line of Southampton and Brookhaven; running thence in a westerly direction along the center line of Sunrise Highway to a point where the center line of Barnes Road and the center line of the Sunrise Highway meet; running thence in a northerly direction along said center line of Barnes Road to the school district line between School District No. 21 and School District No. 32; running thence in a westerly direction along said line to a point where the projected center line of Cranford Boulevard meet; running thence in a northerly direction along the center line of Cranford Boulevard to a point where said line meets the center line of Moriches - Middle Island Road; running thence in a generally westerly direction along the center line of Moriches - Middle Island Road to a point where the projected center line of Moriches Road meet; running thence in a northerly direction along the center line of Moriches Road to a point where said line meets the center line of property of the Long Island Railroad; running thence in southwesterly and westerly direction along the center line of Long Island Railroad property to a point where said line meets the center line of Sills Road (C.R. 101); running thence in a generally southwesterly direction along the center line of Sills Road to a point where said line meets the center line of Southaven Avenue; running thence in a westerly direction along the center line of Southaven Avenue to a point where projected line meets the center line of Old Medford Avenue; running thence in a northerly direction along center line of Old Medford Avenue to a
point where said line meets the projected center line of Cedar Avenue; running thence in a westerly direction along center line of Cedar Avenue to a point where said line projected meets the center line of North Ocean Avenue (C.R. 83); thence in a northerly direction along the center line of North Ocean Avenue to a point where said line meets the projected center line of Old Fish Road or Fisk Road; thence in a generally northwest direction along the center line of Old Fish Road to a point projected to the center line of Jamaica Avenue; thence in a westerly direction along the center line of Jamaica Avenue to a point projected to meet the center line of Blue Point Road; running thence in a northerly direction along the center line of Blue Point Road to a point where said line meets the center line of Long Island Expressway (N.Y.S. 495); running thence in a westerly direction along the center line of the Long Island Expressway to a point where said line intersects the center line of Nicolls Road (C.R. 97); running thence in a generally northerly direction along the center line of Nicolls Road to a point where said line meets the projected center line of Mark Tree Road; running thence in a northerly direction along the center line of Mark Tree Road to a point where said line meets the center line of Pond Path; running thence in a continued northerly (25A) to a point where said line meets the town line between the Town of Brookhaven and the Town of Riverhead being the easterly boundary of the Town of Brookhaven.

direction along the center line of Pond Path to a point where said line meets the projected center line of Upper Sheep Pasture Road; running thence in an easterly direction along the center line of Upper Sheep Pasture Road to a point where said line meets the center line of Lower Sheep Pasture Road; running thence in a continued easterly direction along the center line of Lower Sheep Pasture Road to a point where said line projected meets the center line of Old Town Road; running thence in a generally southeasterly direction along the center line of Old Town Road to a point where said line intersects the center line of Port Jefferson - Nesconset Highway (N.Y.S. 347); running thence in a northeasterly direction along the center line of Port Jefferson - Nesconset Highway to a point where said line meets the center line of North Country Road (N.Y.S. 25A); running thence in an easterly direction along the center line of North Country Road running thence along the easterly line of the Town of Brookhaven in a generally southerly then easterly then southerly direction to the point and place of beginning.

B. Said bounds shall be delineated on the Zoning Map of the Town of Brookhaven and is intended to include the Zone III hydrogeologic area as described by the Nassau - Suffolk Areawide Waste Treatment Management 208 Plan and the hydrogeologic sensitive area known as the “South Setauket woods.”
CHANGE OF OWNERSHIP OR TENANT FOR INDUSTRIAL OR COMMERCIAL BUILDINGS

TOWN OF BROOKHAVEN CODE

PART I (As Amended)


SITE PLAN REVIEW AND APPROVAL

A. Procedure.

1. In each case where a building, structure or use or alteration thereof is proposed in this district, except for one family dwelling places, permitted agricultural uses and customary accessory uses thereto, the Building Inspector shall refer the site plan of the proposed building, structure or use or alteration thereof to the Brookhaven Town Planning Board for its review pursuant to Section 85-428 of this ordinance. The Chairman of the Planning Board may require a public hearing pursuant to Section 85-428(D). With the exception of one family dwelling places, permitted agricultural uses and customary accessory uses thereto, in the event any building, structure or use is changed, sold or leased, the new owner or tenant shall cause notice to be given to the Department of Planning, Environment and Development within thirty (30) days of such sale or lease on such form as is prescribed by said department. The Department of Planning, Environment and Development shall make a determination as to whether a new site plan will be required by reasons of any alterations or changes in the subject building, structure or use. Any landowner found guilty of violating this ordinance shall be fined at the rate of One Hundred ($100.00) Dollars per day.

2. No building permit shall be issued by the Building Inspector without such approval of the site plan and, in appropriate places, all other permits, approvals and authorizations as may be required from other municipal and governmental agencies or departments.

B. In any case where the site plan submitted by the applicant indicates that a variance will be required from the Board of Appeals in order to construct or use the premises as shown on said site plan, the applicant shall submit an application to the Board of Appeals simultaneously with the filing of his application for approval of the site plan. Upon adoption by the Board of Appeals of a resolution granting the application for the variance, said variance shall be deemed to be incorporated in the site plan submitted by the applicant.
Article III

§ 68-40. Change of occupancy. [Amended 3-3-81]

No occupancy or use shall be made of land or a building that is not consistent with the last-issued certificate of occupancy for such building or use of land unless a permit is secured. In case of an existing building, no change of occupancy that would bring it under some special provision of this ordinance shall be made unless the Director, upon inspection, finds that such building conforms substantially to the provisions of this ordinance and the New York State Building Code with respect to the proposed new occupancy and use and issues a certificate of occupancy therefor.
EXTENSION OR REMODELING
OF STRUCTURES FOR
NON CONFORMING NONRESIDENTIAL
USES
TOWN OF HUNTINGTON CODE

§ 198-107. Extension or remodeling of structures used for non-conforming nonresidential uses.

A. Notwithstanding any other provision of this chapter, a structure used for a nonconforming use on nonresidentially zoned premises, excepting nonconforming uses or structures situated in a General Industry District, may be extended or remodeled, provided no structure devoted to such nonconforming use may be extended or remodeled to an extent exceeding twenty-five percent (25%) of its gross floor area existing at the time of the enactment of this chapter or any amendment thereto, and provided further that the Board of Appeals shall find that:

1. Practical difficulties prevail in operating the premises or structure in the presently existing nonconforming manner, and the proposed extension or remodeling would constitute a reasonable adjustment of the existing nonconforming use.

2. The proposed extension or remodeling will reduce the deleterious effect on the neighborhood of the existing nonconforming use. In determining deleterious effect, the Board of Appeals shall take into consideration, among other things, traffic generated, nuisance characteristics, hours and manner of operation, total ground area covered by structure and the appearance and condition of premises.

3. The proposed extension or remodeling will not be more incompatible with nor adversely alter the nature and character of the neighborhood and neighborhood structures, or prejudice value of adjoining properties.

4. Adequate on-site parking and loading space will be provided for all potential users.

5. The proposed extension or remodeling will not cause or increase traffic congestion or traffic hazards and will not unduly restrict fire and police protection of the premises.

B. In addition, the Board of Appeals, in granting a special use permit under this section, may also prescribe such further conditions or restrictions with respect to both the proposed extension or remodeling and the existing nonconforming structure or use as in its opinion will increase the compatibility of the nonconforming use, as extended or remodeled, with the general neighborhood, including but not limited to landscaping, redecoration, structural improvements, manner of operation and elimination of offensive uses or procedures.
B. SPECIAL SURFACE WATER PROTECTION AREAS
OVERLAY DISTRICTS

PROPOSED ORDINANCE

LONG ISLAND REGIONAL PLANNING BOARD

SECTION ONE: STATUTORY AUTHORIZATION,
FINDINGS OF FACT, PURPOSE AND OBJECTIVES.

1.1 Statutory Authorization.

New York State enabling legislation under Article 12B of the
General Municipal Law (or Article 2A of General City Law, or
Article 16 of Town Law or Article 7 of Village Law) authorizes the
(governing body) of (local unit) to provide and maintain for its
citizens standards which insure their health, safety and welfare,
including those land use regulations intended to promote the most
appropriate use of land throughout the municipality.

1.2 Findings of Fact

The Town of (municipality) finds that the spread of develop-
ment resulting from rapid growth has placed increasing demands
on natural resources and is encroaching on sensitive surface
water drainage areas. These high quality surface waters are a
unique resource that should be preserved or protected in order to
sustain native aquatic or marine resources, significant recrea-
tional, environmental and aesthetic characteristics for current
and future residents of the town. These resources also serve to
provide the basis for economic activities which will falter should
these resources be neglected.

The Town recognizes that increased population density and
certain land use activities have definite impacts on surface water
quality.

The Town Master Plan has designated geographic areas com-
prised of undeveloped or partially developed lands located directly
adjacent to surface waters which are designated as Special Sur-
faced Water Protection Areas.

It is necessary to regulate the development and use of lands to
be included in Special Surface Water Protection Areas so as to
minimize the impacts of erosion and sedimentation, to prevent
the destruction of vegetation and wildlife habitats, and the
damage due to flooding and to minimize the impacts of pollution.

1.3 Statement of Purpose

It is the purpose of this ordinance to create a Special Surface
Water Protection Overlay Area to regulate land use in designated
undeveloped areas located directly adjacent to surface waters in
order to promote the goals of the Town Master Plan and the
policy of the Town Board to maintain high quality surface
waters.

SECTION TWO: DEFINITIONS

2. Definitions

The following terms shall have meanings as indicated.

(a) Cluster Zoning. shall mean a provision in the zoning or-
dinance that allows the Planning Board to vary the
development pattern for residential, commercial, indus-
trial, institutional or a combination of uses so as to
permit a grouping or “clustering” of uses on a portion of
the site rather than spread evenly throughout the site.
Zoning may permit the use of smaller lots in exchange for
the preservation of a portion of the site as open space, or
its dedication for community purposes.

(b) Crops. shall have the same meaning as provided in section
301(4) (a), (b), (c), (d) of the Agriculture and Markets Law
of the State of New York.
“Fertilized Vegetation” shall mean areas of cultivated vegetation which require the application of fertilizers, pesticides or other substances in order to survive or flourish.

(d) Special Surface Water Protection Areas, shall mean watershed areas requiring management to protect the high quality of selected surface waters.

(e) “Natural Vegetation” shall mean existing and naturally occurring indigenous vegetation that grows and is maintained without need of irrigation or applications of fertilizers, pesticides or other substances.

(f) “Hazardous Materials or Waste” shall mean those substances so defined and identified as hazardous waste pursuant to Article 27, Title 9, of the Environmental Conservation Law of the State of New York and rules and regulations promulgated thereunder.

(g) “Tract” shall mean any parcel of real property capable of subdivision pursuant to all applicable requirements.

SECTION THREE: GENERAL PROVISIONS

3.1 Applicability.

The provisions of this section shall apply to lands outside of incorporated villages located within the boundaries of the Town, superimposed upon the Zoning Map of the Town of ____________, and delineated as Special Surface Water Protection Areas.

3.2 Activities Requiring a Permit.

No site preparation, grading, filling, excavating or development affecting property within the Surface Water Protection District shall begin prior to the issuance of a permit.

3.3 Construal With Other Statutes.

(a) Lands within the overlay district are designated critical environmental areas pursuant to the State Environmental Quality Review Act.

(b) Lands within the overlay district are consistent with those situated adjacent to the ____________ River (creek, stream) which is designated as a (Wild, Scenic and/or Recreational) River under the New York State Wild, Scenic and Recreational Rivers Act.

3.4 Compliance.

Development shall comply with the provisions of any Special Groundwater Protection Area Plan that has been adopted by the (municipality).

3.5 Hazardous Materials and Waste.

Any new land use or activity that involves the generation, transportation, treatment, storage or disposal of hazardous materials or waste shall be prohibited in the overlay area.

3.6 Exemptions.

No person shall be required to obtain a permit for utilization of those lands included in the Special Surface Water Protection Areas for passive recreation, such as hiking, fishing, etc. as long as this usage does not cause changes in existing conditions (ie. increased erosion and sedimentation. See Handbook Ordinance number 19b for additional exceptions).

SECTION FOUR: PERMIT PROCEDURES

4.1 Permit Requirements.

Development permits for sites located within the Special Surface Water Protection Areas shall be required for all development activities not exempted in Section 3.6. The applicant shall be required to submit the following information to the governing body of municipality for approval prior to any development, construction or excavation activity.

1. Name and address of the applicant.
2. An environmental assessment form supplied by the municipality.
3. Description and map of proposed site development plan which includes:
   a) percentage of site in building including actual location.
   b) percentage of site in vegetation and areas where natural vegetation will be removed; where it will remain (see Ordinance #22).
   c) location of areas to be planted in fertilized vegetation.
   d) location of on-site system where feasible in relation to the surface water body.
   e) type of stormwater management systems.
4.2 Performance Standards.
Development Requirements.

(a) To minimize pollutant loadings, residential development shall be limited to one dwelling unit or less per acre or to open space.

(b) All new structures shall be located no less than 100 ft. from the mean water level of the stream, river, pond or lake or marine waters.

(c) Extensions or additions to existing structures shall comply with the 100 ft. setback requirement.

(d) Development shall be prohibited on slopes greater than 25%. Extensive grading of lots shall be avoided. All slopes shall be stabilized with seeding or other approved plantings.

(e) Where feasible subdivision plats shall provide for the clustering of structures to reduce impacts on surface waters. Wherever possible the area located closest to the surface water body shall be dedicated as open space.

(f) Stormwater detention facilities (temporary detainment) of stormwater runoff, with gradual release to surface or groundwaters shall be provided as necessary to maintain the same volume and rate of site runoff after development as that which existed prior to the development.

(g) Natural vegetation located on the tract shall be preserved to the maximum extent possible consistent with this policy.

(h) To minimize the potential for groundwater contamination from fertilizers, pesticides and other substances, fertilized vegetation shall not exceed ______ square feet or that specified in Handbook Ordinance #22. Lands currently utilized or utilized within the last five years for the production of crops shall be excluded from the requirements of this provision.

SECTION FIVE: PENALTIES

5.1 Restoration.

Any development, construction or excavation undertaken in violation of this ordinance shall forthwith be corrected after written notice by the (local authority). In the event that corrective action is not taken as directed within a reasonable time, the (governing body) may, at its own expense, take corrective action to restore the property. The cost thereof shall become a lien upon the property upon which such illegal activity occurred.

5.2 Fines.

Any person undertaking development, construction or excavation in violation of this ordinance is guilty of a misdemeanor, punishable by a fine of not less than ($____), nor more than ($____). Such person shall be deemed guilty of a separate offense for each day during which a violation of this ordinance is committed or continues.

SECTION SIX: SEVERABILITY.

Each separate provision of this ordinance is deemed independent of all other provisions herein so that if any provision(s) of this ordinance be declared invalid, all other provisions thereof shall remain valid and enforceable.

SECTION SEVEN: EFFECTIVE DATE.

This ordinance shall take effect on ____________.

Prepared by the LIRPB as a part of the 208 Implementation Project.
CONTROL OF ON-SITE GENERATED STORMWATER RUNOFF RESULTING FROM DEVELOPMENT

PROPOSED ORDINANCE

LONG ISLAND REGIONAL PLANNING BOARD

SECTION ONE: STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

1.1 Statutory Authorization.

New York State enabling legislation under Article 12B of the General Municipal Law (or Article 2A of General City Law, or Article 16 of Town law or Article 7 of Village Law) authorizes the (governing body) of (municipality) to provide and maintain for its citizens standards which insure their health, safety and welfare, including those land use regulations intended to promote most appropriate use of land throughout the municipality.

