

Topic:	Urban Renewal; Quality of Life
Resource Type:	Regulations
State:	New York
Jurisdiction Type:	Municipal
Municipality:	Town of Brookhaven
Year (adopted, written, etc.):	1999-2003
Community Type - applicable to:	Suburban; Rural
Title:	Town of Brookhaven Neighborhood Preservation Ordinance
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Abstract

Chapter 82 of the Town Code for the Town of Brookhaven is aimed at preserving aesthetic integrity of residential neighborhoods, preventing neighborhood blight, protecting residential property values, encouraging residential property maintenance and enhancing the quality of life in residential neighborhoods.

Resource

Town of Brookhaven NY Neighborhood Preservation

Code of the Town of Brookhaven NY

Chapter 82: Neighborhood Preservation

General Code

[http://www.e-](http://www.e-codes.generalcode.com/codebook_frameset.asp?t=tc&p=0012%2D082%2Ehtm&cn=1460&n=[1][1343][1460])

[codes.generalcode.com/codebook_frameset.asp?t=tc&p=0012%2D082%2Ehtm&cn=1460&n=\[1\]\[1343\]\[1460\]](http://www.e-codes.generalcode.com/codebook_frameset.asp?t=tc&p=0012%2D082%2Ehtm&cn=1460&n=[1][1343][1460])

[HISTORY: Adopted by the Town Board of the Town of Brookhaven 12-7-1999 by L.L. No. 12-1999, effective 12-10-1999. Amendments noted where applicable.]

§ 82-1. Legislative intent.

- A. The intent of this chapter is to preserve the aesthetic integrity of our residential neighborhoods, prevent neighborhood blight, protect residential property values, encourage residential property maintenance and enhance the quality of life in our residential neighborhoods.
- B. This chapter is intended to apply to all dwelling units within the Town of Brookhaven. This chapter shall not apply to property located in the Great South Beach (Fire Island) which will be regulated by § 85-170.1 of the Code of the Town of Brookhaven. The Town Board of the Town of Brookhaven has determined that there exists in the Town of Brookhaven serious conditions arising from non-owner occupied rental of dwelling

units in one, two and three family and multiple dwellings that are substandard or in violation of the New York State Uniform Fire Prevention and Building Code, Building Rehabilitation Code, Electrical Code, Fire Prevention Code, Plumbing Code, and other codes and ordinances of the Town. Many of these dwellings are inadequate in size, overcrowded and dangerous, and such dwelling units pose hazards to life, limb and property of residents of the Town and others, tend to promote and encourage deterioration of the housing stock of the Town, create blight and excessive vehicle traffic and parking problems and to overburden municipal services. The Board finds that current Code provisions are inadequate to halt the proliferation of such conditions and that the public health, safety, welfare and good order and governance of the Town will be enhanced by enactment of the regulations set forth in this chapter, which regulations are remedial in nature and effect. The Board also finds that owner occupied dwellings can also fall into disrepair and not be adequately maintained, which has a detrimental effect on neighborhoods. **[Amended 10-15-2002 by L.L. No. 22-2002, effective 10-21-2002]**

§ 82-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CODE ENFORCEMENT OFFICER — Chief Building Inspector, Principal Building Inspector, Senior Building Inspector, Building/Zoning Inspector, Building Inspector, Zoning Inspector, Waste Management Inspectors, Housing Inspectors, Building Permits Coordinator, Electrical or Plumbing Inspector, Chief Fire Marshal, Assistant Chief Fire Marshal, Senior Fire Marshal, Police Officer, Town Investigator or Ordinance Inspector of the Town of Brookhaven and other law enforcement officers.

DWELLING UNIT — A structure or building, one-, two-, or three-family dwelling, or multi-unit apartments, condominiums or cooperatives, occupied or to be occupied by one or more persons as a home or residence.

IMMEDIATE FAMILY — The immediate family of the owner of a housing unit consists of the owner's spouse, children, parents, grandparents or grandchildren, siblings, uncles, aunts, nieces, nephews, cousins and in-laws.

OWNER — Owner or any other person or entity having the right to possession of a dwelling unit.

RENT — A return, in money, property or other valuable consideration (including payment in kind or for services or other thing of value), for use and occupancy or the right to use and occupancy of a dwelling unit, whether or not a legal relationship of landlord and tenant exists between the owner and the occupant or occupants thereof.

RENTAL DWELLING — A dwelling unit established, occupied, used or maintained for rental occupancy as a one, two, or three family dwelling or multiple apartment units or condominiums or cooperatives.

