

Topic: Environmental Impact Review Requirements; Natural Resource Protection & Conservation

Resource Type: Regulations

State: New York

Jurisdiction Type: Municipal

Municipality: Town of Brookhaven

Year (adopted, written, etc.): 1987

Community Type - applicable to: Suburban; Rural

Title: Town of Brookhaven Critical Environmental Areas and SEQRA Implementation

Document Last Updated in Database: February 10, 2016

Abstract

This law creates a list of Type I and Type II actions, for the purpose of the Town implementing the State Environmental Quality Review Act (SEQRA).

Resource

Town of Brookhaven NY Critical Environmental Areas; SEQRA Implementation

Code of the Town of Brookhaven NY
Chapter 80: Critical Environmental Areas; SEQRA Implementation

General Code
[http://www.e-codes.generalcode.com/codebook_frameset.asp?t=tc&p=0012%2D080%2Ehtm&cn=1432&n=\[1\]\[1343\]\[1432\]](http://www.e-codes.generalcode.com/codebook_frameset.asp?t=tc&p=0012%2D080%2Ehtm&cn=1432&n=[1][1343][1432])

[HISTORY: Adopted by the Town Board of the Town of Brookhaven 10-6-1987 by L.L. No. 24-1987. Amendments noted where applicable.]

§ 80-1. Intent; designation of areas.

- A. The Town of Brookhaven contains vast and precious natural and human environmental resources, specifically with regard to woodland and open spaces, flora and fauna, wetlands, groundwater, unique geological features, air quality, agriculturally fertile land, historical and archeological resources and other areas of important aesthetic and scenic quality. These valuable resources are located throughout the Town of Brookhaven.

- B. The Town Board recognizes that there is now and will continue to be significant development pressure within the Town which, through unrestricted growth, may tend to destroy or impair the Town's environmental resources as a result of sewage disposal, groundwater contamination, air impacts, solid waste and traffic generation, loss of wetlands and destruction of wooded and open areas.
- C. It is the intention of the Town Board of the Town of Brookhaven to protect these valuable resources to the maximum extent possible for the benefit and enjoyment of the Town residents.
- D. It is not the Town's intention to create an undue burden upon applicants for land use proposals or to economically impact in any way applicants for small projects for which no significant environmental impact is anticipated, such as small divisions of land, construction of or additions to individual residential structures.
- E. Actions which are specifically identified as unlisted actions which may pose a significant impact upon the environment can be processed in accordance with 6 NYCRR 617.6(b) and, therefore, receive the same thorough environmental review.
- F. Designation of critical environmental areas and strict implementation of the provisions of the New York State Environmental Quality Review Act will help us protect the valuable resources of the Town of Brookhaven. Certain areas within the Town of Brookhaven have heretofore been designated as critical environmental areas by resolution of this Town Board as follows: Editor's Note: See § 80-2A for further designation of critical environmental areas.

(1) Route 25A Corridor Critical Environmental Area.

(2) Middle Island; Yaphank Critical Environmental Area.

(3) Brookhaven Coastal Zone Area Critical Environmental Area.

§ 80-2. Supersession of previous designations of areas; lead agency.

- A. Those areas described in Exhibit A Editor's Note: Exhibit A is located at the end of this chapter. are hereby designated as critical environmental areas, in accordance with 6 NYCRR 617.4(h) of the State Environmental Quality Review Act. All previous designations of critical environmental areas, as noted in § 80-1, are hereby superseded.
- B. The Town Board is hereby designated "lead agency" under Article 8 of the State Environmental Quality Review Act and 6 NYCRR 617.6 for any proposed actions within

the Town of Brookhaven for which the Town Board is an involved agency principally responsible for carrying out, funding or approving.

- C. The various boards and departments of the Town shall act as lead agency on any projects or actions for which they are an involved agency principally responsible for carrying out, funding or approving pursuant to Article 8 of the New York State Environmental Quality Review Act and 6 NYCRR 617.6.
- D. The critical environmental areas designated under this chapter shall supersede all previous Town-designated critical environmental areas.

§ 80-3. Environmental assessment forms.

All actions concerning the use or development of vacant land occurring within the boundaries of the critical environmental areas designated in § 80-2 of this chapter of the Code of the Town of Brookhaven shall be considered as Type I actions under the State Environmental Quality Review Act, thus requiring the preparation and submission of a long environmental assessment form (LEAF). The following shall not be considered as Type I actions, unless a particular action meets the criteria for Type I actions as noted in § 80-4 of this chapter:

- A. Exempt actions pursuant to 6 NYCRR 617.
- B. Excluded actions pursuant to 6 NYCRR 617.
- C. Type II actions pursuant to 6 NYCRR 617.
- D. Ministerial acts.
- E. Subdivision of land involving four lots or less.
- F. Change in zoning of land from commercial or industrial to residential.
- G. Amendments to existing site plans.
- H. Commercial and industrial site plans involving sites of 20,000 square feet or less.
- I. Drainage acquisitions and highway improvements.

§ 80-4. Type I and II actions.