1.2 Findings of Fact.

(a) Man’s extensive alteration of the landscape, resulting from the clearing and grading of land and the creation of impervious areas, together with the increasingly intensive use of land, resulting from the concentrated spread of urbanization, have drastically accelerated the natural processes of erosion, sedimentation, and has increased the rate and volume of stormwater runoff.

(b) An increase in runoff has created the need for more extensive stormwater drainage systems to prevent the accumulation of water in streets and highways and in flood-prone areas.

(c) Since stormwater runoff is the transport mechanism for any contaminants deposited on impermeable or relatively impervious surfaces, it is often an important contributor to surface water degradation. A portion of the areas shell fishing grounds were closed partially due to high coliform concentrations carried in stormwater. In addition, changes occurred in the values of aquatic and estuarine water quality parameters with possible adverse effects on aquatic and marine species.

(d) Contaminants deposited on and adjacent to roads and highways are carried by stormwater to recharge basins and possibly to groundwater beneath the recharge basins. Lead and dissolved chloride (highway deicing salts) concentrations and in some cases organic chemicals have been found in the groundwater beneath recharge basins.

(e) Regulation of development by means of environmental performance standards will produce developments that are compatible with the natural functions of a particular site or an entire watershed. It will also provide the flexibility that is particularly important to resource protection given the host of construction and site design techniques that can be combined to mitigate the adverse effects of development.

1.3 Statement of Purpose.

It is the purpose of the ordinance to reduce insofar as possible the adverse effects of stormwater runoff that may occur during site preparation and development through the establishment of requirements for on-site water retention and recharge.

1.4 Objectives.

The objectives of this ordinance are as follows:

(a) to protect public health, safety and welfare
(b) to minimize development-induced soil erosion, sedimentation and stormwater runoff
(c) to minimize public expenditures for soil erosion, sedimentation and stormwater runoff control projects
(d) to maintain the integrity of natural drainage systems
SECTION TWO: DEFINITIONS.

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

_Agricultural Operations_
All activities directly related to the growing or raising of crops or livestock for the sale of agricultural produce, including horticultural and fruit operations.

_Construction_
The siting, building, erection, extension, or material alteration of any structure the use of which requires permanent or temporary location on the ground or attachment to a structure having a permanent or temporary location on the ground.

_Development_
To make a site or area available for use by alteration. Development includes but is not limited to creating access to and circulation within the site, clearing of vegetation, grading, providing utilities and other services, parking facilities, drainage systems, methods of sewage disposal, and creating landforms. Development also includes significant alteration of natural resources in preparation for development, such as the dredging or filling of wetlands, ponds or other natural drainage areas.

_Drainage Systems_
Includes gutters, swales, pipes, conduits and superstructures for the collection and conduction of stormwater to an adequate facility for its storage and disposal.

_Erosion_
The wearing away of land as a result of the action of natural forces or man-related activities.

_Excavation_
The removal, addition, or alteration of soil, sand, or vegetation by digging, dredging, drilling, cutting, scooping, or hollowing out.

_Filling_
The deposition of natural or artificial material so as to modify the surface or subsurface conditions of upland or underwater land.

_Grading_
The alteration of the surface or subsurface conditions of land, lakes, ponds, or watercourses by excavation or filling.

_Groundwater Table_
The elevation of the top of the water stored in the highest aquifer in the subsoils, at the location of the proposed structure, including but not limited to so-called “perched water,” except that where it is demonstrated that removal of the impervious layer underlying the perched water will substantially lower the level of the water, the lower water surface shall be considered the “groundwater table.” In locations where the groundwater is subject to tidal action the mean high elevation of the groundwater surface shall be considered the “groundwater table.”

_Natural Drainage_
The stormwater runoff resulting from topographical and geographical surface conditions, prior to clearing, regrading or construction.

_Natural Watershed_
An area of land which in its natural state and prior to any man-made change, and due to its topography and geography, drains to a particular location within that area.

_One-Hundred Year Flood Plain_
The land area subject to the highest level of flooding that, on the average, is likely to occur once every one hundred (100) years (i.e., that has a one-percent chance of occurring each year), as said level is shown on the Housing and Urban Development Flood Insurance Administration Flood Insurance Rate Maps on file with the Town Clerk of the Town.

_Performance Bond_
Is a legal instrument that insures the completion of the project in accordance with the conditions set forth with the provisions of this ordinance. It provides for the release of funds to the municipality in the event that the developer fails to meet his obligations.

_Person_
Any individual, corporation, governmental agency, business trust, estate trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.
Sedimentation
The processes that operate at or near the surface of the ground to deposit soils, debris and other materials either on other ground surfaces or in water channels.

Site Preparation
The activities of stripping, excavating, filling, and grading to facilitate construction or other use of the land.

Stormwater Runoff
That part of precipitation that flows over the land surface.

Topsoil
The natural surface layer of soil.

The word “shall” is mandatory and not discretionary.

The word “may” is permissive.

SECTION THREE: GENERAL PROVISIONS

3.1 Lands To Which This Ordinance Applies.
This ordinance shall apply to all property within the jurisdiction of (municipality).

3.2 Activities Requiring a Permit.
None of the following activities shall begin until a permit has been issued under the provisions of this ordinance.

(a) Grading or stripping which affects more than twenty thousand (20,000) square feet of ground surface.
(b) Excavation or filling involving more than three hundred (300) cubic yards of material within any parcel or any contiguous area.
(c) Site preparation on slopes which exceed fifteen feet of vertical rise to one hundred feet of horizontal distance (or site preparation in areas of severe erosion potential, if such areas have been mapped for the jurisdiction).
(d) Site preparation with 300 feet of wetlands.
(e) Site preparation within the hundred year floodplain of any watercourse.

3.3 Exceptions.
(a) Bona fide agricultural or forestry operations, including land-clearing operations in connection therewith; provided, however, if said land is subsequently changed to another type of use, the use of said land shall thenceforth be subject to this ordinance.
(b) Excavations for the basements and footings of single family houses and for septic systems, wells, and swimming pools attendant to single family homes, excepting those excavations required to obtain permits under Section 3.1.
(c) Minor clearing or excavation work not incident to a substantial change in the existing use of the land, which may be reasonably expected not to contribute to any additional on-site generated runoff or degradation of any lands or water beyond the boundaries of the property of the residence involved.
(d) Emergency repairs on public or private objects, necessary for the preservation of life, health or property, or taken to implement and accomplish the beneficial purposes of this ordinance as set forth herein under such circumstances where it would be impracticable to obtain approval of the (governing body) prior to making such emergency repairs.
(e) Routine maintenance or repair work on public or private roads or utility line rights-of-way.
(f) The provisions of this law shall not apply to real property included in any approved subdivision or approved site plan when such approval was granted by the Planning Board prior to the effective date of this local law.
(g) The provisions of this law shall not apply to real property included in any approved Old File Map before Planning Board approvals were required.

3.4 Compliance.
All development, construction, excavation and landscaping activities shall be in accordance with the approved stormwater runoff, planting and erosion-sedimentation control plans (See Handbook Ordinances #16 and 18) and the requirements of this ordinance.

3.5 Performance Bonding.
After the approval of the application and before the issuance of any permit the applicant will be required to furnish a performance bond in the amount necessary to cover the estimated costs for the installation of the required stormwater runoff control
measures. Said bond shall be retained by the (municipality) for a period of up to one year following inspection and certification of completion of development or construction in order to assure compliance with the provisions of the ordinance.

3.6 Interpretation.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions which impose more stringent restrictions on development, construction, excavation or filling. Where more than one provision of this ordinance applies to a given property, whichever provision imposes the more stringent restrictions shall prevail. Where this ordinance conflicts with or overlaps another ordinance or statute pertaining to the protection of property, whichever imposes the more stringent restrictions on development, construction and excavation shall prevail.

SECTION FOUR: STORMWATER RUNOFF CONTROL

4.1 Stormwater Runoff Control Plan Requirements.

Applicant will be required to submit a stormwater runoff control plan to the (governing body) of (municipality) for approval prior to any development, construction or excavation activity in accordance with this ordinance.

A stormwater management plan shall be required for any property when:

(a) a plat is to be recorded
(b) land is to be subdivided
(c) an existing drainage system requires alteration
(d) new development is proposed for more than one residential unit on a given plat
(e) new development for any use other than single family residence is proposed
(f) the rate or volume of runoff will be (significantly) increased
(g) on-site water drains to a pond, stream or other surface water body or to a wetland

The stormwater management plan may be a part of a site plan or supportive specifications or other written material, and should indicate the manner in which the applicant will meet the required performance standards. Such plan shall be mapped at a scale of one inch equals one hundred feet or less and shall contain:

(a) A vicinity map drawn to a scale of not less than 2,000 feet to one inch showing the relationship of the site to its general surroundings, and the watershed or drainage basin area.

(b) A plan of the site drawn to a scale of not less than 100 feet to the inch showing the location and description of property boundaries, site acreage, existing natural and man-made features on and within five hundred feet of the site boundary including roads, structures, water sources, utilities, location of the groundwater table topography including existing contours with intervals of not more than five (5) feet where the slope is ten percent or greater and not more than two (2) feet where the slope is less than ten percent (10%), a description of the natural drainage system, soil characteristics, a copy of the Soil Conservation District soil survey where available), location of wooded areas and other vegetation, location of the 100 year flood plain, location and description of surface waters, freshwater and tidal wetlands and the direction, flow, rate and volume of stormwater runoff under existing conditions.

(c) Location and description of proposed changes to the site and existing development on the site,

(1) the location of the existing and final grades and spot elevations
(2) changes in land surfaces (i.e. show locations where vegetation is to be removed and lawns or paving installed)
(3) proposed site construction and planting areas
(4) locations of all buildings and structures

(Items 2-4 may be indicated on the site development plan)

(d) The resultant changes in the volume and rate of stormwater runoff (based upon a given year storm to be determined by the municipality suggest a 25 year storm) from various locations on the site.

(e) The description of the proposed stormwater drainage system including

(1) the proposed location of stormwater control measures the designated volume, rate, flow path, detention and retention of stormwater on site
(2) the amount and rate of off site stormwater discharged from the site
(3) the location and description of erosion and sedimentation control measures
(4) the description of the pollutants likely to be generated on site

4.2 Performance Standards
The plan shall be designated to meet the following performance standards:
(a) The natural functioning of the site, including the absorptive, purifying and retentive functions that existed on the site before construction began, shall be maintained.
(b) The post-construction volume and rate of runoff leaving the site shall not exceed the calculated volume and rate of runoff of natural or predevelopment conditions for any storm of any intensity up to and including the 100 year frequency.
(c) All sediment resulting from site development shall be retained on site.
(d) Artificial watercourses shall be designed so that the velocity of flow will not cause erosion.
(e) Where retention or detention ponds are used to detain the increased and accelerated runoff resulting from site development, the release of water from the ponds into streams shall be at a rate and in a manner approximating the natural flow prior to development.
(f) Any new direct discharge of stormwater into surface waters, freshwaters or tidal wetlands shall be prohibited.
(g) The volume and rate of stormwater discharged from the site that is in excess of the volume and rate of stormwater leaving the site under natural or predevelopment conditions shall not exceed the capacity of existing in-place stormwater sewer systems for any storm of any intensity up to and including the 100 year frequency.
(h) In cases of extreme hardship, the Planning Board may waive compliance with one or more of the performance standards conditional upon the implementation of mitigating measures.
NOTE: The plan shall meet the performance standards in the Handbook ordinances #19 and #22.

SECTION FIVE: PERMIT FEE
Upon filing an application for a permit, the applicant shall pay to the (municipality) a fee in accordance with the schedule established by the ____________ . The fee shall be a reasonable sum to cover the costs of administration and shall in no part be returnable to the applicant.

SECTION SIX: VARIANCES
A variance may be authorized by the Zoning Board of Appeals of (local unit) upon receipt of an application from a property owner which demonstrates an undue hardship from the imposition of such regulations.

SECTION SEVEN: INSPECTION, RESTORATION AND FINES
6.1 Inspection.
Inspections for stormwater runoff control plan compliance shall be conducted by the (governing body). To determine that the work has been completed in accordance with the stormwater runoff control plan. The plan may be modified by mutual agreement if, after installation, the ____________ deems that the installed measures are not adequate to meet the performance standards.
6.2 Fines.
Any person undertaking clearing, excavation or development of land in violation of this ordinance, upon conviction, shall be guilty of a misdemeanor, punishable by a fine of not less than ($  ), nor more than ($  ). Such person shall be deemed guilty of a separate offense for each day during which a violation of this ordinance is committed or continues.

SECTION EIGHT: SEVERABILITY
Each separate provision of this ordinance is deemed independent of all other provisions herein so that if any provision(s) of this ordinance be declared invalid, all other provisions thereof shall remain valid and enforceable.

SECTION NINE: EFFECTIVE DATE
This ordinance shall take effect on ________________ .
SITE GRADING AND EROSION CONTROL ORDINANCE
TOWN OF BROOKHAVEN CODE

Chapter 35

§ 35-1. Legislative intent. [Amended 7-2-74, effective 8-5-74]

It is the purpose of this ordinance to regulate and control the regrading of land throughout the town in all use district classifications in order to prevent serious and irreparable damage to our natural resources, to minimize and retard the erosive effects of wind and water, to prevent the depreciation of property values, to prevent the removal of lateral support for abutting streets, lands and structures, to prevent damage to natural watersheds, to provide adequate drainage for surface water runoff, to protect persons and property from the hazards of periodic flooding and in general to protect the health, welfare and safety of the residents of the town.

§ 35-2. Definitions.

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

DRAINAGE FACILITIES — Includes gutters, swales, pipes, conduits and superstructures for the collection and conducting of stormwater to an adequate facility for the storage and disposal of the stormwater.

FLOOD-PRONE AREA — Those areas designated as Zone V, A-1, A-2, A-3 and A-4 on the Housing and Urban Development Flood Insurance Administration Flood Insurance Rate Maps on file with the Town Clerk of the Town of Brookhaven. [Added 7-2-74, effective 8-5-74]

GROUNDWATER TABLE — The elevation of the top of the water stored in the highest aquifer in the subsoils, at the location of the proposed structure, including but not limited to so-called "perched water," except that where it is demonstrated that removal of the impervious layer underlying the perched water will substantially lower the level of the water, the lower water surface shall be considered the "groundwater table." In locations where the
groundwater is subject to tidal action the mean high elevation of the groundwater surface shall be considered the "groundwater table."

HABITABLE — The "habitable" portion of a building is any enclosed area including cellars and basements except the following:

A. Those areas which are used primarily for storage, repair or access of vehicles and which contains no electrical, mechanical or heating equipment lower than twelve (12) inches above the floor.

B. Crawl spaces not exceeding four (4) feet in height in which no electrical or mechanical equipment is or is to be installed.

LATERAL SUPPORT — The resistance to active horizontal pressure of soils provided by either the passive pressure of the adjoining soils or by a retaining wall or structure.

NATURAL DRAINAGE — The stormwater runoff resulting from topographical and geographical surface conditions, prior to clearing, regrading or construction.