RENTAL OCCUPANCY — The occupancy or use of a dwelling unit by one or more persons as a home or residence under an arrangement whereby the occupant or occupants thereof pay rent for such occupancy and use.

RENTAL OCCUPANCY PERMIT — A permit which is issued upon application to the Chief Building Inspector and shall be valid for two years from the date of issuance.

RENTAL OCCUPANCY REGISTRATION — The registration of a rental unit(s) on a form that is approved by the Chief Building Inspector.

§ 82-3. Neighborhood preservation requirements.

- A. Surface and subsurface water shall be appropriately drained to protect buildings and structures and to prevent the accumulation of water. Gutters, culverts, catch basins, drain outlets, stormwater sewers, approved combined storm and sanitary sewers or other satisfactory drainage systems shall be utilized where deemed necessary by the Code Enforcement Officer.
- B. Steps, walks, driveways, parking areas and other paved areas shall be maintained in good repair.
- C. Yards shall be kept clean and free of physical hazards and debris.
- D. All lawns, common areas and recreation areas shall be maintained in a clean and neat condition and grass shall be cut periodically to restrict growth in excess of 12 inches.
- E. Exterior surfaces of dwellings and accessory structures, including but not limited to fences that are not inherently resistant to deterioration, shall be periodically treated with a protective coating of paint or other suitable preservative. All surfaces shall be maintained free of deterioration, including but not limited to broken or missing glass, loose or missing shingles or siding, crumbling brick, stone and mortar and peeling, scaling or deteriorated paint.
- F. Dwellings and accessory structures shall be maintained so as to be free of conditions detrimental to safety or health and shall be kept in good repair and properly maintained.

- G. Grounds, buildings and structures shall be maintained free of vermin, rodent harborage and infestation. Methods used for exterminating vermin and rodents shall conform to Suffolk County Health Department standards.
- H. Adequate sanitary facilities and methods shall be used for the collection, storage, handling and disposal of garbage and refuse and sewage pursuant to Suffolk County Health Department standards.

§ 82-4. Rental occupancy registration required.

A. Rental occupancy.

- (1) It shall be unlawful and a violation of this chapter for any person or entity who owns a dwelling unit in the Town to use, establish, maintain, operate, let, lease, rent or suffer or permit the occupancy and use thereof as a rental occupancy by someone other than the owner or his immediate family without first having registered with the Chief Building Inspector by filing a rental registration form and obtain a rental occupancy permit. Failure or refusal to procure a rental occupancy permit hereunder shall be deemed a violation.
- (2) It shall be unlawful and a violation of this chapter for any person or entity who owns a rental dwelling unit in the Town of Brookhaven to allow more than four persons per bedroom in said rental dwelling unit.
- (3) Any additions of bedrooms to a rental dwelling unit shall require Suffolk County Health Department approval. It shall be a violation of this chapter if the owner or entity who owns the rental dwelling unit fails to obtain Suffolk County Health Department approval.

B. Registration. **[Amended 7-22-2003 by L.L. No. 18-2003, effective 7-28-2003]**

- (1) A rental registration form and an application for a rental permit shall be at the Building Department on or before April 1, 2000. Registration shall be in writing on a form provided by the Building Department and shall include the owner's name, address and telephone number.
- (2) Such form shall also include the maximum number of person(s) that are allowed to occupy the premises pursuant to this chapter.
- (3) For each rental dwelling unit, a description of the unit, including the number of rooms in the rental dwelling unit, and the dimensions and use of each such room shall be included. The name, address and telephone number, if any, of the

managing agent or operator of each such intended rental dwelling unit shall be included.

- C. Notwithstanding the above, no rental occupancy registration or permit shall be required for a residential care facility established under federal, New York State or Suffolk County guidelines or for units where occupants are in an established care program. **[Amended 7-22-2003 by L.L. No. 18-2003, effective 7-28-2003]**
- D. Each application shall be executed by the owner of the premises or such person who operates such premises if other than the owner. **[Amended 7-22-2003 by L.L. No. 18-2003, effective 7-28-2003]**
- E. A property survey of the premises drawn to scale not greater than 40 feet to one inch, or, if not shown on the survey, a site plan, drawn to scale, showing all buildings, structures, walks, drives and other physical features of the premises and the number, location and access of existing and proposed on-site vehicle parking facilities. A building permit application, properly prepared, for all proposed buildings, improvements and alterations to existing buildings on the premises, if any. A copy of the certificate of occupancy and/or certificate of existing use. **[Amended 7-22-2003 by L.L. No. 18-2003, effective 7-28-2003]**
- F. Each application shall be executed by and sworn to by the owner of the premises or such person who operates such premises if other than the owner. **[Amended 7-22-2003 by L.L. No. 18-2003, effective 7-28-2003]**
- G. Renewal rental occupancy permit application: **[Added 7-22-2003 by L.L. No. 18-2003, effective 7-28-2003]**
 - (1) A renewal rental occupancy permit application signed by the applicant (owner, managing agent or dwelling operator) on a form provided by the Building Department shall be completed and filed with the Building Department no later than 60 days before the expiration of any prior valid rental occupancy permit. A renewal rental occupancy permit application shall contain a copy of the prior valid rental occupancy permit issued by the Building Department.
 - (2) A renewal rental occupancy permit application shall contain a signed sworn statement setting forth the following:
 - (a) That there no existing or outstanding violations of any federal, state or county laws or rules or regulations or of any Town of Brookhaven local laws or ordinances pertaining to the property; and