The Town Board hereby adopts the following list of Type I and Type II actions, respectively, for the purposes of Town procedures for implementation of the State Environmental Quality Review Act. This list shall supersede all previously designated Type I and Type II lists as promulgated by this Board on April 5, 1977, and subsequently amended:

A. Type I actions. The following actions are Type I if they are to be directly undertaken, funded or approved by an agency:

- (1) The adoption of a municipality's land use plan, the adoption by any agency of a comprehensive resource management plan or the initial adoption of a municipality's comprehensive zoning regulations.
- (2) The adoption of changes in the allowable uses within any zoning district, affecting 25 or more acres.
- (3) The granting of a zoning change, at the request of an applicant, for an action that meets or exceeds one or more of the thresholds given elsewhere in this list.
- (4) The acquisition, sale, lease, annexation or other transfer of 100 or more contiguous acres of land by a state or local agency.
- (5) Construction of new residential units which meet or exceed the following thresholds:
 - (a) Fifty units not to be connected (at commencement of habitation) to existing community or public water and sewerage systems, including sewage treatment works.
 - (b) In a city, town or village having a population of greater than 150,000 but less than 1,000,000: 1,000 units to be connected (at the commencement of habitation) to existing community or public water and sewerage systems, including sewage treatment works.
- (6) Activities, other than the construction of residential facilities, which meet or exceed any of the following thresholds; or the expansion of existing nonresidential facilities by more than 50% of any of the following thresholds:
 - (a) A project or action which involves the physical alteration of 10 acres or more.
 - (b) A project or action which would use ground- or surface water in excess of 2,000,000 gallons per day.

- (c) Parking for 1,000 vehicles.
- (d) In a city, town or village having a population of more than 150,000 persons:
a facility with more than 240,000 square feet of gross floor area.
- (7) Any nonagricultural use occurring wholly or partially within an agricultural district (certified pursuant to Agriculture and Markets Law, Article 25, §§ 303 and 304) which exceeds 25% of any threshold established in this section.
- (8) Any unlisted action (unless the action is designed for the preservation of the facility or site) occurring wholly or partially within, or substantially contiguous to, any historic building, structure, facility, site or district or prehistoric site that is listed on the National Register of Historic Places, or that has been proposed by the New York State Board on Historic Preservation for a recommendation to the State Historic Preservation Officer for nomination of inclusion in said National Register, or that is listed on the State Register of Historic Places [the National Register of Historic Places is established by 36 CFR 60 and 63 (1986).] (See 6 NYCRR 617.19.)
- (9) Any unlisted action which exceeds 25% of any threshold in this section, occurring wholly or partially within, or substantially contiguous to, any publicly owned or operated parkland, recreation area or designated open space, including any site on the Register of National Natural Landmarks pursuant to 36 CFR 62 (1986). (See 6 NYCRR 617.19.)
- (10) Any unlisted action which exceeds a Type I threshold established by an involved agency pursuant to 6 NYCRR 617.4.
- (11) Any unlisted action which takes place wholly or partially within or substantially contiguous to any critical environmental area designed by a local or state agency pursuant to 6 NYCRR 617.4(h).
- (12) Historical districts and landmark sites as identified in the HD Zoning Category.

B. Type II actions. The following actions are Type II actions:

- (1) Replacement of a facility, in kind, on the same site, unless such facility meets or exceeds any of the threshold in 6 NYCRR 617.12.
- (2) The granting of individual setback and lot line variances.

- (3) Agricultural farm management practices, including construction, maintenance and repair of farm buildings and structures, and land use changes consistent with generally accepted principles of farming.
- (4) Repaving of existing highways not involving the addition of new travel lanes.
- (5) Street openings for the purpose of repair or maintenance of existing utility facilities.
- (6) Installation of traffic control devices on existing streets, roads and highways.
- (7) Public or private forest management practices, other than the removal of trees or the application of herbicides or pesticides.
- (8) Construction or placement of minor structures accessory or appurtenant to existing facilities, including garages, carports, patios, home swimming pools, fences, barns or other buildings not changing land use or density, including upgrading of buildings to meet building or fire codes.
- (9) Maintenance of existing landscaping or natural growth.
- (10) Mapping of existing roads, streets, highways, uses and ownership patterns.
- (11) Inspections and licensing activities relating to the qualifications of individuals or businesses to engage in their business or profession.
- (12) Purchase or sale of furnishings, equipment or supplies, including surplus government property other than land, radioactive material, pesticides, herbicides or other hazardous materials.
- (13) Collective bargaining activities.
- (14) Investments by or on behalf of agencies or pension or retirement systems or refinancing existing debt.
- (15) Routine or continuing agency administration and management, not including new programs or major reordering or priorities.

- (16) License, lease and permit renewals, or transfers of ownership thereof, where there will be no material change in permit conditions for the scope of permitted activities.
- (17) Routine activities of educational institutions not involving capital construction, including school closings, but not changes in use related to such closings.
- (18) Information collection, including basic data collection and research, water quality and pollution studies, traffic counts, engineering studies, surveys, subsurficial investigations and soils studies that do not commit the agency to undertake, fund or approve any Type I or unlisted action.
- (19) Minor temporary uses of land having negligible or no permanent effect on the environment.
- (20) The extension of utility distribution facilities to serve new or altered single- or two-family residential structures or to render service in approved subdivisions.
- (21) Promulgation of regulations, policies, procedures and legislative decisions in connection with any Type II action.

§ 80-5. Severability.

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