NATURAL WATERSHED — An area of land which in its natural state and prior to any man-made change, and due to its topography and geography, drains to a particular location within that area.

ONE-HUNDRED-YEAR FLOOD LEVEL — The highest level of flooding that, on the average, is likely to occur once every one hundred (100) years [i.e., that has a one-percent chance of occurring each year], as said level is shown on the Housing and Urban Development Flood Insurance Administration Flood Insurance Rate Maps on file with the Town Clerk of the Town of Brookhaven. [Added 7-2-74, effective 8-5-74]

REGRADE — To change the elevation of the ground surface, either temporarily or permanently.

STABILIZATION — Treatment of subsoils to increase ability to resist lateral pressures and/or treatment of surface to resist wind and water erosion.

STORMWATER RUNOFF — The amount of rainwater which due to topographical surface conditions and geology of the upstream land, drains to a particular location, or the rate at which the rainfall passes through a particular location.


The following standards for the development of land or the regrading thereof, or both, shall apply in all use district classifications as set forth in Chapter 85 of the Code of the Town of Brookhaven. In all use district classifications wherein site plan review and approval is required, the site plan submitted to the Planning Board shall indicate compliance with following standards. In all other use district classifications the procedure required by § 35-4 of this ordinance shall be followed.

A. Stormwater runoff or natural drainage shall not be diverted so as to overload existing drainage systems, create flooding, cause erosion or the need for additional drainage facilities on other private or public real property.

B. Adequate drainage facilities for stormwater runoff shall be provided.

C. Proposed slope embankments along adjoining property lines and street frontages shall have a slope not steeper than one (1) foot on three (3) feet [thirty-three and one-third percent (33 1/3%)] unless an adequate stabilization or retaining wall is provided as approved by the Planning Board. All slopes shall be adequately stabilized with topsoil and seeding or other approved planting.

D. The finished grade at a point not less than ten (10) feet from the building shall be at least one (1) foot below the lowest exterior opening in the foundation of the habitable portion of the structure, except that the finished grade may be no less than six (6) inches at a point no less than ten (10) feet opposite open porches, patios and pedestrian ramps.

E. Floor elevation. [Amended 7-2-74, effective 8-5-74]

(1) No habitable floor area shall be less than three (3) feet above the groundwater table, and the lowest opening to that habitable floor area shall not be less than seven
and five-tenths (7.5) feet above the datum established by the United States Coast and Geodetic Survey.

(2) Notwithstanding Subsection E(1) above, in a flood-prone area as above defined, any structure shall be constructed so that the lowest floor, including basement, is elevated to at least one (1) foot above the one-hundred-year flood level. In addition, in a coastal high-hazard area designated as Zone V on the H.U.D.F.I.A. Flood Insurance Rate Maps on file with the Town Clerk of the Town of Brookhaven, any new construction or substantial improvements must be located landward of the reach of the mean high tide; must be adequately anchored to piles or columns; and the area beneath the lowest floor, including basement, must be free of obstructions so that the impact of abnormally high tides or wind-driven water is minimized. [Amended 12-17-74, effective 1-13-73]

F. Front and rear yards shall have a grade of not more than five percent (5%) for a distance of twenty-five (25) feet as measured in a horizontal plane from the structure. Side yards shall have a grade of not more than ten percent (10%) for a distance of ten (10) feet as measured in a horizontal plane from the structure. All finished grades within ten (10) feet of the building shall pitch away from the building at a grade rate of not less than two percent (2%).

G. Where roof runoff from any building or structure will produce erosion or drainage problems with respect to adjoining properties, dry wells of adequate capacity shall be installed as an outfall for rainfall roof runoff.

H. The driveway apron shall be at least one (1) foot below the garage floor unless natural topography dictates grading away from the street and protective grading is provided for in the construction of the driveway with respect to adjoining structures and property.

I. Notwithstanding the foregoing provisions of this section, the Planning Board may waive or modify compliance with any of the foregoing minimum standards, subject to appropriate conditions, which in its judgement are not warranted by the special circumstances of any application or matter before it, or required in the interest of the public health, safety and welfare.
CONTROL OF ON-SITE GENERATED SOIL EROSION AND SEDIMENTATION RESULTING FROM DEVELOPMENT PROPOSED ORDINANCE LONG ISLAND REGIONAL PLANNING BOARD

SECTION ONE: STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

1.1 Statutory Authorization.

New York State enabling legislation under Article 12B of the General Municipal Law (or Article 2A of General City Law, or Article 16 of Town Law or Article 7 of Village Law) authorizes the (governing body) of (local unit) to protect the health, safety and welfare, including those land use regulations intended to promote the most appropriate use of land throughout the municipality.

1.2 Findings of Fact

(a) Man’s extensive alteration of the landscape, resulting from the clearing and grading of land and the creation of impervious areas, has accelerated the natural processes of erosion and sedimentation.

(b) Per acre soil erosion losses from construction sites are four times greater than those occurring on cropland and up to eighty times greater than those occurring on forest land. The Erosion and Sediment Inventory for New York (EASI), published in 1974 by the Soil Conservation Service identified erosion from construction sites as the major contributor of eroded material in Suffolk County.

(c) Sediment is the end product of erosion. Sediment deposited on roads is a maintenance problem and a safety hazard. Sediment clogs drainage systems and recharge basins, thus increasing maintenance costs. Deposits of sediment must be removed to an appropriate disposal site. Sediment deposits also fill in wetland areas and cover lake and bay bottoms smothering the benthic flora and fauna. All of these associated problems can be minimized through the control of the erosion process at the point of origin, the site of development.

1.3 Statement of Purpose.

It is the purpose of the ordinance to reduce insofar as possible the adverse effects of soil erosion and associated sedimentation that may occur during site preparation and development through the establishment of requirements for site grading and the protection of exposed soil surfaces.

1.4 Objectives.

The objectives of this ordinance are as follows:

(a) to protect public health, safety and welfare; (b) to minimize development-induced soil erosion, sedimentation and stormwater runoff; (c) to minimize public expenditures for soil erosion, sedimentation and stormwater runoff control projects; and (d) to maintain the integrity of natural drainage systems.

SECTION TWO: DEFINITIONS.

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

Agricultural Operations

All activities directly related to the growing or raising of crops or livestock for the sale of agricultural produce, including horticultural and fruit operations.
Construction
The siting, building, erection, extension, or material alteration of any structure the use of which requires permanent or temporary location on the ground or attachment to a structure having a permanent or temporary location on the ground.

Development
To make a site or area available for use by alteration. Development includes but is not limited to creating access to and circulation within the site, clearing of vegetation, grading, providing utilities and other services, parking facilities, drainage systems, methods of sewage disposal, and creating landforms. Development also includes significant alteration of natural resources in preparation for development, such as the dredging or filling of wetlands, ponds or other natural drainage areas.

Disturbed Area
Land area where the natural vegetative or soil cover has been removed or altered, and the soil is therefore susceptible to erosion.

Erosion
The wearing away of land as a result of the action of natural forces or man-related activities.

Excavation
The removal, addition, or alteration of soil, sand, or vegetation by digging, dredging, drilling, cutting, scooping, or hollowing out.

Filling
The deposition of natural or artificial material so as to modify the surface or subsurface conditions of upland or underwater land.

Grading
The alteration of the surface or subsurface conditions of land, lakes, ponds, or watercourses by excavation or filling.

Groundwater Recharge
Replenishment of existing natural underground water supplies.

Performance Bond
A legal instrument which specifies that funds are being held in escrow in accordance with standard bonding conditions by a state approved bonding institution or by (municipality) as required from developers to assure compliance with the provisions of this ordinance.

Person
Any individual, corporation, governmental agency, business trust, estate trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

Stormwater Runoff
That part of precipitation that flows over the land surface.

Sedimentation
The processes that operate at or near the surface of the ground to deposit soils, debris and other materials either on the ground surfaces or in water channels.

Site Preparation
The activities of stripping, excavating, filling, and grading, to facilitate construction or other use of the land.

Structure
A walled and roofed building, having a foundation, an enclosed ground area, or, if elevated, a projected ground area exceeding 200 square feet, that is principally above ground and affixed to a permanent site.

Topsoil
The natural surface layer of soil.

Turbidity
Reduced water clarity resulting from the presence of suspended material.

The word “shall” is mandatory and not discretionary.
The word “may” is permissive.

SECTION THREE: GENERAL PROVISIONS.

3.1 Lands to Which This Ordinance Applies.
This ordinance shall apply to all property within the jurisdiction of municipality.

3.2 Activities Requiring a Permit.

None of the following activities shall begin until a permit has been issued under the provisions of this ordinance.

(a) Grading or stripping which affects more than twenty thousand (20,000) square feet of ground surface within any parcel or any contiguous area.

(b) Excavation or filling which involves more than three hundred (300) cubic yards of material within any parcel or any contiguous area:

(c) Site preparation on slopes which exceed fifteen feet of vertical rise to one hundred feet of horizontal distance (or site preparation in areas of severe erosion potential, if such areas have been mapped for the jurisdiction);

(d) Site preparation with 300 feet of wetlands;

(e) Site preparation within the hundred year floodplain of any watercourse.

3.3 Exceptions.

(a) Bona fide agricultural or forestry operations, including land-clearing operations in connection therewith; provided, however, if said land is subsequently changed to another type of use, the use of said land shall henceforth be subject to this ordinance.

(b) Excavations for the basements and footings of single family houses and for septic tank systems, wells, and swimming pools attendant to single family homes, excepting those excavations required to obtain permits under Section 3.2.

(c) Home gardening or other minor clearing or excavation work not incident to a substantial change in the existing residential use of the land, which may be reasonably expected not to contribute to any on-site generated erosion or degradation of any lands or water beyond the boundaries of the property of the residence involved.

(d) Emergency repairs on public or private objects, necessary for the preservation of life, health or property, or taken to implement and accomplish the beneficial purposes of this ordinance as set forth herein under such circumstances where it would be impracticable to obtain approval of the (governing body) prior to making such emergency repairs.

(e) Routine maintenance or repair work on public or private roads or utility line rights-of-way.

3.4 Compliance.

All development, construction, excavation and maintenance activities shall be in accordance with approved soil erosion, sedimentation control, planting and stormwater runoff control plans (see Handbook Ordinances #18 and #22) and the requirements of this ordinance.

3.5 Performance Bonding.

After the approval of the application and before the issuance of any permit the applicant will be required to furnish a performance bond, in the amount necessary to cover the estimated costs for the installation of the required soil erosion, and sedimentation control measures, to be retained by the municipality for a period of up to one year following municipal inspection and certification of completion of development or construction in order to assure compliance with the provisions of the ordinance. For permanent erosion control measures requiring the establishment of vegetation, an appropriate percentage of the performance bond will be kept in escrow for up to three years following municipal inspection and certification of completion of development or construction in order to ensure establishment of adequate vegetation.

3.6 Interpretation.

(a) This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deeds restrictions which impose more stringent restrictions on development, construction, excavation or filling. Where more than one provision of this ordinance applies to a given property, whichever provision imposes the more stringent restrictions shall prevail. Where this ordinance conflicts with or overlaps another ordinance or statute pertaining to the protection of property, whichever imposes the more stringent restrictions on development, construction and excavation shall prevail.
SECTION FOUR: SOIL EROSION AND SEDIMENTATION CONTROL: LAND CLEARING PERMIT

4.1 Soil Erosion and Sedimentation and Stormwater Runoff Control Plan.

Applicant shall submit a soil erosion, sedimentation and stormwater runoff control plan to the (governing body) of (municipality) for approval in accordance with this ordinance prior to the initiation of any development, construction or excavation activity. Such plan shall be mapped at a scale of one inch equals one hundred feet or less and shall contain

(a) A vicinity map drawn to a scale of not less than 2,000 feet to one inch showing the relationship of the site to its general surroundings.

(b) A plan of the site drawn to a scale of not less than 100 feet to the inch showing the location and description of property boundaries, site acreage, existing natural and man-made features on and within five hundred feet of the site boundary, including roads, structures, water sources, utilities, topography including existing contours with intervals of not more than five (5) feet where the slope is ten percent or greater and not more than two (2) feet where the slope is less than ten percent, soil characteristics, location of wooded areas, the depth to seasonal high water table and a copy of the Soil Conservation District soil survey where available.

(c) Location and description of proposed changes to the site and existing development on the site.

(1) all excavation, filling, and grading proposed to be undertaken, identified as to the depth, volume, and nature of the materials involved,

(2) all areas requiring clearing, identified as to the nature of vegetation affected,

(3) all areas where topsoil is to be removed and stockpiled and where topsoil is to be ultimately placed,

(4) all temporary and permanent vegetation to be placed on the site, identified as to planting type, size, and extent,

(5) all temporary and permanent erosion and sediment control measures including soil stabilization tech-

iques and stormwater drainage and storage systems including ponds, recharge and sediment basins (identified as to the type of facility, the materials from which it is constructed, its dimensions, and its capacity in gallons),

(6) the anticipated pattern of surface drainage during periods of peak runoff, upon completion of site preparation and construction activities, identified as to rate and direction of flow at all major points within the drainage system,

(7) the location of all roads, driveways, sidewalks, structures, utilities, and other improvements; and

(8) the final contours of the site at intervals of no greater than two (2) feet.

(d) A schedule of the sequence of installation of planned soil erosion and sediment and runoff control measures as related to the progress of the project including anticipated starting and completion dates.

4.2 Performance Standards.

The plan shall be designed to meet the following performance standards:

(a) The site erosion and sedimentation control measures shall be appropriate for the existing topography, vegetation, and other natural features of the site. The plan shall indicate how these features will be preserved.

(b) Site grading (excavation and filling) shall minimize destruction of natural vegetation, the potential for erosion, sedimentation and stormwater runoff and the threat to the health, safety and welfare of neighboring property owners and the general public.

(c) Erosion, sedimentation and stormwater runoff shall be controlled prior to, during, and after site preparation and construction.

(d) Soils exposed by site preparation shall remain so for the shortest practical period of time during site clearing, construction and restoration.

(e) Areas exposed by site preparation shall be protected during site construction.
(f) Slopes created during the period of site development shall not be so steep that erosion or sedimentation may result or vegetation cannot be readily established. A maximum slope of 1 to 3 (or a slope of 33%) is perrollable. A slope of 1 to 2 requires a longer period for vegetation to become established.

(g) All fill material shall be of a composition suitable for fill, and free of brush, stumps, and other debris. No organic material shall be disposed of on site.

(h) Site preparation and construction activities shall not result in the encroaching on, or blocking or restriction of swales, storm sewer systems, wetlands or surface waters.

(i) Fill material shall be compacted to prevent erosion or settling.

(j) All top soil removed during site preparation and construction shall be stockpiled and protected in a manner so that erosion from the soil pile will not occur.

(k) A stormwater drainage system shall be provided during and after construction such that sediments or stormwater will not in any way damage public or private downstream property.

SECTION FIVE: LAND DISTURBANCE PERMIT FEE

Upon filing an application for a permit, the applicant shall pay to the (municipality) a fee if the permit may be required under Sections 3.1 and 3.2 of this ordinance. The fee shall be deemed a reasonable sum to cover the costs of administration and shall in no part be returnable to the applicant.

SECTION SIX: VARIANCES

A variance may be authorized by the Zoning Board of Appeals of (local unit) upon receipt of an application from a property owner which demonstrates an undue hardship from the imposition of such regulations.

Prepared by the LIRPB as a part of the 208 Implementation Project.