(b) That there are no changes to any information as provided on the prior valid rental occupancy permit registration and application.

§ 82-5. Fees. [Amended 7-22-2003 by L.L. No. 18-2003, effective 7-28-2003]

A. A nonrefundable biennial permit application fee shall be paid, upon filing an application for a rental occupancy permit or for a renewal rental occupancy permit, in accordance with the following schedule of rental dwelling units per structure:

Type of Dwelling	Fee
One bedroom	\$150.00
Two bedrooms	\$250.00
Three bedrooms	\$350.00
Four bedrooms	\$450.00

More than four bedrooms \$550, plus \$100 for each bedroom in excess of four

B. The fee required by this section shall be waived for any applicant which demonstrates that it is a not-for-profit housing development corporation organized under the laws of the State of New York, and that it is providing housing for senior citizens or other designated special populations subject to income guidelines established by either federal or state regulation.

C. Any owner who operates a multi-unit apartment complex shall pay a biennial fee based upon the number of rental units as follows:

Number of Units	Fee
4 to 50	\$1,000
51 to 100	\$1,500
101 to 200	\$2,500
Over 200	\$5,000

§ 82-6. Smoke detectors. [Amended 10-15-2002 by L.L. No. 22-2002, effective 10-21-2002]

Each rental dwelling shall be equipped with a functioning smoke detector device, in compliance with New York State Uniform Fire Prevention and Building Code.

§ 82-7. Required space for occupancy.

No person shall occupy or let to another for occupancy any dwelling or dwelling unit for the purpose of living therein which does not comply with the following requirements:

- A. Every dwelling unit shall contain at least 150 square feet of floor area per occupant, the floor areas to be calculated on the basis of total usable floor area of habitable rooms.
- B. There shall be no more than four persons per bedroom.
- C. At least 50% percent of the floor area of every habitable room shall have a ceiling height of at least 7 1/2 feet. The floor area of the part of any room where the ceiling height is less than five feet shall not be considered in computing the usable floor area of the room for the purpose of determining maximum permissible occupancy thereof.
- D. No cellar, kitchen or bathroom space shall be used as a habitable room or dwelling unit or to calculate the minimum total usable floor area.
- E. No basement space shall be used as a habitable room or dwelling unit unless, in addition to the other provisions of this chapter and the New York State Uniform Fire Prevention and Building Code:
 - (1) The floors and walls are impervious to leakage of underground and surface runoff water and insulated dampness; and
 - (2) The minimum aggregate glass area of windows as required by the New York State Uniform Fire Prevention and Building Code is located entirely above the grade of the grade adjoining such window area.
 - (3) It complies in all respects with the New York State Uniform Fire Prevention and Building Code.
- F. Each rental dwelling unit shall have a dining area and recreation area in the dwelling structure.
- G. The required space for occupancy, § 82-7C, shall not apply to structures built prior to

1937.

§ 82-8. Inspections. [Amended 10-15-2002 by L.L. No. 22-2002, effective 10-21-2002]

- A. No permit shall be issued under any application unless all the provisions of the Code of the Town of Brookhaven, the laws and sanitary and housing regulations of the County of Suffolk and the laws of the State of New York have been complied with.
- B. The Chief Building Inspector of the Town of Brookhaven is authorized to make or cause to be made inspections, to determine the condition of dwellings and to safeguard the health, safety, morals and welfare of the public. The Chief Building Inspector or his designated representative is authorized to enter, upon the consent of the owner, any dwelling, dwelling unit, rooming house, rooming unit or premises at any reasonable time during daylight hours or at such other time as may be necessary in an emergency, without consent of the owner, for the purpose of performing his duties under this chapter.
- C. Search without warrant restricted. Nothing in this chapter, except for provisions concerning emergency inspections, shall be deemed to authorize the Chief Building Inspector of the Town of Brookhaven or his authorized representative to conduct an inspection of any premises subject to this chapter without the consent of the owner of the premises and without a warrant duly issued by an appropriate court.
- D. Presumption of rent. Any dwelling, dwelling unit, rooming house, rooming unit or any other premises subject to this chapter shall be presumed to be rented for a fee and a charge made if said premises are not occupied by the legal owner thereof. This presumption shall be rebuttable.

