

Topic:	Aquifer Protection; Natural Resource Protection & Conservation; Wetlands & Watercourse Protection
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 Water Resources Ordinance
Document Last Updated in Database:	April 28, 2017

Abstract

Chapter 78 of the Town Code for the Town of Brookhaven intends to protect local groundwater from appropriation, pollution, and removal. No person may remove subterranean water or discharge industrial waste into such water within the town without obtaining a permit. A person may remove subterranean water provided it is recharged into the ground in the town. Permits are issued only if the removal of the water or the discharge of waste will not diminish or harm the supply of groundwater. The town may charge a fee to use the water. The town may fine, imprison, or seek equitable relief against violators.

Resource

Town of Brookhaven NY Water Resources

Code of the Town of Brookhaven NY

Chapter 78: Water Resources

General Code

[http://www.e-](http://www.e-codes.generalcode.com/codebook_frameset.asp?t=tc&p=0012%2D078%2Ehtm&cn=1269&n=[1][2][1269][1228][1237][990][2089][2092])

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[HISTORY: Adopted by the Town Board of the Town of Brookhaven as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Appropriation and Use of Subterranean Waters

[Adopted 6-16-1987 by L.L. No. 7-1987]

§ 78-1. Duty and obligation.

A. By virtue of the Royal Charter from Charles II to James Duke of York dated December 22,

1663, the Dongan Patent from Governor Thomas Dongan to the Town of Brookhaven dated December 27, 1686, and the Constitution of the State of New York enacted on April 20, 1777, the Trustees of the Freeholders and Commonalty of the Town of Brookhaven, now known as the "Board of Trustees," were entrusted with title to all subterranean waters within the boundaries of the Town of Brookhaven and are vested with the duty and obligation to protect these valuable waters so that they are not appropriated, polluted or removed in such a manner as to diminish the supply of water to the detriment of the Trustees of the Freeholders and Commonalty of the Town of Brookhaven.

- B. It is hereby declared to be the policy of the Town of Brookhaven to protect the supply of groundwaters within the Town of Brookhaven from appropriation, pollution and removal so that the residents of the Town of Brookhaven will be ensured of an ample supply of clean and safe drinking water.

§ 78-2. Definitions.

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

INDUSTRIAL DISCHARGE — The discharge of any liquid, gaseous, solid or waste substance, or a combination thereof, resulting from any process of industry, manufacturing, trade or business or from the development or recovery of any natural resources, which may cause or might reasonably be expected to cause pollution of the groundwaters located within the Town of Brookhaven.

PERSON — Any corporation, form of partnership, association, trust, estate or one or more individuals, and any unit of government or agency of subdivision thereof.

SUBTERRANEAN WATERS — All those waters lying and being within the aquifers underlying the Town of Brookhaven.

TRUSTEES — The Board of Trustees of the Town of Brookhaven, also known as the "Trustees of the Freeholders and Commonalty of the Town of Brookhaven."

§ 78-3. Permit required.

- A. No person may remove subterranean waters located within the Town of Brookhaven without first having obtained a permit from the Trustees and the Town Board as provided herein.
- B. No person may discharge any industrial waste within the Town of Brookhaven without

first having obtained a permit from the Trustees and the Town Board as provided herein.

§ 78-4. Exceptions.

The provisions of this article shall not apply to the removal of subterranean waters for the use of the residents, industries and businesses located within the Town of Brookhaven, provided that said waters are recharged into the ground within the Town of Brookhaven.

§ 78-5. Application procedure; fee.

- A. Procedure. An application for the removal of subterranean waters or for the discharge of industrial waste shall be made simultaneously to the Trustees and the Town Board on such form and in such manner as shall be prescribed by the Town Board. Said application shall be filed with the Town Clerk and shall be accompanied by a fee of \$1,000.
- B. Public hearing. No later than 90 days after receipt of an application, a public hearing shall be held by the Town Board and the Trustees. Said time period may be extended with the consent of the applicant. The Town Clerk shall cause notice of said public hearing to be published in an official newspaper of the Town of Brookhaven no less than 10 days prior to the scheduled date of said public hearing.
- C. Departmental review. All such applications shall be forwarded to the Commissioner of the Department of Planning, Environment and Development, who shall cause a review of said applications to be made and shall report, in writing, to the Trustees prior to the public hearing provided herein. With the permission of the Town Board, said Commissioner shall have the power to employ experts for the purpose of reviewing each application.

§ 78-6. Issuance of permit; conditions.

- A. The Trustees and the Town Board may issue a permit only upon the finding that the appropriation and removal of subterranean waters or the discharge of industrial waste into the groundwaters within the Town of Brookhaven will not diminish or harm the supply of subterranean waters to the detriment of the residents and property owners of the Town of Brookhaven.
- B. The Trustees and Town Board shall have the power to impose such conditions on the issuance of any permit as it deems necessary to protect the supply of subterranean

waters located within the Town of Brookhaven.

§ 78-7. Rates.

The Trustees and the Town Board shall have the power to establish rates and charges for the appropriation and removal of subterranean waters from the Town of Brookhaven. Said rates shall be established after a public hearing held on notice as provided herein. Said fees shall be paid to the Town Clerk.

§ 78-8. Penalties for offenses.

A. Criminal sanctions.

(1) Any person who violates any provision of this article or the conditions imposed by the Trustees upon an approved permit shall, for the first offense, be guilty of a violation punishable by a fine of not less than \$500 nor more than \$1,000, and for a second and each subsequent offense, be guilty of a misdemeanor punishable by a fine of not less than \$1,000 nor more than \$2,000, or a term of imprisonment of not less than 15 days nor more than six months, or both. Each offense shall be a separate and distinct offense, and, in the case of a continuing offense, each day's continuance thereof shall be a separate and distinct offense.

(2) Any corporation which violates any provision of this article or the conditions imposed by the Trustees upon an approved permit shall, for the first offense, be guilty of a violation punishable by a fine of not less than \$500 nor more than \$1,000, and for a second and each subsequent offense, be guilty of a misdemeanor punishable by a fine of not less than \$1,000 nor more than \$2,000 or a term of imprisonment of not less than 15 days nor more than six months, or both. Each offense shall be a separate and distinct offense, and, in the case of a continuing offense, each day's continuance thereof shall be a separate and distinct offense.

B. Equitable relief. The Town of Brookhaven shall have the right to seek equitable relief to restrain any violation or threatened violation of any provisions of this article.