SECTION SEVEN: INSPECTION, RESTORATION AND FINES

6.1 Inspection.

Inspections for soil erosion, sedimentation, and runoff control plan compliance shall be conducted by the (governing body) to determine that the work has been completed in accordance with the soil erosion, sedimentation and runoff control plan. The plan may be modified by mutual agreement if, after installation, the ________ deems that the installed measures are not adequate to meet the performance standards.

6.2 Restoration.

Any clearing, excavation or development of land in violation of this ordinance shall be corrected forthwith after written notice by the (governing body). In the event that corrective action is not taken as directed within a reasonable time, the (municipality) may, at its own expense, take corrective action to restore the property. The cost thereof shall become a lien upon the property upon which such illegal activity occurred.

6.3 Fines.

Any person undertaking clearing, excavation or development of land in violation of this ordinance, upon conviction, shall be guilty of a misdemeanor, punishable by a fine of not less than (§ ), not more than (§ ). Such person shall be deemed guilty of a separate offense for each day during which a violation of this ordinance is committed or continues.

SECTION EIGHT: SEVERABILITY.

Each separate provision of this ordinance is deemed independent of all other provisions herein so that if any provision(s) of this ordinance be declared invalid, all other provisions thereof shall remain valid and enforceable.

SECTION NINE: EFFECTIVE DATE.

This ordinance shall take effect on ________.
REALTY SUBDIVISIONS AND DEVELOPMENTS
ARTICLE 6 - SUFFOLK COUNTY CODE

SUFFOLK COUNTY DEPARTMENT OF HEALTH SERVICES
CODE OF ADMINISTRATIVE REGULATIONS
CONCERNING REALTY SUBDIVISION AND
DEVELOPMENT, WATER SUPPLY AND SEWAGE
DISPOSAL FACILITIES

SECTION

601 Definitions
602 Department Approval of Subdivision or Development Plans
603 Applications for Approval
604 Filing Requirements
605 Sewage Facilities Requirements
606 Water Facilities Requirements
607 Variances
608 Sewage Facilities Requirements for Other Than Conventional Single-Family Residential Subdivisions and Developments.

Section 601 Definitions

As used in this code, unless the context otherwise requires:

a. Department means the Suffolk County Department of Health Services.

b. Realty Subdivision means a realty subdivision as defined in Section 1115 of the Public Health Law of the State of New York and Section 17-1501 of the Environmental Conservation Law as such statutes may be amended from time to time.

c. Tract means any real property, which now or in the future is held, owned, controlled or possessed, either singularly, jointly, commonly or otherwise, by a person or group of persons, or any legally cognizable entity or entities, or any combination of the foregoing, who are acting with reference to such body of land in concert or as part of a common scheme, plan or venture.

d. Residential Parcel means a single body of land or single building plot, site or unit, consisting of five (5) or less acres, which is located wholly or partially within the County of Suffolk any point on the boundary line of which is less than one-half mile of the boundary line of another such parcel in the same tract.

e. Non-Residential Parcel means a single body of land or single building plot, site or unit which is located wholly or partially within the County of Suffolk any point on the boundary line of which is less than one-half mile of the boundary line of another such parcel in the same tract.

f. Development means two, three or four contiguous parcels located wholly or partially within the County of Suffolk, or any tract of land located wholly or partially within the County of Suffolk which has, is or will be divided into two, three or four identifiable parcels.

g. Developer means any person or group of persons, or any legally cognizable entity or entities or any combination of the foregoing, who:

1. is undertaking or participating in the establishment of a realty subdivision:

(a) either individually, or

(b) pursuant to a common scheme, plan

or venture, or

2. owns, acquires, possesses, controls or creates a development.

h. Clustered Realty Subdivision means a realty subdivision consisting of one or more relatively undersized parcels, which is designed in such a manner so as to allow a substantial unimproved portion of the tract to stand open and uninhabited.

i. Individual Water Supply System means a single system of piping, tanks, or other facilities together with a source of water intended to supply only a single parcel.

j. Individual Sewerage System means a single system of piping, tanks, or other facilities serving only a single parcel and disposing of sewage or other liquid waste into the soil of such parcel.

k. Community Water System means a source of water and necessary appurtenances together with a distribution system serving more than one parcel, whether owned by a municipal corporation, private utility, or otherwise.
1. Community Sewerage System means a system utilized for the collection and disposal of sewage, or other waste of a liquid nature, including the various devices for the treatment of such wastes, serving more than one parcel whether owned by a municipal corporation, private utility, or otherwise.

m. Groundwater Management Zone means one of the eight (8) areas delineated in Suffolk County by the "Long Island Comprehensive Waste Treatment Management Plan (L.I. 208 Study)" to identify critical watersheds. The map indicating the boundaries of the Groundwater Management Zones is on file in the Department.

n. Two-family Residence means a dwelling unit designed for occupancy by two separate family units.

o. Multi-family Housing means dwelling units designed for occupancy by more than two separate family units.

p. Commercial or Industrial Center means a realty subdivision or development to be used for non-residential purposes.

q. Subsurface Sewage Disposal System means septic tank and leaching pools and interconnecting piping.

r. Sewage Collection and Treatment Systems means the structures, devices and processes installed for the purposes of collecting, treating and disposing sewage and sludge.

s. Population Density Equivalent means an expression of the quantity of domestic sewage in terms of the calculated population per unit area which would normally contribute the same amount of sewage.

Section 602 Department Approval of Realty Subdivision and Development Plans

1. No developer shall after the effective date of this article:

a. engage in the creation of a realty subdivision, or sell, rent, offer for sale or lease any parcel in a realty subdivision unless Department approval has been obtained of the existing or proposed water supply and sewage disposal facilities in the subdivision;

b. engage in the creation of a development, or lease, rent, give devise, or otherwise dispose of any parcel in a development or erect or cause to be erected any permanent building on any parcel in the development unless Department approval has been obtained for the existing or proposed water supply and sewage disposal facilities in the development.

2. A tract of land which is, has been, or will be, divided shall constitute a development or realty subdivision notwithstanding:

a. the method or purpose of such division, or the allowable types of use applicable to such tract, whether commercial, residential, industrial, or other authorized use under local ordinances;

b. the method used to describe such tract whether by metes and bounds, or by reference to a map of the property, or otherwise.

Section 603 Applications for Approval

1. Applications for Department approval of existing and/or proposed water supply and sewage disposal facilities, as required by Section 602 above, shall:

a. conform with the standards and regulations prescribed in this code; and

b. conform with all other Department bulletins, regulations, and requirements; and

c. be made on forms provided by the Department; and

d. be accompanied by such maps, plans, reports, specifications and data as the Department may require or direct.

2. Plans other than those for community water and/or sewerage systems shall indicate water and/or sewerage systems located upon each parcel.

3. Plans other than those for community water and/or sewerage systems shall not propose to furnish water to more than one parcel and/or dispose of sewage from more than one parcel.

4. Where the developer proposes to obtain and furnish water supply and/or sewerage facilities for a realty subdivision or development by connection to an existing community water and/or sewerage system, the developer shall supply the Department with a certification in writing by the owner of the utility that such facilities will be furnished and kept available in good operating condition for the realty subdivision or development.

5. The Department, in its discretion, may require the developer to furnish a performance bond to the owner of such utility conditioned upon the developer's making connection to the utility within a specified reasonable period of time.

Section 604 Filing Requirements

Every developer who obtains Department approval of a realty subdivision or development, as required by Section 602, shall thereafter file a map of such subdivision or development, bearing the stamp of approval of the Department, in the Office of the Clerk of the County of Suffolk within six (6) months of the date of approval of the Department.

Section 605 Sewage Facilities Requirements

1. A community sewerage system method of sewage disposal is required when any of the following conditions are present:
a. the realty subdivision or development, or any portion thereof, is located within an existing sewer district.

(1) This requirement shall apply in the absence of proof satisfactory to the Department that the developer cannot effect arrangements for the installation and/or connection of the sewerage system to the existing sewer district.

b. the realty subdivision or development is located in an area where the subsoil or groundwater conditions are not conducive to the proper functioning of individual sewerage systems.

c. the realty subdivision or development is located outside of Groundwater Management Zones III and VI, and any parcel in the realty subdivision or development is less than 20,000 square feet in area, unless the realty subdivision or development meets the population density equivalent requirements of paragraph 2a of this section; or

d. the realty subdivision or development is located within Groundwater Management Zones III and VI, and any parcel in the realty subdivision or development is less than 40,000 square feet in area, unless the realty subdivision or development meets the population density equivalent requirements of paragraph 2b of this section.

2. Individual sewerage systems may be approved by the Department as to the method of sewage disposal provided all of the following conditions are met:

a. the realty subdivision or development is located outside of Groundwater Management Zones III or VI, and all parcels in the realty subdivision or development consist of an area of at least 20,000 square feet; or in the case of a clustered realty subdivision or development, the population density equivalent is equal to or less than that of a realty subdivision or development of single-family residences in which all parcels consist of an area of at least 20,000 square feet.

b. the realty subdivision or development is located within Groundwater Management Zones III or VI, and all parcels in the realty subdivision or development consist of an area of at least 40,000 square feet; or in the case of a clustered realty subdivision or development, the population density equivalent is equal to or less than that of a realty subdivision or development of single-family residences in which all parcels consist of an area of at least 40,000 square feet.

c. the realty subdivision or development or any portion thereof, is not located within an existing sewer district and is located in an area where subsoil and groundwater conditions are conducive to the proper functioning of individual sewerage systems; and

d. the individual sewerage systems comply with the Department's current Standards and the minimum State requirements as set forth in 10 NYCRR, Part 75, to the extent applicable to Suffolk County; and

e. the requirements of Section 606 hereof are complied with.

Section 606 Water Facilities Requirements

1. A community water system method of water supply is required when any of the following conditions are present:

a. the realty subdivision or development, or any portion thereof, is located within an existing water district or service area; or

b. the realty subdivision or development is reasonably accessible to an existing water district or service area; or

(1) This requirement shall apply in the absence of proof satisfactory to the Department that the developer cannot effect arrangements for the installation and/or connection of the water system to the existing water district or service area facilities;

c. individual wells cannot provide an average yield of five (5) gallons per minute of fresh, potable water; or

d. groundwaters in the area are non-potable, or potentially hazardous; or

e. any parcel in the realty subdivision is less than 40,000 square feet in area.

2. The following are minimum requirements for community water systems:

a. Community water systems shall be capable of delivering water at an average rate of 100 gal/capita/day when service connections are unmetered, or 75 gal/capita/day when service connections are metered.

b. Community water systems shall be designed to deliver water meeting the quality requirements of the New York State Sanitary Code.

c. Community water systems shall provide for continuity of water service to the satisfaction of the commissioner.

d. The community water supply system shall have at least two (2) separate wells as a source of supply.

e. Community water systems shall have at least one day's available storage at design average consumption.

f. The relevant provisions of Part 5 of the New York State Sanitary Code and Bulletin 42 of the New York State Department of Health entitled "Recommended Standards for Water Works" will be the basis upon which all plans, specifications and reports for community water systems will be reviewed for approval by the Department.
3. Individual water supply systems may be approved by the Department as the method of water supply for a realty subdivision or development, provided all of the following conditions are met:

a. all parcels in the realty subdivision or development consist of an area of at least 40,000 square feet; and

b. the realty subdivision or development, or any portion thereof, is not located within an existing water district or service area and is not reasonably accessible thereto, and individual wells can provide an average yield of five (5) gallons per minute of fresh, portable water; and

c. the individual water supply systems comply with the Department's current Standards and the minimum State requirements as set forth in 10 NYCRR, Part 75, to the extent applicable to Suffolk County.

Section 607 Variances

1. The Commissioner of the Department of Health Services, in his discretion, upon written application, may grant a variance from a specific provision of this code, in a particular case, subject to appropriate conditions, where such variance is in harmony with the general purposes and intent of this code, after such variance application has been considered by a Department Review Board.

2. Requirements of this article shall not apply to:

a. realty subdivisions which have previously been approved by the department or the New York State Department of Health, and have been filed in the Office of the Clerk of the County of Suffolk;

b. developments which have previously been approved by the department;

c. developments which have been approved by a town or village planning or zoning board of appeals prior to the effective date of this article and which met the requirements of the department in effect at that time.

d. parcels in single and separate ownership on previously filed maps which are not exempted by a, b, or c above, provided that such parcels were held as single and separate parcels prior to January 1, 1981.

Section 608 Sewage Facilities Requirements for Other Than Conventional Single-Family Residential Subdivisions and Developments

1. A community sewerage system method of sewage disposal is required for a realty subdivision or development for the purposes of a cluster realty subdivision, two-family residences, multiple family housing or commercial or industrial centers when any of the following conditions are present:

a. the realty subdivision or development is located within Groundwater Management Zones III and VI, and the population density equivalent is greater than that of a realty subdivision or development of single-family residences in which all parcels consist of an area of at least 40,000 square feet;

b. the realty subdivision or development is located outside of Groundwater Management Zones III and VI, and the population density equivalent is greater than that of a realty subdivision or development of single-family residences in which all parcels consist of an area of at least 20,000 square feet;

c. the realty subdivision or development, or any portion thereof, is located within an existing sewer district.

1(1) This requirement shall apply in the absence of proof satisfactory to the Department that the developer cannot effect arrangements for the installation of the sewerage system to the existing sewer district.

d. the realty subdivision or development is located in an area where the subsoil or groundwater conditions are not conducive to the proper functioning of individual or subsurface sewerage systems.

2. Individual or subsurface sewerage systems may be approved by the Department as to the method of sewage disposal for a realty subdivision or development for the purposes of a cluster realty subdivision, two-family residences, multiple family housing or commercial or industrial centers provided all of the following conditions are met:

a. the realty subdivision or development is located within Groundwater Management Zones III and VI, and the population density equivalent is equal to or less than that of a realty subdivision or development of single-family residences in which all parcels consist of an area of at least 40,000 square feet;

b. the realty subdivision or development is located outside of Groundwater Management Zones III and VI, and the population density equivalent is equal to or less than that of a realty subdivision or development of single-family residences in which all parcels consist of at least 20,000 square feet;

c. the realty subdivision or development, or any portion thereof, is not located within an existing sewer district and is located in an area where subsoil and groundwater conditions are conducive to the proper functioning of individual or subsurface sewerage systems; and

d. the individual sewerage or subsurface systems comply with the Department's current Standards and the minimum State requirements as set forth in 10NYCRR, Part 75, to the extent applicable to Suffolk County.

Adopted 11/19/80  Amended 6/3/81
Amended 4/15/81  Amended 6/24/81
Amended 1/12/83

The Town Board of the Town of Southampton finds that trees and other vegetation perform numerous important and essential functions, including but not limited to the stabilization and preservation of soil; maintenance of watershed areas which are essential to the town’s fresh water supply; absorption of air pollution and production of oxygen; establishment of natural barriers to noise, and habitats for wildlife; and creation of a desirable aesthetic quality which is a key factor in the town’s existence as a rural resort community. The Town Board further finds that the destruction or removal of trees and other vegetation deprives all sectors of society of these benefits while disrupting ecological systems of which they are an integral part, and that regulation of such destruction or removal will protect and preserve property within the town and promote the general welfare and health of its inhabitants.


In this ordinance, unless the context requires otherwise, the following terms shall have the meanings indicated:

PERSON — Shall not include any governmental body or subdivision or agent thereof.

VEGETATION — Shall include trees, shrubs, bushes, grasses, flowers and similar plant life.


