

Topic: Overlay District; Wetlands & Watercourse Protection; Coastal Protection; Natural Resource Protection & Conservation; Development Standards; Site Design Standards; Zoning
Resource Type: Regulations
State: New York
Jurisdiction Type: Municipal
Municipality: Town of Brookhaven
Year (adopted, written, etc.): 2003
Community Type - applicable to: Suburban; Rural
Title: Town of Brookhaven Wetland Overlay District Ordinance
Document Last Updated in Database: May 1, 2017

Abstract

Increasing demand for development on property containing wetlands and surface waters may adversely impact and impair such natural resources. This statute creates an overlay district to protect property containing such resources. This statute uses Chapter 81 of the Town Code, Articles 24 and 25 of the New York Environmental Conservation Law, and maps drawn by the New York State Department of Environmental Conservation to determine what areas should be considered wetlands, buffer zones, etc. and protected in the overlay district. This statute sets minimum lot sizes for residential and nonresidential districts containing wetlands, etc. No development is permitted on wetlands, lands under water, or surface water. Development in a buffer area is only permitted after a review by the town board.

Resource

Town of Brookhaven NY Wetland Overlay District
Code of the Town of Brookhaven NY
Chapter 85: Zoning
Article XXVIIB
General Code
[http://www.codes.generalcode.com/codebook_frameset.asp?t=tc&p=0012%2D085%2Ehtm%23ArticleXXVIIB&cn=1873&n=\[1\]\[1343\]\[1478\]\[1873\]](http://www.codes.generalcode.com/codebook_frameset.asp?t=tc&p=0012%2D085%2Ehtm%23ArticleXXVIIB&cn=1873&n=[1][1343][1478][1873])
ARTICLE XXVIIB Wetland Overlay District
[Added 7-22-2003, effective 8-11-2003]

§ 85-286. Legislative intent.

- A. The Town Board and the Trustees of the Freeholders and Commonalty of the Town of Brookhaven hereby find and determine that increasing demand for development on property containing freshwater and tidal wetlands and surface waters may adversely impact and impair such natural resources. It is the purpose of this overlay zoning district to implement and achieve the objectives of the Town Board by providing additional protection for property in areas identified as wetlands, surface waters and adjacent buffer areas.
- B. Thus, it is the Town Board's intent and goal that this new zoning district will provide for the additional protection of freshwater and tidal wetlands and surface waters as follows:
- (1) To further the protection and improvement of our fresh and salt water quality;
 - (2) To prevent the destruction of wetlands and adjacent buffer areas;
 - (3) To preserve and protect natural drainage ways and to reduce and prevent flooding and stormwater runoff associated with adjoining properties; and open space and aesthetic appreciation, erosion control;
 - (4) To reduce the amount of stormwater runoff and its associated contaminants into the Town's lakes, streams, harbors and bays;
 - (5) To regulate new construction in environmentally sensitive areas, including but not limited to the siting of structures a safe distance away from areas of active erosion and away from reasonably anticipated impacts of wetlands in order to prevent premature damage and/or destruction thereof, and prevent damage to natural protective features and other natural resources.

§ 85-287. Designation of Wetland Overlay District.

This district shall be comprised of all property identified as wetlands or surface water as defined in Chapter 81 of the Town Code and as may be designated by the New York State Department of Environmental Conservation (NYSDEC) as freshwater and tidal wetlands or adjacent buffer areas under Articles 24 and 25 of the New York Environmental Conservation Law and as may be mapped by the NYSDEC, including, but not limited to, the New York State Freshwater Wetlands Map, filed with the Suffolk County Clerk as of July 31, 1984, revised on June 14, 1989, and entitled "Tentative Freshwater Wetlands Maps," and any amendments thereto, and the property within and included in the inventory of tidal wetlands prepared by or for the State of New York and filed with the Suffolk County Clerk

as of September 28, 1982, last revised November 16, 1982, and entitled "Tidal Wetlands Maps," and any amendments thereto.

§ 85-287.1. Adjacent buffer area.

A minimum buffer area of 100 feet extending landward from the wetland or surface water shall be required when determining yield, unless a greater buffer area is required pursuant to this chapter.

§ 85-287.2. Minimum lot area in residence districts.

- A. Unless a greater lot area is required by the underlying zoning district, the minimum required lot area shall be 200,000 square feet, excluding lands underwater and surface water.
- B. For parcels located partially within the Wetland Overlay District, yield shall be based upon the following:
 - (1) Yield for that portion of the property designated as wetlands shall be based upon one dwelling unit per 200,000 square feet of lot area, excluding lands under water and surface water.
 - (2) Yield for that portion of the property not designated as wetlands shall be based upon the underlying zoning district.
 - (3) The wetland yield, combined with the underlying zoning yield, shall constitute the total yield for the property.
 - (4) A variance application to the Town Board shall be required for all parcels that maintain a total yield of less than one dwelling unit.
 - (5) There shall be no yield associated with underwater land.

§ 85-287.3. Minimum lot area in nonresidence districts.

- A. Unless a greater lot area is required by the underlying zoning district, the minimum lot area for a nonresidential property shall be 40,000 square feet.
- B. For nonresidential parcels located partially within the overlay district, yield shall be based upon the following:

- (1) That portion of the property not designated as wetland shall be based upon the underlying zoning classification.
- (2) That portion of the property designated as wetland shall be limited to a maximum floor area ratio (FAR) of 7%.
- (3) The wetland yield combined with the upland yield shall constitute the total yield for the property.

§ 85-288. Site design.

- A. No development shall be permitted within that portion of the site designated as wetlands and lands under water or surface water. Development within a designated buffer area shall only be permitted after the review and approval of the Town Board and the Trustees of the Freeholders and Commonalty of the Town of Brookhaven.
- B. Wetlands or adjacent buffer areas shall not be utilized in determining compliance with the minimum landscaping or buffer requirements for any nonresidential use.

§ 85-289. (Reserved)

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