§ 82-9. Application for search warrant. [Amended 10-15-2002 by L.L. No. 22-2002, effective 10-21-2002]

The Chief Building Inspector of the Town of Brookhaven or his designated representative is authorized to make application to the District Court or Supreme Court of Suffolk County, or any court of competent jurisdiction, for the issuance of a search warrant in order to conduct an inspection of any premises covered by this chapter where the owner refuses or fails to allow an inspection of its rental premises and where there is reasonable cause to believe that a violation of this chapter has occurred. The application for a search warrant shall in all respects comply with the applicable laws of the State of New York.

§ 82-10. Rental registration required.

It shall be unlawful and a violation of this chapter for any owner to permit any tenant or other person, excluding immediate family, to take up residence by a rental occupancy in any dwelling unit without the owner's first having completed and filed with the Chief Building Inspector a rental registration form approved by the Chief Building Inspector.

§ 82-11. Confidentiality of rental registration.

Under Public Officers Law § 87, Subdivision 2, Paragraph (b), rental registration forms, and that portion of the rental occupancy permit application required, shall be exempt from disclosure under the Freedom of Information Law on the grounds that such disclosure would constitute an unwarranted invasion of personal privacy. The Chief Building Inspector will institute strict policies to ensure that such information is available only to Town personnel who are engaged in the enforcement of the provisions of this chapter.

§ 82-12. Revocation of permit.

- A. The Chief Building Inspector shall revoke a rental occupancy permit where he or she finds that the permit holder has caused, permitted, suffered or allowed to exist and remain upon the premises for which such permit has been issued, for a period of 14 business days or more after written, return receipt requested notice and opportunity to be heard has been given to the permit holder, or the managing agent of such rental dwelling unit, a violation of the Multiple Residence Law and/or New York State Uniform Fire Prevention and Building Code or a violation of this chapter or other chapter of the Town Code. Revocation of a permit under this subsection can not be done by a devisee or assistant of the Chief Building Inspector.

- B. An appeal from such revocation may be taken by the permit holder to the Board of Zoning Appeals, by written request, made within 30 days from the date of such revocation. The Zoning Board of Appeals shall hold a public hearing on such appeal after receipt of written request of such appeal, and after such hearing shall make written findings and conclusions and a decision either sustaining such permit revocation or reinstating such permit within 30 days after close of such public hearing. Unless the Town Board directs otherwise in circumstances constituting serious threats to health and safety, the filing of an appeal shall stay the effectiveness of a permit revocation until the Zoning Board of Appeals has considered and ruled upon the issue.

§ 82-13. Broker's responsibility.

Broker's responsibility prior to listing. It shall be unlawful and a violation of this chapter and an offense within the meaning of the Penal Law of the State of New York for any broker or agent to list, show or otherwise offer for lease, rent or sale on behalf of the owner any dwelling unit for which a current rental occupancy permit has not been issued by the Chief Building Inspector. It shall be the broker or agent's duty to verify the existence of a valid permit before acting on behalf of the owner. Notwithstanding the above, first-time rentals

shall be granted a fourteen-business-day grace period for submission of required application paperwork and tenant registration.

§ 82-14. Enforcement.

This chapter shall be enforced by the Code Enforcement Officer as defined by this chapter.

§ 82-15. Penalties for offenses.

A. Any person, association, firm or corporation which violates any provision of this chapter or assists in the violation of any provision of this chapter shall be guilty of a violation, punishable:

- (1) By a fine not less than \$250 and not exceeding \$1,000 or by imprisonment for a period not to exceed 15 days, or both, for conviction of a first offense.
- (2) By a fine not less than \$1,000 nor more than \$3,000 or by imprisonment for a period not to exceed 15 days, or both, for conviction of the second of the two offenses, both of which were committed within a period of five years.

B. Each week's continued violation shall constitute a separate additional violation.

§ 82-16. Implementation.

This chapter shall be effective immediately or upon filing with the Secretary of State, whichever is later. No violation of this chapter will be charged prior to April 1, 2000.

§ 82-17. Severability.

If any clause, sentence, paragraph, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in said judgment.