It shall be unlawful for any person to mar, remove, damage, deface or destroy any vegetation as defined in this ordinance, whether or not such vegetation is living, under any of the following circumstances:

A. On the private property of another without the express prior written consent of the owner and the occupant of such property. Such consent may be revoked at any time by the grantor thereof. Where such express prior written consent has been obtained, the person to whom the same was given shall keep such consent on his person and available for
immediate display at all times during such activity pertaining to vegetation as set forth herein. Such express prior written consent shall not be deemed a consent hereunder as to any person whose name is not set forth therein. Failure to produce such express prior written consent upon demand therefor by any peace or police officer shall be presumptive evidence that such consent has not been given or received; or

B. On any public grounds or property within the town, outside incorporated villages, without the express written authorization of the Town Board or its duly designated agent. The provisions of Subsection A of this section applicable to express prior written consents shall be applicable to Town Board authorization under this subdivision.


The provisions of this ordinance shall apply to all lands within the Town of Southampton which lie outside incorporated areas.


Any person who shall violate any of the provisions of this ordinance shall be guilty of a violation, punishable by a fine of not more than two hundred fifty dollars ($250.) or by imprisonment for not more than fifteen (15) days, or by both such fine and imprisonment.
§ 70-1. Legislative intent.

The vital environmental function which trees serve within the ecological structure of the Town of Brookhaven is well recognized. Trees are recognized to provide various benefits to the environment, including the stabilization and preservation of the soil, the absorption of air pollutants and the provision of oxygen and further provide natural barriers to noise and habitats for wildlife, while maintaining and offering an intrinsic aesthetic quality. The destruction or removal of trees deprives all sectors of society of these benefits while disrupting the ecological systems of which they are an integral part. Thus, it is the intent of the Town Board of the Town of Brookhaven in enacting this local law to regulate the destruction and removal of trees to secure these various benefits for the present and future inhabitants of the Town of Brookhaven.

§ 70-2. Definitions.

For the purpose of this local law, the following terms and phrases shall be given the meanings stated herein:

APPLICANT — The owner of real property, or his duly authorized agent, seeking a permit to remove trees pursuant to the provisions of this local law.

PERSON — Any firm, partnership, association, corporation, company, public utility or individual.

PLANNING BOARD — The Planning Board of the Town of Brookhaven.

TREE — Any living, perennial, woody plant, its branches, its root system and its trunk, if greater than three (3) inches in diameter, measuring three (3) feet from ground level and six (6) feet in height measured from ground level.

[HISTORY: Adopted Brookhaven Town Board 11-22-77 as Local Law No. 7, 1977, effective 12-12-77. Amendments noted where applicable.]
§ 70.3. Destruction of trees prohibited.

No person shall destroy or remove from the soil any tree growing upon a parcel of real property which is in excess of two (2) acres in size or commit any act which causes the destruction or cessation of life functions of any tree growing upon such real property, without first having obtained a permit issued therefor as prescribed by this local law. In determining the area of a parcel of real property for the purpose of this local law, whenever any two (2) or more contiguous parcels of property are subject to common ownership, such two (2) or more parcels are deemed merged and the total area thereof shall be the determinant size for the application of this section.

§ 70.4. Exemptions.

A. No person shall be required to obtain a permit as prescribed by § 70-3 of this local law for the destruction or removal of trees incidental to surveying and soil investigation activities.

B. Any person doing business as a public utility subject to the jurisdiction of the New York State Public Service Commission and any duly constituted public agency authorized to provide utility services shall be permitted to trim, prune or alter any tree which may otherwise be lawfully altered by such person, to the minimum extent necessary to enable such person to repair existing utility services, without having first obtained a permit issued therefor pursuant to § 70-3 of this local law.

C. The provisions of this local law shall not apply to real property included in any approved subdivision or approved site plan when such approval was granted by the Planning Board prior to the effective date of this local law.

D. Any person required by the Code of the Town of Brookhaven to submit application to the Planning Board for approval of a proposed subdivision or site plan after the effective date of this local law shall submit with such application the information required for a permit pursuant to § 70-6 of this local law. No subdivision or site plan shall be approved by the Planning Board without due consideration of such information. Approval of a subdivision or site plan pursuant to this section shall relieve the applicant for such approval of the necessity to obtain a permit required by § 70-3 of this local law, and the approval of such subdivision or site plan shall constitute adequate compliance with this local law.

E. Any person who has filed an application for approval of a subdivision or site plan prior to the effective date of this local law and has not received approval of same prior to the effective date of this local law shall submit to the Planning Board such information relative to the preservation of trees as the Planning Board may request.

F. The New York State Department of Environmental Conservation shall be permitted to trim, prune or remove trees pursuant to the New York Environmental Conservation Law without the necessity of obtaining a permit pursuant to this local law.

§ 70.5. Administration.

This local law shall be administered by the Planning Board, which shall have the authority to promulgate rules and regulations for the effective administration of this local law consistent with the legislative intent of this local law. The Planning Board shall have the authority to delegate the administration of this local law to its departmental personnel.

§ 70.6. Applications and permits.

A. Every applicant for a permit required by this local law shall submit an application to the Planning Board on such form as may be prescribed by the Planning Board. Such application shall include the following information:

(1) The name and address of the applicant and owner, if not the same.

(2) The purpose of the proposed tree removal.

(3) The site of the proposed tree removal.
(4) An attached sketch or plan of the area clearly indicating the following:

(a) An outline of existing heavily wooded areas on the site.

(b) The location of any improvements on the property.

B. In acting upon the application, the Planning Board shall take into account the following considerations:

(1) The location and size of the tree or trees to be removed.

(2) The condition of the trees with respect to disease and potential for creating hazardous conditions.

(3) The proximity of the trees to existing or proposed structures and utility appurtenances.

(4) The necessity of the removal for the proposed project.

(5) The environmental effect of the removal.

(6) Any of the considerations enumerated in the legislative intent of this local law.

C. The Planning Board shall evaluate the considerations of § 70-6B upon the advice and recommendations of the Town of Brookhaven Department of Environmental Protection.

D. The Planning Board shall advise the applicant in writing of its decision on the application and, upon the favorable determination of such application, issue a permit therefor.

§ 70-8. Penalties for offenses.

A. Criminal penalties. Any person who destroys or removes any tree without having first obtained a permit issued therefor pursuant to this local law or who destroys or removes any tree in a manner inconsistent with such permit or the requirements of an approved subdivision or site plan shall be guilty of a violation punishable by a fine of not less than two hundred fifty dollars ($250) nor more than five hundred dollars ($500) or by imprisonment for a period not to exceed fifteen (15) days, or by both such fine and imprisonment.

B. Civil penalties. In addition to any criminal penalties which may be imposed pursuant to § 70-8A, any person who violates any provision of this local law may be ordered to restore the premises damaged by the unlawful destruction or removal of trees to such suitable conditions as the Planning Board may require. In the event such person refuses or fails to restore the real property to a condition ordered by the Planning Board, the Planning Board or the Town Board may proceed in a court of competent jurisdiction for an order directing such person to restore such real property in conformity with the requirements of the Planning Board. In the event the Town of Brookhaven is compelled to restore such real property, all costs incurred incidental to such restoration shall be assessed against the real property in question.


If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder of this local law but shall be confined in its operation to the clause, sentence, paragraph, section or part of this local law that shall be directly involved in the controversy in which such judgment shall have been rendered.

§ 70-10. When effective.

This local law shall become effective on the 20th day after its adoption by the Town Board pursuant to the New York State Municipal Home Rule Law.
SITE CLEARING AND VEGETATION PROTECTION
PROPOSED ORDINANCE
LONG ISLAND REGIONAL PLANNING BOARD

SECTION ONE: STATUTORY AUTHORIZATION,
FINDINGS OF FACT, PURPOSE AND OBJECTIVES

1.1 Statutory Authorization.

The Legislature of the State of New York under Article 53 of
the Environmental Conservation Law and Section 96-b of the
General Municipal Law has authorized the (governing body) of
(municipality) to protect the health, safety and welfare of the com-
community by implementing a program designed to protect and con-
serve trees and related vegetation thereby maintaining natural
watershed areas, habitats for wildlife and a desirable aesthetic
quality.

1.2 Findings of Fact.

(a) Areas of the (municipality) are subject to loss of wetlands,
habitats for wildlife and rare and endangered species and
other environmental resources as a result of the removal of
vegetative cover from construction sites. Erosion and atten-
dant sedimentation contribute nutrient and coliform
loadings to marine surface waters, thus, degrading their
quality. Sediment can have a detrimental effect on wetlands
and on both finfish and shellfish populations, smothering
their eggs and reducing their overall food supply.

(b) Four types of construction related land clearance - active
development, inactive development, intermittent develop-
ment, and speculative land clearing - can result in the un-
ecessary and premature removal of vegetation thus ex-
cacerbating erosion and sedimentation problems.

(c) The implementation of regulations to control the removal
of vegetation can be expected to reduce the loss of soil, and
to minimize adverse impacts on groundwater, fresh and
marine surface waters, and fish and shellfish.

1.3 Statement of Purpose.

It is the purpose of this ordinance to conserve soil resources
and maintain groundwater and surface water quality by the
establishment of regulations to control the removal of vegetation
thus furthering the objectives stated below:

(a) To protect the health, safety and welfare of the community.
(b) To protect wetlands, wildlife habitats, rare and endangered
species, significant stands of vegetation, aquifer recharge
areas and other environmental resources.
(c) To prevent the loss of valuable topsoil.
(d) To minimize erosion on steep slopes, bluffs and stream
banks.
(e) To protect surface water quality.
(f) To protect fish and shellfish resources.
(g) To minimize public expenditures for dredging activities.

SECTION TWO: DEFINITIONS

For the purpose of this local law, the following terms and
phrases shall be given the meanings stated herein:

Applicant - The owner of real property, or his duly authorized
agent, seeking a permit to remove trees pursuant to the provi-
sions of this local law.
Clear Cutting - The felling of all trees in an area at one time.

Disturbed Area - An area in which the natural vegetative or soil cover has been removed or altered, and the soil is therefore susceptible to erosion.

Erosion - Wearing away of the land as a result of natural forces or man-related activities.

Ground Cover - Plants which are low-growing and provide a thick growth that protects the soil as well as providing some beautification of the area occupied.

Person - Any individual, corporation, governmental agency, business trust, estate trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

Planning Board - The Planning Board of the municipality.

Sediment - Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth’s surface either above or below sea level.

Shoreline - The landward limit of the high water of a body of water.

Shrub - A perennial woody plant that differs from a tree by its low growth and multiple stems.

Slope - The inclination of the surface of the land from the horizontal. Slopes are categorized as follows:

<table>
<thead>
<tr>
<th>Slope</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-3.0 degrees</td>
<td>(0-5%) level</td>
</tr>
<tr>
<td>3.0-8.5 degrees</td>
<td>(5-15%) gentle</td>
</tr>
<tr>
<td>8.5-16.5 degrees</td>
<td>(15-30%) moderate</td>
</tr>
<tr>
<td>16.5-26.5 degrees</td>
<td>(30-50%) steep</td>
</tr>
<tr>
<td>26.5-45 degrees</td>
<td>(50-100%) very steep</td>
</tr>
<tr>
<td>greater than 45 degrees</td>
<td>(greater than 100%) precipitous</td>
</tr>
</tbody>
</table>

Tree - Any living, perennial, woody plant, its branches, its root system and its trunk, if said trunk is greater than three (3) inches in diameter measure three (3) feet from ground level.

SECTION THREE: GENERAL PROVISIONS

3.1 Lands To Which This Ordinance Applies.

This ordinance shall apply to all property within the jurisdiction of (municipality).

3.2 Activities Requiring a Permit.

None of the following activities shall begin until a permit has been issued under the provisions of this ordinance.

(a) Grading or stripping which affects more than twenty thousand (20,000) square feet of ground surface within any parcel or any contiguous area.

(b) Excavation or filling which affects more than three hundred (300) cubic yards of material within any parcel or any contiguous area.

(c) Site preparation on slopes which exceed fifteen feet of vertical rise to one hundred feet in horizontal distance for site preparation in areas of severe erosion potential, if such areas have been mapped for the jurisdiction.

(d) Site preparation within 300 feet of wetlands.

(e) Site preparation within the one hundred year floodplain of any watercourse.

3.3 Exemptions

(a) Any person doing business as a public utility subject to the jurisdiction of the New York State Public Service Commission and any duly constituted public agency authorized to provide utility services shall be permitted to trim, prune or alter any tree which may otherwise be lawfully altered by such person, to the minimum extent necessary to enable such person to repair existing utility services, without having first obtained a permit issued therefor pursuant to Section Three of this law.

(b) The provisions of this law shall not apply to real property included in any approved subdivision or approved site plan when such approval was granted by the Planning Board prior to the effective date of this local law.

(c) Any remodeling or additions to existing structures unless such structures are located on or adjacent to such environmentally sensitive features as bluffs, dunes, wetlands
and moderate and steep slopes equal to or greater than fifteen (15) percent.
(d) The removal of vegetation which can reasonably be expected to adversely affect the public health (e.g., poison ivy, poison oak) in those situations in which the public can reasonably be expected to come into contact with such vegetation.
(e) Thinning of natural vegetation where necessary to maintain the health and vigor of trees, shrubs and ground cover.

3.4 Compliance.
(a) All development, construction, excavation and landscaping activities shall be in accordance with the approved stormwater runoff, planting and erosion-sedimentation control plans (see Ordinances #16 and 18) and the requirements of this ordinance.
(b) The (municipality) shall not issue a certificate of occupancy upon completion of construction unless all cleared soils on the property shall be stabilized in accordance with the approved landscape plan or an approved alternative.
(c) For properties of ____ acres or more the builder or developer shall post a performance bond to assure the implementation of the approved landscape plan.

3.5 Performance Bonding.
After the approval of the application and before the issuance of any permit the applicant will be required to furnish a performance bond, in the amount necessary to cover the estimated costs for the installation of the required landscape plan, to be retained by the (municipality) for a period of up to one year following municipal inspection and certification of completion of development or construction in order to assure compliance with the provisions of the ordinance.

3.6 Interpretation.
(a) This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions which impose more stringent restrictions on development, construction, excavation or filling. Where more than one provision of this ordinance applies to a given property, whichever provision imposes the more stringent restrictions shall prevail. Where this ordinance conflicts with or overlaps another ordinance or statute pertaining to the protection of property, whichever imposes the more stringent restrictions on development, construction and excavation shall prevail.

SECTION FOUR: PERMITS
4.1 No person shall undertake any clearing or removal of vegetation, development, construction or excavation within (municipality) without having first obtained a building permit from the (municipality). Vegetation removal permits shall be required for site clearance activity identified in Section 3.2 of this ordinance. A landscape plan shall be required for any proposed site disturbance involving an area in excess of 20,000 square feet.

The (municipality) may issue such a permit upon receipt of a completed application and a finding to the effect that the application shall include:

1. The name and address of the applicant and owner, if not the same.
2. A description of existing physical and vegetative site conditions, e.g., trees, ground cover etc.;
3. Grading and planting plans indicating the percent of the site to be disturbed and the boundaries of site disturbance;
4. A site development schedule;
5. A contingency planting plan if construction plans are suspended;
6. A vegetation restoration plan showing how vegetation will be restored in undeveloped cleared areas and indicating proposed boundaries of the groundcover, other planting areas and lawn area, if a lawn is planned.
4.2 Performance Standards.

The plan shall meet the following performance standards:

(a) Existing natural vegetation (trees and shrubs, and related vegetation) except those within the permitted clearance (see Table 1) shall be conserved and otherwise protected.

(b) Any construction related clearing of trees and shrubs not in accordance with an approved landscape plan shall be prohibited.

(c) Tree and other natural vegetation removal for construction, affecting sites in Critical Environmental Areas, or that would result in the destruction of rare or endangered species on slopes greater than 25%, within 100 feet of the top of a bluff or within 50 feet of the shoreline shall not be permitted.

(d) Vegetation on slopes greater than 35% shall not be disturbed.

(e) Upon completion of construction, all soils on the property shall be stabilized with trees, shrubs and related vegetation that are adapted to the site and purpose of planting.

Note: The plan shall meet the performance standards in the Handbook Ordinances #18 and #19.

### TABLE 1
Site Clearance Limits for Lots
Located in Undeveloped Forested Areas

<table>
<thead>
<tr>
<th>Lot Size Square Feet</th>
<th>Builders Acre</th>
<th>Maximum Allowable* Site Clearance %</th>
<th>Sq. Ft.</th>
</tr>
</thead>
<tbody>
<tr>
<td>10,000</td>
<td>1/4</td>
<td>Minimize Site Clearance</td>
<td></td>
</tr>
<tr>
<td>15,000</td>
<td>1/3</td>
<td>30%</td>
<td>6,000</td>
</tr>
<tr>
<td>20,000</td>
<td>1/2</td>
<td>40%</td>
<td>16,000</td>
</tr>
<tr>
<td>40,000</td>
<td>1</td>
<td>45%</td>
<td>36,000</td>
</tr>
<tr>
<td>80,000</td>
<td>2</td>
<td>45%</td>
<td>72,000</td>
</tr>
<tr>
<td>200,300 (Approximate)</td>
<td>5</td>
<td>60%</td>
<td>120,180</td>
</tr>
</tbody>
</table>

* In Special Groundwater Protection Areas, Special Surface Water Protection Areas, and areas adjacent to sensitive environmental areas the maximum allowable site clearance should be limited to 50% of the property for parcels of one acre or larger.

4.3 Review

Upon application by the owner of the affected property, the Planning Board of (municipality) shall review the landscape plan and may, after public notice and hearing approve or reject such plan in accordance with the provisions of this ordinance. The Planning Board shall review the plan taking into account the following considerations:

(a) the location and size of the tree or trees to be removed.

(b) The condition of the trees with respect to disease and the potential for creating hazardous conditions.

(c) The proximity of the trees to existing or proposed structures and utility appurtenances.

(d) The necessity of the removal.

(e) The environmental effect of the removal.

(f) Any of the considerations enumerated in the legislative intent of this local law.

SECTION FIVE: LAND DISTURBANCE PERMIT FEE

Upon filing an application for a permit, the applicant shall pay to the (municipality) a fee of ________ if the permit may be required under Sections 3.1 and 3.2 of this ordinance. The fee shall be deemed a reasonable sum to cover the costs of administration and shall in no part be returnable to the applicant.

SECTION SIX: VARIANCES

A variance to the regulations contained in section 4.1 may be authorized by the Zoning Board of Appeals of (municipality) upon receipt of an application from a property owner showing that he/she would suffer an undue hardship from the imposition of such regulations and that a waiver of the regulations, or a portion thereof, would not cause significant damage to the environment.
SECTION SEVEN: INSPECTION, RESTORATION, AND FINES

7.1 Restoration.
Any development, construction or excavation undertaken in violation of this ordinance shall forthwith be corrected after written notice by the (local authority). In the event that corrective action is not taken as directed within a reasonable time, the (governing body) may, at its own expense, take corrective action to restore the property. The cost thereof shall become a lien upon the property upon which such illegal activity occurred.

7.2 Fines
Any person undertaking development, construction or excavation in violation of this ordinance is guilty of a misdemeanor, punishable by a fine of not less than ($_ ), nor more than ($_ ). Such person shall be deemed guilty of a separate offense for each day during which a violation of this ordinance is committed or continues.

SECTION EIGHT: SEVERABILITY
Each separate provision of this ordinance is deemed independent of all other provisions herein so that if any provision(s) of this ordinance be declared invalid, all other provisions thereof shall remain valid and enforceable.

SECTION NINE: EFFECTIVE DATE.
This ordinance shall take effect on ____________________.

Prepared by the LIRPB as a part of the 208 Implementation Project. Portions of this ordinance were adapted from Town of Brookhaven Tree Preservation Ordinance.
THE GENERAL REGRADING
AND EXCAVATING ORDINANCE
PROTECTION OF TOPSOIL

TOWN OF SHELTER ISLAND CODE
ORDINANCE NO. 25

PROTECTION OF TOPSOIL

501.6 No excavation shall be permitted without an adequate plan for finished grading and general rehabilitation of the area consistent with the declared policy of the Town of Shelter Island as found in Section 100 of this Ordinance. Such finished grading and general rehabilitation shall be covered by the performance bond.

TOPSOIL STRIPPING

502.1 No stripping or removal of topsoil shall be made within 10 feet of any property line.
502.2 The collection and storage upon the property of the original topsoil to permit general regrading and excavation work shall be so carried out that it shall not be buried or mixed with material of inferior quality.

502.3 When topsoil has been stripped, collected and stored or removed from the property, there shall be left, or replaced, not less than 6 inches of topsoil upon the surface of the land.
502.4 Dust-down, or its equal, shall be spread to prevent dust from flying.
502.5 No topsoil shall be stripped between the first day of October and the first day of April in the following year.
502.6 All areas from which topsoil is stripped shall during the period between August 20th and October 1st, inclusive, be reseeded as provided in Subsection 504 of this Ordinance, EXCEPT, when the stripping is preliminary to general regrading or excavating, or as provided in Section 100.

504 FINISHED GRADING AND REHABILITATION

504.1 After completion of excavating or stripping, the property shall be finish graded with a surface layer of not less than 6 inches of topsoil of a quality native to the site.
504.2 The finish grade shall promote and be consistent with the declared policy of the Town of Shelter Island as found in Section 100 of this Ordinance.
504.3 Unless the excavation shall be immediately refilled with clean, nonburnable fill containing no garbage, refuse, offal, or any deleterious or unwholesome matter, the property shall be finished graded with appropriate slopes to the level of the adjacent properties and the abutting streets or roads.
504.4 The finished grade shall form an appropriate part of the natural drainage area or some positive drainage system.
DOG WASTE CONTROL
PROPOSED ORDINANCE

LONG ISLAND REGIONAL PLANNING BOARD

SECTION ONE: STATUTORY AUTHORIZATION,
FINDINGS OF FACT

1.1 Statutory Authority
This ordinance is enacted pursuant to the provisions of paragraph 126 of Article 7 of the New York State Agriculture and Markets Law. Pursuant thereto, the (governing body) of (local unit) does ordain as follows:

1.2 Findings of Facts and Statement of Purpose
The (local unit) finds that the running at large and other uncontrolled behavior of dogs have caused physical harm to persons and damage to property and have created nuisances within the (local unit). The Long Island Comprehensive Wastewater Treatment Management Plan indicated and the Long Island segment of the Nationwide Urban Runoff Program supported the conclusion that non-human fecal material, primarily from dogs, is entering surface waters via stormwater runoff, thus contributing to the closure of productive shellfish beds. The purpose of this ordinance is to protect the health, safety and well-being of persons and property by imposing restrictions and regulations upon the keeping or running at large of dogs within the (local unit).

SECTION TWO: DEFINITIONS
Except as defined below words or phrases used in this ordinance shall be interpreted so as to give the meaning they have in common usage and to give this ordinance its most reasonable application.

At Large
Off the premises of the owner and not under the control of the owner or member of his family, whether by leash, cord or chain. No dog shall be deemed “at large” if it is accompanied by and under the immediate supervision and control of the owner or other responsible person, is a police work dog in use for public work or is accompanied by its owner or other responsible person and is actively engaged in hunting, or training for hunting on unposted land or on posted land with the permission of the owner of the land.

Dog
Any live dog (Canis familiaris). The word “dog” as used herein shall include the singular and the plural and should include both the male and the female.

Harbor
To provide food or shelter to any dog.

Owner
Any person or persons, firm, association, or corporation owning, keeping or harboring a dog.

The word “shall” is mandatory and not discretionary.
The word “may” is permissive.

SECTION THREE: GENERAL PROVISIONS

3.1 Lands To Which This Ordinance Applies.
This ordinance shall apply to within the jurisdiction of (municipality).
3.2 Nuisances

No person owning, harboring, keeping or in charge of any dog shall cause or allow such dog to soil, defile, defecate or commit any nuisance on any common thoroughfare, sidewalk, passageway, bypath, play area, park or any place where people congregate or walk or on any public property whatsoever, or on any private property without the permission of the owner of said property.

3.3 Waste Disposal

Should such dog soil, defile, defecate or commit any nuisance on any of the above mentioned areas, it shall be a responsibility of the owner to remove said fecal material. The fecal material shall be placed in a plastic bag, sealed, and then be deposited in a municipal or residential refuse can.

3.4 Leash Requirement

It shall be unlawful and an infraction hereunder for any owner of any dog to allow such dog, whether licensed or unlicensed, to be at large within the (local unit).

3.5 Enforcement

This ordinance shall be enforced by any dog control officer, peace officer when acting pursuant to his special duties, or a police officer in the employ of or under contract to (local unit).

SECTION FOUR: FILING OF COMPLAINT

Any person who observes a dog in violation of this ordinance, may notify the dog control officer of the (local unit) in order to have the dog removed from the property or immediate area. The complainant shall provide information as to violation, date thereof, a description of the dog and name and residence of the owner of such dog, if known. Such complaint may serve as the basis for enforcing the provisions of this ordinance.

SECTION FIVE: PENALTIES FOR OFFENSES

Any person who shall violate any provision of this ordinance shall, upon conviction, be guilty of offense. Any person convicted of a violation of this ordinance shall be liable to a civil penalty not exceeding $25. Second and third time offenders shall be liable to a civil penalty not to exceed $50.00.

SECTION SIX: SEVERABILITY

Each separate provision of this ordinance shall be deemed independent of all other provisions herein, and if any provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

SECTION SEVEN: REPEALER

This ordinance shall supersede all prior local laws, ordinances, rules and regulations relative to the control of dog waste within the (local unit), and they shall be, upon the effective date of this ordinance, null and void.

SECTION EIGHT: EFFECTIVE DATE

This ordinance shall take effect on

Prepared by the LIRPB as a part of the 208 Implementation Project.
BOARDING STABLE USE ORDINANCE
VILLAGE OF OLD WESTBURY

Local Law No. 2 of 1975, is hereby repealed in its entirety and the Building Zone Ordinance is hereby amended by adding thereto a new paragraph 25 to read as follows:

Par. 1002.25. The commercial boarding and training of horses, including the boarding or training of horses belonging to the property owner which earn money racing, is permitted in a B or in a B8 residential district as a special exception upon application to the Board of Trustees subject to the following terms and conditions, provided that there are no exemptions from or abatement of real property taxes affecting the property devoted to this use.

This section shall govern the harboring of horses except those kept by the owner of the principal dwelling as an accessory use, pursuant to Local Law No. 1 of 1975.

1. The permitted use may not include any of the following:
   a. Storage of horse vans for conveying or vanning of horses, except as may be accessory to the principal use;
   b. Sale or rental of equipment;
   c. Sale or rental of horses for use by public by the hour, day, month or year;
   d. Hacking of horses;
   e. Rides on horses by the public;
   f. Rides by the public on horse drawn vehicles;
   g. Rental of horse vans;
   h. Riding lessons to public.

2. The land devoted to this use shall be in single ownership and shall at no time be less than 14 contiguous acres.

3. One principal single family dwelling shall be located on the land devoted to this use and it shall: (a) comply in all respects with the requirements of this ordinance for a principal dwelling including land area (i.e., one acre or two acres, as the case may be) in the district in which it is situated, (b) be occupied by not more than one family. The land area on which the principal single family dwelling is located shall not be considered as part of the land "devoted to this use" as set forth in subdivision 2 of this section, nor shall the land area on which any other single family dwelling is located be considered as part of the land "devoted to this use" under subsection 2 of this section.

4. The number of horses that may be boarded and/or trained at such property shall not exceed 25 horses for the first 14 acres of land devoted to this use, plus one horse for each additional half acre. In no event shall the total number of horses exceed 75 for any contiguous parcel.

5. The stable and the facilities for the storage of manure shall be located on the land devoted to this use at least 100 feet from each boundary line.

6. If the land devoted to this use contains an exercise track and/or paddocks, they shall not be construed as "structures" as defined in section 200[50] of this Ordinance.

Existing tracks shall be permitted to remain as non-conforming uses for purposes of this section, provided said tracks were in use as training or exercise tracks at the time of the effective date of Local Law No. 2 of 1975.

7. Neither fences, the running surfaces of tracks, riding rings, paddocks nor the infield of any exercise track shall be construed as "structures" in determining the area of coverage as required by this section. However, exercise tracks, riding rings and fences shall meet the following requirements:
   a. Any riding ring or exercise track shall be at least 150 feet from any boundary line.
b. Horses shall not be left unattended in any roofless area which is enclosed by a fence less than 6'6" in height unless the fence is set back at least 3 feet from the property line. By revocable written instrument the protection intended by this paragraph may be waived by an adjoining owner.

8. Accessory buildings such as barns (not housing horses) sheds and the like, may be located on the land devoted to this use provided that they are set back at least 200 feet from the street line and 100 feet from each side boundary line and are not used for the storage of manure.

9. a. Structures on the land devoted to this use (not including the principal dwelling) shall not in the aggregate exceed 35 feet in height.

b. No structure shall exceed 35 feet in height.

c. Suitable and adequate off-street parking, in accordance with the reasonable requirements of the Board of Trustees, shall be provided no closer than 200 feet to any of the property lines.

d. Exterior lighting shall be permitted only to the extent necessary to prevent injury to the public and shall be so installed and arranged as to reflect light away from the adjoining streets and prevent any nuisance to adjoining property.

e. No exterior loudspeakers shall be installed or used on the premises.

f. There shall be no display of advertising on the premises except that a suitable identification sign may be placed at or near the main entrance when approved by the Board of Trustees.

g. All stables shall be equipped with suitable devices for fire detection and alarm.

h. No horse vans, farm trucks or other commercial vehicles shall be parked on the premises in such location that such vehicles are visible from ground level from any surrounding residences or public roadways.

i. Buffer planting, walls and fences may be required where appropriate to contain the horses, to screen the building or buildings, or to protect adjoining property.

j. Manure shall be stored and treated in such a manner that it shall not create any odor or attract or harbor any rodents, flies or other pests. Between April 1 and October 31 manure shall be removed from the premises at least weekly.

k. The number of stalls and structural facilities for the shelter of horses shall not exceed those reasonably necessary to accommodate the number of horses permitted on the lot.

1. Suitable and adequate arrangements shall be made and continued for supervising and caring for the horses.

m. The land devoted to the boarding of horses shall be suitable for that purpose.

10. The Board of Trustees may grant the permit hereunder provided the following conditions are met and provided it affirms in writing that it finds, based upon substantial evidence that the proposed use of the property or the erection, alteration or maintenance of an existing or a proposed structure:

a. Will not depreciate or tend to depreciate the value of other real property in the Village;

b. Will not create a hazard to the health, safety, morals or general welfare;

c. Will not be detrimental to the neighborhood or to the residents thereof; and

d. Will not alter the essential character of the neighborhood.

The Board of Trustees, upon granting a permit hereunder shall impose such additional, reasonable and appropriate conditions and restrictions, including but not limited to modifying (by increasing or decreasing) dimensional requirements as it may deem necessary to promote and maintain the health, safety, morals and general welfare of the community, and it shall consider the views of the owners of adjoining property. No permit granted hereunder shall be for a period in excess of five (5) years.

11. The standards set forth herein are not exclusive of other considerations, relating to health, safety and general welfare, all of which shall be considered by the Board of Trustees in determining whether to issue the permit.

12. In authorizing this use, the Board of Trustees may vary any of the requirements set forth herein provided it finds that the applicant will suffer practical difficulties in compliance and provided it finds that the health, safety, public welfare and property values of the community will not be adversely affected. In no event shall any of the requirements in subdivisions 1 and 4 be varied.

Article X of the Building Zone Ordinance shall not apply to any applicant under this section.

13. The Board of Trustees shall require an application fee upon submission of an application hereunder to cover public notice, processing fees, inspection fees, legal fees, engineering and stenographic fees, a sum of $1,000 to be paid before the processing of any application hereunder. The fees charged for the aforesaid items shall be those customarily charged in the community, and if, after the completion of the application, a balance remains, it shall be refunded to the applicant.
14. As a condition to the issuance of any permit hereunder, the Board of Trustees may require the posting of a bond or other security in such form as shall be approved by the Village Attorney and in an amount sufficient for one or more of the following purposes: To insure the conformity of all improvements on the property with any plans approved by the Board of Trustees, to recompense the Village for the services of any professional help retained in considering the proposed use or any plans or proposals in respect thereto, to restore to the lot to a safe and sighted condition should any construction or improvement theretofore either fail to meet the requirements of this Ordinance or the conditions of the authorization by the Board of Trustees or be terminated before completion.

15. The maintenance of the structures and hygienic conditions connected with the use here permitted shall be under the continuous supervision of the Village and by the Nassau County Department of Public Health to the extent necessary. If conditions are found to exist which are dangerous to the health, safety and welfare of humans or horses, or if any of the requirements of this or any other section of the zoning ordinance or of any condition attached to the permit issued hereunder are not complied with by the operator of the boarding stable, the permit issued hereunder may be revoked or suspended by the Board of Trustees after public hearing.

16. To the extent not otherwise authorized by this section or by the terms of the permit issued by the Board of Trustees pursuant to this section, the other provisions of this Ordinance applicable to the uses, plot plans and structures in a B or BR Residence District, as the case may be, shall apply.

17. Every application to the Board of Trustees made pursuant to this subdivision shall conform to the regulations set forth in Sec. 1002, Subd. 15, par. 9 of this ordinance, and in addition shall set forth what facilities will be provided to store hay and feed, to clean up, store and remove manure and to water the horses.

18. Before scheduling a public hearing on any application under this section, the Board of Trustees shall refer the application to the Planning Board for a report and recommendation, and the Planning Board shall hold a public hearing prior to making its report and recommendation. In addition, the Applicant shall give notice, by certified mail, of all public hearings to the owners of property adjoining the subject property.

19. After a permit has been issued pursuant to this section, the Building Inspector or his designee may enter the property without notice during reasonable hours without the necessity for a search warrant and make periodic inspections of the premises subject to the permit to determine and assure continuing compliance with the requirements of this ordinance and the permit. By accepting the permit the owner and operator of the premises automatically consents to inspection as set forth above by any authorized village representative at any reasonable time.

20. Upon issuance of a permit and annually thereafter the permittee shall pay to the Village a fee equal to $50.00 times the number of stalls authorized by the permit.

21. The hours of operation which includes the vanning of horses into and from the land as well as the training of horses and all other aspects of the operation other than mere boarding, shall be between 7:00 A.M. and 11:00 P.M.

22. The final approval of a subdivision or partition of the property devoted to this use shall terminate the permit granted hereunder.

23. This Local Law shall take effect on November 1, 1976, and all applications made under Local Law No. 2 of 1975 presently pending before the Planning Board or the Board of Zoning Appeals shall comply with the terms of this section.
(b) Accessory uses and accessory buildings which are customarily incidental to or accessory to the uses herein specifically permitted in said district and located on the same lot, such as:

1. Buildings defined in (c) of Section 2.0 of Article II.

2. Keeping of dogs, game and birds.

3. Occupants of a dwelling in a residential district shall only be permitted to keep horses or livestock for their personal uses provided there is compliance with the following standards and conditions:

(i) No such use shall be permitted on lots having less than two acres of land.

(ii) The number of horses and livestock and the number of stalls and structural facilities reasonably necessary for the shelter of same, permitted on each lot, shall not exceed the following: Two (2) horses or livestock (in any aggregate combination) for the first two acres of lot area plus one additional horse or livestock for each additional acre of lot area, subject to the provisions of subsection (viii) below.

(iii) Any such horse or livestock shall be beneficially owned in fact, as well as in title, solely by the resident occupants of the lot who shall upon written request of the Building Inspector produce a sworn affidavit and other reasonable evidence of said ownership.

(iv) The boarding or keeping of horses or livestock owned by or for the use or benefit of persons other than those who are the resident occupants of any lot is strictly prohibited.

(v) All grain type feed shall be kept in rodent proof containers.

(vi) No manure shall be stored or permitted to accumulate within seventy-five (75) feet from any boundary line. The Building Inspector shall approve the storage area for manure and it shall be treated in such a manner so that it shall not create a nuisance to adjoining properties.

ARTICLE V

Uses in Residence “A-1” District.

Section 5.0 No building, lot or premises shall be used or maintained for any except the purposes enumerated below and for no other, and no building shall hereafter be erected, enlarged, remodeled, used, maintained or altered if so erected or as a result of such enlargement, remodeling, use, or alteration, such building or any part thereof is arranged, designed or intended to be used for any except the uses enumerated below.

Such uses shall not include any uses customarily carried on as a business or any billboard or advertising sign except as hereinafter specifically permitted. This provision shall not be deemed to permit any driveway or walk giving access to premises used for business purposes or used for purposes not herein permitted in Residence “A-1” district.

(a) Single family detached principal dwelling.
(vii) The location of private stables, barns and sheds used to shelter horses and livestock shall be subject to the setback requirements for a main building as set forth in Article IV Section 4.0, and in addition shall be set back one hundred (100) feet from any principal dwelling on any adjacent lots, except that any private riding ring, private paddock, corral fencing or other roofless enclosure for horses and livestock and any unenclosed area for their unattended maintenance shall be located not less than twenty (20) feet from any side or rear boundary line, seventy-five (75) feet from any front boundary line, and one hundred (100) feet from any principal dwelling on any adjacent lot.

(viii) No person shall keep more than five (5) horses or livestock on any one lot irrespective of its area unless a special permit for same is authorized and approved by the Board of Zoning Appeals in a manner and in accordance with the standards stipulated in Article X Section 10.2 of this Ordinance.
1.3 Statement of Purpose.

The purpose of this ordinance is to protect the health, safety and well-being of persons by imposing restrictions on the keeping of horses and the disposal of their waste.

SECTION TWO: DEFINITIONS

Aquifer - A geologic formation, group of formations or part of a formation that contains sufficient saturated material to yield significant quantities of water to wells or springs.

Biochemical Oxygen Demand (BOD)₅ - The amount of oxygen required by the biological population of a water sample to oxidize the organic matter in that water. It is usually determined over a 5-day period under standardized laboratory conditions and hence may not represent actual field conditions.

Equine Livestock - Any live horse. The word horse and equine livestock shall be used interchangeably and shall include both singular and plural and both the male and the female.

One Hundred Year Floodplain - The land area that can be expected to experience the highest level of flooding, which on the average is likely to occur every one hundred years (i.e., has a one percent chance of occurring each year). The one hundred year floodplain boundary is delineated on the U.S. Dept. of Housing and Urban Development Flood Insurance Maps on file with the Town Clerk.

Swale - A natural vegetated or unvegetated depression that receives or conducts stormwater runoff.

SECTION THREE: GENERAL PROVISIONS

3.1 Lands To Which The Ordinance Applies.

Residents of the Town of _________ shall be permitted to keep horses in the following residential districts: _________ so long as they are in compliance with the regulations included within this ordinance.

3.2 Density of Horses.

(a) No more than one (1) horse per acre shall be kept on any lands within designated deep aquifer recharge areas or shallow aquifer recharge areas, within 200 feet of surface waters or on land having slopes in excess of five percent.

(b) The number of horses and the number of stalls and structural facilities reasonably necessary for the shelter of same
shall not exceed the following: two (2) horses for the first two acres of lot area plus one additional horse for each additional acre of lot area; however, in no event shall the total number of horses exceed five.

3.3 Ownership

(a) The resident occupants of the lot shall be the beneficial and exclusive owners of the horses and upon written request of the Building Inspector shall produce evidence of title or a sworn affidavit and other reasonable evidence of said ownership.

(b) The boarding or keeping of horses owned by or for the use or benefit of persons other than those who are the resident occupants of any lot is strictly prohibited.

3.4 Storage of Feed.

All grain type feed shall be kept in rodent proof containers.

3.5 Waste Disposal.

(a) Manure shall be stored at least 75 feet from all boundary lines. Between April 1 and October 31, it shall be removed from the premises at least weekly. In all cases, manure shall be stored in adequate plastic, wooden or metal covered containers and treated in such a manner that it shall not create any odor or attract or harbor any rodents, flies or other insects.

(b) Animal wastes shall not be stored at any location within the 100 Year Floodplain, in swales, on steep slopes or adjacent to surface waters.

3.6 Structures and Associated Setbacks

(a) Barns, a stable or other roofed structure or accessory building for the sheltering of horses shall be located a minimum of fifty (50) feet from any side yard line or rear yard line; structures shall not be located within the front yard which lies between the principal residential structure and the street.

(b) Any building in which horses are to be left unattended shall be equipped with suitable devices for fire detection and alarm.

(c) Horses shall not be left unattended in any roofless area that is enclosed by a fence less than 6’6” in height.

SECTION FOUR: ENFORCEMENT

The maintenance of structures and hygienic conditions connected with the accessory use here permitted shall be under the supervision of the Town _______________ and to the extent necessary by the _______________ County Department of Public Health. If conditions dangerous to the health, safety and welfare of humans or horses are found to exist, or if the resident occupant fails to comply with any of the requirements of this or any other section of the Building Zone Ordinance or any condition attached to any variance granted in connection with the accessory use here permitted, the Building Inspector may request the Board of Appeals to order the resident occupant to cease and discontinue the keeping of horses until such time as the conditions complained of are remedied to the satisfaction of said Board.

SECTION FIVE: PENALTIES FOR OFFENSES

Any person who shall violate any provision of this ordinance shall, upon conviction, be guilty of offense. Any person convicted of a violation of this ordinance shall be liable to a civil penalty not exceeding $50.00. Second and third time offenders shall be liable to a civil penalty not to exceed $100.00.

SECTION SIX: SEVERABILITY

Each separate provision of this ordinance shall be deemed independent of all other provisions herein, and if any provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

SECTION SEVEN: REPEALER

This ordinance shall supersede all prior local laws, ordinances, rules and regulations relative to the control of horse waste within the (local unit), and they shall be, upon the effective date of this ordinance, null and void.

SECTION EIGHT: EFFECTIVE DATE

This ordinance shall take effect on ___________________.

Prepared by the LIRPB as a part of the 208 Implementation Project. Partially adapted from the Village of Oyster Bay - Uses in Residence “A-1” and the Village of Old Westbury - Local Law to Amend Zoning Ordinance to Authorize Accessory Horse Use.
B. Permitted accessory uses located on the same lot with the permitted principal use:

(1) Accessory uses permitted and as regulated in the A Residence District.

(2) Other customary accessory uses, structures and buildings, provided that such uses are clearly incidental to the principal use. Except with regard to construction on property principally used for agriculture, any accessory building shall be located on the same lot with the principal building, and no accessory building shall be constructed on a lot until the construction of the main building has actually been commenced, and no accessory building shall be used unless the main building on the lot is completed and used.

C. Uses permitted when authorized by special permit from the Board of Appeals.

(1) All uses permitted and as regulated in the A Residence District.

(2) Suitable housing accommodations for full-time farm employees and their families. The application for said housing accommodations shall state the number of units required and the type of housing to be constructed. All such special permits shall be valid for a period not to exceed two (2) years. 1

D. Uses permitted when authorized by the Planning Board.

[Added 5-3-83, effective 5-23-83]

(1) Horse shows, special equine events and other equine uses which require a temporary increase in the permissible number of horses per acre. Such use approvals shall be valid for specified periods of time and may not exceed a period of one (1) year. The Planning Board may place such conditions as it may deem advisable on any such use approvals.
§ 85-185. Standards for horse farms.

A. There shall be located on the subject premises one (1) principal, single-family dwelling which shall be the full-time residence of the owner of the property, the full-time operator of the business conducted on the premises or the full-time residence of a watchman, caretaker or other employee of the principal business.

B. The minimum lot size shall be ten (10) acres.

C. No more than two (2) horses shall be permitted per acre of land or part thereof. However, in the event that the owner of the premises files a “Soil and Water Conservation Plan,” the Planning Board may increase the number of permitted horses per acre with a limit of a total of no more than five (5) horses per acre or part thereof. Dependent foals shall not be counted in arriving at the total permitted number of horses. The Soil and Water Conservation Plan shall be submitted to the Planning Board as part of the site plan review process. For the purposes of this Article, “Soil and Water Conservation Plan” shall be defined as a document containing proposals for the conservation of soil and water resources and which provides an orderly method for landowners and occupiers to follow in limiting soil erosion and reducing the amount of pollutants entering into surface water, groundwater or other lands within the town. [Amended 5-3-83, effective 5-23-83]

D. Manure or any other material or substance which causes or creates any noxious or offensive odors or dust or which causes or may cause the presence of or attract any vermin, rodents or other animals shall be stored in such a manner as shall be approved by the Department of Planning, Environment and Development at least one hundred and fifty (150) feet from any property line.

E. There shall be at least one hundred and ten (110) square feet of stable area for each horse.

F. Where the rental of horses is to be one of the uses, the applicant must demonstrate proximate access to suitable trails or areas for the use of horses.

G. Any corral, meadows, or open areas shall be graded in such a manner that stormwater runoff will not drain onto lands of adjacent property owners. Nor shall said stormwater runoff drain into or cause to affect any freshwater or tidal wetlands as defined within Chapter 81 of the Code of the Town of Brookhaven.

H. No structure used for the housing, harboring or stabling of horses may be placed closer than seventy-five (75) feet to any adjacent property line.

I. As part of the site plan review powers, the Planning Board may also require adequate setbacks, screening and/or fencing for any buildings or structures located on the premises or for any corrals, runs, tracks or other open areas used by horses so that there is minimal impact on adjacent property owners. All such buildings, structures, corrals, runs, tracks or other areas shall be maintained in a neat and clean manner.

§ 85-186. Site plan review and approval.

A. In each case where a building, structure or use or alteration thereof is proposed in this district, except for one-family dwelling places, permitted agricultural uses other than horse farms and customary accessory uses thereto, a site plan must be submitted by the applicant. The Building Inspector shall refer the site plan of the proposed building, structure or use or alteration thereof to the Brookhaven Town Planning Board for its review pursuant to § 85-428 of this ordinance. A public hearing pursuant to § 85-428D shall be required. With the exception of one-family dwelling places, permitted agricultural uses other than horse farms and customary accessory uses thereto, in the event that any building structure or use is changed, sold or leased, the new owner or tenant shall cause notice to be given to the Department of Planning, Environment and Development within thirty (30) days of such sale or lease on such form as is prescribed by said Department. The Department of Planning, Environment and Development shall make a determination as to whether a new site plan will be required by reason of any alterations or changes in
the subject building, structure or use. Any landowner
found guilty of violating this ordinance shall be fined at the
rate of one hundred dollars ($100.) per day.

B. No building permit shall be issued by the Building In-
spector without such approval of the site plan and, in
appropriate places, all other permits, approvals and
authorizations as may be required from other municipal
and governmental agencies or departments.

C. In any case where the site plan submitted by the applicant
indicates that a variance or special permit will be required
from the Board of Appeals in order to construct the use of
premises as shown on said site plan, the applicant shall
submit an application to the Board of Appeals simultane-
ously with the filing of the application for ap-


§ 85-187. Exemption from standards. [Added 5-3-83, effective 5-
23-83]

In the event that any parcel of property consisting of five (5) or
more acres is changed in zone to the HF Horse Farm - Residence
District, all those uses permitted and as are regulated within the
HF Zoning District shall be permitted on said parcel although
such parcel does not meet the width and area requirements for
such district, provided that the front yard, side yard, rear yard,
building area and lot area requirements in effect immediately prior
to inclusion with the HF Zoning District are met. In addition, said
parcel must have been in single and separate ownership at the
time of its inclusion within the "HF" zoning district. Proof of
single and separate ownership shall be submitted in such form as
is required in § 85-431C of this ordinance.
ARTICLE 4 - WATER SUPPLY
SUFFOLK COUNTY SANITARY CODE

SECTION
401. Declaration of Policy
402. Statement of Purpose
403. Definitions
404. Enforcement Provisions; Powers and Duties of the Commissioner
405. General Provisions
406. Approval of Plans and Specifications
407. Realty Subdivisions and Developments; Approval of Plans

Section 401. Declaration of Policy

The groundwater of Suffolk County, Long Island, is the sole source of drinking water. The federal government has officially designated the Long Island aquifer as a sole source for water supply. Therefore, the policy of the County of Suffolk is to protect the groundwater to ensure the availability of an adequate and safe source of water supply for generations to come by: enforcing the local, state and federal laws regulating water supply; promoting the extension of public water supply to all areas of the county; maintaining a process of groundwater planning; carrying out research and development in the field of alternatives to community water supply; and by promoting education and acceptance of the importance of groundwater management and protection.

Section 402. Statement of Purpose

It is the intent and purpose of this article to protect the public health through the control of drinking water supplies and to insure that Suffolk County residents have a healthful and plentiful supply of water.

Section 403. Definitions

Whenever used in this article, unless otherwise expressly stated, or unless the context or subject matter requires a different meaning, the following terms shall have the respective meanings set forth or indicated.

a. "Commissioner" means the Suffolk County Commissioner of Health Services of the Suffolk County health district, or his authorized representative.

b. "Community Water System" means a public water system which serves at least five service connections used by year-round residents or regularly serves at least twenty-five year-round residents.

c. "Contaminant" means any physical, chemical, microbiological or radiological substance or matter in water.

d. "Department" means the Suffolk County Department of Health Services.

e. "Drinking Water Supply" means water which is provided for human consumption and other domestic uses.

f. "Emergency Source of Water Supply" means a source of water which has not been developed and approved as a regular source of water and which is developed during an emergency for temporary use as a source of water in case of failure or inadequacy of the regular source of public water supply.

g. "Non-Community Water System" means a public water system that is not a community water system.

h. "Private Water System" means any system to provide drinking water other than that secured from a public water system.

i. "Public Water System" means either a community or non-community system which provides piped water to the public for human consumption, if such system has at least five service connections or regularly serves an average of at least twenty-five individuals daily at least thirty days out of the year. Such term includes: (1) collection, treatment, storage and distribution facilities under control of the supplier of water of such system and used in connection with such system; and (2) collection or pretreatment storage facilities not under such control which are used in connection with such system.
j. "Replacement of private water system" means the change in screen setting of an existing private well, screen replacement, or the relocation of the private well.

k. "Source of Water Supply" means any groundwater aquifer, surface water body or water course from which water can be utilized for drinking water supply.

l. "Water Supplier" means any person(s) who owns or operates a public water system.

Section 404. Enforcement Provisions; Powers and Duties of the Commissioner

1. The commissioner may:

   a. inspect public and private water systems for compliance with all applicable rules and regulations;

   b. collect appropriate information to determine if water quality is being maintained including but not limited to water samples, and soil, geological and hydrological data;

   c. prepare, review, analyze, monitor and evaluate comprehensive water supply plans and prepare studies as may be necessary in the area of water resources management;

   d. engage in engineering and enforcement activities for the protection and management of groundwater resources;

   e. monitor groundwater and wastewater discharges as they may affect water supply;

   f. take appropriate legal action which may include fines for failure to comply with the intent of this article;

   g. promulgate and establish standards to effect the purpose of this article.

2. The commissioner may delegate this authority where appropriate.

Section 405. General Provisions

1. No person shall provide or make accessible a supply of water for human consumption or other domestic use unless such water supply is protected from actual or potential sources of contamination and so maintained as to deliver a drinking water supply of possible quality. Such delivered water shall at a minimum meet the prevailing standards of the New York State Sanitary Code and any standards promulgated by the Board.

2. The department shall conduct such studies and investigations pertaining to groundwater supplies where significant groundwater contamination has been identified or is suspected.

Section 406. Approval of Plans and Specifications

1. No owner or operator of a public water system shall make, install or construct, or allow to be made, installed or constructed a public water system or any addition to or modification of a public water system until the plans and specifications have been submitted to and approved by the commissioner and/or received the approval of the New York State Commissioner of Health.

2. "Recommended Standards for Water Works" and "Rural Water Supply" as issued and updated by the New York State Department of Health and other standards promulgated by the commissioner shall be the basis upon which all plans and specifications for public water systems will be reviewed for approval.

3. "Rural Water Supply" as issued and updated by the New York State Department of Health, "Standards for Individual Water Supply Systems" as issued and updated by the department, and other standards promulgated by the commissioner shall be the basis upon which all plans and specifications for private water systems will be reviewed and approved.

4. Approval to construct a private water system will require the submission by the property owner and/or his designee of plans and specifications and any other information necessary to ensure that such system conforms to approved standards.

Section 407. Realty Subdivisions and Developments; Approval of Plans

1. No realty subdivision or development shall be sold, offered for sale, leased or rented by any corporation, company or person, and no permanent building shall be erected thereon until a plan of such realty subdivision or development has been approved by the department in accordance with Article 6 of the Suffolk County Sanitary Code, including approval of the plans for water supply facilities for said realty subdivision or development and the filing of such approved plans in the Office of the Clerk of the County of Suffolk.
HOUSEBOAT MARINA. The term “houseboat marina” shall mean any area within the City covered by the waters of Newport Bay where one or more sites or location are rented for living quarters either permanently or on a temporary basis. (1949 Code § 8700 added by Ord. 1029; April 22, 1963).

17.40.020 Moorage Restriction. No person shall moor or dock a houseboat on the waters of Newport Harbor except at a pier, slip or dock for which a valid current business license issued by the City is in effect licensing the business of slip rentals or yacht or boat landing. (1949 Code § 8701 added by Ord. 1029; April 22, 1963).

17.40.030 Use or Occupancy Requirements. No person shall use or occupy or permit the use or occupancy of a houseboat for living quarters either permanently or on a temporary basis on the waters of Newport Harbor except in a houseboat marina operated pursuant to a permit issued by the City Council and unless such houseboat meets the following requirements:

There is provided within the houseboat not less than 600 square feet of living area.

The houseboat is designed and maintained so there is a single opening above the water line for waste and sewage removal and such opening is tightly connected to a permanent sewer.

The houseboat is designed and constructed so that it meets the requirements of the Building Code, Plumbing Code, and the Electrical Code to the extent the provisions thereof are applicable. (1949 Code § 8702 added by Ord. 1029; April 22, 1963).

17.40.040 Houseboat Marina Permit Required. No person shall operate a houseboat marina or rent or hold out for rent any site or space for the location of a houseboat to be used or occupied for living quarters either permanently or on a temporary basis without having a current permit for such marina from the City Council. (1949 Code § 8703 added by Ord. 1029; April 22, 1963).

17.40.050 Application for Houseboat Marina Permit. Any person desiring to operate a houseboat marina shall file an application for a permit to do so with the City Clerk and submit a fee in the amount to be fixed by the City Council by resolution for processing such application. Such application must be accompanied
by a plan showing the location of the proposed marina and the facilities contemplated therein. It shall be submitted to the City Council for consideration at its next regular meeting following the 10th day after the application is filed with the City Clerk. The City Council shall act on such application within sixty (60) days after it is submitted. (1949 Code § 8704).

17.40.060 Conditions for Permit Issuance. The City Council shall grant such permit if the following conditions are met:
   (a) The applicant owns or has a lease on the land over which the marina is proposed to be operated.
   (b) There is provided within such marina a minimum of 875 square feet of space for the exclusive use of each houseboat and its appurtenances to be located therein.
   (c) Prior to the time any houseboats are located therein, a permanent float, dock or slip for the mooring or docking of each houseboat from which such houseboat may be directly boarded is constructed.
   (d) Each space intended for a houseboat must be provided with the following: (1) A permanent water supply with an individual antiflow valve. (2) A sewer connection leading into a permanent sewer. (3) A permanent supply of electricity.
   (e) The marina is in a zoning district of the City where houseboat marinas are permitted or there is a current valid use permit authorizing the houseboat marina at the proposed location.
   (f) There is provided on land adjacent to the marina two parking spaces for each houseboat site within the proposed marina.

The City Council may limit the term of such permit and may impose additional conditions on such permit deemed necessary by the City Council to protect the public health, welfare and safety and to promote the general welfare. (Ord. 1029 (part), 1963; 1949 Code § 8704).

17.40.070 Revocation of Houseboat Marina Permit. Any permit for a houseboat marina may be revoked by the City Council after written notice to the operator of such marina and an opportunity to be heard before the City Council. Such written notice shall be mailed to the operator of the marina at the address shown on the permit and shall state the date and time the City Council will consider the proposed revocation. (Ord. 1029 (part), 1963; 1949 Code § 8705).

17.40.080 Grounds for Revocation. The grounds for revocation shall be:
   (a) The houseboat marina no longer meets the conditions under which the permit was granted.
   (b) The houseboat marina has become a source of pollution of the harbor.
   (c) The facilities of the marina or the houseboats located therein have fallen into a state of disrepair.
   (d) Individual houseboats are permitted or maintained within the marina which do not meet the requirements for houseboats established by this Chapter. (Ord. 1029 (part), 1963; 1949 Code § 8705).

17.40.090 Administration of Chapter — Appeal. The provisions of this Chapter shall be administered by the Community Development Director in coordination with the Marine Director. Any aggrieved person may appeal any decision of the Building Official to the City Council by filing a written notice of appeal with the City Clerk within 15 days after the date on which notice of the decision is mailed to the applicant. The City Council shall make a decision on the appeal within thirty (30) days and such decision shall be final. (Ord. 1602 § 11, 1975; Ord. 1286 § 11, 1968; Ord. 1029 (part), 1963; 1949 Code § 8706).
"FH" FLOATING HOME DISTRICT
TOWN OF BABYLON

Proposed Amendment of the Unified Code of Ordinances of the Town of Babylon, CHAPTER 15, ARTICLE XXVII, DISTRICT REGULATIONS "FH" FLOATING HOME DISTRICT, SECTION 15-607 through 15-620 as follows:

Legislative Intent:
The Town Board of the Town of Babylon hereby finds and declares that the use of house barges for residential purposes on waterways is a utilization of property which the Town Board should regulate for environmental, social and safety reasons.

The Town Board recognizes the rights of residents and others who use town waters for recreational and commercial purposes to enjoy clean and freely navigable waters. The discharge of sewage, treated or otherwise, may adversely affect the quality of our tidal waters and shellfish contained thereunder. In addition indiscriminately located house barges may constitute a hazard to navigation as well as being aesthetically offensive.

The Town Board also finds there is concern for the suburban character of the Town of Babylon, fire safety for house barges located in close proximity to each other and accessibility by emergency vehicles to waterfront lots.

In view of the foregoing, it is necessary and proper for the Town Board to create a zoning classification for floating homes to preserve and ensure the public health and quality of the tidal waters as well as public safety and welfare.

Section 15-607 Definition.
Floating Home means any vessel designed or, in fact, used or occupied as a dwelling unit, living and sleeping quarters, business office, or source of any occupation or for any private or social club or whatsoever nature, including, but not limited to, a structure constructed upon a barge primarily immobile and out of navigation or which functions substantially as a land structure while the same is moored or docked, whether such vessel is self-propelled or not.

Section 15-608 Prohibition.
A. Floating Homes moored or erected over public lands under water shall be prohibited from all zone districts.

B. Floating Homes moored or erected over private lands under water shall be prohibited from all zone districts except "FH" Floating Home District.

Section 15-609 Permitted Use.
In "FH" Floating Home District no Floating Home shall be hereafter moored or altered, unless otherwise provided by this chapter, except for the following use.

A. One Family Dwelling.

Section 15-610 Conduct of Business, Professions.
In "FH" Floating Home District the use of a Floating Home for a business or profession shall be prohibited.

Section 15-611 Height of Floating Homes.
In "FH" Floating Homes District no Floating Homes hereafter moored or altered shall be more than twenty-one (21) feet high as measured from the water line.
Section 15-612 Lot Area.
In "FH" Floating Home District no Floating Home shall be moored or altered on or over an underwater lot having an area of less than three thousand five hundred (3,500) square feet.

Section 15-613 Building Area.
In "FH" Floating Home District the total area of a Floating Home shall not exceed twenty-five percent (25%) of the underwater lot area.

Section 15-614 Mooring Distance.
In "FH" Floating Home District there shall be a distance of five (5) feet between the pier or bulkhead line and front wall of a Floating Home.

Section 15-615 Distance Between Floating Homes.
In "FH" Floating Home District where two or more Floating Homes are moored together there shall be ten (10) feet of open water space between the side walls or floats of adjacent Floating Homes.

Section 15-616 Public Utilities and Sanitary Facilities
In "FH" Floating Home District no Floating Home shall be moored or constructed unless provided with electricity, municipal water service and with municipal sewage disposal facilities.

Section 15-617 Off Street Parking.
In "FH" Floating Home District two (2) paved off street parking spaces shall be provided for each Floating Home.

Section 15-618 Construction Standards
In "FH" Floating Home District all Floating Homes shall be subject to the provisions of the State Building Construction Code and the Building Construction Code of the Town of Babylon.

Section 15-619 Application for Creation of District.
In "FH" Floating Home District every application for the creation of a Floating Home District shall be subject to the review of the Planning Board of the Town of Babylon.

Section 15-620 Environmental Quality Review.
Each applicant shall be required to prepare an environmental assessment (similar to that required by the New York State Environmental Quality Review Act (SEQRA) and file this assessment with the Planning Board, and it shall accompany the site plan application.)